



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 19, 2007

Pronghorn Management Corp.

P.O. Box 1772

Hobbs, NM 88241

Certified Mail No. ~~7001 1940 0004 7923~~ 7154

Mr. Earnest A. Padilla

Padilla Law Firm, P.A.

P.O. Box 2523

Santa Fe, NM 87504-2523

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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) filed a Motion for Order to Show Cause Against Pronghorn Management Corp. in the above-titled action. A copy of the motion is enclosed.

A hearing on the motion will take place before a Division hearing officer on **Thursday, January 10, 2008**, 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 motion. **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: Motion for Order to Show Cause in Case 13859
Rule 1211 [19.15.14.1211 NMAC]
Rule 1212 [19.15.14.1212 NMAC]

Pronghorn Management Corp.

Case 13859

Case 14052

OCD Exhibit No. 2-B

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

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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

**MOTION FOR ORDER TO SHOW CAUSE
AGAINST PRONGHORN MANAGEMENT CORP.**

The Enforcement and Compliance Manager of the Oil Conservation Division (OCD) respectfully asks that Case No. 13859 be re-opened, an order be issued against Pronghorn Management Corp. (Pronghorn) to show cause why additional penalties should not be assessed and why an order should not be issued finding Pronghorn in violation of 19.15.1.40.A(2) NMAC, and the matter set for hearing. The following grounds support this motion:

1. On June 15, 2007, the Division Director issued Order R-12768 in Case No. 13859. The Order found that Pronghorn knowingly and willfully violated NMSA 1978, Section 70-2-31(B)(2) and 19.15.13.1115.A NMAC by filing false production reports on eleven inactive wells. The Order required Pronghorn to plug and abandon the

11 wells, or secure approved temporary abandonment status for the wells, or return the wells to Division-approved beneficial use by December 30, 2007.

2. Order R-12768 also required Pronghorn to do the following by July 30, 2007:

- a. pay a penalty of \$72,000;
- b. file corrected production reports on the 11 wells
- c. provide contact information for private lessors affected by the false production reports.

3. Order R-12768 specifically provided, "Should Pronghorn Management Corporation fail to pay this penalty by July 30, 2007, the Division shall initiate additional enforcement actions against Pronghorn Management Corporation including imposition of additional penalties."

4. Pronghorn filed a request for de novo review of case No. 13859, but later withdrew its request.

5. To date, Pronghorn has not paid the \$72,000 penalty, filed corrected production reports, or provided contact information for private lessors affected by the false production reports.

6. Rule 19.15.1.40.A(2) NMAC provides, in relevant part,

A. A well operator is in compliance with Subsection A of 19.15.1.40 NMAC if the operator:

- (1)
- (2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;

For the foregoing reasons, the Enforcement and Compliance Manager of the Division moves that the Director re-open Case 13859, issue an order requiring Pronghorn Management Corporation to show cause why an order should not be entered assessing Case 13859 - Motion for Order to Show Cause
Pronghorn Management Corp.

additional penalties, and why an order should not be entered finding Pronghorn to be in violation of an order requiring corrective action, and set the matter for hearing.

RESPECTFULLY SUBMITTED, this ____ day of November 2007 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
Phone: (505) 476-3451
FAX: (505) 476-3462
E-mail: gail.macquesten@state.nm.us
Attorney for the New Mexico Oil
Conservation Division

Certificate of Service

I hereby certify that a true and correct copy of this motion was served on Earnest Padilla, counsel for Pronghorn Management Corporation by fax to (505) 988-7592 and by first class mail to the following address:

Mr. Earnest Padilla
Padilla Law Firm, P.A.
P.O. Box 2523
Santa Fe, NM 87504-2523

This ____ day of November 2007.

Gail MacQuesten

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]