

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

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

CASE NOS. 21543, 21630

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

CASE NOS. 21560, 21747

MATADOR'S CLOSING STATEMENT

Matador Production Company ("Matador") submits this closing statement in support of its applications in Case Nos. 21543 and 21630, as requested by the Hearing Examiner at the May 6, 2021, hearing on these consolidated cases.

INTRODUCTION

These matters involve competing pooling cases for development of the Purple Sage Wolfcamp (Gas) Pool underlying Section 23, Township 23 South, Range 27 East, Eddy County, New Mexico. Both parties are targeting the same Wolfcamp XY interval within the formation. **Matador owns 75% of the working interest in Section 23.** See Matador Exhibit A at 1-2. In its cases, Matador seeks orders pooling two standard 320-acre, more or less, horizontal spacing units in the Purple Sage; Wolfcamp (Gas) Pool (98220) underlying Section 23.

In **Case No. 21543**, Matador seeks an order pooling the S/2 of Section 23, which is already dedicated to the existing Norris Thornton Com #204H well (API No. 30-015-44659) drilled from a surface location in the SE/4 SE/4 (Unit P) of Section 23 to a bottom hole location in the SW/4 SW/4 (Unit M) of Section 23. Matador has an ownership interest of 87.5% in the

existing S/2 spacing unit. *See id.* Matador initiated development efforts in Section 23 by creating a S/2 spacing unit in February 2018, drilling its Norris Thornton Com #204H well in July 2018, and commencing production in September 2018, more than a year before Flat Creek acquired its interest in the acreage through a federal lease NMNM 139351 on or about November 1, 2019. *See* Exhibit A at 3; *see also* Matador Exhibit A-3.

In **Case No. 21630**, Matador seeks an order pooling the N/2 of Section 23 to be dedicated to the proposed Colonel R. Howard Fed Com #201H well, to be drilled from a surface location in the NW/4 NW/4 (Unit D) to a bottom hole location in the NE/4 NE/4 (Unit A) of Section 23, and the proposed Colonel R. Howard Fed Com #202H well, to be drilled from a surface location in the SW/4 NW/4 (Unit E) to a bottom hole location in the SE/4 NE/4 (Unit H) of Section 23. Matador has an ownership interest of 62.5% in the proposed N/2 spacing unit. *See id.* Matador first initiated horizontal development in the N/2 of the Section when it proposed its Colonel R. Howard Fed Com #201H and the #202H wells in the N/2 of Section 23 on November 23, 2020. *See* Matador Exhibit A-8.

Matador has been attempting to obtain a voluntary agreement to commit Flat Creek's subsequently acquired interest to the existing development in Section 23 since March 2019, when it sent its first letter seeking to voluntarily commit Flat Creek's newly acquired interest to a Joint Operating Agreement covering all of Section 23. *See* Matador Exhibit A at 3; *see also* Exhibit A-5. From the parties' first discussions until the fall of 2020, Flat Creek discussed only trading out of Section 23, never expressed objection to Matador's proposed development or operation of the acreage, and never discussed competing development plans or an interest in operating the acreage itself. *See* Matador Exhibit A at 5-7; *see also* Exhibit A-4.

On the other hand, in its competing cases Flat Creek Resources, LLC ("Flat Creek") proposes a non-standard 480-acre, more or less, horizontal spacing unit consisting of the N/2 and

the N/2 S/2 of Section 23, in which Matador would own 66.6% of the working interest. In the alternative, Flat Creek proposes a spacing unit comprised of the N/2 of Section 23, in which Matador would own 62.5% of the working interest.

While Flat Creek later raised concerns about the production from Matador's Norris Thornton Com #204H, its objections to Matador's operation of Section 23 and proposed well development plan is based on a subjective and misleading analysis of Matador's well performance in the Wolfcamp XY interval. An objective review of Matador's performance within a comparable geologic area confirms that Matador is a top-performing operator targeting the Wolfcamp XY interval in the area. Moreover, Matador's proposed well spacing will result in more efficient and effective drainage because it takes into account and is properly spaced with respect to offsetting producing wells to the north and south, whereas Flat Creek's proposal does not and will therefore result in an inefficient and inconsistent spacing pattern across the acreage and result in waste.

