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Attorney at Law

W. Thomas Kellahin
New Mexico Board of Legal
Specialization Recognized Specialist
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April 7, 2003

RECEIVED

APR 7 2003

HAND DELIVERED
AND VIA FACSIMILE

Oil Conservation Division

Mr. David R. Catanach
David Brooks, Esq.
Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Re: Devon's Motion to Dismiss
NMOCD Case 13049
Application of EGL Resources, Inc.
For Compulsory Pooling
Lea County, New Mexico

Dear Gentlemen:

On behalf of Devon Energy Production Company, L.P., please find enclosed our motion to dismiss the referenced application. I would appreciate your consideration of this motion prior to the hearing set for April 10, 2003.

Very truly yours,



W. Thomas Kellahin

CC: J. Scott Hall, Esq.
Attorney for EGL Resources, Inc.
Devon Energy Production Company, L.P.
Attn: Richardson Winchester

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

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

CASE NO. 13049

**DEVON ENERGY PRODUCTION COMPANY, L.P.'S
MOTION TO DISMISS
APPLICATION OF
EGL RESOURCES, INC.**

DEVON ENERGY PRODUCTION COMPANY, L.P. ("Devon") moves that the New Mexico Oil Conservation Division ("Division") dismiss the compulsory pooling application of EGL Resources, Inc. ("EGL") because its application seeks to pooling acreage in violation of Division Rule 104, and in support states:

1. EGL, in Case 13049, seeks to pooling all of Section 4, T23S, R34E to form a 640-acre spacing unit to be dedicated to the North Bell Lake-Devonian Gas Pool (the "Pool") for any Devonian production from the Devon operated Rio Blanco "4" Federal Well No. 1 (the Well") located 1980 feet from the North and West lines of this section.
2. The Special Rules for the Pool (Order R-6424) require 640-acre spacing units but limits these rules to any well completed "within one mile of thereof..."
3. The eastern most boundary of the Pool is exactly 1 mile for the western edge of Section 4. See Exhibit "A" attached.
4. Because the well is located 1 mile from this pool boundary, it is not "within one mile" and these special pool rules do not apply to this well.

5. In addition, the western side of Section 4 is exactly one mile from the eastern side of the Pool and in accordance with Division Rule 104(1)(b) the well is classified as a "Wildcat well" because it is a distance of one mile or more from the outer boundary of this Pool.

6. Division Rule 104 provide that if the spacing unit for the well is one mile or more from the Pool, then the well is a wildcat and must be dedicated to a 320-acre spacing unit.

7. In order for EGL's application to be correct two things must happen: (a) the Pool rules would have to have been written to say they apply "if the well or its spacing unit is one mile or less" and (b) Rule 104(1)(b) would have to be amended to provide "if the well's spacing unit is more than one mile." To the contrary, Rule 104 says that if the spacing unit for the well is one mile or more from the Pool, then the well is a wildcat, and the Pool's special rules only apply if the distance is less than 1 mile from the well to the nearest outer boundary of the Pool.

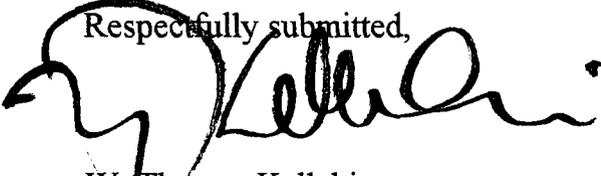
8. In recognition of the accuracy of Devon's position, on January 27, 2003, the BLM approved Devon's sundry notice to deepen the well from the Atoka and whipstock it to the Devonian. See **Sundry Notice and C-102 attached as Exhibit "B-1 and B-2"**

9. The Division (OCD-Hobbs) receives a copy of Devon's Sunday Notice from the BLM and when the work it completed will issue the Division's approval. The OCD-Hobbs has advised Devon that this re-entry is a "wildcat." See **transcript of telephone message from Paul Kautz to W. Thomas Kellahin on March 27, 2003 attached as Exhibit "C"**

In summary, if the well's spacing unit is exactly 1 mile from the pool outer boundary then it is to be dedicated to a standard 320-acre spacing unit. Devon has done just that: Devon seeks to pool the N/2 of Section 4 to its proposed deepening of the Rio Blanco "4" Federal Well No. 1 (Case 13048) The Pool's special rules do not apply unless the distance is less than 1 mile.

