

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

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION TO CONSIDER:**

**CASE NO. 16214  
ORDER NO. R-20290**

**AMENDED APPLICATION OF MARATHON OIL PERMIAN LLC FOR A NON-  
STANDARD SPACING AND PRORATION UNIT AND COMPULSORY  
POOLING, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on June 28, 2018, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze, then was amended and presented again on September 6, 2018, and on October 4, 2018 before Examiner Michael A. McMillan.

NOW, on this 26<sup>th</sup> day of February 2019, the Division Director, having considered the testimony, the record and the recommendations of the examiners,

**FINDS THAT**

(1) Due public notice has been given, and the Division has jurisdiction of the case and the subject matter.

(2) Marathon Oil Permian LLC ("Applicant" or "Marathon") seeks approval of a 240-acre non-standard oil spacing and proration unit ("the Unit") for oil and gas production from the Bone Spring formation, Willow Lake; Bone Spring Pool (Pool code 64450), comprising the E/2 SE/4 of Section 25 and the E/2 E/2 of Section 36, all in Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Bone Spring formation.

(3) The Unit will be dedicated to the following "subject well".

**Southern Comfort State 24 28 25 TB Well No. 6H, API No. 30-015-  
44832**

SHL: 2424 feet from the South line and 1777 feet from the East line,  
(Unit J) of Section 25, Township 24 South, Range 28 East, NMPM.

BHL: 330 feet from the South line and 995 feet from the East line  
(Unit P) of Section 36, Township 24 South, Range 28 East, NMPM.

(4) The subject well will be drilled horizontally and completed in the Bone Spring formation [Willow Lake; Bone Spring Pool]. Said pool is subject to Division Rule 19.15.15.9(A) NMAC, which provides for standard 40-acre spacing and proration units each comprising a governmental quarter-quarter section.

(5) The allowed setback footage distance for each of the proposed horizontal oil wells is specified in Paragraph (1) of Subsection C of 19.15.16.15 NMAC effective June 26, 2018. Said rule allows the first or last take points to be no closer than 100 feet, and the setbacks measured perpendicular to the well path to be a minimum of 330 feet from the outer boundary of the horizontal spacing unit.

(6) Primero Operating, Inc. (Primero) and COG Operating LLC (COG) filed pre-hearing statements and appeared at one or more of the hearings, but otherwise did not oppose granting of this Application. No other party appeared or otherwise opposed this application.

(7) Applicant appeared through counsel and presented the following land and technical evidence:

- (a) The Bone Spring formation in the Unit is suitable for development by horizontal drilling.
- (b) The proposed orientation of the well within Unit well is suitable for recovery of oil and gas.
- (c) At the June 28, 2018 hearing, Applicant sought to pool all uncommitted working interest owners and overriding royalty interest owners within the horizontal boundaries of the proposed unit;
- (d) At the June 28, 2018 hearing, the Applicant provided as an exhibit a copy of an assignment from Applicant's predecessor in interest dated January 1, 2017, which excepted "depths from the surface to 7300 ft. subsurface, being the base of the Bone Spring Lime as on the Composite Gearhart Dual Laterolog and Schlumberger Dual Induction log run on August 27<sup>th</sup>, 1984, of the Craft '25' Com #1 Well, API 30-015-24992, located in Section 25, Township 24 South, Range 28 East, Eddy County, New Mexico
- (e) At the June 28 hearing, Applicant proposed amended horizontal boundaries for the spacing unit to conform with the horizontal boundaries of the spacing unit approved in hearing Order No. R-

14348-A, issued on June 8, 2018, for the underlying Purple Sage; Wolfcamp (Gas) Pool;