Matador's applications for pooling must be granted over Flat Creek's because Matador owns the controlling working interest in the Section and in each of Matador's proposed spacing units. In addition, every other factor considered by the Division in competing well development and compulsory pooling cases either favors Matador or does not favor either party.

A. In the Absence of Geologic or Prospect Differences "Working Interest Control" Decides Operations.

When the Division is presented with competing development plans, Commission Order R-10731-B (issued in 1997) instructs as follows:

- (24) In the absence of compelling factors such as geologic and prospect differences, ability to operate prudently, or any reason why one operator would economically recover more oil or gas by virtue of being awarded operations than the other, "working interest control," as defined and modified in findings 23(d) and (e) should be the controlling factor in awarding operations.

See also Division Order R-13603 (March 2006) at ¶17(f) (“The Oil Conservations Commission has indicated that working interest percentages operated is a major factor in determining whom to designate as operator.”); Division Order R-11869 (December 2002) at ¶23 (Because Great Western has significantly larger adjusted working interest control, and no other compelling factors exist, Great Western should be designated the operator of the proposed well and of the Units.”).

Twenty years later, Division Order R-14518 (issued December of 2017) cited working interest control as a major factor in awarding operation of a proposed horizontal well spacing unit in the Bone Spring formation to Mewbourne Oil Company:

(20) Mewbourne provided sufficient evidence establishing a greater capacity to prudently operate the property based on successful drilling operations for the targeted interval in this area along with active production from its existing horizontal well completed in the 3rd Bone Spring sand and located in the W/2 W/2 of Section 15.

(21) Mewbourne proved a larger control of the working interest for Section 15 with approximately 74 percent committed to Mewbourne while Black Mountain could provide documentation of approximately 24 percent committed to their proposed well.

...

(23) Mewbourne Oil Company should be designated operator of the Pronghorn 15 B3AP Federal Com Well No. 1H and the proposed spacing unit and project area.

(emphasis added). Like Mewbourne in Order R-14518, Matador has conducted successful drilling operations in the targeted Wolfcamp XY interval in the offsetting acreage. *See* Matador Rebuttal Exhibit 6. And like Mewbourne in Order R-14518, Matador owns 75% of the working interest in the subject acreage and was the first to propose development (and already drilled and is operating a well in the S/2 S/2 of the Section). Because Matador will pay 75% of the costs of developing this acreage, Matador’s pooling applications similarly must be granted.

B. Every Other Key Factor Weighed by the Division in Determining Competing Well Development Plans Favors Matador as Operator.

In addition to owning the majority working interest in Section 23, every other key factor considered by the Division in competing well development and compulsory pooling cases favors Matador.

1. Geology and Potential to Efficiently Recover Reserves

Both parties are targeting the same Wolfcamp XY interval, so the geologic aspect of this factor does not favor one party over the other.

Both companies also agree that the proper spacing between horizontal wells targeting the Wolfcamp XY interval in this area is approximately 1,320 feet between laterals. As Matador's geologist testified, Matador has determined that 1,320-foot spacing is optimal for the Upper Wolfcamp formation in this area. *See* Matador Exhibit C at 2-3. Flat Creek's geology expert agreed. Matador's proposed development across Section 23 maintains that preferred and optimal spacing with respect to the existing offsetting production to the north in Section 14 and to the existing Norris Thornton Com #204H well in the S/2 of Section 23 that will permit full and efficient development of the Upper Wolfcamp.