NMOCD Case 13049
Devon's Motion to Dismiss
Page 3

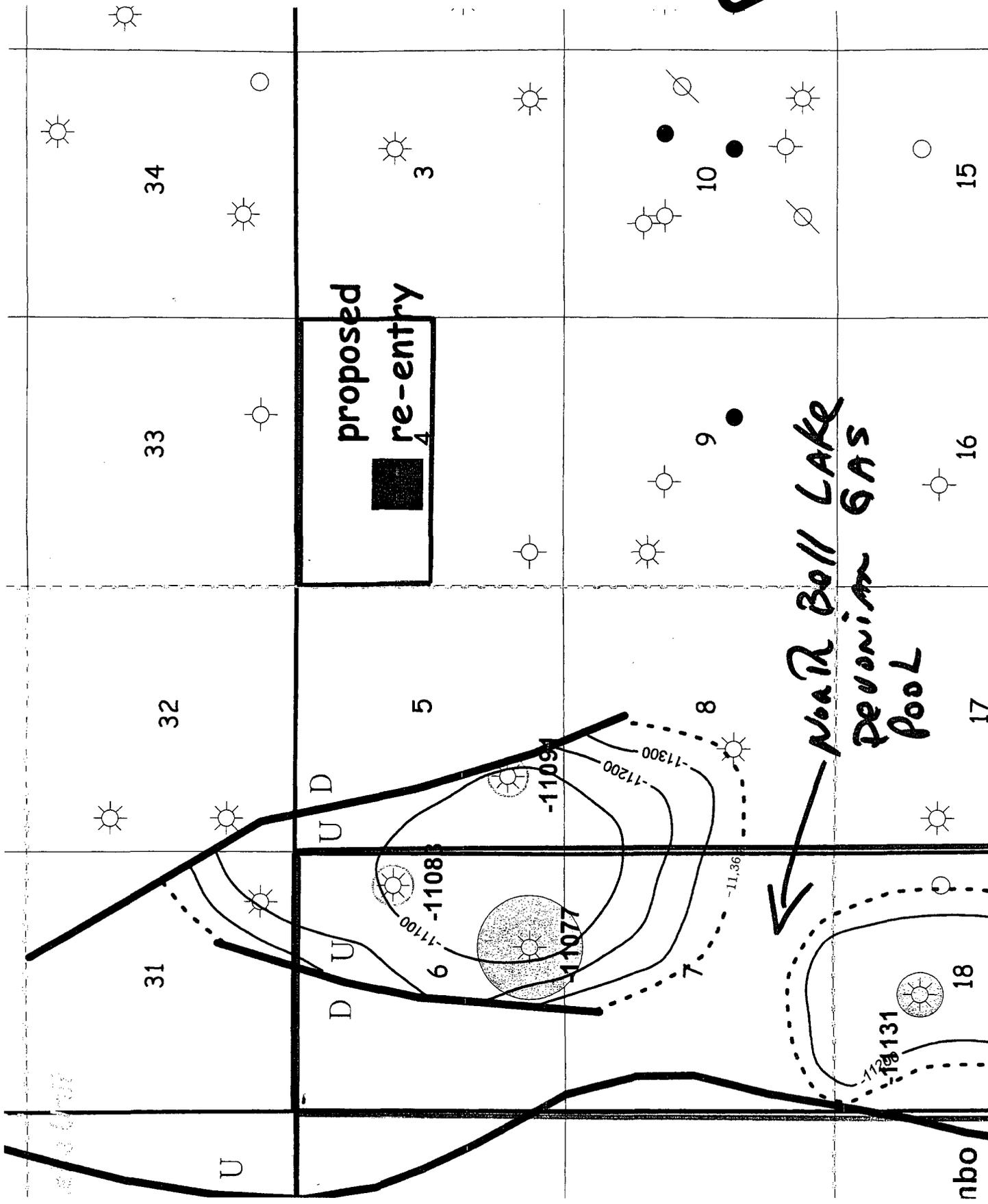
Wherefore, Devon moves that the Division grant this motion to dismiss case 13049.

