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July 30, 2003

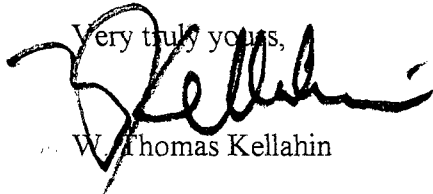
**HAND DELIVERED**

Ms. Lori Wrotenbery, Chair  
Oil Conservation Commission  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: Devon's Motion to Vacate Commission hearing  
NMOCD Cases 12048 and 13049 (denovo)

Dear Ms. Wrotenbery:

On behalf of Devon Energy Production Company, L.P. ("Devon"), please find enclosed our referenced motion to vacate the hearing set by the Commission on its August 14, 2003 docket.

Very truly yours,  
  
W. Thomas Kellahin

Copies hand delivered or faxed to:  
Carol Leach, Esq.  
Attorney for the Secretary of the Energy,  
Minerals and Natural Resources Department  
J. Scott Hall, Esq.  
Attorney for EGL Resources, Inc.  
Devon Energy Production Company, L.P.  
Attn: Richardson Winchester

**RECEIVED**  
JUL 30 2003  
Oil Conservation Division

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

**CASE 13048 (de novo)**

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

**CASE 13049 (de novo)**

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

**ORDER R-11962**

**DEVON ENERGY PRODUCTION COMPANY, L.P.'S  
VACATE COMMISSION'S HEARING  
PENDING A DIVISION ORDER IN CASE 13085**

DEVON ENERGY PRODUCTION COMPANY, L.P. ("Devon") moves that the New Mexico Oil Conservation Commission ("Commission") vacate its DeNovo hearing set for August 14, 2003 in Division Cases 13048 and 13049 until such time as the Division entered an order in Case 13085, and as grounds for its Motion, Devon states:

- (1) On July 2, 2003, the Commission granted EGL Resources, Inc. and Robert Landreth's motion to continue the De Novo hearing then set on July 17, 2003 "until the Division has had the opportunity to deliberate on a separate but related Application (Case No 13085...)" See EGL/Landreth motion attached.

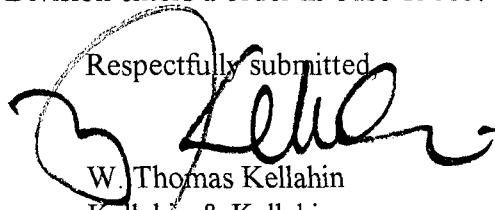
- (2) EGL/Landreth justified its motion to continue contending that "a duplicative hearing can be avoided" because "It is anticipated that the re-entry and deepening of the Rio Blanco well will be completed by mid-August and that actual well geologic and production data will be available for presentations to the Division..."
- (3) In addition, EGL/Landreth stated, "it is apparent that continuing the hearing on the de novo applications furthers administrative efficiency, avoids the possibility of convening an unnecessary hearing, and is otherwise well-advised. Moreover, no harm or prejudice accrues to any party from a continuance."
- (4) On July 2, 2003, the Commission granted EGL/Landreth motion to continue without specifying a hearing date.
- (5) Contrary to EGL/Landreth motion, on July 28, 2003, the Commission posted on its website its August 14, 2003 docket showing a hearing set for Cases 13048 and 13049.
- (6) We have discussed the possibility of a continuance with Landreth's counsel and were informed that Landreth now opposes the continuance he had originally requested because Landreth has a term assignment of the SE/4 of Section 4 that is schedule to expire on October 24, 2003.
- (7) If response, Devon comments that Landreth took this term assignment on October 25, 1998, it is neither Devon's fault that Landreth has waited almost 5 years to save his deal nor is it the Commission's responsibility to save Landreth's term assignment. If Landreth really believed his 2-D seismic interpretation, he could have and should have re-entered the Rio Blanco 4-1 well years ago to establish production and gather sufficient data to satisfy the Division that the SE/4 of Section 4 should be part of this well's spacing unit. Landreth delayed re-entry of the Rio Blanco 4-1 because he has no faith in his 2-D seismic interpretation, choosing instead to seek to obtain Devon's 3-d seismic data.

