

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

**APPLICATIONS OF MATADOR PRODUCTION
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 21543
CASE NO. 21630**

**APPLICATIONS OF FLAT CREEK RESOURCES,
LLC, FOR A HORIZONTAL SPACING UNIT AND
COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

**CASE NO. 21560
CASE NO. 21747**

ORDER NO. R-21800

ORDER

The Director of the New Mexico Oil Conservation Division (“OCD”), having heard these matters through a Hearing Examiner on May 6, 2021, and after considering the testimony, evidence, and recommendation of the Hearing Examiner, issues the following Order.

FINDINGS OF FACT

1. Due public notice has been given as required by law, and OCD has jurisdiction of these cases and the subject matter.
2. These cases involve competing compulsorily pooling applications located within the same formation and the same section with overlapping horizontal spacing units filed by Matador Production Company (“Matador”) and Flat Creek Resources, LLC (“Flat Creek”). These cases were consolidated for hearing and a single order is being issued for the consolidated cases.
3. Both Matador and Flat Creek have the right to drill within the proposed spacing units, and each seeks to be named operator of their proposed wells and spacing units.
4. Applications: Case No. 21543. On November 3, 2020, Matador filed an application to compulsorily pool the uncommitted oil and gas interests in the Wolfcamp formation underlying a standard 320-acre horizontal spacing unit comprised of S/2 of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico. Matador proposes to dedicate to this unit the Norris Thornton Com RB #204H well (“204H Well”). The 204H Well was drilled in July 2018 and commenced production in September 2018.

5. Case No. 21560. On December 4, 2020, Flat Creek filed a competing application to compulsorily pool the uncommitted oil and gas interests in the Wolfcamp formation underlying a “standard”¹ 480-acre horizontal spacing unit underlying the N/2 and the N/2S/2 of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico. Flat Creek proposes to dedicate to this unit three wells, the Thirteen Seconds 23 Fed-Fee 701H, 702H and 703H wells.
6. Case No. 21630. On December 18, 2020, Matador filed an application to compulsory pool the uncommitted oil and gas interests in the Wolfcamp formation underlying the N/2 of Section 23. Matador proposes to dedicate to this unit two wells, the Colonel R. Howard Fed Com #201H and #202H wells.
7. Case No. 21747. On February 23, 2021, Flat Creek filed an application with OCD to compulsory pool the uncommitted oil and gas interests in the Wolfcamp formation underlying a standard 320-acre horizontal spacing unit comprised of the north half of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico. Flat Creek proposes to dedicate to this unit two wells, the Thirteen Seconds 23 Fed-Fee 701H and 702H.
8. Hearing. The cases were heard at an OCD hearing docket on May 6, 2021. The hearing, which was conducted on a virtual platform, was conducted in accordance with Section 19.15.4 NMAC. Both Matador and Flat Creek presented witnesses and exhibits. No other party presented evidence. Each of the witnesses were sworn, were qualified to present expert opinion testimony, and were subject to cross-examination by the other party and by the OCD Hearing Examiners. Following the hearing, Matador and Flat Creek submitted written closing statements by May 21, 2021.
9. Matador presented three witnesses in support of its application:
 - a. Sara Hartsfield, Senior Landman;
 - b. Trey Goodwin, Area Land Manager; and
 - c. Andrew Parker, Vice President of Geology.
10. Flat Creek presented three witnesses in support of its application:
 - a. Michael Gregory, a landman;
 - b. Thomas M. Anderson, a geologist; and
 - c. Anand Kote, a reservoir engineer.
11. Legal Background. The Oil and Gas Act authorizes OCD to compulsory pool the lands or interests in a spacing unit. When the owners of the interests in a spacing unit have not agreed to voluntarily pool their interests, and when one owner, who has the right to drill, applies to OCD, OCD can pool the lands or interests in the unit “to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste”. NMSA 1978, §70-2-17.C.

¹ The 480 acre spacing unit was claimed to be standard in Flat Creek’s Application but is actually non-standard.