Respectfully submitted,

W. Thomas Kellahin

CERTIFICATE OF SERVICE

I, W. Thomas Kellahin, certify that a true and correct copy of this pleading was transited on April 7, 2003 by facsimile to J. Scott Hall, Esq., attorney for EGL Resources and Robert Landreth.


W. Thomas Kellahin



proposed
re-entry

near Ball Lake
Devonian GAS
POOL

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Jan 31 03 02:56p

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Form 3160-5
(August 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SUNDRY NOTICES AND REPORTS ON WELLS
Do not use this form for proposals to drill or to re-enter an abandoned well. Use form 3160-3 (APD) for such proposals.

FORM APPROVED
OMB NO. 1004-0135
Expires: November 30, 2000

SUBMIT IN TRIPLICATE - Other instructions on reverse side.

1. Type of Well <input type="checkbox"/> Oil Well <input checked="" type="checkbox"/> Gas Well <input type="checkbox"/> Other	5. Lease Serial No. NMNM92199
2. Name of Operator DEVON ENERGY PRODUCTION CO LP	6. If Indian, Allottee or Tribe Name
3a. Address 20 NORTH BROADWAY, SUITE 1500 OKLAHOMA CITY, OK 73102	7. If Unit or CA Agreement, Name and/or No. NMNM103152
3b. Phone No. (include area code) Ph: 405.228.7512 Fx: 405.552.4621	8. Well Name and No. RIO BLANCO 4 FED 01
4. Location of Well (Footage, Sec., T., R., M., or Survey Description) Sec 4 T23S R34E SENW 1980FNL 1980FWL	9. API Well No. 30-025-34515-00-S1
	10. Field and Pool, or Exploratory WILDCAT
	11. County or Parish, and State LEA COUNTY, NM

12. CHECK APPROPRIATE BOX(ES) TO INDICATE NATURE OF NOTICE, REPORT, OR OTHER DATA

TYPE OF SUBMISSION	TYPE OF ACTION
<input checked="" type="checkbox"/> Notice of Intent	<input type="checkbox"/> Acidize
<input type="checkbox"/> Subsequent Report	<input type="checkbox"/> Alter Casing
<input type="checkbox"/> Final Abandonment Notice	<input type="checkbox"/> Casing Repair
	<input type="checkbox"/> Change Plans
	<input type="checkbox"/> Convert to Injection
	<input checked="" type="checkbox"/> Deepen
	<input type="checkbox"/> Fracture Treat
	<input type="checkbox"/> New Construction
	<input type="checkbox"/> Plug and Abandon
	<input type="checkbox"/> Plug Back
	<input type="checkbox"/> Production (Start/Resume)
	<input type="checkbox"/> Reclamation
	<input type="checkbox"/> Recomplete
	<input type="checkbox"/> Temporarily Abandon
	<input type="checkbox"/> Water Disposal
	<input type="checkbox"/> Water Shut-Off
	<input type="checkbox"/> Well Integrity
	<input type="checkbox"/> Other

13. Describe Proposed or Completed Operation (clearly state all pertinent details, including estimated starting date of any proposed work and approximate duration thereof. If the proposal is to deepen directionally or recomplete horizontally, give subsurface locations and measured and true vertical depths of all pertinent markers and zones. Attach the Bond under which the work will be performed or provide the Bond No. on file with BLM/BIA. Required subsequent reports shall be filed within 30 days following completion of the involved operations. If the operation results in a multiple completion or recompletion in a new interval, a Form 3160-4 shall be filed once casing has been completed. Final Abandonment Notices shall be filed only after all requirements, including reclamation, have been completed, and the operator has determined that the site is ready for final inspection.)

Devon Energy Production Company LP request approval to perform a casing exit from the existing casing @approx 10,900 and drill to a projected target 50 North and 50 West of the surface location to test the Devonian formation with a projected TD of 15,003 MD and 15,000 TVD. Prior to this work the existing Atoka perforations will be abandoned by setting a CIBP @approx 12,000 and capping with 35ft cement. A CIBP will then be set at 10,900 and a casing bottom trip whipstock will be set on top of the CIBP. See attached for cement and casing designs.

