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

CASE NO. 13859 Reopened

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORPORATION, 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. 14052

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST PRONGHORN MANAGEMENT CORPORATION PURSUANT TO NMSA 1978, SECTION 70-2-14(B) ORDERING PRONGHORN MANAGEMENT CORPORATION 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.

ORDER NO. R-12768-C

ORDER OF THE DIVISION

BY THE DIVISION:

These two cases came on for hearing at 8:15 a.m. on January 10, 2008, at Santa Fe, New Mexico, before Examiners William V. Jones and David K. Brooks.

NOW, on this 23rd day of June, 2008, the Division Director, having considered the testimony, the record, and the recommendations of the Examiners,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of these cases and the subject matter.

(2) Division Case Nos. 14052 and 13859 (reopened) were consolidated for the purpose of testimony and one order will be issued.

Re-opened Case 13859

(3) The Enforcement and Compliance Manager of the Oil Conservation Division ("ECM") reopened Case No. 13859, and requested 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. The following grounds were cited by the applicant to support this motion:

(a) On June 15, 2007, the Division Director issued Order No. 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 eleven wells, secure approved temporary abandonment status for the wells, or return the wells to Division-approved beneficial use by December 30, 2007.

(b) Order No. R-12768 also required Pronghorn by July 30, 2007, to (i) pay a penalty of $72,000, (ii) file corrected production reports on the eleven wells, and (iii) provide contact information for private lessors affected by the false production reports.

(c) Order No. 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."

(d) Pronghorn filed a request for de novo review of Case No. 13859, but later withdrew its request.

(e) 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.

(f) Rule 19.15.1.40.A(2) NMAC provides, in relevant part, that the operator is in compliance with Subsection A of 19.15.1.40 NMAC if the operator 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.

(4) The ECM appeared at the hearing and presented testimony and evidence showing that Pronghorn remains out of compliance with all ordering paragraphs of Order No. R-12768. Specifically, Pronghorn did NOT:

(a) Return the subject eleven wells back into compliance with Division Rule 201 by December 30, 2007;

(b) Pay the $72,000 penalty;

(c) File corrected reports on the eleven wells; or

(d) Provide contact information for private lessors affected by the false production reports.

(5) The Division finds in this re-opened Case No. 13859 that Pronghorn failed to comply with Order No. R-12768 and should be held in non-compliance with Division Rule 40 until and unless Pronghorn again re-opens Case No. 13859 and presents evidence to the Division at a future hearing showing that it is in full compliance with Order No R-12768.

CASE 14052

(6) In companion Case No. 14052, the Enforcement and Compliance Manager of the Oil Conservation Division ("ECM") requests the Director for an order:

(a) Determining that 38 of the 39 wells operated by Pronghorn Management Corporation ("Pronghorn") in New Mexico (all wells except the New Mexico DL State Well No. 7, API No. 30-025-28681) are in violation of one or more of the following: NMSA 1978, Section 70-2-31(B)(2); 19.15.4.201 NMAC; 19.15.4.202 NMAC; 19.15.13.1115 NMAC; 19.15.13.1105 NMAC; 19.15.9.701 NMAC; 19.15.3.103.F NMAC; and 19.15.2.50 NMAC;

(b) Requiring Pronghorn to plug and abandon all its wells by a date certain; and if the subject wells are not plugged and abandoned by the date set in the order;

(c) Authorizing the ECM to plug the wells in accordance with a Division-approved plugging program;

(d) If any of the non-compliant subject wells is located on privately owned or state owned lands, authorizing the ECM 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.

(7) In the application for Case No. 14052, the following background and reasons were given for this request:

(a) Pronghorn Management Corporation ("Pronghorn") is a corporation operating wells in New Mexico under OGRID 122811;

(b) 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"). This cash bond is secured by Lea County State Bank in Hobbs, New Mexico certificate of deposit: CD # 10071567;

(c) NMSA 1978 Section 70-2-14(B) provides: If any of the requirements of the Oil and Gas Act [700-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

(d) In Case No. 13858, Order No. R-12767, the Division Director found that Pronghorn was in violation of 19.15.4.201 NMAC as to the following 16 wells:

Fowler B #001	30-025-28197
JF Black #003	30-025-11182
JF Black #004	30-025-11183
JF Black #005	30-025-21401
JF Black #006	30-025-21478
JF Black #007	30-025-21479
Marshall #001	30-025-08358
Marshall #005	30-025-25000
Marshall #008	30-025-25642
New Mexico BZ State NCT 5 #004	30-025-03524
New Mexico DL State #003	30-025-28608
New Mexico DL State #004	30-025-28609
New Mexico DL State #005	30-025-28610
New Mexico DL State #006	30-025-28659
New Mexico DL State #007	30-025-28681
New Mexico EF State #003	30-025-28697

Order No R-12767 required Pronghorn to plug and abandon the wells, secure approved temporary abandonment status for the wells, or return them to OCD-approved beneficial use by October 2, 2007. As of the hearing date, Pronghorn has reported production on one of the 16 wells: the New Mexico DL

State Well No. 7, API No. 30-025-28681. The other 15 wells remain out of compliance.

