

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

RECEIVED

APR 7 2003 CASE NO. 13049

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

CASE NO. 13048

**RESPONSE TO
DEVON ENERGY PRODUCTION COMPANY, L.P.'S
MOTION TO DISMISS
and
SUPPLEMENT TO THE EGL RESOURCES/LANDRETH
MOTION TO DISMISS**

EGL Resources, Inc. and Robert Landreth hereby respond to the Motion to Dismiss filed on behalf of Devon Energy Production Company, L.P., and further supplement their own Motion To Dismiss filed in Case No. 13048 this same date.

Devon's Motion To Dismiss brings little to the dispute over the applicability of the North Bell Lake-Devonian Gas Pool Special Pool Rules to the Section 5 lands that are the subject of the competing compulsory pooling applications in Case Nos. 13048 and 13049.

First, the Division is in no way bound by the ministerial approval by the Bureau of Land Management of a Sundry Notice form completed by Devon's staff that incorrectly identifies the proposed well as a "wildcat". It is the Division, and not the

BLM, that identifies pools, adopts and applies Special Pool Rules and establishes field-wide rules for well locations and acreage dedication requirements.

Second, the interpretation by the Division's Hobbs District office staff of the Rule 104 is incorrect. In Exhibit C to Devon's Motion to Dismiss, Mr. Kautz indicates "...I basically go from the wellbore to the pool boundary and if that is more than a mile that would be a wildcat." This interpretation is directly at odds with the express language of Rule 104A(1)(b)¹ which directs that such determinations are to be made by measuring from the boundaries of the spacing unit. There is nothing in the rule which says you are to measure "from the wellbore".

Finally, the Division should act in a manner consistent with its prior interpretations and applications of its rules. Accordingly, the Division should regard a previous compulsory pooling order affecting the same lands as determinative of the dispute here.

On April 30, 1991, the Division entered Order No. R-9493 in Case No. 10276² pooling the unjoined interests in the Devonian formation (and other formations) underlying Section 4, T-23-S, R-34-E. Although the well proposed in that case was not drilled, Order No. R-9439 pooled:

"All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas pool which is spaced on 640 acres."

A copy of the relevant excerpts from Order No. R-9493 is attached hereto as Exhibit 1.

¹ [A] wildcat well is any well to be drilled the spacing unit of which is a distance of one mile or more from...

² Application of Pacific Enterprises Oil Company (USA) for Compulsory Pooling, Lea County, New Mexico

EGL and Landreth submit that the Division should abide by this earlier determination of this very issue affecting the same lands and dismiss Devon's Application in Case No. 13048 and deny its Motion To Dismiss in Case No. 13049.

MILLER STRATVERT P.A.

By



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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 7th day of April, 2003, as follows:

Thomas Kellahin, Esq.
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1220 South St. Francis Drive
Santa Fe, New Mexico 98504



J. Scott Hall

EGL and Landreth submit that the Division should abide by this earlier determination of this very issue affecting the same lands and dismiss Devon's Application in Case No. 13048 and deny its Motion To Dismiss in Case No. 13049.

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J. Scott Hall

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. 10267
Order No. R-9493

APPLICATION OF PACIFIC ENTERPRISES
OIL COMPANY (USA) FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 18, 1991, at Santa Fe, New Mexico, before Examiner Jim Morrow.

NOW, on this 30th day of April, 1991, 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, Pacific Enterprises Oil Company (USA), seeks an order pooling all mineral interests from the surface to the base of the Devonian formation underlying the following described acreage in Section 4, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico, in the following manner: ✓

All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas Pool which is spaced on 640 acres; ✓

Lots 3 and 4, S/2 NW/4 and SW/4 (W/2 equivalent) to form a 320.16-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent which includes, but is not necessarily limited to the Undesignated North Antelope Ridge-Wolfcamp Gas Pool, Undesignated Antelope Ridge-Atoka Gas Pool, Undesignated North Bell Lake-Morrow Gas Pool and the Undesignated Antelope Ridge-Morrow Gas Pool;

EXHIBIT

1

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Devonian formation, underlying the following described acreage in Section 4, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

✓ All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas Pool which is spaced on 640 acres;

Lots 3 and 4, S/2 NW/4 and SW/4 (W/2 equivalent) to form a 320.16-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent which includes, but is not necessarily limited to the Undesignated North Antelope Ridge-Wolfcamp Gas Pool, Undesignated Antelope Ridge-Atoka Gas Pool, Undesignated North Bell Lake-Morrow Gas Pool and the Undesignated Antelope Ridge-Morrow Gas Pool;

the SW/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent; and,

the NE/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent which presently includes but is not necessarily limited to the Undesignated Northwest Antelope Ridge-Bone Spring Pool.

(2) Said unit(s) are to be dedicated to a well to be drilled at a standard location 1980 feet from the South line and 1980 feet from the West line (Unit K) of said Section 4.

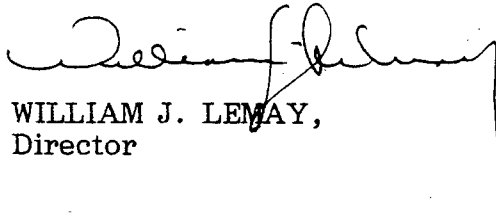
PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of July, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Devonian Formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of July, 1991, Decretory 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.

Case No. 10267
Order No. R-9493
Page 7

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY,
Director

dr/