

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

**APPLICATION OF MARATHON OIL PERMIAN LLC  
FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

**CASE NO. 20220**

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**TAP ROCK OPERATING, LLC'S MOTION FOR CONTINUANCE**

Tap Rock Operating, LLC ("Tap Rock") hereby moves for a continuance of the above-captioned matters to the next available docket. In support of this motion, Tap Rock states the following:

1. In the above-captioned cases, Marathon Oil Permian LLC ("Marathon") has filed forced pooling applications concerning acreage and depths in which Tap Rock has working interests. These matters have been set for the February 7, 2019 docket. Tap Rock has entered an appearance in both cases through counsel.

2. It is Tap Rock's position that a continuance is required because Marathon has not met its duty to negotiate in good faith for Tap Rock's voluntary participation before proceeding to hearing.

3. Tap Rock initially received from Marathon a well proposal letter, but Tap Rock did not otherwise receive any communication from Marathon before Marathon filed its applications.

4. Commission and Division precedent absolutely requires good faith negotiation prior to filing, and an application may be dismissed outright until such time as the applicant has negotiated in good faith. *See, e.g.,* Commission Order No. R-10731-B, Findings Paragraph (23)(g)

(“If the force pooling party does not negotiate in good faith, the application is denied and the applicant is instructed to negotiate an agreement prior to refiling the force pooling application.”).

5. Marathon has not until very recently responded to Tap Rock’s inquiries and offers to discuss trading out of the subject acreage.

6. Marathon has suggested to Tap Rock that Tap Rock’s interests are not going to be force pooled in these proceedings, but Marathon has not provided Tap Rock with any further explanation. Tap Rock does not understand how an uncommitted party can legally be excluded from a pooling proceedings if they are a known interest owner in the unit to be pooled, and Marathon has not provided Tap Rock with a satisfactory explanation.

7. These matters should be continued to the next available docket so as to provide Marathon with time to meet its duty to negotiate in good faith with uncommitted interest owner Tap Rock before proceeding to force pooling hearing.

WHEREFORE, for the foregoing reasons, Tap Rock requests a continuance of these matters to the next available docket. Marathon opposes this motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record by electronic mail on January 31, 2019:

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/s/ Seth C. McMillan

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