

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. PURSUANT TO NMSA 1978, SECTION 70-2-14(B) ORDERING PRONGHORN MANAGEMENT CORP. TO PLUG AND ABANDON ALL WELLS IT OPERATES IN NEW MEXICO BY A DATE CERTAIN AND AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IN THE EVENT OF NON-COMPLIANCE; LEA AND EDDY COUNTIES, NEW MEXICO.

CASE NO. 14052

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

**RESPONSE OF THE OIL CONSERVATION DIVISION TO DELONG, LC'S
MOTION FOR STAY AND
MOTION TO REOPEN CASE NOS. 13859 AND 14052**

The Oil Conservation Division (OCD) responds as follows to the motions of DeLong,

LC:

1. Case Nos. 13859 and 14052 are compliance cases brought by the OCD against Pronghorn Management Corp. (Pronghorn).
2. Hearing Order No. R-12768-C, issued in the combined cases on June 28, 2008 provides, in relevant part, "Pronghorn shall transfer each well to another operator not affiliated with Pronghorn – approved by the Division – using the Division's Change of Operator form within 6 months of this order. Otherwise, Pronghorn shall plug and abandon each of the wells it operates that it has not so transferred, in accordance with applicable Division Rules, no later than December 31, 2008."

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3. Hearing Order No. R-12768-C further provides that “should Pronghorn Management Corporation fail to comply with the Ordering Paragraphs above, the Division shall be authorized to plug and abandon all Pronghorn-operated wells, forfeit any applicable financial assurance, and recover from Pronghorn the costs of plugging above the value of such financial security.”

4. Pronghorn did not transfer the wells covered by the order to another operator, and did not plug the wells.

5. DeLong, LC seeks to become operator of record of the following four Pronghorn wells covered by Hearing Order No. R-12768-C:

Atlantic State #001	30-015-10266
Eddy State #001	30-015-23248
Hannafin State #001	30-015-26727
Sivley State #001	30-015-26837

6. According to its Motion to Reopen Case Nos. 13859 and 14051, DeLong, LC acquired the four wells from Pronghorn after the December 31, 2008 deadline for Pronghorn to plug the wells.

7. The OCD has plugged 17 of the wells covered by Hearing Order No. R-12768-C at a cost of \$671,177.91. The OCD prepared a plugging contract covering the remaining wells, including the four wells at issue in DeLong, LC’s motions. The OCD’s plugging contractor estimates that the cost of plugging the four wells at issue at \$45,000 per well. After receiving DeLong, LC’s motions the OCD suspended its preparation of the plugging contract.

8. 19.15.9.C NMAC provides that the OCD may deny a change of operator if “[t]he new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order.”

9. DeLong, LC has not applied to become operator of record for the wells at issue, and has not approached the OCD about an agreed compliance order addressing compliance issues at the wells.

10. In order for DeLong, LC to become operator of record of these wells, the following issues need to be resolved:

- Does the language in Hearing Order No. R-12768-C giving Pronghorn a deadline to transfer the wells subject to the order, preclude a transfer after that deadline unless the case is re-opened and the order amended to allow transfer?
- If Hearing Order No. R-12768-C does not preclude transfer of the wells subject to the order after the deadline set in the order, is there any point in the process of well plugging at which the OCD may refuse to approve a transfer of wells subject to a plugging order?
- If the OCD must or may approve the transfer of the wells to an operator “approved by the Division,” may the OCD consider the compliance history of the principals/owners of the proposed operator in deciding whether to approve the new operator?

- If the OCD may, or should, approve the transfer of the wells to DeLong LC despite the compliance history of its principals/owners, what conditions may be put into the agreed compliance order?

11. The OCD requests a pre-hearing conference to resolve as many of these issues as possible. The OCD may request that the two motions then be set for hearing to resolve any remaining issues.

RESPECTFULLY SUBMITTED,
this 2nd day of February 2010 by



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Certificate of Service

I hereby certify that a true and correct copy of this pleading was mailed to:

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This 2nd day of February 2010.


Gail MacQuesten