

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

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APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE COMPLIANCE AND ENFORCEMENT MANAGER, FOR A COMPLIANCE ORDER AGAINST POGO PRODUCING COMPANY FINDING THE OPERATOR IN VIOLATION OF 19.15.1.40.A(2) NMAC AND IMPOSING PENALTIES FOR THE KNOWING AND WILLFUL FAILURE TO COMPLETE THE CORRECTIVE ACTION REQUIRED BY AGREED COMPLIANCE ORDER 214; LEA COUNTY, NEW MEXICO.

CASE NO. 14111

APPLICATION FOR COMPLIANCE ORDER AGAINST
POGO PRODUCING COMPANY

1. The Pogo Producing Company ("Pogo") operates wells in New Mexico under OGRID 17891.
2. The Oil Conservation Division ("OCD"), a division the Energy, Minerals and Natural Resources Department, is the state entity charged with enforcing the Oil and Gas Act.
3. On December 21, 2007, Pogo and the OCD entered into Agreed Compliance Order 214 (ACO 214) to resolve violations that occurred at the Resler B #001 well, 30-025-36573, 20-23S-R37E, in Lea County, New Mexico. A copy of ACO 214 is attached as Exhibit A.
4. In ACO 214, Pogo acknowledged that it and its predecessor and subsidiary Arch Petroleum, Inc. ("Arch") produced the Resler B #001 well from the Jalmat Gas Pool without authority, knowingly and willfully violating 19.15.3.104.B(2) NMAC and Order R-12366.
5. Pogo agreed to pay, and did pay, a \$280,000 penalty under ACO 214.

6. Pogo also agreed to the following provision in ACO 214:

Pogo shall file corrected production reports for the Resler B #001 within 30 days after it is notified in writing by the NMOCD that it will accept the filing of such reports....

7. By letter dated February 4, 2008, the OCD notified counsel for Pogo that the OCD would accept the filing of the reports, and provided instructions on a streamlined method for reporting that production. A copy of the February 4, 2008 letter is attached as Exhibit B.

8. To date, Pogo has not filed corrected production reports for the Resler B #001.

9. The Resler B #001 has since been transferred to another operator. However, that transfer does not affect Pogo's responsibility to file corrected production reports under ACO 214.

10. OCD Rule 19.15.1.40 NMAC, commonly known as Rule 40, provides that an operator is out of compliance with that rule if it is subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action.

11. NMSA 1978, Section 70-2-31(A) provides, in relevant part:

Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.

WHEREFORE, the Compliance and Enforcement Manager hereby applies to the Director to enter an order:

- A. Finding that Pogo is in violation of an order requiring corrective action, based on its failure to file corrected production reports as required by ACO 214;
- B. Determining that Pogo knowingly and willfully violated ACO 214 by failing to file corrected production reports for the Resler B #001 well within 30 days of being notified that the OCD would accept such filings;
- C. Assessing penalties for the knowing and willful violation of ACO 214 at the rate of \$1,000 per day for each day of violation;
- D. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 14th day of March, 2008 by



Gail MacQuesten
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
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Santa Fe, NM 87505
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Attorney for the New Mexico Oil
Conservation Division

Case No. 14111. Application of the New Mexico Oil Conservation Division for a Compliance Order. The Applicant seeks an order finding that Pogo Producing Company is in violation of 19.15.1.40.A(2) NMAC based on its failure to comply with an order requiring corrective action, imposing penalties for the knowing and willful failure to file corrected production reports as required by agreed compliance order 214, and for such other relief as the Director deems appropriate. The affected well is the Resler B #001, 30-025-36573, J 20-23S-R37E, in Lea County, New Mexico. The well is located less than five miles north of Teaque.

