

**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. 13368

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L. P. FOR AN
ORDER AUTHORIZING THE DRILLING OF A WELL IN THE POTASH AREA,
EDDY COUNTY, NEW MEXICO.**

CASE NO. 13372

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L. P. FOR AN
UNORTHODOX DEEP GAS WELL LOCATION AND FOR AN ORDER
AUTHORIZING THE DRILLING OF A WELL IN THE POTASH AREA, EDDY
COUNTY, NEW MEXICO.**

ORDER NO. R-12403

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on December 2, 2004, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 8th day of August, 2005, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

FINDS THAT;

(1) Due public notice has been given as required by law and in accordance with New Mexico Oil Conservation Division/Commission Order No. R-111-P, the Division has jurisdiction of this cause and the subject matter thereof.

(2) At the hearing, Division Cases No. 13367, 13368, and 13372 were consolidated for the purpose of testimony.

(3) The applicant in Case No. 13368, Devon Energy Production Company, L. P. (hereinafter referred to as "Applicant" or "Devon"), seeks approval to drill its proposed Apache "24" Fee Well No. 6 (API No. 30-015-33248) to an approximate depth of 7,900 feet at a standard Delaware oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. Pursuant to Division Rule 104.B (1), the SW/4 NW/4 of Section 24 is to be dedicated to this well to form a standard 40-acre oil spacing and proration unit for the Undesignated Southeast Quahada Ridge-Delaware Pool (50443).

(4) In companion Case No. 13372, Devon seeks approval to drill its proposed Apache "24" Fee Well No. 7-A to an approximate depth of 15,500 feet at a standard deep Devonian gas well location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24. Pursuant to Division Rule 104.C (2), the N/2 of Section 24 is to be dedicated to this well to form a standard 320-acre lay-down gas spacing unit for deep wildcat Devonian gas production.

(5) Applicant's initial application in Case No. 13372 sought an exception to Division Rule 104.C(2) (a) for the location of the above-described James Ranch Unit Well No. 7-A. However, the proposed location is considered to be standard for the proposed 320-acre deep Devonian gas spacing unit. Applicant's erroneous request for an unorthodox gas well location in Case No. 13372 should therefore be dismissed.

(6) The New Mexico Oil and Gas Act, Section 70-2-12 (B) (17) NMSA 1978, empowers the Division *"to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash which may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits."*

(7) Division Order No. R-111, dated November 9, 1951, as amended by Order Nos. R-111 - A through R-111 - O, established the "Potash Area," which *"represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves."* Furthermore, Division Order No. R-111-P established *"The Rules and Regulations Governing the Exploration and Development of Oil and Gas in Certain Areas Herein Defined, Which Are Known To Contain Potash Reserves (Potash Area)."*

(8) Division records and the evidence presented by Devon indicates that:

(a) By Application for Permit to Drill ("APD") dated December 13, 2003, Devon filed its request to drill its above-described Apache "24" Fee Well No. 6 with the Division district office in Artesia, New Mexico.

(b) Since all of Section 24 is within the designated oil/potash area, Devon on January 23, 2004 notified all potash lessees within one mile of the proposed Apache "24" Fee Well No. 6. IMC Potash Carlsbad, Inc., now Mosaic Potash ("Mosaic"), a party of record in this hearing, is the only potash lessee within one mile of the proposed well location.

(c) On February 19, 2004 the Division's Artesia district office approved Devon's APD for its Apache "24" Fee Well No. 6.

(d) Mosaic, by letter dated April 12, 2004 to Devon and copied to the supervisor of the Division's Artesia district office, objected to the drilling of the proposed Apache "24" Fee Well No. 6.

(e) On September 20, 2004, the Division's Artesia district office rescinded Devon's APD for the Apache "24" Fee Well No. 6.

(f) By APD dated September 16, 2004, Devon filed its request to drill its above-described Apache "24" Fee Well No. 7-A with the Division district office in Artesia, New Mexico.

(g) Mosaic, by letter dated August 30, 2004 to Devon and copied to the supervisor of the Division's Artesia district office, objected to the drilling of the proposed Apache "24" Fee Well No. 7-A.

(h) On September 20, 2004, the Division's Artesia district office rejected Devon's APD for the Apache "24" Fee Well No. 7-A.

(9) The SW/4 NW/4 (Unit E) of Section 24 is fee surface/fee minerals (oil, gas, and potash). Applicant is the current lessee of a valid oil and gas lease from all mineral interest owners covering the mineral rights under this 40-acre tract.

(10) Order R-111 -P provides that for wells on State Lands or on Federal Lands, the Division shall inquire of the New Mexico State Land Office ("SLO") or the United States Bureau of Land Management ("BLM"), as the case may be, as to whether the lands involved are within an area designated a Life of Mine Reserve ("LMR").

