

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

NMOCD-07- 171

IN THE MATTER OF C&D MANAGEMENT CO., d/b/a,
FREEDOM VENTURES CO.,

Respondent.

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), and the regulations promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico (hereinafter, "OCD") issues this Order to **C&D MANAGEMENT CO., d/b/a, FREEDOM VENTURES CO. ("C&D")** directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS

1. The OCD is the State division charged with administration and enforcement of the Act and OCD Rules.
2. C&D is a foreign, for-profit corporation doing business in New Mexico, SCC # 2521581, with a principal and mailing address at 513 Don Lyle Road, Edmonton, Kentucky 42129. It is assigned OGRID # 231382.
3. C&D is the operator of the following wells, all in Eddy County, New Mexico:
 - AMOCO #001, L-13-17S-27E, 30-015-24738
 - Hastie #016, 4-18-17S-28E, 30-015-22371
 - Hastie #017, 3-18-17S-28E, 30-015-22852
 - Hastie #018, N-18-17S-28E, 30-015-22848
 - Hastie #019, 2-18-17S-28E, 30-015-23186
 - Hastie #020, 1-18-17S-28E, 30-015-23516
 - Hastie #021, C-18-17S-28E, 30-015-23821
 - Michael State #001, H-25-17S-27E, 30-015-24877
 - Muncy Federal #001, F-13-17S-27E, 30-015-23083
 - Muncy Federal #002, E-13-17S-27E, 30-015-25012
 - Saunders #012, O-13-17S-27E, 30-15-22348
 - Schneider #001, J-24-17S-27E, 30-015-22907
 - Scott Federal #001, P-12-17S-27E, 30-015-25437

- Shearn Becky Federal #001, B-14-17S-27E, 30-015-34440
- Shearn Freedom Federal #002, A-14-17S-27E, 30-015-34454
- Shearn Samantha Federal #001, G-14-17S-27E, 30-015-31059
- Shearn Shilo Federal #001, B-14-17S-27E, 30-015-31061.

A. Background

4. By e-mail dated May 22, 2006, the OCD notified C&D that it had not received Form C-115 reports (operator's monthly reports) for the reporting periods of October 2004 through March 2006. The e-mail warned C&D that the OCD intended to revoke C&D's authority to transport or inject into its wells if it did not receive acceptable and complete electronic C-115s for all the outstanding reporting periods within 120 days of the original due date of the March 2006 report.
5. In the e-mail, C&D was advised that it could request a hearing on this proposed cancellation within 120 days of the original due date.
6. No C-115s were filed by C&D, nor did it request a hearing.
7. By letter dated October 12, 2006, the OCD cancelled C&D's authority to transport from or inject into its wells, and again advised C&D it could apply for reinstatement of its authority to transport from or inject into the wells it operates when it had filed acceptable and complete C-115s through March 2006.
8. C&D was also advised that if it transported from or injected into its wells after the date of cancellation of its authority to do so, C&D would be in violation of OCD Rules 1104 [19.15.13.1104 NMAC], 804.A [19.15.10.804A NMAC] and/or 701 [19.15.9.701 NMAC], and subject to a \$1,000 penalty per day for knowing and willful violations of OCD Rule(s).
9. Since the October 12, 2006 letter cancelling C&D's authority to transport and March 11, 2007, C&D has filed only one additional C-115, which was for October 2004.

B. Investigation

11. On February 14, 2007, OCD District II Inspector Mike Bratcher made a visual inspection of each of the above listed wells. He found that many of the wells are, or have recently been, producing. A summary of his findings is as follows:
 - a. AMOCO #001: Appears capable of production, and to be producing. The electrical switches are set to automatic.
 - b. Hastie #016: The well is intact and appears capable of production. It looks as if it has had recent activity.
 - c. Hastie #017: There is no motor on the pumping unit, but the flow lines are open. There is possibly some gas production.
 - d. Hastie #018: the well is intact and appears capable of production. It looks as if it has had recent activity.
 - e. Hastie #019: The well is producing. The unit was in operation at the time of the inspection.

