

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**IN THE MATTER OF:**

Diversified Gas & Oil Corporation	:	2012 Oil and Gas Act
Diversified Oil & Gas, LLC	:	The Clean Streams Law
Alliance Petroleum Co LLC	:	Various Counties

**CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement (“COA”) is entered into this 7<sup>th</sup> day of March, 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), Diversified Gas & Oil Corporation; Diversified Oil & Gas, LLC; and Alliance Petroleum Co LLC.

**Findings**

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Oil and Gas Act, 58 Pa. C.S.A. §§ 3201 – 3274 (“2012 Oil and Gas Act”); The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1 – 691.1001 (“The Clean Streams Law”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

B. Diversified Oil & Gas, LLC is an Alabama limited liability company, registered to do business in Pennsylvania, that engages in oil and gas extraction activities in Pennsylvania. Diversified Oil & Gas, LLC is a wholly owned subsidiary of Diversified Gas & Oil Corporation. Diversified Oil & Gas, LLC’s business address is 1800 Corporate Drive, Birmingham, Alabama 35242.

C. Diversified Gas & Oil Corporation is a Delaware corporation with a business address of 1800 Corporate Drive, Birmingham, Alabama 35242, and is the parent of its subsidiaries, including Diversified Oil & Gas, LLC, and Alliance (as defined below).

D. Alliance Petroleum Co LLC (“Alliance”) is a Georgia limited liability company engaged in oil and gas extraction activities in Pennsylvania. Alliance’s business address is 1800 Corporate Drive, Birmingham, Alabama 35242. Alliance is a wholly owned subsidiary of Diversified Gas & Oil Corporation. For purposes of this COA, Alliance, Diversified Oil & Gas, LLC, and Diversified Gas & Oil Corporation are collectively, jointly, and severally referred to and legally bound as “Diversified”.

E. Among other assets owned in Pennsylvania, Diversified is the “owner” and/or “operator”, as those terms are defined in Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3203, of one thousand four hundred twelve (1,412) wells located in various counties throughout Pennsylvania that are identified in Exhibit A (“the Exhibit A Wells”). The areas occupied by the equipment or facilities necessary for or incidental to the drilling, production, or plugging of the Exhibit A Wells are “Well Sites” as that term is defined in Section 3216(h) of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3216(h), and 25 Pa. Code §§ 78.1 and 78a.1. Diversified has obtained the well permits for some of the Exhibit A Wells. For the remainder of the Exhibit A Wells, Diversified has requested approval from the Department to transfer the well permits in the following two well permit transfer applications currently pending before the Department: Well Transfer Application from CNX Gas Company, LLC to Alliance dated March 30, 2018; and Well Transfer Application from XTO Energy, Inc. to Alliance dated February 14, 2017 (“Transfer Applications”).

F. On February 13 and 15, 2018, Diversified or its predecessor in interest of the Exhibit A Wells reported to the Department that the Exhibit A Wells did not produce oil or gas during the period from January 1, 2017 through December 31, 2017.

G. Pursuant to Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3203, a well is an “abandoned well” if it “has not been used to produce, extract or inject any gas, petroleum or other liquid within the preceding 12 months.”

H. Pursuant to Section 3220(a) of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3220(a), “upon abandoning a well, the owner or operator shall plug it in the manner prescribed by regulation of the department . . . .”

I. As of the dates and during the period set forth in Paragraph F, each Exhibit A Well is an “abandoned well” as that term is defined in Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3203, and Diversified was required to immediately plug the Exhibit A Wells in accordance with Section 3220(a) of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3220(a). Diversified is currently in violation of Section 3220(a) of the 2012 Oil & Gas Act, 58 Pa. C.S.A. § 3220(a), due to its failure to plug the Exhibit A Wells upon abandonment.

J. The violations described in Paragraph I constitute unlawful conduct under Section 3259 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3259.

K. The violations described in Paragraph I constitute public nuisances under Section 3252 of the 2012 Oil & Gas Act, 58 Pa. C.S.A. § 3252.

L. Diversified has the legal responsibility under Sections 3216(d) and 3220(a) of the 2012 Oil and Gas Act, 58 Pa. C.S.A. §§ 3216(d) and 3220(a), to plug abandoned wells and restore the Well Sites within nine months after plugging.