12. OCD and the Oil Conservation Commission (“Commission”) have developed a number of factors to consider in evaluating competing compulsory pooling applications.
13. OCD, in a 1997 order involving vertical well proposals, concluded that “the most important consideration in awarding operations to competing interest owners is geologic evidence as it relates to well location and recovery of oil and gas and associated risk.” Order R-10731-B ¶23(f). In this Order, OCD also listed several other factors such as lack of good faith negotiation, differences in proposed risk charge and ability to prudently operate the property but concluded that in the absence of “any reason why one operator would economically recover more oil or gas by virtue of being awarded operations than the other”, “working interest control” would be the “controlling factor”. *Id.* ¶24.
14. Since then, OCD and Commission decisions have applied the factors in Order R-10731-B, with some additions, in compulsory pooling cases including those involving horizontal well proposals. In a recent decision, the Commission listed the factors it “may consider” in evaluating competing compulsory pooling applications:
 - a. A comparison of geologic evidence presented by each party as it relates to the proposed well location and the potential of each proposed prospect to efficiently recover the oil and gas reserves underlying the property.
 - b. A comparison of the risk associated with the parties' respective proposal for the exploration and development of the property.
 - c. A review of the negotiations between the competing parties prior to the applications to force pool to determine if there was a "good faith" effort.
 - d. A comparison of the ability of each party to prudently operate the property and, thereby, prevent waste.
 - e. A comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposals.
 - f. An evaluation of the mineral interest ownership held by each party at the time the application was heard
 - g. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the "surface factor").

Order R-21420 ¶9 (9/17/2020)

15. Factors. Each party presented testimony on the factors listed above. OCD’s first task is to determine which development plan “will most efficiently develop the subject acreage, prevent waste and protect correlative rights”. Order R-20368 ¶18 (2/6/2019). If there are no significant differences between the development plans, OCD must look to other facts and in particular working interest control.

16. Plans. The acreage covered by the proposed spacing units for which compulsory pooling is sought by each party is contained within one section. Matador seeks approval of proposed units covering all of section 23 while Flat Creek seeks approval of units covering 480 acres, or three-quarters, of section 23. Matador has an existing, producing well in the south half of section 23. At the time Matador drilled the well in July 2018, Matador controlled all of the south half spacing unit except for an unleased federal quarter-quarter section. After a lease sale in December 2018 followed by a lease approval in November 2019, Flat Creek became the lessee for 40 acres of federal land in the south half and 120 acres in the north half of section 23.
17. The plans for development are similar. Besides being located in the same section, both parties are targeting the same formation. Both propose horizontal wells of the same length with the same orientation. The spacing of the wells is similar. OCD finds that neither party has conclusively demonstrated that its well development proposal would economically recover more oil or gas.
18. Most other factors show little difference between the parties. Both parties propose a 200% risk charge. Both parties engaged in negotiation prior to applying and OCD finds no evidence of bad faith in negotiation. Matador has greater experience as a company in drilling and operating wells. While Flat Creek had not drilled any wells in New Mexico at the time of the hearing, Flat Creek did provide evidence that its key personnel had significant experience in the operation and drilling of wells.
19. For competing horizontal well proposals, OCD added consideration of the “surface factor”: a comparison of the ability of the applicants to timely locate well sites and to operate on the surface. Order R-14847 ¶26 (8/31/2018). Matador has extensive surface facilities in and around Section 23 including pads and gathering lines for oil, gas and water. (Matador Exh. B-3). Matador testified that it would not need to create significant additional disturbance or flaring in the development of Section 23. Flat Creek does not have similar existing facilities.
20. Working Interest. There is a clear difference between the competing parties in the working interest control for each proposed spacing unit. The only working interests being pooled are those interests held by Matador or Flat Creek. For Section 23 as a whole, Matador controls 480 acres or 75% while Flat Creek controls 160 acres or 25%.
21. For the north half of Section 23, which is the proposed spacing unit for Matador Case No. 21630 and Flat Creek Case No. 21747, Matador controls 200 acres or 62.5% while Flat Creek controls 120 acres or 37.5%. For the south half of Section 23, which is the proposed spacing unit for Matador Case No. 21543, Matador controls 280 acres or 87.5% while Flat Creek controls 40 acres or 12.5%. For the 480 acres which constitutes the proposed spacing unit in Flat Creek Case No.

21560, Matador controls 320 acres or 66.7% while Flat Creek controls 160 acres or 33.3%.

22. In the absence of evidence demonstrating greater recovery from one party's development plan, OCD must consider other factors including working interest control. The weight of the factors, and in particular the working interest control factor, favors Matador. For each spacing unit proposed by either party, Matador has at least a 62.5% working interest control, and Flat Creek has no greater than a 37.5% working interest control. Accordingly, the Division should grant the compulsory pooling applications of Matador and deny the compulsory pooling applications of Flat Creek.

