

January 27, 2011

**VIA HAND DELIVERY**

Mr. Daniel Sanchez  
Acting Director  
Oil Conservation Division  
Energy, Minerals and  
Natural Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

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Re: Case No. 14583: Application of Farleigh Oil Properties for a compliance order against SWEPI LP and Shell Exploration and Production Company, Guadalupe County, New Mexico.

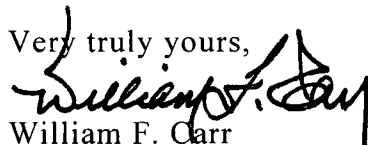
Dear Mr. Sanchez,

SWEPI LP and Shell Exploration & Production Company request that the Director schedule a prehearing conference in this case during the week of February 7, 2011. This conference will permit the parties to appear and narrow the issues in this case if they are unable to settle the dispute at that time.

Attached are copies of motions and a subpoena that need to be addressed before a meaningful prehearing conference can take place. We request that Mr. Ed Martin be present for the pre-hearing conference and that Ms. Amy Vermersch be available by telephone.

Your attention to this request is appreciated.

Very truly yours,



William F. Carr  
Attorney for SWEPI LP and  
Shell Exploration & Production Company

cc: James Bruce, Esq.  
Gail MacQuesten  
W. Thomas Kellahin  
Granada Holdings Limited Partnership

**BEFORE THE  
NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES  
DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

**APPLICATION OF FARLEIGH OIL PROPERTIES FOR A COMPLIANCE  
ORDER AGAINST SWEPI LP AND SHELL EXPLORATION AND  
PRODUCTION COMPANY, GUADALUPE COUNTY, NEW MEXICO.**

**CASE NO. 14583**

**MOTION FOR CONTINUANCE**

SWEPI and Shell Exploration & Production Company, (hereinafter collectively referred to as "Shell") through their attorneys, HOLLAND & HART LLP, hereby move the Oil Conservation Division for a two week continuance of the hearing scheduled for February 3, 2011, in the above-referenced case and in support state as follows:

1. This application was filed by Farleigh Oil Properties seeking a compliance order against Shell to obtain certain information on Shell's activities in Guadalupe County, New Mexico. This is the first time a non-Division entity has attempted to initiate a self-prosecution under the Division's Compliance rules.

2. Following the filing of this application, Farleigh obtained a subpoena from the Division directing Shell to provide certain data to Farleigh on five wells. The Latigo Ranch 2-34 (API No. 30-019-20136), the Latigo Ranch 3-5 (API No. 30-019-20137), the Latigo Ranch 3-3 (API No. 30-019-20138), and the Webb 3-23 (API No. 30-019-20135) were drilled by Shell(the subject wells). The Webb CD-1 Well (API No. 30-019-20134) was drilled by a prior operator and all data responsive to this subpoena that is in Shell's possession can be found on-line on the Oil Conservation Division's files.

3. Shell believes that it has filed all information required by Oil Conservation Division Rules and therefore has filed a motion seeking the dismissal of the application in this case. Shell has requested that its motion to dismiss be argued to the Division on February 3, 2011.

4. Since the production of well logs to Farleigh and a request from Shell's undersigned counsel for Farleigh to identify any matters that Farleigh believes has not been filed as required by Oil Conservation Division rules, Farleigh has not responded to this inquiry with any specificity.

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5. All information sought by the subpoena has been produced to Farleigh, can be found in the on-line files of the Oil Conservation Division or does not exist and Shell has filed a motion to quash this subpoena. Shell has requested that its motion to quash be argued to the Division on February 3, 2011.

6. Shell has obtained information that causes it to believe that Farleigh has had issued and served on Shell's subcontractors subpoenas for information. Copies of these subpoenas were not provided to Shell which has caused it to move for a protective order. Shell has requested that the motion for protective order be argued to the Division on February 3, 2011.