**RELIEF REQUESTED**

The Commission should be concerned with administrative efficiency and want to avoid fragmentation. Fairness dictates one technical hearing. It is because of EGL/Landreth's actions that these cases were continued.

In order to save the Commission for hearing the same technical evidence and arguments in multiple separate proceedings and hearings, the Commission should do what EGL/Landreth requested on July 2, 2003 and exercise its inherent authority and common sense to vacate its hearing of these compulsory pooling until the Division enters an order in Case 13085.

Respectfully submitted



W. Thomas Kellahin  
Kellahin & Kellahin

P. O. Box 2265

Santa Fe, New Mexico 87504

Attorney for Devon Energy Production Company, L.P.

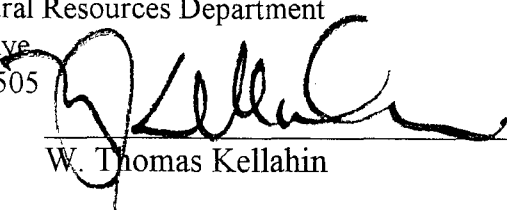
**CERTIFICATE OF SERVICE**

I, W. Thomas Kellahin, certify that a true and correct copy of this pleading on July 30, 2003 was hand delivered or transmitted by facsimile as follows:

Lori Wrotenbery, Chair  
New Mexico Oil Conservation Commission  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

J. Scott Hall, Esq.,  
150 Washington Ave, Suite 300  
Santa Fe, New Mexico 87501  
Attorney for EGL Resources and Robert Landreth.

Carol Leach, Esq.  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

  
W. Thomas Kellahin

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

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION COMMISSION FOR  
THE PURPOSE OF CONSIDERING:

**RECEIVED**

JUL 2 2003

Oil Conservation Division

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

CASE NO. 13048

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

CASE NO. 13049

ORDER NO. R-11962

DE NOVO

**MOTION FOR CONTINUANCE**

E.G.L. Resources, Inc., ("EGL"), and Robert Landreth, ("Landreth"), move the Commission enter its order continuing the hearing on these consolidated Applications now set for July 17, 2003 until the Oil Conservation Division has had the opportunity to deliberate on a separate but related Application (Case No. 13085; *Application of EGL Resources, Inc and Robert Landreth for Pool Extension for the North Bell Lake-Devonian Gas Pool, or Alternatively, for Pool Creation and Special Pool Rules, and Expansion of Gas Spacing and Proration Unit, Lea County, New Mexico*). Case No. 13085 is presently scheduled to be heard by the Division's Examiner on August 21<sup>st</sup>. Resolution of the Division proceeding will be based on technical geologic and engineering evidence derived from actual well data and gives rise to a substantial

likelihood that the issues precipitated by this de novo appeal may be obviated, making a hearing in this matter unnecessary.

As grounds for this motion, EGL and Landreth state:

### **BACKGROUND FACTS**

EGL is the operator of the Rio Blanco "4" Federal Well No. 1 well located at a standard location (Unit F) 1980 feet from the north and west lines of Section 4, T-23-S, R-34-E in Lea County. EGL has commenced re-entry operations to deepen the Rio Blanco well from the Morrow formation to the Devonian formation. A work-over rig has recently completed operations and EGL and Devon have recently engaged in extensive consultations to create a plan of operations for the drilling and completion of the well. A deep drilling rig is scheduled to move onto location in the next few days and it is expected the deepened well will be completed by approximately August 15, 2003.

The Section 4 lands dedicated to the Rio Blanco "4" well have been the subject of competing compulsory pooling applications brought by EGL and Devon. Devon's Application in Case No. 13048 sought the creation of a 320-acre N/2 unit. EGL's Application in Case No. 13049 sought the creation of a 640-acre unit. The Division consolidated the two applications for hearing on April 10, 2003 and subsequently issued Order No. R-11962 on May 13, 2002.

