

**KELLAHIN & KELLAHIN**  
**Attorney at Law**

**W. Thomas Kellahin**  
New Mexico Board of Legal  
Specialization Recognized Specialist  
in the area of Natural resources-  
oil and gas law

P.O. Box 2265  
Santa Fe, New Mexico 87504  
117 North Guadalupe  
Santa Fe, New Mexico 87501

Telephone 505-982-4285  
Facsimile 505-982-2047  
kellahin@earthlink.com

July 17, 2003

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**Oil Conservation Division**

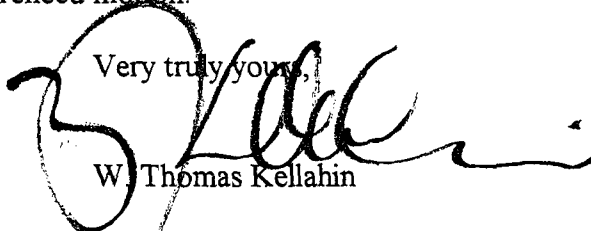
Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: NMOICD Case 13085  
Devon's Response to EGL/Landreth's  
Amended Motion to Stay Devon's Operations.

Dear Ms. Wrotenbery:

On behalf of Devon Energy Production Company, L.P. ("Devon"), please find enclosed our referenced motion.

Very truly yours,

  
W. Thomas Kellahin

Copies hand delivered to:

Carol Leach, Esq.

Attorney for the Secretary of the Energy,  
Minerals and Natural Resources Department

David K. Brooks, Esq.

Attorney for the Commission

J. Scott Hall, Esq.

Attorney for EGL Resources, Inc.

David R. Catanach

Division hearing examiner

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 POOL  
CREATION OR EXPANSION  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 13085**

**DEVON ENERGY PRODUCTION COMPANY, L.P.'S  
RESPONSE TO  
EGL RESOURCES, INC. AND ROBERT LANDRETH'S  
AMENDED MOTION TO STAY**

DEVON ENERGY PRODUCTION COMPANY, L.P. ("Devon") requests that the New Mexico Oil Conservation Division ("Division") deny EGL Resources, Inc. ("EGL") and Robert Landreth ("Landreth") amended motion to stay the operations that Devon has commenced in Section 9 and Section 33, T22S, R34S. EGL/Landreth seek a stay until it has another hearing to determine if the Division will confirm its decision that Section 4 is subject to 320-acre gas well spacing rules. As grounds for this pleading, Devon states:

**SUMMARY**

EGL/Landreth makes no attempt to argue that Devon's operations in Sections 9 and 33 are anything other than properly conducted in accordance with Division rules and orders. Instead, they want the Division to deny Devon the opportunity to protect its correlative rights, while precluding Devon from obtaining reservoir data for which to determined well density for Section 4 and accept EGL/Landreth's speculation about a 640-acre spacing unit for Section 4.

EGL/Landreth assertion that the Rio Blanco 4-1 well, with 7 days of production, can provide data to decided well density in Section 4, coupled with its additional assertion that the Division should deny Devon's right to drill in Sections 33 and 9 is nothing short of preposterous. EGL/ Landreth's claimed is nothing more than an invitation that the Division should ignore its rules and orders, and based upon speculation, should prevent Devon from conducting operations authorized by the Division. If the Division stays Devon its order will be arbitrary and capricious and Devon will have no alternative but to seek judicial relief.

Originally, EGL/Landreth asked the Division to assert jurisdiction over Federal lands to prevent Devon from continuing operations in Section 33, T23S, R34E.<sup>1</sup> Now EGL/Landreth's latest motion<sup>2</sup> seeks to prevent Devon's from conducting operations in Section 9, T23S, R34E as another attempt in EGL/Landreth's continuing efforts to attempt to preclude Devon's from obtaining data relevant to Devonian well density in Section 4.

### **EGL/LANDRETH'S NEW ARGUMENTS ARE WITHOUT MERIT**

Not only does EGL/Landreth now seek to stay Devon's operations in Section 9, they also raise new arguments that are without merit.<sup>3</sup>

#### **(1) EGL/LANDRETH CLAIM OF TECHNICAL DATA**

EGL/Landerth claim that they will have completed the Rio Blanco 4-1 well by August 15 and seven days later at the hearing set on August 24, 2003 "should be able to provide additional information probative of several of the issues in the Application." EGL/Landreth omit any explanation of what are the issues and what is the information. It is extremely unlikely that 7 days of production and testing will provide the conclusive data necessary to overturn the current 320-acre spacing.<sup>4</sup>

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<sup>1</sup> EGL/Landreth's original motion filed on June 26, 2003

<sup>2</sup> Now EGL/Landreth's seek, filed July 11, 2003, to stay Devon's operations that is has commenced in Section 9

<sup>3</sup> By this response, Devon incorporates by reference it original response filed on July 2, 2003 to EGL/s Landreth's original Motion to Stay Devon.