- f. Hastie #020: The well is intact and appears capable of production. It looks as if it has had recent activity. There is some contamination on site that has not been properly cleaned up.
 - g. Hastie #021: The well is intact and appears capable of production. It looks as if it has had recent activity. Probably a gas well, as can hear and feel movement in the lines.
 - h. Michael State #001: The well is intact and appears capable of production. It looks as if it has had recent activity.
 - i. Muncy Federal #001: Capable of production, but no evidence of recent activity.
 - j. Muncy Federal #002: This well is unable to produce; no rods and the pumping unit is disabled.
 - k. Saunders #012: Gas well, and is producing.
 - l. Schneider #001: Capable of production, but no evidence of recent activity. Has a new chart, so assume some production.
 - m. Scott Federal #001: Capable of production, but no evidence of recent activity.
 - n. Shearn Becky Federal #001: This well has been recently drilled. Unknown if producing.
 - o. Shearn Freedom Federal #0002: Recently drilled. No flow line or production equipment on site. Unlined pit while drilling.
 - p. Shearn Samantha Federal #001: Mechanically unable to produce; no rod or flow line to pumping unit.
 - q. Shearn Shilo Federal #001: Mechanically unable to produce; pumping unit dismantled and no tubing.
12. As a result of C&D's failure to file C-115s on its wells and the OCD's investigation, on February 27, 2007 the OCD issued a Notice of Violation (hereinafter, "NOV") to C&D. The NOV alleged the following twenty-four violations:
- (a) **One** OCD Rule 13.B [19.15.1.13 NMAC] on the Hastie #20 (a leak from the unit was not properly cleaned); (b) **one** OCD Rule 50.A [19.15.2.50 NMAC] on the Shearn Freedom Federal #220 (constructing and discharging into pit without a permit); (c) **one** OCD Rule 50.C(2)(b)(i) [19.15.2.50 NMAC] on Shearn Freedom Federal #002 (unlined drilling pit); (d) **one** OCD Rule 103 [19.15.3.103 NMAC] Shearn Freedom Federal #002, Shearn Becky Federal #001, and Saunders #12 (no posted well sign); (e) **two** OCD Rule 117 [19.15.3.117 NMAC] on the Shearn Becky Federal #001 and Shearn Freedom Federal #002 (failure to file completion reports); (f) **three** OCD Rule 201 [19.15.4.201 NMAC] on Shearn Shilo Federal #001, Shearn Samantha Federal #001, and Muncy Federal #002 (failure to properly abandon); (g) **fifteen** OCD Rule 1115 [19.15.13.1115 NMAC] on all wells except the Shearn Becky Federal #001 and Shearn Freedom Federal #002, which were only recently drilled (failure to file C-115s, production and injection reports).
13. At the Administrative Conference held on March 11, 2007, on behalf of C&D, Chris Jeffries presented the following:
- a. C&D purchased the wells in November 2004. At that time C&D was owned by Chris and Darla Jeffries, who sold it to Thomas Kaiser. Kaiser took over management in September 2005, although OCD records still show Darla Jeffries as the contact person. Certain of the violations predate the sale of the company and therefore, Jeffries is representing C&D at this time and is taking personal responsibility for those violations.

- b. Jefferies lives in Kentucky and is familiar with Kentucky's rules for oil and gas operation. He failed to familiarize himself with those of New Mexico, until receiving the NOV, but applied Kentucky rules to his operation of the subject wells.
- c. Jefferies stated that in Kentucky a permit to drill includes the right to construct a pit; this is why C&D failed to apply for a pit permit on the Shearn Freedom Federal #220.
- d. Likewise, C&D failed to file production and injection reports because they are not required in Kentucky.
- e. Since receiving the NOV, Jefferies has begun bringing the wells into compliance by:
 - (1) Starting the clean up on the Hastie #20. C&D had done shovel excavation but needs equipment to complete excavation down to clean soils. Delay in completing remediation is due to lack of availability of equipment.
 - (2) In the past two weeks, C&D has put up appropriate signage on the wells, with the exception of one well, which sign is being ordered.
 - (3) C&D has made contact with an operation to properly plug the four Shearn wells and the Muncy Federal #2 well; he has been advised that a plugging rig will be available within the next two weeks to start the plugging.
 - (4) C&D has hired a contractor who is preparing the overdue C-115 production reports, which will be filed as soon as possible.

