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

APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P., FOR A HORIZONTAL SPACING UNIT AND COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Case No. _____

APPLICATION

Devon Energy Production Company, L.P., ("Devon"), OGRID No. 6137, through its undersigned attorneys, hereby files this Application with the Oil Conservation Division ("Division") pursuant to the provisions of NMSA 1978, Section 70-2-17, seeking an order (1) establishing a standard 960-acre, more or less, spacing and proration unit comprised of Lots 9 through 16 (equivalent to the S/2 N/2) of Sections 1, 2 and 3, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico, said Sections being correction sections and therefore irregular, and (2) pooling all uncommitted mineral interests in the Bone Spring formation, designated as an oil pool, underlying said unit.

In support of its Application, Devon states the following:

1. Devon recognizes that Sections 1, 2 and 3, are rather sizable correction sections consisting of 16 lots in the N/2 of the Sections and therefore may present a number of novel questions and issues regarding the application of the Division's rules to the unusual circumstances created by the Sections. Devon respectfully submits that in Exhibit A, attached to this Application, it proposes for the Division's consideration a valid and beneficial interpretation and application of NMAC 19.15.16.15B(1)(1) and related rules for establishing the N/2 N/2 and/or S/2 N/2 of correction Sections 1, 2 and 3, consisting of Lots 1-8 of each Section ("Subject Lands"), as a

standard unit. For the reasons provided in Exhibit A, Devon respectfully submits that establishing the Subject Lands as a standard unit would best serve the interest of the Division and Applicants by ensuring a consistent and systematic application of the Rules to correction sections, no matter the size or number of lots, for the protection of correlative right and prevention of waste.

2. Although this Application represents Devon's preferred spacing unit and development plan, Devon has submitted concurrently an alternate pooling application for the **Burton Flat 3-1 Fed State Com 333H Well** proposed as a standard spacing unit comprising Lots 9-12 of irregular Sections 1, 2 and 3. This alternate pooling application is provided for the Division's consideration should the Division reject the standard horizontal spacing unit proposed herein.

3. Devon is a working interest owner in the proposed horizontal spacing and proration unit ("HSU") and has a right to drill a well thereon.

4. Devon proposes and dedicates to the HSU the **Burton Flat 3-1 Fed State Com 333H Well,** as the initial well, to be drilled to a sufficient depth to test the Bone Spring formation.

5. Devon proposes the **Burton Flat 3-1 Fed State Com 333H Well,** an oil well, to be horizontally drilled from a surface location in Lot 5 of Section 3 to a bottom hole location in Lot 9 of Section 1.

6. The proposed well is orthodox in its location, and the take points and completed interval comply with setback requirements under statewide rules.

7. The proposed HSU overlaps two existing spacing units with wells owned and operated by Devon, the Burton Flat Deep Unit 52H Well (API No. 30-015-40693) with a unit covering Lots 13-16 in Section 2; the Burton Flat Deep Unit 55H Well (API No. 30-015-40682) with a unit covering Lots 9-12 in Section 2; the Burton Flat Deep Unit 51H Well (API No. 30-

015-40681) with a unit covering Lots 9-12 in Section 3; and the Burton Flat Deep Unit 56H Well (API No. 30-015-40683) with a unit covering Lots 13-16 in Section 3. Devon requests approval for these overlapping units.

8. Devon has sought in good faith, but has been unable to obtain, voluntary agreement from all interest owners to participate in the drilling of the well or in the commitment of their interests to the well for their development within the proposed HSU.

9. The pooling of all interests in the Bone Spring formation within the proposed HSU, and the establishment of the standard spacing unit, will avoid the drilling of unnecessary wells, prevent waste, and protect correlative rights.

10. In order to provide for its just and fair share of the oil and gas underlying the subject lands, Devon requests that all uncommitted interests in this HSU be pooled and that Devon be designated the operator of the proposed horizontal well and HSU.

WHEREFORE, Devon requests that this Application be set for hearing on August 4, 2022, before an Examiner of the Oil Conservation Division, and after notice and hearing as required by law, the Division enter an order:

A. Establishing a standard 960-acre, more or less, spacing and proration unit comprised of Lots 9 through 16 (equivalent to the S/2 N/2) of correction Sections 1, 2 and 3, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico;

B. Pooling all uncommitted mineral interests in the Bone Spring formation underlying the proposed HSU.

C. Approving the **Burton Flat 3-1 Fed State Com 333H Well** as the well for the HSU.

D. Designating Devon as operator of this HSU and the horizontal well to be drilled thereon;

E. Authorizing Devon to recover its costs of drilling, equipping, and completing the well;

F. Approving actual operating charges and costs of supervision, to the maximum extent allowable, while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures; and

G. Setting a 200% charge for the risk assumed by Devon in drilling and completing the well in the event a working interest owner elects not to participate in the well.

