

**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. 14946  
ORDER NO. R-13703**

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR  
DESIGNATION OF A NON-STANDARD OIL SPACING AND PRORATION  
UNIT, AN UNORTHODOX WELL LOCATION AND COMPULSORY  
POOLING, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on March 21, 2013, at Santa Fe, New Mexico, before Examiners Richard I. Ezeanyim and David K. Brooks. This case and Case No. 14961 were consolidated for purposes of hearing. However, a separate order will be issued in each case.

NOW, on this 30<sup>th</sup> day of April, 2013, the Division Director, having considered the testimony, the record and the recommendations of the examiners,

**FINDS THAT:**

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

(2) Devon Energy Production Company, L.P. ("Applicant"), seeks approval of a non-standard 160-acre oil spacing and proration unit and project area in the Delaware formation [Northwest Fenton-Delaware Pool (Pool Code 24330)], consisting of the W/2 of the E/2 (Units B, G, J and O) of Section 13, Township 21 South, Range 27 East, NMPM, in Eddy County, New Mexico.

(3) Applicant further seeks an order pooling all uncommitted interests in the above described area, as follows:

(a) the NW/4 NE/4 of Section 13, to form a standard 40-acre, more or less, oil spacing and proration unit for the Bone Spring; and

(b) the W/2 E/2 of Section 13, to form a non-standard 160-acre, more or less, spacing unit and project area ("the project area") in the Delaware formation.

(4) The above-described units ("the Units") are to be dedicated to Applicant's Lone Tree Draw 13 State Com. Well No. 4H (API No. 30-015-40522) ("the proposed well"), to be drilled from an unorthodox surface location 150 feet from the North line and 2390 feet from the East line (Unit B) of Section 13. The well will be drilled vertically to the Bone Spring formation at approximately the surface location. A lateral will be drilled from the vertical wellbore in the Delaware formation, horizontally to a terminus, or bottomhole location, 330 feet from the South line and 1980 feet from the East line (Unit O) of Section 13. The completed interval of the lateral in the Delaware will be entirely within the prescribed setbacks from the outer boundaries of the well's project area, and its location will accordingly be deemed standard in the Delaware.

(5) Spacing in the Bone Spring is governed by Division Rule 19.15.15.9 NMAC, which provides for 40-acre units with wells to be located at least 330 feet from the outer boundary of any quarter/quarter section. Hence the well's location will be unorthodox in the Bone Spring. Applicant seeks approval for an unorthodox location in the Bone Spring because, for engineering reasons, this is the most advantageous location to drill the pilot hole for the proposed lateral in the Delaware. Due notice has been given of the proposed non-standard location to all offsetting operators or owners of spacing units in the Bone Spring formation toward which this location will encroach.

(6) Applicant appeared at the hearing through counsel and presented geologic evidence to the effect that:

(a) this area is suitable for development by horizontal drilling;

(b) all quarter-quarter sections to be included in the proposed non-standard unit and project area are expected to be productive in the Delaware, so that formation of the unit as requested will not impair correlative rights; and

(c) drilling north-to-south horizontal laterals in this area in the Delaware continues the existing pattern of development.

(7) No other person appeared at the hearing or indicated to the Division any opposition to this application.

The Division concludes that:

(8) Approval of the proposed project area as a non-standard unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the project area, thereby preventing waste, and will not impair correlative rights.

(9) Two or more separately owned tracts are embraced within the 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.

(10) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Units.

(11) There are interest owners in the Units that have not agreed to pool their interests. There are no unlocated owners in the Units, but there is an unresolved heirship in this title. Accordingly provision for escrow should be included.

(12) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(13) Devon Energy Production Company, L.P. should be designated the operator of the proposed well and of the Units.

(14) 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.

(15) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000 per month while drilling and \$600 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) A non-standard 160-acre oil spacing and proration unit is hereby established in the Delaware formation [Northwest Fenton-Delaware Pool (Pool Code 24330)] consisting of the W/2 of the E/2 (Units B, G, J and O) of Section 13, Township 21 South, Range 27 East, NMPM, in Eddy County, New Mexico:

(2) Pursuant to the application of Devon Energy Production Company, L.P., all uncommitted interests, whatever they may be, in the oil and gas in the above-described area are hereby pooled to form the following units ("the Units):

(a) the NW/4 NE/4 of Section 13, to form a standard 40-acre, more or less, oil spacing and proration unit for the Bone Spring formation; and

(b) the W/2 E/2 of Section 13, to form a non-standard 160-acre, more or less, oil spacing unit and project area ("the project area") in the Delaware formation [Northwest Fenton-Delaware Pool (Pool Code 24330)].

(3) The Units shall be dedicated to Applicant's Lone Tree Draw 13 State Com. Well No. 4H (API No. 30-015-40522) ("the proposed well"), a horizontal well to be drilled from an unorthodox surface location 150 feet from the North line and 2390 feet from the East line (Unit B) of Section 13. The well will be drilled vertically to the Bone Spring formation at approximately the surface location. A lateral will be drilled from the vertical wellbore in the Delaware formation, horizontally to a terminus, or bottomhole location, 330 feet from the South line and 1980 feet from the East line (Unit O) of Section 13.

(4) The unorthodox location of the proposed well in the Bone Spring formation, 150 feet from the North line and 2390 feet from the East line (Unit B) of Section 13, is hereby approved.

(5) The operator of the Units shall commence drilling the proposed well on or before May 1, 2014, and shall thereafter continue drilling the well with due diligence to test the Bone Spring formation.

(6) In the event the operator does not commence drilling the proposed well on or before May 1, 2014, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(7) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the units and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence.

(8) Upon final plugging and abandonment of the proposed well and any other well drilled on the Units pursuant to Division Rule 19.15.13.9 NMAC, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(9) Devon Energy Production Company, L.P. [OGRID 6137] is hereby designated the operator of the well and of the Units.

(10) 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 Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the

Units an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Well costs shall be allocated to pooled working interest owners in proportion to their respective interests in the 160-acre unit; provided that if the well is completed in the Bone Spring in the vertical portion of the wellbore, costs of such completion shall be allocated in proportion to the owners' respective interests in the 40-acre unit.

(12) 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 well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(13) 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 well. 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.

(14) 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.

(15) 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.

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

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000 per month while drilling and \$600 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.

(18) Except as provided in Paragraphs (15) and (17) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division (Attention: Records Clerk) of the name and address of the escrow agent not later than one year from the date of issuance of this Order.

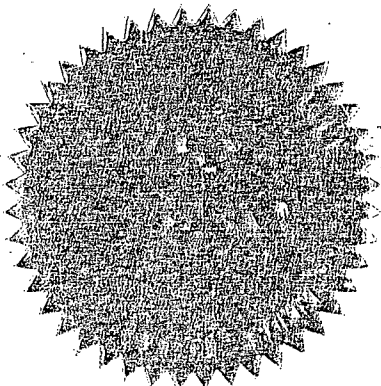
(19) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working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

(20) 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.

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

(22) 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.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Jami Bailey". The signature is fluid and cursive, with a long horizontal stroke at the end.

JAMI BAILEY  
Director