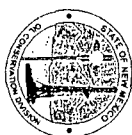


New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Puskas
Cabinet Secretary

Maria Fresnido
Division Director
Oil Conservation Division



September 17, 2009

NOTICE OF HEARING

MARKS AND GARNER PRODUCTION LTD CO. ERNEST L. PADILLA
PO Box 1089 P.O. Box 2523
Hobbs, NM 88241 Santa Fe, NM 87504
ATTN: Quinton Wellborn *Via email (epadilla@nmsufficiency.net) & USPS*
Certified Mail: 2008 1830 0002 8736 0164
First Class Mail

Case No. 14393 –
OCD v. Marks & Garner
OCD Exhibit 3

CASE NO. 14393

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., FINDING THAT AS TO ELEVEN WELLS THE OPERATOR (1) HAS VIOLATED OCD RULES 19.15.2.8, 19.15.29.6, 19.15.29.9, 19.15.29.10 NMAC AND (2) IS CURRENTLY IN VIOLATION OF OCD RULES 19.15.29.11 AND 19.15.30.9(a), FINDING THAT AS TO FOUR OF THOSE ELEVEN WELLS, (3) OPERATOR IS CURRENTLY ADDITIONALLY IN VIOLATION OF OCD RULES 19.15.29.9 AND 19.15.29.10 NMAC; (4) REQUIRING THE OPERATOR TO BRING ALL ELEVEN WELLS INTO COMPLIANCE WITH OCD RULES 19.15.29.9, 19.15.29.10 AND 19.15.29.11 NMAC BY A DATE CERTAIN AND (5) ORDERING THAT IN THE EVENT IT FAILS TO DO SO, THE OPERATOR SHALL EITHER PLUG AND ABANDON OR TRANSFER ALL WELLS IT CURRENTLY OPERATES IN NEW MEXICO BY A DATE CERTAIN, OR THE WELLS SHALL BE DEEMED ABANDONED AND THE DIVISION AUTHORIZED TO PLUG THE WELLS - EDDY COUNTY, NEW MEXICO.

Dear Mr. Wellborn and Mr. Padilla,

You are hereby notified that the New Mexico Oil Conservation Division (OCD) has filed the above-captioned application for a compliance order against Marks and Garner Production Ltd. Co. A copy of the Application is enclosed.

A hearing on this application will take place before a Division hearing officer on October 29, 2009 at 8:15 a.m., in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing Marks & Garner Production Ltd., Co. will have an opportunity to oppose the entry of the order. If Marks & Garner intends to present evidence at the hearing, you should file a pre-hearing statement at least four business days in advance of the hearing, as required by 19.15.4.13 NMAC. A copy of that rule is also enclosed for your reference, along with a copy of 19.15.4.14 NMAC, which addresses representation at administrative hearings before the Division. A courtesy



September 17, 2009
Page 2

copy of the Application is also being provided to the counsel of record for Marks & Garner, Ernest Padilla.

As you may be aware, as a represented party, I am prohibited from discussing legal matters with you directly without counsel present. Therefore, if you have questions about the application, please have your counsel call me at (505) 476-3480. If you are no longer represented by counsel, please provide me with some documentation confirming that this is the case prior to contacting me directly to discuss this matter.

Sincerely,

Mikal Alomare
Assistant General Counsel, OCD Attorney

CC:
Mike Bratcher, District 2 Environmental Compliance (mike.bratcher@state.nm.us)
Gail MacQuesten, OCD Attorney (gail.macquesten@state.nm.us)
Daniel Sanchez, Compliance Enforcement Manager (Daniel.sanchez@state.nm.us)
Randy Dade, District 2 Supervisor (randy.dade@state.nm.us)
Sherry Bonham, District 2 Environmental Compliance (sherry.bonham@state.nm.us)
Ron Harvey, Compliance Officer, District 2 (ron.harvey@state.nm.us)

SENDER: COMPLETE THIS SECTION		COMPLETE WITH RETURN ON DELIVERY	
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
1. Article Addressed to Marks and Garner Production Ltd. Co. P.O. Box 1089 Hobbs, NM 88241 Attn: Quinton Wellborn			
2. Article Number (Transfer from service label) 7006 1630 0002 8736 0164			
PS Form 3811, February 2004		Domestic Return Receipt 102559-02-M-1540	

USPS Retail Service CERTIFIED MAIL RECEIPT	
Postage \$3	Postmark Date
Confidential Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent to Attn: Quinton Wellborn Marks and Garner Production Ltd. Co. PO Box 1089 Hobbs, NM 88241	

4910 9648 2000 0691 5002
4910 9649 2000 0691 5002

SENDER: COMPLETE THIS SECTION		COMPLETE WITH RETURN ON DELIVERY	
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
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