January 12, 1988

Mr. W. Thomas Kellahin
Kellahin, Kellahin and Aubrey
P. O. Box 2265
Santa Fe, New Mexico 87504-2265

Re: Application of Marathon Oil Company
to Reopen Division Case No. 9146 and
for the Amendment of Division Orders
R-8282 and R-8282-A
Marathon Oil Company No. 1 Benson Well
Township 16 South, Range 38 East, NMPM
Section 14: S/2 SE/4
Lea County, New Mexico

Dear Tom:

On behalf of J. A. Davidson, we advise that Mr. Davidson does not intend to enter an appearance at the captioned hearing set for February 20, 1988.

Please let me know if you have any questions in connection with this matter.

DICKERSON, FISK & VANDIVER

Chad Dickerson

CD:pvw

cc: Oil Conservation Division
Mr. J. A. Davidson

BEFORE EXAMINER CATANACH
OIL CONSERVATION DIVISION
Marathon EXHIBIT NO. 11
CASE NO. 9146

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 FOR THE PURPOSE OF CONSIDERING:

CASE NO. 9146
Order No. R-8282-B

APPLICATION OF MARATHON OIL COMPANY FOR THE AMENDMENT OF DIVISION ORDER NO. R-8282, AS AMENDED, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 3, 1987, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 18th day of September, 1987, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) Division Case Nos. 9145 and 9146 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, Marathon Oil Company, seeks the amendment of Division Order No. R-8282, issued in Case No. 8960 and dated August 21, 1986, which compulsorily pooled all mineral interests from the surface to the base of the Siluro-Devonian formation underlying the SE/4 SE/4 of Section 14, Township 16 South, Range 38 East, NMPM, Lea County, New Mexico, and which was affirmed by the Oil Conservation Commission by Order No. R-8282-A, dated November 4, 1986.

(4) Under the provisions of Order No. R-8282, as amended, the applicant has drilled and completed as a producing well in the Devonian formation its Benson Well No. 1 at a location 330 feet from the South line and 990 feet from the East line of said Section 14.

(5) In companion Case No. 9145, the applicant has sought, as a result of the completion of the Benson Well No. 1, the creation of a new oil pool for Siluro-Devonian production and the promulgation of special rules and regulations for said pool including a provision for 80-acre spacing and proration units.

(6) By Division Order No. R-8497 entered August 28, 1987, in said companion Case No. 9145, the Division promulgated special rules and regulations for the North Knowles-Devonian Pool including a provision for 80-acre spacing and proration units.

(7) The applicant now seeks to form a standard 80-acre proration unit to be dedicated to its Benson Well No. 1 by amending Order No. R-8282 to additionally compulsorily pool the SW/4 SE/4 of said Section 14.

(8) James A. Davidson (Davidson), an interest owner in the S/2 SE/4 of said Section 14 whose interest in the SE/4 SE/4 was compulsorily pooled by Marathon by Order No. R-8282 and whose interest in the SW/4 SE/4 of said Section 14 would be affected by the proposed amendment, appeared at the hearing in opposition to Marathon's application.

(9) Davidson testified that Marathon has not made any attempt to obtain his voluntary agreement to participate in the well covering the subject acreage consisting of the SW/4 SE/4 of said Section 14.

(10) Marathon testified that by giving Davidson the opportunity to voluntarily join in the well at this time by pooling his interest in the SW/4 SE/4, Davidson would not be subject to the 200 per cent risk penalty contained in Order No. R-8282, which would be unfair to Marathon who initially undertook all of the risk in drilling the well.

(11) According to Section 70-2-17, NMSA, 1978, which concerns the authority of the Division to issue force-pooling orders, the applicant in a force-pooling case is required to attempt to obtain voluntary agreement with the various interest owners in the unit prior to calling a pooling case regardless of whether or not the well has been drilled at that time.

(12) Although the circumstances in this case are unusual, the Division should, in order to abide by its statutory obligation to protect correlative rights, require that Marathon attempt to secure Davidson's voluntary agreement concerning the subject acreage prior to the hearing for a forced pooling order.

(13) The application of Marathon for the amendment of Order No. R-8282 should therefore be denied at this time.

(14) The applicant should be allowed to reopen this case upon a showing that a good faith effort has been made to reach a fair and reasonable voluntary agreement with Davidson.

IT IS THEREFORE ORDERED THAT:

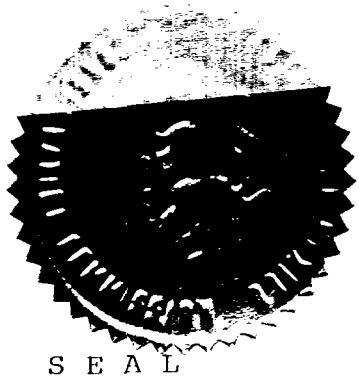
(1) The application of Marathon Oil Company for the amendment of Division Order No. R-8282, as amended, is hereby denied.

(2) All provisions set forth in Division Order No. R-8282, dated August 21, 1986, and affirmed by the Oil Conservation Commission in Order No. R-8282-A, dated November 4, 1986, shall remain in full force and effect.

