

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

**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION FOR
THE PURPOSE OF CONSIDERING:**

**APPLICATIONS OF MARATHON OIL PERMIAN LLC
FOR COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO**

**CASE NOS. 21273 AND 21274 (*DE NOVO*)
(Division Case Nos. 20865 & 20866)**

MARATHON OIL PERMIAN LLC'S PRE-HEARING STATEMENT

Marathon Oil Permian LLC ("Marathon") submits this Pre-Hearing Statement for the above-referenced case pursuant to the rules of the Oil Conservation Commission.

APPEARANCES

APPLICANT

Marathon Oil Permian LLC

ATTORNEY

Deana M. Bennett
MODRALL, SPERLING, ROEHL,
HARRIS & SISK, P.A.
P. O. Box 2168
Albuquerque, New Mexico 87103-2168
(505) 848-1800

OPPONENT

BTA Oil Producers, LLC

ATTORNEY

Dana S. Hardy
Dioscoro A. Blanco
PO Box 2068
Santa Fe, New Mexico 87504-2068
Phone: 505-982-4554

OTHER PARTIES

OXY USA Inc.

Michael Feldewert
Adam Rankin
Kaitlyn Luck
PO Box 2208
Santa Fe, NM 85704

STATEMENT OF CASE

This de novo hearing arises from BTA Oil Producers, LLC's ("BTA") request for de novo review of Order R-21251, which established Marathon as the operator of the horizontal spacing units Marathon seeks to develop in Division Cases 20865 and 20866, and which pooled certain working interest owners including BTA. Case numbers 20865 and 20866 (de novo cases 21273 and 21274) are integral components of Marathon's overall plan to develop Section 12, Township 23 South, Range 28 East, and Section 7, Township 23 South, Range 29 East, Eddy County, New Mexico ("Valkyrie Units"). Marathon submitted applications for three companion cases, for the S/2 of those sections, which were uncontested. Viewed as a whole, Marathon's Valkyrie Units cover the entire 1280 acres of Sections 7 and 12, and will develop the Bone Spring, Upper Wolfcamp, and Lower Wolfcamp formations.

Marathon's cases were heard by the Division in November 2019. BTA objected to Marathon's application based solely on the fact that BTA has a Joint Operating Agreement ("JOA") covering only a portion of the acreage Marathon sought to dedicate to its Valkyrie Units. BTA did not challenge Marathon's development plan, Marathon's ability to timely locate the wells sites and operate on the surface, Marathon's expertise, or the amount of Marathon's ownership. Rather, BTA's sole assertion was that the JOA bars the Division from approving pooling orders for spacing units.

At the close of the hearing, the Hearing Officer ordered the parties to submit a Memorandum of Points and Authorities and Proposed Findings of Fact and Conclusions of Law ("Memorandum"), which Marathon and BTA both did. Marathon demonstrated, and the Division agreed, that BTA's JOA does not divest the Division of its statutorily mandated duty and authority to issue pooling orders, and its duty to prevent waste and protect correlative rights. As Marathon established before the Division, and as the Division found, Marathon's development plans will prevent waste, protect correlative rights, and avoid the drilling of unnecessary wells. Additionally, Marathon's Memorandum demonstrated that Division precedent makes clear that the fact that the JOA covers some of the acreage Marathon seeks to dedicate to its units does not prohibit the Division from granting Marathon's pooling orders. *See* Order Number R-14140, issued in Case No. 15433 (establishing that lands subject to a JOA can be force pooled with lands outside of the JOA); *see also* Orders R-14523 and R-14524 (granting pooling applications notwithstanding the fact that a JOA covered a portion of the area sought to be pooled).

After a full hearing on these cases, and after reviewing the parties' post-hearing submissions, the Division issued a thoughtful, and thorough, order, Order R-21251. Order R-21251 confirms that Marathon's development plans will protect BTA's correlative rights, and will prevent waste. The Division also confirmed it has the authority, consistent with Order R-14140, to issue pooling orders notwithstanding the existence of a JOA.

Marathon's pooling applications should be granted and Division Order R-21251's rationale confirmed because:

1. Marathon's development plans will prevent waste and protect correlative rights. Marathon proposes longer, more efficient laterals, and will co-develop the wells to

avoid the “parent-child effect” which would result from BTA’s development plans. Conversely, setting aside Order R-21251 will have the opposite effect because BTA’s plans to develop its JOA acreage are, as the Division found, less efficient and will strand acreage and hydrocarbons.

2. BTA’s argument that its JOA divests the Division of its authority to issue pooling orders is inconsistent with Division precedent ordering pooling under these same circumstances.

PROPOSED EVIDENCE

MARATHON

WITNESS	ESTIMATED TIME	EXHIBITS
Landman: Chase Rice	Approx. 30 minutes	Approx. 10
Geologist: Matt Baker	Approx. 30 minutes	Approx. 15
Engineer: Yuri Rodionov	Approx. 30 minutes	Approx. 1

Respectfully submitted,

By: 
Deana M. Bennett
MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.
Post Office Box 2168
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800
Deana.bennett@modrall.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail on August 6 2020:

Dana S. Hardy
Dioscoro A. Blanco
dhardy@hinklawfirm.com
dblanc@hinklelawfirm.com
Counsel for BTA Oil Producers, LLC

Michael H. Feldewert	mfeldewert@hollandhart.com
Adam G. Rankin	agrankin@hollandhart.com
Kaitlyn A. Luck	kaluck@hollandhart.com
<i>Counsel for OXY USA Inc.</i>	

By: 
Deana M. Bennett