

EGL MOTION DOCUMENTS

CHRONOLOGIC ORDER

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

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

CASE NO. 13049

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

CASE NO. 13048

RESPONSE OF
E.G.L. RESOURCES, INC. AND ROBERT LANDRETH
TO DEVON'S [THIRD] MOTION FOR STAY

E.G.L. Resources, Inc., ("EGL"), and Robert Landreth, ("Landreth"), for their
response to Devon Energy Production Company's [Third] Motion For Stay, state:

SUMMARY

This is Devon's third attempt to obtain a stay of a Division compulsory pooling
order. The motion should be denied for the reasons that (1) it is untimely; (2) does not
meet the requirements of Rule 1220.B; (3) presents no new grounds for the motion; and
(4) has been made moot.

BACKGROUND

On May 13, 2002, the Division entered Order No. R-11962 pooling Devon's
interests and designating EGL Resources, Inc. as operator of the Rio Blanco "4" Federal
Well No. 1 located on the N/2 of Section 4, T-23-S, R-34-E.

On May 21, 2003, EGL sent its estimated well costs to Devon and in a telephone
conversation that same day Devon's landman expressly encouraged EGL "to proceed

[with the well] as soon as possible.” (See Response of EGL Resources, Inc. and Robert Landreth To Devon’s Motion For Stay filed on May 29, 2003.)

In a motion filed by it on May 27, 2003, Devon applied for a stay of Order No. R-11962.

On the morning of May 28, 2003, EGL moved a workover rig onto the location and proceeded with operations.

On May 28th, later in the day, Devon filed another motion styled “[Request] for an Emergency Order Staying EGL Resources, Inc. From Commencing Operations”. This second motion also sought to stay Order No. R-11962 and to prevent EGL “from commencing operations before entry of a De Novo Order by the Commission”.¹

On May 30, 2003, the Division entered Order No. R-11962-A denying both of the Devon motions. The Division’s Order noted both that (1) the consolidated cases were pending before the Commission for a hearing *de novo* and (2) Devon neither alleged nor established the existence of the circumstances under Rule 1220.B that are necessary prerequisites to the issuance of a stay order.

On approximately July 2, 2003, the Division received “Devon Energy Production Company, L. P.’s Motion To Stay Division Order-11962”² The motion asks the Division “reconsider” Devon’s earlier request for stay

On the week of July 7, 2003, EGL commenced drilling operations on the Section 4 location with a deep drilling rig.

¹ EGL filed an Application for Hearing De Novo on May 15th. Devon filed its Application for Hearing De Novo on May 27th.

² Devon Energy Production Company, L. P.’s Motion To Stay Division Order –11962 And Its Response To EGL Resources, Inc. and Robert Landreth’s Motion To Stay (sic)

POINTS

1. The Motion Is Untimely.

It is noted that Devon expressly states it is seeking "reconsideration" of its earlier motions for stay and the order that issued as a result. Properly, under Rule 1220.A of the Division's rules, Devon had until June 29, 2003 to perfect a de novo appeal to the Commission of the Division's May 30, 2003 Order denying Devon's two motions for stay. Devon's third motion was filed on July 2nd and is consequently untimely. It should be further noted that the motion was filed after the Division had been divested of jurisdiction by virtue of Devon's May 27, 2003 Application for Hearing De Novo.

2. Devon Fails To Meet The Requirements of Rule 1220.B

Devon seeks a stay of a Division compulsory pooling order for the reason that the order is the subject of a de novo appeal to the Commission and that EGL/Landreth will have an "unfair advantage" over Devon in these proceedings. (*Devon's [Third] Motion To Stay*, pg. 14.) Devon offers no other grounds for the issuance of a stay.

Rule 1220(B) of the Rules and Regulations of the Oil Conservation Division, 19 NMAC 15.N.1220(B), permit the Director to enter a stay of a Division order "...if a stay is necessary to prevent waste, protect correlative rights, protect public health and the environment or prevent gross negative consequences to any affected party..."

Devon fails to establish, or even allege, that (1) waste is threatened, (2) correlative rights are in jeopardy, (3) public health or the environment are at risk, or (4) that "gross negative consequences" will accrue to any party from the Division's compulsory pooling order. Devon does not assert that it will suffer harm if the order is not granted. It does not have a lease expiration situation and it is threatened with no other loss.

Devon's only argument is that drilling should wait until the Commission can hear the *de novo* applications. Such "generalized concerns" are insufficient grounds for the issuance of a stay order. (Order No. R-11663; *Application of McElvain Oil and Gas Properties, Inc. for Compulsory Pooling, Rio Arriba County, New Mexico*; Case No. 12705.)

3. Devon Presents No New Grounds For Its Third Motion

We have scoured Devon's [Third] Motion To Stay. We have found no allegations or assertions setting forth new grounds for granting the motion, only repetitions of the same old material, just like in *Groundhog Day*.

4. Devon's Motion Is Moot

Devon's third attempt to prevent EGL from operating the Rio Blanco "4" Federal Well No. 1 has been rendered moot by (1) the completion of workover operations, and (2) the commencement of drilling operations. Moreover, Devon's third motion is an impermissible collateral attack on the operation of a Division order that is the subject of a pending *de novo* appeal before the Commission.

CONCLUSION

Devon has a proper remedy to challenge the operation of Order No. R-11962 in the pursuit of its *De Novo* appeal to the Commission in a hearing on the merits. Otherwise Devon's third motion for stay is wholly unjustified and should be denied.

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

Certificate of Mailing

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 11 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

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

David Brooks, Esq.
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New Mexico Oil Conservation Commission
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J. Scott Hall

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FACSIMILE TRANSMISSION COVER SHEET

DATE: July 25, 2003

TO: David Brooks, Esq. (505) 476-3462
David Catanach, Esq. (505) 476-3462
Thomas Kellahin, Esq. (505) 982-2047

FROM: J. Scott Hall

OPERATOR: Ginny

MESSAGE: Please see attached.

NUMBER OF PAGES INCLUDING COVER SHEET: 3

IF YOU DO NOT RECEIVE THE ENTIRE DOCUMENT, PLEASE CALL OUR SANTA FE OFFICE AS SOON AS POSSIBLE AT (505) 989-9614.

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July 25, 2003

VIA FACSIMILE

Mr. David Brooks

Mr. David Catanach

New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico

Re: In the Matter of the Application of Devon Energy Production Company, L.P. for Compulsory Pooling, Lea County, New Mexico; Case No. 13048 Consolidated With In the Matter of the Application of EGL Resources, Inc. for Compulsory Pooling, Lea County, New Mexico; Case No. 13049

Gentlemen:

Briefing is now complete on the Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits and I accordingly request that a hearing be set in the matter. In this regard, the following materials have been filed with the Division.

