



October 12, 2004

VIA HAND DELIVERY

Mark E. Fesmire, P. E.
Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals & Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

13372

2004 OCT 12 PM 4 00

Re: Application of Devon Energy Production Company, L.P. for approval of an unorthodox well location and authorization to drill a well in the Potash Area, Eddy County, New Mexico.

Dear Mr. Fesmire:

Enclosed is the Application of Devon Energy Production Company, L.P. in the above-referenced case as well as a copy of the proposed legal advertisement. Devon requests that this matter be placed on the docket for the November 4, 2004 Examiner Hearings.

Your attention to this matter is appreciated.

Very truly yours,

William F. Carr
Attorney for Devon Energy Production Company, L.P.

cc: Gail MacQuesten, Esq.
Oil Conservation Division

Mr. Ken Gray
Senior Land Advisor
Devon Energy Production Company, L.P.

Enclosures

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

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR
APPROVAL OF AN UNORTHODOX WELL LOCATION AND AUTHORIZATION TO
DRILL A WELL IN THE POTASH AREA, EDDY COUNTY, NEW MEXICO.**

2009 OCT 4 4:22 PM
CASE NO. 13372
100

APPLICATION

DEVON ENERGY PRODUCTION COMPANY, L.P. ("Devon"), pursuant to the provisions of Oil Conservation Division Order No. R-111-P ("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"), applies to the New Mexico Oil Conservation Division for an order approving the drilling of the its Apache 24 Fee Well No. 7A within the Potash Area at an unorthodox well location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, and in support of this application, states:

1. Devon Energy Production Company is the lessee of certain oil and gas rights under Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. Devon has the right to develop the oil and gas reserves underlying this property.
2. Devon proposes to drill its Apache 24 Fee Well No. 7A at an unorthodox location due to topographic reasons to a total depth of approximately 15500 feet to test the Devonian formation. The well will be a wildcat well in the Devonian formation on a standard 320-acre gas spacing unit comprised of the N/2 of Section 24.

3. The SW/4 NW/4 of Section 24, the tract upon which Devon proposes to drill, is fee land that is located within the Potash Area.

4. Order R-111-P provides that "Before commencing drilling operations for oil or gas on any lands within the Potash Area" the operator of the well shall provide to each potash operator holding a potash lease within a radius of one mile of the proposed well a copy of its Notice of Intention to Drill and plat showing the location of the well. Rule G.(2).

5. Devon followed the provisions of Order R-111-P, and prepared an Application for Permit to Drill (Form C-101) and a Well Location and Acreage Dedication Plat (Form C-102) showing the location of the Apache 24 Fee Well No. 7A. In September 2004, by Certified Mail-Return Receipt Requested, Devon notified IMC Potash Carlsbad, Inc., the lessee of potash reserves within one mile of the proposed well location, of its intent to drill this well and sought IMC's waiver of objection to the proposed location.

6. IMC Potash Carlsbad, Inc. filed written objections to Devon's Application.

7. By letter dated September 20, 2004, the Oil Conservation Division rejected Devon's Application for Permit to Drill.

9. The Division acted improperly in rejecting Devon's Application for Permit to Drill the Apache 24 Fee Well No.7A for the following reasons:

A. While Order No. R-111-P states that "Any application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of the lessor and lessees of both potash and oil and gas interests." Rule G(3),

1. The subject acreage cannot be within a LMR for:

- a. Order No. R-111-P, (A) provides that only potash lessees may designate to the State Land Office and BLM potash deposits considered by the potash lessee to be LMR. Rule G(a),
 - b. Order No. R-111-P makes no provision for an LMR determination when the proposed well location is on fee lands, nor does Order No. R-111-P authorize a potash lessee to designate an LMR over lands not leased to that potash lessee. See, Order No. R-9990, Finding 11, October 18, 1993, and,
 - c. since there are no potash leases covering the SW/4 NW/4 of Section 24, the fee tract upon which Devon proposes to drill cannot be within an LMR, and
2. if this acreage was within an LMR,
 - a. the fee owner of the unleased potash underlying the SW/4 NW/4 of Section 24 has consented to Devon's drilling its proposed Apache 24 Fee Well No. 7A on its acreage and desires to have its oil and gas minerals developed first and in preference to any potash reserves underlying its fee property. See, Order No. R-9990, Finding 14, October 18, 1993, and

b. All parties owning potash and oil and gas interests underlying the SW/4 NW/4 of Section 24 have reached agreement on the extraction of their minerals.

