

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:

APPLICATION OF MARATHON OIL PERMIAN,           CASE NOS. 16144,  
LLC FOR A NONSTANDARD SPACING AND           16145,  
PRORATION UNIT, NONSTANDARD LOCATIONS,     16146  
AND COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 15, 2018

Santa Fe, New Mexico

BEFORE:   MICHAEL McMILLAN, CHIEF EXAMINER  
          DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Michael McMillan,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, November 15, 2018, at the New Mexico Energy,  
Minerals and Natural Resources Department, Wendell Chino  
Building, 1220 South St. Francis Drive, Third Floor  
Meeting Room, Santa Fe, New Mexico.

REPORTED BY:   Mary C. Hankins, CCR, RPR  
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APPEARANCES

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1 (3:59 p.m.)

2 EXAMINER McMILLAN: I'm going to call Case  
3 Number 16144, application of Marathon Oil Permian, LLC  
4 for a nonstandard spacing and proration unit,  
5 nonstandard locations and compulsory pooling, Lea  
6 County, New Mexico. And it's combined with 16145 and  
7 46.

8 The only problem is I don't have the folder  
9 with me.

10 MS. BRADFUTE: Oh, okay. Do you want your  
11 folder? Do you want to go grab it?

12 EXAMINER McMILLAN: Yeah. Will has it.  
13 Hold on a second.

14 (Pause in proceedings, 4:00 p.m. to 4:02  
15 p.m.)

16 MS. BRADFUTE: Mr. Examiner, Jennifer  
17 Bradfute on behalf of the Applicant in all three cases.

18 EXAMINER McMILLAN: Any other appearances.

19 MR. McMILLAN: Seth McMillan, Montgomery &  
20 Andrews, on behalf of Devon in all three cases.

21 EXAMINER McMILLAN: Go ahead, Bill.

22 MR. CARR: May it please the examiner,  
23 William F. Carr, and I'm appearing for COG Operating.

24 MS. BRADFUTE: Mr. Examiner, to my  
25 knowledge, these cases are not contested. At one point

1 in time, these three cases were contested cases between  
2 Marathon and COG. The parties have reached a letter  
3 agreement that was executed and that the parties have  
4 both received copies of.

5 MR. CARR: That's correct.

6 MS. BRADFUTE: So we are asking that these  
7 cases be presented by affidavit.

8 Mr. Examiner, these cases are going to be  
9 presented by affidavit, and the affidavits are included  
10 in the exhibit packet in front of you.

11 All three cases requested nonstandard  
12 locations, and these cases were filed, actually, before  
13 the new horizontal well rules went into effect. And so  
14 Marathon is going to dismiss its request for the  
15 nonstandard locations because it feels that the new  
16 setback requirements would apply to these wells.  
17 However, it's going to maintain its request for approval  
18 of a nonstandard spacing and proration unit due to the  
19 filing date of these applications.

20 EXAMINER McMILLAN: So it's before June  
21 26th.

22 MS. BRADFUTE: That is correct.

23 EXAMINER McMILLAN: And this is for all the  
24 cases? I haven't looked at this. I apologize.

25 MS. BRADFUTE: No, that's okay.

1                   So I'd like to start with Tab A in the  
2 packet in front of you, and once you flip past Tab A,  
3 it's going to be Exhibit Number 1. And this is an  
4 affidavit prepared by Marathon's landman, Ryan  
5 Gyllenband. Mr. Gyllenband testified in other cases  
6 earlier in the hearing today. And he has been qualified  
7 as an expert in petroleum land matters, and his  
8 qualifications have been accepted and made part of the  
9 record.

10                   Mr. Gyllenband testifies within his  
11 affidavit that the main purpose of these applications is  
12 to approve the nonstandard project areas, the  
13 nonstandard -- I can't even remember how to say it --  
14 spacing and proration units, as well as to pool all of  
15 the mineral interests underlying these units.

