

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORP., 1) FINDING THAT THE OPERATOR KNOWINGLY AND WILLFULLY VIOLATED NMSA 1978, SECTION 70-2-31(B)(2), 19.15.13.1115.A NMAC, AND 19.15.4.201 NMAC AS TO ELEVEN WELLS; 2) ASSESSING PENALTIES FOR THE VIOLATIONS; 3) REQUIRING OPERATOR TO FILE CORRECTED PRODUCTION REPORTS BY A DATE CERTAIN; 4) REQUIRING OPERATOR TO BRING THE ELEVEN WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC BY A DATE CERTAIN AND AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IN THE EVENT OF NON-COMPLIANCE; AND REQUIRING OPERATOR TO PROVIDE CONTACT INFORMATION FOR PRIVATE LESSORS AFFECTED BY THE VIOLATIONS; LEA COUNTY, NEW MEXICO.

CASE NO. 13859

AFFIDAVIT OF SERVICE

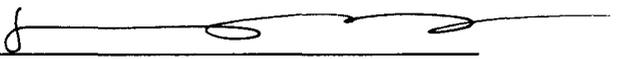
In accordance with Division Rule 1227.D [19.15.14.1227.D NMAC] and Rule 1210 [19.15.14.1210 NMAC] I hereby certify that notice of the January 18, 2007 hearing in the above-captioned case was mailed to the following by certified mail, return receipt requested, at least 20 days prior to the hearing date, with a copy of the application:

Pronghorn Management Corp.  
P.O. Box 1772  
Hobbs, NM 88241

Exhibit A to this affidavit is a copy of the notice letter, with the signed return receipt card attached.

  
Gail MacQuesten

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of January 2007.

  
Notary Public

My Commission Expires:

4/2/07

**Pronghorn Management Corp.**  
Cases 13858 & 13859  
OCD Ex. No. 2



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**

Governor

**Joanna Prukop**

Cabinet Secretary

**Mark E. Fesmire, P.E.**

Director

**Oil Conservation Division**

December 13, 2006

Pronghorn Management Corp.  
P.O. Box 1772  
Hobbs, NM 88241

Certified Mail No. 7002 3150 0004 4924 0755

**CASE 13859: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORP., 1) FINDING THAT THE OPERATOR KNOWINGLY AND WILLFULLY VIOLATED NMSA 1978, SECTION 70-2-31(B)(2), 19.15.13.1115.A NMAC, AND 19.15.4.201 NMAC AS TO ELEVEN WELLS; 2) ASSESSING PENALTIES FOR THE VIOLATIONS; 3) REQUIRING OPERATOR TO FILE CORRECTED PRODUCTION REPORTS BY A DATE CERTAIN; 4) REQUIRING OPERATOR TO BRING THE ELEVEN WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC BY A DATE CERTAIN AND AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IN THE EVENT OF NON-COMPLIANCE; AND REQUIRING OPERATOR TO PROVIDE CONTACT INFORMATION FOR PRIVATE LESSORS AFFECTED BY THE VIOLATIONS; LEA COUNTY, NEW MEXICO.**

Operator::

You are hereby notified that the New Mexico Oil Conservation Division (OCD) has filed the above-captioned application for a compliance order against Pronghorn Management Corp. A copy of the application is enclosed.

A hearing on this application will take place before a Division hearing officer on **Thursday, January 18, 2007**, at 8:15 a.m., in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing Pronghorn Management Corp. will have an opportunity to oppose the entry of the order. **If you intend to present evidence at the hearing, you should file a pre-hearing statement at least four business days in advance of the hearing, as required by 19.15.14.1211.B NMAC.** A copy of that rule is enclosed. I have also enclosed a copy of 19.15.14.1212, which addresses representation at administrative hearings before the Division.

If you have questions about the application you may call me at (505) 476-3451.

Very truly yours,

Gail MacQuesten  
Assistant General Counsel

Encl: Application in Case 13859  
Rule 1211 [19.15.14.1211 NMAC]  
Rule 1212 [19.15.14.1212 NMAC]

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

AM 10 46

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORP., 1) FINDING THAT THE OPERATOR KNOWINGLY AND WILLFULLY VIOLATED NMSA 1978, SECTION 70-2-31(B)(2), 19.15.13.1115.A NMAC, AND 19.15.4.201 NMAC AS TO ELEVEN WELLS; 2) ASSESSING PENALTIES FOR THE VIOLATIONS; 3) REQUIRING OPERATOR TO FILE CORRECTED PRODUCTION REPORTS BY A DATE CERTAIN; 4) REQUIRING OPERATOR TO BRING THE ELEVEN WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC BY A DATE CERTAIN AND AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IN THE EVENT OF NON-COMPLIANCE; AND REQUIRING OPERATOR TO PROVIDE CONTACT INFORMATION FOR PRIVATE LESSORS AFFECTED BY THE VIOLATIONS; LEA COUNTY, NEW MEXICO.