1. June 26, 2003: Motion for Temporary Suspension;
2. July 2, 2003: Devon's Motion to Stay Division Order R-11962 and its Response to EGL Resources, Inc. and Robert Landreth's Motion to Stay;
3. July 11, 2003: Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits;
4. July 14, 2003: Reply Pursuant to Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits;
5. Devon's Response to EGL Resources, Inc. and Robert Landreth's Amended Motion to Stay.

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David Brooks, Esq.
David Catanach, Esq.
July 25, 2003
Page Two

I am available to attend a hearing any time today (Friday) or next Monday and I believe 30 minutes should be sufficient time to discuss the matter. It is my hope to have the matter resolved before Tuesday, July 29th in any event.

Thank you for your consideration of this request.

Very truly yours,

MILLER STRATVERT P. A.

A handwritten signature in black ink, appearing to read "J. Scott Hall", written in a cursive style.

J. Scott Hall

JSH/glb

cc: W. Thomas Kellahin (via facsimile)
Wes Perry
Bob Landreth

MILLER STRATVERT

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OIL CONSERVATION DIVISION

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July 29, 2003

Lori Wrotenbery, Director
New Mexico Oil Conservation Division
1220 South St. Francis
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Division Case No. 13085; Amended 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

Dear Ms. Wrotenbery:

Please be advised that I will be away on vacation from August 4th through 8th.

Thank you.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH/glb

cc: W. Thomas Kellahin, Esq.
David Brooks, Esq.
David Catanach, Esq.

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July 30, 2003

HAND-DELIVERED

Cheryl Bada, Esq.
Office of General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Division Case No. 13085; Amended 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

Dear Cheryl:

Enclosed for your review is a briefing package consisting of the following materials:

1. June 26, 2003: Motion for Temporary Suspension;
2. July 2, 2003: Devon's Motion to Stay Division Order R-11962 and its Response to EGL Resources, Inc. and Robert Landreth's Motion to Stay;
3. July 11, 2003: Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits;
4. July 14, 2003: Reply Pursuant to Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits;
5. July __, 2003: Devon's Response to EGL Resources, Inc. and Robert Landreth's Amended Motion to Stay.

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Cheryl Bada, Esq.
July 30, 2003
Page Two

In addition, I have enclosed a copy of Order No. R-11700 which is referenced in item 4, above.

A separate package of these same materials is also being sent to Mr. Catanach.

Very truly yours,

MILLER STRATVERT P.A.

A handwritten signature in black ink, appearing to read "J. Scott Hall", written in a cursive style.

J. Scott Hall

JSH/glb

Enclosures

cc: W. Thomas Kellahin, Esq.
David Catanach, Esq. (w/encls.)

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August 11, 2003

VIA FACSIMILE

Mr. David Catanach
 New Mexico Oil Conservation Division
 1220 South St. Francis Drive
 Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. 13085; Amended 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

Dear Mr. Catanach:

On behalf of the Applicants, I request a pre-hearing conference be scheduled at your earliest convenience in order to consider: (1) the Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits, and (2) Devon's August 4, 2003 request to continue the August 21st hearing. With respect to the latter, I estimate the case can be completed in one-half day, rather than the 1½ to 2 days indicated by Mr. Kellahin.

Thank you for your consideration of this request.

Very truly yours,

MILLER STRATVERT P.A.

J. Scott Hall

JSH/glb

cc: W. Thomas Kellahin, Esq. (via facsimile)
 Gail MacQuesten, Esq. (via facsimile)

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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

**SUPPLEMENT TO 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"), offer these additional comments pursuant to their Amended Motion seeking an order temporarily suspending, or holding in abeyance the approval of drilling permits for the three proposed Devon Energy Production Company Rio Blanco Devonian formation wells as issue in this proceeding. Movants wish the Division's Examiner to take these points into consideration in the event oral argument on the motion is not held.

A Temporary Suspension Will Not Prejudice Devon

1. **Devon has not commenced operations.**

In Devon Energy Production Company, L. P.'s Response To EGL Resources, Inc. And Robert Landreth's Amended Motion To Stay, Devon represents, no fewer than five times, that it "has commenced", "has already commenced", or that it has "continuing operations" on its three wells in Section 33 and Section 9.

A recent field check of each of the three Devon locations reveals that Devon has not commenced operations. At each location, there is only a stake in the ground and nothing more.

While the APD for the Section 9 location has been approved by the Division, the BLM informs us that it has returned unapproved APD's for the two wells at the proposed locations in Section 33 so that Devon can correct deficiencies with its indicated casing program. Devon could not "commence" operations in Section 33 in any event.

2. Devon does not plan on Morrow completions.

Devon has stated a temporary stay will prevent it from drilling to and testing the Morrow formation. It is not clear how it would be prevented from doing so, but the Morrow is not at issue in this case in any event. Moreover, it should be noted that Devon has attempted to permit its wells as "15000 MD" depth "Single Zone" gas wells, a clear indication that it is targeting the Devonian and not the Morrow. (See Devon APD's, Exhibits 1 and 2, attached.)

3. Devon's drilling schedule will not be interrupted.

Devon has claimed that it has in-fact "commenced" or is at least ready to drill its wells. Its APD for its Section 9 location (Exhibit 3) reflects a July 1st spud date and its returned Section 33 APD's indicated a July 15th approximate start date. Yet, Devon has done nothing more than stake the locations.

Devon also claims that its rig availability will be interrupted. In fact, Devon has let idle the nearby Patterson UTI Rig 5 while awaiting access to a location in Eddy County. Instead of keeping the Patterson rig on stand-by, Devon could have easily put the rig to work on Section 9 while it was in the proximity. Devon chose not to do so, raising doubts about its rig unavailability claims.

4. Devon has no lease expiration in the near future.

This point has been made in the past and Devon does not deny it. A temporary stay does not give rise to a lease expiration problem for Devon.

5. Devon stands to gain from the drilling of the Section 4 well.

There is a reasonable basis to support the conclusion that Devon is delaying the commencement of its wells in Section 33 and 4 for the reason that it will benefit from having the results from the EGL Rio Blanco No. 4 well first. Devon is unlikely to start its wells until the success of the Section 4 well is known and will thus incur no prejudice from a temporary stay. This conclusion is consistent with Devon's unprecedented efforts to have the Division reopen Case No. 13048 and amend the compulsory pooling order to compel EGL to abide by Devon's plan of operations which called for extensive logging and testing measures. Unquestionably, Devon hoped to utilize the data derived from its extraordinary testing protocol for the Rio Blanco No. 4 well prior to making the decision to commence the Section 9 and 33 wells.

Respectfully submitted,

MILLER STRATVERT P.A.