M. Diversified has requested that it be allowed to plug or produce the Exhibit A Wells and restore the Well Sites on a schedule acceptable to the Department in lieu of immediately plugging all Wells, and with a schedule that takes into account the potential harm that each of the Exhibit A Wells poses to the environment, public health, and safety. Diversified has represented to the Department that Diversified has the financial resources to ensure timely and full compliance with its obligations under this Consent Order and Agreement.

N. On July 16, 2018, the Department issued an Order to Alliance Petroleum Corporation (“Order”), Alliance’s prior corporate form, which directed Alliance Petroleum Corporation to plug and restore abandoned wells, all of which are included in Exhibit A.

O. On August 13, 2018, Alliance Petroleum Corporation appealed the Order to the Environmental Hearing Board (“EHB”), wherein it denied conclusions reached by the Department. The appeal is docketed at EHB Dkt. No. 2018-082 (“EHB Appeal”).

### **Order**

After full and complete negotiation of all matters set forth in this COA, and upon mutual exchange of the covenants contained herein, the Parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Diversified (as defined above, Alliance, Diversified Oil & Gas, LLC, and Diversified Gas & Oil Corporation, jointly and severally) as follows:

1. **Authority.** This COA is an Order of the Department authorized and issued pursuant to Section 3253 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3253; Sections 5, 316, and 402 of The Clean Streams Law, 35 P.S. §§ 691.5, 691.316, and 691.402; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.



2. *Findings.*

a. Diversified agrees that the Findings in Paragraphs A through H and M through O, above, are true and correct and, in any matter or proceeding involving Diversified and the Department, Diversified shall not challenge the accuracy or validity of these Findings.

b. The parties do not authorize any other persons to use the Findings in this COA in any matter or proceeding.

3. *Performance Bond.*

a. Within thirty (30) business days after the date of execution of this COA, Diversified shall submit to the Department an administratively complete performance bond in the amount of Seven Million Dollars (\$7,000,000.00) ("Performance Bond"). For the purpose of this COA, the term "administratively complete performance bond" shall mean a performance bond that conforms to the template model attached hereto as Exhibit B and be acceptable to the Department. The failure for any reason of Diversified to post the Performance Bond shall nullify this COA in all respects.

b. Forfeiture of the Performance Bond shall not be governed by the forfeiture provisions of Section 3225 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3225, but by the terms of Paragraph 7, below.

c. If Diversified fully performs its obligations under this COA, and if Diversified's obligations under this COA have been terminated in accordance with Paragraph 20, below, Diversified may, in writing, request release of the Performance Bond from the Department. No release of or reduction in the amount of the Performance Bond may be sought by Diversified so long as any obligation(s), current or future, under this COA remain to be addressed.

4. ***Corrective Actions.*** Diversified shall take the following corrective actions regarding the Exhibit A Wells and Well Sites (subject to any transfer to a third party in accordance with Paragraphs 4.h. and 11, below): 1) plug the Exhibit A Wells in accordance with Sections 3216 and 3220 of the 2012 Oil & Gas Act, 58 Pa. C.S.A. §§ 3216 and 3220, and 25 Pa. Code §§ 78.65, 78a.65, 78.91 – 78.98, and 78a.91 – 78a.98, as set forth herein and restore the Well Sites; or 2) place Exhibit A Wells into production, as set forth herein. Oil or gas wells that are, or become, subject to the plugging and production requirements of this COA pursuant to the reporting and identification processes in this Paragraph 4, are included in the term “the Exhibit A Wells,” as defined above, and the sites associated with those Wells are included in the term “Well Sites,” as defined above. The phrases “placed into production” or “in production” or “into production” are defined in Paragraph 4.f., below. The aforementioned corrective actions shall occur pursuant to the following schedule and requirements:

a. ***Well Plugging/Production Schedule.*** Diversified shall completely plug or place the Exhibit A Wells into production according to the following schedule:

(i) From January 1, 2019 to December 31, 2023, Diversified shall, during each calendar year, plug or place into production at least fifty (50) of the Exhibit A Wells, of which a minimum of twenty (20) shall be plugged. Exhibit A Wells that pose health, safety, and/or environmental concerns shall be prioritized for plugging.

