

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

NMOCD - ACO 05- 77

IN THE MATTER OF *Pronghorn Management Corp*

Respondent.

**AGREED COMPLIANCE ORDER**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), the Director of the Oil Conservation Division ("OCD") and *Pronghorn Management Corp.* enter into this Order under which Operator agrees that the wells identified herein shall be brought into compliance with the Act and OCD Rule 201 [19.15.4.201 NMAC] in accordance with the following agreed schedule and procedures, and agrees to pay penalties as set out below if it fails to meet the schedule set out in this Order:

**FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a corporation doing business in the state of New Mexico.
3. *Pronghorn Management Corp.* is the operator of record for the wells identified in Exhibit "A," attached, under OGRID 122811.
4. The wells identified in Exhibit "A":
  - (a) have been continuously inactive for a period of one year plus ninety days;
  - (b) are not properly plugged and abandoned under OCD Rule 202 [19.15.4.202 NMAC]; and
  - (c) have not been placed on temporary abandonment status under OCD Rule 203 [19.15.4.203 NMAC].
5. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:

"A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.

B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:

....

....

(3) a period of one (1) year in which a well has been continuously inactive.”

6. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
7. OCD Rule 7.P (2) [19.15.1.7.P (2) NMAC] defines “person” as  
“an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees.”

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. As operator of the wells identified in Exhibit “A,” Operator is responsible for bringing those wells into compliance with Rule 201.
3. Operator is a “person” as defined by OCD Rule 7.P(2) subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

### ORDER

1. Operator is hereby directed to bring each of the wells identified in Exhibit “A” into compliance with OCD Rule 201 by either:
  - (a) restoring such well to production or other OCD-approved beneficial use by May 31, 2006;
  - (b) causing the wellbore to be plugged in accordance with OCD Rule 202 by May 31, 2006, and causing the site to be remediated in accordance with OCD Rule 202 within one year of plugging the wellbore; or
  - (c) securing OCD approval for temporary abandonment of the well in accordance with OCD Rule 203 by May 31, 2006.

2. Operator shall, beginning with the month of August 2005, plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 2 of the wells identified in Exhibit "A" per calendar month. If more than 2 wells are plugged, temporarily abandoned or restored to production or other approved beneficial use during any month, the wells in excess of the number agreed to herein shall be credited to Operator's obligation hereunder for succeeding months, provided that all of the wells identified in Exhibit "A" shall be plugged, temporarily abandoned or restored to production or other approved beneficial use by May 31, 2006 according to the following schedule (hereinafter "schedule"):

<u>Date:</u>	<u>Number of Wells from Exhibit "A"</u>	
	<u>Per Month</u>	<u>Total</u>
August 31, 2005	2	2
September 30, 2005	2	4
October 31, 2005	2	6
November 30, 2005	2	8
December 31, 2005	2	10
January 31, 2006	2	12
February 28, 2006	2	14
March 30, 2006	2	16
April 31, 2006	2	18
May 31, 2006	1	19

3. A well shall be considered "plugged" for purposes of the schedule set out in paragraph 2, above, when the Operator has plugged the wellbore in accordance with Rule 202.A and B (1) and (2), and filed a sundry notice with the appropriate district office notifying them that the wellbore has been plugged. The wellsite must be remediated in accordance with Rule 202.B(3) within one year of plugging the wellbore. Upon completion of the remediation, the Operator must contact the appropriate district office to arrange for an inspection of the well and location.
4. A well shall be considered "temporarily abandoned" for purposes of the schedule set out in paragraph 2, above, when the well has successfully passed the mechanical integrity test required by Rule 203 and the Operator has filed the request for temporary abandonment with the appropriate district office.
5. A well shall be considered "restored to production or other approved beneficial use" for purposes of the schedule set out in Paragraph 2, above, when actual production or other approved beneficial use has commenced.
6. Operator shall file a written compliance report with the appropriate district office, and send a copy to the OCD's attorney, by the 10<sup>th</sup> day of each month starting with September 2005, listing the wells identified in Exhibit "A" that it has plugged, temporarily abandoned or restored to production or other approved beneficial use. For each well listed, the Operator shall identify whether that well was plugged, temporarily abandoned or restored to production or other approved

beneficial use, and the date that work was completed. Operator shall file monthly compliance reports until all wells identified in Exhibit "A" have been plugged, temporarily abandoned or restored to production or other approved beneficial use. If, at any time, the OCD determines that a well identified in the Operator's compliance report is not plugged, temporarily abandoned or restored to production or other approved beneficial use according to the definitions set out in this agreement, the OCD shall promptly notify the Operator, and those wells shall not be credited toward the Operator's obligations under this Order until they are plugged, temporarily abandoned or restored to production or other approved beneficial use as defined in this agreement.

