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OIL CONSERVATION DIV.
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January 23, 2001

Hand Delivered

Lori Wrotenbery
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Case No. 12568

Dear Ms. Wrotenbery:

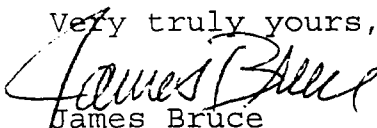
Enclosed regarding the above case are the following:

1. An original and four copies of and Application for Hearing De Novo;
2. An original and four copies of applicant's Statement of Reasons for Appeal; and
3. An original and four copies of applicant's Amended Application for compulsory pooling, together with a proposed advertisement.

No written order has been issued by the Division in this case. However, a written order is not required by NMSA 1978 §70-2-13, and in addition applicant does not wish to delay this matter due to the important issues herein regarding the Division's statutory duties.

Applicant requests that this matter be set for hearing on the February 16, 2001 Commission docket.

Very truly yours,


James Bruce

Attorney for Pogo Producing Company

cc: William F. Carr w/encl.

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

OIL CONSERVATION DIV.

01 JAN 23 PM 12:02

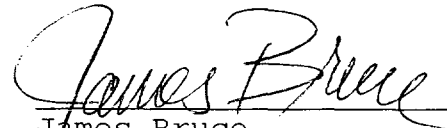
APPLICATION OF POGO PRODUCING
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

Case No. 12568
Order No. R-_____

APPLICATION FOR HEARING DE NOVO

Pogo Producing Company, a party of record adversely affected by the decision in this case verbally rendered by the Division on January 10, 2001 (Order No. R-_____), requests that this matter be heard *de novo* before the Oil Conservation Commission pursuant NMSA 1978 §70-2-13 and Division Rule 1220, and that the matter be set for hearing on February 16, 2001.

Respectfully submitted,



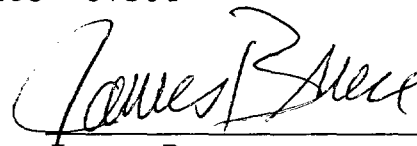
James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Pogo Producing Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Hearing *De Novo* was hand delivered this 23rd day of January, 2001 to:

William F. Carr
Holland & Hart LLP and Campbell & Carr
Post Office Box 2208
Santa Fe, New Mexico 87504


James Bruce

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

OIL CONSERVATION DIV.
01 JAN 23 PM 12:02

APPLICATION OF POGO PRODUCING
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

Case No. 12568 (de novo)

POGO PRODUCING COMPANY'S STATEMENT OF REASONS FOR APPEAL

Although not necessary for purposes of the Application for Hearing *De Novo*, with which this pleading is filed, Pogo Producing Company ("Pogo") sets forth the reasons why the Commission must hear evidence in this case, and reverse the order of the Division.

I. FACTS.

The above case, and a competing case filed by EOG Resources, Inc. ("EOG") (Case No. 12552), involve Section 23, Township 22 South, Range 32 East, N.M.P.M. Section 23 is comprised entirely of federal minerals: The E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 23 is covered by a federal oil and gas lease owned by Pogo, and the remainder of Section 23 is covered by a federal oil and gas lease owned by EOG.

The chronology of this matter is as follows:

- (1) EOG originally proposed to form a working interest unit covering all of Section 23. Pogo believed that its interest would be diluted by such a unit, and informed EOG that it would not agree thereto.
- (2) EOG also proposed a Morrow well in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23 to Pogo, with a S $\frac{1}{2}$ well unit. Pogo would not agree to a S $\frac{1}{2}$ unit, and a compulsory pooling application for this proposed well unit (Case No. 12552) was set for the December 7, 2000 hearing.

(3) EOG later permitted a well in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, with a N $\frac{1}{2}$ well unit. (The initial, informal discussions between the parties' geologists, before any well proposals were made, involved a well in the NE $\frac{1}{4}$ of Section 23.)

(4) Pogo proposed a Morrow well in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23 to EOG, with an E $\frac{1}{2}$ well unit.

(5) Due to the unavailability of its geologist for the December 7, 2000 hearing, Pogo requested a continuance of the hearing to December 21, 2000, to which EOG consented.

