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. 13048

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

CASE NO. 13049

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

ORDER NO. R-11962

ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for hearing at 8:15 a.m. on April 10, 2003, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 13th day of May, 2003, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of these cases and of the subject matter.

(2) In Case No. 13048, Devon Energy Production Company, L.P. ("Devon"), seeks an order pooling all uncommitted mineral interests from the base of the Morrow to the base of the Devonian formation underlying the N/2 of Section 4, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico, forming a standard wildcat 320-acre gas spacing and proration unit (the "Unit") for all formations or pools spaced on 320 acres within this vertical extent.

(3) In Case No. 13049, EGL Resources, Inc. ("EGL"), seeks an order pooling all uncommitted mineral interests from the base of the Morrow to the base of the Devonian formation underlying all of Section 4, Township 23 South, Range 34 East,

NMPM, Lea County, New Mexico, forming a standard 640-acre gas spacing and proration unit for the North Bell Lake Devonian Gas Pool.

(4) Each applicant seeks to dedicate its proposed unit to Devon's inactive Rio Blanco 4 Federal Well No. 1 **(API No. 30-025-34515)** located 1,980 feet from the North and West lines (Unit F) of Section 4 ("the well"), which both applicants propose to reenter and deepen to the Devonian formation, diverting the well in the process to a proposed bottom-hole location 1,930 feet from the North and West lines (Unit F) of Section 4.

(5) Inasmuch as approval of one of the subject applications would necessarily require denial of the other, one order should be entered for both cases.

(6) Two or more separately owned tracts are embraced within the proposed units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the units that are separately owned.

(7) Both Devon and EGL are owners of oil and gas working interests within the proposed units. Each applicant has the right to drill to a common source of supply within the units.

(8) There are interest owners in the proposed units that have not agreed to pool their interests.

(9) Robert E. Landreth, an owner within each of the proposed units, appeared in person and through counsel in support of the application of EGL, and in opposition to the application of Devon.

(10) Land testimony and exhibits introduced at the hearing indicate the following:

(a) The working interest in the N/2 of Section 4 is owned by Devon (12.5%), Southwestern Energy Production Company (12.5%), EGL (25%), and Robert E. Landreth (50%).

(b) The working interest in all of Section 4 is owned by Devon (6.25%), Southwestern Energy Production Company (6.25%), EGL (25%) and Robert E. Landreth (62.5%).

(11) Division Rule 104 [19.15.3.104 NMAC] is unambiguous. It provides, in pertinent part:

A. Classification of Wells: Wildcat And Development Wells
(1) Wildcat Well

(b) In all counties except San Juan, Rio Arriba, Sandoval, and Mc Kinley, a wildcat well is any well to be drilled the spacing unit of which is a distance of one mile or more from:

(i) the outer boundary of any defined pool that has produced oil or gas from the formation to which the well is projected to be drilled; and

(ii) any well that has produced oil or gas from the formation to which the proposed well is projected.

(12) According to the undisputed evidence, the outer boundary of the spacing unit for the well (the west line of Section 4, Township 23 South, Range 34 East) is exactly one mile from the outer boundary of the North Bell Lake Devonian Gas Pool (the east line of Section 6 of the same township and range), as said pool is defined by Order No. R-6424 entered in Case No. 6962.

(13) No well that has produced from the Devonian formation is located within one mile of the well.

(14) The well is a wildcat well, and the appropriate spacing unit for the well is 320 acres, pursuant to Rule 104.C(2) [19.15.3.104.C(2) NMAC].

(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.

(18) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, Devon's application in Case No. 13048 for the creation of a 320-acre unit comprised of the N/2 of Section 4 should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(19) The evidence established that both parties have been extensively involved in the development of this prospect.

(20) The parties are in agreement concerning the desirability of developing the Unit by deepening the well to test the Devonian formation, and are in general agreement concerning the plan for conducting this operation.

(21) The parties are in agreement regarding the appropriate risk penalty and administrative overhead charge.

(22) Devon's AFE for the proposed operation is somewhat higher than EGL's. However, EGL's witnesses testified that this difference was not significant.

(23) There is no evidence that either applicant is not a prudent operator, or that either applicant would economically recover more oil or gas than would the other by virtue of being awarded operations hereunder.

(24) The Oil Conservation Commission admonished, in Finding Paragraph (24) of Order No. R-10731-B, entered in Case No. 11677, that:

> In the absence of compelling factors such as geologic and prospect differences, ability to operate prudently, or any reason why one operator would economically recover more oil or gas by virtue of being awarded operations than the other would, working interest control . . . should be the controlling factor in awarding operations.

(25) In this case, Robert E. Landreth has joined in EGL's proposal, giving EGL 75% "working interest control," as that term is defined in Order No. R-10731-B. Southwest Energy Production Company has joined in Devon's proposal, giving Devon 25% working interest control.

(26) EGL should be designated the operator of the well and of the Unit.

(27) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(28) Reasonable charges for supervision (combined fixed rates) should be fixed at $5,000 per month while drilling and $500 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Devon in Case No. 13048, all uncommitted interests, whatever they may be, in the oil and gas from the base of the Morrow to the base of the Devonian formation underlying the N/2 of Section 4, Township 23 South, Range 34 East, N.M.P.M., Lea County, New Mexico, are hereby pooled, forming a standard 320-acre wildcat gas spacing and proration unit for all formations within this vertical extent.

The Unit shall be dedicated to the Rio Blanco 4 Federal Well No. 1, **(API No. 30-025-34515)** located 1980 feet from the North and West lines (Unit F) of Section 4 ("the well").

(2) The operator of the Unit shall commence reentry and deepening of the well on or before September 30, 2003, and shall thereafter continue operations with due diligence to test the Devonian formation.

(3) In the event the operator does not commence operations on the well on or before September 30, 2003, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should the well not be drilled to completion in the Devonian, or be abandoned, within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(5) Upon final plugging and abandonment of the well, the pooled unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(6) EGL is hereby designated the operator of the well and of the Unit.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of re-entering, sidetracking, deepening, re-completing and re-equipping the well ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated wells costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed re-entry and re-completion. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(11) The operator is hereby authorized to withhold the following costs and charges from production:

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and

(b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(12) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at $5,000 per month while drilling and $500 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

(15) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

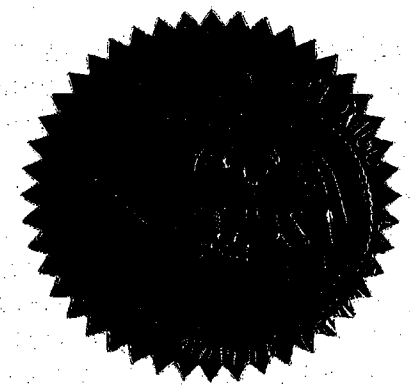
(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) EGL's application, to the extent that is seeks creation of a 640-acre unit comprised of all of Section 4 is 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 Pool.

(19) Jurisdiction of this case is 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery

LORI WROTENBERY
Director