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

NMOCD ACO 214

IN THE MATTER OF POGO PRODUCING COMPANY LLC,

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act") and OCD Rule 1227.E [19.15.14.1227(E) NMAC], the Director of the Oil Conservation Division ("OCD") and Pogo Producing Company LLC, formerly known as Pogo Producing Company ("Operator"), enter into this Agreed Compliance Order ("Order" or "ACO") under which Operator admits to the knowing and willful violation of Order R-12366 and Rule 19.15.3.104.B(2) NMAC; agrees to a civil penalty of \$280,000; agrees to file corrected C-115 production reports within 30 days after it is notified in writing by the NMOCD that it will accept the filing of such reports; and agrees to not produce the Resler B #001 until an order is entered into that allows for such production.

FINDINGS

1. Pogo Producing Company LLC ("Pogo") operates wells in New Mexico under OGRID 17891.
2. Arch Petroleum, Inc. ("Arch") formerly operated wells in New Mexico under OGRID 962.

Exhibit A

3. Arch became a wholly owned subsidiary of Pogo thru Pogo's acquisition of all of the stock of Arch, with Arch then merging with Pogo, and Pogo being the successor entity. Effective January 1, 2006, all Arch operated wells in the State of New Mexico were placed under the Pogo name and OGRID number.

4. On February 11, 2004, Arch filed an application for permit to drill the Resler B #001, 30-025-36573, in the SE/4 of Section 20, Township 23S, Range 37E, in Lea County, New Mexico. Arch's application identified the proposed pool for the Resler B #001 as the Jalmat-Tansil-Yates-Seven-Rivers (oil) Pool. The C-102 Acreage Dedication Plan filed with the application showed 40 acres located in the NW/4SE/4 of Section 20, dedicated to the well. The Oil Conservation Division (OCD) approved the application on February 17, 2004. After such filing, Pogo realized that it had mistakenly identified the proposed pool and subsequently filed a Sundry Notice on October 18, 2005 to correct such mistake.

5. Arch drilled the Resler B #001 well on or about March 23, 2004. Arch cased but did not complete the well at that time, with the intent to not produce such well until it had received an order from the OCD allowing it to be produce gas from the Jalmat Gas Pool.

6. On April 23, 2004, Arch submitted an Application for Administrative Approval of a 160-acre non-standard gas spacing and proration unit for the Resler B Well 001 in the Jalmat Gas Pool in the SE/4 of Section 20.

7. All of Section 20, Township 23S, Range 37E is within the Jalmat Gas Pool and is subject to the "Special Pool Rules for the Jalmat Gas Pool" promulgated by Division Order No. R-8170-P.

8. At the time Arch drilled the Resler B #001 well, Westbrook Oil Corporation ("Westbrook") operated the 320-acre Jalmat Gas Pool spacing unit comprising the S/2 of Section 20, Township 23S, Range 37E. However, prior to the drilling of such well, Pogo acquired all of the leasehold interest covering the SE/4 and the NE/4SW/4 of said Section 20, which included all of the leasehold rights lying within the Jalmat Gas Pool, pursuant to a two (2) year Term Assignment, dated August 15, 2003.

9. At the time Arch drilled the Resler B #001 well and filed for a non-standard proration unit, OCD rules did not allow multiple operators in a spacing unit.

10. On June 13, 2005 the OCD denied Arch's application in Order No. R-12366, but Arch was told that in light of the recent rule change that allowed more than one operator in a proration unit (Rule 104.E), that they could make application under such rule for the subject well.

11. On June 28, 2005, Arch commenced completion operations on the Resler B #001, and on July 10, 2005, Arch began producing the Resler B #001 from the Jalmat Gas Pool to maintain its leasehold position.

12. On April 11, 2007 Arch filed for de novo review of case 13274 by the Oil Conservation Commission ("OCC"), which was heard on May 19, 2007. Pogo presented the case as Arch's successor in interest. Pogo's application was again denied under Order R-12366-A, and Pogo then applied for a re-hearing on June 6, 2007, which was denied ten days later due to the Commission's failure to act. At such de novo review of the case, Resler & Sheldon, successor in interest to Westbrook, objected to Pogo's application.

