

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 NOS: 20840 - 20848

APPLICATION OF MARATHON OIL PERMIAN LLC  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE NOS: 21383 - 21386,  
21436, 21437

AMENDED APPLICATION OF MATADOR PRODUCTION  
COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
EXAMINER HEARING  
APRIL 22, 2021  
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before  
the New Mexico Oil Conservation Division, HEARING OFFICER  
WILLIAM BRANCARD and TECHNICAL EXAMINER DYLAN ROSE COSS on  
Thursday, April 22, 2021, through the Webex Platform.

Reported by: Irene Delgado, NMCCR 253  
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For Matador:

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For Foran:

GALLAGHER & KENNEDY  
DAL MOELLENBERG

I N D E X

CASE CALLED	
STATUS CONFERENCE	03
REPORTER CERTIFICATE	14

1 HEARING EXAMINER BRANCARD: I think we now have  
2 about 15 cases lined up for the next status conference, if  
3 I'm correct. This is Marathon Oil Permian and Matador  
4 Production, each with a bucketful of cases. So it would be  
5 Numbers 13 through 27 on the agenda.

6 And let me go through the numbers. For Marathon  
7 it is 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847 and  
8 2848. For Matador we have 21383, 21384, 21385, 21386 and  
9 then 21436 and 21437. So can I get an entry of appearance  
10 for Marathon?

11 MS. BENNETT: Good morning again, Mr. Examiner,  
12 Deana Bennett on behalf of Marathon Oil Permian LLC.

13 HEARING EXAMINER BRANCARD: Okay. For Matador?

14 MR. FELDEWERT: Mr. Examiner, Michael Feldewert  
15 with the Santa Fe office of Holland & Hart.

16 HEARING EXAMINER BRANCARD: All right. So I have  
17 entries of appearance here from Cimarex.

18 MS. BENNETT: Good morning, Deana Bennett on  
19 behalf of Cimarex.

20 HEARING EXAMINER BRANCARD: Foran, if I'm  
21 correctly pronouncing that.

22 MR. MOELLENBERG: Good morning, Mr. Hearing  
23 Examiner, Dal Moellenberg from Gallagher and Kennedy for  
24 Foran Oil Company.

25 HEARING EXAMINER BRANCARD: I think there is also

1 MRC Permian, also listed as Holland & Hart.

2 MR. FELDEWERT: That one that confuses me a  
3 little bit. I'm going to have to check on that one, Mr.  
4 Examiner.

5 HEARING EXAMINER BRANCARD: I have that for 845,  
6 846 and 847.

7 MR. FELDEWERT: That may be -- so that would be  
8 the equivalent of Matador.

9 HEARING EXAMINER BRANCARD: Okay. Okay. And  
10 then Fortson and Burnett?

11 MR. BRUCE: Yes, Mr. Examiner, Jim Bruce  
12 representing those companies. I believe at most they are  
13 viewers of these proceedings. There was some other WPX  
14 cases that they supported that were involved in this  
15 acreage, and once they made their deal with WPX, they more  
16 or less stood aside so the parties can do whatever they  
17 want.

18 HEARING EXAMINER BRANCARD: Is that true of Novo,  
19 also?

20 MR. BRUCE: Correct. Yes, Novo.

21 HEARING EXAMINER BRANCARD: All right. Are there  
22 any other entries of appearance or parties in these, I  
23 believe, 15 cases? I'm not going to list them again.

24 (No audible response.)

25 HEARING EXAMINER BRANCARD: Hearing none, Ms.

1 Bennett, why don't you start us off since you seem to have  
2 the oldest cases here.

3 MS. BENNETT: Thank you. These cases are  
4 competing proposals. They -- originally Ridge Runner was in  
5 these cases, but then Matador succeeded to Ridge Runner's  
6 interest, and Marathon, I'm not going to go into too much  
7 detail, Marathon that is proposed wells going in one  
8 direction, and Matador proposed wells going in a different  
9 direction, all covering the same or basically the same  
10 sections.

11 And so these are competing cases with competing  
12 proposals. The parties, it's my understanding that the  
13 parties are continuing to have discussions, and although I  
14 haven't had a chance to confer with Mr. Feldewert or  
15 Mr. Moellenberg, I understand from my client, Marathon,  
16 that -- that Marathon would like to request an additional  
17 status conference maybe in late May to re-engage this whole  
18 group before proceeding to a contested hearing.

19 But again, I'm interested in the views from Mr.  
20 Feldewert and Mr. Moellenberg on their clients' perspective  
21 on where we are and what the next steps should be.

22 HEARING EXAMINER BRANCARD: Thank you. Mr.  
23 Feldewert?

24 MR. FELDEWERT: Mr. Examiner, first off, let me  
25 point out there is actually two sets of cases, okay? There

1 is the Marathon cases with Cerebus and Shake-n-Bake and the  
2 Matador case is the Warrior that involves the E/2 and the  
3 W/2 of Sections 34 and 27 in 22 South, 28 east. I can give  
4 you the numbers if that will help.

