

**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. 16149
ORDER NO. R-20033**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on June 14, 2018 at Santa Fe, New Mexico, before Examiner Michael A McMillan.

NOW, on this 15th day of October 2018, the Division Director, having considered the testimony, the record and the recommendations of Examiner,

FINDS THAT:

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) Cases No. 16147, 16148, and 16149 were consolidated at the hearing for the purpose of testimony, and a single order is being issued for each case.
- (3) Marathon Oil Permian LLC ("Marathon" or "Applicant"), seeks approval of a non-standard 240-acre non-standard oil spacing and proration unit and project area ("the Unit") in the Bone Spring formation, Red Hills; Bone Spring, East Pool (Pool Code 97369) underlying the W/2 W/2 of Section 11 and the W/2 NW/4 of Section 14, all in Township 25 South, Range 34 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests within the Unit in the Bone Spring formation.
- (4) The Unit will be dedicated to the Ender Wiggins Federal 25 34 14 TB Well No. 3H (API No. 30-025-45188), a horizontal well to be drilled from a surface location, 2450 from the North line and 642 feet from the West line (Unit E) of Section 14, to a terminus 330 feet from the North line and 330 feet from the West line (Unit D) of Section

11, all in Township 25 South, Range 34 East. The completed interval of the proposed well will be at an orthodox location.

(5) The proposed oil well will be within the Red Hills; Bone Spring, East Pool (Pool code 97369) and is subject to Division Rule 19.15.15.9(A) NMAC, which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of six adjacent quarter-quarter sections oriented south to north.

(6) Applicant appeared at the hearing through counsel and presented evidence to the effect that:

- (a) the Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal well from south to north is appropriate for the Unit;
- (c) all quarter-quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that the Unit as requested will not impair correlative rights;
- (d) Applicant had requested 250 days between drilling and completing of the first well; versus the standard Division practice of granting only 120 days after the commencement of the first well and completion. Normally if the first well is not completed 120 days after spud, the order is terminated. Applicant requested the extra time because all wells subject to Hearing Cases 16147, 16148, and 16149 will be drilled from a single pad, next all wells will be drilled back to back. Applicant also stated that it has proposed wells from a different pad which will be drilled to the south of the Unit. Lastly, all wells will be completed simultaneously;
- (e) notice by certified mail was provided to all uncommitted interest owners in the proposed 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
- (f) out of abundance of caution, those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.

(7) COG Operating, LLC entered an appearance. No other party entered an appearance or otherwise opposed the granting of this application.

The Division concludes that:

(8) The proposed non-standard unit should be approved to enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

(9) 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.

(10) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

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

(12) 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 its 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.

(13) The request for 250 days versus the 120 days in most hearing orders would be extremely difficult to enforce and difficult for the Division and the Applicant to determine the exact day the Order expires. The Division should allow for 365 days between spud and completion of the first well along with completion in all quarter-quarter sections for oil wells and a quarter section for gas wells in proposed wells in Hearings Cases 16147, 16148, and 16149 with the following provision. Next, the Applicant should have the flexibility to complete either a gas well or oil well subject to these cases in any order, as long as the preceding requirement is met. Finally, Applicant should supply the Engineering Bureau and Hobbs District Office with a Sundry Notice signed by an engineer stating that each quarter-quarter for oil wells or quarter section for gas wells of the Unit has been penetrated and may be capable of producing oil and gas.

(14) Marathon Oil Permian LLC should be designated the operator of the proposed well and of the Unit.

(15) 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.

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

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month, per well, while drilling and \$750 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) A non-standard 240-acre oil spacing and proration unit and project area ("the Unit") is hereby established for oil and gas production from the Bone Spring formation, Red Hills; Bone Spring, East Pool (Pool Code 96449) underlying the W/2 W/2 of Section 11 and the W/2 NW/4 of Section 14, all in Township 25 South, Range 34 East, NMPM, in Lea County, New Mexico.

(2) Pursuant to the application of Marathon Oil Permian LLC, all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to the Proposed Ender Wiggins Federal 25 34 14 TB Well No. 3H (API No. 30-025-45188, "Proposed Well"), a horizontal well to be drilled from a surface location 2450 feet from the North line and 642 feet from the West line (Unit E) of Section 14, and the bottom hole location shall be located 330 feet from the North line and 330 feet from the West line (Unit D) of Section 11, all in Township 25 South, Range 34 East. The completed interval of the Proposed well shall be an orthodox location.

(4) The operator of the Unit shall commence drilling the proposed well on or before October 31, 2019 and shall thereafter continue drilling the well with due diligence to test the Bone Spring formation.

(5) In the event the operator does not commence drilling the proposed well on or before October 31, 2019 Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Unless at least one of the proposed wells is drilled and completed within 365 days after commencement of the first such well, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed wells for good cause shown by satisfactory evidence. If neither of the proposed wells is completed in all quarter sections included in the Unit within 365 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those quarter sections in which at least one well is completed.

(7) The preceding paragraph shall only be permitted if the Applicant meets the requirements of Findings paragraph (13). If the requirements are not satisfactorily met, the Order shall be terminated.

(8) Upon final plugging and abandonment of the proposed well 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.

(9) Marathon Oil Permian LLC (OGRID 372098) is hereby designated the operator of the well and the Unit.

(10) 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 an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right 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, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(12) 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 within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, 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 after public notice and hearing.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs 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 exceed its share of reasonable well costs.

(14) The operator is hereby authorized to withhold the following costs and charges from production attributable to each non-consenting working interest owner from each well:

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

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

(16) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates shall be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not more than what are reasonable, attributable to pooled working interest owners.

(17) Except as provided above, all proceeds from production from the proposed well 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 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 7-8A-31, as amended).

(18) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this Order. Any well costs or charges 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.

(19) 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.

(20) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(21) If the applicant proposes infill wells within the Unit, the proposed infill wells shall be subject to Division Rule 19.15.13 NMAC.

(22) 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**


HEATHER RILEY
Director