

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: 22741

APPLICATION OF MARATHON OIL PERMIAN
LLC FOR A NONSTANDARD UNIT, AND
COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
MAY 19, 2022
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 LEONARD LOWE on
Thursday, May 19, 2022, through the Webex Platform.

Reported by: PAUL BACA PROFESSIONAL COURT REPORTERS
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A P P E A R A N C E S

For the Applicant:

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1 HEARING EXAMINER BRANCARD: With that I call
2 22741, Marathon Oil Permian.

3 MS. BENNETT: Thank you very much. Deana Bennett
4 again on behalf of Marathon Oil Permian LLC.

5 HEARING EXAMINER BRANCARD: Thank you. Are there
6 any other interested persons for Case 22741?

7 (No audible response.)

8 HEARING EXAMINER BRANCARD: Hearing none, Ms.
9 Bennett, you may proceed.

10 MS. BENNETT: Thank you. In this case, as you
11 just noted, this case is the combination of two prior filed
12 Bone Spring cases. In the predecessor cases Marathon sought
13 two standard 320 acre spacing units. However, Marathon is
14 now seeking a non-standard 640 acre spacing unit to conform
15 or to match the Wolfcamp 640 acre spacing unit and to meet
16 the BLM requirement of a state ordered spacing unit for a
17 communitization agreement, and that's explained in Jeff
18 Broussard's application or affidavit.

19 So with that background, I will just go through
20 the packet and then be ready to stand for questions. In
21 this case, as I mentioned, this is a Bone Spring case, and
22 in this case Marathon is seeking two things, one is approval
23 of a non-standard spacing unit, and two, an order pooling
24 all uncommitted interest owners into the spacing unit.

25 And the spacing unit is the E/2 of Sections 18

1 and 19, Township 26 South, Range 35 East, and it's a 640
2 acre spacing unit.

3 In the materials which we submitted on Tuesday,
4 we have the compulsory pooling checklist as Tab A. Tab B is
5 the declaration of Jeff Broussard, and he has previously
6 testified before the Division and his credentials have been
7 accepted as a matter of record, and in his declaration he
8 explains the history of the case -- of the other Bone
9 Spring cases leading up to this case and the rationale for
10 seeking a 640 acre unit including to match the Wolfcamp
11 unit, as well as to satisfy BLM, but also because the 640
12 acre unit will allow for more efficiencies which are
13 described in his declaration.

14 We have also included the lease tract map,
15 summary of interest, summary of contacts and the parties to
16 be pooled, sample proposal letter, AFEs for the wells, and
17 then my notice letter along with the notice or my notice
18 declaration along with the notice letter that was sent, and
19 the affidavit of publication as well as the tracking
20 information.

21 Tab C is the declaration of the Matt Baker who is
22 the geologist for Marathon, and he has previously testified
23 before the Division, and he included the usual suite of
24 exhibits, locator map, wellbore schematic, structure map,
25 cross reference, well locator map, the stratigraphic cross

1 section, a gross interval isochore, and then an excerpt from
2 the Snee Zoback paper supporting his justification for the
3 orientation of the wells in this area.

4 And so with that, reserving about notice for the
5 moment, I ask that the 22741 be admitted into the record and
6 then reserve some time to talk about notice.

7 HEARING EXAMINER BRANCARD: Okay. I mean, I
8 guess you should just go forward and talk about notice.

9 MS. BENNETT: Okay. That sounds good. So this
10 is a non-standard -- Marathon is seeking approval of a
11 non-standard unit in this case. The only fact that makes it
12 non-standard, though, is that Marathon, you know, has erased
13 that center line between the two 320 acre -- what would
14 otherwise be two 320 acre standard units.

15 So there is no (inaudible) to the adjoining
16 tracts, and so I know rule that (inaudible) about notice
17 went out on non-standard (inaudible) it also (inaudible)
18 these cases where facts are not excluded. So in all other
19 cases --

20 HEARING EXAMINER BRANCARD: Ms. Bennett, you are
21 breaking up a bit again, so if you could tell us what you
22 need in the order maybe that would be helpful.

