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

APPLICATION OF MARATHON OIL PERMIAN LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO **Case No. 20865**

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BTA OIL PRODUCERS, LLC'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

BTA Oil Producers, LLC ("BTA") requests that the New Mexico Oil Conservation Division ("Division") enter an order adopting the following findings of fact and conclusions of law.

I. Findings of Fact

1. These matters, Case Nos. 20865 and 20866, were consolidated for purposes of hearing and were heard on November 14 and 15, 2019, at Santa Fe, New Mexico, before Hearing Examiners Leonard Lowe, Kathleen Murphy, Phillip Goetze, Dylan Coss, and Legal Examiner Eric Ames.

2. In Case No. 20865, Applicant Marathon Oil Permian LLC ("Marathon") requests an order pooling all uncommitted mineral interests within a Bone Spring horizontal spacing unit underlying the S/2 N/2 of Section 12, Township 23 South, Range 28 East and Section 7, Township 23 South, Range 29 East in Eddy County. Marathon proposes to dedicate the 320-acre horizontal spacing unit to the Valkyrie 12 SB Federal Com 13H well.

3. In Case No. 20866, Marathon requests an order pooling all uncommitted mineral interests within a Wolfcamp horizontal spacing unit underlying the N/2 of Section 12, Township 23 South, Range 28 East and Section 7, Township 23 South, Range 29 East in Eddy County. Marathon proposes to dedicate the 640-acre horizontal spacing unit to the Valkyrie 12 WXY Federal Com 1H, Valkyrie WA Federal Com 3H, Valkyrie 12 WXY Federal Com 5H, Valkyrie 12 WD Federal Com 2H, Valkyrie 12 WD Federal Com 4H, and Valkyrie 12 WD Federal Com 6H wells.

4. The producing intervals of the wells that are the subject of Case No. 20866 will be unorthodox and will not comply with the Division's setback requirements.

5. Marathon currently controls 37.8% of the working interest in the acreage it proposes to pool in Case No. 20865 and controls 18.9% of the working interest in the acreage it proposes to pool in Case No. 20866.

6. Oxy Y-1 Company ("Oxy") and Chevron own interests in the acreage that Marathon proposes to pool and have not yet joined Marathon's proposed wells.

7. BTA holds 36% of the working interest in the acreage that Marathon seeks to pool.

8. Pursuant to a Joint Operating Agreement ("the JOA"), BTA is the operator of approximately 480 acres comprising the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East ("Ochoa Acreage").

9. BTA acquired the JOA in approximately November 2018.

10. Marathon first acquired its interest in the lands it seeks to pool in April 2019, subsequent to BTA's acquisition of the Ochoa Acreage.

11. 100 percent of the working interests in the lands covered by the JOA are committed to the JOA. Because 100 percent of the working interest is committed to the JOA, BTA does not need to seek a compulsory pooling order to develop the acreage covered by the JOA.

12. BTA owns 73 percent of the working interest in the lands covered by the JOA, namely the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East, and Oxy Y-1 Company ("Oxy") owns the remaining 27 percent of the working interest.

13. The JOA covers all intervals underlying the N/2 of Section 7 and all intervals underlying the NW/4 of Section 8, Township 23 South, Range 29 East.

14. One producing well has been drilled on the lands covered by the JOA: Culebra BLV Federal #1H, a one and one-half mile lateral well in the Delaware formation that is currently operated by BTA.

15. BTA presently has plans to develop the Ochoa Acreage and entered into a trade with EOG Resources, Inc. in order to fully develop the Bone Spring and Wolfcamp formations underlying the lands covered by the JOA.

16. BTA has proposed four one and one-half mile lateral wells to be drilled in the Wolfcamp formation in the Ochoa Acreage. The proposed wells would be completed in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East.

17. BTA proposes a well density of eight wells per section and has experience with this level of well density in the Permian Basin.

18. BTA and Oxy are parties to a letter agreement which allows Oxy to make an election under the JOA 30 days from BTA's receipt of an approved application of a permit to drill.

19. Under the terms of the JOA, Oxy cannot voluntarily join in the wells proposed by Marathon in Case No. 20865 nor the wells proposed in Case No. 20866.

20. The four Wolfcamp wells proposed by BTA have surface locations outside the Potash Area designated by the United States Secretary of the Interior; the completed lateral wells would enter the Potash Area.

21. Because BTA's proposed wells will extend into the Potash Area, BTA was required to notify Mosaic Potash of its development plan. BTA provided the required notice and received no negative feedback from Mosaic.

22. BTA has submitted applications for permits to drill ("APDs") its proposed Wolfcamp wells and an associated development plan to the Federal Bureau of Land Management ("BLM").

23. BLM informed BTA that it would approve BTA's development plan pending resolution of an objection filed by Novo Oil & Gas Northern Delaware ("Novo").

