

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 NO. 20311
LLC FOR COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

April 18, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
TERRY WARNELL, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, Terry Warnell, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, April 18, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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APPEARANCES

FOR APPLICANT MARATHON OIL PERMIAN, LLC:

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INDEX

PAGE

Case Number 20311 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	18
Certificate of Court Reporter	19

EXHIBITS OFFERED AND ADMITTED

Marathon Oil Permian, LLC Exhibit Numbers 1 and 2	18
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1 (9:34 a.m.)

2 EXAMINER JONES: Back on the record.

3 Call Case 20311, Marathon Oil Permian, LLC
4 for compulsory pooling in Eddy County, New Mexico.

5 Call for appearances.

6 MS. BENNETT: Deana Bennett on behalf of
7 Marathon.

8 EXAMINER JONES: Any other appearances?

9 MR. FELDEWERT: May it please the examiner,
10 Michael Feldewert, with the Santa Fe office of Holland &
11 Hart, appearing on behalf of MRC Permian.

12 MS. BENNETT: Good morning.

13 EXAMINER JONES: Good morning.

14 MS. BENNETT: As I mentioned, my name is
15 Deana Bennett, and I'm here on behalf of the Applicant,
16 Marathon Oil Permian. The case I'm here on behalf of is
17 Case Number 20311, which concerns the Marathon Tiberius
18 wells. These are all Wolfcamp wells, and that's why
19 we've condensed them all into one application. As you
20 may recall, Marathon had earlier proposed Bone Spring
21 and Wolfcamp wells, and we dismissed those applications
22 and refiled a single application with Wolfcamp wells
23 only. And that's what this application covers. And
24 just to be clear, we did provide updated proposal
25 letters well in advance of this hearing, and I also

1 provided notice of the new application to the notice
2 parties, as well as parties who had entered an
3 appearance in the prior Tiberius cases but who have not
4 entered an appearance subsequently in this case.

5 EXAMINER JONES: Okay.

6 MS. BENNETT: I also did want to mention at
7 the outset that Mr. Feldewert is here on behalf of MRC
8 Permian, and Marathon has agreed to not pool MRC's
9 interest. As you'll see when we get through to the
10 working interest ownership, MRC does have a working
11 interest and they are uncommitted at this time. And so
12 to avoid a contest and a continuance of this case and to
13 allow the parties to continue to negotiate, Marathon has
14 agreed to not pool MRC Permian's interest in this case.

15 And there are two other entities who also
16 requested that they not be pooled, and that's Foran
17 F-O-R-A-N, Oil Company and Union Oil Company. Our
18 records don't -- and by our, I mean Marathon's records
19 don't indicate that they are working interest owners,
20 but they have requested that they not be pooled. So
21 unlikely that they would have been anyway, but that
22 request was made and we are honoring it. And so you'll
23 see that in the materials, too.

24 EXAMINER BROOKS: You're requesting that
25 those interests not be included in the pooling order?

1 MS. BENNETT: That's right.

2 EXAMINER BROOKS: Well, the pooling statute
3 expressly says that we can pool all or some interests.
4 The only difference between what the statute says and
5 what you're saying is the statute seems to contemplate
6 that the Division gets to make that decision. But
7 normally we do what we're asking in uncontested cases.

8 MS. BENNETT: And I certainly understand
9 that that's the Division's call, and it's the Division's
10 prerogative. And so perhaps I should rephrase my
11 statement as a request, that the Division exclude from
12 the pooling order MRC Permian, Foran Oil Company and
13 Union Oil Company.

14 EXAMINER BROOKS: That's what I was
15 actually hinting should be done.

16 MS. BENNETT: So that's my request.

17 EXAMINER BROOKS: Okay.

18 MS. BENNETT: And I would be delighted if
19 that request were granted.

20 With that bit of background in mind, I do
21 intend to present these cases by affidavit -- or this
22 case by affidavit. As you can see, I also did alert
23 Mr. Feldewert to that, and he has no objection to me
24 presenting this case by affidavit.

25 The first item in the packet that I've

1 handed you immediately behind the cover sheet is the
2 application, and I put that in there just for ease of
3 reference.

4 The exhibit behind Tab 1 is the affidavit
5 of Marathon's landman, Travis Prewett. And Mr. Prewett
6 has testified before the Division before and his
7 credentials accepted. And in his affidavit, Mr. Prewett
8 notes that when we filed the applications, the
9 applications were filed with a different naming protocol
10 than what the BLM requires, and so all of the materials
11 in this exhibit packet reflect the BLM naming protocol.
12 So we've changed FC, which stands for Fed Com, to "Fed
13 Com."

