

# MILLER STRATVERT

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- \* New Mexico Board of Specialization Recognized Specialist in Natural Resources - Oil & Gas Law
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# RECEIVED

June 3, 2004

## HAND-DELIVERED

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

JUN - 3 2004

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Re: NMOCC Case No. 13048; Application of Devon Energy Production Company, L.P.  
for Compulsory Pooling, Lea County New Mexico

NMOCC Case No. 13049; Application of EGL Resources, Inc. for Compulsory  
Pooling, Lea County, New Mexico; Order No. R-11962 De Novo

Dear Mr. Fesmire:

Enclosed for filing is our Motion for Continuance in the above-reference consolidated matters presently set for hearing before the Commission on June 17th. Your expedited consideration of the motion would be appreciated.

Thank you.

Very truly yours,

MILLER STRATVERT P.A.



J. Scott Hall

JSH/glb

cc: Thomas Kellahin, Esq.  
James G. Bruce, Esq.  
Gail MacQuesten, Esq.

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

RECEIVED

JUN - 3 2004

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

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Case No. 13048  
Order No. R-11962 *De Novo*

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

Case No. 13049  
Order No. R-11962 *De Novo*

**MOTION FOR CONTINUANCE**

EGL RESOURCES, INC., ("EGL"), and ROBERT LANDRETH , ("Landreth"), move the Commission enter its order continuing the hearing de novo in this matter from the June 17, 2004 Commission hearing docket to the July 15, 2004 docket. As grounds for this Motion, EGL and Landreth state:

Movants have been unsuccessful in obtaining resolution of (1) their April 6, 2004 Motion To Dismiss, (2) the May 10, 2004 Motion To Compel, and (3) the May 11, 2004 request for a Rule 1211.B pre-hearing conference. As a consequence, the scope of matters to be considered at the hearing is uncertain and the movants are unable to prepare to meet the unspecified issues or identify necessary witnesses and exhibits in the limited time remaining before the scheduled hearing.

Further, the ongoing disobedience by Devon Energy Production Company to the Division's March 2, 2004 subpoena duces tecum that is the subject of the Motion To Compel prevent movants from obtaining documents and information reasonably necessary for their defense.


There is no currently effective pre-hearing letter order establishing deadlines for the submission of exhibits and Pre-Hearing Statements identifying issues and witnesses and setting forth witness testimony summaries. (See Rule 1208.B.) Presumably, based on past agency practice, Pre-Hearing Statements and exhibits would be due by June 11<sup>th</sup>. However, given the uncertainty with respect to the scope of the hearing, there is no longer sufficient time remaining before the June 11<sup>th</sup> deadline or the June 17<sup>th</sup> hearing to allow movants to adequately prepare.

Under NMSA 1978 Section 70-2-25, a hearing de novo before the Commission is the last opportunity for the parties to establish a record upon which agency action is to be based. There is a substantial likelihood that EGL and Landreth will be prejudiced should the June 17<sup>th</sup> hearing de novo be allowed to proceed.

We attempted to obtain concurrence from Devon's counsel, our telephone calls have not been returned. Southwestern Energy Production Company's counsel did return our calls but we were unable to speak directly before this motion was filed and therefore, Southwestern's position is unknown.

WHEREFORE, EGL and Landreth request the Commission enter its order continuing the hearing de novo in this matter to the July 15, 2004 hearing docket.

Respectfully submitted,  
MILLER STRATVERT P.A.

By:   
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Attorneys for EGL Resources, Inc. and  
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### Certificate of Mailing

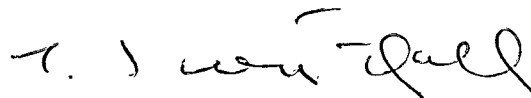
I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 3 day of June, as follows:

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J. Scott Hall