16                   In Case Number 16144, Marathon seeks an  
17 order creating a 240-acre, more or less, spacing and  
18 proration unit in the Bone Spring Formation. This  
19 spacing and proration unit is going to cover the west  
20 half of the east half of Section 18 and the west half of  
21 the northeast quarter of Section 19, both located in  
22 Township 24 South, Range 35 East, Lea County, New  
23 Mexico. And Marathon will then seek to pool all the  
24 mineral interests underlying that spacing and proration  
25 unit.

1           This spacing unit is going to be dedicated  
2 to the Blueberry Hill Fee 24-35-19 TB 3H well, which is  
3 going to be horizontally drilled. And there are  
4 exhibits attached to Mr. Gyllenband's affidavit which  
5 consist of a plat, a lease tract map, which outlines the  
6 spacing unit for this well and which states the working  
7 interests that are going to be pooled. There are no  
8 depth severances within the Bone Spring Formation  
9 underlying this proposed spacing unit.

10           And Mr. Gyllenband testifies that he  
11 conducted a diligent search of the public records in the  
12 county where the well is located, that he conducted a  
13 phone directory and computer search to locate contact  
14 information and that he provided this address  
15 information to counsel, as well as sending out  
16 well-proposal letters so that parties were notified of  
17 this matter in a diligent way. He states that Marathon  
18 made a good-faith effort to obtain voluntary joinder of  
19 working interests in the well.

20           Attached to his affidavit is a C-102 for  
21 the 3H well, and he states that this well is going to  
22 develop the Antelope Ridge; Bone Spring Pool. That's  
23 pool code 2200, and that is an oil pool.

24           Attach to his affidavit are well-proposal  
25 letters and AFEs for the well, and he testifies that the

1 estimated cost for this well is fair and reasonable and  
2 comparable to the cost of other wells drilled to similar  
3 depths and lengths within this area of New Mexico.

4 I'm going to next talk about Case 16146  
5 because it's also a Bone Spring well. Attached to  
6 Mr. Gyllenband's affidavit, he attaches similar exhibits  
7 for this well. In this application, he's asking for the  
8 creation of a nonstandard 240-acre, more or less,  
9 spacing and proration unit in the Bone Spring Formation.  
10 And this spacing units consists of the east half-east  
11 half of Section 18 and the east half of the northeast  
12 quarter. So these are two Bone Spring spacing units  
13 right next to one another for 3rd Bone Spring wells, if  
14 that makes sense.

15 EXAMINER McMILLAN: Yeah.

16 MS. BRADFUTE: These lands are in Sections  
17 18 and 19, located in Township 24 South, Range 34 [sic]  
18 East in Lea County, New Mexico, and Marathon is seeking  
19 to pool the mineral interests underlying this spacing  
20 unit. This particular spacing unit is going to be  
21 dedicated to the Blueberry Hill 24-35-19 TB 10H well.

22 EXAMINER McMILLAN: Quick, stop. It's  
23 Range 35 East.

24 MS. BRADFUTE: Yes. Yes. Did I misstate  
25 that? I apologize.

1 EXAMINER McMILLAN: Go ahead.

2 MS. BRADFUTE: And this well is also going  
3 to develop the Antelope Ridge; Bone Spring Pool, pool  
4 code 2200.

5 Mr. Gyllenband has attached a copy of the  
6 well-proposal letter and the AFE for this well to his  
7 affidavit, and he states that the estimated cost to  
8 drill, complete and equip the well are reasonable and  
9 fair and comparable to the cost to drill other wells to  
10 these lengths and these depths within this area of  
11 New Mexico.

12 In Case Number 16145, Marathon seeks the  
13 creation of a 480-acre, more or less, spacing and  
14 proration unit in the Wolfcamp Formation covering the  
15 east half of Section 18 and the northeast quarter of  
16 Section 19 in Township 24 South, Range 35 East in Lea  
17 County and pooling interests within the Wolfcamp  
18 Formation. This spacing unit is going to be dedicated  
19 to the Blueberry Hill Fee 24-35-19 WXY 4H well, WXY 5H  
20 well and WXY 6H well, and all of these wells are going  
21 to be horizontally drilled.

