STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION

APPLICATIONS OF MARATHON OIL PERMIAN LLC FOR COMPULSORY POOLING AND APPROVAL OF NON-STANDARD SPACING UNITS, LEA COUNTY, NEW MEXICO.	**CASE NOS. 25541 – 25542**
APPLICATION OF TUMBLER OPERATING PARTNERS, LLC FOR APPROVAL OF NON-STANDARD UNIT AND FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.	**CASE NO. 25466**
APPLICATIONS OF TUMBLER OPERATING PARTNERS, LLC, FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.	**CASE NOS. 25462 – 25465**

ORDER DENYING TUMBLER OPERATING PARTNERS, LLC'S
MOTION FOR INVOLUNTARY DISMISSAL

THIS MATTER comes before the Oil Conservation Division ("Division") upon Tumbler Operating Partners, LLC's ("Tumbler") Motion for Involuntary Dismissal of the compulsory pooling applications of Marathon Oil Permian LLC ("Marathon") filed in Case Nos. 25541 and 25542, and Marathon's Response in Opposition thereto. The Division, having reviewed the Motion, the Response, the hearing record, and the applicable law, and being otherwise sufficiently advised, finds that the Motion is not well taken and should be DENIED for the reasons set forth below.

FINDINGS OF FACT

1. Marathon filed applications for compulsory pooling and approval of non-standard spacing units in the Bone Spring and Wolfcamp formations underlying portions of Sections

24, 25, and irregular Section 36, Township 26 South, Range 34 East, Lea County, New Mexico (Case Nos. 25541 and 25542).

2. Tumbler filed competing compulsory pooling applications covering substantially the same acreage (Case Nos. 25462–25466).

3. Hearings were held on September 16–17, 2025, and October 22, 2025. At the conclusion of the September hearing, the parties agreed to a 10-page limitation on post-hearing closing argument briefs, with briefs originally due October 17, 2025 (later extended to November 5, 2025).

4. On November 4, 2025, Tumbler filed its Motion for Involuntary Dismissal, asserting that Marathon's geological testimony was internally contradictory and that Marathon failed to present quantitative engineering evidence sufficient to support a finding that correlative rights would be protected via surface-acreage allocation.

5. Marathon filed its Response on November 17, 2025.

CONCLUSIONS OF LAW

A. Procedural Grounds for Denial

1. The New Mexico Rules of Civil Procedure, including Rule 1-041(B) NMRA relied upon by Tumbler, do not govern proceedings before the Oil Conservation Division. Administrative hearings conducted by the Division are governed by the Oil and Gas Act (NMSA 1978, §§ 70-2-1 et seq.), the Division's adjudicatory rules at 19.15.4 NMAC, and applicable orders of the Division or Commission.

2. The Division's rules contain no provision for a motion for involuntary dismissal analogous to Rule 1-041(B) NMRA at the close of an applicant's case-in-chief. The Division considers

the entire record, including all evidence admitted pursuant to 19.15.4.11 NMAC (evidence) and 19.15.4.13 NMAC (conduct of hearings), before rendering a final decision on the merits.

3. The Motion constitutes an unauthorized filing that circumvents the Hearing Examiner's directive limiting the parties to 10-page closing argument briefs. The arguments raised in the Motion could and should have been presented in Tumbler's closing brief.

B. Substantive Grounds for Denial

4. Even if the Motion were procedurally proper, it fails on the merits. In contested compulsory pooling proceedings involving competing development plans, the Division's longstanding practice is to evaluate which plan will best prevent waste and protect correlative rights by applying the seven factors set forth in Commission Order No. R-10731-B and Division Order No. R-20233 (geologic evidence, risk, good-faith negotiations, operating ability, cost estimates, mineral ownership, and surface access/timeliness).

5. Tumbler's reliance on *Continental Oil Co. v. Oil Conservation Comm'n*, 1962-NMSC-062, 70 N.M. 310, and *Grace v. Oil Conservation Comm'n*, 1975-NMSC-001, 87 N.M. 205, is misplaced. Those cases address proration/allocation of allowable production from a common pool, not the evidentiary threshold for approving a compulsory pooling order in the first instance.

6. Marathon's geologist, Tyler Patrick, provided expert opinion testimony that, notwithstanding observed variability in certain reservoir parameters (porosity and oil-in-place saturation), the tracts within the proposed units would contribute more or less equally to production. This opinion, if deemed reliable and relevant, may constitute

substantial evidence upon which the Division may rely when weighing the first factor (geologic evidence) against Tumbler's competing plan. Credibility determinations and the weight to be given to expert testimony are matters for the Division to resolve on the full record, not on a mid-proceeding motion.

7. Marathon was not required, as a matter of law, to present volumetric reserve studies, tract-by-tract engineering analyses, or proof that such analyses were "impracticable" as a prerequisite to pooling the same acreage that Tumbler itself seeks to pool on a surface-acreage basis.

8. The Division possesses a complete evidentiary record, including testimony, exhibits, and supplemental materials admitted at the October 22, 2025 hearing, sufficient to evaluate the parties' competing development proposals under the seven-factor framework.

ORDER

For the foregoing reasons, Tumbler Operating Partners, LLC's Motion for Involuntary Dismissal is hereby DENIED.

The Division will proceed to decide the applications on the merits based on the entire record and the seven-factor analysis applicable to competing compulsory pooling proposals.

IT IS SO ORDERED.

Gregory Chakalian

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GREGORY CHAKALIAN
HEARING EXAMINER