B. Applications to drill outside the LMR will be approved, pursuant to requirements set out therein, provided there is no protest from a potash lessee "within 20 days of his receipt of a copy of the notice." Rule G(3). Here, the application of Devon must be approved because :

1. as shown herein above, this acreage cannot be in an LMR;
2. there are no active mine workings or mined-out areas for more than one mile from the proposed location;
3. if it had a right to object, IMC failed to do so in a timely manner: and
4. Devon has complied with all requirements of Order No. R-111-P.

10. By rejecting this APD, the Division has denied Devon and its lessors, the owners of the underlying oil and gas rights in this property, the opportunity to produce the recoverable oil and gas under their property and unless this application is approved reversed, will cause the waste of hydrocarbons. Devon therefore requests that this matter be set for hearing before an examiner of the Oil Conservation Division.

11. Approval of this application will protect correlative rights for it will afford Devon and the other owners of oil and gas rights the opportunity to produce their just and equitable share of the reserves under their property for it will honor the mutual agreement between the owners of both the potash and oil and gas interests for the development of these fee lands.

12. Approval of this application will otherwise be in the best interest of conservation and the prevention of waste.

WHEREFORE, Devon Energy Production Company, L.P. requests that this application be set for hearing before an Examiner of the Oil Conservation Division on November 4, 2004, and that, after notice and hearing, the Division enter its order authorizing Devon to drill its proposed Apache 24 Fee Well No. 7A at the proposed unorthodox well location in Unit E of Section 24, Township 22 South, Range 30 East.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

William F. Carr
P.O. Box 2208
Santa Fe, NM 87504-2208
505/988-4421 (telephone)

ATTORNEYS FOR DEVON ENERGY
PRODUCTION COMPANY, L.P.

PROPOSED LEGAL AD:

CASE 13372:

Application of Devon Energy Production Company, L.P. for approval of an unorthodox well location and authorization to drill a well in the Potash Area, Eddy County, New Mexico. Applicant seeks an order approving the drilling of its proposed Apache 24 Fee Well No. 7A within the Potash Area at an unorthodox well location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. This well will be drilled to an approximate depth of 15,500 to as a wildcat well to test the Devonian formation. Said location is within the Potash Area and located approximately 8 miles east of Carlsbad, New Mexico.



October 14, 2004

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Mr. Dan Morehead, Superintendent
Mine Engineering and Construction
IMC Potash Carlsbad Inc.
Post Office Box 71
Carlsbad, New Mexico 88221-0071

New Mexico State Land Office
Oil, Gas and Minerals Division
Post Office Box 1148
Santa Fe, New Mexico 87504-1148
Attention: Mr. Jeff Albers

Bureau of Land Management
620 East Green Street
Carlsbad, New Mexico 88220-6292
Attention: Craig Cranston

Case 13372

Re: Application of Devon Energy Production Company, L.P. for approval of an unorthodox well location and authorization to drill a well in the Potash Area, Eddy County, New Mexico.

Gentlemen:

This letter is to advise you that Devon Energy Production Company, L.P. has filed the enclosed application with the New Mexico Oil Conservation Division seeking approval of an unorthodox well location and an order approving the drilling of its Apache 24 Fee Well No. 7A at an unorthodox gas well location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. the well will be drilled as a wildcat well to test the Devonian formation. This acreage is located in the Potash Area as defined by Division Order No. R-111-P.

This application has been set for hearing before a Division Examiner on November 4, 2004. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 1208.B to file a Pre-Hearing Statement at the Santa Fe Office of the Oil Conservation Division located at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505, three days in advance of a scheduled hearing. This statement must include: the names of the parties and their attorneys; a

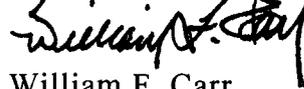
October 14, 2004

Page 2

HOLLAND & HART  LLP

concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

Very truly yours,



William F. Carr
ATTORNEY FOR DEVON ENERGY
PRODUCTION COMPANY, L.P.

Enclosure