CASE NO. 13859

APPLICATION FOR COMPLIANCE ORDER  
AGAINST PRONGHORN MANAGEMENT CORP.

1. Pronghorn Management Corp. ("Pronghorn") is a corporation operating wells in New Mexico under OGRID 122811.

2. Pronghorn posted a \$50,000 cash bond and assignment of cash collateral pursuant to NMSA 1978, Section 70-2-14 to secure its obligation to plug and abandon wells on privately owned or state-owned lands in New Mexico in compliance with the rules of the Oil Conservation Division ("OCD"). Lea County State Bank in Hobbs, New Mexico holds the certificate of deposit: CD # 10071567.

3. NMSA 1978, Section 70-2-31(B)(2) prohibits any person from knowingly and willfully making any false entry or statement in a report required by the Oil and Gas

Act or by any rule issued pursuant to that act, for the purpose of evading or violating the Oil and Gas Act or any rule issued pursuant to that Act.

4. OCD Rule 1115.A [19.15.13.1115.A NMAC] requires operators to file a monthly C-115 production report for each non-plugged well completion for which the division has approved a C-104 authorization to transport, and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state of New Mexico, setting forth complete information and data indicated on said forms in the order, format and style the division director prescribes.

5. Pronghorn filed C-115 production reports for the following wells indicating that the wells were producing oil or gas during the listed time periods, although OCD inspections of the wells indicated that the wells were incapable of production during those time periods:

Fields #004	30-025-25348	3/02-3/06
JF Black #001	30-025-11178	3/00-3/06
Marshall #007	30-025-25201	3/02-8/05
New Mexico BZ State NCT 5 #001	30-025-03521	9/00-3/06
New Mexico BZ State NCT 5 #002	30-025-03522	9/00-3/06
New Mexico BZ State NCT 5 #003	30-025-03523	6/04-2/06
New Mexico DL State #001	30-025-28223	3/02-3/06
New Mexico DL State #002	30-025-28607	3/02-3/06
New Mexico EF State #001	30-025-28680	9/00-11/00; 1/01-8/02; 10/02-3/06
State C #001	30-025-03485	6/00-2/06
State HL #001	30-025-26492	9/00-3/06

6. OCD Rule 201 [19.15.4.201 NMAC] requires the operator of an oil or gas well to properly plug and abandon the well or place the well on approved temporary abandonment status within 90 days after a period of one year in which the well has been continuously inactive.

7. Each well identified in Paragraph 5, above, has been continuously inactive for a period in excess of one year plus ninety days and is neither properly plugged and abandoned nor on approved temporary abandonment status.

8. OCD Rule 101(H) [19.15.101(H) NMAC] authorizes the Director to order the operator to plug and abandon any well not in compliance with Rule 201 and restore and remediate the location by a date certain, and to direct the Division to forfeit the financial assurance upon failure or refusal of the operator, surety or other responsible party to properly plug and abandon the well and restore and remediate the location.

9. NMSA 1978, Section 70-2-12(B)(18) and NMSA 1978, Section 70-2-38 authorize the Division to plug and abandon wells, and restore and remediate the location of abandoned wells.

10. On October 23, 2006, the OCD issued Notice of Violation 1-06-16 to Pronghorn, citing violations of NMSA 1978, Section 70-2-31(B)(2), OCD Rule 1115.A and OCD Rule 201.

11. On November 2, 2006, Mr. G.A. Baber of Pronghorn met with OCD District I Supervisor Chris Williams for a compliance conference regarding Notice of Violation 1-06-16. At that conference Mr. Baber stated that he had reported production on inactive wells to avoid losing his leases.

12. The wells identified in Paragraph 5, above, are on federal, state and private lands.

13. 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.

