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May 26, 2006

**VIA HAND DELIVERY**

Ms. Florene Davidson, Clerk  
Oil Conservation Commission  
New Mexico Department of Energy,  
Minerals and Natural Resources  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: Oil Conservation Division Case 13368 (DE NOVO): Application of Devon Energy Production Company, L.P. for an order authorizing the drilling of a well in the potash area, Eddy County, New Mexico.

Oil Conservation Division Case No. 13372 (DE NOVO): Application of Devon Energy Production Company, L.P. for approval of an unorthodox well location and authorization to drill a well in the potash area, Eddy County, New Mexico.

Dear Ms. Davidson:

Devon Energy Production Company, L.P. files herewith its pre-hearing statement and six copies of the exhibits it will present at the June 5, 2006 Oil Conservation Commission hearing on the above-referenced application. By copy of this letter, I am providing this pre-hearing statement and exhibits to all parties of record in this case.

Very truly yours,

William F. Carr

Enclosures

cc: Mosaic Potash Carlsbad, Inc.  
Charles C. High, Jr.  
Kemp Smith LLP  
Post Office Box 2800  
El Paso, Texas 7999-2800

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

2006 MAY 26 PM 2 58

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

**CASE NO. 13368 (DE NOVO)**

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR AN  
ORDER AUTHORIZING THE DRILLING OF A WELL IN THE POTASH AREA,  
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 13372 (DE NOVO)**

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR AN  
UNORTHODOX WELL LOCATION AND AUTHORIZATION TO DRILL A WELL IN  
THE POTASH AREA, EDDY COUNTY, NEW MEXICO.**

**PRE-HEARING STATEMENT**

This Pre-Hearing Statement is submitted by Holland & Hart LLP as required by the Oil Conservation Division.

**APPEARANCES OF PARTIES**

**APPLICANT**

Devon Energy Production Company  
Attn: Ken Gray  
20 North Broadway  
Oklahoma City, Oklahoma 73102-8260  
(405) 552-8113

**ATTORNEY**

William F. Carr  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
(505) 988.4421

**OPPOSITION**

Mosaic Potash Carlsbad, Inc.  
Attn: Dan Morehouse

**ATTORNEY**

Charles C. High, Jr.  
Kemp Smith LLP  
Post Office Box 2800  
El Paso, Texas 79999-2800  
(915) 533-4424

**STATEMENT OF CASE**

APPLICANT

In Case 13368, Devon Energy Production Company, L.P. seeks an order approving the drilling of its proposed Apache 24 Fee Well No. 6 within the Potash Area at a location 1980 feet from the North line and 660 feet from the West lines (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. This well will be drilled to an approximate depth of 7,900 feet to test all formations from the surface to the base of the Delaware formation, Southeast Quadada Ridge-Delaware Pool and will be at a standard location in all formations. Said location is within the Potash Area and approximately 8 miles east of Carlsbad, New Mexico.

In Case 13372, Devon Energy Production Company, L.P. seeks an order approving the drilling of its proposed Apache 24 Fee Well No. 7A within the Potash Area at an unorthodox location 1460 feet from the North line and 1150 feet from the West line (Unit E) of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. This well will be drilled to an approximate depth of 15,500 feet as a wildcat well to test all formations from the surface to the base of the Devonian formation, Southeast Quadada Ridge-Delaware Pool and will be at a standard location in all formations. Said location is within the Potash Area and approximately 8 miles east of Carlsbad, New Mexico.

**PROPOSED EVIDENCE**

APPLICANT:

<u>WITNESSES</u> (Name and Expertise)	<u>ESTIMATED TIME</u>	<u>EXHIBITS</u>
<b>Ken Gray</b> <b>(Landman)</b>	<b>Approximately 15 Minutes</b>	<b>7</b>

Mr. Gray will review Devon Energy Production Company, L.P.'s efforts to develop the oil and gas minerals under the 40-acre tract comprised of the SW/4 NW/4 of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. Mr. Gray's testimony will show that Devon holds the oil and gas lease on the tract on which it proposes to drill these wells. He will show that, pursuant to the provisions of Order No. R-111-P, Devon has reached agreement with the owners of the potash rights under these lands and all of these owners desire to have their oil and gas minerals developed prior to the potash reserves, if any.

