

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

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

APPLICATION OF THE NEW MEXICO  
OIL CONSERVATION DIVISION, THROUGH  
THE ENFORCEMENT AND COMPLIANCE  
MANAGER, FOR A COMPLIANCE ORDER  
AGAINST C & D MANAGEMENT COMPANY  
D/B/A FREEDOM VENTURES COMPANY,  
FINDING THAT THE OPERATOR KNOWINGLY  
AND WILLFULLY VIOLATED 19.15.4.201 NMAC;  
ASSESSING PENALTIES; REQUIRING OPERATOR TO  
BRING SAID WELLS INTO COMPLIANCE WITH  
19.15.13.1115 NMAC AND 19.15.4.201 NMAC BY A  
DATE CERTAIN; AND IN THE EVENT OF NON-  
COMPLIANCE, DECLARING THE WELLS ABANDONED  
AND AUTHORIZING THE DIVISION TO PLUG THE  
WELLS AND FORFEIT THE APPLICABLE FINANCIAL  
ASSURANCE, EDDY COUNTY, NEW MEXICO.

CASE NO. 14055 (De Novo)  
ORDER NO. R-12913-A

**ORDER OF THE COMMISSION**

THIS MATTER, having come before the New Mexico Oil Conservation Commission (Commission) on July 30, 2008 at Santa Fe, New Mexico, on the application of the New Mexico Oil Conservation Division (Division), through its enforcement and compliance manager, for a compliance order against C & D Management Company D/B/A Freedom Ventures Company (C & D Management Company), OGRID No. 231382, finding that the operator knowingly and willfully violated 19.15.4.201 NMAC; assessing penalties; requiring the operator to bring its wells into compliance with 19.15.13.1115 NMAC and 19.15.4.201 NMAC, and in the event of non-compliance, declaring the wells abandoned and authorizing the Division to plug the wells and forfeit the applicable financial assurance, and the Commission, having carefully considered the evidence and other materials the parties submitted, now, on this 14th day of August 2008,

**FINDS:**

1. Due public notice has been given, and the Commission has jurisdiction of this case and its subject matter.

2. The Division filed this application seeking an order pursuant to NMSA 1978, Section 70-2-14 and Subsection H of 19.15.3.101 NMAC directing C & D Management to properly plug and abandon its wells, or otherwise bring them into compliance with 19.15.4.201 NMAC by a date certain. The Division also seeks an order directing C & D Management Company to file production reports on its wells for the months of January 2008 through May 2008. The Division further seeks assessment of civil penalties by reason of C & D Management Company's failure to bring its wells into compliance with 19.15.4.201 NMAC and failure to file production reports as required by 19.15.13.1115 NMAC. In event of C & D Management Company's failure to bring its wells into compliance, the Division seeks authorization to plug the wells and forfeit C & D Management Company's applicable financial assurance.

3. C & D Management Company, an active foreign corporation (SCC No. 2521581) (incorporated in Wyoming), is the operator of the following oil and gas wells in Eddy County, New Mexico:

<u>Name</u>	<u>Location</u>	<u>API No.</u>
Amoco No. 1	L-13-17S-27E	30-015-24738
Hastie No. 16	M-18-17S-28E	30-015-22371
Hastie No. 17	L-18-17S-28E	30-015-22852
Hastie No. 18	N-18-17S-28E	30-015-22848
Hastie No. 19	E-18-17S-28E	30-015-23186
Hastie No. 20	D-18-17S-28E	30-015-23516
Hastie No. 21	C-18-17S-28E	30-015-23821
Michael State No. 1	H-25-17S-27E	30-015-24877
Muncy Federal No. 1	F-13-17S-27E	30-015-23803
Muncy Federal No. 2	E-13-17S-27E	30-015-25012
Saunders No. 12	O-13-17S-27E	30-015-22348
Schneider No. 1	J-24-17S-27E	30-015-22907
Scott Federal No. 1	P-12-17S-27E	30-015-25437
Shearn Becky Federal No. 1	B-14-17S-27E	30-015-34440
Shearn Freedom Federal No. 2	A-14-17S-27E	30-015-34454
Shearn Samantha Federal No. 1	G-14-17S-27E	30-015-31059
Shearn Shilo Federal No. 1	B-14-17S-27E	30-015-31061

4. C & D Management Company became an operator of record on October 1, 2004. However, the change of operator form was not filed until April 13, 2005. The Division approved the change of operator on April 25, 2005.