Respectfully submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

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Attorneys for Devon Energy Company, L.P.

Application of Devon Energy Company, L.P., for a Horizontal Spacing and Proration Unit and Compulsory Pooling, Eddy County, New Mexico. Applicant in the above-styled cause seeks an order from the Division: (1) establishing a standard 960-acre, more or less, spacing and proration unit comprised of Lots 9 through 16 (equivalent to the S/2 N/2) of Sections 1, 2 and 3, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico, said Sections being correction sections and therefore irregular, and (2) pooling all uncommitted mineral interests in the Bone Spring formation, designated as an oil pool, underlying said unit. The proposed well to be dedicated to the horizontal spacing unit is the **Burton Flat 3-1 Fed State Com 333H Well,** an oil well, to be horizontally drilled from a surface location in Lot 5 of Section 3 to a bottom hole location in the Lot 9 of Section 1. The well will be orthodox, and the take points and completed interval will comply with the setback requirements under the statewide Rules; also to be considered will be approval for the overlapping of existing units involving the Burton Flat Deep Unit 52H Well (API No. 30-015-40693) and the Burton Flat Deep Unit 55H Well (API No. 30-015-40682) in Section 2, and Burton Flat Deep Unit 51H Well (API No. 30-015-40681) and the Burton Flat Deep Unit 56H Well (API No. 30-015-40683) in Section 3, all operated by Applicant; the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; the designation of the Applicant as Operator of the well and unit; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 7 miles northeast of Carlsbad, New Mexico.

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Exhibit A: A legal basis for establishing standard horizontal spacing units in expanded correction sections under the existing language and intent of the Statewide Rules

In this Exhibit A, attached to and made a part of the pooling application, the Applicant respectfully asks the Division to consider what should constitute a standard horizontal spacing unit ("HSU") for horizontal oil wells when encountering expanded correction sections under the PLSS. The analysis in this Exhibit is provided to the New Mexico Oil Conservation Division ("Division") for its consideration as it works through the challenges posed by such idiosyncratic sections. The Applicant respectfully submits that the spacing unit proposed in its Application be deemed a standard HSU based on a review of what constitutes a standard HSU under the Rules, which begins with the criteria set out in NMAC 19.15.16.15B(1) that directly supplants – having been adopted "[i]n lieu of" – an oil spacing unit "described in Subsection A of 19.15.15.9 NMAC" as consisting of 40 acres for a vertical well.

More specifically, NMAC 19.15.16.15B(1)(a) states that "[t]he horizontal spacing unit shall comprise one or more contiguous tracts that the horizontal oil well's completed interval penetrates…." (emphasis added). As an example, a commonly approved standard HSU in a standard section would, and often does, comprise quarter-quarter sections consisting of Units A-D to create a 160-acre standard HSU. Such standard HSU would be accurately described under NMAC 19.15.4.9A(8) as the N/2 N/2 of said standard section. In a standard section, each "tract" of the standard HSU would consist "of a governmental quarter-quarter section…," in compliance with the language of NMAC 19.15.16.15B(1)(a).

The challenge that arises with correction sections is the application of the specific language of this Rule to correction Lots that vary in size from governmental quarter-quarter sections, Lots which often reduce the size of the quarter-quarter section. NMAC 19.15.16.15B(1)(a) accounts for such possible variations by stating that "each [tract] of which consists of a governmental quarter-quarter section or equivalent." (emphasis added).

In practice before the Division, applicants often encounter correction sections where the only correction is provided by Lots 1-4 across the top of the section to account for quarter-quarter sections that otherwise would be Units A-D. Common practice with such a scenario shows that these Lots 1-4 are addressed by requesting a standard HSU consisting of Lots 1-4 of the correction section and providing a legal description such as Lots 1-4 (aka the N/2 N/2) of said correction section pursuant to NMAC 19.15.4.9A(8). In this scenario, it has been the practice of the Division to deem Lots 1-4 as "equivalent" to the governmental quarter-quarter sections and approve the contiguous tracts penetrated by the well's completed interval as a standard HSU. *See* Diagram No. 2, provided herein and attached hereto.