(11) With regard to potash leasing and potash development in a nine-section area comprising Sections 13, 14, 23, 24, 25, and 26, Township 22 South, Range 30 East, NMPM and Sections 18, 19, and 30, Township 22 South, Range 31 East, NMPM, all in Eddy County, New Mexico, the evidence presented demonstrates that:

(a) Mosaic holds federal potash leases in the S/2 of Section 14; all of Section 23; the SW/4 of Section 24; the W/2 NE/4, SE/4 NE/4, W/2, and SE/4 of Section 25; and all of Section 26, all in Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico;

(b) all of Section 13; the N/2 of Section 14; the N/2 and SE/4 of Section 24; and the NE/4 NE/4 of Section 25, all in Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, is unleased federal potash;

(c) the SW/4 NW/4 (Unit E) of Section 24 (fee minerals) is currently unleased with respect to potash;

(d) Sections 18, 19, and 30, Township 22 South, Range 31 East, NMPM, Eddy County, New Mexico, are within the United States Department of Energy's Waste Isolation Pilot Plant ("WIPP") area that is condemned of all mineral development;

(e) all of Sections 13, 14, 23, 24, and 26, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, are within the "Measured Potash Reserves" area (Potash Enclave) and most of Section 25, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, is within the area designated as barren, as depicted on the latest map published by the United States Bureau of Land Management of the distribution of potash resources within the Carlsbad Mining District, Eddy and Lea Counties, New Mexico;

(f) most of the western half of Section 24, including all of the SW/4 NW/4 (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, is designated as an LMR; and

(g) the closest potash mining operations is approximately two miles to the southwest of Devon's proposed well location.

(12) With regard to oil and gas development in the immediate area, Devon presented evidence that demonstrates:

(a) there are no well bores within Sections 14, 24, and 26, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico;

(b) there are at least seventeen well bores within Sections 13, 24, and 25, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, some of which are located within the Measured Potash Reserves area;

(c) Devon's proposed Apache "24" Fee Well No. 7-A has the potential of finding oil and gas reserves capable of producing in commercial quantities within both the Delaware and Devonian formations.

(13) According to Order R-1 11-P, an LMR determination by either the SLO or the BLM is within the exclusive authority of those agencies and such a determination by them is binding upon the Division.

(14) However, Order R-1 11 -P makes no provision for an LMR determination when the proposed well is located on fee lands, nor does Order R-1 11-P authorize a potash lessee to designate an LMR over lands not leased to that potash lessee.

(15) Sub-part G (e) 3 of these rules, provides that; *"application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of lessor and lessees of both potash and oil and gas interests."*

(16) The evidence presented indicates that the surface owner and all mineral interest owners have consented to Devon's drilling of both its Apache "24" Fee Wells No. 6 and 7-A and desires to have their oil and gas minerals developed first and in preference to any potash reserves underlying the SW/4 NW/4 (Unit E) of Section 24.

(17) The application in both Cases no. 13368 and 13372 should be approved and Devon's APD to drill its above-described: (i) Apache "24" Fee Well No. 6 (API No. 30-015-33248), previously rescinded by the Division's Artesia district office on September 20, 2004, should be reinstated; and (ii) Apache "24" Fee Well No. 7-A that was rejected by the Division's Artesia district office on September 20, 2004, should be accepted.

(18) Devon must comply with all applicable drilling, casing, cementing, and plugging requirements of a deep gas well set forth in Division Order No. R-1 11-P.

(19) Further, as provided in sub-part H of Order R-111 -P, a representative of Mosaic or a representative of any owner of a potash mineral interest within one mile of the proposed Apache "24" Fee Wells No. 6 and 7-A may be present during drilling, cementing, casing, and plugging of said wells to observe conformance with all requirements of Order R-1 11-P and of this order.

IT IS THEREFORE ORDERED THAT:

(1) In Division Case No. 13368, Devon Energy Production Company, L. P. ("Devon") is hereby granted authority to drill its Apache "24" Fee Well No. 6 (API No. 30-015-33248) to an approximate depth of 7,900 feet at a standard Delaware oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. The SW/4 NW/4 of Section 24 is to be dedicated to this well to form a standard 40-acre oil spacing and proration unit for the Undesignated Southeast Quahada Ridge-Delaware Pool (50443).

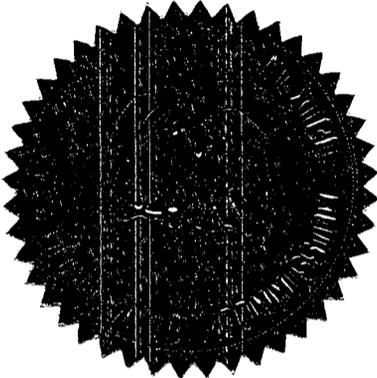
(2) In companion Case No. 13372, Devon is hereby granted authority to drill its Apache "24" Fee Well No. 7-A to an approximate depth of 15,500 feet at a standard deep Devonian gas well location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24. The N/2 of Section 24 is to be dedicated to this well to form a standard 320-acre lay-down gas spacing unit for deep wildcat Devonian gas production.

(3) That portion of Case No. 13372 for an unorthodox deep gas well location for Devon's proposed Apache "24" Fee Well No. 7-A is hereby **dismissed**.

(4) Devon shall comply with all applicable drilling, casing, cementing, and plugging requirements of a deep gas well set forth in Division Order No. R-111-P.

(5) Jurisdiction is hereby 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.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P. E.
Director