22 Attached to Mr. Gyllenband's affidavit are  
23 the plats and the breakdown of the parties who they're  
24 seeking to pool for this proposed spacing unit. And  
25 also attached to this affidavit are C-102s for the

1 wells, which state that the wells are going to develop a  
2 wildcat pool that's been created by the district office,  
3 which has pool code 98098 as the code.

4 Attached to this affidavit are sample  
5 well-proposal letters and AFEs for each of these wells.  
6 There was a separate election to opt into each one of  
7 these Wolfcamp wells. And Mr. Gyllenband testifies that  
8 the estimated costs for drilling these wells are fair,  
9 reasonable and comparable to the costs to drill and  
10 complete and equip other wells drilled to similar depths  
11 and lengths within this area of New Mexico.

12 Marathon is seeking to pool overriding  
13 royalty interests within these cases, and it has  
14 provided notice and a list of the overriding royalty  
15 interest owners that are attached to Mr. Gyllenband's  
16 affidavit.

17 Marathon's requesting overhead and  
18 administrative rates of 7,000 a month for drilling wells  
19 and \$700 a month for producing wells. Mr. Gyllenband  
20 testifies that these rates are fair and comparable to  
21 the rates charged by other operators for these types of  
22 wells within this area of New Mexico. Mr. Gyllenband  
23 asks that these rates be adjusted periodically as  
24 provided for under the COPAS accounting procedure, and  
25 he asks that the maximum cost plus 200 percent risk

1 charge be assessed against any nonconsenting working  
2 interest owners.

3 Marathon would like to be designated as the  
4 operator of the wells. And Mr. Gyllenband states this  
5 affidavit was prepared by him or compiled from company  
6 business records. He also states that the granting of  
7 this application is in the interest of conservation and  
8 the prevention of waste.

9 With that, would you like me to flip  
10 through any of the exhibits to his affidavit to help  
11 clarify anything?

12 EXAMINER McMILLAN: Well, for the 3H, have  
13 you planned for an NSL.

14 MS. BRADFUTE: Let me look at the C-102.  
15 For the 3H well -- so the 3H well is going to have --

16 EXAMINER McMILLAN: Looks like it's 6 feet  
17 off.

18 MS. BRADFUTE: It should be 100 feet from  
19 the boundary of the spacing unit, from the southern  
20 boundary, for the first take point and 330 feet from the  
21 boundary of the spacing unit.

22 EXAMINER McMILLAN: But it's a smidgen  
23 less, isn't it?

24 MS. BRADFUTE: For the first take point?  
25 So if you look at Tab B1 and you look at the first

1 page -- look at B1, B, as in boy, 1.

2 EXAMINER McMILLAN: Well, the first take  
3 point is 100 from the north and 2,316 from the east.  
4 That's 6 feet off.

5 MS. BRADFUTE: Yeah. That's the last take  
6 point.

7 EXAMINER McMILLAN: And then the first take  
8 point is -- the first take point, that's not -- it's  
9 unorthodox from the southern boundary and the western  
10 boundary, because it's -- 2,640 minus 2,544 is 96 feet.

11 MS. BRADFUTE: Uh-huh.

12 EXAMINER McMILLAN: So they're going to  
13 have to redo that.

14 MS. BRADFUTE: Yeah. They're going to have  
15 to apply for an NSL for that. And they'll have to do it  
16 separately. They originally had a different -- they had  
17 different footages in their application, so they'll  
18 apply for that administratively.

19 EXAMINER McMILLAN: For the 3H.

20 MS. BRADFUTE: For the 3H.

21 EXAMINER McMILLAN: And what we're going to  
22 do is we'll give you 30 days after the order is --

23 EXAMINER BROOKS: Issued.

24 EXAMINER McMILLAN: -- issued, the  
25 Applicant must apply for an NSL.

1 MS. BRADFUTE: Yes.

2 EXAMINER McMILLAN: And if they don't apply  
3 for it, the order is null and void. That always  
4 motivates people.

5 MS. BRADFUTE: Yes.

6 (Laughter.)