In the present Application for compulsory pooling, the Applicant, Devon Energy Production Company, L.P. ("Devon"), is faced with correction sections that consist of Lots 1-16 that comprise the entire N/2 of the correction section. *See* Diagram No. 3, attached hereto. As an example, one of the correction sections is Section 1, Township 21 South, Range 27 East, NMPM. The challenge is the application of the language and intent of NMAC 19.15.16.15B(1)(a) to Section 1 in a systematic and consistent manner that protects correlative rights and prevents waste pursuant to the Oil and Gas Act ("Act") and that can be efficiently replicated for other correction sections under the PLSS.

Devon respectfully submits for the Division's consideration that the general legal description of the proposed unit be the guiding factor for determining what tracts should be deemed equivalent to governmental quarter-quarter sections for purposes of building a standard HSU in a correction section that would be equivalent, under the language of the Rules, to a standard HSU in a standard section.

Therefore, to establish such equivalency, the N/2 N/2 standard HSU of a standard section, consisting of Units A-D, should translate into using Lots 1-8 when creating an equivalent standard HSU in correction Section 1. A standard HSU consisting of Lots 1-8 of Section 1 would comprise the N/2 N/2 of Section 1, which is equivalent under the language of the Rules to the N/2 N/2 of a standard section in that it maintains a consistent and equivalent legal description in both the standard section and the correction section. *See* Diagram No. 1, attached hereto. In correction Section 1, the tracts that would constitute the basic building blocks for the N/2 N/2 standard unit of Section 1 would be blocks consisting of two stacked lots, such as Lots 1 and 8, Lots 2 and 7, Lots 3 and 6, and Lots 4 and 5. These stacked Lots used to create a N/2 N/2 standard HSU in a correction section would maintain the equivalency specified in NMAC 19.15.16.15B(1)(a).

The equivalency maintained by this approach is also illustrated by the fact that a quarter-quarter section in the N/2 N/2 of a standard section is equivalent to one-fourth (1/4) of the N/2 N/2 standard spacing unit, and the basic building block proposed herein for creating a standard HSU comprising the N/2 N/2 of correction Section 1 is also one-fourth (1/4) of the N/2 N/2 spacing unit. This approach for establishing standard HSUs in correction sections is replicable with any correction section one encounters, as the size the building blocks would be proportioned to maintain the one-fourth (1/4) equivalency in relation to the number of Lots involved, whether in

the N/2 N/2 or other legal description proposed. Furthermore, the setback requirements of 330 feet would be maintained within the unit to protect the correlative rights of the offset operators.

Devon respectfully submits that this approach would be preferrable to burdening the Division with a case-by-case evaluation of what should constitute a standard HSU in a correction section each time the Division encounters the unique irregularities of a correction section with lots of various sizes. Correction Section 1, in the present case, happens to have a number of Lots that are 40 acres, the same acreage as quarter-quarter sections, but the Lots are not equivalent to quarter-quarter sections because each Lot is one-eighth of the N/2 N/2 of correction Section 1, while a quarter-quarter section by definition is one-fourth (1/4) of the N/2 N/2 of a standard section. Furthermore, Lots can vary dramatically in size and distribution depending on the correction section, and consequently, one cannot depend on a Lot always being 40 acres.

The model for approaching correction sections presented herein would provide a reliable template for addressing correction section consistently and systematically. Further, it would incorporate the principle under NMAC 19.15.15.9 and -.11 of having building blocks that include at least 40 acres, which is also reflected in the revisions provided by the horizontal rules in NMAC 19.15.16.15. The correction sections under the PLSS that are expanded beyond four lots, such as correction Section 1, which has 16 lots, would have building blocks which would encompass at least 40 acres, as required by NMAC 19.15.15.9, but would allow additional acreage as envisioned in the intent of NMAC 19.15.16.15B(1)(a) for expanded standard units that accommodate longer horizontal wells and spacing units.

Countering this proposal, one might argue that this approach would lead to larger standard units in correction sections involving lots than those typically established in standard sections involving quarter-quarter section, but from a practical viewpoint, the larger standard unit would

be proper in order to accommodate in a consistent, efficient, and reliable manner those rare instances when the PLSS itself uses correction sections to accommodates anomalies. Devon respectfully submits that the Division has the authority to apply existing Rules to address such anomalies when the inherent language of the Rule itself provides for a consistent and rational application, as proposed herein.