- (f) At the September 6, 2018 hearing, Applicant requested to further limit the Unit to the stratigraphic equivalent of the depth interval between 7,300' to 9,560' below the surface, as seen in the Craft 25 Com #1 Well;
- (g) At the September 6 hearing, Applicant provided exhibits which clarified the vertical limits of the proposed pooled interval as follows: "from the base of the Bone Spring Lime (also top of the 1<sup>st</sup> Bone Spring Sand) to the top of the Wolfcamp Formation, identified as the stratigraphic equivalents of 7300' and 9560', respectively, in the Craft 25 Com #1 Well;
- (h) Primero asked that the Division exclude from any pooling order depths from the surface down to the base of the Bone Spring Lime. Counsel for Primero stated that it has no interest in the proposed Unit and did not want to be pooled where it has no ownership rights.
- (i) Applicant presented evidence that it had again notified the owners of the mineral estate in the original project area including the Bone Spring formation within the spacing unit as to all depths. No objection had been received at that time;
- (j) At the October 4, 2018 hearing, Applicant presented evidence that there are two ownership groups within the Bone Spring formation in the spacing unit. One group owns from the base of the Delaware formation to 7,300 feet subsurface (the approximate depth of the base of the Bone Spring Lime), and the other group owns below that depth;
- (k) Applicant presented evidence that numerous frac barriers exist between the top of the Bone Spring formation and the top of the proposed pooled interval at 7300'; therefore, production from the well's completed interval will not adversely affect the correlative rights of the interest owners excluded from the pooled interval. Further, there is approximately 2,330 feet of rock between the target interval and the top of the proposed pooled interval;
- (l) Applicant stipulated that if it proposes a well in the 1<sup>st</sup> Bone Spring Sand, it will be required to come back to Hearing to seek approval;

- (m) The subject well was spud on June 30, 2018 but was not completed. The dedicated acreage on form C-102 was revised to include the 480 acres.
- (n) Notice by certified mail was provided to all uncommitted interest owners in the proposed Spacing Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments; and
- (o) Those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.

The Division concludes that:

(8) The original application was filed, and the proposed Well(s) were permitted, on or after the June 26, 2018 date on which amendments to 19.15.16.7 and 19.15.16.15 NMAC (prescribing new spacing rules for horizontal wells) became effective (see Order No. R-14689). However, the wells have not been drilled and, accordingly, should be drilled and completed under presently effective rules.

(9) Since the Spacing Unit constitutes a standard horizontal spacing unit for each of the Well(s) under now effective rules, no non-standard spacing unit approval is needed.

(10) The portion of the case asking for approval of a Non-Standard Spacing and Proration Unit is no longer needed and should be dismissed.

(11) If the location of any of the Well(s) is unorthodox when the well is completed, under the spacing rules then in effect and applicable to the well, the operator must obtain a non-standard location approval prior to producing the well.

(12) Marathon Oil Permian LLC (OGRID 372098) should be designated the operator of the Well(s) and of the Unit.

(13) The depth severance should be described as the stratigraphic equivalent of the interval from approximately 7300 feet, being the stratigraphic equivalent of the 1<sup>st</sup> Bone Spring Sand, to 9560 feet, being the top of the Wolfcamp formation, in the HNG Oil Company Craft 25 Com Well No. 1 ("Craft Well"; API 30-015-24922), located 660 feet from the North line and 2310 feet from the East Line, Unit B, of Section 25, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico.

(14) Further, Primero Operating, Inc.'s correlative rights would be protected, because it has no ownership in the Unit as now proposed. Primero did not object to the case being taken under advisement.

(15) Because the 1<sup>st</sup> Bone Spring Sand may not be isolated from vertical communication above the depth severance, if Applicant, or any operator, proposes a well in the Spacing Unit within the stratigraphic equivalent of the 1<sup>st</sup> Bone Spring Sand as shown in the Craft Well, the applicant proposing such well, whoever it may be, should be required to seek approval at hearing.

(16) Subsequent to the hearings, the applicant provided an updated C-102 that shows the proposed completed interval of the subject well. The first take point is expected to be 330 feet from the North line and 1051 feet from the East line, Unit J, of Section 25. The final take point is expected to be 330 feet from the South line and 995 feet from the East line, Unit P of Section 36.

