

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)

APPLICATION OF POGO PRODUCING COMPANY)
(SUCCESSOR TO ARCH PETROLEUM, INC.) FOR)
APPROVAL OF TWO NONSTANDARD GAS SPACING)
AND PRORATION UNITS IN THE JALMAT GAS)
POOL, LEA COUNTY, NEW MEXICO)

CASE NO. 13,274
de novo

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

April 19th, 2007

Santa Fe, New Mexico

2007 MAY 4 AM 10 58

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, April 19th, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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A P P E A R A N C E S

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By: J. SCOTT HALL

* * *

1 WHEREUPON, the following proceedings were had at
2 10:19 a.m.:

3 CHAIRMAN FESMIRE: Case Number 13,274. It's the
4 *de novo* Application of Pogo Producing Company, a successor
5 to Arch Petroleum, for approval of two nonstandard gas
6 spacing and proration units in the Jalmat Gas Pool in Lea
7 County, New Mexico.

8 This case has been continued from the March 16th,
9 2007, Commission meeting.

10 And at this time we'll call for appearances of
11 attorneys.

12 (Off the record)

13 CHAIRMAN FESMIRE: Now we will proceed in Case
14 Number 13,274 and call for appearances of attorneys in the
15 matter.

16 MR. BRUCE: Mr. Examiner, James Bruce of Santa Fe
17 representing the Applicant. I have three witnesses.

18 MR. HALL: Mr. Chairman, Commissioners, Scott
19 Hall, Miller Stratvert law firm, Santa Fe, appearing on
20 behalf of Wayne Resler and Bonnie Resler Karlsrud, doing
21 business as Resler and Sheldon. I have two witnesses, one
22 of whom I will call by telephone today.

23 CHAIRMAN FESMIRE: Do you want to spell Karlsrud
24 for the court reporter?

25 MR. HALL: K-a-r-l-s-r-u-d.

1 CHAIRMAN FESMIRE: Okay. The court reporter and
2 the Chairman.

3 Mr. Bruce, do you have anything to say in opening
4 this morning?

5 MR. BRUCE: Yes, I do, Mr. Chairman.

6 We're here today regarding the south half of
7 Section 20 in -- I believe it's 23 South, 37 East -- which
8 is currently dedicated in the Jalmat to a south-half
9 nonstandard Jalmat gas well unit. The Jalmat is spaced on
10 640 acres but does allow nonstandard units.

11 And what Pogo is seeking is a southwest quarter
12 unit which would be operated by Westbrook Oil Corporation.
13 There is the existing Steeler A Well Number 1, completed in
14 the Jalmat on that quarter section, and Pogo seeks to form
15 a southeast quarter unit for its Resler B Well Number 1,
16 located in the southeast quarter.

17 You know, I would like to say that Pogo simply
18 wants to form a southeast quarter unit. It is not at odds
19 as such with our opponents, the Resler and Sheldon group.
20 We just think based on a couple of issues that we should be
21 entitled to a southeast quarter unit.

22 In reading Mr. Hall's prehearing statement it
23 seems to me that our opponents' objections are primarily
24 two in number.

25 One, it seems that they are claiming that Pogo

1 owns no Jalmat working interest rights.

2 And secondly, they are saying that there is a
3 voluntary south-half unit which was already formed.
4 There's a pooling designation which I believe I'll present
5 to you, and that is dispositive.

6 As to the first point, the evidence will show
7 conclusively that Pogo owns 100 percent of the working
8 interest in the Jalmat in the southeast quarter, which is
9 why it wants to form this unit. Pogo owns these working
10 interest rights, I believe, from the surface to the base of
11 the Langlie-Mattix, actually in 200 acres in the south half
12 of Section 20, and the Jalmat is above the Langlie-Mattix,
13 and therefore they own those rights.

14 As to the second point, there is a pooling
15 designation covering the south half. However, pooling
16 designations and other oil and gas agreements are subject
17 to the conservation laws of the State, unless the
18 Commission can order the creation of two 160-acre units.
19 The underlying reason for this is that if a State
20 conservation body can't modify private agreements, it would
21 lead to pools being spaced by lessors and lessees, and not
22 by the conservation body.

23 I have case cites for these legal positions if
24 the Commission would like them. But I would note in a
25 recent case with which the Commission is probably painfully

1 familiar, the Chesapeake-Samson fight, in that order,
2 R-12,343-E -- and I guess you're going to get even more
3 painfully familiar with that case -- in that case there was
4 an issue between Chesapeake on the one hand and Samson,
5 Kaiser-Francis and Mewbourne Oil Company on the other hand
6 as to whether there should be a standup or laydown unit.

7 Samson, et al., had obtained a communitization
8 agreement from the State, and therefore -- and of course, a
9 communitization agreement is essentially what a pooling
10 designation is for state or federal lands. Samson, et al.,
11 had obtained a communitization agreement for the standup
12 unit, but that didn't prevent the Division from ordering a
13 laydown unit, and the Commission from later ordering a 640-
14 acre unit.

15 And so I think that principle is pretty well
16 dispositive that these -- the pooling designation which was
17 executed and recorded a number of decades ago can be
18 affected by the order of the Commission or the Division.

19 I would also note that the pooling designation
20 which will be presented to you could only have been
21 prepared and filed after the Division approved a south-half
22 Jalmat nonstandard unit for the Steeler A Well Number 1.
23 As I said, that was 640-acre spacing. So at the time
24 Resler and Sheldon had to go get a nonstandard unit before
25 they could form that south-half unit and do the pooling

1 designation.

2 I would also point out that originally the
3 Steeler A Well Number 1, the well in the southwest quarter,
4 originally had a 160-acre nonstandard unit attributed to it
5 under Order NSP-351. The operator later went and changed
6 that to a south-half unit. The State changed it once, but
7 our opponents say it can't be changed again. We disagree.
8 As a result, the Commission is authorized to split up the
9 current south-half nonstandard unit into two nonstandard
10 units.

11 On the technical side, it's also Pogo's
12 position -- and we will present substantial evidence --
13 that drainage in the Jalmat is less than 160 acres, and
14 therefore is again proper to form two 160-acre units. Pogo
15 will show that based on that, 160-acre units are necessary
16 to protect Pogo's correlative rights.

17 A couple of final matters. I don't think that
18 anyone will be harmed if two nonstandard units are formed.
19 The working interest owners in the southwest quarter could
20 still go out and do their -- There is a current marginally
21 producing Jalmat gas well in the southwest quarter. They
22 could certainly go out and recomplete or drill another
23 well.

24 But in addition, Resler and Sheldon would own
25 overriding royalties in the Pogo -- they do own overriding

1 royalties in the Pogo well, and therefore they will be
2 receiving proceeds of production. So it's not that Pogo is
3 excluding them from production, we just think that based on
4 the technical evidence 160-acre units are proper. We think
5 this matter should be resolved so that all the interest
6 owners in the lands will receive their share of production.

7 The final matter, and our witnesses will discuss
8 this, is that Pogo's Jalmat well has been produced at times
9 over the last couple of years. This was necessary to
10 preserve Pogo's rights under its term assignments. And as
11 our land witness will testify, no one has been harmed to
12 date because proceeds have been held in suspense pending
13 the outcome of this proceeding, except for taxes paid to
14 the State of New Mexico.

15 Thank you.

16 CHAIRMAN FESMIRE: Mr. Hall, do you have an
17 opening?

18 MR. HALL: Yes, Mr. Chairman, Commissioners. I
19 would ask you to bear in mind the scope of relief requested
20 by Pogo in its Application. It is very brief, it is a one-
21 page Application asking only that you approve a nonstandard
22 proration unit in the southeast quarter of Section 20. It
23 asks for nothing more.

24 Pogo has not applied to you to revisit a private
25 contractual agreement, which they could have done under

1 Section 70-2-17.E. It did not do that. Neither did they
2 apply to you to approve two operators within a single
3 proration unit.

4 At the time Pogo/Arch drilled its wells, two
5 units were absolutely prohibited by the Division's Rules.
6 The Division's Rules, under Rule 104, now set forth a
7 procedure whereby an operator can make application to the
8 Division and obtain authority to have more than one
9 operator in a proration unit. That was not done either.

10 The only issue before you is whether or not the
11 request for the nonstandard unit will violate correlative
12 rights. I would submit to you that correlative rights are
13 determined by a pooled unit declaration that covers the
14 entirety of the south half of Section 20, that has been in
15 place since 1958. It is filed of record, Pogo is charged
16 with notice of it.

17 Despite that, Pogo simply drilled a well, in
18 violation of the Division's Rules, I believe, and in
19 derogation of that pooled-unit declaration.

20 Since 1958 the interest owners under that south-
21 half pooled unit have shared in production proceeds from
22 the Steeler A Number 1 well, located in the southwest
23 quarter, producing from the Jalmat, 320-acre basis.

24 What Pogo/Arch wants to do now is, by virtue of
25 the interest they claim they acquired under a term

1 assignment, is keep the entirety of the working interest in
2 the southeast quarter for themselves. They want to cut out
3 the interest owners in the southwest quarter from
4 participating in their well. That is a direct violation of
5 correlative rights.

6 I think the Application before you is as simple
7 as that today.

8 CHAIRMAN FESMIRE: Okay. Mr. Hall, did you say
9 in your -- in the southeast quarter or the southwest
10 quarter?

11 MR. HALL: They're applying for a unit in the
12 southeast quarter. There is a well -- the original Jalmat
13 well is producing in the southwest quarter.

14 CHAIRMAN FESMIRE: Okay. When we bring your
15 witness up on the phone, would you remind me that they
16 haven't been sworn?

17 MR. HALL: Yes, sir.

18 CHAIRMAN FESMIRE: And would you please have your
19 witnesses stand to be sworn?

20 Wait a minute, wait a minute, wait a minute. All
21 the potential witnesses, please stand.

22 (Thereupon, the witnesses were sworn.)

23 CHAIRMAN FESMIRE: Mr. Bruce, are you prepared to
24 call your first witness?

25 MR. BRUCE: I am.

1 GARLAND H. LANG, III,

2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Would you please state your name for the record?

7 A. Garland H. Lang, L-a-n-g, III.

8 Q. Where do you reside?

9 A. Midland, Texas.

10 Q. Who do you work for and in what capacity?

11 A. I work for Pogo Producing Company as a district
12 landman.

13 Q. Could you please briefly describe your
14 educational and employment background?

15 A. I've been a landman in Midland since 1976,
16 graduated from TCU in 1976 with a bachelor of business
17 degree. I've worked for numerous companies over the years
18 in this -- My capacity with Pogo is, I've been with Pogo
19 for two years, on salary this time; I worked for them on
20 contract back in 2000 and 2001.

21 Q. Does your area of responsibility at Pogo include
22 this part of southeast New Mexico?

23 A. It does.

24 Q. And are you familiar with the land matters
25 involved in this Application?

1 A. I am.

2 MR. BRUCE: Mr. Chairman, I'd tender Mr. Lang as
3 an expert petroleum landman.

4 CHAIRMAN FESMIRE: Okay. Mr. Lang, do you hold
5 any professional certifications?

6 THE WITNESS: No, I'm not a CPL. I've taken the
7 test, but I don't know what the results are yet.

8 CHAIRMAN FESMIRE: Mr. Hall, do you have --

9 MR. HALL: No objection.

10 CHAIRMAN FESMIRE: At this time we'll accept Mr.
11 Lang's qualifications as a petroleum landman.

12 Q. (By Mr. Bruce) Mr. Lang, initially this -- an
13 application was initially filed by Arch Petroleum, Inc.
14 What was the relationship between Arch and Pogo?

15 A. Arch was a wholly-owned subsidiary of Pogo, and
16 we kept the name until just recently, and then we merged it
17 into Pogo.

18 Q. Okay. If you could refer to Pogo's Exhibit 1 in
19 front of you --

20 A. Uh-huh.

21 Q. -- what is depicted in orange on that plat?

22 A. That's the south half of Section 20.

23 Q. And Pogo does seek to -- and that is currently a
24 south-half nonstandard unit dedicated to the Steeler A
25 Number 1; is that correct?

1 A. Correct.

2 Q. And Pogo seeks to split that up into two
3 nonstandard units?

4 A. Correct.

5 Q. Okay. Let's move on to Exhibit 2. What is
6 contained in Exhibit 2?

7 A. Exhibit 2 is a term assignment from Gretchen
8 Nearburg to Eagle-K Production, who was representing Arch
9 at the time --

10 Q. Uh-huh.

11 A. -- and is a two-year term assignment covering the
12 southeast quarter and the northeast quarter of the
13 southwest quarter as to all depths owned of record.

14 Q. Okay. And did Gretchen Nearburg -- I don't have
15 mine in front of me, Mr. Lang, but --

16 A. There's several more.

17 Q. -- is there another assignment in there, assigned
18 by Bonnie Karlsrud?

19 A. By Resler and Sheldon, the beneficiaries of
20 Resler and Sheldon, which is Bonnie Karlsrud and Wayne
21 Resler.

22 Q. And were those rights then assigned from Mr. Rose
23 and his wife to -- I believe it was to Arch Petroleum at
24 the time?

25 A. Correct.

1 Q. Now it says 100 percent of all rights owned. Did
2 the Resler and Sheldon group collectively own rights to
3 below the base of the Jalmat?

4 A. Yes.

5 Q. And by these assignments, did Arch/Pogo acquire
6 100 percent of the working interest in those 200 acres
7 described in the assignment?

8 A. They did, by virtue of the Jimmy Evans
9 assignment, the Wayne Resler, Bonnie Karlsrud and Gretchen
10 Nearburg. We got 100 percent of the working interest in
11 those tracts.

12 Q. Okay, and was it Pogo's/Arch's intent to acquire
13 Jalmat rights, as well as Langlie-Mattix and --

14 A. Yes.

15 Q. -- other rights?

16 Now, Pogo has drilled several wells on its
17 acreage, correct?

18 A. Correct.

19 Q. I think a few of those wells are to the Langlie-
20 Mattix. Are there Langlie-Mattix producers?

21 A. There's three Langlie-Mattix producers, the
22 Resler A 1, the Resler B 1 -- or B 2 and B 3.

23 Q. Okay. And Langlie-Mattix is an oil pool?

24 A. That's right.

25 Q. Okay. Now Pogo or Arch also drilled, I believe

1 several years ago, the Resler B Number 1, which is the
2 Jalmat well at issue here today, correct?

3 A. Yes, they did.

4 Q. Did it eventually produce and -- or I should say,
5 complete and produce that well?

6 A. Yes, we did.

7 Q. Why was it completed and produced?

8 A. Well, the term assignments that we had expired on
9 August 15th, and we were waiting for approval of the
10 nonstandard unit. But we only had a month left in our
11 lease, and so we completed that well to save our term
12 assignment.

13 Q. Okay. So you had to preserve your rights under
14 the term assignment?

15 A. Correct.

16 Q. And if you had not completed and produced that
17 well, you could have --

18 A. We would have lost that acreage.

19 Q. Okay. Now, have you had contact with Bonnie
20 Karlsrud, who I believe is here today?

21 A. Yes, I have, several times.

22 Q. And what has been her position with respect to
23 the rights that Arch and Pogo acquired under these
24 assignments?

25 A. Well, I think her belief is that we -- it wasn't

1 the intent to acquire any Jalmat rights in that assignment.

2 Q. But that's not what the assignments say?

3 A. That's right.

4 Q. Let's move on to Exhibit 3, which is another land
5 plat, and what does that reflect?

6 A. That just shows most of the acreage to the east
7 of the south half of 20 that's noted in orange, those are
8 160-acre nonstandard units that have been approved for Pogo
9 over the last several years.