The only alternative approach would involve trying to fit a square peg in a round hole. The Rules do not directly address the subject of correction sections in this situation; thus, without a consistent application of the Rules based on their existing language, the Division could likely risk arbitrarily deciding whether a correction Lot is equivalent to a quarter-quarter section, and the Rules do not provide a reliable threshold for such a determination. For example, would the threshold be a reduction of 5 acres, from 40 to 35, or 10 acres from 40 to 30, or other? Since the Rules do not specify a clear threshold, the Division would be left with using an arbitrary rule of thumb on a case-by-case basis.

Such a piecemeal approach for developing a correction section would not only burden the Division with this uncertainty but would also burden the applicant trying to decide if it should describe in its pooling application a contiguous set of correction Lots as a standard or a non-standard unit. If a clear and consistent pathway is not provided by a consistent application of the Rules on which an applicant can rely, the applicant risks misidentifying the unit as standard or non-standard resulting in the burden of having to dismiss or amend the original pooling application.

The approach provided herein has a number of advantages for ensuring the protection of correlative rights and the prevention of waste and drilling unnecessary wells. First, this approach would better ensure that all of the lots of a correction section would be developed by having an

established place of each lot in a standard spacing unit no matter how irregular the Lot might be. In the example of correction Section 1, with its N/2 consisting of an unwieldy 16 Lots, an applicant might decide to develop the lots in a piecemeal fashion, such as proposing a unit across Lots 13-16 separated from another unit proposed as Lots 5-8, thereby excluding owners in Lots 1-4 and 9-12 and creating gaps in what otherwise should be adjacent units developed based on principles of uniformity for the full development of the N/2 of the correction section.

Second, creating a situation where a series of Lots in a correction section are considered a non-standard unit could significantly burden the applicant by requiring an excessive amount of additional and costly title work to identify owners in adjacent tracts outside the correction section, which otherwise would not burden the applicant when developing a standard section. Such burden may create waste through delay of development or through the applicant deciding not to develop the unit due to the irregularity creating an excessive burden. Devon's proposed horizontal unit in the attached pooling application, if rejected as a standard unit, would require additional title work covering, at a minimum, tracts in Section 6-21S-38E, Sections 36, 35, 34 and 33-20S-28E, and Section 4-21S-27E.

Currently, for example, if an applicant wants to develop the N/2 N/2 of a standard section as a standard spacing unit, the applicant can do so efficiently under the Rules, without unnecessary or excessive burden, and still protect the correlative rights of offset operators and owners by observing the proper setback requirements. Devon respectfully submits that the Division should grant an applicant the benefit of the same efficiency under the Rules when developing expanded correction sections when there is a viable application of the Rules to facilitate efficient development. Under the Act, and its Rules, a correction section should not present such obstacles

to the development of the state's natural resources when a reasonable and rational means is available for development that would prevent waste and protect correlative rights.

In the development plan of its pooling application, Devon is proposing what it believes should be considered, by definition under the Rules, a standard spacing unit comprised of Lots 9 through 16 (equivalent to the S/2 N/2) of Sections 1, 2 and 3, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico. Devon respectfully submits that the approval of the proposed unit as a standard spacing unit would prevent waste through the efficient development of correction sections and protect correlative rights through the maintenance of appropriate setback requirements. The Division has the authority to recognize contiguous tracts, equivalent to quarter-quarter sections, for building standard spacing units in expanded correction sections under NMAC 19.15.16.15B(1)(a), and Devon respectfully asks the Division to exercise its authority if it should find sufficient justification based on the analysis provided herein.