(3) The applicant may reopen this case upon a proper showing that a good faith effort was made to try to reach a fair and reasonable voluntary agreement with James A. Davidson and was unable to do so.

(4) Jurisdiction of this cause 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

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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 FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 9146 (Reopened)
Order No. R-8282-D

APPLICATION OF MARATHON OIL
COMPANY FOR THE AMENDMENT OF
DIVISION ORDER NO. R-8282,
AS AMENDED, LEA COUNTY, NEW
MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 20, 1988, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 29th day of January, 1988, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) By Order No. R-8282, entered in Case No. 8960, the Division, upon the application of Marathon Oil Company, pooled all mineral interests from the surface to the base of the Siluro-Devonian formation underlying the SE/4 SE/4 of Section 14, Township 16 South, Range 38 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit to be dedicated to the applicant's Benson Well No. 1.

(3) Case No. 8960 was reopened by James A. Davidson, an interest owner in the SE/4 SE/4 of said Section 14, and was heard de novo by the Oil Conservation Commission on October 23, 1986.

(4) By Order No. R-8282-A, entered in said Case No. 8960, the Commission affirmed Division Order No. R-8282.

(5) In accordance with the provisions of said Order No. R-8282, Marathon Oil Company drilled and completed said Benson Well No. 1 in the Devonian formation.

(6) Subsequent to the completion of the Benson Well No. 1, Marathon Oil Company applied to the Division in Case No. 9145 for the creation of a new oil pool for Devonian production and for the promulgation of Special Rules and Regulations for said pool including a provision for 80-acre spacing and proration units.

(7) Said Case No. 9145 was heard by the Division on June 3, 1987, and by Order No. R-8497 the Division granted Marathon's application.

(8) Also heard concurrently on June 3, 1987, was Case No. 9146 (Reopened) in which Marathon sought to compulsorily pool an additional 40 acres consisting of the SW/4 SE/4 of said Section 14, to be dedicated to said Benson Well No. 1, which would form a standard 80-acre oil proration unit in compliance with the Special Rules and Regulations for the newly created North Knowles-Devonian Pool.

(9) James A. Davidson, an interest owner in the SW/4 SE/4 of said Section 14, appeared at the hearing and testified that Marathon had not attempted to reach a voluntary agreement with him prior to the hearing regarding the subject acreage.

(10) By Order No. R-8282-B, the Division denied Marathon's application and further required that Marathon attempt to reach a voluntary agreement with Mr. Davidson prior to proceeding with a compulsory pooling hearing.

(11) The applicant in the immediate case, Marathon Oil Company, now seeks the amendment of Division Order No. R-8282, as amended, to compulsorily pool all mineral interests in the Devonian formation underlying the SW/4 SE/4 of said Section 14, Township 16 South, Range 38 East, NMPM, North Knowles-Devonian Pool, Lea County, New Mexico.

(12) Evidence presented by the applicant in this case shows that Marathon has attempted to reach voluntary agreement with James A. Davidson in compliance with the terms of Order No. R-8282-B, and has been unsuccessful.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(14) The applicant should be designated the operator of the subject well and unit.

(15) At the time of the hearing Marathon requested that James A. Davidson not be afforded the standard 30-day time period in which to elect to join in the drilling of the subject well.

(16) The evidence in this case indicates that Davidson has had sufficient opportunity to voluntarily join in the drilling of the subject well and has chosen not to do so, and therefore Marathon's request should be granted.

(17) Any non-consenting working interest owner who has not paid his share of actual well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(18) James A. Davidson has had the opportunity to object to actual well costs and has sought determination of reasonable well costs in Case No. 9168, which was heard by the Division on August 12, 1987, and subsequently dismissed, and therefore actual well costs should be adopted as reasonable well costs in this case.

(19) Any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(20) $4598.00 per month while drilling and $459.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(21) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-8282, as amended, which order compulsorily pooled all mineral interests, in the Devonian formation underlying the SE/4 SE/4 of Section 14, Township 16 South, Range 38 East, NMPM, Lea County, New Mexico, is hereby amended to additionally pool all mineral interests in the Devonian formation underlying the SW/4 SE/4 of said Section 14, North Knowles-Devonian Pool, Lea County, New Mexico, to form, in effect, a standard 80-acre spacing and proration unit to be dedicated to the applicant's existing Benson Well No. 1 located 330 feet from the South line and 990 feet from the East line of said Section 14.

(2) All ordering provisions contained in Order No. R-8282, concerning the pooling of the SE/4 SE/4 of said Section 14, shall remain in full force and effect.

(3) The following provisions shall govern the pooling of the SW/4 SE/4 of said Section 14.

(4) Marathon Oil Company is hereby designated the operator of the subject well and unit.

(5) The actual well costs are hereby adopted as the reasonable well costs in this case.

(6) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of actual well costs.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working owner who has not paid his share of actual well costs.

(7) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(8) $4598.00 per month while drilling and $459.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(9) Any unsevered 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 the terms of this order.

(10) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(11) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(12) Jurisdiction of this cause 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

WILLIAM J. LEMAY
Director

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