10 Q. Jalmat nonstandard units?

11 A. Jalmat nonstandard 160.

12 Q. And also depicted on there are a number of other
13 Jalmat gas well units, correct?

14 A. That's true.

15 Q. And virtually every well unit out there is a
16 nonstandard unit?

17 A. Correct.

18 Q. So it's not unusual to have nonstandard units --

19 A. No, they're --

20 Q. -- in this area?

21 A. -- they're approved all the time.

22 Q. Let's move on to your Exhibit 4. What is that?

23 A. That's a letter from David Rose. It's dated
24 April 24th, 2004, to Buddy Westbrook with Westbrook Oil,
25 just informing him that --

1 MR. HALL: Mr. Chairman, at this point I'll state
2 an objection. I believe this is hearsay testimony.

3 CHAIRMAN FESMIRE: Any response?

4 MR. BRUCE: Well, Mr. Examiner, I believe this is
5 a -- I usually get to this at the close, and I can ask Mr.
6 Garland this question, that it's maintained in the normal
7 course of records of Pogo Producing Company.

8 CHAIRMAN FESMIRE: I would ask that you establish
9 the foundation --

10 MR. BRUCE: Okay.

11 CHAIRMAN FESMIRE: -- before we admit it.

12 Q. (By Mr. Bruce) Okay, Mr. Lang. First of all,
13 with respect to this property what was the relationship
14 between Mr. Rose and Arch at that time?

15 A. Well, David Rose was Eagle-K, who acquired the
16 term assignments for Arch.

17 Q. Okay, he wasn't acquiring it for himself, he was
18 acquiring it --

19 A. That's right.

20 Q. -- for Arch, specifically for Arch?

21 And was this letter written at Arch's request to
22 the addressees thereon?

23 A. Yes.

24 Q. And does this letter constitute part of
25 Arch/Pogo's business records with respect to this prospect?

1 A. It does.

2 MR. HALL: Mr. Chairman, it still doesn't
3 overcome the hearsay objection. I don't believe there's
4 any exception in the hearsay rule that would allow the
5 admission of this. The author is not available for cross-
6 examination today, neither is Mr. Westbrook, the recipient.
7 So I don't believe it's admissible.

8 MR. BRUCE: Well, you know, the --

9 CHAIRMAN FESMIRE: Notwithstanding any further
10 foundation, I'm going to have to agree with Mr. Hall that
11 this is -- you know, that the witness is not the recipient
12 of the letter, the witness is not the author of the letter,
13 and the witness -- unless we can establish it further,
14 we're not going to be able to use this as evidence.

15 MR. BRUCE: Well, Mr. Examiner, I -- or -- "Mr.
16 Examiner" -- sorry, Mr. Chairman. I think the Division's
17 rules provide that although the rules of evidence apply,
18 they can be relaxed when necessary by the Commission.

19 CHAIRMAN FESMIRE: That is true.

20 MR. BRUCE: And we are just simply trying to show
21 that the parties to this proceeding were given advance
22 notice of what Arch tried to do, and no objection was ever
23 received.

24 CHAIRMAN FESMIRE: Until now.

25 MR. BRUCE: Until now.

1 CHAIRMAN FESMIRE: Mr. Bruce, I have to agree
2 that this is -- you know, I know what you're trying to do
3 with it, and I know that this letter is probably good
4 evidence of it, if it were admissible, but it doesn't seem
5 to be admissible under the current circumstances. And
6 while we do relax the rule, I would like this -- something
7 as important as this to be better founded than what we've
8 got so far.

9 MR. BRUCE: Okay. Mr. Examiner, the only -- or
10 -- sorry, Mr. Chairman. The only other exhibits that Mr.
11 Lang -- are notice exhibits, and these are from the
12 original Division hearing on this matter, Exhibits --
13 except for one, Exhibits 5, 6, 7, 8 and 9 are notice
14 exhibits which were testified to regarding notice to the
15 offsets and notice to the interest owners in the south
16 half. Mr. Lang was not the landman at the time.

17 I would simply move the admission of these notice
18 exhibits. I understand Mr. Hall has some materials in his
19 exhibit packet regarding notice, but unless -- I think -- I
20 would also ask that the Commission incorporate the
21 testimony from the original hearings in this matter, which
22 testified as to the adequacy of the notice given to
23 everyone.

24 CHAIRMAN FESMIRE: Okay. Mr. Hall, do you have
25 any objection, with the exception of -- Is it Pogo 4?

1 MR. HALL: No objection.

2 CHAIRMAN FESMIRE: Okay, Pogo Exhibits 1 through
3 -- is it 10 or -- ?

4 MR. BRUCE: 1 through 9.

5 CHAIRMAN FESMIRE: -- 1 through 9 are -- 1, 2, 3,
6 5, 6, 7, 8 and 9 are admitted. The letter, 4, is not.

7 MR. HALL: One question. What is 5? I'm missing
8 that one?

9 MR. BRUCE: Oh, 5 is simply -- it was a land plat
10 that was used to --

11 FROM THE FLOOR: I think I have --

12 CHAIRMAN FESMIRE: Well, that one doesn't have
13 anything to do with you all here, that's the court
14 reporter --

15 MR. BRUCE: Did you find that?

16 MR. HALL: Yes. No objection to the notice
17 exhibits.

18 CHAIRMAN FESMIRE: Of all except 4 --

19 MR. HALL: Yes.

20 CHAIRMAN FESMIRE: -- correct? Okay.

21 Mr. Bruce?

22 Q. (By Mr. Bruce) Other than that, Mr. Lang, in
23 your opinion is the granting of Pogo's Application in the
24 interests of conservation and the prevention of waste?

25 A. It is.

1 Q. And were Exhibits -- and even though they were
2 admitted -- compiled from Pogo's records or prepared by
3 you?

4 A. Yes.

5 MR. BRUCE: With that I'd pass the witness.

6 CHAIRMAN FESMIRE: Mr. Hall?

7 MR. HALL: May I approach the witness and provide
8 him with an exhibit notebook?

9 CHAIRMAN FESMIRE: You may.

10 CROSS-EXAMINATION

11 BY MR. HALL:

12 Q. Mr. Lang, it looks like Arch drilled a Jalmat
13 well into somebody else's Jalmat unit; is that accurate?

14 A. We own the rights in the southeast quarter as to
15 the Jalmat. You're saying unit. Are you saying the
16 Commission unit, or the unit filed with the State of New
17 Mexico, the pooled unit?

18 Q. The Yates gas unit is what I was referring to.

19 A. Yeah, this one is of record.

20 Q. Yes, sir.

21 A. Okay.

22 Q. You agree with --

23 A. Yeah, we did, because we own the rights. We got
24 an assignment from them covering a hundred percent of their
25 rights in the southeast quarter, all depths --

1 Q. All right.

2 A. -- down to 3700 feet.

3 Q. As a landman working in southeast New Mexico, do
4 you have some familiarity with the rules and regulations of
5 the Oil Conservation Division?

6 A. Fairly amount. I mean, I'm not -- I haven't
7 worked in New Mexico for 30 years, but --

8 Q. Okay, did you know that at the time the Resler
9 Number 1 well was drilled that the rules and regulations of
10 the Division prohibited more than one operator in a
11 proration unit?

12 A. No, I didn't know that.

13 Q. Was that an issue that ever came up, Arch --

14 A. Not that I know of.

15 Q. If you would turn to our exhibit notebook,
16 please, sir, and turn to Exhibit Tab Number 1, I'll
17 represent to you that this is a copy of the 1958
18 declaration of pooling or unitization covering the south
19 half, and if you look at there is book and page recording
20 information on there. It appears to say Book 121, page
21 350 --

22 A. Uh-huh.

23 Q. -- and it was filed -- if you look on the back
24 page, it was filed at the Lea County Clerk's Office on
25 March 3, 1958.

1 A. Uh-huh.

2 Q. Are we in agreement that Arch and Pogo would have
3 been on notice of this instrument?

4 A. Yes.

5 Q. And again, if we turn to our Exhibit 4, which is
6 a duplicate of your portion of your Exhibit Number 2 --
7 it's the term assignment that --

8 A. Okay.

9 Q. -- Resler and Sheldon signed --

10 A. Uh-huh.

11 Q. -- if you turn to the last page of that, the
12 Exhibit A, it references leases and contracts, and the last
13 line item entry, paragraph e) for Contracts --

14 A. Uh-huh.

15 Q. -- refers to the 1958 declaration of pooling. Do
16 you agree?

17 A. Okay.

18 Q. Is it your understanding that the term assignment
19 you took from the interest owners in the 200 acres were
20 subject to that pooled unit?

21 A. Apparently, that's what the assignment says.

22 Q. Okay.

23 A. Or it references it. I'm not sure -- I didn't do
24 this, I wasn't there, but let me look at it real quick. I
25 think -- Yeah, owned by virtue of the oil and gas lease and

1 contractual agreements, as enumerated on the Exhibit A --

2 Q. Okay.

3 A. -- referred to as leases. Okay?

4 Q. Then if you would turn to our Exhibit Number 6,
5 this is a title opinion prepared by Bill Burford at the
6 Hinkle law firm, dated February 5, 2004.

7 A. Uh-huh.

8 Q. Have you seen this before?

9 A. Oh, yeah.

10 Q. You've --

11 A. I gave it to them.

12 Q. You've reviewed this, you're familiar with what
13 it says?

14 A. Uh-huh.

15 Q. And it covers the 200 acres in your term
16 assignment; is that right?

17 A. That's correct.

18 Q. If you would turn to page 22 of that, there's a
19 category headed paragraph 3 --

20 A. Uh-huh.

21 Q. -- where the opinion discusses Farmout
22 Agreements, Operating Agreements and Pooling Declaration.

23 A. Uh-huh.

24 Q. And then under that category, if you turn to page
25 24, it discusses the 1958 Declaration of Pooling or

1 Unitization. You see that?

2 A. Uh-huh, I do.

3 Q. And so we're generally in agreement that the term
4 assignment that Arch and Pogo received continued to be
5 subject to the 1958 pooled unit?

6 A. Uh-huh.

7 Q. You need to answer yes or no, I think --

8 A. Oh, yes, yes.

9 Q. -- for the court reporter. It helps him.

10 Let me ask you about the term assignment, if you
11 could refer back to our Exhibit 4. Tell me, why did Arch
12 and Pogo only acquire 200 acres in the south half. Why
13 didn't it acquire the full 320? Do you know?

14 A. Because they already had three wells in the
15 southwest quarter, the Steeler A 1, A 2 and A 3. So
16 there's only a 40 available.

17 Q. Okay. And did those wells include Jalmat?

18 A. Well, they weren't completed in the Jalmat but
19 they included those rights, those wellbores covered those
20 rights.

21 Q. All right.

22 A. That 120 acres covered the Jalmat rights.

23 Q. Okay. Was it the intent of Arch and Pogo in
24 acquiring the interest under the 200 acres to acquire 40-
25 acre development sites?

1 A. For the Langlie-Mattix.

2 Q. All right. If you look at the terms of the term
3 assignment, there's a paragraph b), Continuous Development
4 of Lands.

5 A. Uh-huh.

6 Q. It starts at the bottom of page 1 --

7 A. Okay.

8 Q. -- and continues on to page 2. And I'm
9 paraphrasing here now, but it would seem to operate that
10 the way the assignee could preserve rights under the term
11 assignment, under diligent drilling and development
12 obligations, is to have drilled to each undrilled proration
13 unit by a certain deadline. Is that fair to say?

14 A. Uh-huh.

15 Q. And at that time, isn't it also fair to say that
16 the Jalmat proration unit was not an undrilled proration
17 unit? Do you agree with that?

18 A. Was not an undrilled proration unit. I'm not
19 exactly -- I don't understand exactly what you're saying.

20 Q. Well, isn't it true that the Steeler A Number 1
21 well in the southwest quarter was already drilled, and the
22 320-acre proration unit conforming with the Division's
23 rules was already dedicated to that well?

24 A. Yes.

25 Q. Okay. Do you know if Arch or Pogo had a drilling

1 title opinion prepared before the B Number 1 well was
2 drilled?

3 A. The Hinkle opinion is dated February 5th, 2004.
4 That's the date we had the opinion rendered. It was
5 through -- covered records through September 23rd, 2003, at
6 7:00 a.m.

7 Q. And it is purely a title opinion, correct?

8 A. Correct.

9 Q. Can you explain to the Commission, is there a
10 difference between a drilling opinion and a title opinion?

11 A. I think it's just a matter of what you'd call it.
12 They both set out the mineral ownership and the leasehold
13 ownership.

14 Q. All right.

15 A. It's not like a Division order-type opinion where
16 you've got all the royalty owners and what their interest
17 is in the unit, but this was a pretty comprehensive
18 opinion.

19 Q. Indeed. But isn't it true that a drilling
20 opinion would set forth requirements for an operator to
21 address before drilling is commenced, that may not be
22 included in a pure title opinion?

23 A. I'm not -- No, I don't think so.

24 Q. Okay.

25 A. I mean, I guess if you ask an attorney to do a

1 drilling opinion, I believe that this title opinion has the
2 same type of questions as far as -- regarding drilling as a
3 drilling opinion would. I guess in my opinion there's not
4 much difference.

5 Q. Okay. Let's look at the opinion in a little bit
6 more detail. If you look at page 24 again, where it
7 discusses the 1958 pooled unit declaration, it says it
8 covers production of gas from all horizons from the surface
9 down to 3100 feet under the above described leases 12
10 through 15.

11 And then if you turn back to pages 14 and 15, it
12 outlines those leases, those four leases.

13 A. Uh-huh.

14 Q. Can you tell us whether those four leases account
15 for 100 percent of the mineral interest in the 200 acres?

16 A. I don't believe it does.

17 Q. Okay. Well, let me ask you in particular about
18 an entry on page 15, right in the middle of the page there.
19 It says "Note:", and then it discusses some unleased
20 mineral interests. Do you know the quantum of mineral
21 interests that are unleased that the opinion addresses?

22 A. I'd have to look at the opinion further, but I
23 believe it's the Amerada Peerless -- it's probably 31.25
24 percent.

25 Q. Do you know how those unleased interests are

1 treated?

2 A. They're subject to an operating agreement, and I
3 believe those interests are treated -- They're part of the
4 operating agreement, and so they're treated as a working
5 interest.

6 Q. All right.

7 A. We own those working interests, Resler and
8 Sheldon own those working interests. And I guess they pay
9 Amerada -- which I don't know who owns them now, it might
10 be Apache -- pays them a royalty interest. They're covered
11 under that unit agreement, that gas unit.

12 Q. All right. And the operating agreement that you
13 referenced, does that apply to the 320-acre gas unit as
14 well?

15 A. Uh-huh.

16 Q. If you would turn to our Exhibit Number 5, Mr.
17 Lang, is that a copy of the original C-102 acreage
18 dedication plat filed as part of the APD for the Resler B
19 1?

20 A. Looks to be, yes.

21 Q. Okay. And that well was originally permitted as
22 a 40-acre oil well; is that right?

23 A. I believe so, yes, sir. It is.

24 Q. Okay. Why was it permitted as a 40-acre oil
25 well?

1 A. I'm not sure.

2 Q. Do you know when the decision was made to
3 complete it as a 320-acre gas well?

4 A. After we drilled it.

5 Q. Okay. And what's the date you drilled it?

6 A. I'm not sure.

7 Q. Okay.

8 MR. BRUCE: Our next witness will have that data.

9 Q. (By Mr. Hall) Okay. When did Arch/Pogo file its
10 administrative application to create a nonstandard unit in
11 the southeast quarter?

12 A. I'd have to go back.

13 Q. Well, let me ask it this way: Does 2004 -- Would
14 you disagree with that?

15 A. No.

16 Q. Okay. And an objection was received to that
17 Application, correct?

18 A. Objection from whom?

19 Q. Well, let me ask you, was that administrative
20 application set for hearing before one of the Division's
21 Examiners?