In Order No. R-11962, the Division interpreted its well spacing and acreage dedication requirements under Rule 104 and determined that 320-acre "wildcat" well spacing applied. Accordingly, the Order pooled the Devonian formation mineral interests underlying the N/2 of Section 4 to form a 320-acre spacing unit. The Division's findings

in this regard were not based on any technical evidence. Rather, they were based solely on an interpretation of the phraseology of Rule 104.

On May 15, 2003, following the issuance of Order No. R-11962, EGL and Landreth filed an Application for Hearing De Novo in order to have the Commission further consider the Division's interpretation of its acreage dedication rules consistent with established agency precedent. Devon filed its own Application for Hearing De Novo on May 27<sup>th</sup>.

Under Order No. R-11962, the Division invited EGL and Landreth to file a separate application to expand the 320-acre unit in the context of an application to extend the limits of the North Bell Lake Devonian Gas Pool, the pool rules for which provide for 640-acre spacing units. (Order No. R-11962, finding 17). EGL and Landreth accordingly filed their Application in this matter with the Division on May 23, 2003 (Case No. 13085). Subsequently, on June 25, 2003, EGL and Landreth filed an Amended Application seeking the additional, alternative relief of the creation of a new pool consisting of the entirety of Section 4, along with special pool rules providing for 640 acre spacing and commensurate well location requirements.

It is anticipated that the re-entry and deepening of the Rio Blanco well will be complete by mid-August and that actual well geology and production data will be available for presentation to the Division Examiner on August 21<sup>st</sup> to support EGL's Application in Case No. 13085.

A determination in Case No. 13085 that 640-acre spacing is appropriate for the subject lands will have the practical effect of eliminating any further consideration by the Commission of the Division's interpretation of the "wildcat well" definition under Rule 104 and therefore a duplicative hearing can be avoided in that respect.

Conversely, the same cannot be said of this de novo hearing if it is to proceed and an order upholding the Division's interpretation of Rule 104 is entered. Even if 320-acre spacing is upheld under the generic, statewide spacing rule in this case, the hearing on the separate application to extend the North Bell Lake-Devonian Gas Pool or, alternatively, to create a new pool and establish 640-acre spacing under special pool rules will continue in any event.

In a worst-case scenario, it is also possible that the well that is the subject of both proceedings will be a dry-hole, making hearings in either case unnecessary.

Under any of these scenarios, it is apparent that continuing the hearing on the de novo applications furthers administrative efficiency, avoids the possibility of convening an unnecessary hearing, and is otherwise well-advised. Moreover, no harm or prejudice accrues to any party from a continuance.<sup>1</sup>

We have previously discussed the possibility of requesting a continuance with Devon's counsel, however no commitments were made on either side. We have since attempted to communicate with Devon's counsel regarding this motion, but without success. Consequently, we cannot represent whether Devon either concurs with or opposes a request to continue the hearing in this matter.

#### **RELIEF REQUESTED**

WHEREFORE, EGL and Landreth request the Commission Chairperson enter her order continuing the hearing in this matter until after the Division has had the opportunity to consider the pending application in Case No. 13085.

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<sup>1</sup> As additional grounds for this motion, counsel for the movants is expected to attend a previously-scheduled hearing in District Court in Farmington on July 17<sup>th</sup>, the same day the de novo hearing is set to be heard. (See Notice of Hearing, Exhibit 1, attached.)



Respectfully submitted,

MILLER STRATVERT P.A.