By: 

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Attorneys for EGL Resources, Inc. and
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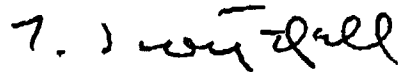
Certificate of Service

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

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

Gail MacQuestan, Esq.
New Mexico Oil Conservation Division
1220 South St. Francis Drive
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David Catanach
New Mexico Oil Conservation Division
1220 South St. Francis Drive
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J. Scott Hall

I-06

(3168)
(August 1999)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENTFORM APPROVED
OMB No. 1004-0136
Expires November 30, 2000**EC**

APPLICATION FOR PERMIT TO DRILL OR REENTER

1a. Type of Work: <input checked="" type="checkbox"/> DRILL <input type="checkbox"/> REENTER		5. Lease Serial No. NMNM100864
1b. Type of Well: <input type="checkbox"/> Oil Well <input checked="" type="checkbox"/> Gas Well <input type="checkbox"/> Other <input checked="" type="checkbox"/> Single Zone <input type="checkbox"/> Multiple Zone		6. If Indian, Allottee or Tribe Name
2. Name of Operator DEVON ENERGY PRODUCTION CO LP		7. If Unit or CA Agreement, Name and No.
Contact: KAREN COTTOM E-Mail: karen.cottom@dvm.com		8. Lease Name and Well No. RIO BLANCO 33 FED 1
3a. Address 20 NORTH BROADWAY, SUITE 1500 OKLAHOMA CITY, OK 73102	3b. Phone No. (include area code) Ph: 405.228.7512 Fx: 405.552.4621	9. API Well No.
4. Location of Well (Report location clearly and in accordance with any State requirements. *) At surface: SESW 1000FSL 1620FWL At proposed prod. zone: SESW 1000FSL 1620FWL		10. Field and Pool, or Exploratory WILDCAT
14. Distance in miles and direction from nearest town or post office 20 MILES WEST OF JAL. NEW MEXICO		11. Sec., T., R., M., or Blk. and Survey or Area Sec 33 T22S R34E Mer NMP SME: BLM
15. Distance from proposed location to nearest property or lease line, ft. (Also to nearest drig. unit line, if any) 1000'	16. No. of Acres in Lease 360.00	12. County or Parish LEA
18. Distance from proposed location to nearest well, drilling, completed, applied for, on this lease, ft.	19. Proposed Depth 15000 MD	13. State NM
21. Elevations (Show whether Dr., KB, RT, OL, etc.) 3407 GL	22. Approximate date work will start 07/15/2003	17. Spacing Unit dedicated to this well 320.00
23. Estimated duration 90 DAYS		20. BLM/BLA Bond No. on file

24. Attachments

The following, completed in accordance with the requirements of Onshore Oil and Gas Order No. 1, shall be attached to this form:

- Well plat certified by a registered surveyor.
- A Drilling Plan.
- A Surface Use Plan (if the location is on National Forest System Lands, the SULO shall be filed with the appropriate Forest Service Office).
- Bond to cover the operations unless covered by an existing bond on file (see item 20 above).
- Operator certification.
- Such other site specific information and/or plans as may be required by the authorized officer.

25. Signature (Electronic Submission)	Name (Printed/Typed) KAREN COTTOM	Date 06/05/2003
Title ENGINEERING TECHNICIAN		
Approved by (Signature)	Name (Printed/Typed)	Date
Title	Office	

Application approval does not warrant or certify the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.
Conditions of approval, if any, are attached.

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Additional Operator Remarks (see next page)

Electronic Submission #22728 verified by the BLM Well Information System
For DEVON ENERGY PRODUCTION CO LP. sent to the Hobbs
Committed to AFMSS for processing by Linda Askwig on 06/05/2003 (03LA0197AE)

** BLM REVISED ** BLM REVISED ** BLM REVISED ** BLM REVISED ** BLM REVISED **

Exhibit 1

2. d

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Form 3160-3
(August 1999)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

APPLICATION FOR PERMIT TO DRILL OR REENTER

FORM APPROVED
OMB No. 1004-0136
Expires November 30, 2000

1a. Type of Work: <input checked="" type="checkbox"/> DRILL <input type="checkbox"/> REENTER		5. Lease Serial No. NMNM100864
1b. Type of Well: <input type="checkbox"/> Oil Well <input checked="" type="checkbox"/> Gas Well <input type="checkbox"/> Other <input checked="" type="checkbox"/> Single Zone <input type="checkbox"/> Multiple Zone		6. If Indian, Allottee or Tribe Name
2. Name of Operator DEVON ENERGY CORPORATION Contact: KAREN COTTOM E-Mail: karen.cottom@devn.com		7. If Unit or CA Agreement, Name and No.
3a. Address 1500 MID-AMERICA TOWER 20 N. BROADWAY OKLAHOMA CITY, OK 73102		8. Lease Name and Well No. RIO BLANCO 33 FED 2
3b. Phone No. (include area code) Ph: 405.228.7512 Fax: 405.552.4821		9. API Well No.
4. Location of Well (Report location clearly and in accordance with any State requirements.) At surface SENW 1980FNL 1980FWL At proposed prod. zone SENW 1980FNL 1980FWL		10. Field and Pool, or Exploratory WILDCAT
14. Distance in miles and direction from nearest town or post office* 20 MILES WEST OF JAL, NEW MEXICO		11. Sec., T., R., M., or Bk. and Survey or Area Sec 33 T22S R34E Mer NMP SME: BLM
15. Distance from proposed location to nearest property or lease line, ft. (Also to nearest drig. unit line, if any) 1000'	16. No. of Acres in Lease 360.00	12. County or Parish LEA
17. Spacing Unit dedicated to this well 320.00	13. State NM	
18. Distance from proposed location to nearest well, drilling completed, applied for, on this lease, ft. 660'	19. Proposed Depth 15000 MD	20. BLM/BIA Bond No. on file
21. Elevations (Show whether DF, KB, RT, GL, etc.) 3406 GL	22. Approximate date work will start 07/15/2003	23. Estimated duration 90 DAYS

24. Attachments

The following, completed in accordance with the requirements of Onshore Oil and Gas Order No. 1, shall be attached to this form:

- | | |
|---|--|
| 1. Well plat certified by a registered surveyor. | 4. Bond to cover the operations unless covered by an existing bond on file (see item 20 above). |
| 2. A Drilling Plan. | 5. Operator certification |
| 3. A Surface Use Plan (if the location is on National Forest System Lands, the SUPO shall be filed with the appropriate Forest Service Office). | 6. Such other site specific information and/or plans as may be required by the authorized officer. |

25. Signature (Electronic Submission)	Name (Printed/Typed) KAREN COTTOM	Date 06/09/2003
Title ENGINEERING TECHNICIAN		
Approved by (Signature)	Name (Printed/Typed)	Date
Title	Office	

Application approval does not warrant or certify the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.

