

**JAMES BRUCE**  
ATTORNEY AT LAW

POST OFFICE BOX 1056  
SANTA FE, NEW MEXICO 87504

324 MCKENZIE STREET  
SANTA FE, NEW MEXICO 87501

(505) 982-2043  
(505) 982-2151 (FAX)

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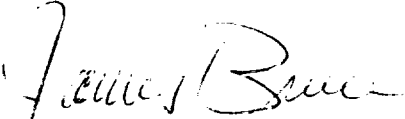
David Catanach  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Case No. 12757; Application of the Division/Marks and  
Garner

Dear Mr. Catanach:

Enclosed is a draft order in this matter.

Very truly yours,



James Bruce

Attorney for Marks and Garner Production Ltd. Co.

cc: David Brooks (w/encl.)

STATE OF 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 THE NEW MEXICO OIL  
CONSERVATION DIVISION FOR AN ORDER  
REQUIRING MARKS AND GARNER PRODUCTION  
LTD. CO. TO PROPERLY PLUG SEVENTEEN  
(17) WELLS, AUTHORIZING THE DIVISION TO  
PLUG SAID WELLS IN DEFAULT OF COMPLIANCE  
BY MARKS AND GARNER PRODUCTION LTD. CO.,  
ORDERING A FORFEITURE OF THE APPLICABLE  
PLUGGING BOND, AND ASSESSING CIVIL  
PENALTIES FOR FALSE PRODUCTION REPORTING,  
EDDY COUNTY, NEW MEXICO.

Case No. 12757  
Order No. R-\_\_\_\_\_

ORDER OF THE DIVISION  
(Submitted by Marks and Garner Production Ltd. Co.)

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on January 10, 2002 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 2002, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised,

**FINDS THAT:**

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) The applicant, New Mexico Oil Conservation Division ("Division"), seeks an order requiring Marks and Garner Production Ltd. Co. ("Marks and Garner"), as operator, to properly plug and abandon the following wells located in Eddy County, New Mexico:

<u>API No.</u>	<u>Well Name</u>	<u>Unit-Sec-Twp-Rge</u>
30-015-02784	Cave Pool Unit #1	O-33-16S-29E
30-015-02892	Cave Pool Unit #3	A-04-17S-29E
30-015-02880	Cave Pool Unit #12	E-04-17S-29E
30-015-02881	Cave Pool Unit #14	G-04-17S-29E
30-015-02875	Cave Pool Unit #16	E-03-17S-29E
30-015-02893	Cave Pool Unit #17	I-04-17S-29E
30-015-02886	Cave Pool Unit #19	K-04-17S-29E
30-015-02906	Cave Pool Unit #22	J-05-17S-29E

30-015-02891	Cave Pool Unit #30	O-04-17S-29E
30-015-02927	Cave Pool Unit #32	A-09-17S-29E
30-015-02926	Cave Pool Unit #41	E-08-17S-29E
30-015-02903	Cave Pool Unit #51	L-05-17S-29E
30-015-02912	Cave Pool Unit #53	H-07-17S-29E
30-015-25090	Red Twelve Levers Fed. #8Q	I-33-16S-29E
30-015-25152	Red Twelve Levers Fed. #12	D-33-16S-29E
30-015-24991	Red Twelve State #4	O-05-17S-29E
30-015-25055	Red Twelve State #6	K-05-17S-29E
30-015-02889	State #2	C-04-17S-29E
30-015-24732	Theos State #1	G-05-17S-29E

Although the advertisement for the case lists seventeen (17) wells, there are actually nineteen (19) wells on which the Division seeks compliance with Division rules and regulations.

(3) The Division further seeks authority for the Division to plug the wells if not plugged by Marks and Garner or its surety, and a forfeiture of Marks and Garner's plugging bond.

(4) Finally, the Division seeks an assessment of civil penalties for false production reporting by Marks and Garner on the above wells.

(5) Marks and Garner and its plugging surety, USF&G Co./St. Paul Companies, entered an appearance through counsel.

(6) At hearing the Division stated that, except for the five wells listed below, the wells described above are in compliance with Division rules and regulations:

<u>API No.</u>	<u>Well Name</u>	<u>Unit-Sec-Twp-Rge</u>
30-015-02892	Cave Pool Unit #3	A-04-17S-29E
30-015-02881	Cave Pool Unit #14	G-04-17S-29E
30-015-02875	Cave Pool Unit #16	E-03-17S-29E
30-015-02927	Cave Pool Unit #32	A-09-17S-29E
30-015-02912	Cave Pool Unit #53	H-07-17S-29E

As to the above five wells, sundry notices have been approved to bring them into compliance with Division rules and regulations.

(7) That portion of the case seeking an order requiring Marks and Garner to properly plug and abandon the wells described in Finding Paragraph (2), or authorizing the Division to plug the wells if not plugged by Marks and Garner or its surety, and a forfeiture of Marks and Garner's plugging bond, should be dismissed.

(8) The Division asserted that Marks and Garner falsely reported production from the nineteen wells described in Finding Paragraph (2) during the period from September 2000 to August 2001. However, insufficient data was presented regarding production from the following well:

<u>API No.</u>	<u>Well Name</u>	<u>Unit-Sec-Twp-Rge</u>
30-015-02903	Cave Pool Unit #51	L-05-17S-29E

In addition, based on the evidence presented the following well is an injection well which is capable of injection operations, and it is in compliance with Division rules and regulations:

<u>API No.</u>	<u>Well Name</u>	<u>Unit-Sec-Twp-Rge</u>
30-015-24991	Red Twelve State #4	O-05-17S-29E

Therefore, that portion of the case seeking civil penalties should be dismissed as to the above two (2) wells.

(9) The Division requested that a civil penalty equal to \$1000/well/month be assessed against Marks and Garner for its actions, or a total of approximately \$204,000.000.

(10) The total production reported on the wells, other than the wells described in Finding Paragraph (8), is 807 barrels of oil during the subject twelve month period. The working interest owners' share of such amount, less overhead charges, would be substantially less than \$10,000.00. Based thereon, the penalty requested by the Division is excessive.

(11) Marks and Garner's plugging bond does not cover the civil penalties sought herein, and USF&G Co./St. Paul Companies should be dismissed from this case.

**IT IS THEREFORE ORDERED THAT:**

(1) That portion of the case seeking an order requiring Marks and Garner, as operator, to properly plug and abandon the wells located in Eddy County, New Mexico described in Finding Paragraph (2), or authorizing the Division to plug the wells if not plugged by Marks and Garner or its surety, and a forfeiture of Marks and Garner's plugging bond is dismissed.

(2) USF&G Co./St. Paul Companies is dismissed from this case.

(3) Within sixty (60) days of the date of this order, Marks and Garner shall file corrected Form C-115s for the period from September 2000 through August 2001 on the wells described in Finding Paragraph (2), except for the following two wells:

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<u>API No.</u>	<u>Well Name</u>	<u>Unit-Sec-Twp-Rge</u>
30-015-02903	Cave Pool Unit #51	L-05-17S-29E
30-015-24991	Red Twelve State #4	O-05-17S-29E

(4) A nominal penalty in the amount of \$\_\_\_\_\_ is hereby assessed against Marks and Garner.

(5) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

LORI WROTENBERY  
Director