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November 14, 1962

Oil Conservation Commission
State Land Office Building
P. O. Box 871
Santa Fe, New Mexico

RE: Marathon Oil Company's application for a de novo
hearing before the Oil Conservation Commission
of the State of New Mexico in Case No. 2628,
Order R-2330

Gentlemen:

Marathon Oil Company hereby applies for a de novo hearing before the Oil Conservation Commission in Case No. 2628, in which case the Commission's decision following an Examiner's Hearing is evidenced by Commission Order R-2330 entered October 18, 1962. Case No. 2628 pertains to Marathon Oil Company's application for approval of an unorthodox well location in the Atoka Penn Pool, Eddy County, New Mexico.

The Commission's Order R-2330 denies Marathon's application for the unorthodox well location requested, but approves and authorizes an unorthodox location 305 feet further to the south, permitting Marathon to dedicate to a well drilled at such location only 240 acres. The order further approves and authorizes an alternative unorthodox location 1625 feet to the west of Marathon's proposed location, and, if the well is drilled at this location, permits the dedication of 320 acres to the well. Order No. 2330 is predicated on a finding by the Examiner that the productivity of the W/2 of the NW/4 of Sec. 30, T. 18 S, R. 26 E, is doubtful and that the approval of the subject application would therefore impair the correlative rights of Martin, Williams & Judson. The Examiner obviously has not found, and could not find from the evidence in the record, that the W/2 of the NW/4 is not productive since he permits that acreage to be dedicated to an unorthodox well under certain circumstances. The Examiner also found that the two alternative locations approved in Order R-2330 would not impair the correlative rights of Martin, Williams & Judson.

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The Commission's Order R-2330 is not supported by any finding based on evidence in the record of the hearing that would justify denial of the unorthodox location sought by Marathon, or which would justify and support the reduction of the allowable for a well drilled by Marathon at any unorthodox location on the N/2 of Sec. 30, T 18 S, R 26 E.

Marathon Oil Company maintains that, based upon a reasonable interpretation of the information available to it which was presented in evidence at the Examiner's Hearing and which will be presented to this Commission, that in order that it may have a reasonable and realistic opportunity to produce its fair share of the hydrocarbons in the Atoka Penn gas pool, it is necessary that Marathon be permitted to drill a well at the unorthodox location requested in its application, and that Marathon be permitted to dedicate to such well all of the acreage in the N/2 of Sec. 30 which may reasonably be deemed to be productive based upon the geological, engineering, and other evidence presently available. To grant such application of Marathon would not cause waste, would not impair the correlative rights of others, and would not give to Marathon an advantage or opportunity which is not already enjoyed by other producers in the field.

To deny the unorthodox location herein requested, or to reduce the allowable for a well drilled on the unorthodox location, will subject Marathon to an unnecessary economic risk, will result in an impairment of Marathon's correlative rights, and will deny Marathon a reasonable and realistic opportunity to recover its fair share of the hydrocarbons in the pool. To deny the requested unorthodox location or to reduce the allowable for Marathon's well, based solely upon a finding that the productivity, is doubtful upon some portion of the acreage proposed to be dedicated to the well, is contrary to the rules and established practice of this Commission, and impairs Marathon Oil Company's correlative rights. Such a denial will grant to other operators in the pool who have not established beyond a reasonable doubt that all of the acreage dedicated to their well is productive, an unequal and unfair opportunity and advantage to recover more than their fair share of the hydrocarbons in the Atoka Penn pool.

Marathon Oil Company therefore requests that Case No. 2628 be set for de novo hearing before the Commission and that notice of such hearing

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be issued, all in accordance with the applicable rules of the Oil Conservation Commission of the State of New Mexico.

Respectfully submitted,

ATWOOD & MALONE

By:  Charles D. Malone

CFM/tc