By: T. Scott Hall

J. Scott Hall  
Attorneys for EGL Resources, Inc. and  
Robert Landreth  
Post Office Box 1986  
Santa Fe, New Mexico 87504-1986  
(505) 989-9614

Certificate of Mailing

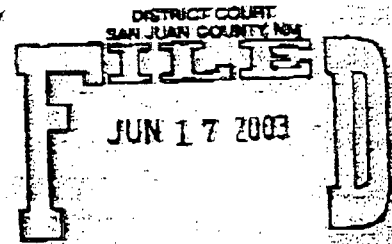
I hereby certify that a true and correct copy of the foregoing was faxed to  
counsel of record on the 2 day of July 2003, as follows:

Thomas Kellahin, Esq.  
Post Office Box 2265  
Santa Fe, New Mexico 87504  
Attorney for Devon Energy Production Company, LP

Carol Leach, Esq.  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 98504

T. Scott Hall  
J. Scott Hall

STATE OF NEW MEXICO  
COUNTY OF SAN JUAN  
ELEVENTH JUDICIAL DISTRICT COURT



EQUIVA TRADING COMPANY, et al., Plaintiffs

vs.

PLAYA MINERALS & ENERGY, INC., et al., Defendants

Case Number: D-1116-CV-200200683

Dated: June 17, 2003

**NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that the above cause will be called for Hearing before the Honorable DOUGLAS A ECHOLS, as indicated:

TIME: 08:30 AM DATE: Thursday, July 17, 2003

PLACE: FARMINGTON DISTRICT COURTHOUSE, 920 MUNICIPAL DRIVE,  
FARMINGTON, NM

Nature Of Hearing: SJ & all other pending motions.

**COMMENTS:**

If this hearing requires more or less time than the court has designated, or if this hearing conflicts with any prior settings, please contact us immediately as continuances will not be granted on late notice. The District Court complies with the Americans with Disabilities Act. Counsel or PRO SE persons must notify the Clerk of the Court of the nature of the disability at least five (5) days before ANY hearing so appropriate accommodations may be made. The same requirement applies if an interpreter will be needed.

Weldon Neff

CLERK OF THE DISTRICT COURT

By: Stacey Biel  
STACEY BIEL

\*\*\*\*\* FILE COPY \*\*\*\*\*

I hereby certify that a copy of the foregoing was mailed to :  
THOMAS P DUGAN, Attny & RICHARD T. C. TULLY, Attny & RICHARD J PARMLEY JR,  
Attny & CASEY MARTINEZ, Party & CURTIS R GURLEY, Attny & BENJAMIN SILVA JR,  
Attny & STEVEN R SZUMLINSKI, Party & F. CHESTER MILLER III, Attny & RICHARD  
L. GERDING, Attny & B TOMMY ROBERTS, Attny & J. SCOTT HALL, Attny

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

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION COMMISSION FOR  
THE PURPOSE OF CONSIDERING:

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

CASE NO. 13048

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

CASE NO. 13049

ORDER NO. R-11962  
*DE NOVO*

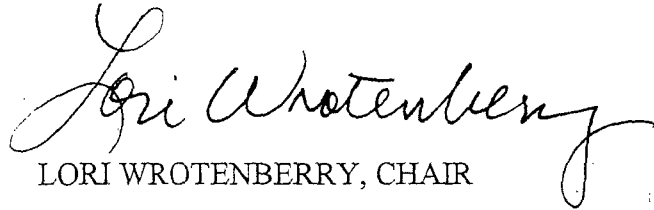
**ORDER GRANTING MOTION FOR CONTINUANCE**

THIS MATTER, having come before the Chair of the New Mexico Oil Conservation Commission on motion of E.G.L. Resources, Inc. and Robert Landreth to continue the hearing scheduled on July 17, 2003, for Case No. 13048 and Case No. 13049 and the Chair being advised that counsel for E.G. L. Resources is scheduled to appear before the Eleventh Judicial District Court on July 17, 2003, grants the motion for continuance filed by E.G.L. Resources and Robert Landreth.

IT IS THEREFORE ORDERED that the hearings scheduled for July 17, 2003, in  
Case No. 13048 and Case No. 13049 are hereby continued.

DONE at Santa Fe, New Mexico on the 2<sup>nd</sup> day of July 2003.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

  
LORI WROTENBERRY, CHAIR

SEAL