

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE SUPERVISOR OF DISTRICT II, 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 APPLICABLE
PLUGGING BOND AND ASSESSING CIVIL PENALTIES FOR FALSE
PRODUCTION REPORTING; EDDY COUNTY, NEW MEXICO.**

OCT-9 PM 4:47
OIL CONSERVATION DIV.
CASE NO. 12752

**APPLICATION FOR PLUGGING, FORFEITURE OF BOND AND
CIVIL PENALTIES**

1. Marks and Garner Production Ltd. Co. ("Operator") is the operator of seventeen (17) wells (hereinafter called the "inactive wells") located in Eddy County, New Mexico, specifically identified by name, API number and exact location on Exhibit A hereto. (Exhibit A is incorporated herein by this reference and made a part hereof for all purposes.)

2. Operator has posted a blanket surety bond in the amount of \$50,000 for all of its operations in the State of New Mexico in compliance with NMSA 1978, Sec. 70-2-14 (as amended) and O.C.D. Rule 101, which bond is conditioned upon compliance with the statutes of the State of New Mexico and the Rules of the Oil Conservation Division ("Division") with respect to the proper plugging and abandonment of the wells operated by Operator in the State of New Mexico. United States Fidelity & Guaranty Company is the surety on said bond.

3. The inactive wells specifically described on Exhibit A (hereinafter called “inactive wells”) have not produced any hydrocarbon or carbon dioxide substance for more than one year, are not equipped with surface facilities suitable to produce therefrom, and are no longer usable for beneficial purposes. No action has been taken by Operator for a period in excess of 90 days after the expiration of one year from last production or beneficial use of said wells to return said wells to production, nor has any permit for temporary abandonment been requested by the Operator or approved by the Division.

4. Two of the inactive wells, the Cave Pool Unit No. 51 and the Cave Pool Unit No. 53, are injection wells. However, such wells have not been used for injection or other beneficial purpose for a period in excess of one year, and are not presently equipped for such use. No action has been taken by Operator for a period in excess of ninety (90) days after the last use of such wells for injection to restore such wells to beneficial use, nor has any permit for temporary abandonment has been requested by the Operator or approved by the Division.

5. By virtue of Operator’s failure to use the inactive wells for production, authorized injection or other beneficial purposes or to secure a current temporary abandonment authorization, the inactive wells are presumed abandoned, and are required to be plugged.

5. Division Rule 201.B, issued pursuant to the authority of NMSA 1978, Secs. 70-2-12.B(1) and 70-2-14, requires that wells that are inactive for more than one year or are no longer usable for beneficial purposes be properly plugged.

6. Division Rule 101.M, issued pursuant to the same authority, authorizes the Division, after notice and hearing, to order the operator to plug and abandon any well or wells not in compliance with Rule 201, and to direct the Division to cause such well or wells to be plugged in accordance with a Division approved plugging program if, after the time provided in such order, the operator and its surety, if any, have failed to do so.

7. On or about May 11, 2000, the Division notified Operator that the inactive wells should be restored to compliance either by restoration of production or injection, permanent abandonment or temporary abandonment. Operator did not, however, take any action to bring the inactive wells into compliance.

8. On or about September 8, 2000, the Division, acting through the Supervisor of District II, again notified Operator that the inactive wells were not in compliance with OCD Rule 201.B, and needed to be brought into compliance. Although Operator had not reported any production from the inactive wells for more than two years prior to such date, beginning with the reporting month of September, 2000, the next month for which reports were due to be filed with the Division after the date of the above-described second notice, Operator reported, and thereafter continued to report minimal production from each of the inactive wells except the Cave Pool Unit No.51, the Red Twelve State No.4 and the State No.2. Such production was reported notwithstanding the fact that such wells were not equipped with surface equipment essential to production therefrom. Operator also reported production from the Cave Pool Unit Well No. 17 (API No. 30-015-02893) located 2310 feet from the South line and 660 feet from the East line (Unit I) of Section 4, Township 17 South, Range 29 East, Eddy County, New Mexico, and from the Cave Pool Unit Well No. 22 (API No. 30-015-02906)

located 1980 feet from the South line and 1980 feet from the East line (Unit J) of Section 5, Township 17 South, Range 29 East, Eddy County, New Mexico, notwithstanding that said wells had been theretofore been plugged and abandoned. Operator also reported **production from** the Cave Pool Unit Well No. 53 notwithstanding that said well was, at the time, permitted as an injection well, and not as a producing well. In view of the physical condition of the wells, such reported production can not have taken place.

9. It is unlawful pursuant to NMSA 1978, Section 70-2-31.B(2) to make a false statement in a report to the OCD.

10. NMSA 1978, Section 70-2-31.A authorizes the assessment of civil penalties of up to one thousand dollars (\$1,000) per day per violation of the Oil and Gas Act or any rule adopted pursuant to the Act.

11. Inasmuch as the production reports filed by Operator with respect to the inactive wells (with the exception of the Cave Pool Unit No. 51, the Red Twelve State No. 4 and the State No. 2) and with respect to the Cave Pool Unit Wells No. 17 and 22, could not have been true, and there is no reasonable possibility of a good faith mistake, a civil penalty should be assessed against Operator in the amount of \$1,000 per well for each month for which Operator filed such false monthly reports purporting to show production from said wells, unless Operator, at the hearing on this Application, can show good cause why such penalty should not be assessed.