Conditions of approval, if any, are attached.

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Additional Operator Remarks (see next page)

Electronic Submission #22910 verified by the BLM Well Information System
For DEVON ENERGY CORPORATION, sent to the Hobbs
Committed to AFMSS for processing by Armando Lopez on 06/09/2003 (03AL0101AE)

** BLM REVISED ** BLM REVISED ** BLM REVISED ** BLM REVISED ** BLM REVISED **

Exhibit 2

E d

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APD Form

Page 1 of 3

District I
1625 N. French Dr., Hobbs, NM 88240
District II
1301 W. Grand Ave., Artesia, NM 88210
District III
1000 Rio Brazos Rd., Aztec, NM 87410
District IV
1220 S. St Francis Dr., Santa Fe, NM 87505

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

Form C-101

APPLICATION FOR PERMIT TO DRILL

Operator Name and Address Devon Energy Production Company, LP 20 N. Broadway Oklahoma City, OK 73102		OGRID Number 6137
		API Number 30-25-36302
Property Code 32482	Property Name RIO BLANCO 9 STATE	Well No. 001

Surface Location

UL or Lot	Section	Township	Range	Lot Idn	Feet From	N/S Line	Feet From	E/W Line	County
B	9	23S	34E		660	N	1575	E	Lea

Proposed Pools

WILDCAT				
Work Type New Well	Well Type Gas	Cable/Rotary	Lease Type State	Ground Level Elevation 3402
Multiple N	Proposed Depth 15000	Formation Devonian	Contractor	Spud Date 7/1/2003

Proposed Casing and Cement Program

Type	Hole Size	Casing Size	Casing Weight/lb	Setting Depth	Sacks of Cement	Estimated TOC
Surf	26	20	94	800	1450	0
Int1	17.5	13.375	68	3400	1250	0
Int1	17.5	13.375	68	5000	1250	0
Int2	12.25	9.625	43.5	8900	875	7000
Int2	12.25	9.625	53.5	12000	875	7000
Liner1	8.25	7.625	39	14400	400	11700
Liner2	6.5	5.5	17	15000	225	14100

Casing/Cement Program: Additional Comments

20" Cmt w/1100 sx 35:65 Poz tailed by 350 sx Class C, 13 3/8" Cmt w/2000 sx 50:50 Poz Class C tail w/500sx 60:40 Poz Class C, 9 5/8" Cmt w/329 sx 35:65 Poz Class H tailed by 925sx 15:61:11 Poz Class C TOC @7000', 7 5/8 Cmt w/400 sx Class H, cement to top of liner, 5 1/2 Cmt w/225 sx Class H Cement to top of liner

Proposed Blowout Prevention Program

--	--	--	--

Exhibit 3

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AUG 19 2003

MILLER STRATVERT

LAW OFFICES

A. M.

**OIL CONSERVATION
DIVISION**

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Stephan M. Vidmar
Seth V. Bingham
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Reply to Santa Fe

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Mailing Address:
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* New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law
** New Mexico Board of Specialization Recognized Specialist in Real Estate Law

August 18, 2003

Lori Wrotenbery, Director
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. _____; Application of Energen
Resources Corporation to Expand Waterflood Project in the Langlie Mattix
Seven Rivers Queen Grayburg Pool, Lea County, New Mexico

Dear Ms. Wrotenbery:

On behalf of the Applicant, Energen Resources Corporation, we request the hearing in
this matter be continued to the October 23, 2003 examiner hearing docket.

Very truly yours,

MILLER STRATVERT P.A.

J. Scott Hall

J. Scott Hall

JSH/glb

cc: David Catanach
Gail MacQuestan ✓
Ken Gray

PROFESSIONAL ASSOCIATION

ALBUQUERQUE
(505) 842-1950

FARMINGTON
(505) 326-4521

LAS CRUCES
(505) 523-2481

SANTA FE
(505) 989-9614

DE

MILLER STRATVERT

LAW OFFICES

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AUG 19 2003

OIL CONSERVATION

~~Division~~ Santa Fe

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- * New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law
- ** New Mexico Board of Specialization Recognized Specialist in Real Estate Law

August 18, 2003

VIA FACSIMILE

Mr. David Catanach
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. 13085; Amended 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

Dear Mr. Catanach:

Today I received Devon Energy Production Company, L.P.'s most recent filing which combined its Supplement To Response To Amended Motion For Temporary Suspension Of Drilling Permits with a new Motion To Dismiss.

I will respond to the Motion To Dismiss separately in due course. However, unless you direct otherwise, I do not intend to make any further filings on the Amended Motion For Temporary Suspension Of Drilling Permits and thus submit the same for your decision.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH/glb

cc: Gail MacQuestan
W. Thomas Kellahin
Wes Perry
Bob Landreth

PROFESSIONAL ASSOCIATION

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AUG 21 2003

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* New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law
** New Mexico Board of Specialization Recognized Specialist in Real Estate Law

August 21, 2003

HAND-DELIVERED

Ms. Lori Wrotenbery, Director
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Division Case No. 13085; Amended 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

Dear Ms. Wrotenbery:

On July 25, 2003, following the completion of briefing, we requested a hearing on the Applicant's *Amended Motion for Temporary Suspension of Drilling Permits*. The motion seeks to place a temporary hold on further drilling of the Devonian formation in Section 33, T-22-S, R-33-E and Section 9, T-23-S, R-34-E until the Division has had the opportunity to address the question of appropriate spacing for the reservoir.

Despite the pendency of the motion, we are advised that Devon Energy Production Company, L. P. has begun construction of a rig pad on its Section 33 location preparatory to the imminent drilling of a Devonian formation well there. We are concerned that the drilling of the new well will allow the issue to be determined by default and may render a hearing on the merits of the Application moot. *Accordingly, we request your expedited consideration of the motion.*

Devon has previously provided you with its proposed draft order on the motion and with this transmittal, we provide you with our draft order to facilitate your resolution of this matter.

PROFESSIONAL ASSOCIATION

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(505) 842-1950

FARMINGTON
(505) 326-4521

LAS CRUCES
(505) 523-2481

SANTA FE
(505) 989-9614

Ms. Lori Wrotenbery
August 21, 2003
Page Two

Thank you for your attention to this matter.

Very truly yours,

MILLER STRATVERT P.A.

A handwritten signature in black ink, appearing to read "J. Scott Hall", written in a cursive style.

J. Scott Hall

JSH/glb

Enclosure

cc: David Catanach (w/encl.)
Gail McQuesten (w/encl.)
W. Thomas Kellahin (w/encl.)
Wes Perry (w/encl.)
Robert Landreth (w/encl.)

