



August 1, 2006

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**VIA HAND DELIVERY**

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

**Re: Case No. 13367 (de novo): Application of Bass Enterprises Production Co. for an Order authorizing the drilling of a well in the potash area, Eddy County, New Mexico.**

**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 approval of an unorthodox well location and authorization to drill a well in the potash area, Eddy County, New Mexico.**

Dear Ms. Davidson:

Enclosed are corrected pages 8 and 9 to the *Application for Rehearing of Bass Enterprises Production Company and Devon Energy Production Company* which was filed yesterday. Please call if you have any questions.

Very truly yours,

William F. Carr  
of Holland & Hart<sup>LLP</sup>

WFC:keh  
Enclosure

cc: Cheryl Bada, Esq. (hand-delivered)  
Charles C. High, Jr. (by facsimile)

North and East lines of the section to test from the surface to the Morrow formation, Los Medanos-Morrow Gas Pool. This acreage is within the LMR area of Mosaic Potash Company, Inc. ("Mosaic") but is on a tract of fee land on which Mosaic owns no interest.

Bass leased the oil and gas rights under this fee acreage from Stacy Mills and his family who together own 53% of the oil and gas and potash mineral rights under this tract. Mr. Mills appeared at the hearing and testified that he was an owner of mineral interests under the 40-acre fee tract on which Bass proposes to drill and that he and his family prefer to have their oil and gas reserves produced before the potash reserves, if any, are mined. (Testimony of Mills at Tr. 108). Bass has also leased the remaining oil and gas rights under this acreage. These interests are administered by Wells Fargo Bank. Wells Fargo Bank confirmed that the potash rights under these tracts are unleased and that the bank supports Bass' application to drill the James Ranch Well No. 93 (Bass Exhibits 7 and 8). Therefore, the owners of the potash reserves under the NE/4 NE/4 of Section 7 support the drilling of the oil and gas well proposed by Bass prior to mining the potash reserves under this tract.

Order R-111-P provides that "[b]efore commencing drilling operations for oil or gas on any lands within the Potash Area" the operator of the well shall provide to each potash operator holding a potash lease within a radius of one mile of the proposed well a copy of its Notice of Intention to Drill and plat showing the location of the well. Order No. R-111-P, Rule G(2).

Bass followed the provisions of Order R-111-P, and prepared an Application for Permit to Drill (Form C- 101) and a Well Location and Acreage Dedication Plat (Form C- 102) showing the location of the James Ranch Unit Well 93. On August 16, 2004, by Express Mail-Return Receipt Requested, Bass notified IMC Potash Carlsbad, Inc., (predecessor to Mosaic) the only lessee of potash reserves within one mile of the proposed well location, of its intent to drill this well and sought IMC's waiver of objection to the proposed location. This notice was received by IMC on August 19, 2004. No objection to the application for permit to drill was received by the Division or Bass within the 20 days provided for objections by Order R-111-P and Bass' Application for Permit to Drill was approved by the Division on September 15, 2004. (Bass Exhibit No. 3, APD approved September 15, 2004).

On September 17, 2004, after the period for filing objections had run and the APD for the James Ranch Unit Well No. 93 had been approved by the Division, IMC wrote the Division and stated that the Division was "in error approving any APD within an LMR." By letter dated September 18, 2004, without providing Bass notice or an opportunity for hearing, the Oil Conservation Division rescinded Bass' Application for Permit to Drill.

IMC objected to the Bass permit by quoting the provision in R-111-P that provides "[a]ny 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."

### **Devon:**

Devon is the lessee of the oil and gas mineral rights under the SW/4 NW/4 of Section 24, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico on which it proposes to drill its Apache 24 Fee Well No. 6 (Case No. 13368) at a standard

location 1980 feet from the North line and 660 feet from the West line to test the Delaware formation. Devon also proposes to drill its proposed Apache 24 Fee Well No. 7 (Case No. 13372) from this 40-acre tract at a standard location 1460 feet from the North line and 1150 feet from the West line of the section to test the Devonian formation, Southeast Quadada Ridge-Delaware Pool. This acreage is within the LMR area of Mosaic Potash Company, Inc. ("Mosaic") but is on a tract of fee land on which Mosaic owns no interest.

Devon has leased oil and gas rights under this fee acreage from Kenneth Smith and his family who also own the potash mineral rights under this tract. Mr. Smith appeared at the hearing and testified that he was the owner of mineral interests under the 40-acre fee tract on which Devon proposes to drill and that he and his family prefer to have their oil and gas reserves produced before the potash reserves, if any, under their acreage is mined. (Testimony of Smith at Tr. 169). Therefore, the owners of the potash reserves under the SWE/4 NW/4 of Section 24 support the drilling of the oil and gas wells proposed by Devon prior to mining the potash reserves under this tract, if any.

Devon followed the provisions of Order R-111-P, and prepared an Application for Permit to Drill (Form C-101) and a Well Location and Acreage Dedication Plat (Form C-102) showing the location of the Apache 24 Fee Well No. 6. On January 23, 2004, by Certified Mail-Return Receipt Requested, Devon notified IMC Potash Carlsbad, Inc., the only lessee of potash reserves within one mile of the proposed well location, of its intent to drill this well and sought IMC's waiver of objection to the proposed location. This notice was received by IMC on January 26, 2004. No objection to the Application for Permit to Drill was received by the Division or Devon within the 20 days provided by Order R-111-P and Devon's Application for Permit to Drill was approved by the Division on February 19, 2004. On April 12, 2004, after the period for filing objections had run and the APD for the Apache 24 Fee Well No. 6 had been approved by the Division, IMC wrote Devon with copies to the Division objecting to the proposed well location and stating that its five year mine plan shows that IMC expects to mine within 1/4 mile of this location in the year 2007. By letter dated September 20, 2004, without notice and an opportunity for hearing, the Oil Conservation Division rescinded Devon's Application for Permit to Drill.

Devon also followed the provisions of Order R-111-P, and prepared an Application for Permit to Drill (Form C-101) and a Well Location and Acreage Dedication Plat (Form C-102) showing the location of the Apache 24 Fee Well No. 7A. In September 2004, by Certified Mail-Return Receipt Requested, Devon notified IMC Potash Carlsbad, Inc., the only lessee of potash reserves within one mile of the proposed well location, of its intent to drill this well and sought IMC's waiver of objection to the proposed location. IMC Potash Carlsbad, Inc. filed written objections to Devon's Application and by letter dated September 20, 2004, the Oil Conservation Division rejected Devon's Application for Permit to Drill.

IMC objected to Devon's applications for permits to drill asserting "there is no point within this tract that is outside the 1/4 mile buffer required by R-111-A and any well within the tract would not constitute a hazard to the mining of federally owned potash reserves currently under lease to IMC."