Respectfully,

/s/ Darin C. Savage

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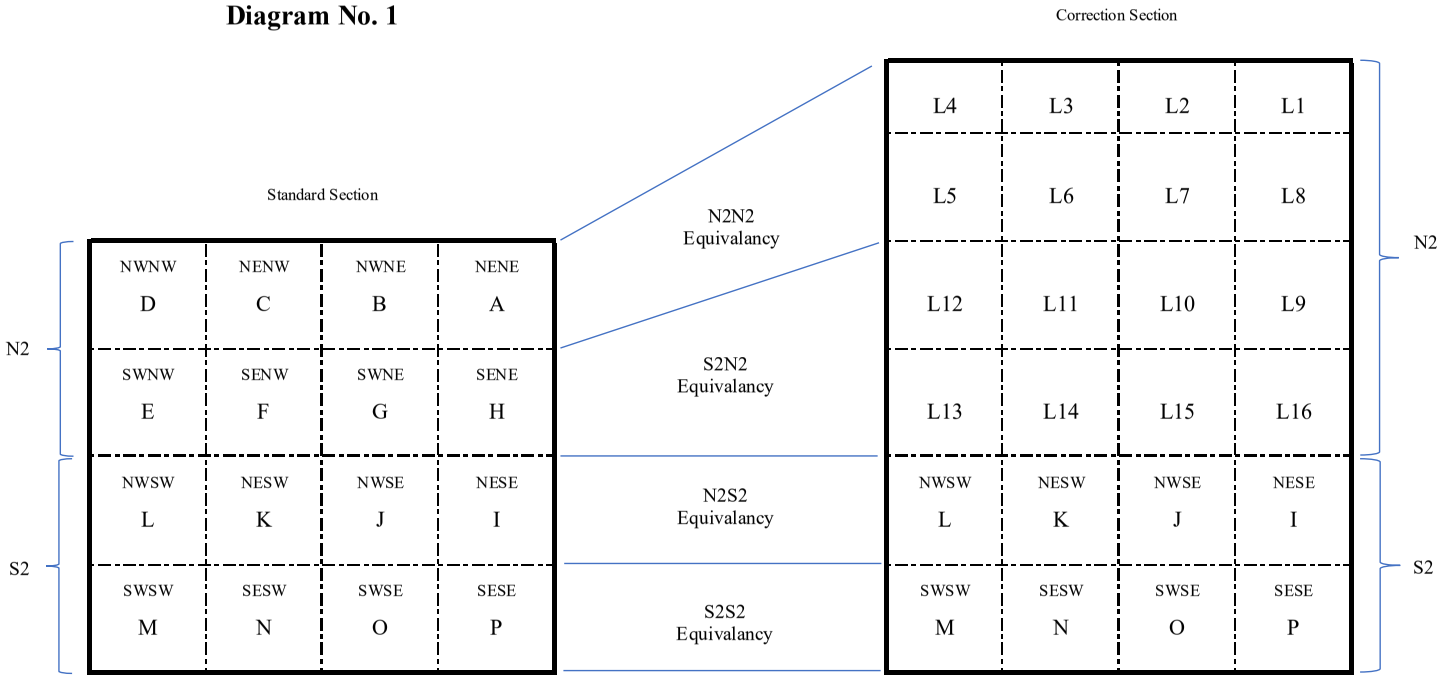
Darin C. Savage

Diagram No. 1



Each QQ Section of the Standard Section is 1/8 of the N2 of the Section

Each Lot in the Correction Section is 1/16 of the N2 of the Section

Therefore, a 40 acre QQ Section in the Standard Section is not equivalent to a 40 acre Lot in the Correction Section

But, QQ Sections A-D in the Standard Section (that being the N2 N2 of the Section) is equivalent to Lots 1-8 in the Correction Section (that also being the N2 N2 of the Section)

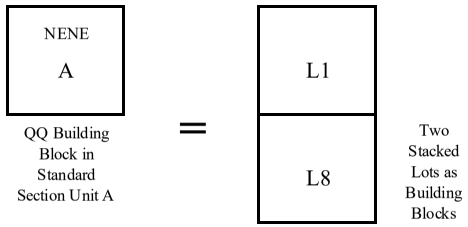


Diagram No. 2

Standard Section

NWNW D	NENW C	NWNE B	NENE A
SWNW E	SENW F	SWNE G	SENE H
NWSW L	NESW K	NWSE J	NESE I
SWSW M	SESW N	SWSE O	SESE P

N2N2
Equivalancy

Correction Section

L4	L3	L2	L1
SWNW E	SENW F	SWNE G	SENE H
NWSW L	NESW K	NWSE J	NESE I
SWSW M	SESW N	SWSE O	SESE P

This Diagram No 2 is an example of the common situation when there are only four correction lots (Lots 1-4) across the top of the correction. It appears to be common practice, when this particular scenario arises, to acknowledge the equivalency of Lots 1-4, as being equivalent to Units A-D in the standard section, for establishing under the Rules a standard horizontal spacing unit for the N2 N2, consisting of Lots 1-4 in the correction section, regardless of the size variations of the lots.

Diagram No. 1 herein shows how this common and established practice would be scalable and replicated to establish standard spacing units under the Rules whenever additional lots are encountered in a correction section.

Diagram No. 3