

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORP. FINDING THAT OPERATOR KNOWINGLY AND WILLFULLY VIOLATED 19.15.4.201 NMAC AS TO SIXTEEN WELLS AND ASSESSING PENALTIES FOR THOSE VIOLATIONS; 2) REQUIRING OPERATOR TO BRING THE SIXTEEN WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC BY A DATE CERTAIN; AND 3) AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IN THE EVENT OF NON-COMPLIANCE; LEA COUNTY, NEW MEXICO.

CASE NO. 13858

**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. Division rule 19.15.4.201 NMAC requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity.

4. The following wells ("subject wells") operated by Operator in New Mexico have been inactive for a continuous period exceeding one year plus 90 days, and are neither plugged and abandoned in accord with 19.15.4.202 NMAC nor on approved temporary abandonment status in accord with 19.15.4.203 NMAC:

• Fowler B #001	30-025-28197	K-6-19S-38E
• JF Black #003	30-025-11182	B-21-24S-37E
• JF Black #004	30-025-11183	F-21-24S-37E
• JF Black #005	30-025-21401	K-21-24S-37E
• JF Black #006	30-025-21478	F-21-24S-37E
• JF Black #007	30-025-21479	C-21-24S-37E
• Marshall #001	30-025-08358	4-19-23S-33E
• Marshall #005	30-025-25000	F-19-23S-33E
• Marshall #008	30-025-25642	3-19-23S-33E
• New Mexico BZ State	30-025-03524	F-29-21S-35E
• New Mexico DL State #003	30-025-28608	H-18-23S-33E
• New Mexico DL State #004	30-025-28609	N-18-23S-33E
• New Mexico DL State #005	30-025-28610	J-18-23S-33E
• New Mexico DL State #006	30-025-28659	P-18-23S-33E
• New Mexico DL State #007	30-025-28681	A-18-23S-33E
• New Mexico EF State #003	30-025-28697	M-17-23S-33E

5. On July 30, 2005, Operator entered into inactive well agreed compliance order 77 (ACOI 77) which covered 19 wells, including the 16 subject wells. Under the terms of ACOI 77, Operator acknowledged that the wells were out of compliance with OCD Rule 201, acknowledged that it was responsible for returning the wells to compliance, and agreed to return the wells to compliance at a rate of two wells per month, completing the compliance work by May 31, 2006. Under the terms of ACOI-77, Operator agreed to penalties if it did not meet the schedule agreed to in the order.

6. Operator did not keep up with the schedule it agreed to in ACOI 77. By electronic mail dated October 7, 2005, Operator represented that it could begin compliance work in January 2006 and have all 19 wells returned to compliance by the

end of April 2006. Operator requested an amendment to ACOI 77 to reflect the new schedule.

7. On November 15, 2006, Operator entered into ACOI 77-A, which replaced ACOI 77. The new order covered the same wells, and kept the same compliance completion date of May 31, 2006, but allowed Operator to return 5 wells to compliance each month starting with February 2006. The OCD did not assess penalties for Operator's failure to meet the schedule set in ACOI 77.

8. Like ACOI 77, ACOI 77-A provided for penalties if Operator failed to meet its agreed schedule:

"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....Penalties are calculated, and payable, each month."

9. ACOI 77-A also provided a procedure by which the Operator could request an amendment to the order in the event the Operator encountered shortage of labor or equipment or unanticipated circumstances which, in the reasonable opinion of the Operator, were likely to significantly disrupt or suspend the schedule of operations.

10. Operator never requested an amendment to ACOI 77-A.

11. ACOI 77-A expired May 31, 2006.

12. Operator has returned only two of the wells covered by ACOI 77-A to compliance, leaving the 16 subject wells out of compliance.

13. OCD contacted Operator regarding entering into a new agreed compliance order, with a new schedule. Although Operator proposed a revised schedule, under

which it would return the wells to compliance by September 30, 2006, Operator did not follow through in obtaining a new agreed compliance order.

14. To date, Operator has not paid the penalties due under ACOI 77-A.

15. Division rule 19.15.101(H) NMAC authorizes the Director to order the operator to plug and abandon any well not in compliance with 19.15.4.201 NMAC 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.

16. 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.

17. NMSA 1978, Section 70-2-31(A) provides, in part, that

“[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, the case of a continuing violation, each day of violation shall constitute a separate violation.”

18. “Person” is defined in the Oil and Gas Act to include corporations.  
NMSA 1978, Section 70-2-33(A)((1).

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

A. Determining that Operator knowingly and willfully violated 19.15.4.201 NMAC as to the subject wells, and assessing penalties for the period after the expiration of ACOI 77-A on May 31, 2006;

- B. Determining that the subject wells remain out of compliance with 19.15.4.201 NMAC;
- C. Requiring the Operator to bring each of the subject wells into compliance with 19.15.4.201 NMAC 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
- D. Further, if the subject wells are not brought into compliance with 19.15.4.201 NMAC 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
- (2) 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
- E. 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  
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- Case No. 13858: Application of the New Mexico Oil Conservation Division for a Compliance Order against Pronghorn Management Corp. The Applicant seeks an order 1) finding that Operator knowingly and willfully violated 19.15.4.201 NMAC as to sixteen wells and imposing civil penalties for those violations; 2) requiring Operator to bring said wells into compliance with 19.15.4.201 NMAC by a date certain; and 3) authorizing the division to plug said wells and forfeit the applicable financial assurance in the event of non-compliance. The affected wells are: Fowler B #001, 30-025-28197, K-6-19S-38E; JF Black #003, 30-025-11182, B-21-24S-37E; JF Black #004, 30-025-11183, F-21-24S-37E; JF Black #005, 30-025-21401, K-21-24S-37E; JF Black #006, 30-025-21478, F-21-24S-37E; JF Black #007, 30-025-21479, C-21-24S-37E; Marshall #001, 30-025-08358, 4-19-23S-33E; Marshall #005, 30-025-25000, F-19-23S-33E; Marshall #008, 30-025-25642, 3-19-23S-33E; New Mexico BZ State, 30-025-03524, F-29-21S-35E; New Mexico DL State #003, 30-025-28608, H-18-23S-33E; New Mexico DL State #004, 30-025-28609, N-18-23S-33E; New Mexico DL State #005, 30-025-28610, J-18-23S-33E; New Mexico DL State #006, 30-025-28659, P-18-23S-33E; New Mexico DL State #007, 30-025-28681, A-18-23S-33E; New Mexico EF State #003, 30-025-28697, M-17-23S-33E.