22 A. It was set for hearing.

23 Q. All right.

24 A. Yeah.

25 Q. And there was a hearing convened on that

1 application?

2 A. Correct.

3 Q. And if you look at Exhibit Number 7, that's an
4 order that resulted from that hearing, correct? That's
5 Order R-12,366?

6 A. Yes.

7 Q. And that order was issued on June 13, 2005?

8 A. Correct.

9 Q. We're establishing a chronology here.

10 Then if you turn to our Exhibit Number 8, do you
11 recognize that as the C-105 well completion report filed
12 for the Resler B Number 1 well?

13 A. Yes.

14 Q. And can you tell the Commission, if you'd refer
15 to that, when the Yates-Seven Rivers was perforated? Does
16 it show on there?

17 A. July 9th of '05, I believe.

18 Q. Okay, so just a couple of weeks after Arch's
19 Application had been denied, Arch proceeded to go ahead and
20 complete the well in the Jalmat anyway; is that accurate?

21 A. That's accurate.

22 Q. If you look at that, it shows the date of first
23 production, July 10th, 2005?

24 A. Correct.

25 Q. This C-105 was executed on July 14th, 2005, but

1 the time stamp for the OCD Hobbs District Office shows it
2 wasn't filed till February 12th, 2007. Can you explain
3 that delay?

4 A. I can't.

5 Q. Is there anyone present here who could?

6 A. No, our regulatory people aren't here.

7 Q. Okay. Let's look at our Exhibit Number 10, and
8 is that an amended Form C-102 acreage dedication plat for
9 the Resler B Number 1?

10 A. Yes.

11 Q. Have you seen this before?

12 A. I'm not -- I don't think so.

13 Q. Would you agree that -- February 12th, 2007, that
14 the well was now showing a 320-acre unit dedicated to it?

15 A. It does say that, 320 acres.

16 Q. Okay. Mr. Lang, are the interest owners in the
17 southeast quarter and the interest owners in the southwest
18 quarter identical, and are their percentage ownership
19 interests identical?

20 A. In the pooled gas unit for the Jalmat,
21 everybody's interest in the south half of the same, as far
22 as the royalty owners.

23 Q. All right. How about the working interest?

24 A. Working interest, we own 100 percent of the 200
25 acres, and they own 100 percent of the 120 acres.

1 Q. All right. How about the overrides? Do you
2 know?

3 A. The overrides are owned -- in the 200 acres, the
4 people that assigned us the term assignments, the Karlsrud,
5 Resler and Sheldon group, they have an override in the 200
6 acres, out of our working interest.

7 Q. All right. So we're in agreement, then, that if
8 we give effect to the term assignment, that the working
9 interest ownership in the southeast quarter and the
10 southwest quarter, 120 acres in the southwest quarter --
11 that's different?

12 A. That's different, the working interest.

13 Q. All right.

14 A. It doesn't affect the royalty interest.

15 Q. Let's look at Exhibit Number 11. Can you
16 identify that?

17 A. It looks like a Division order, it is a Division
18 order from -- Arch Petroleum, dated October 18th, 2005.

19 Q. All right, there's a transmittal letter from --

20 A. Oh, that's the transmittal letter, I'm sorry.

21 Q. -- on Pogo's letterhead?

22 A. Yes.

23 Q. If you turn the page, that's the Division order,
24 still carried under --

25 A. Yes.

1 Q. -- Arch's name?

2 A. Uh-huh.

3 Q. Now this is addressed to Bonnie Resler
4 Karlsrud --

5 A. Uh-huh.

6 Q. -- and it's for a 320-acre unit, the entire south
7 half of Section 20, correct?

8 A. Correct.

9 Q. And it shows an overriding royalty interest for
10 her interest. Do you agree?

11 A. Yes, it says as to the unitized Yates formation
12 only.

13 Q. Okay. Did Pogo or Arch generate a Division order
14 for the Resler and Sheldon working interest in the 320
15 acres? Do you know?

16 A. A Resler and Sheldon working interest?

17 Q. Yes.

18 A. They don't have a working interest.

19 Q. In the 320 acres?

20 A. No.

21 Q. Let's be clear about this. A moment ago you
22 testified that Resler and Sheldon do own a working interest
23 in the --

24 A. In the --

25 Q. -- southwest quarter, 120 acres?

1 A. In the 120 acres.

2 Q. 120 acres, correct.

3 A. Uh-huh.

4 Q. And Arch has not generated a Division order that
5 recognizes that working interest at all, correct?

6 A. We don't own any of that. They own 100 percent.

7 Q. Okay.

8 A. The Division order is incorrect.

9 Q. The Division order is incorrect?

10 A. Correct.

11 Q. The one we're looking at here?

12 A. That's right.

13 Q. What is incorrect about it?

14 A. It's saying 320 acres, which it should have been
15 200 acres.

16 Q. All right. So that's inconsistent with the
17 acreage dedication plat that's on file with the --

18 A. That's correct.

19 Q. -- OCD?

20 A. Uh-huh.

21 Q. Have revenues been distributed from the Resler
22 B 1?

23 A. I believe that some have. I haven't checked with
24 our Division order people. They sent out Division orders.
25 I'm not sure whether Ms. Karlsrud signed hers and sent it

1 back. Our people might have been distributing some
2 royalties on that well, but right now they're all in
3 suspense.

4 Q. Okay. Has Arch or Pogo generated a revenue deck
5 for either the 320-acre unit or the southeast quarter?

6 A. They have.

7 Q. And is that available for us here today? --

8 A. No --

9 Q. -- Is that something we could look at?

10 A. -- I don't have it with me.

11 Q. Mr. Lang, if the Pogo-Arch Application is not
12 granted, is there any reason that the interest owners
13 throughout the entire south half of Section 20 couldn't
14 share in production from the Resler B 1 well?

15 A. Yes, because they didn't pay their share of the
16 drilling cost on that well.

17 Q. All right. Outside of that --

18 A. And we own -- and we own the 200 acres.

19 Q. All right.

20 A. They own the 120. We should be granted the 160-
21 acre southeast proration unit.

22 Q. So outside of drilling costs, is that the only
23 impediment to sharing?

24 A. I don't unders- -- I don't really know what
25 you're getting at. I mean, they own what the own, we own

1 what we own. They own an override in the 200 acres, and
2 they own 100 percent of the 120 acres.

3 Q. Is there anything preventing Pogo from making
4 application for simultaneous dedication for two wells
5 within a 320-acre unit? Anything preventing that?

6 A. It would seem like we tried to do that before,
7 but that the rules were that since we had come here for a
8 case we couldn't do it. I don't know whether that's right
9 or not.

10 I guess I'm not that familiar with that rule,
11 whether -- if you have two operators on the same proration
12 unit, it allows each operator to operate their own wells,
13 but it doesn't necessarily mean that everybody shares in
14 production. It's like -- I'm just asking a question, I'm
15 not sure. But Westbrook would be able to operate a well in
16 the same 320 that we operate a well in and vice-versa, and
17 they get production from their wells, we get production
18 from our well. Is that not how you envision that?

19 Q. Well, I don't think I'm obliged to answer
20 questions, but --

21 A. Oh, okay.

22 Q. -- I appreciate what you're saying.

23 A. I don't know either, I'm sorry.

24 Q. That's all right. I think that completes my
25 cross of this witness, Mr. Examiner -- Mr. Chairman. I

1 would move the admission of --

2 Let me ask you one thing, though, Mr. Lang. Is
3 -- Exhibit 6, is this a true and correct copy of the
4 February 5, 2004, title opinion that's maintained in Pogo's
5 files in the ordinary course of business? Title opinion?

6 A. Yes, it appears that it is.

7 MR. HALL: At this point, Mr. Examiner, we would
8 -- Mr. Chairman, we would move the admission of Resler and
9 Sheldon Exhibits 1, 4, 6, 5, 7, 8, 10 and 11. Except for
10 Exhibits 11 and Exhibit 6, those are instruments filed of
11 record either in the Lea County Clerk's Office, or come
12 from the Division's well files. I should have asked Mr.
13 Lang whether Exhibit 11 is also maintained in the ordinary
14 course of business.

15 CHAIRMAN FESMIRE: It's never too late.

16 Q. (By Mr. Hall) Is that true, Mr. Lang, your
17 Division order? Is that a true and correct copy of those
18 Division orders?

19 A. It appears to be, yes, sir.

20 MR. HALL: Okay. So moved, Mr. Chairman.

21 MR. BRUCE: I have no objection to those
22 exhibits, Mr. Chairman.

23 CHAIRMAN FESMIRE: With that, we'll allow the
24 introduction of Exhibits 1, 4, 5, 6, 7, 8, 10 and 11; is
25 that correct?

1 MR. HALL: Yes, sir.

2 CHAIRMAN FESMIRE: Okay, they're so admitted.

3 Mr. Bruce, did you have a redirect?

4 MR. BRUCE: Just a couple.

5 REDIRECT EXAMINATION

6 BY MR. BRUCE:

7 Q. First, Mr. Lang, has Arch or Pogo -- the Steeler
8 A Number 1 is a producing well in the southwest quarter?

9 A. Correct.

10 Q. Jalmat gas well?

11 A. It's dually completed, Langlie-Mattix and Jalmat.

12 Q. And with respect to Jalmat production, Arch
13 acquired its interests when? August of --

14 A. August 15th, 2003, I'm --

15 Q. -- 2003. Since that date, has Westbrook ever
16 paid any production proceeds to Arch or Pogo?

17 A. No.

18 Q. From the Jalmat?

19 A. no.

20 Q. And then one other question. The Steeler A
21 Number 1 produces small volumes from the Jalmat, does it
22 not?

23 A. Correct. The last time I looked it was about 8
24 MCF a day.

25 Q. And getting into producing the Resler B Number 1,

1 was Arch or Pogo concerned that if that well ceased
2 producing or ceased producing economically, that it could
3 affect the rights under your term assignment?

4 A. Yes, we were.

5 MR. BRUCE: Thank you.

6 CHAIRMAN FESMIRE: Commissioner Bailey?

7 EXAMINATION

8 BY COMMISSIONER BAILEY:

9 Q. Since 1958, the Steeler A Number 1 has been
10 producing?

11 A. The Steeler A Number 1?

12 Q. In the southwest quarter?

13 A. Yes, ma'am, it's producing.

14 Q. And proceeds from production from that well would
15 have been distributed to Arch's or Pogo's predecessors, the
16 previous owners of that southeast quarter?

17 A. They still are being distributed. It's a 320-
18 acre gas unit, so they -- all the production coming from
19 Resler and Sheldon's Steeler A 1, those royalty owners in
20 the south half are all being paid for that well. And then
21 they're all going to be paid on our well throughout the
22 whole south half, because it's a pooled gas unit. So
23 there's no difference in the royalty. I mean, Westbrook
24 distributes all the royalty on the Steeler A 1, we
25 distribute everything on the Resler B 1.

1 Q. I'm concerned about Exhibit Number 8, the well
2 completion form. Is it the practice of your company to
3 hold up filing completion reports for --

4 A. I'm not aware of their -- Like I said, this was
5 the first time I've seen this, as far as the date and what
6 the approval was. I don't -- I can't answer your question
7 as to the length of time that it took to get approved -- or
8 received. I don't think it was ever approved.

9 Q. No, because C-105s are not approved, they're
10 filed --

11 A. Uh-huh.

12 Q. -- by the company who completes it.

13 A. Yes.

14 Q. But normally it's less than two or more years.

15 A. Correct. And I can't answer that question.

16 COMMISSIONER BAILEY: That's all I have.

17 CHAIRMAN FESMIRE: Commissioner Olson?

18 COMMISSIONER OLSON: I have no questions.

19 EXAMINATION

20 BY CHAIRMAN FESMIRE:

21 Q. Mr. Lang, my questions are also on -- have to do
22 with Exhibit 8, Pogo -- I mean -- the second Exhibit 8.
23 Were royalties being paid during that period, do you know?

24 A. I believe they were to a certain -- up to a
25 certain time.

1 Q. And what happened at that time?

2 A. Well, we shut the well in. Pogo's -- well, of
3 course, I'm not -- this is -- I'm not trying to give
4 excuses but, you know, Pogo is a pretty large company, and
5 the Division order people, they're -- they live in Houston,
6 they're required to start these wells. When you put them
7 on, they want to start distributing the revenues. And so I
8 guess they were just unaware of the fact that we didn't
9 have an approved, you know, nonstandard 160-acre unit, so
10 they went ahead and paid the royalties on that well,
11 because we had a title opinion, and they had a division of
12 interest that they had prepared. And so they just
13 started -- they were receiving revenues from the gas
14 purchaser, so they -- instead of that just building up,
15 they started distributing it.

16 And when they sent out Division orders to all the
17 royalty owners, like the one we had a copy of in here, they
18 signed them and sent them back. So our Division order
19 analyst thought everything is hunky-dory, so she started
20 paying revenues.

21 Q. Okay. And along those, then, we go to the
22 Division order on 11, and this is the Division order under
23 which those royalties were being paid, right?

24 A. Correct.

25 Q. So the royalties were being incorrectly paid to

1 the Karlsrud interest, for instance?

2 A. No, they're not incorrectly paid. That is her
3 overriding royalty interest in the --

4 Q. -- entire section --

5 A. -- Yates --

6 Q. -- the south- --

7 A. -- gas --

8 Q. -- section, okay.

9 A. -- from our well, from our well. That's the only
10 well in the Yates formation that she's got that percentage
11 of an override. She's got an override in deeper zones
12 where our Langlie-Mattix wells are producing.

13 Q. Okay. And initially when the OCD discovered some
14 of these problems and the well was shut in, was there -- if
15 I remember correctly, there was a problem in that the well
16 was reported shut in, and it wasn't for a period of time?

17 A. We shut it in and produced it periodically, just
18 because we were concerned about the Resler well making such
19 a small amount of gas that -- you know, if they -- if their
20 well went down, we could lose the proration unit -- or the
21 pooled unit for gas, not a hundred percent of it, but some
22 of the other interests like Amerada or Tenneco or whatever
23 would have gone away, because you didn't have production on
24 the whole unit.

25 And then we were also concerned about our term

1 assignment as far as maintaining that term assignment. So
2 we did produce it periodically, just to show production.

3 CHAIRMAN FESMIRE: I have no further questions.

4 Mr. Bruce, do you have anything else of this?

5 MR. BRUCE: Just one follow-up.

6 FURTHER EXAMINATION

7 BY MR. BRUCE:

8 Q. Commissioner Bailey asked you a question about
9 payment of -- The royalties are the same in the south half?

10 A. Correct.

11 Q. And so they were always paid on production from
12 the Steeler A Number 1?

13 A. Correct.

14 Q. But again, Arch -- Even after you bought the
15 acreage three and a half years ago, Arch or Pogo has never
16 been paid by Westbrook, the operator, on production from
17 the Steeler A Number 1?

18 A. No.

19 MR. BRUCE: Thank you.

20 CHAIRMAN FESMIRE: Mr. Hall, do you have anything
21 on the subjects the Commissioners raised?

22 MR. HALL: Yes, Mr. Chairman.

23 FURTHER EXAMINATION

24 BY MR. HALL:

25 Q. Mr. Lang, do you have personal knowledge that

1 royalties have been paid from the Resler B 1, or is it
2 simply your belief that they have been paid?

3 A. I can't remember, but I believe they have been
4 paid.

5 Q. Okay.

6 A. Over some time. I don't know if it's every month
7 or for the first year or -- I don't know. I just have to
8 check with our people and see, you know, what they paid.

9 Q. Yeah. I want to be precisely clear, then. It's
10 simply your belief that they've been paid?

11 A. Correct.

12 Q. You have no direct knowledge?

13 A. I haven't seen any payments, but I -- you know, I
14 just can't remember exactly. But I'm sure there have been
15 some paid, I just don't know how long they had been paid.