(e) Pronghorn has not complied with any of the provisions of Order No. R-12768 issued in Case No. 13859.

(f) Seven additional wells not covered by Case 13858 or Case 13859 are out of compliance with 19.15.4.201 NMAC because they have been inactive for a continuous period in excess of one year plus 90 days and they are neither plugged and abandoned nor on approved temporary abandonment status:

Atlantic State #001	30-015-10266
Eddy State #001	30-015-23248
Hannafin State #001	30-015-26727
Long Box Com #001	30-015-22624
Marshall #006	30-025-25151
Sivley State #001	30-015-26837
State M #001	30-015-24612

(g) The State M Well No. 1, API No. 30-015-24612, has an un-permitted, unlined pit on location, in violation of 19.15.2.50 NMAC, which requires pits to be permitted, properly lined, and closed within six months of cessation of use.

(h) Four other wells not covered by Case 13858 or Case 13859 are out of compliance with other OCD rules:

Gila 4 Deep #001	30-025-30872
Howse C #001	30-025-22165
Marshall #002	30-025-08359
New Mexico BZ State NCT 5 #005	30-025-32362

All four wells reported production or injection between February 15, 2007 and August 24, 2007. The OCD had cancelled Pronghorn's authority to transport or inject during that period pursuant to 19.15.13.1115.C NMAC because of Pronghorn's failure to file production reports. Transportation of oil or gas during that period would be a violation of 19.15.13.1105 NMAC. Injection during that period would be a violation of 19.15.9.701 NMAC.

(i) Three of these four wells have additional compliance issues:

Howse C Well No. 1, API No. 30-025-22165. The well has the wrong ULSTR listed on its well sign, which is a violation of 19.15.3.103.F NMAC.

Marshall Well No. 2, API No. 30-025-08359. Although the well is reporting injection, inspection reports indicate the well is shut in. If

Pronghorn is reporting injection on an inactive well, Pronghorn is filing false reports in violation of 19.15.13.1115 NMAC and NMSA 1978, Section 70-2-31.B(2).

New Mexico BZ State NCT Well No. 5, API No. 30-025-32362. Again, although the well is reporting production, inspection reports indicate the well is shut in. If Pronghorn is reporting production on an inactive well, Pronghorn is filing false reports in violation of 19.15.13.1115 NMAC and NMSA 1978, Section 70-2-31.B(2).

(j) The Hastie Well No. 5, API No. 30-015-01417. Pronghorn filed a notice of intent to plug and abandon the well in 1995, and no production has been reported since 1995. The well file contains no additional filings from Pronghorn on this well. In 2001 the OCD issued a Letter of Violation to Pronghorn regarding the well after an inspection found the location not clean after an apparent plugging. To date, Pronghorn has not filed a Form C-103 to report completion of restoration work. Rule 19.15.4.201 NMAC requires a well to be plugged and abandoned or placed on approved temporary abandonment status after one year plus ninety days of continuous inactivity. Rule 19.15.4.202 NMAC requires the operator to clean the well site "as soon as practical but no later than one year after the completion of plugging operations," and file a record of the work done within thirty days after completing all required restoration work.

(8) The ECM appeared at the hearing and presented testimony and evidence supporting its contention that 38 of 39 of Pronghorn's wells remain out of compliance in some manner with Division rules even after previous Division compliance orders and after multiple attempts by the ECM to negotiate with Pronghorn. Paragraph (5) above contains details on the manner of this non-compliance – each item was covered by evidence presented at the hearing. The ECM presented testimony that Pronghorn has a long history of non-compliance with the Division and suggested that the Pronghorn entity is not equipped to responsibly manage oil and gas wells in New Mexico and should turn over its wells to a more responsible operator.

(9) Pronghorn appeared at the hearing through counsel. Pronghorn's manager testified at the hearing. Pronghorn presented the status of many of its wells and indicated that work was being done, but additional time was needed. Pronghorn did not contest that it was out of compliance with the myriad of items listed by the applicant.

(10) The ECM is asking for an order requiring Pronghorn or the Division to plug and abandon all of the Pronghorn operated wells in New Mexico. From the details presented by both the ECM and Pronghorn, it seems likely that some oil and gas production is possible from this group of wells, although probably not much.