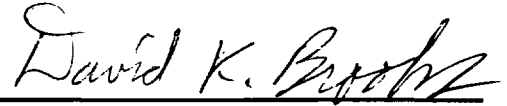
WHEREFORE, the Supervisor of District II of the Division hereby applies to the Director to enter an order:

- A. Determining whether the inactive wells should be plugged and abandoned in accordance with a Division-approved plugging program.

- B. Upon a determination that the inactive wells should be plugged, directing the Operator to plug the wells without delay.
- C. Further ordering that if the Operator or United States Fidelity & Guaranty Company, its surety, fails to plug and abandon the inactive wells as ordered by the Director, the Division be authorized: (i) to plug the inactive wells in accordance with a division-approved plugging program; (ii) to declare forfeit the bond furnished by the Operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing; and (iii) to take necessary and appropriate measures to recover from the Operator any costs of plugging the inactive wells in excess of the amount of the bond, if any.
- D. Assessing civil penalties against Operator in the amount of \$1,000 per well per month for all production reports filed by Operator that are determined to have been false.

- E. For such other and further relief as the Director deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, reading "David K. Brooks", written in dark ink.

David K. Brooks
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505)-476-3450

Attorney for The New Mexico Oil
Conservation Division

Exhibit A to Application

API No.	Well Name and No.	Unit/Sec./Twsp/ Rng	FNS	FEW	
30-015-02784	Cave Pool Unit #1	O-33-16S-29E	660S	1780E	1
30-015-02892	Cave Pool Unit #3	A-04-17S-29E	985N	987E	2
30-015-02880	Cave Pool Unit #12	E-04-17S-29E	1980N	660E	3
30-015-02881	Cave Pool Unit #14	G-04-17S-29E	1980N	1980E	4
30-015-02875	Cave Pool Unit #16	E-03-17S-29E	1973N	330W	5
30-015-02886	Cave Pool Unit #19	K-04-17S-29E	1980S	1880W	6
30-015-02891	Cave Pool Unit #30	O-04-17S-29E	990S	2310E	7
30-015-02927	Cave Pool Unit #32	A-09-17S-29E	660N	660E	8
30-015-02926	Cave Pool Unit #41	E-08-17S-29E	1650N	330W	9
30-015-02903	Cave Pool Unit #51	L-05-17S-29E	1650S	990W	10
30-015-02912	Cave Pool Unit #53	H-07-17S-29E	1650N	330E	11
30-015-25090	Red Twelve Levers Federal #8Q	I-33-16S-29E	1980S	990E	12
30-015-25152	Red Twelve Levers Federal #12	D-33-16S-29E	660N	660W	13
30-015-24991	Red Twelve State #4	O-05-17S-29E	990S	2310E	14
30-015-25055	Red Twelve State #6	K-05-17S-29E	2310S	1650E	15
30-015-02889	State #2	C-04-17S-19E	990N	1980W	16
30-015-24732	Theos State #1	G-05-17S-29E	1650N	1650E	17

Case No. 12797: **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 Ltd. Co., Ordering a Forfeiture of Applicable Plugging Bond and Assessing Civil Penalties for False Production Reporting; Eddy County, New Mexico.** The Applicant seeks an order requiring Marks and Garner Ltd. Co., the operator of seventeen (17) inactive wells in Eddy County, New Mexico to properly plug and abandon the same, authorizing the Division to plug said wells if the operator or its surety fails to do so, forfeiting Operator's plugging bond, and assessing civil penalties for false production reporting. The affected wells are the following:

API No.	Well Name and No.	Unit/Sec./Twsp/ Rng FNS	FEW		
30-015-02784	Cave Pool Unit #1	O-33-16S-29E	660S	1780E	1
30-015-02892	Cave Pool Unit #3	A-04-17S-29E	985N	987E	2
30-015-02880	Cave Pool Unit #12	E-04-17S-29E	1980N	660E	3
30-015-02881	Cave Pool Unit #14	G-04-17S-29E	1980N	1980E	4
30-015-02875	Cave Pool Unit #16	E-03-17S-29E	1973N	330W	5
30-015-02886	Cave Pool Unit #19	K-04-17S-29E	1980S	1880W	6
30-015-02891	Cave Pool Unit #30	O-04-17S-29E	990S	2310E	7
30-015-02927	Cave Pool Unit #32	A-09-17S-29E	660N	660E	8
30-015-02926	Cave Pool Unit #41	E-08-17S-29E	1650N	330W	9
30-015-02903	Cave Pool Unit #51	L-05-17S-29E	1650S	990W	10
30-015-02912	Cave Pool Unit #53	H-07-17S-29E	1650N	330E	11
30-015-25090	Red Twelve Levers Federal #8Q	I-33-16S-29E	1980S	990E	12
30-015-25152	Red Twelve Levers Federal #12	D-33-16S-29E	660N	660W	13
30-015-24991	Red Twelve State #4	O-05-17S-29E	990S	2310E	14
30-015-25055	Red Twelve State #6	K-05-17S-29E	2310S	1650E	15
30-015-02889	State #2	C-04-17S-19E	990N	1980W	16
30-015-24732	Theos State #1	G-05-17S-29E	1650N	1650E	17

01 OCT -9 PM 4:16
NEW MEXICO OIL CONSERVATION DIV.