16 CHAIRMAN FESMIRE: Mr. Bruce --

17 THE WITNESS: But everybody's should be in
18 suspense now.

19 CHAIRMAN FESMIRE: Mr. Bruce, anything on that
20 subject?

21 MR. BRUCE: No, sir.

22 CHAIRMAN FESMIRE: May the witness be dismissed?

23 MR. BRUCE: Yes, sir.

24 CHAIRMAN FESMIRE: Mr. Lang, thank you very much.

25 THE WITNESS: Uh-huh.

1 CHAIRMAN FESMIRE: Your next witness, sir?

2 MR. BRUCE: Call Mr. Curry to the stand.

3 GLENN H. CURRY,

4 the witness herein, after having been first duly sworn upon
5 his oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BRUCE:

8 Q. Would you please state your name and city of
9 residence for the record?

10 A. Glenn H. Curry. I reside in Midland, Texas.

11 Q. Who do you work for and in what capacity?

12 A. I'm the senior geologist at Pogo Producing
13 Company.

14 Q. Would you please briefly for the Examiner set out
15 your educational and -- "Examiner" -- the Commission, your
16 educational and employment background?

17 A. I graduated with a geology degree from the
18 University of Texas, Permian Basin, in December, 1976.
19 I've got 30 years of experience as a geologist, with
20 several companies. My time at Arch -- I spent five years
21 at Arch, and when Pogo purchased Arch I worked there for
22 another eight years, and...

23 Q. Has your area of responsibility at both Arch and
24 Pogo included this portion of southeast New Mexico?

25 A. Yes, when I was employed by Arch Petroleum, we

1 purchased this -- not the Resler acreage, but the Teague
2 field acreage we purchased in 1994.

3 Q. And so you have been independently familiar with
4 the geology of the Teague field since that time?

5 A. That's right.

6 Q. And does one of your exhibits outline on a lease
7 plat what acreage is involved in that -- You need not find
8 that right now.

9 A. Yes.

10 Q. And you are familiar with the geology in this
11 Application?

12 A. Yes, I am.

13 MR. BRUCE: Mr. Chairman, I'd tender Mr. Curry as
14 an expert petroleum geologist.

15 CHAIRMAN FESMIRE: Mr. Curry, are you certified?

16 THE WITNESS: No, I'm not.

17 CHAIRMAN FESMIRE: Mr. Hall, do you have any
18 objection?

19 MR. HALL: I have no objection.

20 CHAIRMAN FESMIRE: Mr. Curry will be accepted.

21 Q. (By Mr. Bruce) Mr. Curry, could you -- Let's go
22 first to your Exhibit 11, which is this plat. And you just
23 mentioned the Teague acreage. Other than the Section 20,
24 is the Teague acreage that you referred to the material
25 highlighted in yellow on this plat?

1 A. That's correct.

2 Q. And that was acquired from another operator 13
3 years ago?

4 A. That's right.

5 Q. Now, this is a fairly old producing area, is it
6 not?

7 A. Yes, it is.

8 Q. But since Arch and Pogo acquired this acreage,
9 what have you been involved with and what has Arch and Pogo
10 done to develop this acreage -- further develop this
11 acreage?

12 A. Okay. Of course, my -- they pay me to find
13 opportunities. We purchased this field, it's an old
14 structure on the Central Basin Platform that has production
15 from the Tansil to the Ellenburger. There's lots of
16 producing zones.

17 We drilled 50 additional Blinebry wells within
18 the Teague field. We also worked over 40 wells, opening a
19 significant pay in the lower Paddock, and later that was
20 commingled with the Blinebry.

21 We drilled 10 additional wells in the Simpson-
22 McKee, in that field. We -- I've done numerous workovers,
23 five or six workovers, attempting to produce the Tubb, the
24 Drinkard, the Abo and the San Andres, with some mixed
25 results. We've also completed six Jalmat gas wells. I've

1 got six additional proposed to be completed.

2 And in addition to that, in conjunction with New
3 Mexico Tech I did a CO₂ study for the Blinebry formation
4 for possible future tertiary recovery. And so -- I've also
5 completed some Langlie-Mattix wells in the field.

6 So what I've tried to do is, you know, diligently
7 try to find more opportunity. We've increased production
8 and increased revenues for royalty owners and for the
9 State.

10 Q. Is it fair to say -- I mean, production in this
11 area, in many different formations, goes back 40, 50, 60
12 years, does it not?

13 A. That's right.

14 Q. Is it fair to say that before Arch and Pogo
15 started developing this acreage, there had been very little
16 drilling done here for a while?

17 A. That's correct. I think Chevron had drilled one
18 well in the Blinebry. Very little had been done other than
19 that.

20 Q. Okay. Now you've got Exhibit 11 in front of you,
21 and then your Exhibit 10.

22 With respect to the Resler acreage, the 200 acres
23 depicted in Section 20, was that -- that was purchased not
24 only for Jalmat but for Langlie-Mattix potential, was it
25 not?

1 A. That's correct, there were 40-acre locations that
2 were not drilled as to the Langlie-Mattix, and that was my
3 primary reason for pursuing that acreage, was to develop
4 the Langlie-Mattix oil.

5 Q. Okay. Now referring to your Exhibit 10, does
6 that reflect data on the wells that Arch or Pogo has
7 drilled on the -- in the south half of Section 20 since it
8 acquired its acreage a few years ago?

9 A. Yes. If you see the cross-section A-A' that's
10 indicated on the map, that line shows the A 1, B 2, and
11 B 3. Those three wells were drilled by Arch --

12 Q. Okay.

13 A. -- and completed in the Langlie-Mattix.

14 Q. Okay. Let's not -- and then --

15 A. I have a cross-section.

16 Q. Yeah, why don't you move on to your Exhibit 12,
17 your cross-section, and discuss not only the Langlie-Mattix
18 but with more particularity also the wells in this area?

19 A. Okay. Cross-section A-A -- A to A', indicated on
20 the map, goes from west to east, and I've highlighted on
21 this cross-section the Langlie-Mattix perforations. And
22 there's three formations designated with the line: the
23 Seven Rivers, the base of the Jalmat, which is a hundred
24 feet above the Queen. And that shows the manner in which
25 we completed those wells.

1 This is a low-permeability reservoir, and I have
2 an exhibit that has a paragraph for each well. That is
3 Exhibit Number 10. The title is Langlie-Mattix Seven
4 Rivers-Queen-Grayburg Field, Resler Well Summary. So I
5 have a paragraph for each well, when we completed it and
6 how we completed it, initial rate and a current rate.

7 The wells are not performing very well. It's
8 low-rate wells, 5 barrels of oil, 2 barrels of oil, and 8
9 MCF. I've got ideas for that. One idea I have is maybe
10 doing a horizontal well through the Penrose porosity. But
11 it's obviously a pretty low-permeability reservoir that's
12 not -- it has a low production rate.

13 Q. Okay. And of course the Langlie-Mattix isn't the
14 main idea here today, but it shows that you were trying to
15 develop this acreage primarily for Langlie-Mattix at the
16 time?

17 A. That's correct.

18 Q. Now in 2003 did Arch complete -- Well, let's take
19 a step back, and maybe the best thing to do, Mr. Curry, is
20 to get out your Exhibit 15.

21 A. 15, okay.

22 Q. And on this plat the red indicates the Jalmat gas
23 wells, correct?

24 A. That's correct.

25 Q. And historically had production pretty much

1 ceased in the middle of -- the producing wells pretty much
2 ceased in the middle of Section 17 and 20, and there hadn't
3 been any Jalmat wells to the east of there, east of that
4 acreage; is that correct?

5 A. That's right. The Jalmat field is a classic
6 stratigraphic trap. It covers a very large area, you know,
7 like five townships long. Including the Eumont and the
8 Jalmat together, it's a huge area, five townships north and
9 south and two townships wide.

10 And essentially, it's a marine sand with high
11 porosity and producing oil downdip, gas, and then as you
12 move updip towards the shelf, where we are here in Section
13 20 and 21, you see a change in reservoir quality. The sands
14 become more dolomitic as you go updip, your dolomite
15 increases.

16 And as you go farther updip, you end up with
17 anhydrite plugging, and you're essentially -- you know, if
18 you look at this map, you can see over where the cross-
19 section is, B to B'. Those are productive Jalmat. As you
20 move to the east, I tried a well over in Section 22. You
21 can see it over there. That was a failure. Most of the
22 porosity has been occluded with evaporites. So I
23 essentially drilled the seal of the field. So if you can
24 imagine the sands coming up on the shelf, they get less and
25 less permeability until they're completely plugged with

1 anhydrite at the top, which is the effective seal for the
2 Jalmat field.

3 So my point is, if you look at the west portion
4 of this map over in Section 19, you're looking at sands in
5 the Yates and -- in the Tansil, Yates and Seven Rivers that
6 have porosities -- you know, 10- to 20-percent porosity,
7 with better permeability.

8 When you move up on the shelf area, say over in
9 Section 21, I've got a core analysis in one of those wells.
10 The average porosity is 7 percent, and the permeability is
11 like .08 average. You'll have a few streaks that have
12 better perm, but it's -- what I'm trying to demonstrate is,
13 as you go updip you're losing permeability rapidly because
14 of dolomite cements in the sands and even the sands
15 disappear in some areas and you just have dolomite and then
16 you have anhydrite.

17 Q. Okay. So essentially if you look at the east
18 half of Section 20 and everything pretty much to the east
19 of that, there had been no Jalmat gas wells developed there
20 as of 2003?

21 A. As of 2003, that is correct.

22 Q. Okay. Then did Pogo or Arch drill or recomplete
23 some wells which developed Jalmat potential in these
24 couple, three or four sections?

25 A. That's right, during the drilling of these wells

1 we ran mud logs, and we had good gas shows in the Tansil-
2 Yates --

3 Q. Let me take a step back. When you say drilling
4 these wells, this is what you were talking about originally
5 when you were drilling the McKee wells and Langlie-Mattix
6 wells --

7 A. And Blinebry wells --

8 Q. -- and the Blinebry --

9 A. -- right, right. The previous drilling, we
10 encountered gas shows in the Tansil-Yates-Seven Rivers-
11 Jalmat interval. And it was very interesting to me. I
12 thought, well, we should try to complete those and see what
13 kind of production we can get.

14 Q. Okay. So as a result, you -- I'm looking at the
15 northwest quarter of Section 28.

16 A. Right.

17 Q. Were those the first two wells that Pogo or Arch
18 completed out there?

19 A. Yes, 78, 32. Those were recompletions, workovers
20 and existing wells.

21 Q. And that confirmed your prior log information
22 that the Jalmat would be potential out here?

23 A. Yes. Yes, sir.

24 Q. Okay. Now still looking at this plat -- and I
25 think you'll get into this in more detail -- are there

1 examples where a Jalmat gas well has been drilled and
2 nearby offsets have been drilled with no apparent adverse
3 effect or little interference between the wells?

4 A. That's correct.

5 Q. And is that shown by the 78 and 32 wells?

6 A. Yes, that's true. Those both -- you know, I have
7 a little bubble with text in it. It shows the IP, 1.2
8 million a day, current test 176 MCF a day, over a four-year
9 period. Well next to it IP'd at 1.2 million a day, and the
10 current test is 182 MCF after four years?

11 Q. And is that also -- Even in the better part of
12 the pool to the west, can you pick out areas where there's
13 been a 2 or 3 or 4 or 5-BCF well and the -- offsets have
14 been drilled nearby which are commercial?

15 A. Yes, sir, that's correct. If you look at Section
16 19, which is right here on the edge of the map, what I have
17 posted below the well symbol is the red numbers, the gas in
18 MCF. So if you take like the southeast quarter of Section
19 19, there's two Jalmat producers. The one in the southeast
20 southeast made 1.9 B's, and the one in the northwest of the
21 southeast made 659 million.

22 So there's two wells in a 160-acre that the old
23 well was very commercial, and the newer well is also very
24 commercial. That's -- you know, I do a lot of looking at
25 production volumes to justify drilling operations, you

1 know, to determine whether a drilling operation I would do
2 would be commercial or not. I like to see what the
3 production history can tell me, so...

4 Q. From a geological perspective -- Based on your
5 core data and the production you see out here, from a
6 geologic standpoint are the drainage areas limited out here
7 in the Jalmat?

8 A. I believe that the -- in this area of the Jalmat
9 field we are draining less than 160 acres per well, in
10 Section 20. In Section 20 and 21, I believe we're draining
11 less than 160 acres with a single well.

12 Q. Now let's go to your cross-section, Exhibit 16,
13 and could you just discuss that briefly?

14 A. Okay. This is cross-section B-B', and that goes
15 from the west to the east. It's indicated on Exhibit 15,
16 the red line across there. And it begins on the left side
17 with the Westbrook Oil Steeler A 1, then Arch Petroleum,
18 Pogo's Resler B 1.

19 Then it skips to the north, in the north half of
20 20 and shows the Fulfer Oil and Cattle Company Johnson
21 Number 3.

22 And then it goes over the LaMunyon Federal Number
23 3, which was a workover that we completed in the Jalmat.

24 And then the last well on the right side is a
25 well that Pogo just drilled, the LaMunyon Federal 87.

1 I've indicated the top of the Tansil formation,
2 the Yates formation, the Seven Rivers and the Queen
3 formation, and I also included the base of the Jalmat,
4 which is a hundred feet above the Queen.

5 The perforations are highlighted in red in the
6 depth track. You can see how our wells were perforated.
7 We fracture-stimulated the wells.

8 As far as the LaMunyon Federal Number 87, which
9 is the currently completing well, we have currently
10 perforated the Langlie-Mattix, and we're testing that. We
11 have not perforate the Jalmat. I put the perforated
12 interval on the cross-section to indicate where I will
13 perforate it when we get to that point. Currently the well
14 is only completed in the Langlie-Mattix.

15 Q. And based on the completions out here, that is --
16 the Jalmat completions, that is why Arch proposed the
17 drilling of the Resler B 1 to test the Jalmat; is that
18 correct?

19 A. Right, when I had success in the workovers over
20 in Section 28, I felt very confident that we could complete
21 a well in the southeast quarter of 20 and make a successful
22 Jalmat well.

23 Q. Okay. And are Exhibits -- Questions have been
24 raised about when this well was drilled and completed, and
25 what production. Is that addressed by your Exhibits 13 and

1 14, your write-up and --

2 A. Yes, that's correct.

3 Q. -- the well-test data?

4 A. Yes, that's correct.

5 Q. And when was that well drilled?

6 A. Okay, Resler B 1 was drilled to a total depth of
7 3100 feet on March 23rd, 2004. It was then cased but not
8 completed. We were waiting on the results of the
9 nonstandard proration unit hearing held May 27th, 2004. It
10 was drilled, cased, but not completed until we got the
11 results of the nonstandard proration unit hearing.

12 Q. And at that point, as Mr. Lang said, you had to
13 complete it to preserve the lease rights?

14 A. We completed the well one month before our lease
15 expired because we were concerned about losing the lease.

16 Q. And so it was drilled about 16 -- it was drilled
17 in March, 2004, but not completed until July, 2005?

18 A. Yeah, the perforations were July -- July the 9th,
19 2005, is the date of perforation of the Jalmat interval,
20 one month before the lease expired.

21 Q. Okay. Now just one final matter, and I don't
22 think we need to go into great detail on this. Mr. Curry,
23 on your cross-section is a well in the northeast quarter of
24 Section 20, which is operated by Fulfer Oil and Cattle
25 Company, correct?

1 A. That's correct.

2 Q. And they objected at the hearing, at the original
3 hearing in this matter, to the drilling and completion of
4 your Jalmat gas well?