(6) Pogo was prepared to file its pooling application on the E $\frac{1}{2}$ of Section 23 in time for the December 21st hearing, but EOG then informed Pogo that it had witness availability problems for that date. As a result, Pogo scheduled its case (No. 12568) for the January 11, 2001 hearing. Pogo understood that no well would be drilled until the Division decided the competing pooling cases.

(7) In a telephone call on or about December 26, 2000, EOG confirmed to Pogo that it intended to move forward with the drilling of the well in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, before the pooling applications could be heard. This conversation occurred after Pogo obtained information that EOG was building a location in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23.

(8) EOG has commenced drilling the well in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, and simultaneously filed a motion to dismiss Pogo's application, claiming that the N $\frac{1}{2}$ is dedicated to that well, and thus the E $\frac{1}{2}$ of Section 23 cannot be pooled. At the

same time, EOG continued its pooling case on the S½ of Section 23 to March 8, 2001.

(9) On January 2, 2001, representatives of Pogo met with Bureau of Land Management ("BLM") personnel in Roswell, New Mexico. **The BLM personnel stated that the BLM would defer to the Division as to the proper well units (standup or laydown) in developing the Morrow formation in Section 23.**

(10) EOG's motion to dismiss was verbally granted by the Division on January 10, 2001, without hearing any evidence.

II. ARGUMENT.

A. The Division's Order Dismissing Pogo's Application Impairs Pogo's Correlative Rights and Ignores the Division's Statutory Obligations.

It is the duty of the Division and the Commission to protect correlative rights. **NMSA 1978 §70-2-11.** The Division, by granting EOG's motion without hearing testimony, ignored its statutory obligations.

All wells proposed in Section 23, by both Pogo and EOG, are in the E½ of Section 23. Obviously, the E½ is deemed by both parties to be the productive portion of the section. If the W½ of Section 23 is not productive, then Pogo's correlative rights will be adversely affected by laydown units: Pogo will receive 1/8 of production from laydown units, while it has 1/4 of the productive acreage in the section (the E½). Thus, standup units are mandated.

Attached hereto as Exhibit 1 is the Affidavit of Gary J. Hoose, the Exploration Manager for Pogo. Pogo has been active in the Morrow in this area for two decades, and has superior knowledge

of the Morrow in this area. Attached to the affidavit is a geological plat, showing that the Morrow reservoir in Section 23 is centered in the E½ of the section, and that more than 1/4 of the Morrow reservoir in the E½ is on Pogo's acreage. Clearly, Pogo's correlative rights are adversely affected by the order dismissing its application,¹ and Pogo must be allowed the opportunity to present and prove its case.

B. The Division's Order Negates the Pooling Statutes and Commission Precedent.

The basis of the Division's decision was that (1) the BLM has approved an APD with a N½ unit, and (2) the well has already been spudded.

The BLM's approval of an APD for EOG's well in the SW¼NE¼ of Section 23 (N½ well unit) cannot be construed to preclude the Division from deciding the orientation of the well unit. In fact, the BLM has expressly deferred to the Division's expertise on that issue in this case. See item (9) under Part I above. In a similar case recently before the Division (which involved federal lands), the Division decided the orientation of the well unit. See Order No. R-11451 (Application of Santa Fe Snyder Corporation for Compulsory Pooling, Lea County, New Mexico). There is no reason to diverge from that precedent.

¹In addition, the correlative rights of the United States, as royalty owner, may be impaired. Pogo's lease on the E½SE¼ of Section 23 has a step scale royalty of 12½% or 16%, depending on rates of production, while EOG's lease has a flat royalty rate of 12½%. If production from wells in an E½ unit is sufficient to increase the royalty in Pogo's lease, then the royalty owner could receive substantial additional royalty, and is adversely affected by EOG's actions.

Moreover, if the Commission allows EOG to succeed in its attempt to short-circuit the pooling proceedings by commencing a well before a hearing, the import of the pooling statutes will be negated. There are many cases before the Division and Commission where there are disputes over operatorship, well unit orientation, and well location. In the future, any time there is such a dispute, whoever first obtains an APD and commences drilling will win, regardless of geology and other important matters; the issues of operatorship, etc. will never be determined by the Division.