14. NMSA 1978, Section 70-2-3(A) defines "person" in relevant part to include corporations.

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

A. Determining that Pronghorn knowingly and willfully violated NMSA 1978, Section 70-2-31(B)(2) and OCD Rule 1115.A as to the wells identified in Paragraph 5, above, by making false entries in the C-115 production reports required by OCD Rule 1115.A for the purpose of evading or violating Rule 1115.A and Rule 201;

B. Determining that Pronghorn knowingly and willfully left the wells identified in Paragraph 5, above, inactive for a period in excess of one year plus ninety days without properly plugging and abandoning the wells or placing the wells on approved temporary abandonment status, in violation of OCD Rule 201;

C. Assessing a penalty of \$1,000 for each false report filed in knowing and willful violation of NMSA 1978, Section 70-2-31(B)(2) and OCD Rule 1115.A;

D. Assessing a penalty totaling not less than \$11,000 for the knowing and willful violation of OCD Rule 201 as to the eleven wells identified in Paragraph 5;

E. Requiring the Operator to file corrected production reports for the wells identified in Paragraph 5, above, by a date certain;

F. Requiring the Operator to bring each of the wells identified in Paragraph 5, above, into compliance with OCD Rule 201 within a date certain by plugging and abandoning the well in accordance with 19.15.4.202 NMAC, securing approved temporary abandonment status for the subject well in accordance with 19.15.4.203 NMAC, or returning the subject well to a Division-approved beneficial use and if the subject wells are not brought into compliance with OCD Rule 201 by the date set in the order:

(1) Authorizing the Division to plug the subject wells in accordance with a Division-approved plugging program; and

(3) If any of the non-compliant subject wells is located on privately owned or state owned lands, authorizing the Division to declare forfeit the security furnished by the Operator; and

G. Requiring operator to provide contact information for private lessors affected by the violations of NMSA 1978, Section 70-2-31(B)(2) and OCD Rules 1115.A and 201; and

H. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,  
this 6<sup>th</sup> day of December 2006 by

  
Gail MacQuesten  
Assistant General Counsel  
Energy, Minerals and Natural  
Resources Department of the State of  
New Mexico  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
(505) 476-3451

Attorney for The New Mexico Oil  
Conservation Division

Case No. \_\_\_\_\_. Application of the New Mexico Oil Conservation Division for a Compliance Order against Pronghorn Management Corp. The Applicant seeks an order requiring finding operator to be in knowing and willful violation of NMSA 1978, Section 70-2-31(B)(2), 19.15.13.1115.A NMAC, and 19.15.4.201 NMAC as to eleven wells; assessing penalties for the violations; requiring operator to file corrected production reports by a date certain; requiring operator to bring the wells into compliance with 19.15.4.201 NMAC by a date certain and authorizing the Division to plug said wells and forfeit the applicable financial assurance in the event of non-compliance; and requiring operator to provide contact information for private lessors affected by the violations. The wells at issue are: Fields #004, 30-025-25348, A-25-23S-32E; JF Black #001, 30-025-111178, G-21-24S-37E; Marshall #007, 30-025-25201, C-19-23S-33E; New Mexico BZ State NCT 5 #001, 30-025-03521, D-29-21S-35E; New Mexico BZ State NCT 5 #002, 30-025-03522, C-29-21S-35E; New Mexico BZ State NCT 5 #003, 30-025-03523, E-29-21S-35E; New Mexico DL State #001, 30-025-28223, I-18-23S-33E; New Mexico DL State #002, 30-025-28607, O-18-23S-33E; New Mexico EF State #001, 30-025-28680, L-17-23S-33E; State C #001, 30-025-03485, M-20-21S-35E; State HL #001, 30-025-26492, L-2-23S-33E. The wells are located southern Lea County, New Mexico.

**19.15.14.1211 PLEADINGS, COPIES, PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:**

**A. Pleadings.** Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to any party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at any hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. Any initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

**B. Pre-hearing statements.**

(1) Any party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.14.1211 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5:00 pm mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) Any party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of all exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

C. Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.14.1211 NMAC - Rp, 19.15.14.1208 NMAC, 09/30/05]

#### **19.15.14.1212 CONDUCT OF ADJUDICATORY HEARINGS:**

A. Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. Any person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and observations in the record.

B. Pre-filed testimony. The division director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

C. Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.14.1208 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow any other person present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. Any person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

[19.15.14.1212 NMAC - Rp, 19.15.14.1210 NMAC, 09/30/05]

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Pronghorn Management Corp.  
P.O. Box 1772  
Hobbs, NM 88241

12/13/06 Ltr.

2. Article Number

(Transfer from service label)

7002 3150 0004 4924 0755

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*[Signature]*

- Agent  
 Addressee

B. Received by (Printed Name)

*Guy A. Porten*

C. Date of Delivery

*12-30-06*

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

U.S. Postal Service  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information, visit our website at [www.usps.com](http://www.usps.com)

7002 3150 0004 4924 0755

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.85

Postmark Here  
DEC 13 2006

Sent To  
Pronghorn Management Corp.  
Street, Apt. No., or PO Box No. P.O. Box 1772  
City, State, ZIP+4 Hobbs, NM 88241