



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

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July 7, 2003

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Re: Cases No. 13048 and 13049: Devon Energy Production Company, L.P.'s Motion to Reopen Cases 13048 and 13049 for the Purpose of Amending Division Order-11962 (sic) to Include Devon's Plan of Operation

Gentlemen:

I am in receipt of the referenced motion, which was filed on July 2, 2003.

All parties to Cases 13048 and 13049 have filed *de novo* appeals to the Oil Conservation Commission. Although OCD procedural rules do not address the issue specifically, it is a fundamental principal of appellate jurisdiction that the filing of an appeal divests the lower court of jurisdiction so long as the appeal is pending.

Accordingly, it would be inappropriate to reopen these cases so long as the appeals are pending, and any request for modification of these orders, other than a stay request for which provision is specifically made in Rule 1220.B must be addressed to the Commission.

Accordingly, the captioned Motion to Reopen is dismissed.

Very truly yours,

David K. Brooks
Assistant General Counsel