**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:**

**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-_____

INTERIM ORDER

THIS MATTER, having come before the Division pursuant to the *Amended Motion of EGL Resources, Inc. and Robert Landreth For Temporary Suspension Of Drilling Permits*, and the Division being duly advised, on this ____ day of August, 2003

FINDS THAT:

1. By their June 26 2003 motion, EGL and Landreth seek an order temporarily suspending or holding in abeyance the approval of drilling permits for the Devon Energy Production Company Rio Blanco 33 Federal No. 1 and the Rio Blanco 33 Federal Well No. 2, both in Section 33, T-22-S, R-34-E as well as the Devon Rio Blanco 9 State Well No. 1 proposed to be drilled in a location in the N/2 of Section 9, T-23-S, R-34-E, NMPM, Lea County. Devon proposes to drill each of its three wells to the Devonian formation at standard 320-acre gas well spacing units. The proposed location for Devon's Rio Blanco 33 Federal Well No. 1 is 1000' FSL and 1620'FWL of Section 33. The proposed location for Devon's Rio Blanco Federal Well No. 2 is 1980' FN&WL of Section 33. The proposed location for the Rio Blanco 9 State Well No. 1 is 660' FNL and 1575' FEL of Section 9.

2. EGL Resources, Inc. is the operator of the Rio Blanco 4 Federal Well No. 1 presently drilling to the Devonian formation at a standard location (Unit F) 1980' FN&WL of Section 4, T-23-S, R-34-E. EGL is the designated operator of the Rio Blanco 4 Well pursuant to the provisions of Order No. R-111962 issued in Case No. 13048 on May 13, 2003. Originally, in Case No. 13049, EGL sought the compulsory pooling of interests in order to form a 640-acre spacing unit to be dedicated to the Rio Blanco 4 Well. In Order No. R-11962 the Division interpreted its well spacing and acreage dedication requirements under Rule 104 and determined that 320-acre "wildcat" well spacing applied and accordingly, pooled the Devonian formation mineral interest underlying the N/2 of Section 4 to form a

320-acre spacing unit. Order No. R-11962 is presently pending before the Commission pursuant to applications for hearing *de novo* filed by both Devon and EGL.

3. Under Order No. R-11692 the Division invited EGL and Landreth to file a separate application to expand the 320-acre unit comprised of the N/2 of Section 9 in the context of an application to extend the limits of the North Bell Lake Devonian Gas Pool, the pool rules for which provide for 640-acre spacing units (Order No. R-11962, Finding 17). EGL and Landreth accordingly filed their application in this case on May 23, 2003 and subsequently, on June 25, 2003 filed their amended application seeking the additional alternative relief of the creation of a new pool consisting of the entirety of Section 4, along with special pool rules providing for 640-acre spacing and commensurate well location requirements.

4. The central focus of the proceedings pending before both the Commission in Case No. 13048 and the Division in this case is the propriety of 640-acre spacing for Devonian formation gas production. In the amended application in this case, it is stated: "(8) *The application of special pool rules and regulations for the North Bell Lake Devonian Gas Pool to Section 4, or alternatively the promulgation of special pool rules for a newly created pool is necessary and appropriate for the orderly and efficient development of Devonian formation gas reserves. Devonian formation gas reserves are best developed and produced on 640-acre proration units so that the unnecessary dissipation of reservoir energy, the violation of correlative rights, a reduction of the ultimate recovery of reserves, and the drilling of unnecessary wells may be avoided.*"

5. On June 6, 2003 Devon filed APDs for its proposed Rio Blanco Federal Wells No. 1 and No. 2 proposed to be drilled in Section 33 with the Bureau of Land Management. Subsequently, Devon filed with the Division's Hobbs District Office its APD for its proposed Rio Blanco 9 State Well No. 1 located in Section 9, T-23-S, R-34-E. In the case of each APD, Devon's well locations are based on the Division's statewide well location rules for 320-acre gas spacing and proration units for wildcat wells under Division Rule 104.C(2).

6. The parties are in agreement that the common source of supply in the Devonian formation targeted by each of the four wells involved trends in a north/south direction from Section 33, through the entirety of Section 4 and into Section 9, T-23-S, R-34-E.

7. Devon contends that under the Division's statewide rules, it is entitled to drill its three wells at its proposed locations on 320-acre spacing units with commensurate well location set-back requirements.

8. EGL and Landreth contend that Devonian formation wells in the area are capable of draining areas far larger than 320-acres. EGL and Landreth also contend that with

the development density under 320-acre spacing, there is a substantial likelihood that competition for gas reserves will result in water coning and the premature abandonment of wells with a resulting waste of otherwise recoverable reserves. They further contend that 320-acre spacing will also lead to the drilling of unnecessary wells without any incremental recovery of reserves. These issues will be the subject of the hearing on the merits on the Application in this case.

9. To date, Devon has only staked the location for its three proposed wells. It has not moved a drilling rig onto any one of the locations and has not otherwise started drilling operations. Devon further concedes that it is not threatened with the loss of any oil and gas lease through expiration should its drilling operations be temporarily delayed. Devon has not otherwise demonstrated how it will be harmed or prejudiced by a temporary delay.

10. In resolving this dispute, the Division must act in a manner consistent with its statutory duties to promote the interest of conservation and the prevention of waste, including the drilling of unnecessary wells. In order to do so, it is the prudent course of action to temporarily suspend the drilling and development of the subject Devonian reservoir on the basis of 320-acre spacing units and well locations until the Division has determined the underlying issue based on technical evidence presented to it in due course on a hearing on the application in this case.

11. Devon contends that the Division may not grant the interim relief sought by EGL and Landreth for the reason that it is without the express statutory authority to prevent the drilling of unnecessary wells except in the context of a compulsory pooling proceeding.

12. Under § 70-2-11 of the New Mexico Oil and Gas Act, NMSA 1978, 70-2-1 *et seq.*, “*The Division is hereby empowered, and it is its duty to prevent waste prohibited by this Act and to protect correlative rights, as in this Act provided. To that end, the Division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purpose of this Act, whether or not indicted or specified in any Section hereof.*” Well spacing proceedings are predicated directly on the concept that regulation is necessary “to prevent physical or economic waste from drilling of wells which are not reasonably necessary to drain the reservoir adequately.” *Exxon Corp. v. Railroad Commission*, 571 S.W. 2d. 497 (Tex. 1978).

13. Devon has also asserted that the Division has no authority to stay a federally approved APD. The extent of the federal government’s regulation of drilling permits on the federal domain is limited. Moreover, applicable federal statutes and regulations reflect the express consent of the federal government to regulation by the states of oil and gas development on federal land with respect to well spacing. The Mineral Leasing Act, 30 U.S.C., §§ 181, *et seq.*, at § 187, states, “*None of [the Act’s] provisions shall be in conflict*

with the laws of the State in which the leased property is situated.” 30 U.S.C. § 187. 43 CFR § 3162.3-1(a) directs that, on federal lands, “[e]ach well shall be drilled in conformity with an acceptable well-spacing program at a surveyed well location approved or prescribed by the authorized officer after appropriate environmental and technical reviews. An acceptable well-spacing program may be...(1) one which conforms with a spacing order or field rule issued by a State Commission...”.