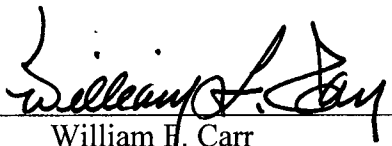
7. An additional subpoena was served on Shell on January 26, 2011, seeking the attendance of certain witness on February 3, 2011. Shell witnesses who meet the requirements of this new subpoena are not available on February 3, 2011 and another hearing date is required.

8. Since it appears that this matter cannot be resolved between the parties and since Farleigh has not identified what additional information it believes may not have been filed with the Division, Shell has obtained a subpoena for the exhibits that Farleigh identified in its pre-hearing statement in this case. The Subpoena requests that this data be produced on February 3, 2011. Without these exhibits and an opportunity to review the data contained therein, Shell cannot be prepared to proceed to a hearing on this application on February 3, 2011 and therefore requests a continuance.

9. Since the stated purpose of a pre-hearing conference in 19.15.4.16.B NMAC is "to narrow the issues, eliminate and resolve other preliminary matters and to encourage settlement." Shell has therefore requested that, once the Farleigh exhibits have been produced and reviewed, a pre-hearing conference be held in this matter with all attorneys present. Shell also requests that Mr. Ed Martin, the District Supervisor for Division District IV attend the prehearing conference and that Ms. Amy Vermersch of the Division's Aztec office be available by telephone.

WHEREFORE, Shell requests that the hearing on this application be continued from the February 3, 2011 examiner hearing docket to the examiner hearing schedule for February 17, 2011.

Respectfully submitted,  
HOLLAND & HART LLP

By:   
William H. Carr  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Telephone: (505) 988-4421

ATTORNEY FOR SWEPI LP AND SHELL  
EXPLORATION & PRODUCTION  
COMPANY

**CERTIFICATE OF SERVICE**

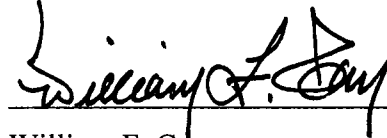
I certify that on January 27, 2011, I served a copy of the foregoing document to the following by U. S. Mail or by facsimile:

James Bruce, Esq.  
Attorney at Law  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
Attorney for Farleigh Oil Properties  
FAX NO.: (505) 982-2151

Gail MacQuesten  
Oil Conservation Division  
Energy, Minerals and Natural  
Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505  
FAX NO: (505) 476-3451

W. Thomas Kellahin  
Bayswater Exploration and Production, LLC  
Kellahin & Kellahin  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
FAX NO: (505) 216-2780

Granada Holdings Limited Partnership  
c/o John Michael Richardson  
Post Office Box 16  
Stanley, New Mexico 87056

A handwritten signature in black ink, appearing to read "William F. Carr", is written over a horizontal line.

William F. Carr

**BEFORE THE  
NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING CALLED BY  
THE OIL CONSERVATION DIVISION FOR THE  
PURPOSE OF CONSIDERING:**

**APPLICATION OF FARLEIGH OIL PROPERTIES FOR A COMPLIANCE ORDER  
AGAINST SWEPI LP AND SHELL EXPLORATION AND PRODUCTION COMPANY,  
GUADALUPE COUNTY, NEW MEXICO.**

**CASE NO. 14583**

**MOTION OF  
SWEPI LP AND SHELL EXPLORATION & PRODUCTION COMPANY  
TO DISMISS, TO QUASH SUBPOENA AND FOR A PROTECTIVE ORDER**

SWEPI LP and Shell Exploration & Production Company (hereinafter collectively referred to as "Shell"), through their attorneys, HOLLAND & HART LLP, hereby move the Oil Conservation Division for an order: (1) dismissing the application of Farleigh Oil Properties ("Farleigh") in the above-referenced case; (2) quashing the Division-issued subpoena directing Shell to produce certain documents to Farleigh; (3) granting a protective order to Shell and its service provider from the subpoena which directs Shell's log contractor to produce information in violation of the agreement between Shell and the log contractor, and in support of these motions state:

**I. THE APPLICATION VIOLATES DIVISION RULES AND SHOULD BE DISMISSED**

1. Farleigh filed an application seeking a compliance order against Shell to obtain certain information on Shell's activities in Guadalupe County, New Mexico.

