

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

**IN THE MATTER OF THE APPLICATIONS OF
MARATHON OIL PERMIAN, LLC FOR COMPULSORY POOLING**

**COMMISSION CASE NOS. 21273 AND 21274
DIVISION CASE NOS. 20865 AND 20866**

**MARATHON’S RESPONSE TO BTA OIL PRODUCERS, LLC’S OBJECTION TO
MARATHON OIL PERMIAN’S SUPPLEMENTAL EXHIBITS**

Marathon Oil Permian LLC (“Marathon”) provides this response in opposition to BTA Oil Producers, LLC’s Objection to Marathon Oil Permian LLC’s Supplemental Objections. (“BTA’s Objection”). BTA’s Objection presents an overly narrow reading of the information the Commissioners requested and should be denied. Marathon’s supplemental exhibits were prepared to provide additional information that Marathon understood the Commissioners to be requesting based on their questions related to three issues: 1) Additional data regarding recovery under setbacks; 2) Modeling of parent child effect; and 3) Lateral length efficiencies, primarily arising from Mr. Rodionov’s testimony regarding engineering. In fact, at the end of Mr. Rodionov’s testimony, Marathon’s counsel stated that Commissioners Kessler and Engler had asked questions about each of these three topics. [Video at 5:06:36-5:07]¹ Marathon’s counsel asked Mr. Rodionov whether he could provide supplemental exhibits specifically with respect to those three topics. [Video at 5:06-5:07:05 (Marathon counsel: “Commissioner Engler asked a number of questions about Exhibit 16 and Commissioner Kessler asked some questions about the parent child effect and some questions about the recovery that could

¹ Citations are to the video recording of the Day 1 OCC Hearing Recording.

occur from the acreage underlying the setbacks. Would you be willing to prepare supplemental exhibits and submit those to the Commission.” Mr. Rodionov: “Yes.”] BTA’s counsel did not object to the scope of the supplemental exhibits that Marathon discussed providing. [Video at 5:07:05-5:07:30] The Commissioners also did not clarify or seek to limit the scope of Marathon’s proposed supplemental exhibits. [Video at 5:07:30] Additionally, later in the hearing on August 13, the parties again discussed Marathon providing supplemental exhibits. At that time, BTA’s counsel did not raise the scope of the exhibits; instead, BTA’s counsel requested that BTA be allowed an opportunity to respond to the exhibits. [Video 5:15:54-5:16:12].

I. ARGUMENT

The supplemental exhibits to which BTA objects are all within the scope of the exhibits Marathon identified as supplemental exhibits it anticipated providing at the August 13 hearing in response to questions from the Commissioners. Marathon is not seeking to inject new information or prolong the cases. Marathon was attempting to provide relevant information requested by the Commissioners. To the extent Marathon misunderstood the information the Commissioners requested, Marathon’s counsel did outline the supplemental exhibits that Marathon intended to submit, and BTA’s counsel did not object.

1. Setback Exhibits (Marathon Supplemental Exhibits 20 and 21): Commissioner Kessler asked Mr. Rodionov whether he could quantify the additional recovery from the areas, to which he responded that he would have to do additional analysis. [Video at 4:44:40-4:45:40] As evidenced by Counsel for Marathon’s questions to Mr. Rodionov about preparing supplemental exhibits addressing these questions,

Marathon believed that the Commission intended for Marathon to provide supplemental exhibits related to the Commission's questions relating to setbacks. Again, at the time Counsel for Marathon provided a recap of the supplemental exhibits Marathon expected to submit, BTA's counsel did not object to the scope of the exhibits. [Video at 5:07:05-5:07:30]

2. Efficiencies of Longer Laterals (Marathon Supplemental Exhibits 23 and 24): BTA is correct that Commissioner Kessler and Commissioner Engler both requested that Marathon provide the back-up data for Exhibit 16. Exhibit 16 was prepared by Mr. Moore, the engineer who testified at the OCD hearing. Mr. Moore is no longer with Marathon. After the August 13 hearing, Marathon contacted Mr. Moore to see if Marathon could have access to the data he used. Mr. Moore's files related to Exhibit 16 were not available and so Mr. Rodionov could not provide the back-up data. In addition, however, Commissioner Engler also stated that he was "looking for information" on the lateral efficiencies issue, across "multiple horizons." [Video 4:53:30-4:53:39] Marathon understood this statement, as well as his questions related to this statement, as part of Commissioner's Engler's request for information on the lateral length issue. Marathon's counsel also included the lateral length issue in the recap of the supplemental exhibits Marathon expected to submit, and BTA's counsel did not object. [Video at 5:07:05-5:07:30]

3. Modeling on Parent Child Effect (Marathon Supplemental Exhibit 22):

Commissioner Kessler and Commissioner Engler both asked Mr. Rodionov whether he had prepared an analysis of the parent child effect in this particular area. [Video at 4:45:45-4:46:20] Commissioner Engler specifically asked for modeling on the

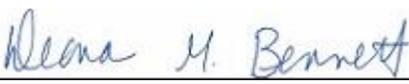
parent child effect. [Video at 4:54:45-4:54:56]. On re-direct, Marathon's counsel asked Mr. Rodionov if he had prepared a slide relating to the parent child effect with respect to the Ogden wells and he responded that he had. [5:05:00-5:5:35] Marathon's counsel asked whether he could provide that slide to the Commission and he responded yes. BTA's counsel did not object. [Video at 5:05:30-5:05:40] Marathon identified that slide specifically as one of the supplemental exhibits Marathon intended to provide, and BTA's counsel did not object.

II. CONCLUSION

BTA's Objection should be denied. BTA was aware of the scope of the supplemental materials Marathon intended to submit to the Commissioners and did not object. Marathon recognizes that the decision to admit Marathon's supplemental exhibits is vested in the Commission's discretion. In Marathon's view, Marathon's supplemental exhibits address the questions raised by the Commissioners for which they requested additional information and do not violate the Commission's Rules or Order No. R-21416.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: 

Deana M. Bennett
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 19 2020:

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

Michael H. Feldewert
Adam G. Rankin
Kaitlyn A. Luck
Counsel for OXY USA Inc.

mfeldewert@hollandhart.com
agrarkin@hollandhart.com
kaluck@hollandhart.com

By: 
Deana M. Bennett