In Commission Order No. R-10731-B, the Commission spelled out matters to be decided by the Division or Commission in competing pooling cases. Those matters include geology, good faith negotiations, risk factors, and prudent operations. By letting the Division's ruling in this case stand, the Commission is ignoring not only its statutory obligations, but its own policies.

C. EOG's Actions are Improper.

As noted in item (8) under Part I above, Pogo obtained information that EOG was building a location in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23 in late December 2000. Pogo then called EOG, which confirmed that it always intended to move ahead with the drilling of its well before the Division could hear the pooling cases. **See Exhibit 2 attached hereto.** If EOG had been forthright, Pogo would have objected to EOG's request for a continuance of its case, and would have gone to hearing on December 21st. This behavior by EOG was obviously meant to prevent any action by the Division, and it should not be countenanced by the Commission.

In addition, EOG has now continued its S½ pooling case until March 8, 2001. EOG has completed a well in offsetting Section 24 which produced more than 1 BCF of gas during the month December 2000 (the well is currently producing at a rate of approximately 34 MMCF/day). Not only does EOG seek to circumvent the Division's pooling statutes, but it now blatantly seeks to delay any offset development in order to prevent competition to its well. At the rate the Section 24 well is producing, EOG could drain this portion of the reservoir in a short time, and Pogo will not have the opportunity to recover its fair share of reserves due to EOG's tactics.

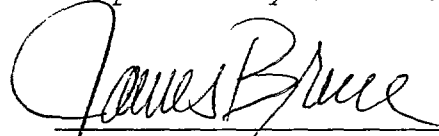
III. CONCLUSION.

Pogo is prepared to present evidence on the above issues at hearing, and must be allowed to do so or its due process rights and correlative rights will be violated.

The well location chosen by EOG in the SW¼NE¼ of Section 23 is inferior to the location proposed by Pogo. However, due to the commencement of the well in the SW¼NE¼ of the section, Pogo doubts that the Commission will change locations at this late date. As a result, Pogo requests the Commission require an E½ unit for the well in the SW¼NE¼ of Section 23. An amended application to that effect is being filed with the Application for Hearing *De Novo*. (Morrow wells in this area take approximately two months to drill, and thus Pogo will not receive any undue advantage from hearing this case while the well is drilling.)

WHEREFORE, Pogo requests that the Division's order be reversed, and an E½ Morrow unit be formed in Section 23.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Pogo Producing Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was hand delivered this 23rd day of January, 2001 to:

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James Bruce

BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

APPLICATION OF POGO PRODUCING
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

Case No. 12568

AFFIDAVIT OF GARY J. HOOSE

STATE OF TEXAS)
) ss.
COUNTY OF MIDLAND)

Gary J. Hoose, being duly sworn upon his oath, deposes and states:

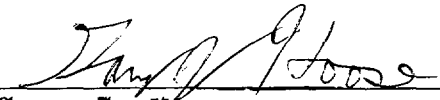
1. I am over the age of 18, and have personal knowledge of the matters stated herein.

2. I am a geologist by profession, and I am the Division Exploration Manager for Pogo Producing Company ("Pogo") for its Western Division.

3. I have 23 years of experience working as a petroleum geologist. I have been actively involved in evaluating the Morrow geology in the Bootleg Ridge/Red Tank Area (the "Area") for Pogo since approximately 1980. The Area includes Section 23, Township 22 South, Range 32 East, N.M.P.M., and surrounding sections. Pogo drilled the initial discovery well in the Bootleg Ridge-Morrow Gas Pool (the well was completed in 1981). My evaluation concerns the specific zones of interest in this case, and includes well control, DST data, core analyses, and seismic data.

4. The plat attached hereto as Exhibit A was prepared by me, and accurately reflect my best interpretation of the Morrow formation geology in the Area.

5. It is my professional opinion that the W½ of Section 23, Township 22 South, Range 32 East, N.M.P.M. has substantially less potential than the E½ of Section 23 to produce hydrocarbons from the Morrow formation.



Gary J. Hoose

SUBSCRIBED AND SWORN TO before me this 12TH day of January, 2001 by Gary J. Hoose.



Notary Public

My Commission Expires:

