

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION**

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST MARKS AND GARNER PRODUCTION LTD. CO. REQUEST FOR DETERMINATION OF NON-COMPLIANCE WITH OCD RULE 19.15.5.9 NMAC FOR VIOLATION OF AN ORDER REQUIRING CORRECTIVE ACTION.

**De Novo CASE NO. 14041**

**OIL CONSERVATION DIVISION'S PROPOSED  
ORDER OF THE OIL CONSERVATION COMMISSION  
WITH FINDINGS & CONCLUSIONS**

**BY THE COMMISSION:**

**THIS MATTER** came before the Oil Conservation Commission (the Commission) for hearing on December 16, 2009 at Santa Fe, New Mexico on the Motion of the New Mexico Oil Conservation Division (the Division) to reopen Case No. 14041 for entry of an order finding Marks and Garner Production Ltd. Co. (Marks & Garner) to be in violation of an order requiring corrective action, and the Commission, having heard the evidence and arguments of counsel and carefully considered the same, now, on this \_\_\_th day of January, 2010,

**FINDS,**

1. Notice has been given of the motion and the hearing of this matter, and the Commission has jurisdiction of the parties and the subject matter.
2. In Order No. R-12963-A, issued by the Commission in Case No. 14041 on September 11, 2008, Marks & Garner was directed to take the following corrective action:
  - a. Properly plug and abandon in accordance with 19.15.4.202 NMAC (now known as 19.15.25.9-19.15.25.11) and with a plugging procedure approved by the Division's Artesia or Hobbs District Office, as applicable, or otherwise bring into compliance with 19.15.4.201 NMAC (now known as 19.15.25) by placing them in approved temporary abandonment status pursuant to 19.15.4.203 (now known as 19.15.25.12-19.15.25.14)

or returning them to production, on or before December 10, 2008, the following specific wells: (*Ordering Paragraph No. 1*)

Cave Pool Unit #027	30-015-02897
Cave Pool Unit #036	30-015-02915
Coquina State #001	30-025-27992
Julia Culp #001	30-025-24979
Wm Snyder #001	30-025-02703
Theos State #001	30-015-24732
Lea/UA/State #001	30-025-28484
Northeast Maljamar Unit #001	30-025-21291
Red Twelve Levers Federal #008Q	30-015-25090
Red Twelve Levers Federal #012	30-015-25152
Red Twelve State #006	30-015-25055
State #001	30-015-02888
Gulf Hanagan Federal #001	30-025-08144

- b. Comply with Subsection B of 19.15.13.1103 NMAC (now known as 19.15.7.14) and file with the Division true and accurate sundry notices on Form C-103 for the remedial work performed or ensure that the Division receives copies of the sundry notices filed with the United States Department of the Interior, Bureau of Land Management by October 10, 2008 for the following wells: (*Ordering Paragraph No. 2*)

<u>Name</u>	<u>API No.</u>
Cities Service State #001	30-025-23551
Graham Federal #003	30-025-28655
Levers #003Y	30-015-02787
Jennings Federal #002	30-025-08149
Kemnitz 17 State #001	30-025-28767
Red Twelve Federal #002	30-015-25059
Red Twelve State #003	30-015-24989
State #002	30-015-20889

- c. Ensure that copies of the documents filed with the United States Department of the Interior, Bureau of Land Management showing that the Bradley Federal #001, API No. 30-025-08154; the Bradley Federal #003, API No. 30-025-08156; and the Ernest Federal #001, API No. 30-025-08163 have been properly plugged and abandoned and the surface restored are provided to the Division by October 10, 2008. (*Ordering Paragraph No. 3*)
- d. File amended Form C-115s no later than October 10, 2008 showing that the Red Twelve Levers Federal #008Q, API No. 30-015-25090; the Red Twelve Levers #012, API No. 30-015-25152 and the Theos State #001, API No. 30-015-24732 have not produced oil, gas or water. (*Ordering Paragraph No. 4*)

- e. Post additional single well plugging bonds on or before September 25, 2008 for the following wells: (*Ordering Paragraph No. 5*)

<u>Name</u>	<u>API No.</u>
Cave Pool Unit #027	30-015-02897
Cave Pool Unit #036	30-015-02915
Coquina State #001	30-025-27992
Julia Culp #001	30-025-24979
Lca/UA/State #001	30-025-24979
Northeast Maljamar Unit #001	30-025-21291
Red Twelve State #006	30-015-25055
State #001	30-015-02888
Theos State #001	30-015-24732
Wm Snyder #001	30-025-02703

3. Order No. R-12963-A further provided that the Commission retained jurisdiction for the entry of such further orders as it may deem necessary.

