

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

IN THE MATTER OF THE APPLICATION OF
DEVON ENERGY PRODUCTION COMPANY, L.P.
FOR COMPULSORY POOLING
LEA COUNTY, NEW MEXICO

Case No. 13048
Order No. R-11962 *De Novo*

IN THE MATTER OF THE APPLICATION OF
EGL RESOURCES, INC.
FOR COMPULSORY POOLING
LEA COUNTY, NEW MEXICO

Case No. 13049
Order No. R-11962 *De Novo*

MOTION TO DISMISS

E.G.L. Resources, Inc., and Robert Landreth, through their counsel, Miller Stratvert P.A., moves the Commission to enter its order to dismiss the Application for Hearing De Novo filed on behalf of Devon Energy Production Company, L.P. in the referenced cases now set for hearing de novo on the Commission's April 8, 2004 hearing docket. In support, movants states:

In Case No. 13048, the Applicant, Devon Energy Production Company sought an order pooling unjoined interests in the Devonian formation underlying the N/2 of Section 4, T-13-S, R-34-E, NMPM to form a 320-acre spacing unit to be dedicated to the proposed re-entry and re-completion of the Rio Blanco "4" Federal Well No. 1.

On March 18, 2003, pursuant to advice received from the Division's Engineering Bureau, EGL Resources, Inc. filed its Application in Case No. 13049 seeking an order pooling the unjoined interests in the Devonian formation underlying all of Section 4, T-

13-S, R-34-E, NMPM to form a 640-acre spacing unit to be dedicated to the proposed re-entry and re-completion of the Rio Blanco "4" Federal Well No. 1.

Case Nos. 13048 and 13049 were consolidated for hearing before the Division's examiner on April 10, 2003, resulting in the issuance of Order R-11962 on May 13, 2003. In its Order, the Division found that with respect to the competing applications for appointment as well operator, there were no significant disagreements between the parties over (1) the plan for conducting the operation, (2) the assessment of a risk penalty and overhead charges, (3) AFE costs for drilling and completion, or (4) the ability to operate prudently. Neither was the respective working interest control of the parties (EGL: 75%; Devon: 25%) a disputed issue. Order No. R-11962 dismissed EGL's application to the extent it sought the formation of a 640-acre unit, and instead created a 320-acre unit dedicated to the Rio Blanco "4" Federal Well No. 1. EGL was named operator of the well due to its larger working interest control.

Subsequent to the issuance of Order No. R-11962, Applications for Hearing De Novo were filed on May 15, 2003 and on May 27, 2003 by EGL and Devon, respectively. The Applications in these two cases were set to be heard simultaneously on April 8, 2004 with the Application for Hearing De Novo filed in Case No. 13085¹. In the latter case, EGL Resources, Inc. and Robert Landreth applied for hearing de novo following the issuance of Order No. 12106 on February 20, 2004 which denied the Applicants' request to establish 640-acre spacing and well setback locations for the same lands that were the

¹ Application Of EGL Resources, Inc. And Robert Landreth For Pool Extension For The North Bell Lake-Devonian Gas Pool, Or Alternatively, For Pool Creation And Special Pool Rules, And Expansion Of Gas Spacing And Proration Unit Lea County, New Mexico; Case No. 13085, Order No. R-12106 *De Novo*

subject of Case Nos. 13048 and 13049. Southwestern Energy Production Company did not file an application for hearing de novo in any of the cases.

EGL finished the re-entry and re-completion of the Rio Blanco "4" Federal Well No. 1 in September of 2003 and has been producing the well since that time. In view of the Devon's stated intention to challenge the Division's denial of its application to operate the Rio Blanco well,² on March 2, 2004, EGL subpoenaed well cost and AFE information from Devon for its Rio Blanco "33" No. 1 well. On March 11, Devon objected to the subpoena of these items on the basis of "relevance". Although Devon's relevance objection was deficient, Devon's counsel was asked to inquire whether Devon was serious about pursuing the operatorship issue. Devon responded only equivocally, and while EGL/Landreth have not withdrawn their subpoena duces tecum for the well cost materials, Devon has not produced them.

On April 2, 2004, EGL and Landreth notified the Acting Director of the Division that it was dismissing and withdrawing its Applications for Hearing De Novo in Cases Nos. 13048, 13949 and 13085. Devon has not and cannot offer any legitimate basis for proceeding with its appeal. With the dismissal of the EGL/Landreth Applications, this dispute is at an end and there is no good reason for the Commission to hear Devon's Application for Hearing De Novo in Case Nos. 13048 and 13049.

WHEREFORE, EGL Resources, Inc. and Robert Landreth request the Commission enter its order dismissing the Application for Hearing De Novo filed on behalf of Devon Energy Production Company, L.P. in Case Nos. 13048 and 13049.

² Devon has not made application for an order to remove EGL as operator of the well and has not explained any basis for doing so.

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Certificate of Mailing

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 6 day of April, 2004, as follows:

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