7 MS. BRADFUTE: Yes.

8 EXAMINER BROOKS: I was once told that  
9 anything that is null and void, that usually --

10 EXAMINER McMILLAN: Let me look at the  
11 others, see if I have any questions.

12 Okay. Now, question: How are you getting  
13 480 -- I don't understand -- for the WXYs when it's a  
14 Wolfbone Pool and Wolfbone pool rules?

15 MS. BRADFUTE: So we have an affidavit from  
16 an engineer, because these applications were filed  
17 before the new horizontal well rule. So they are asking  
18 for a nonstandard spacing and proration unit. They do  
19 have a well, if you look at B3 for the 4H well.

20 EXAMINER McMILLAN: Okay. I'm looking at  
21 the 4H.

22 MS. BRADFUTE: This well is located near  
23 the center of the proposed spacing and proration unit.  
24 So this would be a nonstandard project area, and all  
25 affected parties surrounding the project area were

1 notified, including any parties excluded -- who could be  
2 excluded from the project area. And there is -- we  
3 haven't gotten there yet, but there is an affidavit from  
4 an engineer which states this well will obtain  
5 production from each quarter-quarter section included  
6 within the spacing unit.

7 EXAMINER McMILLAN: Okay. That's fine.

8 MS. BRADFUTE: Okay. Are there any other  
9 land-related questions?

10 EXAMINER BROOKS: I can't think of any.  
11 You're applying for a nonstandard unit, so you won't  
12 have to penetrate each of the tracts.

13 MS. BRADFUTE: That's right.

14 EXAMINER BROOKS: Okay. That works.

15 MS. BRADFUTE: Okay. So with that, I'd  
16 like to go to -- there is a Tab 2 about halfway through.  
17 And I apologize. We were running out of tabs, so our  
18 tabs are a little confusing and the numbers here. But  
19 about halfway through the exhibit packet, after you get  
20 past the land exhibits, there is another Tab 2 with  
21 another affidavit.

22 EXAMINER McMILLAN: The geologist?

23 MS. BRADFUTE: Yes.

24 So this is an affidavit executed by Ethan  
25 Perry. Mr. Perry is a geologist for Marathon, and he

1 has previously testified, and his credentials have been  
2 accepted and made part of the record.

3 Mr. Perry includes exhibits to his  
4 affidavit, which are your typical geology exhibits. He  
5 has a structure map for the Wolfcamp and the Bone  
6 Spring, respectively, attached to this, and then he also  
7 has an isochore and a cross section for the Bone Spring  
8 and Wolfcamp, respectively, attached to his affidavit.

9 Mr. Perry has conducted a geologic study of  
10 both the 3rd Bone Spring Sand and the Upper Wolfcamp  
11 zones for the proposed spacing and proration units. And  
12 he testifies that based on his study of these  
13 formations, that horizontal -- that the horizontal  
14 spacing and proration units are justified from a  
15 geologic standpoint, that there are no structural  
16 impediments or faulting that would interfere with  
17 horizontal development and that each quarter-quarter  
18 section within the spacing units will contribute more or  
19 less equally to the production from the wells.

20 I can walk through these exhibits in  
21 greater detail if you would like.

22 EXAMINER McMILLAN: Okay. And he states  
23 every quarter-quarter section is expected to contribute  
24 more or less equally to production.

25 MS. BRADFUTE: Yes. Yes. And if you think

1 about the well that we were just discussing located in  
2 the center of the --

3 EXAMINER McMILLAN: Okay. But we haven't  
4 gotten to that one yet.

5 MS. BRADFUTE: Yeah. Yeah. But we're  
6 going to get to the engineering affidavit, which states  
7 that production will be obtained, if that relates to  
8 your question.

9 EXAMINER McMILLAN: Okay.

10 MS. BRADFUTE: If you would like me to walk  
11 through the cross sections, I can do that.

12 EXAMINER McMILLAN: We can figure that out.

13 MS. BRADFUTE: Okay. Yes. Thank you. I  
14 figured you could, and I know it's been a long day.

15 So if you turn to Tab 3, the next Tab 3 in  
16 this packet, there is an affidavit prepared by an  
17 engineer, Layne French, who is a reservoir engineer at  
18 Marathon, and he's worked as a reservoir engineer for  
19 approximately four years with Marathon. He's worked in  
20 the Permian Basin, and he's worked in the Anadarko Basin  
21 in Oklahoma. He received a master's degree in petroleum  
22 engineering from Louisiana State University, along with  
23 a bachelor's degree in geosystems, engineering and  
24 hydrology from U.T. in Austin.