14. As is the case with the Division’s process for approving APDs, the BLM’s procedures for the review and approval of application for permits to drill is largely a ministerial one. Through its APD approval process, the federal government does not act to preempt the States’ well spacing program, and neither does the State cede regulatory jurisdiction over the matter.

15. It is in the interest of conservation, the protection of correlative rights, the prevention of waste, including preventing the drilling of unnecessary wells, to grant the substance of the relief requested by EGL and Landreth by suspending temporarily any further development of the Devonian formation in said Sections 33 and 9.

16. As to wells proposed to the Devonian formation in Section 33, T-22-S, R-34-E, NMPM and Section 9, T-23-S, R-34-E, NMPM, in Lea County, New Mexico, statewide rule 104.C(2) establishing 320-acre spacing units for wildcat wells should be temporarily suspended retroactively to the time of the filing of the application in Case No. 13085 (May 23, 2003) until the Division has resolved the matter of well spacing following a hearing on the merits of the Application.

IT IS THEREFORE ORDERED:

1. As to wells proposed to be drilled to the Devonian formation in Section 33, T-22-S, R-34-E, NMPM and Section 9, T-23-S, R-34-E, NMPM, in Lea County, statewide Rule 104.C (2) establishing 320-acre spacing units for wildcat wells is temporarily suspended retroactively from May 23, 2003 until the Division has resolved the matter of well spacing following a hearing on the merits of the Application filed herein.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery
Director

MILLER STRATVERT

LAW OFFICES

Ranne B. Miller
 Alice T. Lorenz
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Counsel

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FACSIMILE TRANSMISSION COVER SHEET

DATE: August 22, 2003

TO: Gail MacQuesten
 David Catanach

(505) 476-3462

FROM: J. Scott Hall

OPERATOR: glb

MESSAGE: Please see attached.

NUMBER OF PAGES INCLUDING COVER SHEET: 7

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

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

RECEIVED
AUG 25 2003
Oil Conservation Division

**RESPONSE TO
DEVON ENERGY PRODUCTION COMPANY, L. P.'S
MOTION TO DISMISS**

EGL RESOURCES, INC., ("EGL"), and ROBERT LANDRETH, ("Landreth"),
for their Response to Devon Energy Production Company, L. P.'s Motion To Dismiss,
state:

SUMMARY

Devon's motion is combined with its Supplemental Response to another pleading and confuses a number of issues as a result. It appears that Devon seeks the dismissal of the Application in this case for the following reasons: (1) Under the doctrine of waiver; and (2) for the Division's lack of jurisdiction to accord the relief requested. EGL/Landreth oppose Devon's motion for the reason that it is without good grounds to support dismissal.

1. Waiver.

Devon states its argument as this: “Having elected to commence the re-entry of the Rio Blanco 4-1 well dedicated to a 320-acre spacing unit approved by the Division, EGL/Landreth have waived any argument that Devon is now precluded from doing the same thing in adjoining sections. ...Despite the lack of essential data from a “discovery well” and despite their waivers, EGL/Landreth have filed an amended application to create a new Devonian gas pool for Section 4.” (*Motion To Dismiss*, pg. 2.) There is no further explanation of how these circumstances establish a basis for dismissal based on a claim of waiver.

“A waiver is the intentional abandonment or relinquishment of a known right. To constitute a waiver, there must be an existing right, knowledge of its existence and an actual intention to relinquish it, or such conduct as warrants an inference of the relinquishment. It is a voluntary act and implies an abandonment of a right or privilege.” Brown v. Jimerson, 95 N.M. 191, 192, 619 P.2d 1235, 1236 (N.M. 1980). “[The] doctrine of waiver cannot apply to party who has not expressly or unequivocally waived her rights.” Vieira v. Estate of Cantu, 940 P.2d 190, N.M.App. 1997.

The circumstances establishing an absence of waiver in this case are these:

* On May 13, 2003, the Division entered Order No. R-11962 pooling the subject lands and designating EGL as operator. In its order, The Division noted as follows:

“(15) *In effect, EGL’s application for a 640-acre unit in Case No. 13049 seeks to expand the North Bell Lake Devonian Pool. Case No. 13049 was not filed nor advertised as an application to expand*

pool boundaries, nor does the evidence establish that notice of the application or the hearing thereof was given to all Division-designated operators in the pool as would be required for an application for a special pool order pursuant to Rule 1207.A(4) [19.15.N.1207.A(4) NMAC].

- (16) The geologic and engineering testimony concerning the potential drainage radius of the well in the Devonian formation raises matters of which the Division cannot take cognizance in the context of these applications.*
- (17) Accordingly, EGL's application, to the extent that it asks for creation of a 640-acre unit comprised of all of Section 4 should be dismissed, without prejudice to any subsequent application to expand the Unit in the context of an application to expand the limits of the North Bell Lake Devonian Gas Pool."*

* On May 23, 2003, EGL and Landreth filed their Application in Case No. 13085 to expand the North Bell Lake Devonian Gas Pool to include Sections 4 and 5, T-23-S, R-34-E. The Application was amended on June 25th to request the alternative relief of creating a new pool for Section 4.

* On May 28, 2003, EGL began workover operations on the Rio Blanco "4" well. Subsequently, on July 7, 2003, EGL commenced drilling operations on the Section 4 location with a deep drilling rig. Drilling continues to be underway.

* In the interim, EGL and Landreth filed an Application for Hearing De Novo to have the Commission review the 640-acre spacing issue under Order No. R-11962. Their Application was shortly followed by Devon's.

The Application for pool extension and pool creation was done in furtherance of the Applicants' original contentions, first made in March of 2003 in Case No. 13049, that 640-acre spacing is appropriate. Further, the Application in this case was filed, in large part, at the instance of the Division in Order No. R-11962 where they are invited to

request such relief. Additionally, if anything, the perfection of an appeal to the Commission on the spacing issue serves to preserve the Applicants' rights and remedies rather than causing their waiver. Finally, actual drilling indicates an exercise of rights, not a waiver of them.

