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

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Oil Conservation Division

IN THE MATTER OF THE 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

REPLY
PURSUANT TO AMENDED MOTION OF
E.G.L. RESOURCES, INC. AND ROBERT LANDRETH
FOR TEMPORARY SUSPENSION OF DRILLING PERMITS

E.G.L. Resources, Inc., ("EGL"), and Robert Landreth, ("Landreth"), submit this Reply pursuant to their Amended Motion seeking an order temporarily suspending, or holding in abeyance the approval of drilling permits for the Devon Energy Production Company Rio Blanco 33 Federal Well No. 1, the Rio Blanco 33 Federal Well No. 2, both in Section 33, T-22-S, R-34-E, and the Rio Blanco "9" State Well No. 1 located in the N/2 of Section 9, T-23-S, R-34-E.

SUMMARY

This dispute over the proper development and well spacing for the subject Devonian reservoir should be resolved by an Orderly Progression of Events. Devon should not be permitted to preempt the Division's ability to determine these important issues on the basis of technical evidence presented in due course at a hearing by exalting the ministerial approval of APD's over the Division's adjudicatory hearing process. To allow Devon to immediately charge ahead with drilling at what may turn out to be ill-advised locations will have the practical effect of nullifying EGL's and Landreth's

Application and the legal effect of denying them their rights to due process. The Division, the parties, and the interests of conservation are best served by allowing the issues to be resolved in an orderly manner at hearing rather than by a virtually-automatic APD approval process. The Division has previously established that it may act to *temporarily suspend* drilling permits where necessary to protect correlative rights. Order No. R-11700, Case Nos. 12731/12744 *Application of TMBR/Sharp Drilling, Inc. For An Order Staying David H. Arrington Oil & Gas, Inc. From Commencing Operations, Lea County, New Mexico.*

POINTS

1. The Issues In This Case Should Be Determined On The Basis Of Technical Evidence.

EGL is currently drilling the Rio Blanco "4" Federal Well No. 1 at a location 1980 feet from the north and west lines of Section 4, T-23-S, R-34-E. It is expected that the well will be completed by approximately August 15th . The hearing on the Application in this case is set for August 21st. By the time of the hearing, it will be known whether EGL has established a commercially successful Devonian well and if so, the Applicants should be able to provide additional information probative of several of the issues in the Application.

The importance of technical data is now openly acknowledged by Devon.

In its Response to the EGL/Landreth motion, Devon devotes lengthy discussion to the respective geologic interpretations of the parties. It states that "Devon will present geologic evidence, including 3-D seismic data which will demonstrate that EGL's current interpretation is wrong." (*Devon's Response, pg. 6.*) Devon goes on to assert that "[t]he evidence will demonstrate that the Devonian is a discontinuous formation defined by discreet individual structures best suited for development on 320-acre spacing..." and

that "[e]xisting Devonian pools are distinct, relatively simple, compact structural closures associated with north-south trending faults." (*Id., pg. 6*)

Devon devotes an equally generous amount of print to a discussion of the issues and evidence on the drainage characteristics of Devonian wells, relative to the question of whether the reservoir is best developed with one or two wells per section. While Devon presented no such testimony or evidence at the hearing in Case Nos. 13048 and 13049, it now tells us that "Devon will present evidence in support of 320-acre well spacing, including pressure data, production data, and volumetric reserve calculations..." (*Id., pg. 9*)

This is as it should be. We shall all look forward to seeing Devon's technical evidence at the hearing.

EGL and Landreth will address Devon's evidence and will be prepared to present and discuss their own technical data. At the same time the Applicants believe the Division should recognize existing precedent for 640-acre spacing for similar reservoirs. Regardless of whether the North Bell Lake Devonian Gas Pool is expanded to include Section 4, or whether a new pool is created following a successful test or completion of the Rio Blanco "4" re-entry, the clear precedent is for 640-acre spacing for Devonian reservoirs in this particular area of the Delaware Basin.

The two nearest fields, one only one mile to the west, the other three miles to the southeast, were both established on 640-acre spacing after hearings. In addition to their close proximity, the top of the Devonian in the highest structural wells in each of these fields, and the projected top of the Devonian in the Rio Blanco "4" well, based on its Morrow top, are within fifty feet of one another.

The technical evidence and the precedent, together, will all support the conclusion that spacing this Devonian reservoir on anything other than 640-acres is contra-indicated.