13. At the hearing before the OCC, the senior geologist for Pogo, testified that

Arch completed the Resler B #001 in the Jalmat on July 9, 2005, after Arch learned that its application had been denied, to preserve its term assignment.

14. Arch attempted to file monthly production reports as to the Resler B #001 to the OCD, but the NMOCD would not accept same due to Pogo not having an order to produce.

15. Pogo presented a Monthly Allocation Summary for the Resler B #001 well at the OCC hearing, showing production from July 2005 through December 2005, and March 2006 through January 2007.

16. After the hearing, Pogo provided the OCD with a simplified gauge sheet denoting production attributable to the Resler B #001.

17. Combining the information from the Monthly Allocation Summary and the simplified gauge sheet indicates that the Resler B #001 produced on the following dates, for a total of 280 days for the time period of July 2005 until February 7, 2007 being the time such well was shut-in and has been shut in since:

- 7-9-05 to 7-20-05
- 8-1-05 to 12-31-05
- 3-14-06 to 3-25-06
- 5-1-06 to 5-13-06
- 6-14-06 to 6-26-06
- 7-28-06 to 8-9-06
- 9-10-06 to 9-22-06
- 10-24-06 to 11-05-06
- 12-7-06 to 12-19-06
- 1-24-07 to 2-5-07

18. Pogo intends to file an application for approval of two 160 acre units, and place the Resler B #001 back on production.

19. OCD Rule 19.15.3.104.B(2) NMAC provides, and at all relevant times provided, that if a well drilled as an oil well is completed as a gas well but does not conform to the applicable gas well locations rules, the operator must apply for administrative approval for a non-standard location before the well can produce.

20. Order R-12366 denied Arch's application for non-standard unit for the Resler B #001.

21. NMSA 1978, Section 70-2-31(A) provides, in relevant part,

"Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation."

22. NMSA 1978, Section 70-2-14(B) provides:

"If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited."

CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.

2. Pogo is a "person" as defined by NMSA 1978, §70-2-3(A) and Rule 19.15.1.7(P)(2) NMAC.

3. Pogo knowingly and willfully violated Rule 104 by operating the Resler B #001 well as a gas well without obtaining approval for a non-standard unit.

4. Pogo knowingly and willfully violated Order R-12366 by operating the Resler B #001 well as a gas well after the application for non-standard unit had been denied.

ORDER

1. Pogo shall pay a penalty of \$280,000 pursuant to NMSA 1978, §70-2-31(A) for the knowing and willful violation of the following order and rules: Rule 19.15.3.104.B(2) NMAC and Order R-12366.

2. The penalty shall be paid by cashier's check at the time this Order is executed.

3. Pogo shall file corrected production reports for the Resler B #001 within 30 days after it is notified in writing by the NMOCD that it will accept the filing of such reports; and agrees to not produce the Resler B #001 until an order is entered into that allows for such production.

4. By signing this Order, Pogo expressly:

- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
- (b) agrees to pay the \$280,000 penalty at the time this Order is executed;
- (c) agrees to file within 30 days after it is notified in writing by the NMOCD that it will accept the filing of such corrected C-115 production reports for the Resler B #001 well;
- (d) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing challenging the entry of this Order (either prior to or subsequent to the entry of this Order) or to an appeal from the entry of this Order; and
- (e) agrees that the Order may be enforced by OCD or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the OCD, Oil Conservation Commission or

District Court entered after notice and hearing or trial in accordance with all relevant statutes and rules.

Oil Conservation Division

By: [Signature]
Title: For MRAL F&W
Date: 12-21-2007

Pogo Producing Company LLC

By: [Signature]
Title: VP
Date: 12-21-2007



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop

Cabinet Secretary

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

February 4, 2008

Mr. James Bruce
James G. Bruce Attorney at Law
P.O. Box 1056
Santa Fe, NM 87504-1056

Re: Pogo Producing Company, LLC, OGRID 17891
Agreed Compliance Order 214
Resler B #001, 30-025-36573

Dear Mr. Bruce,

Agreed Compliance Order 124 (ACO 124) provides that Pogo Producing Company, LLC (Pogo) must file corrected production reports for the Resler B #001 within 30 days after it is notified in writing by the Oil Conservation Division (OCD) that it will accept the filing of such reports. The purpose of this letter is to notify Pogo that the OCD will accept the filing of the reports as indicated below. The reports are due within 30 days of receipt of this letter.