5 A. That's correct.

6 Q. Is their well completed in the Jalmat?

7 A. Okay, I'll refer you to the Exhibit 17, which is
8 my written summary of the well history of the J.C. Johnson
9 Number 3.

10 Also included, Exhibit 18, which is the
11 application for a permit to recomplete that well into the
12 Jalmat-Tansil-Yates-Seven Rivers. That's Exhibit 18. And
13 that has a proposed program to plug back, recomplete, from
14 the Langlie-Mattix to the Jalmat -- sharing with Number 4
15 well, okay, so you set a cast-iron bridge plug and then
16 perf the Jalmat.

17 So the perforations that I have put on my cross-
18 section came from this proposed workover submitted to the
19 OCD. That's one piece of evidence that it was completed in
20 the Jalmat.

21 I also have Exhibit 19, which came off of the New
22 Mexico Tech production website, you all are probably
23 familiar with, with a complete history of production on
24 that well. That's Exhibit 19. And it was originally
25 completed in the Langlie-Mattix in 1973. It shows the

1 production history.

2 You turn the pages to page 8 of 9, there's a
3 period of time with nonproduction, and then in 2003 there's
4 an entry of 5537 MCF in July of 2003. And again in
5 February of 2004 you start seeing gas production, but no
6 oil production.

7 So my assumption was that even though I didn't
8 find a completion form on the website, that well had been
9 completed in the Jalmat section, if they did this procedure
10 they suggested they would do, okay?, in Exhibit Number 18.
11 I couldn't find a completion form that had a subsequent
12 report or anything that said that they had actually done
13 the work, but I did see evidence in the production stream
14 that they were making a lot of gas. So I assume that this
15 well was complete in the Jalmat, beginning July of '03.

16 Q. But it's being reported as Langlie-Mattix
17 production?

18 A. Yeah, that's correct. This came right off of
19 their website, and it still says Langlie-Mattix production,
20 even though it's making a lot of gas.

21 Q. And if you compared that gas production since
22 2003 with production from the Resler -- Pogo's Resler B
23 Number 1, they appear to be similar, lots of gas and
24 absolutely no oil?

25 A. On the map on the map I show cumulative

1 production. What I did is, I took the cumulative
2 production from that report, subtracted out the Langlie-
3 Mattix and came up with 131 million cubic feet of gas that
4 I presume is from the Jalmat. The average of November,
5 '06, was 65 MCF a day, but based on the high production
6 rate, their IP was much better than that. So it's a pretty
7 strong well.

8 Q. But yeah, Mr. Curry, you know, looking at your
9 plat there, there are or have been three Jalmat wells on
10 the north half of Section 20, which is operated by Fulfer
11 Oil and Cattle; is that correct?

12 A. That's correct.

13 Q. And Pogo doesn't object to Fulfer having a well
14 on each quarter section, does it? I mean --

15 A. No, I don't. I don't object to that.

16 Q. But nonetheless, Fulfer is objecting to two wells
17 on the south half?

18 A. That's right.

19 Q. And as a matter of fact, didn't Fulfer Oil and
20 Cattle Company also object to the nonstandard Jalmat gas
21 well unit in the northwest quarter of Section 21 proposed
22 by Arch?

23 A. They also objected to that one.

24 Q. And didn't they also object -- It's not shown on
25 your plat, but doesn't Arch also have a Jalmat approval for

1 a nonstandard unit in the southwest quarter of Section 16?

2 A. Yes, I forgot to put a circle around it. It's in
3 the southwest of Section 16, Number 5.

4 Q. The Number 5 well is --

5 A. That's been approved for the nonstandard unit.

6 Q. And Fulfer Oil and Cattle also objected to that
7 well?

8 A. Yes, they objected to all three of those.

9 Q. Okay. Just one final matter. If the Commission
10 would grant two nonstandard units, do you think there is
11 additional potential for either drilling another Jalmat
12 well in the southwest quarter or recompleting one of the
13 existing wells into the Jalmat?

14 A. Yes, sir, I believe that -- in the southwest
15 quarter of Section 20 there's a Well Number 3 and Number 4.
16 You know, depending on the mechanical condition of the
17 wellbore, you could probably work over Number 3, plug back
18 to the Jalmat, make a gas well.

19 Q. And Pogo has absolutely no objection to another
20 Jalmat gas well in the southwest quarter?

21 A. No, I don't.

22 Q. Were opinion -- "opinions". Were Exhibits 10
23 through 19 prepared by you or under your supervision?

24 A. I prepared them.

25 Q. And in your opinion, is the granting of Pogo's

1 Application in the interests of conservation, the
2 prevention of waste, and the protection of correlative
3 rights?

4 A. Yes, sir, I believe the Jalmat completions are a
5 viable project for us to do.

6 Q. And they're viable on 160-acre spacing or even
7 less?

8 A. Yes, sir.

9 MR. BRUCE: Mr. Chairman, I move the admission of
10 Exhibits 10 through 19.

11 CHAIRMAN FESMIRE: Any objection, Mr. Hall?

12 MR. HALL: No, Mr. Chairman. Perhaps I missed
13 it, I don't recall any discussion about Exhibit 14.

14 THE WITNESS: Fourteen. Okay, Exhibit 14 is a
15 list of well tests for our operated Resler B 1 Well that
16 came out of our well test database. I printed off all the
17 production tests available.

18 I also included a -- If you turn the pages,
19 there's one called Monthly Allocation Summary -- looks like
20 this -- and that shows the volume of sales by month for our
21 operated well, the Resler B 1.

22 And behind that is an e-mail from our
23 accountants. It has a monthly listing of taxes paid to the
24 State relating to that Resler B 1 Jalmat well.

25 So that's a full history of all the production

1 data from our operated well, Resler B 1.

2 MR. HALL: I have no objection.

3 CHAIRMAN FESMIRE: Exhibits -- Pogo Exhibits 10
4 through 19 will be admitted.

5 Mr. Hall, can you do what you need to do in seven
6 minutes, or would you like to --

7 MR. HALL: Seven minutes? No, sir.

8 CHAIRMAN FESMIRE: Just wanted to check. Okay,
9 at this time we will adjourn until one o'clock, where we
10 will reconvene with the cross-examination of Mr. Curry.

11 (Thereupon, noon recess was taken at 11:53 a.m.)

12 (The following proceedings had at 1:05 p.m.)

13 CHAIRMAN FESMIRE: Let's go back on the record.

14 Let the record reflect that it's 1:05 p.m. on April 19th.

15 This is the meeting of the New Mexico Oil Conservation
16 Commission. All three Commissioners are present, therefore
17 there is a quorum present.

18 I believe, Mr. Hall, you were going to begin your
19 cross-examination of Mr. Curry.

20 MR. HALL: Thank you, Mr. Chairman.

21 CROSS-EXAMINATION

22 BY MR. HALL:

23 Q. Mr. Curry, I'd like to ask you a couple of
24 questions about two of your exhibits. Your Exhibit 15,
25 let's start with that, Exhibit 15.

1 A. Yes, sir.

2 Q. If you look at the north half of Section 28, is
3 that north half a single proration unit?

4 A. That's two proration units.

5 Q. I see. Are the wells in the northwest quarter,
6 are those both Jalmat gas wells?

7 A. Yes, sir, they are.

8 Q. Is that permissible under the Division's rules,
9 to have two gas wells within a single 160-acre unit?

10 A. We got approval to share the allowable in that
11 unit. It was after the fact, after we had completed it.

12 Q. Would you happen to know the order number?

13 A. No, sir.

14 Q. I wouldn't expect you would.

15 A. No, sir, I don't have that with me.

16 Q. Let me ask you about -- Excuse me just a minute.

17 MR. BRUCE: Mr. Hall, that NSP order is on
18 Exhibit Number 3.

19 Q. (By Mr. Hall) All right. And as I understand
20 it, Mr. Curry, if you look at Exhibit 3, did that NSP order
21 -- is that the order that authorized you to drill two wells
22 on that 160? Do you know?

23 A. As I said, we requested the allowable sharing
24 after the fact. We had already completed the two wells
25 prior to that. It was amended after -- with a --

1 Q. I'm sorry?

2 A. It was amended after the completion.

3 Q. All right.

4 A. We requested an approval to do that.

5 Q. Had those wells produced for a while prior to the
6 approval?

7 A. Several months, I'm not sure of the exact amount
8 of time, but it's --

9 Q. All right.

10 A. I've got the IP date here on the map, 11-12-03,
11 and if you have the date of the NSP, then we can find out
12 what the actual time was.

13 Q. All right.

14 A. But it was after.

15 Q. If you would turn to the Resler and Sheldon
16 exhibit notebook and turn to Exhibit 13, have you seen this
17 before? Are you -- Let me ask you, are you familiar with
18 the data screens available on the ONGARD Internet site?

19 A. No, I'm not.

20 Q. Okay. I represent to you that this is a copy of
21 the data screen for production data for the Resler B Number
22 1, and it shows no production has been recorded.

23 A. That's correct.

24 Q. You agree, production has not been reported?

25 A. We have not reported production.

1 Q. Okay. Let me turn to Exhibit Number -- your
2 Exhibit Number 14.

3 A. Fourteen, okay.

4 Q. And if you would turn to that page you have
5 styled Monthly Allocation Summary --

6 A. Yeah, that's --

7 Q. -- it shows the cum.

8 A. -- the report from our accounting system.

9 Q. And you're showing about 151 million, that's as
10 of January. So that would actually be November production;
11 is that right? Through November?

12 A. I have one line per month, beginning with July
13 the 1st, 2005, and following. The last month on that
14 report is January 1st, 2007.

15 Q. So then you have cum sales below that?

16 A. That's correct. That's the cum of all the
17 production of that well.

18 Q. Okay. So if I understand, that takes us through
19 January production?

20 A. Yes, sir, that -- for example, over in -- just
21 above that -- where I circled it --

22 Q. Yes, sir.

23 A. -- there's a volume of 5268. That was for the
24 total month of January, '07. January 1st through January
25 31st of '07. So that's through that date, yes, sir.

1 Q. And does this cum volume show -- Let me ask you,
2 does that cum volume also include gas coming from the
3 Resler B 2?

4 A. No, sir.

5 Q. Are they not being reported through the same
6 meter?

7 A. Boy, that's a -- I'm not sure about that.

8 Q. Okay.

9 A. This is titled, Allocated Monthly Production
10 Summary. My assumption is that this volume of gas was
11 produced out of a single well, the Resler B 1, because
12 they've allocated it to this well. I don't know how the
13 facility is plumbed, or --

14 Q. All right. If you'll refer to the last page of
15 your Exhibit 14 --

16 A. Exhibit 14, last page?

17 Q. Yes. If production volumes had not been reported
18 to the State, can you explain to us how severance taxes
19 have been paid? Do you know?

20 A. I don't know. That's -- I really don't. In my
21 job I don't really handle that kind of work.

22 Q. All right.

23 A. I just requested from the accounting department,
24 how much has the well made? And they gave me that report.
25 And I also asked them, have we paid any taxes? And they

1 sent me that report. So -- I'm not an accounting, I don't
2 know, really.

3 Q. All right. If I'm reading this correctly, after
4 0406 -- April, '06 -- it says, Started using dummy -- What
5 is that, pin? pln or pin?

6 A. I don't know what that means.

7 CHAIRMAN FESMIRE: On the e-mail it's a pun. Is
8 there --

9 THE WITNESS: I'm sorry?

10 CHAIRMAN FESMIRE: On the e-mail it's a p-u-n.
11 Is that --

12 THE WITNESS: I'd have to call my accountant to
13 find out what that means. I simply asked a question, and
14 they answered it with these amounts of money that had been
15 paid. And I'm really unfamiliar with the accounting
16 procedure.

17 MR. HALL: All right.

18 THE WITNESS: I just requested the data so that I
19 -- so I can tell you exactly what I think the well has
20 made, based on our records.

21 MR. HALL: All right.

22 THE WITNESS: Because it hadn't been reported to
23 the Commission, you know, you needed to know what the well
24 has done.

25 Q. (By Mr. Hall) I understand. Well, the

1 representation was made that severance taxes were paid, but
2 it doesn't appear that you have direct knowledge that
3 that's the case; isn't that right?

4 A. I know that these dollars -- the accounting
5 department told me that this amount of money has been paid
6 as taxes.

7 Q. And if production hasn't been reported to the
8 OCD, we don't know how the Taxation and Revenue Department
9 would have allocated incoming revenues if there's not an
10 existing pun; do you know?

11 A. I do not know. As a geologist, I don't usually
12 get involved in those affairs.

13 Q. Okay. Well, this is part of your exhibit. Do
14 you know whether the balance of well revenues have been
15 placed in suspense?

16 A. I was told that.

17 Q. All right. Does that include Pogo's share?

18 A. I don't know that answer.

19 Q. Let's refer to your Exhibit 13, please, your
20 summary of the Resler B 1.

21 A. Okay.

22 Q. In that last paragraph, Geologic setting, you
23 indicate that in your opinion the Yates and Seven Rivers
24 formations lose porosity from west to east. Is that also
25 true of Section 20?

1 A. In general, yes. Unfortunately, what I have to
2 work with here on the cross-section, B-B', are cased-hole
3 gamma-ray neutron logs, and it is some -- the accuracy of
4 the porosity readings, you know, plus or minus two percent,
5 you know. It's hard to calibrate the old cased-hole
6 neutrons. The one on the far end is an open-hole log,
7 which is more accurate.

8 But in general, I did look for some wells in 20
9 and 19 with the good log to determine that the porosity is
10 like sometimes 10 to 20 percent in the pay zone. When I
11 move over here to 20, the east half, and the west half of
12 21, the logs are reading lower porosity, in the range of 5
13 to 8, with about an average of 7.

14 So in general, the porosity is reduced -- the
15 percentage of porosity is reduced and the feet of porosity
16 is reduced, as you move to the east. And the sands are
17 being occluded with dolomite and anhydrite, and so in
18 general the reservoir is decreasing as you go to the east,
19 until it pinches out completely.

20 Q. Did that have a bearing on the decision to locate
21 the Resler B 1 in the northwest southeast of 20?

22 A. Well, I thought it would be a good location for
23 the gas well. And it could have been in another place, it
24 wouldn't have mattered. It still would have made a gas
25 well. I've got gas wells on the west and I've got gas

1 wells on the east, so I know that the reservoir was still
2 good in that location.

3 Q. Okay. If we look at your Exhibit 17 --

4 A. 17.

5 Q. -- you discuss the Fulfer J.C. Johnson Number
6 3 --

7 A. Okay.

8 Q. -- and that's located in the southeast northeast
9 of 20, correct?

10 A. That is correct.

11 Q. And in that very last completion -- I'm
12 paraphrasing, but you were -- it sounds like you were
13 motivated to drill the B 1 well because the Fulfer well was
14 competitively producing Jalmat gas reserves offsetting your
15 lease; is that right?

16 A. Well, they made a good well, and I had made a
17 good well down in 78. There were two points there of
18 production for me to see. There was also the well data I
19 had gathered on mud logs on the three wells that we had
20 drilled, so I decided that the northwest to southeast would
21 be a good location for a gas completion, optimum location
22 for Pogo to drill.

23 Q. Okay. Do you have an opinion of the likely
24 drainage radius for the Resler B 1 well?

25 A. The -- I don't. I know that it's less than 160

1 acres, in my opinion.

2 Q. All right. In your opinion is the Resler B 1
3 draining reserves from the southwest quarter of Section 20?

4 A. Southwest quarter. I don't believe so.

5 Q. But you believe it can drain 160 acres at that
6 location?

7 A. I didn't say that, I said less than 160 acres.

8 Q. Tell us how much less.

9 A. Well, I'm not sure.

10 Q. Okay. Let me ask you a little bit more about how
11 the Fulfer Johnson Number 3 played a part here. Look at
12 your Exhibit 18.

13 A. Okay.

14 Q. And then also your Exhibit 19 is a production
15 history.

16 A. Right.

17 Q. Were you suggesting that this well was permitted
18 as a Langlie-Mattix well, and production was being reported
19 as Langlie-Mattix gas?

20 A. Yes, sir.

21 Q. Okay. Well, if we look at Exhibit 18, on both
22 pages the pools identified there are the Jalmat -- in fact,
23 the second page of Exhibit 18 shows Jalmat-Tansil-Yates-
24 Seven Rivers (Progas) -- prorated gas, we assume.

25 A. That's correct.

1 Q. Any dispute that this well is completed in the
2 Yates?

3 A. I don't really know where it's completed. All I
4 have to go on is this form where they propose the work, and
5 this production report that says Langlie-Mattix. That's
6 all the data, public data, available to me.

7 Q. Okay. But you concluded it was producing Jalmat
8 reserves?

9 A. I think what I said was that I drew the
10 conclusion, based on the evidence I saw, that it was
11 completed in the Jalmat.

12 Q. Okay.

13 A. But I did explain that I didn't know for sure.

14 Q. All right.

15 A. All I have is the production report, which says
16 Langlie-Mattix, with gas production increasing in February
17 of 2004, and I have the C-101 form request- -- you know,
18 where they send the form to the Commission about what they
19 plan to do. So on those two pieces of evidence I concluded
20 that, yes, that well has been completed in the Jalmat
21 section.

22 Q. Okay.

23 A. And I explained on my cross-section -- I put the
24 perms in there, based on this, without seeing a completion
25 form.

1 Q. Understand. Earlier, you were suggesting --
2 Well, if you look at your Exhibit 17, you were pointing out
3 that in your view, you concluded that Fulfer was producing
4 Jalmat gas while at the same time objecting to Pogo
5 Producing Company's application to complete the Resler B 1
6 in the Jalmat?

7 A. Yes, sir.

8 Q. What point were you trying to make?

9 A. My conclusion, based on the two pieces of
10 evidence that I explained earlier, is that that well is
11 completed in the Jalmat, and there are -- in the north half
12 of 20 there's one, two, three Jalmat wells in that north
13 half. And when we applied for a nonstandard proration unit
14 in the southeast of 20, they objected to it.

15 Q. Are all three of those Jalmat wells in the north
16 half -- are each of them gas wells?

17 A. One is a gas well, that's the Number 4. The
18 Number 5 is called a Jalmat oil well, based on the records
19 I saw on the website.

20 Q. All right. Wouldn't it be more accurate to say
21 that Fulfer was objecting to Arch and Pogo's practice of
22 permitting and drilling 40-acre Langlie-Mattix wells and
23 then recompleting them in the Jalmat? Isn't that more
24 accurate?

25 A. No, sir, that's not accurate because I didn't

1 drill that well as a Langlie-Mattix producer. It only --
2 the TD is 3100 feet.

3 Q. But you'll agree --

4 A. 3100 feet is -- doesn't even penetrate the
5 Langlie-Mattix, the Resler B 1.

6 Q. All right. Well, they were -- You'll agree it
7 was initially permitted as 40-acre oil well, correct?

8 A. Yes, sir, and that was unfortunate, but my intent
9 was to drill a Jalmat gas well, and it was a mistake --

10 Q. Okay.

11 A. -- on permitting.

12 Q. Has Pogo committed that mistake before in this
13 area?

14 A. It was brought out in the previous hearing, and
15 we discussed it in the same manner that we're discussing it
16 now.

17 Q. Okay.

18 A. That was a permit that was filed incorrectly, and
19 we did it incorrectly. My intent was to drill a gas well
20 and TD it at 3100 feet, and that was my instruction. My
21 recommendation as a geologist was, let's drill a 3100-foot
22 gas well. So the permit was incorrect, and we're -- you
23 know, that's our mistake. But that was my recommendation
24 and my intent, was to drill a 3100-foot gas well.

25 Q. Let's look at one of your plats. I think Exhibit

1 15 is probably good.

2 A. Fifteen.

3 Q. Can you point out to the Commission where the
4 C.E. LaMunyon Number 78, C.E. LaMunyon Number 32, and C.E.
5 LaMunyon Number 23 wells are located?

6 A. Yes, sir. Right here on the --

7 Q. Why don't you tell us what section they're
8 located in, for the record?

9 A. Those three wells are located in the north half
10 of Section 28.

11 Q. And did the Division order you to shut in those
12 three wells?

13 A. Yes, sir.

14 Q. What happened there?

15 A. They called our production office and told them
16 to shut them in, that they were in violation, so we shut
17 them in.

18 CHAIRMAN FESMIRE: Who is "they"? You said
19 "they" called.

20 THE WITNESS: The OCD in Hobbs. I think it was
21 Chris -- I don't know who it was. They called the
22 production department and shut it in.

23 MR. HALL: If I might approach the witness --

24 CHAIRMAN FESMIRE: You may, sir.

25 MR. HALL: -- Mr. Chairman?

1 Q. (By Mr. Hall) Mr. Curry, is what we've marked as
2 Exhibit C a dated letter from the Division, Chris Williams,
3 directing Arch to shut in those three wells?

4 A. That's correct.

5 Q. And does it indicate that those wells were
6 completed in the Jalmat pool?

7 A. Yes, sir, it is.

8 Q. And that's why they were ordered to be shut in?

9 A. That's correct.

10 Q. What's the current status of those wells?

11 A. Those wells are currently producing.

12 Q. Out of what pool?

13 A. Jalmat pool.

14 COMMISSIONER BAILEY: I don't see a date on this
15 letter. Am I missing it somewhere?

16 MR. HALL: It's undated.

17 Q. (By Mr. Hall) Tell us where the Resler A 1 is.

18 A. Okay, the Resler A 1, if you look at Exhibit
19 Number 11, the Langlie-Mattix map -- Oh, you're talking
20 about the Resler?

21 Q. Yes, sir.

22 A. The Westbrook-operated Resler?

23 Q. No, the Resler A 1.

24 A. The Pogo-operated Resler?

25 Q. Yes, sir.

1 A. Okay, the Pogo-operated -- On Exhibit Number 11,
2 it's in the northeast of the southwest of Section 20.

3 Q. That well was originally permitted as a Langlie-
4 Mattix well?

5 A. That's correct.

6 Q. Okay, there was no attempt to complete the well
7 in the Jalmat, was there?

8 A. No, sir.

9 Q. Mr. Curry, earlier before lunch, you indicated
10 that one of the reasons that Arch and Pogo were motivated
11 to drill the Resler B 1 was in order to preserve the rights
12 under the term assignment; is that accurate?

13 A. Yes, sir.

14 Q. Were there a number of other 40-acre oil well
15 locations available to you in the 200 acres under the term
16 assignment that could have been drilled to preserve term
17 assignment?

18 A. Yes, sir.

19 Q. And why wasn't that done?

20 A. Well, we drilled the A 1, the B 2, and the B 3,
21 and on one of the exhibits I have the initial rates and the
22 latest well test rates. Those wells did not turn out as
23 well as I expected them to turn out. And if you look at
24 Exhibit Number 10 --

25 Q. Yes.

1 A. -- I've got the current well test for the A 1 is
2 5 barrels of oil, 8 MCF and 2 barrels of water. The Resler
3 B 2 is currently making 2 barrels of oil, 8 MCF and 3
4 barrels of water. And the Resler B 3 is making 2 barrels
5 of oil, 8 MCF and 2 barrels of water. I wouldn't put my
6 money in a well like that. I wouldn't drill another one,
7 because they're just not making enough production to
8 justify drilling another -- a fourth one.

9 My initial -- You know, sometimes we recommend
10 things that we think will be better, and they don't turn
11 out too good.

12 Q. Have you concluded that there's no more potential
13 for Langlie-Mattix in the 200 acres?

14 A. Well, last night I was looking at it again, and
15 I'm thinking maybe we could consider horizontals through
16 the Penrose. You know, there's been a lot of technology --
17 you know, a lot of successful horizontals, and that's an
18 idea I've got. I don't know if it's commercial, but the
19 wells in that area have very low perm.

20 Q. Okay.

21 A. So one reason I thought they might be good is
22 because in Section 28 -- I'm sorry, Section 29, due south,
23 they had a long-term waterflood project in the Queen, in
24 the Langlie-Mattix. And I thought perhaps it could have
25 given us a push onto our acreage here, and we could drill a

1 well and do all right.

2 Well, as it turns out, the perm was not as good
3 and the wells are marginal at best.

4 Q. Okay.

5 A. So I decided I don't want to drill another one of
6 those. But I'm seeing evidence that the Jalmat gas could
7 be a more viable project for the company, so that's what we
8 did.

9 Q. Well, while we have your Exhibit 10 in front of
10 us --

11 A. Yes, sir.

12 Q. -- in fact, wasn't the Resler A 1 open to the
13 Jalmat initially?

14 A. No, sir. The Resler A 1 is only in the Langlie-
15 Mattix.

16 Q. Did the Division order Pogo and Arch to plug that
17 back to the Langlie Mattix from the Jalmat; do you know?

18 A. I'm sorry?

19 Q. Did the Division order that that well be plugged
20 back to the Langlie Mattix from the Jalmat?

21 A. Well, let me look at the cross-section here,
22 understand what you're asking. That's cross-section A-A.
23 I've got that well on the cross-section, and it's the first
24 well, right here. Okay? And I've got the Queen top and
25 the base of the Jalmat and the Seven Rivers, and all the

1 perfs are below the base of the Jalmat. Is that what
2 you're asking?

3 Q. Well, was it ever perforated at any time in the
4 Jalmat, is my question?

5 A. No, sir. There was only one completion operation
6 on that well, as described on Exhibit 10.

7 MR. HALL: No further questions of the witness,
8 Mr. Chairman.

9 CHAIRMAN FESMIRE: Redirect, Mr. Bruce?

10 MR. BRUCE: Just one.

11 REDIRECT EXAMINATION

12 BY MR. BRUCE:

13 Q. On Exhibit 15, the Jalmat plat, Mr. Curry, the
14 wells that Mr. Hall was asking you about in the north half
15 of Section 28 --

16 A. Yes, sir.

17 Q. -- Arch at the time did go ahead and request
18 nonstandard units for those wells, correct?

19 A. Yes, sir.

20 Q. In the Jalmat?

21 A. Yes, sir.

22 Q. And with respect to the Well Number 32 and 78, it
23 also obtained simultaneous dedication approval?

24 A. That's correct.

25 MR. BRUCE: That's all I have, Mr. Examiner --

1 Mr. Chairman.

2 CHAIRMAN FESMIRE: Commissioner Bailey?

3 EXAMINATION

4 BY COMMISSIONER BAILEY:

5 Q. Do you see any future in secondary recovery in
6 this field, in the Jalmat?

7 A. In the Jalmat? No, generally in the gas
8 reservoirs it's more difficult to get secondary recovery to
9 work. If it was oil it might be, but in the gas fields
10 it's very difficult to get a good waterflood, because you
11 have to pressure up and compress the gas. It takes too
12 much volumes of fluid, and it's not feasible in a gas
13 reservoir.

14 COMMISSIONER BAILEY: That's all I had.

15 CHAIRMAN FESMIRE: Commissioner Olson?

16 COMMISSIONER OLSON: No questions.

17 EXAMINATION

18 BY CHAIRMAN FESMIRE:

19 Q. Mr. Curry, this is maybe a little bit unfair to
20 you, but I'm going to synopsise Mr. Lang's and your
21 testimony in maybe four sentences here: Incorrect
22 applications, incorrect production reporting, incorrect
23 Division orders, and ignored OCD orders. Is that accurate?

24 A. Unfortunately, yes.

25 Q. What has Pogo done to fix that?

1 A. Well, what Glenn Curry has tried to do subsequent
2 to this is, when I make a recommendation I'm now going to
3 the clerks to do the filing and say, What are you filing?
4 What are you putting on there? You know. If I recommend a
5 Jalmat completion I'll go down in the memo, I'll say, This
6 is the Jalmat field, this is the reservoir, this is the
7 spacing and so forth.

8 So I've tried to make sure that whoever is doing
9 the filing, which is in the production department, knows
10 exactly what I'm trying to do. You know, I'm trying to get
11 the communication improved in that area, because my -- as I
12 said earlier, my intention from the beginning was to drill
13 the B 1 as a gas well in the Jalmat.

14 And when I got to the hearing Mr. Gallegos showed
15 me a permit that said Jalmat oil, and I thought -- It's a
16 mistake, and -- But I don't fill out the permits.

17 So I've tried to improve that communication
18 process to avoid it in the future.

19 Q. Well, this has been -- just from looking at this
20 letter, that had to -- the OCD didn't put a date on it --

21 A. Right.

22 Q. -- for that we'll accept a *mea culpa*. But I've
23 narrowed the date down, sometime between the beginning of
24 2003 and the middle of 2004.

25 A. Right.

1 Q. So this has been going on since at least then.
2 How are we going to prevent it in the future?

3 A. I'm trying to communicate clearly what my
4 recommendations are to production department and then
5 trying to follow through with it. You know, we're -- I
6 mentioned, we're drilling that LaMunyon 87 and completing
7 it, and I told them we have to complete it in the Langlie-
8 Mattix, that's what we permitted it for. We cannot go up
9 to the Jalmat, we have to wait for the proper approvals.
10 And that's what I'm doing. That's not my area of
11 responsibility, but I'm trying to improve that process so
12 that we don't run into this embarrassment again, in
13 violations.

14 CHAIRMAN FESMIRE: Okay. Mr. Bruce, do you have
15 some redirect on those subjects?

16 MR. BRUCE: Just a comment, Mr. Chairman. I
17 mean, Mr. Hall says this was an incorrect Application. I
18 would not that at the time the application was filed in
19 2004, we were applying for two nonstandard units. I don't
20 think that was improper at the time, because Rule 104 did
21 not allow two different operators on a well unit at that
22 time.

23 So I would just merely state, I believe the
24 application was and is still proper. Regardless of Rule
25 104, we can still apply for two nonstandard units.

1 The other thing is, if you look at -- I believe
2 it's Pogo Exhibit 3, which I don't have in front of me,
3 which lists all the nonstandard units to the east, that
4 except for the wells in Section 28, Pogo has applied for
5 nonstandard units for these Jalmat wells, either before
6 completion or before the wells were drilled, and there's a
7 number of them on that, whether in Section 16 or Section 21
8 or in Section 22, which post-date these three wells that
9 you're asking Mr. Curry about.

10 CHAIRMAN FESMIRE: Mr. Hall, do you have anything
11 on that subject?

12 MR. HALL: I still think it's a violation of the
13 rules to actually drill and produce a well without
14 regulatory authority, given the rules in place at the time.
15 I think it's indisputable.

16 MR. BRUCE: And I don't --

17 CHAIRMAN FESMIRE: Mr. Bruce, I'll give you a
18 chance, just --

19 MR. HALL: The only other thing, Mr. Chairman,
20 before I forget, is, I need to move the admission of
21 Exhibit C and Exhibit 13. They're both from the Division's
22 records.

23 MR. BRUCE: I have no objection, Mr. Chairman.

24 CHAIRMAN FESMIRE: No objection. Okay, Exhibit C
25 and Exhibit 13 will be admitted.

1 Mr. Bruce, you had something --

2 MR. BRUCE: I was just going to say, I don't
3 think Pogo is contesting the fact that it violated Division
4 rules here.

5 And I think that's been pounded enough into the
6 witnesses, but -- so I would just merely counter, Pogo is
7 obviously not trying to hide anything here.