5 And there is a second set of cases that involve  
6 the W/2 of Section 35 in 22 South, 28 East and Section 2 in  
7 23 South, 28 East, only the W/2 of that acreage is involved.  
8 That's the Marathon Trojan Horse and Matador Gladiator.

9 So I want to point out, they are all actually two  
10 different sets with different acreage configurations  
11 although they are in the same area. That's number one.

12 Number two, I agree the parties have been in  
13 discussions, but as you can tell from the age of these cases  
14 they have been in discussions for quite some time. We think  
15 progress has been made, but from my client's perspective we  
16 would like to go ahead and get this case set for a hearing  
17 rather than continuing to punt it down the road.

18 So I think an August hearing date would make  
19 sense here, if the Division can accommodate that. And I  
20 also believe that we should set both sets of cases for the  
21 same day, but recognize that they are two different acreage  
22 configurations and therefore two different sets of cases.

23 HEARING EXAMINER BRANCARD: So you essentially  
24 would sort of like to have two hearings. Is that --

25 MR. FELDEWERT: I think that would be correct,

1 because I suspect the witnesses are going to be the same.  
2 Certainly there is going to be some differences, but I think  
3 both sets of cases could be set on the same day, and that  
4 would be the most efficient way to go.

5 HEARING EXAMINER BRANCARD: Let's try a third  
6 opinion. Mr. Moellenberg?

7 MR. MOELLENBERG: Thank you, Mr. Hearing  
8 Examiner. Foran Oil is aligned with Matador's position.

9 HEARING EXAMINER BRANCARD: Okay, thank you. Ms.  
10 Bennett, I will go back to you about the proposals to set it  
11 for hearing.

12 MS. BENNETT: Thank you. I mean, I don't have my  
13 client's concurrence in that yet, but I will e-mail them as  
14 soon as we are done with the hearing today. I understand,  
15 though, that it will likely be set for the -- at least  
16 preliminarily set for August hearing date if that's the  
17 pleasure of the Division and so I can coordinate with my  
18 clients today about that date in August and make sure that  
19 works.

20 I do think, though, that we have already had a  
21 prehearing order, multiple prehearing orders in these cases,  
22 and Mr. Feldewert can correct me if I'm a wrong about this,  
23 but I do think that Mr. Ames may have already identified a  
24 procedure for working through these cases.

25 And if I'm correct about that, then I think it

1 might make sense for the three of us, Mr. Feldewert,  
2 Mr. Moellenberg and myself to review those prior prehearing  
3 orders and see if what we are asking or what Mr. Feldewert  
4 is asking you to do is different from that, because if it's  
5 not, then there is no need to reinvent the wheel.

6 I just can't remember, sitting here right now,  
7 what last prehearing order said in terms of proceeding with  
8 the cases, but I do agree with Mr. Feldewert that these are  
9 two different -- two different sets of cases, but they  
10 involve the same witnesses, so it will be good to have two  
11 different sets of hearings. And I also think that Foran Oil  
12 may only be in the Trojan Horse Gladiator cases and not in  
13 the Cerebus Shake-n-Bake cases, I can't recall now, but in  
14 any event, there may be some -- there will be some need to  
15 have the cases separated.

16 MR. FELDEWERT: I think, just jump in, Ms.  
17 Bennett, I think your recollection is correct, this was set  
18 up to address them sequentially. I don't remember what the  
19 sequence was off the top of my head, but I do agree there  
20 was a prehearing order that identified different sets of  
21 cases.

22 My only concern is I can't remember the age of  
23 that order and whether it reflects the substitution of  
24 Matador. So, Mr. Brancard, I would be happy to go back and  
25 look for that and identify the order that provided the



1 sequencing to that. I think that made sense at the time, so  
2 I don't see any reason why we would depart from that.

3 HEARING EXAMINER BRANCARD: Mr. Moellenberg, are  
4 you fine with that?

5 MR. MOELLENBERG: Yes, Mr. Hearing Examiner.

6 HEARING EXAMINER BRANCARD: My notes seem to  
7 indicate that Foran is party to all of these cases; is that  
8 correct?

9 MR. MOELLENBERG: Mr. Hearing Examiner, I believe  
10 Ms. Bennett is correct that Foran Oil has not appeared in  
11 all of the cases, but I would have to go back and look at  
12 which ones are -- where Foran Oil has entered an appearance  
13 and which ones they have not. The appearances were back  
14 when the, the Ridge Runner -- the parties were aligned  
15 differently at that point.

16 HEARING EXAMINER BRANCARD: Thank you. And Mr.  
17 Bruce, are you part of this discussion or not?

18 MR. BRUCE: Whatever you guys decide is fine with  
19 my clients.

20 HEARING EXAMINER BRANCARD: Okay, so your clients  
21 still remain as parties to these cases?

22 MR. BRUCE: Yeah, and more out of interest than  
23 anything, or out of just interest in the proceedings than  
24 anything else.