14 EXAMINER JONES: Okay.

15 MS. BENNETT: And that's the only
16 difference in the naming of the wells.

17 EXAMINER JONES: Okay. I was welcoming the
18 abbreviation, but that's fine.

19 MS. BENNETT: Yeah.

20 So the application said, for example,
21 "Tiberius 33 WAFC," and we had to change that to "Fed
22 Com." But the C-102s and the information provided by
23 the geologist and all the slides all reflect "Fed Com."

24 As I mentioned, Mr. Prewett has included in
25 his materials what you would expect to see, a lease

1 tract map. And this application actually covers two
2 full sections, Sections 32 and 33. And so Marathon is
3 requesting a 1,280-acre pooling -- horizontal spacing
4 unit, and that's because it covers both sections, 32 and
5 33. And Marathon, as you'll see when we get to the
6 geology slides, they have two-mile laterals across the
7 entirety of Sections 32 and 33.

8 So you'll see behind Tab A is a summary of
9 the interest ownership, and then the third page of Tab A
10 is where I've broken out MRC Permian's interest. They
11 have a working interest of 9.89 percent, give or take.
12 And so I've broken that out specifically for this
13 exhibit. And I put "Uncommitted Interest Owner-NOT to
14 Be Pooled" so that it's clear on the exhibit that
15 although they are an uncommitted working interest, it's
16 Marathon's request that they not be pooled.

17 EXAMINER JONES: Thank you for doing that.

18 MS. BENNETT: And I did the same thing for
19 Foran Oil Company and Union Oil Company, but because we
20 don't really show them as having any specific type of
21 interest, I didn't identify them as working interests.

22 EXAMINER BROOKS: You didn't show them as
23 being -- your title search does not show them as having
24 an interest?

25 MS. BENNETT: That's correct.

1 EXAMINER BROOKS: Well, then you probably
2 won't have to worry about any problems that may arise
3 with not force pooling them if that's the case.

4 MS. BENNETT: Uh-huh.

5 The next page of the exhibit is the summary
6 of contacts that our landman went through to reach the
7 working interest owners, including the date that the
8 well proposal was sent out, to confirm for you-all that
9 it was sent out well in advance of this hearing.

10 The next set of exhibits behind
11 Mr. Prewett's affidavit are the C-102s. And this is a
12 Purple Sage; Wolfcamp Gas Pool, Pool Code 98220. So the
13 next set of C-102s show, on each C-102, the laterals --
14 the two-mile laterals that Marathon is proposing.

15 EXAMINER JONES: Even though they show 100
16 feet from the west in all of them?

17 MS. BENNETT: Yes. We actually filed for
18 and obtained NSLs for all of these wells, and those are
19 in Exhibit C of your materials. I went ahead and --

20 EXAMINER JONES: Thank you.

21 MS. BENNETT: -- just included copies of
22 all the approvals for you for this packet.

23 EXAMINER JONES: Thank you.

24 MS. BENNETT: And Mr. Prewett did note in
25 his affidavit that these wells only have a 100-foot

1 setback, which is not consistent with the Purple Sage;
2 Wolfcamp special rules, and that's why we applied for
3 the NSLs.

4 Exhibit D is the proposal letter that
5 Marathon sent out.

6 Exhibit E contains the AFEs for the
7 proposed wells. And there I've highlighted the well
8 name and the total costs on each AFE for ease of review.
9 And Mr. Prewett testifies that these costs are fair and
10 reasonable and comparable to the cost of other wells of
11 similar depths and length drilled in New Mexico.

12 Marathon is requesting overhead and
13 administrative rates of 8,000 per month for drilling a
14 well and 800 a month for a producing well. And
15 Mr. Prewett testifies that in his opinion, these rates
16 are fair and comparable rates to rates charged by other
17 operators. And Marathon requests that these rates be
18 adjusted periodically as provided in the COPAS
19 accounting procedure.

20 Marathon also requests the maximum cost
21 plus 200 percent risk charge be assessed and that it be
22 allowed a period of one year between when the wells are
23 first drilled -- excuse me -- when the wells are drilled
24 and when the first well is completed under the order.

25 I also included behind Mr. Prewett's

1 affidavit my Affidavit of Notice, which is Exhibit F.
2 And this affidavit demonstrates that -- or shows all the
3 contact information for everyone to whom we sent notice
4 and the status of that notice. And Marathon went ahead
5 and just published in the newspaper as well, out of --
6 sort of taking a belt-and-suspenders approach to this.
7 And that publication is also identified -- or included
8 in my affidavit. It was something like 500 folks to
9 whom we sent letters for the NSLs and for the -- not for
10 the NSL's -- excuse me -- but for the pooling
11 application and to whom we gave notice via the
12 publication.