8 CHAIRMAN FESMIRE: Okay, any further questions of
9 this witness?

10 Okay, Mr. Curry, thank you very much.

11 Mr. Bruce, your next witness?

12 MR. BRUCE: Mr. Gentry.

13 THOMAS E. GENTRY,

14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BRUCE:

18 Q. Would you please state your full name for the
19 record?

20 A. Thomas E. Gentry.

21 Q. And where do you reside?

22 A. In Midland.

23 Q. What is your occupation, your profession?

24 A. I'm a consulting petroleum engineer.

25 Q. And what is your relationship with Pogo Producing

1 Company?

2 A. I have been working from time to time for Pogo on
3 reservoir engineering matters for approximately six years
4 now.

5 Q. Are you a licensed petroleum engineer?

6 A. Yes, I am.

7 Q. In which state?

8 A. In Texas.

9 Q. Could you briefly summarize your educational and
10 employment background for the Commission?

11 A. Okay, I have -- I received a degree in petroleum
12 engineering from New Mexico Institute of Mining and
13 Technology in Socorro in 1970 -- it's a BS degree -- and I
14 have been employed by several different companies through
15 about 36 years of active employment and consulting work in
16 the oil and gas industry, all pretty much in the Permian
17 Basin.

18 Q. How long have you been a consulting engineer, as
19 opposed to being employed by companies?

20 A. Ten years now.

21 Q. Okay. What companies did you work for before
22 that?

23 A. Most recently, and then backwards, Santa Fe
24 Energy Resources, Dorchester Exploration, Texas Oil and Gas
25 Corporation, and Texas Pacific Oil Company.

1 Q. Number of companies that no longer exist.

2 (Laughter)

3 CHAIRMAN FESMIRE: But we won't hold that against
4 you.

5 (Laughter)

6 MR. BRUCE: Lord, I hope not, Mr. Chairman.

7 Q. (By Mr. Bruce) Mr. Gentry, were you employed by
8 Pogo to look at the reservoir engineering matters with
9 respect to this Application?

10 A. Yes, I have been.

11 Q. And have you reviewed the technical information
12 available on this matter that has been developed by Pogo?

13 A. Yes, I have.

14 Q. And did you consult with Mr. Curry regarding the
15 data he has accumulated on this reservoir?

16 A. Yes, I did.

17 MR. BRUCE: Mr. Examiner, I'd tender Mr. Gentry
18 as an expert reservoir engineer.

19 CHAIRMAN FESMIRE: Mr. Hall, any problem?

20 MR. HALL: No objection.

21 CHAIRMAN FESMIRE: Mr. Gentry will be so
22 admitted.

23 Q. (By Mr. Bruce) Mr. Gentry, I really only have
24 one or two brief questions for you, but in your review of
25 the data and listening to Mr. Curry's testimony today, what

1 is your opinion with respect to drainage in the Jalmat
2 reservoir?

3 A. Well, I likewise am of the same opinion as Mr.
4 Curry, that -- have drawn the same conclusions based on the
5 information that he has testified to already and that he
6 has developed, that the drainage is something less than 160
7 acres.

8 It could be 160 acres, it could be 80 acres, it
9 could be 40 acres. But it's -- you know, it's something
10 less than 160 acres in my opinion.

11 Q. Okay. And is this based upon the data which Mr.
12 Curry discussed, the low permeability, the reservoir
13 barriers, the depositional characteristics?

14 A. Yes, those and -- those characteristics and the
15 obvious production characteristics exhibited by wells that
16 have been drilled of different vintages through the years
17 and still have been able to develop economic gas where
18 wells in the same proration units have been drilled and on
19 production for several years.

20 Q. And in looking at -- if you could refer to Pogo
21 Exhibit 15, I think it's the one you have --

22 A. Yes.

23 Q. -- could you point out a couple of examples of
24 that?

25 A. Well, as Mr. Curry had talked about, the two

1 wells in the southeast quarter of Section 19 are a couple
2 of examples. And actually beyond that, I don't
3 specifically remember the other ones that he pointed out or
4 discussed.

5 Q. But if you look down in Section 30, in the east
6 half, you've got several very productive wells very close
7 to each other, do you not?

8 A. Yes.

9 Q. And certainly in looking at the data on the Pogo
10 wells in Section 28, they don't seem to have suffered any
11 adverse effect by being drilled less than a quarter mile
12 away from each other?

13 A. That's correct.

14 Q. And this would buttress your opinion that, at
15 least in this part of the Jalmat reservoir depicted on this
16 map, drainage seems to be quite limited?

17 A. That's correct.

18 Q. Do you have anything else to say at this time,
19 Mr. Gentry?

20 A. Nothing other than that I support Glenn's
21 conclusions related to the reservoir quality and the
22 diminishing permeability as you move easterly, thus
23 resulting in less permeability and compartmentalized-type
24 geologic occurrences, all of which are consistent with
25 reservoirs that do not drain large areas and also trap gas

1 that cannot be otherwise recovered, other than through
2 drilling higher-density wells.

3 Q. Okay. So even though spacing in the Jalmat is
4 640 acres, looking at the reservoir depicted on -- the
5 reservoir area depicted on Exhibit 15, if you just had one
6 well per 640, it's not going to drain everything?

7 A. I do not believe it would be possible to drain
8 all of the economic gas from that reservoir in 640 acres
9 with one well.

10 Q. Nor on 320 acres?

11 A. That neither -- Neither that either.

12 Q. And I can't -- there's a letter -- and looking at
13 -- specifically at the south half of Section 20, the
14 Steeler A Number 1 has produced a significant volume of
15 gas, has it not?

16 A. It has.

17 Q. And -- but the Resler B Number 1 tested at quite
18 a high rate regardless?

19 A. Correct.

20 Q. In your opinion, is the granting of Pogo's
21 Application in the interests of conservation and the
22 prevention of waste?

23 A. It is.

24 MR. BRUCE: Mr. Chairman, I pass the witness.

25 CHAIRMAN FESMIRE: Mr. Hall?

CROSS-EXAMINATION

1
2 BY MR. HALL:

3 Q. Mr. Gentry, as I understand it from what you
4 said, you agree with Mr. Curry's conclusions that the
5 porosity is poorer to the east, and so conversely porosity
6 is better to the west. Generally correct?

7 A. Correct.

8 Q. The Resler B 1 is located -- what, some 660 feet
9 from the southwest quarter of Section 20; is that right?

10 A. From the lease line of the south- --

11 Q. Yes, that's what I mean to say.

12 A. -- -west quarter? Actually, it's -- From the
13 southwest quarter?

14 Q. Yes.

15 A. It's slightly -- it would be slightly higher than
16 that, because it's a diagonal.

17 Q. All right. Can you preclude the possibility that
18 the Resler B 1 will produce reserves in the Jalmat from the
19 southwest quarter? Do you believe that's possible?

20 A. I can't be certain, but I do not believe that it
21 will.

22 Q. And what's the basis of your belief?

23 A. Well, it's based on the statements that I've
24 already made about my belief that these reservoirs and
25 these wells are of limited drainage areas.

1 Q. All right. And from the geologic evidence and
2 testimony that's been produced today -- provided today,
3 there is absolutely no evidence of any sort of
4 compartmentalization geologically, is there?

5 A. Well, I believe that that -- I understand Mr.
6 Curry's description of the reservoir when he talks about
7 anhydrite inclusions and -- that those are
8 compartmentalizing phenomenon in reservoirs.

9 Q. There's no geologic exhibit identifying the
10 location of those barriers?

11 A. None that I'm aware of now.

12 Q. All right. Do you agree with Mr. Curry's
13 conclusion in his Exhibit 17 that the J.C. Johnson Number 3
14 is competing for Jalmat gas reserves in the south half of
15 Section 20?

16 A. I don't remember him actually concluding that,
17 other than, you know, are the two wells located across the
18 lease line from each other? The answer is yes. But I
19 don't believe that he concluded that they were competing
20 with each other.

21 Q. Well, when he uses the phrase "competitively
22 producing", what does that mean to you?

23 A. Well, if he used that phrase and that -- I don't
24 know whether he used that phrase or not, so I wouldn't -- I
25 couldn't comment on that.

1 MR. HALL: Nothing further, Mr. Chairman.

2 CHAIRMAN FESMIRE: Mr. Bruce?

3 MR. BRUCE: Just one thing.

4 REDIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Based on your review of the reservoir and Mr.
7 Curry's data, do you see any -- would it be a reasonable
8 thing to do, to drill or recomplete another Jalmat well in
9 the southwest quarter?

10 A. Yes, I believe it would.

11 MR. BRUCE: Thank you, that's all I have.

12 CHAIRMAN FESMIRE: Commissioner Bailey?

13 COMMISSIONER BAILEY: I have no questions.

14 CHAIRMAN FESMIRE: Commissioner Olson?

15 COMMISSIONER OLSON: No questions.

16 EXAMINATION

17 BY CHAIRMAN FESMIRE:

18 Q. In your opinion, for the Jalmat wells in the
19 vicinity, what's the estimated ultimate recovery per well,
20 on average?

21 A. The reserves that we have assigned to the Resler
22 B 1 is about 650 million cubic feet of gas.

23 Q. Is that average?

24 A. That's pretty close, that's in the ball park.

25 I'd say average might be closer to 500 and maybe, you know,

1 in a range of four to seven.

2 Q. And given the reservoir properties at that
3 location, what kind of a drainage area would that calculate
4 to?

5 A. I haven't made that calculation and -- primarily
6 because it's very difficult to determine what is, you know,
7 net pay in these wells, because of the poor quality of the
8 logs and the type of reservoir. The interbedded sand and
9 silty and shaly sands, it's very difficult to do a
10 volumetric -- an accurate volumetric calculation.

11 Q. Yet you're reasonably sure that it would be less
12 than 160 acres; is that correct?

13 A. That's my opinion, just from, you know, studying
14 the information and the data and seeing the production, you
15 know, from wells of different vintages and so forth.

16 Q. What about the wells to the west? What kind of
17 estimated ultimate are you seeing out there, on average?

18 A. Actually, I haven't -- I have not made those
19 types of calculations and I'm not familiar with that
20 information, but certainly they're of a vintage that you
21 can see from the map here that they're as high as --

22 Q. -- 4.5 BCF?

23 A. Right.

24 Q. Okay.

25 A. And -- well, yes.

1 Q. And -- Well, I won't go there. There's one, 9.8
2 BCF, if I read that correct in Section 18?

3 A. Yes, sir.

4 CHAIRMAN FESMIRE: Okay. I have no further
5 questions.

6 Mr. Bruce, do you have any redirect on those
7 subjects?

8 MR. BRUCE: No, sir.

9 CHAIRMAN FESMIRE: Mr. Hall, do you have anything
10 else of this witness?

11 MR. HALL: No, Mr. Chairman.

12 CHAIRMAN FESMIRE: Okay, thank you very much.

13 MR. BRUCE: Pass it over to Mr. Hall.

14 CHAIRMAN FESMIRE: Mr. Hall, would you like to
15 call your first witness?

16 MR. HALL: Yes, he's in Hobbs, New Mexico, so
17 we'll have to call him up.

18 CHAIRMAN FESMIRE: Why don't I let you come call
19 him. The last time we did this, we had a "Who?"

20 (Laughter)

21 MR. BRUCE: I believe you were calling the
22 Division at the time.

23 CHAIRMAN FESMIRE: Yeah.

24 (Laughter)

25 MR. KEMP: Hello?

1 MR. HALL: Charlie Kent?

2 MR. KEMP: Yes.

3 MR. HALL: Can you hear me okay? This is Scott
4 Hall calling.

5 MR. KEMP: I can't hear you too well.

6 MR. HALL: Let me pull the microphone closer.
7 Can you hear me now?

8 MR. KEMP: I can hear you, Scott, yes.

9 MR. HALL: Okay. Mr. Kemp, we have you on
10 speaker phone before the Oil Conservation Commission in
11 Santa Fe. I've asked you to appear as a witness today.
12 I'll need to have the court reporter have you sworn in, if
13 we could.

14 MR. KEMP: All right.

15 COURT REPORTER: Mr. Kemp, can you hear me?

16 MR. KEMP: Yes, sir.

17 COURT REPORTER: I'm the reporter. Would you
18 please raise your right hand and be sworn?

19 (Thereupon, the witness was sworn.)

20 CHARLES W. KEMP (Present by telephone),
21 the witness herein, after having been first duly sworn upon
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HALL:

25 Q. Mr. Kemp, for the record, where do you live?

1 A. I live in Hobbs, New Mexico.

2 Q. How are you employed, Mr. Kemp?

3 A. I'm vice president with Westbrook Oil
4 Corporation.

5 Q. How long have you been vice president of
6 Westbrook?

7 A. Oh, about three years.

8 Q. And have you had prior involvement with
9 Westbrook?

10 A. Yeah, for about 20 years.

11 Q. All right. Are you familiar with the wells that
12 Westbrook operates?

13 A. Yes.

14 Q. Are you familiar with the Steeler A Number 1 well
15 in the southwest quarter of Section 20?

16 A. Yes.

17 Q. Mr. Kemp, is that well operated by Westbrook on a
18 320-acre basis?

19 A. Yes, sir, it is.

20 Q. How long has Westbrook operated that well?

21 A. Oh, since -- I believe it was 1998 when we
22 started operating it.

23 Q. And you're, in fact, contract operator for Resler
24 and Sheldon; is that right?

25 A. Yes, sir, that's right.

1 Q. And do you operate under an operating agreement
2 with them?

3 A. Yes, we do.

4 Q. Mr. Kemp, I've sent to you a set of the Resler
5 and Sheldon exhibits and exhibit notebook.

6 A. Yes, sir.

7 Q. If you would take that in front of you and then
8 to Exhibit Number 7, please.

9 A. All right, I've got it.

10 Q. Mr. Kemp, Exhibit 7 is a copy of Order Number
11 R-12,366, issued by the Oil Conservation Division in Case
12 Number 13,274, and that order is dated June 13, 2005. Do
13 you see that?

14 A. Yes, sir.

15 Q. Let me ask you, Mr. Kemp, were you aware of Case
16 13,274?

17 A. No, not at the time, we weren't.

18 Q. Okay. If you'll look at the caption of that
19 order -- excuse me just a minute --

20 A. All right.

21 Q. -- it indicates that the order is issued on the
22 application of Arch Petroleum, Inc., and Westbrook Oil
23 Corporation.

24 Were you aware -- Excuse me, let me ask it this
25 way: Was Westbrook aware that that application had been

1 filed?

2 A. I'm sorry, I didn't get part of that.

3 Q. Were you aware that the Application in Case
4 Number 13,274 had been filed in Westbrook's name?

5 A. No, we wasn't.

6 Q. Okay. Did Westbrook participate in the Oil
7 Conservation Division hearing in that case?

8 A. No.

9 Q. Would Westbrook have opposed the relief requested
10 by Arch in that case, creating a nonstandard unit in the
11 southeast quarter of Section 20?

12 A. Yes, we would have.

13 Q. All right. Let me ask you to turn to Exhibit 9,
14 please.

15 A. All right.

16 Q. Can you identify that for the record?

17 A. Yes, that's the letter we wrote.

18 Q. Is that a letter dated July 20th, 2005, signed by
19 you on behalf of Westbrook?

20 A. Yes, it is.

21 Q. And it says, To whom it may concern. Who did you
22 send this letter to?

23 A. I believe we sent one to the Oil Conservation
24 Commission --

25 Q. All right.

1 A. -- in Santa Fe.

2 Q. And what were you saying in this letter?

3 A. Well, we just said we weren't participating in
4 that, and that we didn't know anything about it.

5 Q. All right. Now let me have you turn to Exhibit
6 Number 12.

7 A. All right.

8 Q. Is Exhibit 12 a copy of Westbrook's revenue deck
9 for the Steeler A Number 1 well for Yates gas?

10 A. Yes, it is.

11 Q. Okay. Have you bothered to count how many
12 interest owners are reflected on that revenue deck?

13 A. No, I haven't. There's several, though.

14 Q. If I told you it was 67, would you disagree with
15 me?

16 A. No, I wouldn't disagree with you.

17 Q. Okay. Are all of those interest owners on that
18 revenue deck participating in production proceeds from the
19 Steeler A Number 1 on a 320-acre basis.