25 HEARING EXAMINER BRANCARD: Right. So you won't

1 be presenting witnesses, likely?

2 MR. BRUCE: No.

3 HEARING EXAMINER BRANCARD: Mr. Moellenberg, do  
4 you think Foran will present witnesses?

5 MR. MOELLENBERG: Probably not. I don't know for  
6 sure, but in all likelihood I don't believe Foran Oil would  
7 be presenting witnesses.

8 HEARING EXAMINER BRANCARD: Okay. All right. If  
9 there are no further suggestions, I think you are right, Mr.  
10 Bennett, as far as my looking at the file, there has been a  
11 number of procedural orders issued in this case, and as the  
12 parties have mentioned, we have had changes of parties. I  
13 think we had some case -- cases substituted, numbers of  
14 cases.

15 And so, but if there was a process, you know,  
16 prior prehearing order that the parties are comfortable  
17 with, that would be helpful to me in drafting a new  
18 prehearing order. So I will start with the presumption that  
19 we will have a hearing on August 19 for this matter.

20 MS. BENNETT: Thank you. And I just did just  
21 look through the files, and there is a prehearing order  
22 dated February 25, 2020, and that prehearing order, although  
23 it includes Ridge Runner as modified by a later prehearing  
24 order, followed the sequence that Mr. Feldewert discussed a  
25 moment ago, which is having the Sections 27 and 34 cases

1 heard first and followed by the Sections 2 and 35 cases.

2 And so that is already in the file.

3 HEARING EXAMINER BRANCARD: Mr. Feldewert, if you  
4 could take a look at that.

5 MR. FELDEWERT: Yes, I will. I recall that  
6 order, Mr. Brancard, and I think it's safe to assume you can  
7 follow that form. Do you have the order number in front of  
8 you, Deana?

9 MS. BENNETT: Yes, I do. Well --

10 HEARING EXAMINER BRANCARD: It would just be a  
11 prehearing order, I don't think there is an R number.

12 MS. BENNETT: There is no order number on it.  
13 But it's dated, it's in the file on 2-25-2020.

14 MR. FELDEWERT: The only thing that may be  
15 confusing, Mr. Brancard, is the case numbers may have  
16 changed because the applicants have changed, and so if you  
17 would like, off of mine, I can put together the case numbers  
18 for you and coordinate that with that form of prehearing  
19 order, if that would be helpful.

20 HEARING EXAMINER BRANCARD: Yeah, that would be  
21 helpful. I think that would be helpful. Thank you. If you  
22 can do that quickly.

23 MR. FELDEWERT: Yes. So I can basically provide  
24 substitute cases, is what I'm saying.

25 HEARING EXAMINER BRANCARD: Correct. And I think

1 they are sort of laid out pretty well in the files, but I  
2 don't want to mess things up here.

3 MR. FELDEWERT: It took me a while yesterday to  
4 sort through these and figure out the -- what, what cases  
5 went with what, so --

6 HEARING EXAMINER BRANCARD: Same here. I was  
7 trying to figure out who was a party to what, so -- okay,  
8 any other --

9 MS. BENNETT: One more question. I'm guessing  
10 that we will each need to file our own continuances to get  
11 them set for the August 19 hearing date. Is that accurate,  
12 or would that be a different process for these cases?

13 HEARING EXAMINER BRANCARD: No, that would be  
14 accurate.

15 MS. BENNETT: Okay.

16 HEARING EXAMINER BRANCARD: Any other issues  
17 related to this case? It's a whole bunch of them, so if we  
18 have other issues, please let us know.

19 (No audible response.)

20 HEARING EXAMINER BRANCARD: Hearing none. Okay,  
21 so these 15 cases, and I won't do the numbers again, are set  
22 for August 19. Mr. Feldewert will confirm with me on the  
23 case numbers. Please copy the other parties when you send  
24 me anything. And then I will draft a prehearing order using  
25 the format from the February 25 -- my gosh, pre-pandemic --

1 and hopefully that will work towards getting us a hearing in  
2 August. Anything else from the parties?

3 MR. FELDEWERT: No. Thank you for your time.

4 HEARING EXAMINER BRANCARD: Thank you.

5 MR. MOELLENBERG: Thank you Mr. Hearing Examiner.

6 (Concluded.)

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REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico Certified Court Reporter, CCR 253, do hereby certify that I reported the foregoing virtual proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings to the best of my ability.

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

I FURTHER CERTIFY that the Virtual Proceeding was of poor to good quality.

Dated this 22nd day of April 2021.

/s/ Irene Delgado  
\_\_\_\_\_  
Irene Delgado, NMCCR 253  
License Expires: 12-31-21