I have been working with Jane Prouty, Bureau Chief of OCD's Automation and Records Bureau, to determine how Pogo should file its corrected reports. Instead of filing amended reports for each month Pogo produced the Resler B #001 (which would include information on all wells operated by Pogo), it may provide production and disposition information on only the Resler B #001.

Pogo should fill out the C-115 Excel spreadsheet adapted as in the attached example to show multiple months on the same C-115. An electronic blank copy can be obtained at www.emnrd.state.nm.us/ocd, Frequently Asked Questions, How Do I File My C-115 Electronically? The C-115 template is labeled "Excel Piece 2."

As shown in the attached example, Pogo should fill out the operator name and OGRID at the top of the form. Pogo should put in the pool, property and API for the Resler B #001 just once on the first lines in section 7, as shown. Pogo should indicate the month and year, then fill the production and disposition lines across the C-115 as shown on the attached example. (The values shown on the example are the values submitted for this well in pool 33820 for the month of July 2005 and may be changed if appropriate.) Pogo should fill in the remaining months and years to bring the reporting current for the Resler B #001. Then Pogo needs to sign the reports and submit them on paper to the Santa Fe Office of the OCD for processing. Please do not attempt to submit the report electronically.


Please note that the operator of the Resler B #001 was Arch Petroleum until 1/1/2006, when Pogo became operator of record for the well. The OCD will need two reports: one covering the period during which Arch Petroleum was the operator, and one covering the period during which Pogo was the operator. Because the attached example is for a month during which

Exhibit B

Arch Petroleum was the operator, it lists that company's name and OGRID at the top of the form.

If Pogo has any questions about the procedure for reporting, please have them contact Jane Prouty at (505) 476- 3475. If it would be helpful we can set up a meeting to discuss the process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gail MacQuesten".

Gail MacQuesten

Attorney for the Oil Conservation Division

cc: Jane Prouty, OCD Automation and Records Bureau
Jim Rumsey, Vice President, Plains Exploration & Production Company

District I

P. O. Box 1980, Hobbs, NM 88241-1980

District II

P. O. Drawer DD, Artesia, NM 88211-0719

District III

1000 Rio Brazos, Aztec, NM 864710

State of New Mexico

Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION

1220 S SAINT FRANCIS DRIVE

Santa Fe, NM 87505

OPERATOR'S MONTHLY REPORT

Form C-115 First Page

Revised October 17, 1993

Instruction on Reverse Side

1 ☐ Amended Report

OPERATOR ARCH PETROLEUM INC

3 OGRID: 962

MONTH/YEAR

ADDRESS:

6 Page 1

		INJECTION		PRODUCTION					DISPOSITION OF OIL, GAS, AND WATER								
7 POOL NO. AND NAME Property No. and Name Well No. & U-I-S-T-R API No.		8 C O D E	9 Volume	10 Pressure	11 C O D E	12 Barrels of oil/conden sate produced	13 Barrels of water produced	14 MCF Gas. Produced	15 Days Prod- uced	16 C O D E	17 Point of Disposition	18 Gas BTU or Oil API Gravity	19 Oil on hand at beginning of month	20 Volume (Bbls/mcf)	21 Transporter Ogrid	22 C O D E	23 Oil on hand at end of month
79240 JALMAT-TAN-YATES-7 RVRS (GAS) 033419 Resler B 30-025-36573																	
July, 2005	F					0	340	21547	31		G Blank	1394.0		21547 340	24650		
August, 2005																O	
September, 2005																	

I hereby certify that the information contained in this report is true and complete to the best of my knowledge.
24

Signature

Printed Name & Title

Date

Phone Number