

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

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

APPLICATION OF AGUA SUCIA, LLC TO
REINSTATE ADMINISTRATIVE ORDER SWD-559
FOR A SALT WATER DISPOSAL WELL, LEA
COUNTY, NEW MEXICO.

Case No. 14,411

MOTION TO QUASH SUBPOENA

Agua Sucia, LLC ("Agua Sucia") moves to quash the subpoenas issued to Louis Edgett c/o Agua Sucia, LLC, and in support thereof, states:

1. Armstrong Energy Corporation ("Armstrong") has obtained subpoenas directed to Louis Edgett, c/o Agua Sucia. **Exhibit A.**
2. The letter to the Division requesting the subpoenas states that Armstrong is "proceeding under Rule 4 of the New Mexico Rules of Civil Procedure to serve him at his place of business." **Exhibit B.**
3. While Armstrong may attempt to personally serve Mr. Edgett at his workplace, Rule 4 does not authorize Armstrong to serve Mr. Edgett by merely leaving a subpoena at his workplace or "care of" Agua Sucia's registered agent: Rule 4 is limited to service of a summons (*i.e.* process) pertaining to initiation of a legal action. **SCRA 1-004.** Rule 4 is inapplicable to service of a subpoena.
4. Rule 45 concerns service of a subpoena, and it requires personal service upon a witness, not service of a witness "care of" an employer. **SCRA 1-045.B.**
5. As a result, the subpoenas have been improvidently issued by the Division.

WHEREFORE, Agua Sucia requests that the Division quash the subpoenas attached hereto as Exhibit A.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Agua Sucia, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 11th day of March, 2010 by facsimile transmission:

William F. Carr
Holland & Hart LLP
P.O. Box 2208
Santa Fe, New Mexico 87504
(505) 983-6043



James Bruce

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

APPLICATION AGUA SUCIA, LLC TO REINSTATE DIVISION
ADMINISTRATIVE ORDER NO. SWD-559 FOR A SALT WATER DISPOSAL
WELL, LEA COUNTY, NEW MEXICO.

CASE NO. 14411

SUBPOENA

TO: Louis Edgett
c/o Agua Sucia LLC
1009 West Broadway
Hobbs, New Mexico 88241

Pursuant to Section 70-2-8, NMSA (1978) and 19.15.4.16.A. NMAC of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to attend and give testimony at the hearing on the above-referenced application at the at Porter Hall located in the offices of the Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505 on Thursday, March 18, 2010, commencing on at 8:15 a.m. and continuing until completed.

This subpoena is issued on application of Armstrong Energy Corporation, through their attorneys, Holland & Hart, LLP, Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 9th day of ~~February~~ ^{March}, 2010.

NEW MEXICO OIL CONSERVATION DIVISION

By David K. Brooks
BY: Legal Examiner
MARK E. FESMIRE, DIRECTOR

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

APPLICATION AGUA SUCIA, LLC TO REINSTATE DIVISION ADMINISTRATIVE
ORDER NO. SWD-559 FOR A SALT WATER DISPOSAL WELL, LEA COUNTY, NEW
MEXICO.

CASE NO. 14411

SUBPOENA

TO: Louis Edgett
Agua Sucia LLC
c/o Its Registered Agent, Julie A. Schoenhofer
119 Copper Cloud Court
Capitan, New Mexico 88316

Pursuant to Section 70-2-8, NMSA (1978) and 19.15.4.16.A. NMAC of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to attend and give testimony at the hearing on the above-referenced application at the at Porter Hall located in the offices of the Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505 on Thursday, March 18, 2010, commencing on at 8:15 a.m. and continuing until completed.

This subpoena is issued on application of Armstrong Energy Corporation, through their attorneys, Holland & Hart, LLP, Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 10th day of March, 2010.

NEW MEXICO OIL CONSERVATION DIVISION

By *David K. Brooks*
Assistant General Counsel
BY: _____
MARK E. FESMIRE, DIRECTOR

HOLLAND & HART **William F. Carr**
wcarr@hollandhart.com

March 9, 2010

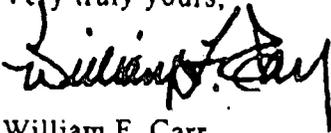
VIA FACSIMILE AND CERTIFIED MAILJames Bruce, Esq.
Post Office Box 1056
Santa Fe, New Mexico 87504**Re: Case No. 14411: In the Matter of the Application of Agua Sucia, LLC to Reinststate Administrative Order SWD-559 for a Salt Water Disposal Well, Lea County, New Mexico.**

Dear Mr. Bruce:

Enclosed for your information is a Subpoena directed to Louis Edgett requiring his appearance and testimony at the March 18, 2010 Oil Conservation Division hearing in the above-referenced case. We attempted to serve Mr. Edgett personally last week but the process server was unable to find him. We therefore are proceeding under Rule 4 of the New Mexico Rules of Civil Procedure to serve him at his place of business.

If Mr. Edgett does not appear and testify, Armstrong Energy Corporation will seek a continuance at the March 18, 2010 hearing.

Very truly yours,



William F. Carr

cc: Robert G. Armstrong

EXHIBIT **Holland & Hart** Phone (505) 988-4421 Fax (505) 983-6043 www.hollandhart.com

110 North Guadalupe Suite 1 Santa Fe, NM 87501 Mailing Address P.O. Box 2208 Santa Fe, NM 87504-2208

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