

**From:** [Brancard, Bill, EMNRD](#)  
**To:** [Darin Savage](#)  
**Cc:** [Deana M. Bennett](#); [Hearings, OCD, EMNRD](#); [David, Dana Z, EMNRD](#); [Lara Katz](#)  
**Subject:** RE: [EXT] Re: Devon Request for Prehearing Conference Case 20792  
**Date:** Friday, September 27, 2019 3:26:10 PM

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Any motion for continuance would be considered at the hearing.

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**From:** Darin Savage <darin@abadieschill.com>  
**Sent:** Friday, September 27, 2019 3:23 PM  
**To:** Brancard, Bill, EMNRD <bill.brancard@state.nm.us>  
**Cc:** Deana M. Bennett <dmb@modrall.com>; Hearings, OCD, EMNRD <OCD.Hearings@state.nm.us>; David, Dana Z, EMNRD <DanaZ.David@state.nm.us>; Lara Katz <lara@abadieschill.com>  
**Subject:** [EXT] Re: Devon Request for Prehearing Conference Case 20792

Mr. Brancard,

Given that a pre-hearing conference has been denied, the Division should not automatically grant Marathon's forthcoming motion to continue, and should instead address that issue at the October 3, 2019 hearing to determine whether such a continuance is within the Division's proper discretion, given the unique circumstances of the proposed competing application and the legal issues that we believe arise under the Oil and Gas Act. We will outline Devon's position in a response to Marathon's motion once it is filed. In the meantime, we will continue to work with Ms. Bennett, as we have been, to reach a satisfactory resolution prior to the hearing.

Thank you,

Darin

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**DARIN SAVAGE**

*Abadie & Schill, PC*

*214 McKenzie Street, Santa Fe, New Mexico 87501*

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**P | 970.385.4401 :: F | 970.385.4901 :: C | 970.764.8191**

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On Sep 27, 2019, at 1:59 PM, Brancard, Bill, EMNRD <[bill.brancard@state.nm.us](mailto:bill.brancard@state.nm.us)> wrote:

Mr. Savage and Ms Bennett,

I have conferred with OCD management and potential hearing examiners for next week's hearing, and there will not be a pre-hearing conference prior to the hearing on October 3, 2019.

Regards,  
Bill Brancard

General Counsel  
NM Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
505.476.3210  
[Bill.brancard@state.nm.us](mailto:Bill.brancard@state.nm.us)

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**From:** Deana M. Bennett <[dmb@modrall.com](mailto:dmb@modrall.com)>  
**Sent:** Friday, September 27, 2019 12:46 PM  
**To:** Darin Savage <[darin@abadieschill.com](mailto:darin@abadieschill.com)>; Hearings, OCD, EMNRD <[OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us)>  
**Cc:** David, Dana Z, EMNRD <[DanaZ.David@state.nm.us](mailto:DanaZ.David@state.nm.us)>; Brancard, Bill, EMNRD <[bill.brancard@state.nm.us](mailto:bill.brancard@state.nm.us)>; Lara Katz <[lara@abadieschill.com](mailto:lara@abadieschill.com)>  
**Subject:** [EXT] RE: Devon Request for Prehearing Conference Case 20792

Hello,

As Mr. Savage notes, Marathon and Devon are in discussions about this case, which is why I am holding off on filing a motion for continuance until I have more certainty that filing such a motion is necessary. I am not opposed to Devon's request to have a prehearing conference on Monday.

Thanks,

Deana

[<image001.jpg>](#)

Deana M. Bennett

Lawyer

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**From:** Darin Savage <[darin@abadieschill.com](mailto:darin@abadieschill.com)>

**Sent:** Friday, September 27, 2019 11:37 AM

**To:** [ocd.hearings@state.nm.us](mailto:ocd.hearings@state.nm.us)

**Cc:** Deana M. Bennett <[dmb@modrall.com](mailto:dmb@modrall.com)>; David, Dana Z, EMNRD <[danaz.david@state.nm.us](mailto:danaz.david@state.nm.us)>; [bill.brancard@state.nm.us](mailto:bill.brancard@state.nm.us); Lara Katz <[lara@abadieschill.com](mailto:lara@abadieschill.com)>

**Subject:** Devon Request for Prehearing Conference Case 20792

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Good afternoon,

Counsel for Devon Energy Production Company, L.P. (“Devon”) requests that an informal conference be convened as soon as possible with the Division, Marathon and Devon. The hearing on this matter is currently scheduled for October 3, 2019, so Devon would request that the conference be scheduled for this Monday, if possible.

Counsel for Marathon Permian LLC (“Marathon”) informed us on September 24, 2019, that Marathon is in the process of drafting a competing application, which it intends to file for hearing on the November 14, 2019 docket. Marathon has entered an appearance in this case and has expressed an intent to continue the hearing on Devon’s completed application to allow time for Marathon’s application to be prepared, filed and heard in a contested hearing alongside Devon’s application. Devon would oppose Marathon’s request for a continuance on grounds that are unique and specific to this case and the parties involved.

Counsel for Devon and Marathon have asked the parties to make efforts to negotiate a resolution prior to the hearing, and the parties have engaged negotiations, but have thus far been unable to reach a resolution. Counsel for Marathon has indicated that they are holding off on filing a continuance until Monday, but they do not oppose scheduling the conference on Monday, given the timeframes involved.

There are a number of critical issues, both substantive and procedural, that need to be addressed and that require a conference prior to any decision on a continuance. Thank you for your prompt attention in this matter.

Darin Savage

Counsel for Devon

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