2. The Division's Enforcement and Compliance Rules [19.15.5.1 NMAC et seq.] establish the procedures to be followed in bringing a compliance issue to hearing. 19.15.5.10.C NMAC provides:

The Division initiates an administrative compliance proceeding by filing a written application with the division clerk.

3. This action has not been initiated by the Division as required by this rule but by an oil and gas owner. This is the first time a owner, not the Division, has attempted to initiate a self-prosecution under the Division's Enforcement and Compliance Rules.

4. The precedent Farleigh attempts to establish with this case, would result in the filing of numerous frivolous applications for the sole purpose of using the case to search for information in the files of competitors and their service providers.

5. The Application of Farleigh Oil Properties is not authorized by the rules of the Division and must be dismissed.

## **II. THE SUBPOENA TO SHELL SHOULD BE QUASHED**

6. Following the filing of this application, Farleigh obtained a subpoena from the Division directing Shell to provide certain data to Farleigh on five wells. The Latigo Ranch 2-34 (API No. 30-019-20136), the Latigo Ranch 3-5 (API No. 30-019-20137), the Latigo Ranch 3-3 (API No. 30-019-20138), and the Webb 3-23 (API No. 30-019-20135) were drilled by Shell (the "subject wells"). The Webb CD-1 Well (API No. 30-019-20134) was drilled by a prior operator and all data responsive to this subpoena that is in Shell's possession can be found on-line in the Oil Conservation Division's files.

7. Farleigh is using the Division's Enforcement and Compliance Rules to obtain data that Shell has repeatedly filed with the Division and data which is either available to Farleigh on-line in the files of the Oil Conservation Division or has already been provided by Shell to Farleigh.

Specifically, the subpoena seeks:

### **A. WELL LOGS – Filed with the Oil Conservation Division.**

8. The Subject Wells were drilled by Shell in Guadalupe County during 2008 and 2009 and *all* logs filed with the Division in LAS format in 2009. This is the format in which this data was provided to Shell by its logging subcontractor. The logs provided include the Gamma Ray, Density, and Resistivity Values for each of the Subject Wells. The Division advised Shell that it did not have the capability to view data in LAS format. Thereafter, in September 2010, Shell provided the Division with the log data in TIF format. However, the Division advised that it was unable to print out the TIF files. In January 2011, Shell provided another copy of the TIF files and hard copy reproductions in a 2 inch scale (1" to 50'). The Division advised that its scanning equipment was not working and that it could not scan in the hard copies. They speculated that the problem might be that the hard copies were in color (which is the way they are received from the logging subcontractor).

### **B. WELL LOGS – Already Submitted to Farleigh.**

9. Following service of the Subpoena, counsel for Farleigh and Shell discussed the information sought by Farleigh. In response to that discussion, on January 10, 2011, Shell produced to Farleigh the following logs:

Latigo Ranch 2-34 (API No. 30-019-20136):

Three Detector Litho-Density Compensated Neutron Log /HNGS  
Hi-Res Laterolog Array Micro-CLF/ HNGS

Latigo Ranch 3-5 (API No. 30-019-20137):

Three Detector Litho-Density Compensated Neutron / HNGS  
Array Induction Tool HNGS

Latigo Ranch 3-3 (API No. 30-019-20138):

Three Detector Litho-Density Compensated Neutron / HNGS  
Array Induction Tool HNGS

Webb 3-23 (API No. 30-019-20135):

Hi-Res Latero Log Array Micro-CFL/GR  
Hi-Res Latero Log Array Micro-CFL/Gamma Ray  
Compensated Neutron Bulk Density Final Composite 1" & 2" Log