25 He has not previously testified as an

1 expert witness before the Division, so at this point in  
2 time, I'd like to tender him as an expert reservoir  
3 engineer.

4 MR. CARR: No objection.

5 MR. McMILLAN: No objection.

6 EXAMINER McMILLAN: Okay. You haven't had  
7 any objections to --

8 MR. McMILLAN: I have a standing  
9 nonobjection.

10 EXAMINER McMILLAN: Do you have any  
11 objections, because I did not ask that.

12 MR. CARR: No. But I'm not objecting. We  
13 have worked out our differences, and there will be no  
14 objection from me, unless you would have me jump up,  
15 which I can't imagine.

16 (Laughter.)

17 MR. CARR: It's physically impossible.

18 (Laughter.)

19 MS. BRADFUTE: Layne French testifies in  
20 his affidavit that he reviews production data from wells  
21 and related well information that Marathon keeps as a  
22 matter of course in its company business records, and  
23 he's studied the development plans for the three WXY  
24 wells that have been planned. So he's looked at the  
25 development plans for the 6H well, the 5H well and the

1 4H well, including the fracture design for those wells.  
2 And he has also conducted studies of fracture  
3 simulations to optimize drilling plans within this area,  
4 and based on those studies, Mr. French testifies that  
5 the 4H well -- where the 4H well is going to be located.  
6 And his studies show that the 4H well is going to drain  
7 portions of the adjacent quarter-quarter sections in the  
8 Upper Wolfcamp Formation, and he states that as a  
9 result, there will be drainage from each 40-acre tract  
10 located within the proposed 480-acre spacing unit that  
11 has been requested by Marathon.

12                   And that's the basis -- the technical basis  
13 for Marathon's request for the 480-acre spacing and  
14 proration unit.

15                   Finally, if you turn to Tab 4, there's an  
16 affidavit that's been prepared by myself confirming that  
17 notice was provided to affected parties. We've attached  
18 all of the notification information, including  
19 electronic tracking for each of the certified mailings  
20 that went out. These applications have been pending for  
21 a long time, so these actually went out before we  
22 started using the Certified Mail PRO. So we actually  
23 have each individual tracking sheet included within this  
24 packet. There were some mailings that were not  
25 delivered. We did publish notice as a matter of course,

1 and we listed all affected parties by name. And the  
2 publications that ran in the "Hobbs Sun" newspaper, and  
3 there is an Affidavit of Publication for each of the  
4 three cases attached as the last three pieces of paper  
5 to this exhibit.

6 EXAMINER McMILLAN: And you're pooling  
7 working interests.

8 MS. BRADFUTE: And overrides.

9 EXAMINER McMILLAN: Any questions?

10 EXAMINER BROOKS: Nothing.

11 MR. McMILLAN: No questions.

12 MR. CARR: Nothing.

13 MS. BRADFUTE: I would tender Exhibits 1  
14 through 4 and all of their attachments into the record.

15 MR. CARR: No objection.

16 MR. McMILLAN: No objection.

17 EXAMINER McMILLAN: Exhibits 1 through 4  
18 and all of the other information is part of the record.  
19 I didn't say that right.

20 (Marathon Oil Permian, LLC Exhibit Numbers  
21 1 through 4 are offered and admitted into  
22 evidence.)

23 MS. BRADFUTE: With that, we'd ask that  
24 this case be taken under advisement.

25 MR. CARR: No objection.

1 MR. McMILLAN: No objection.

2 EXAMINER McMILLAN: Case Numbers 16144,  
3 16145 and 16146 shall be taken under advisement.

4 Thank you.

5 (Case Numbers 16144, 16145 and 16146  
6 conclude, 4:25 p.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 18th day of December 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters

25