

**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. 16299
ORDER NO. R-20038**

**APPLICATION OF MARATHON OIL PERMIAN LLC FOR A 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 July 12, 2018 at Santa Fe, New Mexico, before Examiner Michael A. McMillan, and again on July 26, 2018 before Examiner Scott. A. Dawson.

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

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. 16298 and 16299 were consolidated at the hearing for testimony and a single order is being issued for each case.

(3) Marathon Oil Permian LLC ("Marathon " or "Applicant"), seeks approval of a 320.08-acre (more or less) horizontal oil spacing unit ("the Unit") in the Bone Spring formation, Willow Lake; Bone Spring, West Pool (Pool Code 96415) underlying the E/2 of Section 1, Township 25 South, Range 28 East, NMPM, Eddy 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 proposed Whistle Pig Fee 25 28 1 TB Well No. 5H (API No. 30-015-45174), a horizontal well to be drilled from a surface location, 300 feet from the North line and 770 feet from the East line (Lot 1/ Unit A), to a terminus 100 feet from the South line and 999 feet from the East line (Unit P) of Section 1, Township

25 South, Range 28 East. The completed interval of the proposed well will be at an orthodox location.

(5) The proposed oil well will be drilled horizontally and completed in the Willow Lake; Bone Spring, West Pool. Said pool is subject to Subsection A of 19.15.15.9 NMAC, which provides for standard 40-acre spacing and proration units each comprising a governmental quarter-quarter section.

(6) The allowed setback footage distance for the proposed horizontal oil well is specified in Paragraph (1) of Subsection C of 19.15.16.15 NMAC effective June 26, 2018. Said rules allow 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-foot from the outer boundary of the horizontal spacing unit.

(7) No other party appeared at the hearing, or otherwise opposed the granting of this application.

(8) 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 north to south is appropriate for the Unit.
- (c) 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.
- (d) Applicant provided notice to 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:

(9) The latest (amended) application in this case was submitted July 3, 2018 and is subject to the horizontal rule changes effective June 26, 2018.

(10) The proposed completed interval of this well will be closer than 330 feet from the W/2 E/2 of Section 1. Applicant stated that the first take point will be located 100 feet from the South and 995 feet from the East line (Lot 1/ Unit A), and the last take point (terminus) will be located 100 feet from the South line and 999 feet from the East line (Unit P) of Section 1.

(11) Applicant is asking for inclusion of offsetting quarter-quarter section equivalents (proximity tracts) located to the west (W/2 E/2), resulting in 320.08-acre horizontal oil spacing unit, pursuant to Subparagraph (b) of Paragraph (1) of Subsection B of 19.15.16.15 NMAC.

(12) Applicant requested 180 days or more between drilling and completing the well to provide time for drilling multiple nearby wells then simultaneously completing the wells. Applicant should be given one-year between drilling and completing the well.

(13) 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.

(14) 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.

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

(16) 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.

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

(18) 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.

(19) 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.

(20) 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) Pursuant to the application of Marathon Oil Permian LLC, a standard 320.08-acre (more or less) horizontal oil spacing unit ("the Unit") is hereby established for

oil and gas production from the Bone Spring formation, Willow Lake; Bone Spring, West Pool (Pool Code 96415) underlying the E/2 of Section 1, Township 25 South, Range 28 East, NMPM, in Eddy County, New Mexico.

(2) 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 Whistle Pig Fee 25 28 1 TB Well No. 5H ("Proposed Well": API No. 30-015-45174), a horizontal well to be drilled from a surface location, 300 feet from the North line and 770 feet from the East line (Lot 1/ Unit A), to a terminus 100 feet from the South line and 999 feet from the East line (Unit P) of Section 1, Township 25 South, Range 28 East. The proposed well will be completed at a standard 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 the proposed well is drilled and completed within one year of commencement of drilling such well, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit shall terminate unless operator requests in writing an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence and the Division issues written approval.

(7) 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.

(8) 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.

(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

separate itemized schedules 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 for any well 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 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 elect not to pay their share of estimated well costs as provided in this paragraph for 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 of each well within 90 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.

(13) 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.

(14) 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 each non-consenting working interest 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 for such well.

(16) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7,000 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.

(17) 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 requirements herein, 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.

(18) Except as provided in the foregoing paragraphs, all proceeds from production from the 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 70-8A-31, as amended).

(19) 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 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.

(20) 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.

(21) The operator of the well 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.

(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