23 MS. BENNETT: So the rule does say that notice
24 shall be provided to (inaudible) --

25 REPORTER: I'm sorry, this is Irene. You are

1 breaking up, I can't --

2 MS. BENNETT: Can you give me just a second to
3 switch?

4 (Pause.)

5 MS. BENNETT: Can you hear me?

6 REPORTER: Let's try it and see. You started
7 breaking up when you were talking about the rule.

8 MS. BENNETT: So as I was mentioning, the rule
9 governing notice on standard units does require notice to
10 adjoining tracts, and it would be my understanding that that
11 rule is to protect or give notice to tracts adjoining or
12 offset owners whose interest can be affected by the
13 non-standard unit.

14 And here there is no impact to the adjoining
15 tracts. The impact is only to the internal tracts that are
16 being combined into the non-standard unit, and those owners
17 all received notice by virtue of the pooling and the fact
18 that we sent notice letters to all of the internal unit
19 owners or working interest owners.

20 So I mean, obviously I'm ready to do whatever the
21 Division thinks is appropriate here, which if the division,
22 you know, wants Marathon to send notice letters to the
23 adjoining tracts, we will do that and I would ask that the
24 case be continued to allow the opportunity to cure that
25 defect, but I would also just -- I think this was an

1 unanticipated circumstance, perhaps, that's not
2 necessarily -- that doesn't fall within the non-standard
3 unit notice rules or purposes.

4 HEARING EXAMINER BRANCARD: Thank you. Mr. Lowe,
5 questions?

6 TECHNICAL EXAMINER LOWE: Yes. Good morning, Ms.
7 Deana Bennett.

8 MS. BENNETT: Good morning.

9 TECHNICAL EXAMINER LOWE: I have a few questions
10 for clarification to understand what's going on here.

11 MS. BENNETT: Certainly.

12 TECHNICAL EXAMINER LOWE: As I can see what's
13 been presented and referenced here with both cases together,
14 the first case, 22332, shows that it's going for the
15 Wolfcamp; correct?

16 MS. BENNETT: That's correct.

17 TECHNICAL EXAMINER LOWE: So therefore the
18 Wolfcamp has 160 acre building blocks, so you are allowed to
19 do that, but you are not requesting a different spacing unit
20 there for that case.

21 MS. BENNETT: That's right.

22 TECHNICAL EXAMINER LOWE: I'm just trying to
23 dissect what's going on here.

24 You -- okay. Okay. Case for Number 22741, that
25 is what you are indicating for a non-standard spacing unit,

1 that's the Bone Spring.

2 MS. BENNETT: That's right.

3 TECHNICAL EXAMINER LOWE: Okay. So you -- okay.
4 Is that the reason why you are taking these cases
5 separately, they are both for separate different pool
6 formations?

7 MS. BENNETT: They are for different pools, and
8 in the Wolfcamp case, we are using a proximity tract rule
9 actually to make a standard -- or Marathon is using the
10 proximity tract rule to make a standard spacing unit in that
11 case.

12 Here, in the Bone Spring case, Marathon isn't at
13 this time proposing a proximity tract well, otherwise this
14 would be standard unit case as well. But I did talk with
15 Marathon yesterday, and Marathon is, in the future, planning
16 what would be considered a proximity tract well, it's just
17 not one of their initial wells.

18 So rather than including a well that is not an
19 initial well, which would have, you know, made this a
20 standard case, Marathon held off on doing that to
21 appropriately identify the wells that Marathon has on its
22 rig schedule.

23 So that's another reason why this is, I think,
24 one that maybe this case, 22741, in this situation here is
25 maybe not contemplated by the or unanticipated by the

1 non-standard unit notice rules because if there was a
2 proximity tract well here, this would also be standard and
3 no notice would be required to the offsets.

4 TECHNICAL EXAMINER LOWE: Yes, that is true. So
5 for notice for 22741, notice was provided around the
6 perimeter of the spacing unit that you are requesting; is
7 that correct?