<sup>4</sup> EGL has refused Devon repeated and exhaustive efforts to have EGL's adopt Devon's plain of operation for the Rio Blanco 4-1 well that would have gather Devonian reservoir data.

Assuming the Division will apply Rule 1220.B criteria to this motion, EGL/Landreth failed to comply with Division Rule 1220.B. If EGL/Landreth really believed that this case should be decided on technical evidence, then they should be encouraging Devon to obtain that data from wells on which it has commenced operations on in Section 9 and 33.

EGL/Landreth now claim that Section 9 must be added to its requested to Stay of Devon's operations. EGL/Landreth claim that all it wants is for the Division to alter existing "well density" based upon technical data. EGL/Landreth's actions are inconsistent with its claims. If EGL/Landreth truly wanted these disputes decided based upon technical evidence, why then have they refused Devon's plan of operations that will help obtain that data from the Rio Blanco 4-1 well; why then do they want to prevent Devon from continuing its operations in adjoining sections that are further attempts to obtain important data, and why do they not want to protect Devon's and its partners correlative rights.

EGL/Landreth ignore Devon's request for obtaining data from the Rio Blanco 4-1 well, but wants to Stay Devon's operations based on nothing more than EGL/Landreth's speculation about well density.

## **(2) WASTE:**

Originally, EGL/Landreth based its motion to Stay Devon's drilling on the claim that "the Division must act in a manner consistent with its statutory charge to promote the interest of conservation and the prevention of waste, including the drilling of unnecessary wells by holding in abeyance any Division approve of Devon's APD's until the Division has determined the underlying issue based on technical evidence."<sup>4</sup> EGL/Landreth offer no other grounds or basis for staying Devon. There is no claim by EGL/Landreth of "reservoir waste" or "reduction in ultimate gas recovery."

EGL/Landreth is quick to cite Rule 1220.B against Devon's motion for stay, but then forgets that the only possible "waste" issue involved by its Motion to Stay is a claim of "economic waste" for wells in which EGL/Landreth have no interest and assume none of the risk or costs, contending that Devon's operations raise the remote possibility that Devon will drill of an unnecessary well in Sections 9 and 33.

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<sup>4</sup> See EGL/Landreth original Motion to Stay, filed June 26, 2003 at page 6.

EGL/Landreth attempt to cast aspersions on Devon, claiming that Devon's should have disclosed its drilling plans for Section 9 to the Division Examiner, forgetting that by letter dated January 7, 2003 Devon's offered Landreth an interest in Section 9,<sup>5</sup> and ignoring that neither Landreth or EGL thought to ask that question of any Devon witnesses leading to the conclusion that Landreth and EGL did not think Section 9 was relevant.

### **(3) CORRELATIVE RIGHTS:**

EGL/Landreth contend that 640-acre spacing is essential to prevent of waste, yet Landreth proposed in a letter to Devon, dated February 14, 2003, that the parties agree to a 320-acre spacing unit, being the N/2 of Section 4, for the Rio Blanco "4" Fed Com #1 well (Devonian re-entry). Also, in this letter, Landreth proposed that Devon space any Devonian well in Section 33 at least 1320 feet from the south line of this Section that is closer than the 1650 feet setback that Landreth now wants.<sup>6</sup>

### **EGL/LANDRETH CONCEED CRITICAL ISSUES**

In its reply, EGL/Landreth did not dispute and therefore waive and concedes the following:

- (1) A stay will cause irreparable harm to Devon;
- (2) A stay will preclude Devon from obtaining reservoir data important to this dispute;
- (3) A stay will interrupt Devon's operations that it has commenced in Sections 9 and 33;
- (4) A stay will violate Devon's correlative rights;
- (5) A Stay will be contrary to Division;
- (6) A Stay will be an extraordinary action by the Division and constitute a new precedent.

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<sup>5</sup> See Devon Exhibit 11, Case 13048

<sup>6</sup> See Exhibit 19, Case 13048

### **EGL/LANDRETH'S AGENDA**

EGL/LANDRETH seek an extraordinary order to stay Devon from drilling wells in Section 33, T22S, R34E<sup>7</sup> by arguing that Section 33 and Section 4 should be subject to 640-acre well spacing for a pool that: (a) is in an area subject to 320-acre well spacing rules; (b) has not been drilled; (c) has not been shown productive by any well in either section 33 or 4; (d) for which there is no discovery well or reservoir data; and (e) no determination by the Division that a well is capable of draining 640-acres.