In contrast, and despite agreeing that optimal well spacing is 1,320 feet, Flat Creek's proposed development will crowd Matador's existing producing well in the S/2 S/2 of Section 14 by locating its Thirteen Seconds #701H well about 400 feet closer to the north line of Section 23 than the preferred spacing and would result in a development gap of about 360 feet from Matador's existing Norris Thornton #204H to the south compared to the preferred spacing. *See* Matador Exhibit C at 4; *see also* Matador Exhibit C-6. Flat Creek's proposal will therefore result in inconsistent spacing across Section 23 and inefficient drainage of the Upper Wolfcamp compared to Matador's proposed plan, and may require drilling an infill well to fully drain the

S/2 of Section 23 that would be unnecessary under Matador's proposal. *See* Matador Exhibit C at 4. This factor favors Matador.

2. *Comparison of Risk*

Both parties agree a 200% risk factor is appropriate for development in this area. This factor does not favor either party.

3. *Good Faith Negotiations*

As shown in Matador's testimony and timeline, Flat Creek's focus solely on efforts to trade out of Section 23 until recently supports Matador's position that Flat Creek did not engage in good-faith negotiations to reach agreement on the development of the subject acreage. *See* Matador Exhibit A and A-4; *see also* Flat Creek Exhibit A-4. In contrast, Matador continuously tried to reach agreement on the development of the subject acreage while also trying to reach a commercial solution. *See generally*, Matador Exhibit A; *see also* Matador Exhibit A-4. While there was some contradictory testimony on this issue between the Parties, Flat Creek's testimony is belied by its own timeline exhibit where nearly every entry focuses on trades. *See* Flat Creek Exhibit A-4. This factor favors Matador.

4. *Comparison of Each Operator's Ability to Prudently Operate*

Matador has drilled approximately 282 horizontal wells in the Permian Basin of New Mexico with 138 of those wells in the Rustler Breaks area that includes the proposed development in Section 23. *See* Matador Exhibit B. In the Township in which the proposed development is located, Matador has drilled and is operating at least 27 horizontal wells in the targeted Upper Wolfcamp formation, the same target interval in these consolidated cases. Among all operators within a five-mile or 20-mile area, Matador is a top-performing producer. *See* Matador Rebuttal Exhibit 6. To discredit Matador, Flat Creek's reservoir engineer testified that Matador's production underperforms other operators in the area. But his analysis was based on

cherry-picked data and is therefore biased and invalid, as discussed in more detail below in Part C.3. In contrast, Flat Creek has not drilled any wells in New Mexico and has drilled only three wells in Reeves County, Texas. This factor heavily favors Matador.

5. AFEs and Other Operational Costs

Matador's combined total estimated well costs are approximately \$2,229,700 less than Flat Creek's combined total estimated well costs. *See* Matador Exhibit B at ¶ 8. This factor heavily favors Matador.

6. Ability to Timely Locate Sites and Approvals to Operate

Due to Matador's extensive presence and existing development and footprint in the area, Matador already has the infrastructure in place necessary to support and accommodate its proposed Wolfcamp development that will help limit surface disturbance, truck traffic, and the potential for flaring pending gathering connections. *See* Matador Exhibit B at ¶¶ 6-7; *see also* Matador Exhibit B-3. In particular, due to its existing development in this Section, Matador already has all of the necessary surface pads built to drill these wells. *Id.* Matador also has the ability, through its midstream affiliate, to have all three streams of production on pipe from first production. *Id.* In contrast, Flat Creek does not have the existing well pads, facilities, or takeaway capacity to accommodate its proposed wells. *Id.* This factor heavily favors Matador.

C. Flat Creek Has Failed to Demonstrate any Compelling Factors that Warrant Awarding Operations to Flat Creek as a Minority Working Interest Owner.

Operatorship is not and cannot be determined based on one party's subjective opinion on who the "best" operator for the acreage at issue is, especially when that subjective opinion is based on obviously cherry-picked data. Rather, in the absence of indisputable evidence demonstrating waste, the working interest owner that will actually bear the largest share of the development costs should be designated the operator. Matador, which owns three times the

interest held by Flat Creek over Section 23 and will pay 75% of the costs, has proposed a development plan that has proven to be a prudent plan to develop the targeted zone in the Upper Wolfcamp formation in this area.