7. If, at the end of any month, the total number of wells the Operator has plugged, temporarily abandoned or restored to production or other beneficial use is less than the number required under the schedule, Operator shall have a one-month grace period in which to become current. If, at the end of that one-month grace period, Operator has not become current under the schedule, Operator shall pay a penalty of \$1000 times the number of wells it is short of the total required for the current month. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office with the next month's report. Penalties are calculated, and payable, each month.

Example A: ABC Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 6 wells each month. ABC Company meets or exceeds its obligations in months 1-4. The agreed schedule calls for a total of 30 wells to be plugged, temporarily abandoned or restored to production or other approved beneficial use by the end of month 5. But at the end of month 5, ABC Company is two wells behind schedule. ABC Company will have a one-month grace period in which to become current. At the end of month 6, however, ABC Company has plugged, temporarily abandoned or restored to production or other approved beneficial use a total of 35 wells: one well short of the 36 required by the schedule. ABC Company must pay a penalty of \$1000 when it files its report for month 6. At the end of month 7, ABC Company is 4 wells short of the 42 required by the schedule. ABC Company must pay a penalty of \$4000 when it files its report for month 7.

Example B: XYZ Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 5 wells each month. XYZ Company files compliance reports each month indicating that it is meeting its agreed schedule. In month 3, the OCD inspects the site of one of the wells listed as "plugged" in XYZ Company's compliance report for month 1, and determines that the wellbore has not been properly plugged under Rule 202.B(2) because the marker has not been placed on the site. Because the well has not been properly "plugged" as defined by this agreement, it will not count towards fulfilling XYZ Company's obligations under

the schedule. XYZ Company will be responsible for calculating, and paying, any additional penalties that apply.

8. If Operator fails to plug, temporarily abandon or restore to production or other approved beneficial use all the wells identified in Exhibit "A" by May 31, 2006, Operator shall pay a penalty of \$2000 per well for each full month the well remains out of compliance with this order after that date. No grace period applies. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office with the next month's report. Penalties are calculated, and payable, each month.
9. In the event Operator encounters unanticipated circumstances (including, but not limited to inclement weather, or shortages of labor or equipment), which, in the reasonable opinion of the Operator, are likely to significantly disrupt or suspend the schedule of operations set forth in Ordering Paragraph (2) above, then Operator shall have the right to notify the OCD in writing of such circumstances and request an amendment to this Order. Such notification ("notice") shall:
  - (a) reasonably describe the unanticipated circumstances encountered by Operator;
  - (b) identify those wells on Exhibit "A" affected or expected to be affected by such unanticipated circumstances; and
  - (c) set forth a revised schedule, which, in the reasonable and prudent opinion of the Operator, is necessary to plug, temporarily abandon or restore to production or other approved use those wells on Exhibit "A" affected or expected to be affected by such unanticipated circumstances.

Within ten (10) days of receipt of this notice, the OCD shall either (A) approve a written amendment to this Order incorporating the revised schedule submitted by Operator, or (B) notify Operator that the revised schedule is not acceptable, but in such event promptly agree to meet with Operator at the OCD district office and negotiate in good faith in an attempt to reach a reasonable resolution of the situation. If the Operator and the OCD are unable to agree to amend this Order, the Operator may apply for a hearing before an OCD examiner and request an amendment to the Order revising the schedule. The Operator may also request that the examiner waive penalties accrued pursuant to this Order after the filing of the Notice as to those wells identified in the Notice.

Operator and the OCD each recognize that the purpose of this provision is to address unanticipated circumstances which the Operator, acting in good faith and as a reasonably prudent operator, could not reasonably expect to remedy under the thirty (30) day grace provision described in Ordering Paragraph (7) above.