2. Devon's Actions Create An Unacceptable Risk That Waste Will Result.

Devon contends that the relief requested in the EGL/Landreth motion "violates Devon's rights to develop Section 33." (*Devon's Response*, pg. 13.) While we acknowledge that Devon may own a leasehold property right in the section, the exercise of its rights is, of course, subject to the police powers of the state under the "broad statutory authority granted [to the Division] by the Oil and Gas Act." *Santa Fe Exploration Co. v. Oil Conservation Commission*, 114 N.M. 103, 835 P.2d 819 (1992). Included among the Division's powers is the authority to act to prevent waste.

Devon asserts on the one hand that the Devonian reservoir in this area "is a discontinuous formation defined by discrete individual structures" and that these pools are "distinct, relatively simple, compact structural closures." (Devon's Response, pg. 6.) On the other hand, however, Devon's Devonian Depth Structure Map submitted as Exhibit "E" to its Response shows a single structure encompassing two and one-half sections (1600 acres). Devon has also found it necessary to surround the EGL Rio Blanco "4" well in Section 4 with offsets in Sections 33 and 9 at locations designed to take advantage of the Division's rules for well locations for 320-acre units in order to situate its wells closer to the boundaries of Section 4 than would otherwise be permitted under the rules for 640-acre spacing units. By encroaching on Section 4 from both the north and the south, it would appear that Devon does not necessarily regard the reservoir targeted by EGL's re-entry as being so "compact" after all.

Devon's geologic interpretation calls into question whether its cited need to protect its acreage in Section 33 from drainage by a well located in the approximate

center of Section 4 has any real basis. Is the location for Devon's Rio Blanco "9" well 660 feet off the south line of Section 4 similarly motivated by apprehensions that its acreage in Section 9 will be drained by a well located more than 3,600 feet to the north? Devon's "defensive" drainage locations are inconsistent with its assertions that we are dealing with "compact" and "discrete" reservoirs best developed on 320's.

Of greater concern still is the reasonable likelihood that Devon's 320-acre locations may prove to be incompatible with a subsequent determination by the Division that the reservoir would be most efficiently developed on 640-acre spacing. Unless the APD's are temporarily suspended to allow the Division to properly address that question, the die will have been cast and 320-acre spacing will become a *fait accompli.* The number of locations for Devonian reservoir penetrations will double with the result that the likelihood that the drilling of unnecessary wells will occur becomes unacceptably real.

The prohibition against the drilling of unnecessary wells is subsumed within the Division's statutory admonition that it act to prevent waste. (See NMSA 1978 Sections 70-2-11 and 70-2-17 C.) Although the protection of correlative rights is also implicated in this dispute, here the Division's primary is to guard against waste, a duty that the New Mexico Supreme Court has instructed us is "paramount". *Continental Oil Company v. Oil Conservation Commission*, 70 N.M. 210, 373 P.2d 809 (1962). The Division must give primary consideration to the questions of whether these Devonian formation reserves can be more efficiently and economically recovered with one well per-section than with two, or whether the doubling of wells and the attendant escalation of drilling and development costs may lead to the premature abandonment, or *waste,* of reserves. Pile on top of that

consideration of the advisability of doubling the number of straws pulling on an active water-drive reservoir.

By practical and legal necessity, then, in this situation the Division is compelled to balance the need for an orderly review of these issues at hearing against the reasonable likelihood that Devon's unrestrained drilling will result in waste. Under these circumstances, the Division must defer to the interests of conservation and *temporarily* suspend Devon's drilling permits *at their 320-acre spacing unit locations*[1] until the Division has had the opportunity to consider the issues in a full and fair hearing.

Respectfully submitted,

MILLER STRATVERT P.A.

By: _____

J. Scott Hall
Attorneys for EGL Resources, Inc. and
Robert Landreth
Post Office Box 1986
Santa Fe, New Mexico 87504-1986
(505) 989-9614

[1] EGL/Landreth have no objection to the permitting of locations in Sections 33 and 9 consistent with rules for 640-acre spacing units.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 14th day of July 2003, as follows:

Thomas Kellahin, Esq.
Post Office Box 2265
Santa Fe, New Mexico 87504
Attorney for Devon Energy Production Company, LP

David Brooks, Esq.
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 98504

Carol Leach, Esq.
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 98504

David Catanach, Esq.
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 98504

J. Scott Hall