4. The Division presented the testimony of Mr. Daniel Sanchez, the Division's Enforcement and Compliance Manager. Mr. Sanchez testified that:

- a. Marks & Garner remains in violation of Ordering Paragraph No. 1 because it has failed to Plug and abandon or otherwise bring into compliance by bringing back into production or obtaining approval for temporary abandonment the following five (5) inactive wells:

i.	Lea/UA/State #001	30-025-28484
ii.	Northeast Maljamar Unit #001	30-025-21291
iii.	Red Twelve Levers Fed #008Q	30-015-25090
iv.	State #001	30-015-02888
v.	Gulf Hanagan Fed #001	30-025-08144

- b. Marks & Garner remains in violation of Ordering Paragraph No. 2 because it has failed to Submit accurate subsequent-report, Form C-103 sundries (documenting remedial work performed) for the following four (4) wells:

i.	Cities Service State #001	30-025-23551
ii.	Graham Federal #003	30-025-28655
iii.	Jennings Federal #002	30-025-08149
iv.	Kemnitz 17 State #001	30-025-28767

- c. Marks & Garner remains in violation of Ordering Paragraph No. 5 because it has failed to post additional financial assurance for the following three (3) wells:

i.	Northeast Maljamar Unit #001	30-025-21291
ii.	Cave Pool Unit #027	30-015-02897
iii.	Cave Pool Unit #036	30-015-02915

- d. In addition to the three above-listed wells that remain outstanding from the 2008 Order, Marks & Garner also now owes single-well financial assurances for three other wells:

- |      |                           |              |
|------|---------------------------|--------------|
| i.   | Cities Service State #001 | 30-025-23551 |
| ii.  | Red Twelve State #002     | 30-015-24966 |
| iii. | Red Twelve State #006     | 30-015-25055 |

- e. According to OCD records, out of Marks & Garner's 65 New Mexico wells, 18 wells are inactive (in violation of OCD Rule 19.15.25.8 NMAC).

5. Marks & Garner appeared through counsel and presented testimony through its representative, Mr. Quinton Welborn. Mr. Welborn acknowledged that Marks & Garner was not in compliance with the Commission's Order requiring corrective action.

6. OCD Rule 19.15.5.9A(2) provides, in relevant part, that an operator is out of compliance with its provisions if an order is issued after notice and hearing finding that operator to be in violation of an order requiring corrective action.

**The Commission CONCLUDES that:**

1. Order No. R-12963-A issued on September 11, 2008 by this Commission was an "order requiring corrective action" for purposes of OCD Rule 19.15.5.9A(2).

2. Operator Marks & Garner has failed to comply with the requirements of and continues to be in violation of Order No. R-12963-A.

3. Marks & Garner is therefore in violation of an order requiring corrective action for purposes of OCD Rule 19.15.5.9A(2).

**IT IS THEREFORE ORDERED THAT:**

1. The Commission has determined that Marks & Garner is out of compliance with OCD Rule 19.15.5.9A(2) because it has failed to take required corrective action pursuant to Order No. R-12963-A.

2. Marks & Garner may comply with the requirements of Rule 19.15.5.9 by:
- reimbursing the Division for the Division's actual costs of completing some of those actions on Marks & Garner's behalf, as required by Order No. R-12963-A, less any amounts recovered by the Division on Marks & Garner's surety bond, and
  - performing the actions ordered by Order No. R-12963-A that remain outstanding and that have not yet been performed by the Division on Marks & Garner's behalf.

3. When Marks & Garner reimburses the Division for the Division's actual costs of completing those actions required by Order No. R-12963-A **and** completes all remaining actions required by the Order, it may file a motion with the Commission to declare Order No. R-12963-A satisfied.

4. Jurisdiction is hereby retained for entry of such further order as the Commission may deem necessary.

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

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION**

**MARK E. FESMIRE, P.E., CHAIR**

**JAMI BAILEY, CPG, MEMBER**

**WILLIAM OLSON, MEMBER**

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RESPECTFULLY SUBMITTED, this 5<sup>th</sup>  
day of January, 2010 by

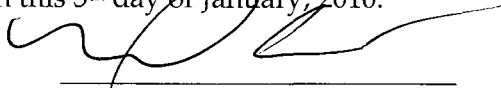


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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served upon counsel for Marks & Garner Production Ltd., Co. via email at [epadillaplf@qwestoffice.net](mailto:epadillaplf@qwestoffice.net) and hand-delivered to counsel for the Commission this 5<sup>th</sup> day of January, 2010.



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Mikal Altomare