8 MS. BENNETT: That's where -- that's not
9 correct. We did not provide notice to the offsetting tract
10 owners. So we -- Marathon did not provide notice -- well,
11 not Marathon -- I did not provide notice of this hearing to
12 the offsetting owners -- or operators, I should say. And so
13 if that's something that I need to cure, I will do that
14 ASAP.

15 TECHNICAL EXAMINER LOWE: So the notices that
16 were provided in the exhibits were only pertaining to the
17 compulsory pooling side of the case.

18 MS. BENNETT: Yes and no. There are some
19 offsetting owners like Oxy that are also being pooled in
20 case. So oxy, for example, did get, because it was being
21 pooled, it also received notice of non-standard unit
22 application. But for operators that were not being pooled,
23 they did not get notice.

24 TECHNICAL EXAMINER LOWE: Okay. So basically
25 this case for 22741 provided notice for all the compulsory

1 pooling requests, but not the non-standard spacing unit
2 requests?

3 MS. BENNETT: That's right.

4 TECHNICAL EXAMINER LOWE: Okay.

5 MS. BENNETT: So if it's the Division's
6 determination that the rule says what it says, irrespective
7 of my argument today, then I'm completely prepared to ask
8 for a continuance to the June -- or, yeah, the June 16th
9 docket, I think it is, to allow myself time to cure this
10 defect and send notice letters to the adjoining tracts and
11 ask for waivers from the adjoining tract operators.

12 TECHNICAL EXAMINER LOWE: As far as I know, I
13 don't know of any difference for providing notice to off --
14 affected tracts pertaining to a non-standard spacing unit,
15 but I guess administratively you would have to -- need to do
16 that, but in case, I guess, see what Mr. Brancard says.

17 MR. BENNETT: Thank you, Mr. Lowe, and I was
18 really happy to hear that you were the technical examiner
19 today because I know that you deal with this a lot, so I was
20 happy that you were the examiner because I value your
21 insight on this quite a bit, so thank you.

22 TECHNICAL EXAMINER LOWE: Yeah, it was, it was
23 interesting reading your exhibits here. I think that is all
24 the questions I have right now. Thank you.

25 MS. BENNETT: Thank you.

1 HEARING EXAMINER BRANCARD: Thank you. I have
2 looked at the rule and I don't see any way around it. The
3 Commission makes the rules and the Division implements them.
4 The Commission knows the reasons why, we don't.

5 So I think you need to provide the notice. I
6 would also say that your explanation for why you are doing
7 the non-standard unit since the rule does say that we have
8 to only allow these if necessary to prevent waste or protect
9 correlative rights, your explanation is a little sparse.

10 You will see in the next case they go into
11 greater detail, however, as you have pointed out, the
12 non-standard spacing unit that you are proposing could have
13 easily been a standard spacing unit if had you done a
14 proximity well. So I think the standard for what you have
15 to do to justify is probably less so here.

16 MS. BENNETT: Thank you.

17 HEARING EXAMINER BRANCARD: I will just see it as
18 a notice issue, and so we can continue this for you to do
19 the notice to the adjoining property interest owners as
20 provided in the rule.

21 MS. BENNETT: Thank you very much. I really
22 appreciate that, and we will work on getting that done and
23 work on getting waivers for other indicia of approval from
24 the adjoining operators. And if not, then we will present
25 our notice letters at the next -- at the June 16 hearing.

1 HEARING EXAMINER BRANCARD: All right. Is that
2 enough time for you, June 16?

3 MS. BENNETT: Yes, it is.

4 HEARING EXAMINER BRANCARD: So this case will
5 be -- are there any other persons here for Case 22741?

6 (No audible response.)

7 HEARING EXAMINER BRANCARD: Hearing none, the
8 exhibits will be admitted into the record. Case 22741 will
9 be continued to the June 16 docket for the completion of
10 notice requirements.

11 MS. BENNETT: Thank you very much.

12 (Exhibits admitted.)

13 (Continued.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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6 I do hereby certify that I reported the
7 foregoing virtual proceedings in stenographic shorthand and
8 that the foregoing pages are a true and correct transcript
9 of those proceedings to the best of my ability.

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

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

16 Dated this 19th day of May 2022.

17

18 _____
19 Court Reporter
License Expires: 12-31-22

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