C. OCD Rules and Applicable Statutes

- 1. OCD Rule 13.B provides that "[a]ll operators ... shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment."
- 2. OCD Rule 50.A requires that "[d]ischarge into, or construction of any pit or below-grade tank is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.50 NMAC. ...
- 3. OCD Rule 50.C(2)(b)(i) requires that a "drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed and maintained so as to prevent the contamination of fresh water, and protect public health and the environment. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner."
- 4. OCD Rule 103 requires that all wells be identified by a sign, which "shall remain in place until the well is plugged and abandoned and the related facilities are closed." The sign is to be legible at a distance of 50 feet.

5. OCD Rule 117 requires that "[w]ithin 20 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source of supply, a completion report shall be filed with the division on Form C-105."
6. OCD Rule 201 requires:
 - A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.
 - B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:
 - (1) a sixty (60) day period following suspension of drilling operations, or
 - (2) a determination that a well is no longer usable for beneficial purposes, or
 - (3) a period of one (1) year in which a well has been continuously inactive.
7. OCD Rule 1115 [19.15.13.1115 NMAC] provides:
 - A. The operator shall file a monthly report, form C-115, for each non-plugged well completion for which the division has approved a C-104 authorization to transport, and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state of New Mexico, setting forth complete information and data indicated on said forms in the order, format and style the division director prescribes. The operator shall estimate oil production from wells producing into common storage as accurately as possible on the basis of periodic tests.
 - B. The operator shall file the reports required to be filed by 19.15.13.1115 NMAC using the division's web-based online application on or before the 15th day of the second month following the month of production Any operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would operate as an economic or other hardship.
 - C. If an operator fails to file a form C-115 that the division accepts, the division shall, within 60 days of the appropriate filing date, notify the operator by electronic mail or letter of its intent to revoke the operator's authorization to transport or inject if the operator does not submit an acceptable and complete form C-115. If the operator does not file an acceptable and complete form C-115 or request a hearing on the proposed cancellation within 120 days of the original due date of the form C-115, the division may cancel the operator's authority to transport from or inject into all wells it operates.

II. CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. C&D is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).

3. C&D is subject to civil penalties under NMSA 1978, § 70-2-31(A) for the following knowing and willful violations:

One OCD Rule 13.B on the Hastie #20 (a leak from the unit was not properly cleaned); **one** OCD Rule 50.A on the Shearn Freedom Federal #220 (constructing and discharging into pit without a permit); **one** OCD Rule 50.C(2)(b)(i) on Shearn Freedom Federal #002 (unlined drilling pit); **one** OCD Rule 103 Shearn Freedom Federal #002, Shearn Becky Federal #001, and Saunders #12 (no posted well sign); **two** OCD Rule 117 on the Shearn Becky Federal #001 and Shearn Freedom Federal #002 (failure to file completion reports); **three** OCD Rule 201 on Shearn Shilo Federal #001, Shearn Samantha Federal #001, and Muncy Federal #002 (failure to properly abandon); **fifteen** OCD Rule 1115 on all wells except the Shearn Becky Federal #001 and Shearn Freedom Federal #002, which were only recently drilled (failure to file C-115s, production and injection reports).

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **Twenty-four Thousand Dollars (\$24,000.00)** against C&D for a total of 24 violations of OCD rules, which are as follows:

One OCD Rule 13.B on the Hastie #20 (a leak from the unit was not properly cleaned); **one** OCD Rule 50.A on the Shearn Freedom Federal #220 (constructing and discharging into pit without a permit); **one** OCD Rule 50.C(2)(b)(i) on Shearn Freedom Federal #002 (unlined drilling pit); **one** OCD Rule 103 Shearn Freedom Federal #002, Shearn Becky Federal #001, and Saunders #12 (no posted well sign); **two** OCD Rule 117 on the Shearn Becky Federal #001 and Shearn Freedom Federal #002 (failure to file completion reports); **three** OCD Rule 201 on Shearn Shilo Federal #001, Shearn Samantha Federal #001, and Muncy Federal #002 (failure to properly abandon); **fifteen** OCD Rule 1115 on all wells except the Shearn Becky Federal #001 and Shearn Freedom Federal #002, which were only recently drilled (failure to file C-115s, production and injection reports).

2. **Eighteen Thousand Dollars (\$18,000.00)** of this fine will be conditionally waived provided that C&D:

- a. completes remediation at the Hastie #20 by May 1, 2007;
- b. posts required signs at all wells no later than May 1, 2007;
- c. either properly plugs, or brings into production, the Shearn Becky Federal #001, Shearn Freedom Federal #002, Shearn Samantha Federal #001, Shearn Shilo Federal #001, and the Muncy Federal #002 no later than September 20, 2007;
- d. files completion reports on the Shearn Becky Federal #001 and Shearn Freedom Federal #002 by May 1, 2007; and
- e. files all overdue Form C-115s (production and injection reports) on all wells no later than June 1, 2007.

3. For good cause shown, C&D may request an extension from the OCD to complete the requirements as set out in Ordering paragraph 2. Such request shall reasonably describe the circumstances encountered by C&D that prohibits it from meeting the deadlines set out herein. It shall be in the sole discretion of the OCD as to whether to grant that extension.

Within ten (10) days of receipt of this notice, the OCD shall either approve the extended time requested by C&D by executing a written amendment to this Order, or notify C&D that it will not extend the deadline.


4. If C&D fails to meet any requirements of this Order, the **Eighteen Thousand Dollars (\$18,000.00)** conditionally waived shall be automatically reinstated and due immediately as follows:
 - a. One Thousand Dollars (\$1,000.00) upon failure to complete remediation at the Hastie #20 by May 1, 2007 or failure to post required signs at all wells no later than May 1, 2007;
 - b. Four Thousand Dollars (\$4,000.00) for failure to properly plug, or bring into production, the Shearn Becky Federal #001, Shearn Freedom Federal #002, Shearn Samantha Federal #001, Shearn Shilo Federal #001, and the Muncy Federal #002 by September 15, 2007; in the event of partial compliance of this requirement, the reinstatement shall be Eight Hundred Dollars (\$800.00) per well;
 - c. Five Hundred Dollars (\$500.00) for failure to file completion reports on either the Shearn Becky Federal #001 and Shearn Freedom Federal #002 wells by May 1, 2007; and
 - d. Twelve Thousand Five Hundred Dollars (\$12,500.00) for failure to file all overdue Form C-115s (production and injection reports) by June 1, 2007; in the event of partial compliance with this requirement, the reinstatement shall be Eight Hundred Thirty-three Dollars and 34 cents (\$833.34) per well.

Additional penalties may be imposed for on-going violations under separate Order.

5. The assessed Six Thousand Dollar (\$6,000.00) civil penalty shall be paid in two equal payments of Three Thousand Dollars (\$3,000.00) each. The first Three Thousand Dollars (\$3,000.00) shall be paid upon execution of this Order. The second payment of Three Thousand Dollars (\$3,000.00) shall be made thirty days after execution of the Order. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
6. In compliance with OCD's October 12, 2006 cancellation of C&D's authority to transport from or inject into wells, C&D shall not transport from or inject into any of its wells until it has filed C-115s, acceptable to the OCD, through reporting period March 2006.
7. By signing this Order, C&D expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraphs 4 and 5;
 - c. waives any right pursuant to the Oil and Gas Act or otherwise to a hearing either prior or subsequent to the entry of this Order, or to an appeal from this Order; and

- d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended).

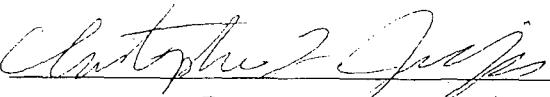
Done at Santa Fe, New Mexico this 26th day of March 2007.

By: 
Mark Fesmire, PE, Director
Oil Conservation Division

ACCEPTANCE

C&D MANAGEMENT CO., d/b/a, FREEDOM VENTURES CO. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth therein.

**C&D MANAGEMENT CO., d/b/a,
FREEDOM VENTURES CO.**

By: 
Title: Vice President
Date: 21 March 2007