ORDER

23. The applications of Matador Production Company ("Operator") in Case Nos. 21543 and 21630 are granted.
24. The applications of Flat Creek Resources, LLC in Case Nos. 21560 and 21747 are denied.
25. The uncommitted interests in the Unit are pooled as set forth in Exhibit A. The Unit shall be dedicated to the Well(s) set forth in Exhibit A. Operator is designated as operator of the Unit and the Well(s).
26. If the location of a well will be unorthodox under the spacing rules in effect at the time of completion, Operator shall obtain the OCD's approval for a non-standard location in accordance with 19.15.16.15(C) NMAC.
27. The Operator shall commence drilling the Well(s) within one year after the date of this Order, and complete each Well no later than one (1) year after the commencement of drilling the Well.
28. This Order shall terminate automatically if Operator fails to comply with Paragraph 27 unless Operator obtains an extension by amending this Order for good cause shown.
29. The infill well requirements in 19.15.13.9 NMAC through 19.15.13.12 NMAC shall be applicable.
30. Operator shall submit each owner of an uncommitted working interest in the pool ("Pooled Working Interest") an itemized schedule of estimated costs to drill, complete, and equip the well ("Estimated Well Costs").
31. No later than thirty (30) days after Operator submits the Estimated Well Costs, the owner of a Pooled Working Interest shall elect whether to pay its share of the Estimated Well Costs or its share of the actual costs to drill, complete and equip the well ("Actual Well Costs") out of production from the well. An owner of a Pooled

Working Interest who elects to pay its share of the Estimated Well Costs shall render payment to Operator no later than thirty (30) days after the expiration of the election period, and shall be liable for operating costs, but not risk charges, for the well. An owner of a Pooled Working Interest who fails to pay its share of the Estimated Well Costs or who elects to pay its share of the Actual Well Costs out of production from the well shall be considered to be a "Non-Consenting Pooled Working Interest."

32. No later than one hundred eighty (180) days after Operator submits a Form C-105 for a well, Operator shall submit to each owner of a Pooled Working Interest an itemized schedule of the Actual Well Costs. The Actual Well Costs shall be considered to be the Reasonable Well Costs unless an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Reasonable Well Costs after public notice and hearing.
33. No later than sixty (60) days after the expiration of the period to file a written objection to the Actual Well Costs or OCD's order determining the Reasonable Well Costs, whichever is later, each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs shall pay to Operator its share of the Reasonable Well Costs that exceed the Estimated Well Costs, or Operator shall pay to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs its share of the Estimated Well Costs that exceed the Reasonable Well Costs.
34. The reasonable charges for supervision to drill and produce a well ("Supervision Charges") shall not exceed the rates specified in Exhibit A, provided however that the rates shall be adjusted annually pursuant to the COPAS form entitled "Accounting Procedure-Joint Operations."
35. No later than within ninety (90) days after Operator submits a Form C-105 for a well, Operator shall submit to each owner of a Pooled Working Interest an itemized schedule of the reasonable charges for operating and maintaining the well ("Operating Charges"), provided however that Operating Charges shall not include the Reasonable Well Costs or Supervision Charges. The Operating Charges shall be considered final unless an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Operating Charges after public notice and hearing.
36. Operator may withhold the following costs and charges from the share of production due to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs: (a) the proportionate share of the Supervision Charges; and (b) the proportionate share of the Operating Charges.

37. Operator may withhold the following costs and charges from the share of production due to each owner of a Non-Consenting Pooled Working Interest: (a) the proportionate share of the Reasonable Well Costs; (b) the proportionate share of the Supervision and Operating Charges; and (c) the percentage of the Reasonable Well Costs specified as the charge for risk described in Exhibit A.
38. Operator shall distribute a proportionate share of the costs and charges withheld pursuant to paragraph 37 to each Pooled Working Interest that paid its share of the Estimated Well Costs.
39. Each year on the anniversary of this Order, and no later than ninety (90) days after each payout, Operator shall provide to each owner of a Non-Consenting Pooled Working Interest a schedule of the revenue attributable to a well and the Supervision and Operating Costs charged against that revenue.
40. Any cost or charge that is paid out of production shall be withheld only from the share due to an owner of a Pooled Working Interest. No cost or charge shall be withheld from the share due to an owner of a royalty interests. For the purpose of this Order, an unleased mineral interest shall consist of a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest.
41. Except as provided above, Operator shall hold the revenue attributable to a well that is not disbursed for any reason for the account of the person(s) entitled to the revenue as provided in the Oil and Gas Proceeds Payment Act, NMSA 1978, Sections 70-10-1 *et seq.*, and relinquish such revenue as provided in the Uniform Unclaimed Property Act, NMSA 1978, Sections 7-8A-1 *et seq.*
42. The Unit shall terminate if (a) the owners of all Pooled Working Interests reach a voluntary agreement; or (b) the well(s) drilled on the Unit are plugged and abandoned in accordance with the applicable rules. Operator shall inform OCD no later than thirty (30) days after such occurrence.
43. OCD retains jurisdiction of this matter for the entry of such orders as may be deemed necessary.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**