**C. FORM C-105 (Well Completion and Recompletion Report and Log).**

10. A review of the on-line records of the Oil Conservation Division show that Well Completion and Recompletion Reports and Logs (Form C-105) have been filed for each of the wells covered by the Farleigh Subpoena. Some data on these wells was provided on Form C-103 (Sundry Notices and Reports on Wells) prior to the filing of the C-105 pursuant to an agreement with the District Supervisor of Oil Conservation Division District IV. Since the wells were not going to be completed and produced for some time, the purpose of this agreement was to make information available on the status of testing on each well as soon as it became available. This is the procedure followed by Shell. The Forms C-105 contained a summary of the data previously filed with the Division.

**D. Form C-115 (Operator's Monthly Report):**

11. Monthly production is reported to the Division on Form C-115 which is filed on its web-based application on or before the 15<sup>th</sup> day of the second month following production. 19.15.7.24.B NMAC. No well covered by the subpoena produced prior to December 1, 2010 and therefore no production report needs to be filed until February 15, 2011.

**E. Form C-151:**

12. There is no Division Form C-151.

13. The subpoena imposes an undue burden and expense on Shell which amounts to a fishing expedition. See NMRA 1-045. Shell has provided all the logs in its possession responsive to the subpoena. All other data not provided can be found in the public record and just as easily obtained by Farleigh as by Shell. Accordingly, the subpoena to Shell should be quashed.

**III. A PROTECTIVE ORDER SHOULD ISSUE TO PREVENT PRODUCTION OF CONFIDENTIAL DATA BY SHELL'S LOGGING SUBCONTRACTOR.**

14. On information and belief, Shell states that a subpoena has been entered by the Division directing Schlumberger, Shell's logging subcontractor to produce certain information obtained while employed by Shell in Guadalupe County, New Mexico.

15. Not only has Farleigh misused the Division's Enforcement and Compliance Rules, it now attempts to use the Division's subpoena power to obtain data from Shell's service company – data which has been repeatedly provided to the Division. Farleigh should not be allowed to do an end-run by issuing a subpoena to a non-party to produce a party's documents. *See Wallis v. Smith*, 130 N.M. 214, 219, 22 P. 3d 682 (Ct. App. 2001).

16. No copy of these subpoenas have been provided by Farleigh to Shell and Shell is concerned that the data sought may be proprietary and protected by its service contract with Schlumberger. Until the subpoena is served on Shell and it has been afforded an opportunity to determine if the information is pertinent to some question lawfully before the Division, a protective order should be issued. The intent of the subpoena power in the Oil and Gas Act is to assure the presentation of pertinent information in a Division hearing – not to authorize aimless fishing for information in the records of a competitor or its service provider. NMSA 1978, § 70-2-9.

17. A protective order should be entered pursuant to 19.15.4.16.A NMAC. See also NMRA 1-045 (A court may quash or modify a subpoena if it seeks disclosure of a trade secret or other confidential research, development or commercial information).

WHEREFORE, Shell requests that these motions be set for hearing before a Division Examiner on February 3, 2011, and that the Division enter an order: (1) dismissing the Application of Farleigh Oil Properties,; (2) quashing the subpoena's issued to Shell on the application of Farleigh in this case; and (3) issuing a protective order to prevent Farleigh from obtaining data from Shell's logging subcontractors until a copy of the subpoena is provided to Shell and it has an opportunity to object to the requested information.