1. Flat Creek's Proposed Development and Spacing Will Result in Inefficient Development and Drainage of the Acreage.

As addressed above, Flat Creek's proposed well spacing and development plan does not match the 1,320-foot spacing that Flat Creek acknowledges is the preferred spacing for the targeted interval in this area. That will result in inefficient and ineffective drainage of the acreage across Section 23, compared to Matador's proposal and well development plan, which maintains the preferred and optimal well spacing.

2. Flat Creek's Proposed Non-Standard Well Locations Will Impair Matador's Correlative Rights and the Rights of other Non-Operating Interests in Offsetting Acreage.

Flat Creek proposes to complete the intervals for its proposed wells 100 feet from the east line of Section 23, which is 230 feet closer to the outer boundary of the spacing unit than the setbacks allow under the special rules of the Purple Sage; Wolfcamp (Gas) Pool (98220). *See* Flat Creek Exhibit A at 3; *see also* Flat Creek Exhibit A-2. Flat Creek testified that they intend to seek administrative approval for the non-standard locations. *Id.* However, Matador has existing producing wells at legal locations in spacing units that would be encroached upon to the east in Section 24. *See* Matador Exhibit C-5. Matador would have no opportunity to mitigate against such encroachment, which would result in the impairment of Matador's correlative rights in those spacing units, and Matador would object to Flat Creek's proposed non-standard location were it to apply for one in the future.

3. Flat Creek's Data on Matador's Production Performance Record is Cherry-Picked and Transparently Invalid.

Flat Creek's reservoir engineer provided a flawed and biased analysis of Matador-operated wells in the Wolfcamp XY interval within a 20-mile radius that purports to compare Matador's production to other operators in the area. *See generally*, Flat Creek Exhibit C. That analysis is invalid for at least the following three reasons.

First, as Matador's geologist noted on rebuttal, Flat Creek's analysis included an incomplete data set of wells in its area of review. See Matador Rebuttal Exhibit 6 at 2.

Second, as Flat Creek's witness acknowledged in his testimony on cross examination, the geology of the target interval across his 20-mile study area is not similar to the geology in Section 23. Matador's geology witness clarified on rebuttal that the geology of the Wolfcamp XY improves to the south and east within Flat Creek's 20-mile study area, making a comparison of producing wells to the south and east to Matador's production around Section 23 inappropriate. Matador's witness also testified on rebuttal that a more apt comparison of production would be limited to a five-mile area in which the geology is comparable. *See* Matador Rebuttal Exhibit 6.

Third, whether comparing the performance of Matador's producing wells to other operators in a 20-mile area, as Flat Creek did, or within a five-mile area, both analyses confirm that Matador's wells are, on average, among the top producing wells in those areas. *See* Matador Rebuttal Exhibit 6. Contrary to Flat Creek's analysis, which purported to compare Matador to all operators, Flat Creek compared Matador only to the top producing operator in the area—Mewbourne. *Compare* Flat Creek Exhibit C at ¶ 6 (stating that “compared to other operators in the area, Matador's production and recovery consistently underperform” (emphasis added) *with* Flat Creek Exhibit C-2 (comparing to only Mewbourne). That is a transparent effort to cherry

pick production data to obscure Matador's true performance metrics. When all operators are included in the analysis, Matador is clearly revealed to be a top performer. *See* Matador Rebuttal Exhibit 6.

CONCLUSION

Putting aside the fatal issues with Flat Creek's faulty application and deficient notice in Case No. 21560, Matador's ownership of 75% of the working interest in the subject acreage and superior development plan mandates under Division and Commission precedent that Matador's pooling applications be granted and that Matador be designated operator of its proposed spacing units.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2021, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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