10. For each plugged well, if the Operator fails to remediate the site and request inspection by the appropriate district office within one year of plugging the wellbore, the Operator shall pay a penalty of \$1000 for each full month that the well remains out of compliance with the remediation requirements of Rule 202.B(3). No grace period applies. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office. Penalties are calculated, and payable, each month.
11. By signing this Order, Operator expressly:
- (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - (b) agrees to plug, temporarily abandon or restore to production or other approved beneficial use the wells identified in Exhibit "A" under the schedule set out in Ordering Paragraph (2) or an amended schedule issued pursuant to Ordering Paragraph (9) above, and remediate plugged wells within one year of plugging the wellbore as set out in Ordering Paragraph (3);
  - (c) agrees to file monthly compliance reports as required in Ordering Paragraph (6);
  - (d) agrees to pay penalties as set out in Ordering Paragraphs (7), (8) and (9) if it fails to meet the schedule set out in Ordering Paragraph (2) or an amended schedule issued pursuant to Ordering Paragraph (9) above, or the remediation requirements set out in Ordering Paragraph (3);
  - (e) waives, subject to the provisions of Ordering Paragraph (9) above, any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
  - (f) agrees that the Order and amendments to the Order issued pursuant to Paragraph (9) above may be enforced by Division or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the Division or Oil Conservation Commission entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act; and
  - (g) agrees that if it fails to pay penalties assessed pursuant to this Order, upon application by the Division the district court may enter judgment against Operator in the amount of the penalties assessed and the district court may, in its discretion, impose additional penalties against the Operator for violating the payment terms of this Order.
12. If the Operator complies with the terms of this Order and any amendments to the Order issued pursuant to Paragraph (9) above, the Division will not seek penalties beyond those applicable under the terms of this Order or any amendments to this Order for Operator's failure to bring the wells identified in Exhibit "A" into compliance with Rule 201 prior to the deadlines set by this Order.

13. This Order applies only to those wells identified in Exhibit "A." Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.

Done at Santa Fe, New Mexico this 30<sup>th</sup> day of July, 2005

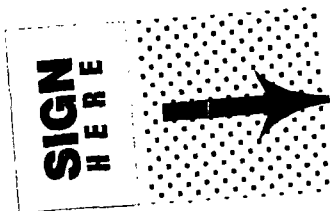
By: Mark Fesmire

Mark Fesmire, P.E.

Director, Oil Conservation Division

**ACCEPTANCE**

\_\_\_\_\_ hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.



By: Mark Fesmire

Title: President

Date: 07/18/05

# Inactive Well Exhibit A

PRONGHORN MANAGEMENT CORP Ogrid 122811

WellName	API WellNo	Commnt	Type	Status	ULSTR	Inact Type	Last Prod Dt	Dt Rpt	Dist.	Dt_Abnd_Sch
1. FIELDS No. 001	30025081190000		O	A	P-24-23S-32E	NCMP	3/1/2001	12/27/2004	01	
2. FOWLER B No. 001	30025281970000		O	A	K-6-19S-38E	NCMP	9/1/1985	12/27/2004	01	
3. J.F BLACK No. 003	30025111820000		O	A	B-21-24S-37E	NCMP	12/1/1993	12/27/2004	01	
4. J.F BLACK No. 004	30025111830000		O	A	F-21-24S-37E	NCMP	10/1/1987	12/27/2004	01	
5. J.F BLACK No. 005	30025214010000		O	A	K-21-24S-37E	NCMP	1/1/1984	12/27/2004	01	
6. J.F BLACK No. 006	30025214780000		I	A	F-21-24S-37E	NCMP	7/1/1991	12/27/2004	01	
7. J.F BLACK No. 007	30025214790000		I	A	C-21-24S-37E	NCMP	5/1/1985	12/27/2004	01	
8. MARSHALL No. 005	30025250000000		O	A	F-19-23S-33E	NCMP	4/1/1998	12/27/2004	01	
9. MARSHALL No. 008	30025256420000		O	A	L-19-23S-33E	NCMP	2/1/1996	12/27/2004	01	
10. NEW MEXICO BZ STATE NCT 5 30025035240000 No. 004			O	A	F-29-21S-35E	NCMP	6/1/1986	12/27/2004	01	
11. NEW MEXICO BZ STATE NCT 5 30025323620000 No. 005			O	A	D-29-21S-35E	NCMP	3/1/1998	12/27/2004	01	
12. NEW MEXICO DL STATE No. 003 30025286090000			O	A	H-18-23S-33E	NCMP	4/1/2001	12/27/2004	01	
13. NEW MEXICO DL STATE No. 004 30025286090000			O	A	N-18-23S-33E	NCMP	7/1/2002	12/27/2004	01	
14. NEW MEXICO DL STATE No. 005 30025286100000			O	A	J-18-23S-33E	NCMP	4/1/2001	12/27/2004	01	
15. NEW MEXICO DL STATE No. 006 30025286590000			O	A	P-18-23S-33E	NCMP	10/1/1989	12/27/2004	01	
16. NEW MEXICO DL STATE No. 007 30025286810000			O	A	A-18-23S-33E	NCMP	4/1/2001	12/27/2004	01	
17. NEW MEXICO EF STATE No. 003 30025286970000			I	A	M-17-23S-33E	NCMP	4/1/2001	12/27/2004	01	
18. Marshall No. 2	30025083590000		S	A	K-19-23S-33E	NCMP	Last prs 1st 1995			
19. Mashall No. 1	30025083580000		O	A	M-19-23S-33E	NCMP	02/1/1990			

By [Signature]

Title 07/18/05