13 Marathon is requesting that overriding
14 royalty interest owners be pooled, and Marathon did
15 include those parties in the notice information. And I
16 did mail letters to the overriding interest owners, and
17 their names are also included in the publication
18 affidavit -- or in the publication. So those overriding
19 interest owners were given notice of the hearing.
20 That's all I have on Mr. Prewett's affidavit.

21 If anyone has any questions for me about
22 his affidavit or the attachments, I'm happy to answer
23 those now.

24 EXAMINER JONES: Any questions?

25 EXAMINER WARNELL: No questions.

1 EXAMINER BROOKS: No questions.

2 MR. FELDEWERT: I have one.

3 MS. BENNETT: Sure.

4 MR. FELDEWERT: I'm looking -- which is --
5 your proximity tract well is going to be the 10H and the
6 12H?

7 MS. BENNETT: Well, we didn't -- I mean,
8 yes. Yes. Let's just say yes.

9 MR. FELDEWERT: And it -- because I noticed
10 the well-proposal letter. The 10H and the 12H have
11 different bottom holes than what are on the C-102s. Do
12 you know which -- I'm assuming they're intending to
13 utilize as the well locations what's on the C-102s.

14 MS. BENNETT: The C-102s are -- that's
15 correct. And I did look at the C-102s. And to the
16 extent that we need to use the proximity tract, there --
17 there are two wells, one on either side of Section 33
18 and -- I mean the half-quarter-section line -- or half
19 section line of 32 and 33. So there is one on either
20 side. That would bring in the proximity tract rule.

21 MR. FELDEWERT: But the C-102s reflect what
22 you currently plan to do?

23 MS. BENNETT: Yes. The C-102s were
24 recently amended, and so the C-102s are accurately
25 amended.

1 EXAMINER JONES: The proposal letter is in
2 Exhibit D; is that correct?

3 MS. BENNETT: Uh-huh.

4 EXAMINER JONES: And you've got the list
5 of -- of the effort to obtain joinder?

6 MS. BENNETT: Yes. It's in Exhibit 2,
7 behind Tab A.

8 EXAMINER JONES: Okay. Okay.

9 MS. BENNETT: The summary of attempted
10 contacts.

11 EXAMINER JONES: Okay. Okay. Thanks.

12 MS. BENNETT: So then turning to Tab 2,
13 which is after F, Tab 2 is the affidavit of the
14 geologist, and the geologist is Matt Baker. And
15 Mr. Baker also has been qualified by the Division as an
16 expert and has testified before the Division before.

17 Mr. Baker has prepared several maps for us
18 to look at, the structure map, which is Exhibit G. And
19 there on the structure map, you can see the project area
20 outlined by a black-dashed line, as well as the eight
21 proposed horizontal wells. And you can see that he's
22 designated the four that are Wolfcamp Y wells in pink
23 and the Wolfcamp A in red. And he's also labeled them
24 by number, 1 through 4 and 5 through 8.

25 EXAMINER JONES: Okay.

1 MS. BENNETT: Last time we were here,
2 Mr. McMillan requested that the structure map not
3 contain the cross-reference wells. So the next map that
4 you see, Exhibit H, is a reference map for the cross
5 section. So it's the same project area, same wells,
6 just without the background information about the
7 contours.

8 EXAMINER JONES: He just didn't want the
9 A to A prime line on the contour map?

10 MS. BENNETT: That's right. He felt that
11 it was too busy, too hard to read.

12 EXAMINER BROOKS: Mr. McMillan gets
13 confused very easily, but so do I.

14 MS. BENNETT: Well, I mean, this is
15 slightly less busy, so we're trying to be responsive.

16 EXAMINER BROOKS: You're being very
17 efficient in that respect. Thank you.

18 MS. BENNETT: Yeah. Uh-huh.

19 So this does show the reference wells going
20 from A to A prime, and those were the wells that were
21 then used by Mr. Baker on Exhibit I for the cross
22 section. And here again he put an insert in so that you
23 can have an easy cross-reference to the reference wells.
24 So it has the stratigraphic cross-section data, as well
25 as an insert of where those reference wells are in

1 relation to the proposed wells.

2 EXAMINER BROOKS: That's actually very
3 helpful.

4 EXAMINER JONES: It is.

5 MS. BENNETT: Great. I'll let him know
6 that.

7 EXAMINER BROOKS: Otherwise, you have to
8 keep flipping back and forth and -- while you're looking
9 at the logs.

10 EXAMINER JONES: Yeah. I sometimes
11 struggle with whether they're above sea level or below
12 sea level, but it's clearly below sea level. Almost
13 everything in the southeast is below sea level. The
14 northwest is different. It's above sea level a lot of
15 times.