2. The Division's Jurisdiction.

Devon's shotgun motion seeks nothing less than the dismissal of all components of Case No. 13085, including the requests for (1) pool extension, (2) pool creation, (3) the promulgation of rules establishing 640-acre drilling units and well locations, and (4) expansion of the subject proration unit. However, the argument in support of Devon's motion focuses almost exclusively on the pool creation aspect of the Application. Devon challenges the agency's jurisdiction to establish a new pool, stating in point-blank fashion, "[t]he Division has no authority to take such action..." (*Motion To Dismiss*, pg. 4.) It is a startling assertion in view of the Division's clear enumeration of powers under the Oil and Gas Act. At NMSA 1978 Section 70-2-12.(B): "[T]he Division is authorized to make rules, regulations and orders for the purposes and with respect to the subject matter stated in this subsection:...(12) to determine the limits of any pool producing crude oil or natural gas or both and from time to time redetermine the limits".

In the flying pigs segment of its Motion, Devon also appears to challenge the Division's authority to prevent the drilling of unnecessary wells.

As a specific basis for invoking the Division's exercise of jurisdiction, paragraph 12 of the *Amended Application* asserts that the requested relief for pool extension or pool creation to regulate the orderly and efficient development of Devonian formation gas reserves "...will be in the interests of conservation, *the prevention of waste, including*

avoiding the drilling of unnecessary wells, and the protection of correlative rights.” Such fits squarely within the definitions of the agency’s subject matter jurisdiction set forth in the Divisions Rules:

“Waste, in addition to its ordinary meaning shall include:

- (a) *Underground Waste as those words are generally understood in the oil and gas business, and in any event to embrace the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, or any pool and the locating, spacing, drilling, equipping, operating, or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool...*” 19 NMAC 15.1.7.W(1)(a) (emphasis added).


(It should be noted that the avoidance of the drilling of unnecessary wells was a central issue in the recent proceedings authorizing infill drilling in the Basin-Fruitland Coal Gas Pool. See Case No. 12888, Order No. R-8768-F, at Paragraph 26.)

If it is Devon’s concern that the Division has assumed jurisdiction over the matter prior to the completion of the “discovery well”, we have said before that should EGL’s Devonian well in Section 4 prove unsuccessful, then this Application may well be made unnecessary. The well is presently drilling below 14,000’ and the results will soon be known. To dismiss this case now, as Devon asks, would simply require us to re-apply, provide new notice and re-advertise the same case again in the event the well is successfully completed. Dismissal, then, is clearly inconsistent with the interests of administrative efficiency and economy.

For all of the reasons stated above, Devon’s Motion To Dismiss should be denied.

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


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 22 day of August 2003, as follows:

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

Gail MacQuesten, Esq.
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 98504

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



J. Scott Hall

AUG 29 2003

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- * New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law
- ** New Mexico Board of Specialization Recognized Specialist in Real Estate Law

August 28, 2003

Ms. Lori Wrotenbery, Director
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Division Case No. 13085; Amended 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

Dear Ms. Wrotenbery:

The well that is the subject of the above-referenced Application continues to be drilling and will not be completed by the time of the hearing now scheduled for the September 4, 2003 Examiner hearing docket. Consequently, on behalf of the Applicants, we request the September 4th hearing on the Application be *continued* to a special hearing date to be set in consultation with the Examiner and opposing counsel as circumstances warrant. I have discussed this situation with Mr. Catanach and Mr. Kellahin, counsel for Devon, and both are agreeable to proceeding in this fashion.

Thank you for your cooperation.

Very truly yours,

MILLER STRATVERT P.A.


J. Scott Hall

JSH/glb

cc: David Catanach
Gail McQuesten
W. Thomas Kellahin
Wes Perry
Robert Landreth

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September 3, 2003

VIA FACSIMILE

Mr. David Catanach
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. 13085; Amended 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

Dear Mr. Catanach:

Please regard this as the Applicant's formal request for a hearing on the merits of the Application at a special examiner hearing date on September 12, 2003. It is estimated that the matter can be heard in one day.

Thank you for your consideration of this request.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH/glb

cc: W. Thomas Kellahin
Wes Perry
Bob Landreth

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September 8, 2003

VIA FACSIMILE

Mr. David Catanach
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. 13085; Amended 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

Dear Mr. Catanach:

I understand Mr. Kellahin and the Devon witnesses have personal or business conflicts which prevent them from attending a hearing on the above-referenced Application on any day between September 15th through September 29th. Correspondingly, on behalf of the Applicants, I respectfully request the Division schedule the matter for a special hearing date on Wednesday, October 1, 2003. I estimate the case can be heard in one day or less.

As an alternative, and in order to avoid further delays, I can also make myself available to attend a hearing on Thursday, October 2nd, although doing so will require me to cancel a previously planned out-of-town commitment on Thursday through Saturday of that week.

Thank you for your consideration of this request.

Very truly yours,

MILLER STRATVERT P.A.


J. Scott Hall

JSH/glb

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Mr. David Catanatch
September 8, 2003
Page Two

cc: W. Thomas Kellahin
Wes Perry
Bob Landreth

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September 19, 2003

HAND-DELIVERED

Lori Wrotenberg, Chair
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: New Mexico Oil Conservation Case No. 13085; Amended 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

Dear Ms. Wrotenberg:

On behalf of EGL Resources, Inc. and Robert Landreth, the Applicants in the above-referenced matter, enclosed is our Application for Hearing De Novo.

This case remains pending before Examiner Catanach and a hearing on the merits of the Application is presently set for a special hearing date on October 2, 2003. On August 22, 2003, Mr. Catanach entered the *Decision of the Examiner* which denied the Amended Motion of EGL Resources, Inc. and Robert Landreth for Temporary Suspension of Drilling Permits, but with the admonition to Devon Energy Production Company that it act so as not to compound the disagreement regarding the proper well spacing and well density in the Devonian formation in the area. (Copy attached.) In spite of this admonition, Devon has this week commenced the drilling of a second Devonian well on the acreage that was the subject of our Amended Motion.

Although it is not an Order, the August 22, 2003 *Decision of the Examiner* would seem to fit within the statutory definition of matters for which applications for hearings de novo must be filed under NMSA 1978 Section 70-2-13. This Application for Hearing De Novo is accordingly being

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Lori Wrotenbery, Chair
September 19, 2003
Page 2

filed in order to preserve the issues raised in the Amended Motion and to avoid any waiver of rights. In view of the imminent Division Examiner hearing on the Application on October 2nd, we do not request this particular matter be set for hearing before the full Commission for now.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH:dml

Enclosure

cc (w/enc.): David Catanach, NMOCD ✓
Gail MacQuesten, Esq., NMOCD
W. Thomas Kellahin, Esq.
Carol Leach, Esq., NMOCC
Wes Perry
Bob Landreth

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

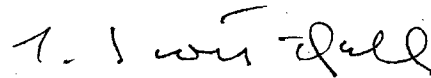
CASE NO. 13085

**IN THE MATTER OF THE APPLICATION OF EGL RESOURCES, INC. AND
ROBERT LANDRETH FOR POOL EXTENSION, OR ALTERNATIVELY POOL
CREATION, AND EXPANSION OF GAS SPACING AND PRORATION UNIT,
LEA COUNTY, NEW MEXICO.**

APPLICATION FOR HEARING DE NOVO

EGL Resources, Inc. and Robert Landreth, pursuant to NMSA 1978 Section 70-2-13, request this matter be set for hearing de novo before the New Mexico Oil Conservation Commission on a date to be subsequently determined. This Application For Hearing De Novo is limited to those issues and matters arising from the August 22, 2003 *Decision of the Examiner* (attached).