(17) Therefore, the location of the Well meets the requirements of 19.15.16.15.1. (B), which authorizes the addition of quarter-quarter tracts within 330 feet of the completed interval. This results in a standard horizontal spacing unit comprising the SE/4 of Section 25 and E/2 of Section 36, all in Township 24 South, Range 28 East.

(18) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(19) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the Well(s) to a common source of supply within the Unit at the described depths and location(s). Applicant should be allowed a one-year period to complete at least one of the Well(s) after commencing drilling of the Well(s).

(20) There are interest owners in the Unit that have not agreed to pool their interests.

(21) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense a just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation within the Unit.

(22) To ensure protection of correlative rights, any pooled working interest owner whose address is known, and who has elected to participate under the terms of this order should be notified before the Division grants any extension of the time provided herein for commencing drilling. Any such owner may file an application, with notice to the operator, requesting that the extension be denied.

(23) Infill wells within the Unit should be subject to Division Rules 19.15.13.9 NMAC through 19.15.13.10 NMAC, and to the terms and conditions of this order.

(24) Any pooled working interest owner who does not pay its share of estimated well costs of any well should have withheld from production from such well its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the Well(s).

(25) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, while producing, provided that these rates should be adjusted annually pursuant to the COPAS form titled "*Accounting Procedure-Joint Operations.*"

**IT IS THEREFORE ORDERED THAT**

(1) All uncommitted interests are hereby pooled, whatever they may be, in the oil and gas in the Bone Spring formation underlying a 480-acre standard Horizontal Oil Spacing Unit (the "Unit") in the Willow Lake; Bone Spring Pool (Pool code 64450) and all other pools hereafter defined within the Bone Spring formation, comprising the SE/4 of Section 25, and the E/2 of Section 36, all in Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico, within the following described depth interval:

From the stratigraphic equivalent of 7300 feet below surface, being the top of the 1<sup>st</sup> Bone Spring Sand,

To the stratigraphic equivalent of 9560 feet, being the top of the Wolfcamp formation, all as seen in the HNG Oil Company Craft 25 Com Well No. 1 ("Craft Well"; API 30-015-24922), located 660 feet from the North line and 2310 feet from the East Line, Unit B, of Section 25, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico.

(2) The portion of the case asking for approval of a non-standard spacing and proration unit is hereby dismissed.

(3) The Unit shall be dedicated to the following "Well(s)":

**Southern Comfort State 24 28 25 TB Well No. 6H, API No. 30-015-44832**

SHL: 2424 feet from the South line and 1777 feet from the East line,  
(Unit J) of Section 25, Township 24 South, Range 28 East, NMPM.

BHL: 330 feet from the South line and 995 feet from the East line  
(Unit P) of Section 36, Township 24 South, Range 28 East, NMPM.

(4) If the Applicant or any other operator proposes a well to be completed within the horizontal bounds of this Unit and within the vertical stratigraphic equivalent of

the 1<sup>st</sup> Bone Spring Sand as shown in the Craft Well, the applicant, whoever it maybe, shall seek approval at hearing.

(5) Marathon Oil Permian LLC (OGRID 372098) is hereby designated the operator of the Well(s) and of the Unit.

(6) If any of the Well(s) is completed at an unorthodox location under applicable rules in effect at the time such well is completed, the operator shall provide notice and apply administratively for a location exception prior to producing the well.

(7) The operator of the Unit shall commence drilling the Well(s) on or before February 29, 2020 and shall thereafter continue drilling the Well(s) with due diligence to test the Bone Spring formation at or about the proposed true vertical and measured depths.

(8) In the event the operator does not commence drilling the Well(s) on or before the date provided in the foregoing paragraph, the compulsory pooling provision of this order shall be of no effect, unless the operator obtains a written time extension from the Division Director pursuant to a written request stating its reasons for such extension and attaching satisfactory evidence.