24. BTA has completed its on-site evaluation with the BLM for the proposed wells.

25. During the summer of 2019, Marathon sent well proposals for the wells that are the subject of this matter to BTA.

26. When BTA did not elect to participate in the wells proposed by Marathon, Marathon understood that BTA would likely oppose Marathon's proposal.

27. Marathon was aware of BTA's interest in the Ochoa Acreage, and that BTA could oppose Marathon's proposed development, by September 26, 2019.

28. After receiving Marathon's well proposal, BTA initiated a meeting with Marathon to discuss possible solutions. Representatives of BTA traveled to Houston, Texas to meet with representatives of Marathon on October 10, 2019. BTA expressed its preference to Marathon that BTA drill one and one-half mile lateral wells in the lands covered by the JOA in order to fully develop the resources underlying the acreage and that Marathon drill one-mile lateral wells in Marathon's adjacent acreage.

29. Marathon proposed to trade acreage with BTA, but BTA did not view the acreage as geologically comparable and rejected Marathon's proposal.

30. The parties discussed other potential opportunities to trade acreage, but Marathon never submitted another proposal to BTA. BTA is unable to make trade proposals to Marathon because BTA cannot reasonably discover the interests owned by Marathon.

31. Marathon never proposed any alternatives that recognized BTA's correlative rights in the N/2 of Section 7.

32. BTA acquired the JOA in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East to develop the acreage as an operator pursuant to the JOA.

33. If Marathon's applications are granted, BTA's acreage in the NW/4 of Section 8 will be stranded, and BTA will be precluded from developing the Ochoa Acreage as an operator, which was the reason BTA acquired the JOA.

34. If Marathon's applications are denied, Marathon can drill one-mile lateral wells in Section 12 without pooling BTA's Ochoa Acreage.

35. There is no geological or engineering impediment to Marathon drilling one-mile lateral wells in this area. Marathon has drilled one-mile lateral wells in the surrounding area.

36. Marathon may drill one-mile lateral wells when there are land constraints.

37. Marathon has not evaluated its option to drill one-mile lateral wells in Section 12.

38. Although Marathon's drilling of one-mile laterals would be subject to a setback, that would not preclude drainage of the area subject to the setback.

39. BTA acquired its interest in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East prior to Marathon's acquisition of its interest in the lands it seeks to pool. BTA also acquired its interest in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East prior to Novo's acquisition of adjacent lands that are the subject of a separate compulsory pooling proceeding before the division.

40. BTA intends to fully develop its interests in the Ochoa acreage under the JOA and plans to drill additional wells. BTA has not yet proposed Bone Spring wells or additional Wolfcamp wells because Novo has objected to BTA's development plan, and Oxy has stated that it will not elect under the JOA until the objection is resolved. As a result, it would be futile for BTA to propose additional wells prior to resolution of Novo's objection.

41. In the Loving area of Eddy County, New Mexico, where the lands Marathon seeks to pool are located, BTA has completed multiple lateral wells, including 1.5 mile lateral wells. The 1.5 mile lateral wells that BTA operates are economic.

42. The 1.5 mile lateral wells that BTA proposes to drill in the Ochoa Acreage will be efficient and economic.

43. Although Marathon claimed to be a more cost-effective driller than BTA, Marathon did not evaluate, and presented no evidence of, BTA's actual drilling costs.

44. If BTA is able to maintain the integrity of its Ochoa acreage, it will be able to develop its entire position from one surface location.

45. BTA has been an active developer throughout New Mexico and has been able to right size its surface facilities.

46. If BTA is not permitted to maintain the integrity of its Ochoa Acreage, it is unclear whether or how BTA would develop the NW/4 of Section 8.

47. If Marathon's applications for compulsory pooling are granted in this matter, at least 80 acres of the lands subject to the JOA would be stranded.

48. BTA has successfully and continuously marketed gas produced from the Wolfcamp formation and intends to do the same with all gas produced from lands covered by the JOA.

II. Conclusions of Law

1. Due public notice has been given, and the Division has jurisdiction over these cases and over the subject matter.

2. Granting Marathon's applications for compulsory pooling in these matters would impair BTA's correlative rights.

3. Marathon did not engage in a good-faith attempt to secure BTA's voluntary participation in Marathon's proposed wells prior to filing its compulsory pooling applications.

4. Granting Marathon's applications for compulsory pooling in these matters would create waste by stranding acreage that would otherwise be developed by BTA.

5. Marathon's request that the Division authorize compulsory pooling in these cases is not just or reasonable.

6. Marathon's applications are denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2019 I served a true and correct copy of the foregoing ***Proposed Findings of Fact and Conclusions of Law*** on the following counsel of record by electronic mail.

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