ADRIENNE SANDOVAL
DIRECTOR
AES/wrb

Date: 8/26/2021

Exhibit "A"

COMPULSORY POOLING APPLICATION CHECKLIST (pdf)	
ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS	
Case: 21543	APPLICANT'S RESPONSE
Date May 6, 2021	
Applicant	Matador Production Company
Designated Operator & OGRID (affiliation if applicable)	228937
Applicant's Counsel:	Holland & Hart, LLP
Case Title	Application of Matador Production Company for Compulsory Pooling, Eddy County, New Mexico
Entries of Appearance/Intervenors:	Flat Creek Resources, LLC
Well Family	Norris Thornton Com RB #204H
Formation/Pool	
Formation Name(s) or Vertical Extent:	Wolfcamp
Primary Product (Oil or Gas):	Oil and Gas
Pooling this vertical extent:	Wolfcamp formation
Pool Names and Pool Codes:	Purple Sage; Wolfcamp (Gas) (98220)
Well Location Setback Rules:	330 feet to exterior boundary of spacing unit
Spacing Unit Size:	320-acres
Spacing Unit	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	320-acres
Building Blocks:	Quarter-sections or Half-sections
Orientation:	East-West
Description: TRS/County	S/2 of Section 23, T23S, R27E, NMPM, Eddy County
Standard Horizontal Well Spacing Unit (Y/N), If No, describe	Yes
Other Situations	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	No
Proximity Defining Well: if yes, description	No
Applicant's Ownership in Each Tract	Exhibit A-2
Well(s)	

Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	Norris Thornton Com RB #204H well (API No. 30-015-44659); SHL: 189' FSL and 393' FEL (Unit P) of Section 23, 23S, 27E BHL: 336' FSL and 241' FWL (Unit M) of Section 23, 23S, 27E Completion Target: Wolfcamp formation Well Orientation: East to West Completion Location expected to be Standard
Horizontal Well First and Last Take Points	Exhibit A-1
Completion Target (Formation, TVD and MD)	Exhibit A-5
AFE Capex and Operating Costs	
Drilling Supervision/Month \$	\$8,000
Production Supervision/Month \$	\$800
Justification for Supervision Costs	Exhibit B
Requested Risk Charge	200%
Notice of Hearing	
Proposed Notice of Hearing	Exhibit D
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit D
Proof of Published Notice of Hearing (10 days before hearing)	N/A
Ownership Determination	
Land Ownership Schematic of the Spacing Unit	Exhibit A-2
Tract List (including lease numbers and owners)	Exhibit A-2
Pooled Parties (including ownership type)	Exhibits A and D
Unlocatable Parties to be Pooled	N/A
Ownership Depth Severance (including percentage above & below)	N/A
Joinder	
Sample Copy of Proposal Letter	Exhibit A-5
List of Interest Owners (ie Exhibit A of JOA)	Exhibit A-2
Chronology of Contact with Non-Joined Working Interests	Exhibit A-4
Overhead Rates In Proposal Letter	Exhibits A-5 and B
Cost Estimate to Drill and Complete	Exhibit B-4
Cost Estimate to Equip Well	Exhibit B-4
Cost Estimate for Production Facilities	Exhibit B-4
Geology	
Summary (including special considerations)	Exhibit C
Spacing Unit Schematic	Exhibit C-3
Gunbarrel/Lateral Trajectory Schematic	Exhibit C-3
Well Orientation (with rationale)	Exhibit C
Target Formation	Exhibit C


HSU Cross Section	Exhibit C-4
Depth Severance Discussion	N/A
Forms, Figures and Tables	
C-102	Exhibit A-1
Tracts	Exhibit A-2
Summary of Interests, Unit Recapitulation (Tracts)	Exhibit A-2
General Location Map (including basin)	Exhibit A-2 and C-1
Well Bore Location Map	Exhibit C-3
Structure Contour Map - Subsea Depth	Exhibit C-2
Cross Section Location Map (including wells)	Exhibit C-3
Cross Section (including Landing Zone)	Exhibit C-4
Additional Information	
Special Provisions/Stipulations	N/A
CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.	
Printed Name (Attorney or Party Representative):	Michael H. Feldewert
Signed Name (Attorney or Party Representative):	
Date:	29-Apr-21