(ii) From January 1, 2024 to December 31, 2033, Diversified shall, during each calendar year, plug or place into production at least fifty (50) of the Exhibit A Wells, of which a minimum of twenty (20) shall be plugged unless these obligations are revised pursuant to Paragraph 4.b., below.

(iii) Notwithstanding Paragraphs 4.a(i) and (ii), above, by no later than December 31, 2033 (or by December 31, 2038 if an extension is granted pursuant to Paragraph 4.b.ix., below), Diversified shall plug or place into production all of the Exhibit A Wells except for any well transferred to a third party in accordance with Paragraphs 4.h. and 11, below.

(iv) If an Exhibit A Well is placed into production but, in a subsequent year, becomes abandoned (as that term is defined in Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3203) or is otherwise not “in production” (as that phrase is defined in Paragraph 4.f.(i) or (iii), below), within sixty (60) days thereafter, Diversified shall notify the Department of the Exhibit A Well’s abandoned status and identify that Exhibit A Well as abandoned and unplugged in the Annual Report submitted in the following calendar year, as described in Paragraph 5. Diversified shall plug an additional Exhibit A Well on or before the end of the following calendar year, but that additional Exhibit A Well will not count towards the annual plugging and production requirements in Paragraph 4.a(i) and (ii), or 4.b(vi), as applicable, for that following calendar year in which the Annual Report was submitted.

(v) This well plugging and production schedule may be extended and modified by Diversified and the Department pursuant to Paragraphs 4.b. and/or 17 of this COA, below.

b. *Well Reviews and Plugging Schedule.*

(i) *Well Reviews.* No later than February 28, 2021, Diversified shall complete its review of all of the Exhibit A Wells to determine whether it plans to plug or produce each of the Exhibit A Wells.

(ii) *First Report.* Diversified shall submit a report for all of the Exhibit A Wells (“First Report”) to the Department by February 28, 2021, identifying:

- a) the Exhibit A Wells that Diversified intends to plug;
- b) the condition of the Exhibit A Wells, including but not limited to detailed written descriptions of the four determinations listed in 25 Pa. Code § 78.88(b)(1)-(4), photographs as necessary to clearly depict each Exhibit A Well, and identification of Exhibit A Wells that pose health, safety, and/or environmental concerns that shall be prioritized for plugging;
- c) the Exhibit A Wells that Diversified intends to place into production, pursuant to the meaning set forth in Paragraph 4.f(i) and (iii), below;
- d) the Exhibit A Wells for which Diversified asserts to be neither the owner nor operator thereof and any documentation necessary to support such assertions;
- e) the Exhibit A Wells that are: (1) directly plumbed to a landowner for the purpose of providing a landowner oil and/or gas for personal use, including but not limited to heating and cooking purposes; and (2) currently producing gas for those purposes (“House Gas”);
- f) the Exhibit A Wells that are presently in production, including production quantities for each Exhibit A Well or, for wells that produce to a single meter, the wellhead



pressure for each and the pipeline-pressure at the location of the single meter; and

- g) the Exhibit A Wells that Diversified asserts were previously properly plugged or were never drilled before the date of this COA, and documentation adequate to support such assertions, including plugging certifications for plugged wells, as set forth in Paragraph 4.e., below.

(iii) *Remaining Well Inventory.* Diversified shall inventory all of its wells for which it is an owner or operator but not identified in Exhibit A as of the Effective Date of this COA, including those wells included in the Transfer Applications (“Remaining Well Inventory”). Diversified shall submit the Remaining Well Inventory to the Department within ninety (90) days after Diversified’s receipt of the Department’s approval of the Transfer Applications described in Paragraph E, above, should the Transfer Applications be acceptable to the Department. The Remaining Well Inventory includes but is not limited to the wells listed in the Transfer Applications. The Remaining Well Inventory shall become Exhibit C to this COA after it is approved or approved as modified by the Department, as provided for in Paragraph 21, below.

(iv) *Second Report.* No later than February 28, 2024, Diversified shall complete its review of the Remaining Well Inventory to determine whether any of those wells are “abandoned wells” as that term is defined under Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S.A. § 3203, or that are not “in production” (for the purposes of this COA, requirement “in production” has the meaning set forth in Paragraph 4.f(i) and (iii), below), and to evaluate the condition of those wells. Diversified shall submit a report for all of its Remaining Well