14. I hereby certify that the foregoing is true and correct.

Electronic Submission #17843 verified by the BLM Well Information System
For DEVON ENERGY PRODUCTION CO LP, sent to the Hobbs
Committed to AFMS for processing by Armando Lopez on 01/21/2003 (GSAL0038SE)

Name (Printed/Typed) KAREN COTTOM	Title ENGINEERING TECHNICIAN
Signature (Electronic Submission)	Date 01/21/2003

THIS SPACE FOR FEDERAL OR STATE OFFICE USE

Approved By GARY GOURLEY	Title PETROLEUM ENGINEER	Date 01/27/2003
Conditions of approval, if any, are attached. Approval of this notice does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.		
Office Hobbs		

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

**** REVISED ** REVISED ****



DISTRICT I
P. O. Box 1980
Hobbs, NM 88241-1980

State of New Mexico
Bure Minerals, and Natural Resources D lment

Form C-102
Revised 02-10-94
Instructions on back

DISTRICT II
P. O. Drawer DD
Artesia, NM 88211-0719

OIL CONSERVATION DIVISION
P. O. Box 2088
Santa Fe, New Mexico 87504-2088

Submit to the Appropriate
District Office
State Lease - 4 copies
Fee Lease - 3 copies

AMENDED REPORT

DISTRICT III
1000 Rio Brazos Rd.
Aztec, NM 87410

DISTRICT IV
P. O. Box 2088
Santa Fe, NM 87507-2088

WELL LOCATION AND ACREAGE DEDICATION PLAT

1 API Number 30 025 34515		2 Pool Code		3 Pool Name WILDCAT			
4 Property Code		5 Property Name RIO BLANCO '4' FEDERAL				6 Well Number 1	
7 OGRID No. 6137		8 Operator Name DEVON ENERGY PRODUCTION COMPANY LP				9 Elevation 3404'	

*** SURFACE LOCATION**

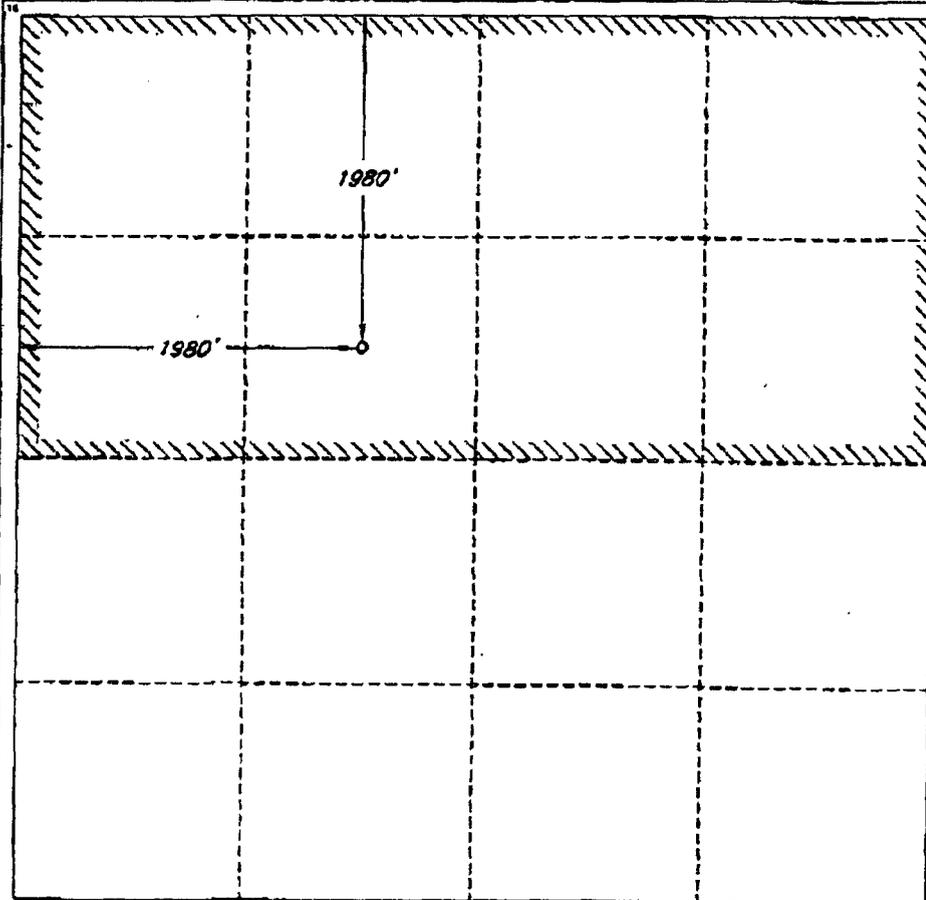
UL or lot no.	Section	Township	Range	Lot 16a	Feet from the	North/South line	Feet from the	East/West line	County
F	4	23 SOUTH	34 EAST, N.M.P.M.		1980'	NORTH	1980'	WEST	LEA