Respectfully submitted,  
HOLLAND & HART LLP

By: 

William F. Carr  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Telephone: (505) 988-4421

ATTORNEY FOR SWEPI LP AND SHELL  
EXPLORATION AND PRODUCTION  
COMPANY



**CERTIFICATE OF SERVICE**

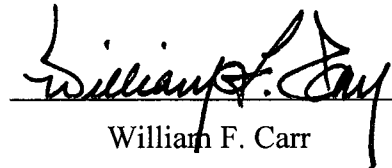
I certify that on January 27, 2011, I served a copy of the foregoing document to the following by U. S. Mail or facsimile:

James Bruce, Esq.  
Attorney at Law  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
Attorney for Farleigh Oil Properties  
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William F. Carr

**BEFORE THE  
NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING CALLED BY THE  
OIL CONSERVATION DIVISION FOR THE PURPOSE  
OF CONSIDERING:**

**APPLICATION OF FARLEIGH OIL PROPERTIES FOR A COMPLIANCE ORDER AGAINST  
SWEPI LP AND SHELL EXPLORATION AND PRODUCTION COMPANY, GUADALUPE  
COUNTY, NEW MEXICO.**

**CASE NO. 14583**

**SUBPOENA DUCES TECUM**

TO: Farleigh Oil Properties  
c/o James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504

Pursuant to Section 70-2-8, NMSA (1978) and Rule 1211 of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to appear at 9:00 a.m., February 3, 2011, at the offices of the Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87504, and to produce the documents and items specified in attached Exhibit A and to make available to SWEPI LP and Shell Exploration & Production Company, and their attorney, William F. Carr of Holland & Hart, LLP, for copying, all of said documents.

This subpoena is issued on application of SWEPI LP and Shell Exploration & Production Company through their attorneys, Holland & Hart LLP, Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 27<sup>th</sup> day of January, 2011.

**NEW MEXICO OIL CONSERVATION DIVISION**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT A**  
**TO SUBPOENA DUCES TECUM**  
**TO FARLEIGH OIL PROPERTIES**  
**CASE 14583**

**PURPOSE:** The purpose of this subpoena is to provide all of the information necessary for SWEPI LP and Shell Exploration & Production Company to be able to prepare its case for New Mexico Oil Conservation Division Case 14583.

**PRODUCE THE FOLLOWING DOCUMENTS:**

1. All documents, data, plats, cross sections, maps or any other exhibits, things or evidence that you expect will be or may be offered, relied on or displayed at the Division hearing on the Subject Application.

**Hearing Exhibits:**

1. Copies of all land exhibits and ownership data and exhibits to be used by you that you propose to use at the hearing in this case;
2. Copies of any geologic data and exhibits including geologic maps, structure maps, isopach maps, cross-sections, and/or logs to be used by you at the hearing in this case;
3. Copies of any and all geophysical data/studies and exhibits to be used by you at the hearing in this case; and
4. Copies of any and all petroleum engineering data/studies and exhibits to be used by you at the hearing in this case.
5. If not already included above, all data and documents utilized by you for support of all exhibits you will present at hearing and all new exhibits that were not offered at the examiner hearing in this case or exhibits that have been revised or amended.

## **INSTRUCTIONS**

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records, computers, documents, employees, former employees, consultants, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When used herein, "you" or "your" refers to the persons and entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, consultants, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors in interest.

The term "document" as used herein means every writing and record of every type and description in the possession, your custody or control, whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to all drafts, papers, books, writings, records, letters, photographs, computer disks, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agenda, bulletins, notices, announcements, plans, specifications, sketches, instructions charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations sound recordings, computer printouts, books of accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notice or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.

References to the Oil Conservation Division means any employee or officer of the agency whether located in Santa Fe, Artesia or other location in New Mexico. References to the Oil Conservation Division also includes the Oil Conservation Commission and its members, and employees.

**BEFORE THE  
NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING CALLED  
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**CASE 14583**

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**ACCEPTANCE OF SERVICE OF SUBPOENA DUCES TECUM**

I, James Bruce, Esq., the attorney of record for Farleigh Oil Properties hereby accept service of the original Subpoena Duces Tecum issued to SWEPI LP and Shell Exploration & Production Company in this case on January 27, 2011.

\_\_\_\_\_  
James Bruce  
Attorney for Farleigh Oil Properties

Date: \_\_\_\_\_