20 A. Yes, they are.

21 MR. HALL: Okay. That concludes my direct of the
22 witness, Mr. Chairman.

23 I'll pass the witness.

24 CHAIRMAN FESMIRE: Mr. Bruce?

25 The person who'll be cross-examining you will be

1 Mr. James Bruce. He's the attorney for Pogo.

2 THE WITNESS: All right.

3 CROSS-EXAMINATION

4 BY MR. BRUCE:

5 Q. Mr. Kemp, in preparation for this hearing did you
6 review Westbrook's file on this matter and on the Steeler A
7 Number 1?

8 A. Well, now what do you mean by that?

9 Q. Well, his file with respect to any operating
10 agreements, pooling designations, nonstandard units, what
11 correspondence in the file...

12 A. Oh, yes, I have looked at it.

13 Q. Well, did you see a letter dated April 24th,
14 2004, from a Mr. D.G. Rose to Buddy Westbrook regarding
15 this matter?

16 MR. HALL: Just a minute, Mr. Kemp.

17 At this point, Mr. Commissioner, we would renew
18 our objection to any discussion about this. We previously
19 interposed a hearsay objection to this letter.

20 CHAIRMAN FESMIRE: And that objection was valid,
21 but if he can establish this person has some knowledge of
22 that letter, it would have the proper foundation.

23 Q. (By Mr. Bruce) Again, Mr. Kemp, I have in my
24 hand, and I'm sorry you don't have a copy before you, but
25 there was a letter dated April 24th, 2004, from Mr. D.G.

1 Rose to Buddy Westbrook, and to intercede, Mr. Westbrook is
2 now deceased, is he not?

3 A. Pardon?

4 Q. Mr. Westbrook is now deceased, correct?

5 A. Yes, he is now deceased, that's right.

6 Q. But did you see that letter dated April 24, 2004,
7 in your file?

8 A. No, I didn't see it.

9 Q. Okay. Did you also see -- or did you see in your
10 file that before the south-half unit was formed for the
11 Steeler A Number 1 well, that it was dedicated to a
12 southwest quarter 160-acre unit?

13 A. No, it was a 320-acre.

14 Q. You didn't see anything in your file with respect
15 to Oil Conservation Commission Order NSP-351 regarding a
16 southwest quarter nonstandard unit?

17 A. No.

18 Q. Do you happen to know, Mr. Kemp, when was the
19 last time Westbrook or the prior operator, drilled or
20 recompleted any well in the south half of Section 20?

21 A. No, I don't know.

22 Q. Does Westbrook Oil Corporation itself own any
23 working interest in the southwest quarter of Section 20?

24 A. No.

25 Q. Has Westbrook paid Arch Petroleum or Pogo

1 Producing Company any production proceeds from the south
2 half of Section 20?

3 A. No.

4 Q. Now Westbrook is a contract operator with Bonnie
5 Karlsrud and several other people, is it not?

6 A. Yes, sir.

7 Q. Does that operating agreement cover only the
8 northwest quarter, southwest quarter and south half,
9 southwest quarter, of Section 20?

10 A. Well, it includes everything they have.

11 Q. Can you tell me whether it just covers 120 acres?

12 A. No, it does not just cover that.

13 Q. Mr. Hall asked you a question. I think Exhibit
14 12, the revenue deck --

15 A. Yes.

16 Q. -- do those interest owners, those royalty
17 interests and overriding royalty interest owners, own
18 throughout the south half of Section 20?

19 A. Repeat that one.

20 Q. Do the people on that revenue deck, the royalty
21 interest owners and the overriding royalty interest owners,
22 own interests throughout the south half of Section 20?

23 A. Yes, I'm sure they do.

24 MR. BRUCE: That's all I have, Mr. Chairman.

25 CHAIRMAN FESMIRE: Redirect, Mr. Hall?

REDIRECT EXAMINATION

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BY MR. HALL:

Q. Mr. Kemp, to your knowledge has Pogo made any sort of demand or request to Westbrook to be placed on the Division Order for the Steeler A Number 1 well?

A. No.

MR. HALL: Okay, that's all I have.

CHAIRMAN FESMIRE: Mr. Kemp, the Commissioners now have a chance to ask you questions. I'll start with Commissioner Bailey.

Do you have any questions of this witness?

COMMISSIONER BAILEY: I have no questions for you.

CHAIRMAN FESMIRE: Commissioner Olson?

COMMISSIONER OLSON: No questions.

CHAIRMAN FESMIRE: Mr. Kemp, I have no other questions.

Do the attorneys have anything further with this witness?

MR. HALL: I have nothing further, Mr. Chairman.

CHAIRMAN FESMIRE: Mr. Kemp, thank you very much for your time. We appreciate it.

THE WITNESS: All righty, thank you.

CHAIRMAN FESMIRE: You bet, sir.

Mr. Hall, do you have another witness?

1 MR. HALL: That concludes our evidence, Mr.
2 Chairman.

3 CHAIRMAN FESMIRE: Okay. Mr. Bruce, do you have
4 a closing?

5 MR. BRUCE: Sure do.

6 CHAIRMAN FESMIRE: Would you like to give it now?
7 Would you like to take a few minutes' break to get
8 organized?

9 MR. BRUCE: No, I'm actually organized --

10 CHAIRMAN FESMIRE: Okay.

11 MR. BRUCE: -- for a change.

12 Mr. Chairman, Arch, now Pogo, took an area in
13 which virtually no drilling had occurred for years, if not
14 decades, and it has drilled or recompleted 100 wells,
15 including a number of Jalmat wells. It has obviously done
16 this for its own benefit, there's no question about that.

17 But this development has also benefitted its
18 royalty owners and its overriding royalty owners in the
19 State of New Mexico. Pogo saw an opportunity to extend the
20 Jalmat field substantially east of its historic boundaries
21 and has had quite some success, including with the Resler
22 B 1, if it can go on full-time production.

23 Obviously mistakes were made in regulatory
24 filings, for which Pogo apologizes. But the long and the
25 short of it is, with respect to the Resler B Number 1, Pogo

1 first had to complete its well to preserve its rights under
2 its term assignments. And secondly, production is in
3 suspense; everyone will eventually be paid, no one is
4 harmed.

5 The second point I want to make -- and I probably
6 addressed this in response to Mr. Hall's argument -- Mr.
7 Hall said, Yes, why Pogo didn't apply for simultaneous
8 dedication? And, second, why Pogo didn't seek two
9 operators under Rule 104?

10 Well, as I said, at the time we applied, Rule 104
11 didn't apply for two operators, plus based on its 100-
12 percent working interest, Pogo simply wanted to drill and
13 produce its own Jalmat well on a 160-acre basis. And
14 furthermore, drainage of less than 160 acres, it sees no
15 reason not to allow this.

16 I previously argued my land issues. I don't
17 think this is a land case, except for the fact that the
18 Commission has the legal right to split up the existing
19 320-acre unit. If the Commission would like legal
20 authority, I can supply that to the Commission.

21 But as Mr. Hall stated in his opening, this is
22 about correlative rights. We agree. And the only
23 testimony before the Commission is that Jalmat gas wells in
24 this area drain substantially less than 160 acres. This
25 shows that based on correlative rights and drainage issues,

1 it's proper to have two nonstandard units of 160 acres.

2 Based on the data shown by Mr. Curry, spacing
3 could be quite less. Pogo has shown areas where there are
4 two wells in a quarter section, and they're not affected by
5 each other. Therefore, if this isn't granted, Pogo's
6 correlative rights as a working interest owner are being
7 violated. As the testimony shows, the Resler and Sheldon
8 group will receive overriding royalty payments on Pogo's
9 well, thus they will be benefitting from production from
10 that well also.

11 I'd note that notice -- that there are apparently
12 dozens and dozens and dozens of interest owners in the
13 well. I think it's important to get this well on
14 production so that they all benefit from ongoing production
15 from the well units.

16 And with that, I'd rest my case.

17 CHAIRMAN FESMIRE: Thank you, Mr. Bruce.

18 Mr. Hall?

19 MR. HALL: Yes, Mr. Chairman, it occurred to me I
20 neglected to move the admission of Exhibits 9 and 12, and
21 I'd certainly do so if there's no objection.

22 CHAIRMAN FESMIRE: I think we will have to ask if
23 there's an objection to --

24 MR. BRUCE: No, not to 9 and 12.

25 CHAIRMAN FESMIRE: Exhibits 9 and 12 will be --

1 What are we going to call your client?

2 MR. HALL: Resler and Sheldon.

3 CHAIRMAN FESMIRE: Resler and Sheldon as a group?

4 MR. HALL: Yes.

5 CHAIRMAN FESMIRE: Okay, the Resler and Sheldon
6 Exhibits 9 and 12 will be admitted.

7 MR. HALL: Thank you, Mr. Chairman.

8 Again, Mr. Chairman, I think the Commission needs
9 to bear in mind the scope of the single Application before
10 it is very limited. It asks only for approval to establish
11 160-acre nonstandard proration unit for the southeast
12 quarter of Section 20.

13 There's some question now whether the Application
14 -- the proceeding involves an application to establish a
15 simultaneous nonstandard unit in the southwest quarter.
16 That may be the practical result, but I think the testimony
17 before you shows that Westbrook never made such an
18 application.

19 So all we are talking about is the Arch
20 Application. It's a very simple case. I think to grant
21 it, you as a Commission must find that there will be no
22 violation of correlative rights.

23 Now, correlative rights are determined in this
24 case by virtue of private contract agreements that have
25 been on file, of which Pogo and Arch have had notice, since

1 1958. The interest in the south half of Section 20 have
2 shared in production proceeds across the entirety of the
3 south half for that many years, since 1958.

4 Some suggestion that this -- the Steeler A Number
5 1 well was initially permitted as a 160-acre well. It's
6 true. If you look at the records and can refer to the
7 Division's well file on this, Resler and Sheldon's
8 predecessor operator obtained permission in 1957 to
9 recomplete the well, Langlie-Mattix well, recomplete it in
10 the Jalmat and commingle it, and then 320-acre unit was
11 established by the Division -- Commission at that time, in
12 1958. So for that entire extended period of time, all
13 those interest owners have ad the benefit of sharing in
14 production from that well.

15 Arch and Pogo now want to change that situation.
16 They claim if we are to give effect to the term assignment
17 that they acquired, they claim now that they have 100
18 percent of the working interest in the 200 acres. They
19 want to take 160 acres of that and keep it all for
20 themselves. They don't want to share. That is a direct
21 violation of correlative rights established by private
22 contract.

23 Arch's Application did not ask the Commission or
24 the Division to set aside the pre-existing private
25 contractual agreement. There's a procedure for them to be

1 able to do that. They did not invoke it. I don't think
2 you can go there.

3 We do have a situation now where we have two
4 wells drilled in a single proration unit, at the time
5 violative of the Division's Rules. There may be a way for
6 Arch and Pogo to come back to the Division and cure that.
7 We don't know what their plans are. It's not part of the
8 scope of this Application, you don't need to go there
9 either.

10 They've alluded to, they have borne well costs
11 for the Resler B 1. Fine, that's another issue. It's not
12 part of this Application, not a compulsory-pooling-type
13 proceeding. It's not an issue for you to decide. That
14 will have to be worked out between the parties elsewhere,
15 pursuant to another application or in another form, but
16 it's not for you to decide today.

17 The only thing you need to decide is whether it
18 is fair, whether it violates the correlative rights of
19 Resler and Sheldon to create a nonstandard unit in the
20 southeast quarter.

21 Arch/Pogo's landman had established through his
22 testimony that if we are to accept the effectiveness of
23 their term assignment, then it is undisputed that the
24 working interest in the southwest quarter differs from the
25 working interest participation in the southeast quarter.

1 Those working interests will not be allowed to participate.
2 They've already demonstrated that by faulty Division
3 orders. I don't think you will ever see a clearer
4 demonstration of violation of correlative rights. I just
5 don't think you can grant this Application.

6 Thank you, Commissioners.

7 CHAIRMAN FESMIRE: Thank you, Mr. Hall.

8 Would the pleasure of the Commission be to
9 deliberate in closed session?

10 COMMISSIONER BAILEY: As always.

11 COMMISSIONER OLSON: Yes.

12 CHAIRMAN FESMIRE: Okay. Mr. Bruce, Mr. Hall,
13 thank you very much.

14 At this time the Commission will go into closed
15 session for the sole purpose of deliberating in Case Number
16 13,274. And we will probably finish our deliberations this
17 afternoon, if you want to hang around. If not, we'll make
18 sure that the attorneys know as soon as we do make a
19 decision.

20 Thank you.

21 MR. HALL: Thank you, Mr. Chairman.

22 COMMISSIONER OLSON: I believe we need to vote on
23 that.

24 CHAIRMAN FESMIRE: Oh, I'm a natural dictator, I
25 apologize.

1 Is there a motion to that effect from the
2 Commission?

3 COMMISSIONER BAILEY: I so move.

4 COMMISSIONER OLSON: Second.

5 CHAIRMAN FESMIRE: All those in favor?

6 COMMISSIONER BAILEY: Aye.

7 COMMISSIONER OLSON: Aye.

8 CHAIRMAN FESMIRE: Thank you all very much.

9 (Off the record at 2:19 p.m.)

10 (The following proceedings had at 2:31 p.m.)

11 CHAIRMAN FESMIRE: At this time we'll go back on
12 the record. Let the record reflect that it's 2:30 p.m. on
13 April 19th. This is the continuation of Cause Number
14 13,274, the Application of Pogo Producing. Let the record
15 also reflect that all three Commissioners are still
16 present, the quorum is still present. During the interim
17 the Commission met in closed session to consider Cause
18 Number 13,274, and no other subject was discussed by the
19 Commissioners.

20 At this time, the Chair will accept a motion --
21 on the decision that the Commission has made. Is there
22 such a motion?

23 COMMISSIONER BAILEY: I so move.

24 CHAIRMAN FESMIRE: Okay. And on what do you so
25 move?

1 COMMISSIONER BAILEY: That we direct the attorney
2 to deny -- to create an order that denies Pogo's
3 Application.

4 CHAIRMAN FESMIRE: Okay, is there a second for
5 that motion?

6 COMMISSIONER OLSON: Second.

7 CHAIRMAN FESMIRE: All those in favor?

8 COMMISSIONER BAILEY: Aye.

9 COMMISSIONER OLSON: Aye.

10 CHAIRMAN FESMIRE: Aye.

11 Let the record reflect that it was the unanimous
12 decision of the Commission to deny Pogo's Application.

13 I for one would like to state for the record that
14 the reason I supported denying Pogo's Application was that
15 there was insufficient geologic and engineering evidence to
16 support the need for the nonstandard proration units.

17 Commissioner Bailey, would you have anything to
18 add to that?

19 COMMISSIONER BAILEY: No, that was the discussion
20 of the Commission.

21 CHAIRMAN FESMIRE: Commissioner Olson?

22 COMMISSIONER OLSON: I concur in that. And I
23 think it's also in the best interest of conservation and to
24 assure adequate protection of correlative rights that this
25 should be denied.

1 CHAIRMAN FESMIRE: With that, we will ask Counsel
2 Bada to draft an order expressing the Commission's decision
3 in this case and to present it for signature at the next
4 regularly scheduled meeting of the Oil Conservation
5 Commission.

6 (Thereupon, these proceedings were concluded at
7 2:33 p.m.)

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CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL April 26th, 2007.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010