"BOTTOM HOLE LOCATION IF DIFFERENT FROM SURFACE

UL or lot no.	Section	Township	Range	Lot 16a	Feet from the	North/South line	Feet from the	East/West line	County

11 Dedicated Acres 320	12 Joint or Infill	13 Consolidation Code	14 Order No.
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NO ALLOWABLE WELL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION



OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

Bill Greenlees

Printed Name Bill Greenlees
Title Operations Engineer Advisor
Date January 17 2003

SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

Date of Survey 12/18/2002
Signature and Seal of Professional Surveyor <i>Roger M. Robbins</i>
Certificate No. ROGER M. ROBBINS P.S. #12128
JOB #59530 / 46 SW / V.H.B.

EXHIBIT
B-2

Telephone Message
March 27, 2003
To W. Thomas Kellahin

Tom, this is Paul Kautz at the Oil Conservation Division in Hobbs. Area code 505-393-6161, extension 104. I just talk to Richard as Devon on your questions and went ahead and told Richard that I concurred that it would be a wildcat based upon the definition I use. And I basically go from the wellbore to the pool boundary and if that is more than a mile that would be a wildcat. And also, I told him that based upon my memories of the geology of the area, I concur that it would be wildcat anyway. If you have any questions give me a call....



STATEMENT OF THE CASE

APPLICANT:

Devon Energy Production Company, L.P. seeks a compulsory pooling order pooling all mineral interest from the base of the Devonian formation underlying N/2 of Section 4, T23S, R34E, Lea County, New Mexico for be dedicated to its Rio Blanco "4" Federal Well No. 1 to be reentered and deepen to the base of the Devonian formation at a standard well location in Unit F of this section.

PROPOSED EVIDENCE

APPLICANT IN CASE 13048

WITNESSES	EST. TIME	EST. EXHIBITS
Richard Winchester (land)	@ 30 min.	@ 20-30
Steve Hulke (geology)	@ 45 Min.	@ 3
Jim Hager (geology)	@ 45 Min.	@ 3
Bill Greenlees (PE)	@ 30 min	@ 10

PROCEDURAL MATTERS

- (1) Consolidation of OCD Case 13048 and 13049
- (2) Devon's motion to dismiss EGL Resources' Case 13049

KELLAHIN & KELLAHIN



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E-mail: tkellahin@aol.com

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

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APR 7 2003

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

Oil Conservation Division

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

CASE NO. 13048

PRE-HEARING STATEMENT

Devon Energy Production Company, L.P. submits this pre-hearing statement as required by the New Mexico Oil Conservation Division.

APPEARANCES OF THE PARTIES

APPLICANT

Devon Energy Production Company, L.P.
20 North Broadway
Oklahoma City, OK 73102
Attn: Richard Winchester
405-228-4415

ATTORNEY

Thomas Kellahin, Esq.
P. O. Box 2265
Santa Fe, New Mexico 87504
505-9824285

OPPONENT

EGL Resources, Inc.
Robert Landreth

ATTORNEY

J. Scott Hall, Esq.
P. O. Box 1986
Santa Fe, New Mexico 87504
505-989-9614

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

RECEIVED

APR 7 2003

Oil Conservation Division

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

CASE NO. 13049

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

CASE NO. 13048

**RESPONSE TO
DEVON ENERGY PRODUCTION COMPANY, L.P.'S
MOTION TO DISMISS
and
SUPPLEMENT TO THE EGL RESOURCES/LANDRETH
MOTION TO DISMISS**

EGL Resources, Inc. and Robert Landreth hereby respond to the Motion to Dismiss filed on behalf of Devon Energy Production Company, L.P., and further supplement their own Motion To Dismiss filed in Case No. 13048 this same date.

