

**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. 14537
ORDER NO. R-13322**

**APPLICATION OF DEVON ENERGY PRODUCTION COMPANY, L.P. FOR
COMPULSORY POOLING, CHAVES COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on September 2, 2010, at Santa Fe, New Mexico, before Examiner Terry Warnell. This case was consolidated with Cases No. 14534, 14535, 14537 and 14528 for purposes of hearing. However, because these cases involve separate units, a separate order will be entered in each case.

NOW, on this 30th day of September, 2010, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

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" or "Devon"), seeks an order pooling all uncommitted interests from the surface to the base of the Siluro-Devonian formation in the N/2 of Section 34, Township 11 South, Range 29 East, N.M.P.M., in Chaves County, New Mexico, as follows:

(a) the N/2 to form a standard 320-acre, more or less, gas spacing unit for all formations or pools spaced on 320 acres within this vertical extent; and

(b) the NW/4 NW/4 to form a standard 40-acre oil spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

(3) The above described spacing and proration units ("the Units") are to be dedicated to Applicant's Open Range 34 Fee Well No. 1H (API No. 30-005-64135), ("the well") to be drilled vertically at a standard location 670 feet from the North line and 670 feet from the West line (Unit D) of Section 34 to test the Siluro-Devonian formation, and then drilled horizontally for gas in the Mississippian formation with a terminus 670 feet from the North line and 670 feet from the East line of Section 34.

(4) 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.

(5) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill the well to a common source of supply within the N/2 of Section 34 within the Units.

(6) Chisos, LTD appeared at the hearing through legal counsel to testify they had reached a voluntary agreement with Devon and asked to be dismissed from the case.

(7) Exhibit 7 to Devon's application lists only Samedan Royalty Corporation as the owner being pooled in this case. There are no unlocatable owners.

(8) 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.

(9) Applicant should be designated the operator of the subject well and of the Units.

(10) Any pooled working interest owner who does not pay its share of 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.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,500 per month while drilling and \$550 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) Pursuant to the application of Devon Energy Production Company, L.P., all uncommitted interests, whatever they may be, in the oil and gas from the surface to the base of the Siluro-Devonian formation underlying the N/2 of Section 34, Township 11 South, Range 29 East, NMPM, in Chaves County, New Mexico, are hereby pooled in the following manner:

(a) the N/2 to form a standard 320-acre, more or less, gas spacing unit for all formations or pools spaced on 320 acres within this vertical extent; and

(b) the NW/4 NW/4 to form a standard 40-acre oil spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

(2) The above described spacing and proration units ("the Units") are to be dedicated to Applicant's Open Range 34 Fee Well No. 1H (API No. 30-005-64135), ("the well") to be drilled vertically at a standard location 670 feet from the North line and 670 feet from the West line (Unit D) of Section 34 to test the Siluro-Devonian formation, and then drilled horizontally for gas in the Mississippian formation with a terminus 670 feet from the North line and 670 feet from the East line of Section 34.

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

(4) Upon final plugging and abandonment of the well and any other wells drilled on these Units pursuant to Division Rule Part 13, Sections 9 through 11, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(5) 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.) Within thirty days following 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 actual costs of drilling, completing and equipping the well ("well costs"). All well costs allocated to pooled working interest owners shall be apportioned among them according to their interests in the 320-acre unit except for costs of completing in a formation not spaced on 320 acres.

(6) Within 30 days from the date the schedule of actual well costs is furnished, any pooled working interest owner shall have the right to pay its share of actual well costs to the operator in lieu of paying its share of well costs out of production as hereinafter provided, and any such owner who pays its share of actual 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 actual well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(7) 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.

(8) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of actual costs in advance as provided above shall receive from the operator the amount, if any, that the actual well costs it has paid exceed its share of reasonable well costs.

(9) 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.

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

(11) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,500 per month while drilling and \$550 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Acting Director