(11) Evidence was presented by the ECM that indicated approximately five of Pronghorn's wells were productive or at least were reporting some production. Pronghorn did not present specific evidence of productive capacity or of hydrocarbon reserves on its

wells, but was optimistic that additional wells would produce if appropriate investments were made. Pronghorn did not present testimony at the hearing from an expert geologist or an engineer as to productive capacity of its wells. Pronghorn's manager stated that an engineer had studied its wells for production potential and the highest potential wells were the focus of its efforts and capital expenditures. Pronghorn objected to any order requiring all its wells to be plugged and abandoned on grounds that waste of oil and gas would occur.

(12) The Division finds in Case No. 14052 that Pronghorn has not responsibly operated oil and gas wells in New Mexico, is currently in violation on all counts cited in this application, and does not have the staff or capital needed in order to operate so as to protect the environment or to prevent waste. Furthermore, Pronghorn has had ample time to comply and has shown a willingness to deliberately remain out of compliance with Division rules. Pronghorn's history indicates it will likely remain out of compliance with Division rules designed to protect the environment.

(13) NMSA 1978 Section 70-2-14.C provides, in pertinent part:

> If any of the requirements of the Oil and Gas Act or rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order *any well* plugged and abandoned by the operator . . . . [Emphasis added]

(14) Since this statute provides that the Division may order *any well* plugged, a finding that each particular well ordered plugged is non-compliant, or is not capable of production, is not a prerequisite to issuance of an order requiring well-plugging. Hence the Director has authority to order all of Pronghorn-operated wells to be plugged, as requested.

(15) Ordering plugging of only the inactive wells would allow the operator to retain the economic benefit of wells that may be assets, while escaping responsibility for those that have become liabilities. Such an order would offer little incentive for compliance. In view of Pronghorn's record of non-compliance with Division orders and directives, Pronghorn should no longer be allowed to operate as an oil and gas operator in New Mexico. Pronghorn's allowables and its authority to transport oil or gas should be immediately revoked and all its wells shut-in. All of Pronghorn's wells should be ordered plugged and abandoned or transferred to another operator – approved by the Division – not later than December 31, 2008. In case of non-compliance, the Division should be authorized to plug and abandon any or all of Pronghorn's wells, forfeit applicable financial assurance, and recover incremental costs from Pronghorn.

(16) Sufficient evidence has not been presented that each of Pronghorn's wells poses an immediate threat to the environment. If the ECM determines that any particular well presents an imminent threat to the environment that necessitates that it be plugged before the date herein provided for Pronghorn to plug its wells, he should apply to the Director for a supplemental order, which may be an emergency order, if necessary.

(17) Sufficient evidence was not presented at this hearing showing the current or future productive capacity of each well. In order to prevent possible waste of oil or gas resources and still protect the environment, all wells to be abandoned should be plugged with a Division-approved procedure which does NOT include recovery of casing from the well (so as to facilitate future re-entry) except in those cases in which the Division's district in writing expressly directs otherwise.

IT IS THEREFORE ORDERED THAT:

(1) The applications of the Enforcement and Compliance Manager of the Oil Conservation Division in re-opened Case No. 13859 and in Case No. 14052 are hereby approved.

(2) As per the application in re-opened Case No. 13859, Pronghorn Management Corporation is from the date of this order in violation of Division Rule 40, until and unless, Pronghorn again re-opens Case No. 13859 and presents evidence to the Division at a future hearing showing that it is in full compliance with the provisions of Division Order No R-12768.

(3) As per the application in Case No. 14052, Pronghorn shall no longer be allowed to operate as an oil and gas operator in New Mexico. Pronghorn's allowable on all wells and its authority to transport oil or gas from all wells are immediately revoked, and all its wells shall be shut-in. 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, not later than December 31, 2008.

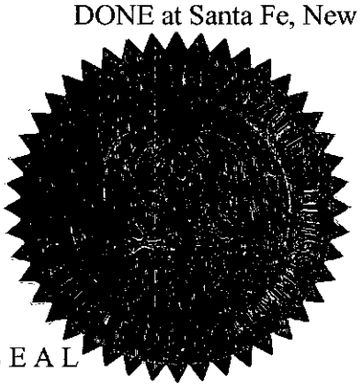
(4) Should Pronghorn Management Corporation fail to comply with the Ordering Paragraphs above, the Division shall be authorized to plug and abandon all Pronghorn-operated wells, forfeit any applicable financial assurance, and recover from Pronghorn the costs of plugging above the value of such financial security.

(5) If the ECM or the Division's district supervisor determines that any Pronghorn-operated well presents an imminent threat to the environment that necessitates that it be plugged prior to the date that Pronghorn is required to plug such well under this Order, he shall apply to the Director for a supplemental order directing the immediate plugging of such well, which may be an emergency order, subject to the limitations provided in NMSA 1978 Section 70-2-23, if necessary.

(6) All wells to be abandoned shall be plugged with a Division-approved procedure which does not include recovery of casing from the well, except in those cases in which the Division's district supervisor in writing expressly directs otherwise.

(7) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director