Respectfully submitted,



J. Scott Hall
Miller Stratvert P.A.
Post Office Box 1986
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Attorneys for EGL Resources, Inc. and
Robert Landreth

Certificate of Mailing

I hereby certify that a true and correct copy of the foregoing was mailed to counsel of record on the 19th day of September, 2003 as follows:

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A handwritten signature in dark ink, appearing to read "J. Scott Hall", written in a cursive style.

J. Scott Hall

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

CASE NO. 13085

**IN THE MATTER OF THE APPLICATION OF EGL RESOURCES, INC.
AND ROBERT LANDRETH FOR POOL EXTENSION, OR
ALTERNATIVELY POOL CREATION, AND EXPANSION OF GAS
SPACING AND PRORATION UNIT, LEA COUNTY, NEW MEXICO.**

**DECISION OF THE EXAMINER
REGARDING
EGL RESOURCES, INC. AND ROBERT LANDRETH'S
MOTION TO STAY DEVON ENERGY PRODUCTION
COMPANY, L.P.'S OPERATIONS**

This matter, having come before the Division upon the motion of EGL Resources, Inc and Robert Landreth ("EGL/Landreth") to temporarily suspend or hold in abeyance approval of Devon Energy Production Company, L.P.'s ("Devon") Applications for Permit to Drill ("APD") for the Rio Blanco "33" Federal Well No 1 to be drilled 1000 feet from the South line and 1620 feet from the West line (Unit N) and the Rio Blanco "33" Federal Well No. 2 to be drilled 1980 feet from the North and West lines (Unit F), both in Section 33, Township 22 South, Range 34 East, NMPM, and the Rio Blanco "9" Well No 1 to be drilled 660 feet from the North line and 1575 feet from the East line (Unit B) of Section 9, Township 23 South, Rand 34 East, all in Lea County, New Mexico and the Division, having reviewed the motion, responses, reply and supplemental comments and considering the argument of counsel,

FINDS THAT:

- (1) On June 26, 2003, EGL/Landreth filed their motion to temporarily suspend or hold in abeyance Devon's drilling permits for the Rio Blanco "33" Federal Wells No. 1 and 2;
- (2) On July 2, 2003, Devon filed its response to EGL/Landreth's motion to suspend Devon's drilling operations in Section 33;

(3) On July 11, 2003, EGL/Landreth filed their amended motion to suspend Devon's drilling operations in Section 33 and to suspend the drilling permit for Devon's proposed Rio Blanco "9" Well No. 1 in Section 9;

(4) On July 14, 2003, EGL/Landreth filed their reply to Devon's response to the stay motion;

(5) On August 14, 2003, EGL/Landreth filed a supplement reply;

(6) On August 18, 2003, Devon filed a supplement to its response;

BACKGROUND

(7) On May 13, 2003 the Division entered Order No. R-11962 in Cases No. 13048 and 13049. This order pooled all mineral interests in the N/2 of Section 4, Township 23 South, Range 34 East, NMPM, to form a standard 320-acre spacing and proration unit for the Devonian formation, and awarded well operations to EGL/Landreth. This unit was to be dedicated to the Rio Blanco "4" Federal Well No. 1 located 1980 feet from the North and West lines (Unit F) of Section 4;

(8) In Case No. 13048, Devon sought to pool a standard 320-acre spacing and proration unit for the Devonian formation comprising the N/2 of Section 4, said unit to be dedicated to the Rio Blanco "4" Federal Well No. 1. In companion Case No. 13049, EGL/Landreth sought to pool a 640-acre spacing and proration unit for the Devonian formation comprising all of Section 4, said unit to be dedicated to the aforesaid Rio Blanco "4" Federal Well No. 1;

(9) Subsequent to the entry of Division Order No. R-11962, EGL/Landreth commenced re-entry operations into the Rio Blanco "4" Federal Well No. 1;

(10) In pending Case No. 13085, currently scheduled to be heard by the Division on September 4, 2003, EGL/Landreth seek to extend the boundaries of the 640-acre spaced North Bell Lake-Devonian Gas Pool to include Section 4, or in the alternative, to create a new gas pool for Devonian production in Section 4 spaced on 640-acres;

(11) EGL/Landreth contend that Devon should not be allowed, prior to the presentation of evidence in Case No. 13085 and prior to a determination by the Division whether the Devonian formation in this area should be developed on 640 or 320-acre spacing, to drill two wells in Section 33 and should not be allowed to drill at well locations that may be less stringent than those associated with 640-acre spacing.

EXAMINER DECISION

(12) Devon's applications to drill the Rio Blanco "33" Federal Wells No. 1 and 2 and the Rio Blanco "9" Well No. 1 are in compliance with current Division rules governing the development of the Devonian formation in Sections 33 and 9;

(13) The drilling permits for the Rio Blanco "33" Federal Wells No. 1 and 2 have already been approved by the United States Bureau of Land Management;

(14) Devon should be allowed to continue with the development of the Devonian formation in Sections 33 and 9, provided however that: Devon should act in a prudent manner so as not to compound the disagreement regarding the proper well spacing and well density in the Devonian formation in this area;

(15) Both Devon and EGL/Landreth should be further advised that Division is empowered to protect correlative rights and that if it becomes necessary, will take such action as may be necessary to do so, including, but not limited to, prorating the North Bell Lake-Devonian Gas Pool, prorating any pool subsequently created within Sections 4, 9 and 13, and imposing production penalties on unorthodox well locations.

IT IS THEREFORE ORDER THAT:

(1) The motion by EGL Resources, Inc and Robert Landreth to temporarily suspend or hold in abeyance approval of Devon Energy Production Company, L.P.'s Applications for Permit to Drill ("APD") for the Rio Blanco "33" Federal Well No 1 to be drilled 1000 feet from the South line and 1620 feet from the West line (Unit N) and the Rio Blanco "33" Federal Well No. 2 to be

drilled 1980 feet from the North and West lines (Unit F), both in Section 33, Township 22 South, Rand 34 East, NMPM, and the Rio Blanco "9" Well No 1 to be drilled 660 feet from the North line and 1575 feet from the East line (Unit B) of Section 9, Township 23 South, Rand 34 East, all in Lea County, New Mexico, is hereby denied.



David R. Catanach, Examiner
August 22, 2003