



September 21, 2004

**VIA HAND DELIVERY**

Mr. Richard Ezeanyim, P. E.  
Chief Engineer  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

**Re: Oil Conservation Division Case No. 13335: Application of Devon Energy Production Company, L.P. for Compulsory Pooling, Eddy County, New Mexico.**

Dear Mr. Ezeanyim:

As you are aware, in this case Devon Energy Production Company seeks an order pooling the interests of Marbob Energy Corporation and Pitch Energy Corporation and other owners in the W/2 of Section 3, Township 22 South, Range 27 East, NMPM, for a well it proposes to drill in the SW/4 NW/4 of the section. The proposed well is the second well on this spacing unit. When the first well was drilled on this unit in the SW/4 of the section, Devon formed the spacing unit pursuant to a 1968 Joint Operating Agreement covering the property interest it now seeks to pool. Marbob and Pitch have objected to this application and seeks to be dismissed from this case because they believe that their interests are already committed to this spacing unit under the 1968 Joint Operating Agreement. Marbob contends that Devon cannot have it both ways. It cannot form this unit for one well under the 1968 Joint Operating Agreement and then reject this agreement and now pool the same parties in the same spacing unit for the second well.

At the conclusion of last weeks hearing on the above-referenced application, Devon stated that there was precedent for what they were asking you to do in this case. Mr. Bruce said that the same thing had occurred in the W/2 of Section 11 Township 22 South, Range 27 East, -- the southeast offsetting section. Our review of the records shows that this is not true.



There are four wells in the W/2 of Section 11:

- A. The Devon Chase Federal Com Well No. 1 is located 1980 feet from the North line and 1730 feet from the West line of Section 11 and is completed in the **Wolfcamp formation**. It was drilled pursuant to compulsory pooling Order No. R-8761 entered on October 11, 1988 that only pooled from the surface to the base of the Wolfcamp formation. See Order No. R-8761 attached hereto.
- B. The Devon Chase 11 Federal Com Well No. 2 is located 660 feet from the North line and 1480 feet from the West line of Section 11 and is completed in the **Morrow formation**. It was drilled pursuant to compulsory pooling Order No. R-12194 entered on August 18, 2004 that pooled only from the base of the Wolfcamp to the base of the Morrow formation. See Order No. R-12194 attached hereto.
- C. There are also two Delaware wells on 40-acre oil units in the W/2 of Section 11.

The two deep gas wells operated by Devon in the W/2 of Section 11 produce from different formations. Neither well was proposed under a Joint Operating Agreement. Both were drilled pursuant to Division pooling orders. There is nothing in this section where one well was proposed under a Joint Operating Agreement and then a second well on that spacing unit was subject to a pooling order.

Contrary to Devon's representations, its development of Section 11 sets no precedent for what is it proposing in Section 3. Devon cannot have it both ways.

Very truly yours,

William F. Carr  
Enclosures

cc: Gail MacQuesten, Esq.  
James Bruce, Esq.  
Mr. Raye Miller

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 NO. 9480  
ORDER NO. R-8761

APPLICATION OF SANTA FE ENERGY  
OPERATING PARTNERS, L.P. FOR  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 28, 1988, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 11th day of October, 1988, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Santa Fe Energy Operating Partners, L.P., seeks an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the W/2 of Section 11, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, forming a standard 320-acre gas spacing and proration unit for the Undesignated East Carlsbad-Wolfcamp Gas Pool, which is the only zone being developed on 320-acre spacing within said vertical limits at this time.

(3) The applicant has the right to drill and proposes to drill a well at a standard gas well location thereon.

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(4) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said Undesignated East Carlsbad-Wolfcamp Gas Pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) The applicant should be designated the operator of the subject well and unit.

(7) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) \$3980.00 per month while drilling and \$398.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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(12) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before December 31, 1988, the order pooling said unit should become null and void and of no further effect whatsoever.

(14) Should all the parties to this force pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(15) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Wolfcamp formation underlying the W/2 of Section 11, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico are hereby pooled to form a standard 320-acre gas spacing and proration unit (which only includes the Undesignated East Carlsbad-Wolfcamp Gas Pool at this time) to be dedicated to a well to be drilled at a standard gas well location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 31st day of December, 1988, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Wolfcamp formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 31st day of December, 1988, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded.

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(2) Santa Fe Energy Operating Partners, L.P. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45 day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(9) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(10) \$3980.00 per month while drilling and \$398.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(11) Any unleased mineral interest shall be considered seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(12) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(14) Should all the parties to this force pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

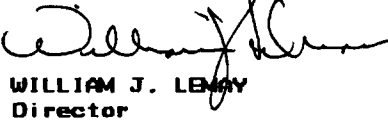
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(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force pooling provisions of this order.

(15) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
WILLIAM J. LEMAY  
Director

S E A L



**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 NO. 13318  
ORDER NO. R-12194**

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR  
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on August 5, 2004, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 18<sup>th</sup> of August, 2004, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) The applicant, Devon Energy Production Company, L.P. ("Applicant"), seeks an order pooling all uncommitted mineral interests from the base of the Wolfcamp formation to the base of the Morrow formation underlying the W/2 of Section 11, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, to form a standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent which presently include but are not necessarily limited to the Undesignated East Carlsbad-Morrow Gas Pool and Undesignated South Carlsbad-Morrow Gas Pool.
- (3) The above-described unit ("the Unit") is to be dedicated to the applicant's Chase "11" Federal Com Well No. 2 which is proposed to be drilled at a standard gas well location 660 feet from the North line and 1480 feet from the West line (Unit C) of Section 11.

(4) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(5) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill its Chase "11" Federal Com Well No. 2 to a common source of supply at a standard well location within the NE/4 NW/4 of Section 11.

(6) There are interest owners in the proposed Unit that have not agreed to pool their interests.

(7) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(8) The applicant should be designated the operator of the subject well and of the Unit.

(9) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(10) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Devon Energy Production Company, L.P., all uncommitted mineral interests from the base of the Wolfcamp formation to the base of the Morrow formation underlying the W/2 of Section 11, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent which presently include but are not necessarily limited to the

Undesignated East Carlsbad-Morrow Gas Pool and Undesignated South Carlsbad-Morrow Gas Pool.

The above-described Unit shall be dedicated to the applicant's Chase "11" Federal Com Well No. 2 to be drilled at a standard gas well location 660 feet from the North line and 1480 feet from the West line (Unit C) of Section 11.

(2) The operator of the Unit shall commence drilling the proposed well on or before December 1, 2004 and shall thereafter continue drilling the well with due diligence to test the Morrow formation.

(3) In the event the operator does not commence drilling the proposed well on or before December 1, 2004, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should the subject well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the Unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(5) Upon final plugging and abandonment of the subject well, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(6) Devon Energy Production Company, L.P. is hereby designated the operator of the subject well and of the Unit.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the subject well ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out

of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(11) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(12) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision

charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

(15) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

MARK E. FESMIRE, PE  
Director

S E A L