(9) In the event the operator does not commence completion operations within one year after commencement of drilling operations pursuant to this order, then the compulsory pooling provisions of this order shall be of no effect unless operator obtains a written time extension from the Division Director pursuant to a written request stating its reasons for such extension and attaching satisfactory evidence.

(10) The operator shall provide a copy of any request for extension of time to drill or complete any Well, filed with the Director pursuant to this order, to each pooled working interest owner who has elected to participate in the drilling of any well that is the subject of the request. Such copy shall be sent at the same time the request is sent to the Director.

(11) Upon final plugging and abandonment of the Well(s) and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit created by this order shall terminate unless this order has been amended to authorize further operations.

(12) Infill wells within the Unit shall be subject to Division Rule 19.15.13.9 NMAC and to the terms and conditions of this order.

(13) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit

separate itemized schedules of estimated costs of drilling, completing and equipping each of the Well(s) ("well costs").

(14) Within 30 days from the date the schedule of estimated well costs for any well is furnished, any pooled working interest owner shall have the right to elect to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided. Payment shall be rendered within 90 days after expiration of the 30-day election period and any such owner who pays its share of estimated well costs as provided above for any well shall remain liable for operating costs but shall not be liable for risk charges to the extent computed based on costs of such well. Pooled working interest owners who do not elect to pay their share of estimated well costs, or who do not render timely payment to the operator, as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(15) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs of each well within 180 days following completion of the proposed well. If no objection to the actual well costs for any well is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule for such well, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs for such well after public notice and hearing.

(16) Within 60 days following determination of reasonable well costs for any well, any pooled working interest owner who has paid its share of estimated costs of such well in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid for such well exceed its share of reasonable well costs.

(17) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

- (a) the proportionate share of reasonable well costs attributable to the non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(18) During the cost recovery period, the operator shall furnish to the Division and to each known non-consenting pooled working interest owner, annually, and within 90 days after payout occurs, a schedule of all revenues attributable to each proposed well, and all charges for supervision and operating costs charged against such revenues. Operating costs shall include all reasonable costs incurred for the maintenance and operation of the

well, except for "well costs" reported pursuant to prior ordering paragraphs, that are properly chargeable to the joint account pursuant to COPAS procedures. If no objection to the operating costs is received by the Division, and the Division has not objected, within 45 days following receipt of any schedule, the costs shall be deemed to be the reasonable operating costs. If there is an objection to the accuracy or reasonableness of operating costs reported within the 45-day period, the Division will determine reasonable operating costs after public notice and hearing.

(19) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs for such well.

(20) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7000 per month, per well, while drilling and \$700 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production from each well the proportionate share of both the supervision charges and the actual expenditures required for operating of such well, not more than what are reasonable, attributable to pooled working interest owners.

(21) Except as provided in the foregoing paragraphs, all proceeds from production from the Well(s) that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not sooner disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A-31, as amended).

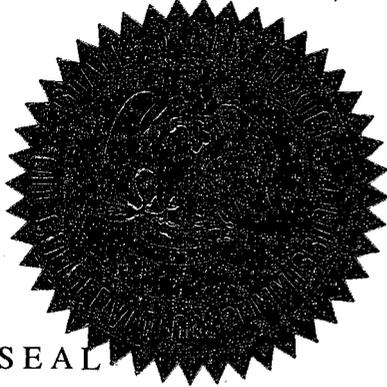
(22) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for allocating costs and charges under this order. Any costs that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(23) Should all the parties to this compulsory pooling order reach voluntary agreement after entry of this order, this order shall thereafter be of no further effect.

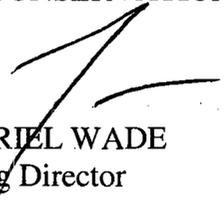
(24) The operator of the wells and Unit shall notify the Division in writing of the subsequent voluntary agreement of any party subject to the compulsory pooling provisions of this order.

(25) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
GABRIEL WADE  
Acting Director