COMPULSORY POOLING APPLICATION CHECKLIST (pdf)

ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS

Case: 21630	APPLICANT'S RESPONSE
Date May 6, 2021	
Applicant	Matador Production Company
Designated Operator & OGRID (affiliation if applicable)	228937
Applicant's Counsel:	Holland & Hart, LLP
Case Title	Application of Matador Production Company for Compulsory Pooling, Eddy County, New Mexico
Entries of Appearance/Intervenors:	Flat Creek Resources, LLC
Well Family	Colonel Howard
Formation/Pool	
Formation Name(s) or Vertical Extent:	Wolfcamp
Primary Product (Oil or Gas):	Oil and Gas
Pooling this vertical extent:	Wolfcamp formation
Pool Names and Pool Codes:	Purple Sage; Wolfcamp (Gas) (98220)
Well Location Setback Rules:	330 feet to exterior boundary of spacing unit
Spacing Unit Size:	320-acres
Spacing Unit	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	320-acres
Building Blocks:	Quarter-sections or Half-sections
Orientation:	West-East
Description: TRS/County	N/2 of Section 23, T23S, R27E, NMPM, Eddy County
Standard Horizontal Well Spacing Unit (Y/N), If No, describe	Yes
Other Situations	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	No
Proximity Defining Well: if yes, description	No
Applicant's Ownership in Each Tract	Exhibit A-2
Well(s)	

Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	Colonel Howard Fed Com #201H well (API pending): SHL: 390' FNL and 330' FWL (Unit D) of Section 23, 23S, 27E BHL: 990' FNL and 240' FEL (Unit A) of Section 23, 23S, 27E Completion Target: Wolfcamp formation Well Orientation: West to East Completion Location expected to be Standard
	Colonel Howard Fed Com #202H well (API pending): SHL: 1850' FNL and 250' FEL (Unit E) of Section 23, 23S, 27E BHL: 2310' FNL and 240' FWL (Unit H) of Section 23, 23S, 27E Completion Target: Wolfcamp formation Well Orientation: West to East Completion Location expected to be Standard
Horizontal Well First and Last Take Points	Exhibit A-1
Completion Target (Formation, TVD and MD)	Exhibit A-8
AFE Capex and Operating Costs	
Drilling Supervision/Month \$	\$8,000
Production Supervision/Month \$	\$800
Justification for Supervision Costs	Exhibit B
Requested Risk Charge	200%
Notice of Hearing	
Proposed Notice of Hearing	Exhibit D
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit D
Proof of Published Notice of Hearing (10 days before hearing)	N/A
Ownership Determination	
Land Ownership Schematic of the Spacing Unit	Exhibit A-2
Tract List (including lease numbers and owners)	Exhibit A-2
Pooled Parties (including ownership type)	Exhibits A and D
Unlocatable Parties to be Pooled	N/A
Ownership Depth Severance (including percentage above & below)	N/A
Joinder	
Sample Copy of Proposal Letter	Exhibit A-8
List of Interest Owners (ie Exhibit A of JOA)	Exhibit A-2
Chronology of Contact with Non-Joined Working Interests	Exhibit A-4
Overhead Rates In Proposal Letter	Exhibits A-8 and B
Cost Estimate to Drill and Complete	Exhibit B-4
Cost Estimate to Equip Well	Exhibit B-4
Cost Estimate for Production Facilities	Exhibit B-4
Geology	
Summary (including special considerations)	Exhibit C
Spacing Unit Schematic	Exhibit C-3

Gunbarrel/Lateral Trajectory Schematic	Exhibit C-3
Well Orientation (with rationale)	Exhibit C
Target Formation	Exhibit C
HSU Cross Section	Exhibit C-4
Depth Severance Discussion	N/A
Forms, Figures and Tables	
C-102	Exhibit A-1
Tracts	Exhibit A-2
Summary of Interests, Unit Recapitulation (Tracts)	Exhibit A-2
General Location Map (including basin)	Exhibits A-2 and C-1
Well Bore Location Map	Exhibit C-3
Structure Contour Map - Subsea Depth	Exhibit C-2
Cross Section Location Map (including wells)	Exhibit C-3
Cross Section (including Landing Zone)	Exhibit C-4
Additional Information	
Special Provisions/Stipulations	N/A
CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.	
Printed Name (Attorney or Party Representative):	Michael H. Feldewert
Signed Name (Attorney or Party Representative):	
Date:	29-Apr-21