Devon filed its APD for the Apache 24 Fee Well No. 6 and, pursuant to Order No. R-111-P and a directive from the OCD, provided notice to all potash lessees within one mile of the well location on January 23, 2004. No objection was timely filed and Devon's APD was

**Pre-Hearing Statement**

**NMOCD Case No. 13368 and 13372**

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approved. Thereafter, on April 12, 2004, IMC (now Mosaic Potash) wrote the Division and objected to the well because its location falls in an area designated as measured ore. The Oil Conservation Division rescinded Devon's Application for Permit to Drill on September 20, 2004.

Devon filed its APD for the Apache 24 Fee Well No. 7A on September 16, 2004, and, pursuant to Order No. R-111-P, provided notice to all potash lessees within one mile of the well. No response to this application was received from IMC/Mosaic. However, Devon received an e-mail from the Oil Conservation Division's Artesia office rejecting the application because of what the Division said was an objection from IMC. Thereafter Devon found a copy of the IMC letter of objection, dated August 30, 2004, on the Division's web page.

Mr. Gray's testimony will show that Mosaic owns no potash rights in this tract and that Mosaic is asking the Commission to deny the owners of the oil and gas minerals and the potash reserves the right to develop their constitutionally protected property rights.

Mr. Gray will ask the Commission to approve its application and find, as the Division has on several prior occasions, that:

A. "Order No. R-111-P makes no provision for an LMR determination when the proposed well is located on fee lands, nor does Order No. R-111-P authorize a potash lessee to designate an LMR over lands not leased to a potash lessee;"

B. "Sub-part G (e) 3 of these rules, provides that '*application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of the lessor and lessees of both potash and oil and gas interests;*'" and

C. That the surface and all mineral owners have consented to the proposed well and desire to have their oil and gas minerals developed first in preference to any potash reserves underlying the subject acreage.

**James Blount (Engineer)**

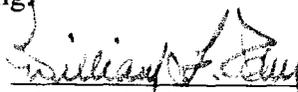
**Approximately 10 Minutes**

**2**

Mr. Blount will testify briefly and show that the proposed casing and cementing program for the well meets the criteria established by Order No. R-111-P.

**PROCEDURAL MATTERS**

Devon Energy Production Company, L.P. will request that Cases 13367, 13368 and 13372 be consolidated for the purposed of hearing.



William F. Carr

Attorney for Devon Energy Production Company, L.P.

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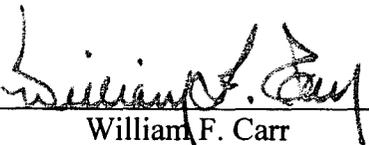
**DEVON ENERGY PRODUCTION COMPANY, L.P.**  
**INDEX OF EXHIBITS**

- |               |  |
|---------------|--|
| Exhibit No. 1 | BLM Map showing Devon leases and potash mines.   |
| Exhibit No. 2 | Nine Section Plat showing Devon's acreage.   |
| Exhibit No. 3 | Four Fee Oil and Gas Leases covering the SW/4 NW/4 of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico. |
| Exhibit No. 4 | Apache 24 Fee Well No. 6: Application for permit to drill and related forms and correspondence.                                    |
| Exhibit No. 5 | Apache 24 Fee Well No. 7A: Application for permit to drill and related forms and correspondence.                                   |
| Exhibit No. 6 | Letter of objection from IMC.  |
| Exhibit No. 7 | OCD Order No. R-12403.   |
| Exhibit No. 8 | Drilling Schematic – Apache 24 Fee Well No. 6.   |
| Exhibit No. 9 | Drilling Schematic – Apache 24 Fee Well No. 7A.  |

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of May 2006, I have caused to be delivered by facsimile a copy of Devon Energy Production Company, L.P.'s Pre-Hearing Statement and hearing exhibits in the above-captioned cases to the following:

Charles C. High, Jr.  
Kemp Smith LLP  
Post Office Box 2800  
El Paso, Texas 79999-2800  
(915) 533-4424

  
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William F. Carr