16 MS. BENNETT: And here Mr. Baker has
17 identified the two producing zones with the green
18 shading and the red arrows. And as I mentioned earlier,
19 four of the wells are targeting the Wolfcamp Y, and four
20 of the wells are targeting the Wolfcamp A. And that's
21 denoted by Marathon's well names, WXY and WA. That
22 denotes the different target zones.

23 And Mr. Baker, as he notes on this slide,
24 concludes from the stratigraphic cross section that the
25 Wolfcamp Y Sand thickness is consistent across the unit,

1 and the Wolfcamp A thickens from east to west but not in
2 a way that is detrimental to production.

3 EXAMINER JONES: Okay.

4 MS. BENNETT: And then Exhibit J is the
5 gross interval isochore. And here again, in the past we
6 would have identified the cross-reference wells, but in
7 an effort to be consistent and to be responsive to
8 Mr. McMillan's request, we removed those because they
9 actually are a little bit unnecessary on this diagram,
10 as we've already gone through the cross section. So
11 this again shows the producing area and the project area
12 and the wells.

13 And Mr. Baker testifies in his affidavit
14 that based on his review of the materials that he
15 prepared, the structure dips to the east. That's what
16 he concluded from his structure map. He also concludes
17 that the producing zone for these wells, although there
18 is a bit of difference in the thickness for the Wolfcamp
19 A, but the zone is relatively continuous across the
20 unit.

21 And he concludes from the maps that the
22 horizontal spacing unit is justified from a geologic
23 standpoint. There are no structural impediments or
24 faulting that would interfere with horizontal
25 development and each quarter-quarter section in the unit

1 will contribute more or less equally to production. He
2 does note that the preferred well orientation in this
3 unit is east to west, and his conclusion is that this is
4 because the SHmax is approximately 35 to 45 degrees from
5 north within this unit.

6 And both Mr. Prewett and Mr. Baker have the
7 opinion that granting this application is in the
8 interest of conservation and the prevention of waste.

9 Any questions about the geology exhibits?

10 EXAMINER JONES: No. I wish I was a fly in
11 the room when he explained this all to his management,
12 how to spend \$90 million on two sections of land.

13 MS. BENNETT: Yes. It is quite an
14 expensive undertaking.

15 EXAMINER BROOKS: That's what's happening
16 in the industry these days. It's amazing how much
17 they're spending out there.

18 EXAMINER JONES: It is. The Purple Sage is
19 very active.

20 MS. BENNETT: Very.

21 Well, if there are no other questions, I
22 would ask that this case be taken under advisement.

23 EXAMINER JONES: No objections?

24 MR. FELDEWERT: No.

25 The other thing I would say is MRC Permian

1 does object to being pooled for a lot of different
2 reasons that I don't have to go into because they've
3 agreed not to pool MRC.

4 EXAMINER JONES: Okay.

5 EXAMINER BROOKS: Well, of course, at some
6 point -- and you're either going to have to get an
7 agreement or you're going to have to bring another
8 compulsory pooling. We understand that.

9 MR. FELDEWERT: Correct.

10 EXAMINER BROOKS: Probably not true with
11 the people you're showing as having no interest, unless
12 they come up with other instruments.

13 MS. BENNETT: Right. Exactly. And that,
14 though, was a condition of MRC Permian's, that we
15 include those entities.

16 EXAMINER BROOKS: Yes.

17 MS. BENNETT: So we're being responsive to
18 MRC Permian's request.

19 EXAMINER BROOKS: I see no reason why we
20 shouldn't grant it. But, of course, some people might
21 be concerned about having more hearings, but I'm not.

22 EXAMINER JONES: We had an agreement
23 recently in a case to carry a different risk penalty for
24 one of the pooled parties, but I guess they were being
25 pooled at a lower risk penalty. So I'm not sure how

1 this relates to that.

2 EXAMINER BROOKS: Yeah. That doesn't -- it
3 doesn't really because that's not permitted, although
4 there is nothing for us to do. We don't have any
5 authority to -- risk penalty provision. But, of course,
6 if somebody wants to pay somebody more than the order
7 calls for, then they can enter into a contract to do
8 that. There's nothing illegal about it.

9 MS. BENNETT: Oh, yes. I'd like to move
10 the admission of Exhibits 1 and 2 into the record and
11 their attachments.

12 EXAMINER JONES: Any objection?

13 MR. FELDEWERT: No objection.

14 EXAMINER JONES: Exhibits 1 and 2 and their
15 attachments are admitted into Case Number 20311, and
16 it's taken under advisement.

17 (Marathon Oil Permian, LLC Exhibit
18 Numbers 1 and 2 are offered and admitted
19 into evidence.)

20 MS. BENNETT: Thank you very much.

21 (Case Number 20311 concludes, 9:56 a.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 28th day of April 2019.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters

25