Devon's Motion To Dismiss brings little to the dispute over the applicability of the North Bell Lake-Devonian Gas Pool Special Pool Rules to the Section 5 lands that are the subject of the competing compulsory pooling applications in Case Nos. 13048 and 13049.

First, the Division is in no way bound by the ministerial approval by the Bureau of Land Management of a Sundry Notice form completed by Devon's staff that incorrectly identifies the proposed well as a "wildcat". It is the Division, and not the

BLM, that identifies pools, adopts and applies Special Pool Rules and establishes field-wide rules for well locations and acreage dedication requirements.

Second, the interpretation by the Division's Hobbs District office staff of the Rule 104 is incorrect. In Exhibit C to Devon's Motion to Dismiss, Mr. Kautz indicates "...I basically go from the wellbore to the pool boundary and if that is more than a mile that would be a wildcat." This interpretation is directly at odds with the express language of Rule 104A(1)(b)¹ which directs that such determinations are to be made by measuring from the boundaries of the spacing unit. There is nothing in the rule which says you are to measure "from the wellbore".

Finally, the Division should act in a manner consistent with its prior interpretations and applications of its rules. Accordingly, the Division should regard a previous compulsory pooling order affecting the same lands as determinative of the dispute here.

On April 30, 1991, the Division entered Order No. R-9493 in Case No. 10276² pooling the unjoined interests in the Devonian formation (and other formations) underlying Section 4, T-23-S, R-34-E. Although the well proposed in that case was not drilled, Order No. R-9439 pooled:

"All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas pool which is spaced on 640 acres."

A copy of the relevant excerpts from Order No. R-9493 is attached hereto as Exhibit 1.

¹ [A] wildcat well is any well to be drilled the spacing unit of which is a distance of one mile or more from...

² Application of Pacific Enterprises Oil Company (USA) for Compulsory Pooling, Lea County, New Mexico

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. 10267
Order No. R-9493

APPLICATION OF PACIFIC ENTERPRISES
OIL COMPANY (USA) FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on April 18, 1991, at Santa Fe, New Mexico, before Examiner Jim Morrow.

NOW, on this 30th day of April, 1991, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Pacific Enterprises Oil Company (USA), seeks an order pooling all mineral interests from the surface to the base of the Devonian formation underlying the following described acreage in Section 4, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico, in the following manner: ✓

All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas Pool which is spaced on 640 acres; ✓

Lots 3 and 4, S/2 NW/4 and SW/4 (W/2 equivalent) to form a 320.16-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent which includes, but is not necessarily limited to the Undesignated North Antelope Ridge-Wolfcamp Gas Pool, Undesignated Antelope Ridge-Atoka Gas Pool, Undesignated North Bell Lake-Morrow Gas Pool and the Undesignated Antelope Ridge-Morrow Gas Pool;

EXHIBIT

1

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Devonian formation, underlying the following described acreage in Section 4, Township 23 South, Range 34 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

✓ All of Section 4 to form a 639.52-acre gas spacing and proration unit for the Undesignated North Bell Lake-Devonian Gas Pool which is spaced on 640 acres;

Lots 3 and 4, S/2 NW/4 and SW/4 (W/2 equivalent) to form a 320.16-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent which includes, but is not necessarily limited to the Undesignated North Antelope Ridge-Wolfcamp Gas Pool, Undesignated Antelope Ridge-Atoka Gas Pool, Undesignated North Bell Lake-Morrow Gas Pool and the Undesignated Antelope Ridge-Morrow Gas Pool;

the SW/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent; and,

the NE/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent which presently includes but is not necessarily limited to the Undesignated Northwest Antelope Ridge-Bone Spring Pool.

(2) Said unit(s) are to be dedicated to a well to be drilled at a standard location 1980 feet from the South line and 1980 feet from the West line (Unit K) of said Section 4.

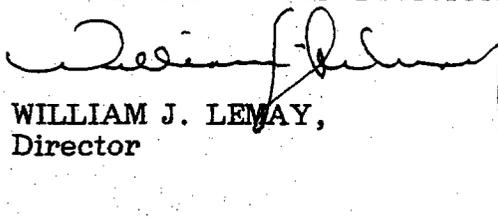
PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of July, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Devonian Formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of July, 1991, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

Case No. 10267
Order No. R-9493
Page 7

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY,
Director

dr/