

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 MARKS AND GARNER PRODUCTION LTD. CO. (1) FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.4.201 NMAC AS TO TWENTY THREE WELLS, OR ALTERNATIVELY IS IN VIOLATION OF 19.15.13.1115; (2) REQUIRING THE OPERATOR TO BRING SAID WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC AND/OR 19.15.13.1115 NMAC BY A DATE CERTAIN AND (3) REQUIRING THAT THE OPERATOR PAY PENALTIES, AND IN THE EVENT OF NON-COMPLIANCE, DECLARING THE WELLS ABANDONED AND AUTHORIZING THE DIVISION TO PLUG THE WELLS -- LEA AND SAN JUAN COUNTIES, NEW MEXICO.

De Novo CASE NO. 14041

REQUEST FOR DETERMINATION OF NON-COMPLIANCE
WITH OCD RULE 19.15.5.9 NMAC FOR VIOLATION OF AN
ORDER REQUIRING CORRECTIVE ACTION

INTRODUCTION

The Oil Conservation Division (OCD) seeks an Order determining that Marks and Garner Production Ltd., Co. (Marks & Garner) is in violation of an order requiring corrective action: R-12963-A. The significance of the type of order now being requested is that they constitute valuable enforcement tools available to the Division and the Commission for the purpose of obtaining compliance with final orders. In this case, issuance of such an order against Marks & Garner would facilitate obtaining compliance with Commission Order No. R-12963-A.

Once the Commission issues the requested order, Marks & Garner will be in violation of 19.15.5.9.A(s) NMAC, and will remain so unless and until Marks & Garner takes steps to complete the corrective action mandated by Order No. 12936-A and brings it to the attention of the Commission. For the duration of time that Marks & Garner is in violation of 19.15.5.9A NMAC ("OCD Rule 5.9"), the OCD *may* deny its applications for permits to drill deepen and plug back, (19.15.14.10 NMAC), *may* deny the transfer of wells into Marks & Garner's name (19.15.9.8.B NMAC), *must* deny its requests for allowable and authorizations to transport (19.15.16.19 NMAC), and *must* deny its requests for injection permits (19.15.26.8 NMAC).

If and when Marks & Garner completes the corrective action still outstanding under R-12963-A, it may file a motion with the Commission to declare the order satisfied. 19.15.5.9D(3) NMAC. The burden, however, will be on Marks & Garner to show that it has completed the corrective action and to request a finding that the order has been satisfied.

In support of this request for a determination of violation of OCD Rule 5.9, the OCD provides the following:

II. ARGUMENT

1. On September 11, 2008 the Commission issued Order No. R-12963-A, and the order has become final.

2. Order No. R-12963-A, in part, required Marks & Garner to:

a. Post additional financial assurance for the **Northeast Maljamar Unit #001, (30-025-21291)**. (*Ordering Paragraph 5*).

b. Submit accurate subsequent-report, Form C-103 sundries (documenting remedial work performed) for the following five (5) wells (*Ordering Paragraph 2*):

▪ Cities Service State #001	30-025-23551
▪ Graham Federal #003	30-025-28655
▪ Jennings Federal #002	30-025-08149
▪ Kemnitz 17 State #001	30-025-28767
▪ State #002	30-015-20889

c. Plug and abandon or otherwise bring into compliance by bringing back into production or obtaining approval for temporary abandonment the following six (6) inactive wells (*Ordering Paragraph 1*):

▪ Theos State #001	30-015-24732
▪ Lea/UA/State #001	30-025-28484
▪ Northeast Maljamar Unit #001	30-025-21291
▪ Red Twelve Levers Fed #008Q	30-015-25090
▪ State #001	30-015-02888
▪ Gulf Hanagan Fed #001	30-025-08144

3. R-12963-A set specific deadlines for Marks & Garner to complete the above-listed corrective actions; all those deadlines have now passed.

4. As of the date of the filing of this Motion, Marks & Garner has not completed any of the corrective actions enumerated above in Paragraph 2, subparts (a), (b) or (c). Marks & Garner is therefore in violation of an order requiring corrective action.

5. Because Marks & Garner is in violation of an order requiring corrective action (R-12963-A), it is out of compliance with OCD Rule 5.9 (19.15.5.9 NMAC).

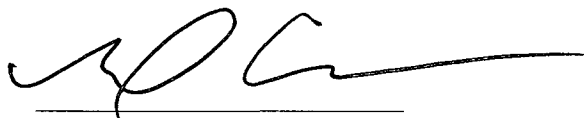
III. REQUEST FOR RELIEF

6. For the above-stated reasons, the OCD respectfully requests that the Commission issue an Order pursuant to OCD Rule 19.15.5.9 NMAC in this matter, specifically finding that Marks & Garner failed to comply with Commission Order R-12963-A and is therefore "in violation of an order requiring corrective action."

7. The OCD further requests that the Commission additionally find that:

- a. Pursuant to 19.15.5.9.A NMAC, because Marks & Garner is in violation of an order requiring corrective action, as determined by the Commission in this matter, Marks & Garner is out of compliance with OCD 5.9 (19.15.5.9 NMAC),
- b. As long as Marks & Garner continues to be in violation of Order R-12963-A, Marks & Garner is out of compliance with OCD Rule 19.15.5.9 NMAC, and
- c. Pursuant to 19.15.5.9.D(3) NMAC, at such time that Marks & Garner has completed the required corrective action, the burden is on Marks & Garner to establish that it has complied with R-12963-A, and the means for doing so is for Marks & Garner to file a Motion with the Commission requesting that the Order be deemed "satisfied."

Respectfully submitted
this 21st day of August, 2009 by:

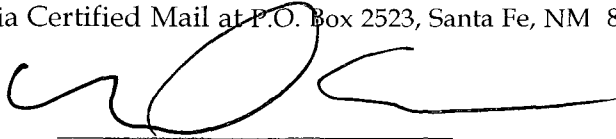


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon counsel for Marks & Garner Production Ltd., Co. via Certified Mail at P.O. Box 2523, Santa Fe, NM 87504 this 21st day of August, 2009.

A handwritten signature in black ink, appearing to read 'Mikal Altomare', written over a horizontal line.

Mikal Altomare