The central focus of these proceedings<sup>8</sup> pending before both the Commission and the Division is whether 320-acre well spacing will continue to apply to Section 4 and Section 33, T22S, R34E, Lea County, New Mexico. Landreth's objectives are twofold: (a) deny Devon the opportunity to obtain essential "well drainage" data from Devon's well in the S/2 of Section 33 and the N/2 of Section 9, and (b) use the Division to solve Landreth's contract problem in the SE/4 of Section 4.

### **CONCLUSION**

Devon hereby supplements its response to EGL/Landreth's original motion to Stay and states: EGL/Landreth's motion is premature<sup>9</sup> and violates Devon's correlative rights and would amount to an arbitrary and capricious act by the Division. EGL erroneously assumes that the Division must preclude Devon from drilling Sections 9 and 33 wells that it has already commenced operations upon.<sup>10</sup> Operations that are not materially different from the operations EGL was allowed to commence on the re-entry of the Rio Blanco 4-1.<sup>11</sup>

EGL/Landreth want the Division to believe that the Division order adopting special pool rules for the North Bell Lake-Devonian Pool should be extended to Section 4 despite the fact that the applicant's, (BTA Oil Producer) geologic exhibit, using the same 2-D seismic data that EGL/Landreth now rely

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<sup>7</sup> A Devon's well that is in full compliance with all Division rules.

<sup>88</sup> Cases 13048, 13049, 12085

<sup>9</sup> EGL's request is a novel idea and contrary to Division practice in SE New Mexico which is to create new gas pools only after the well has been drilled, completed, and proven capable of draining more than 320-acres. See Division Rule 104.

<sup>10</sup> EGL was allowed by the Division to commence operations in the re-entry over Devon's objection (Devon Motion to Stay Order R-11962)

<sup>11</sup> Provided that EGL using Devon's plan of operations.

upon, demonstrated that this pool was limited to Sections 6, 7, and 18 and using the same 2-D seismic that EGL/Landreth now relied upon, demonstrated that Section 4 was not part of this pool.<sup>12</sup>

EGL/Landreth want the Division to believe that EGL is simply relying on a prior compulsory pooling order by the Division making Section 4 subject to the Pool. EGL made this argument that Examiner Brooks rejected in Case 13048.<sup>13</sup>

It is apparent that Landreth is seeking to have the Division solve Landreth's contract problem<sup>14</sup> by establishing 640-acre spacing in Section 4 without adequate data from the Rio Blanco "4" Well No. 1 and from Devon's wells.

Division has two options: (a) to preclude EGL from re-entering the Rio Blanco "4" Well and to preclude Devon from drilling its Rio Blanco "33" Well No 1 in the S/2 of Section 33, or (b) allow both to occur.

In the first, the parties will have no more data about these wells and the Division's answer will be based upon speculation. In the second, the parties can gather additional data and the Division's answer will be based upon the best available data. If the Division does anything else, it will be giving EGL/Landreth an unfair advantage over Devon in these proceedings.

Respectfully submitted,



W. Thomas Kellahin

P. O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

Attorney for Devon Energy Production Company, L.P.

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<sup>12</sup> See BTA Exhibit 2 attached as Devon Exhibit "B"

<sup>13</sup> The compulsory pooling case relied on by EGL is Case 10267, Order R-9493, dated April 30, 1991, is an compulsory pooling order that Pacific never sought to have subject to the North Bell Lake Pool. All of Section 4 was pooled for a well that BTA never drilled and for order that has expired.

<sup>14</sup> Landreth alleges that he his term assignment with OXY USA, Inc. will expire on October 24, 2003 unless he dedicates all of Section 4 to the Rio Blanco "4" Well No 1.

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Devon's Response to EGL's Amended Stay Motion

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**CERTIFICATE OF SERVICE**

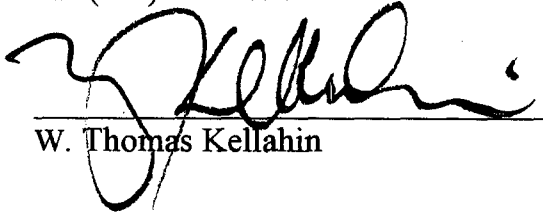
I, W. Thomas Kellahin, certify that a true and correct copy of this pleading was hand delivered or send via facsimile as follows:

J. Scott Hall, Esq.,  
P. O. Box 1986  
Santa Fe, New Mexico 87505  
Fax (505) 989-9857  
Attorney for EGL Resources and Robert Landreth.

David K. Brooks, Esq.  
Energy, Mineral and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
Fax (505) 476-3462

Carol Leach, Esq.  
Energy, Mineral and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
Fax (505) 476-3220

David R. Catanach, Hearing Examiner  
New Mexico Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
Fax (505) 476-3462



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W. Thomas Kellahin