5. Thomas Kizer, the current president of C & D Management Company, acquired the shares of C & D Management Company on February 21, 2007.

6. On March 21, 2007, Chris Jeffries signed an Agreed Order Directing Compliance and Assessing Civil Penalty on behalf of C & D Management Company.

7. Thomas Kizer testified that he received a copy of the Agreed Order Directing Compliance and Assessing Civil Penalty in April 2007 from the Division. Thomas Kizer stated that Chris Jeffries did not have authority to enter into the Agreed Order on behalf of C & D Management Company, but acknowledged that he did not inform the Division that Chris Jeffries did not have such authority.

8. As of January 22, 2008, the New Mexico Public Regulation Commission website still showed Darla and Chris Jeffries as President and Vice President of C & D Management Company.

9. Thomas Kizer testified that on April 16, 2008, the New Mexico Public Regulation Commission approved the change of corporate officers from Darla Jeffries and Chris Jeffries to Thomas Kizer.

10. Paragraph (1) of Subsection B of 19.15.4.201 NMAC requires that an operator of a well properly plug and abandon the well or place the well in approved temporary abandonment in accordance with Division rules within 90 days after a 60 day period following suspension of drilling operations.

11. The following wells, that C & Management Company operates, are not capable of producing oil or gas and have been inactive for a continuous period exceeding 60 days following suspension of drilling operations, triggering the requirements of Paragraph (1) of Subsection B of 19.15.4.201 NMAC, that the wells be plugged and abandoned or placed in approved temporary abandonment status:

Shearn Becky Federal No. 1	B-14-17S-27E	30-015-34440
Shearn Freedom Federal No. 2	A-14-17S-27E	30-015-34454
Shearn Samantha Federal No. 1	G-14-17S-27E	30-015-31059
Shearn Shilo Federal No. 1	B-14-17S-27E	30-015-31061

12. Paragraph (3) of Subsection B of 19.15.4.201 NMAC requires that the operator of a well that has been continuously inactive for a period of one year and 90 days to plug and abandon the well or place the well in Division-approved temporary abandonment status.

13. The following wells, that C & D Management Company operates, have not produced for a period of more than one year plus 90 days and have not been properly plugged and abandoned or placed in approved temporary abandonment and are therefore not in compliance with Subsection B of 19.15.4.201 NMAC.

Muncy Federal No. 1	F-13-17S-27E	30-015-23803
Muncy Federal No. 2	E-13-17S-27E	30-015-25012

Saunders No. 12	O-13-17S-27E	30-015-22348
Schneider No. 1	J-24-17S-27E	30-015-22907
Scott Federal No. 1	P-12-17S-27E	30-015-25437

14. In the Agreed Order Directing Compliance and Assessing Civil Penalty, Chris Jeffries on behalf of C & D Management agreed to properly plug and abandon or bring into production the following wells by September 20, 2007:

Shearn Becky Federal No. 1	B-14-17S-27E	30-015-34440
Shearn Freedom Federal No. 2	A-14-17S-27E	30-015-34454
Shearn Samantha Federal No. 1	G-14-17S-27E	30-015-31059
Shearn Shilo Federal No. 1	B-14-17S-27E	30-015-31061
Muncy Federal No. 2	E-13-17S-27E	30-015-25012

15. Richard Inge of the Division's Artesia Office notified C & D Management Company by letter sent to C & D Management Company's Albuquerque address, 4801 Lange NE, Suite 110, on May 29, 2007 that the following wells were not in compliance with 19.15.4.201 NMAC and that corrective action was due by June 14, 2007:

Muncy Federal No. 1	F-13-17S-27E	30-015-23803
Muncy Federal No. 2	E-13-17S-27E	30-015-25012
Scott Federal No. 1	P-12-17S-27E	30-015-25437

16. Richard Inge of the Division's Artesia Office also notified C & D Management Company by letter sent to C & D Management Company's Albuquerque address on June 4, 2007 that the following well was not in compliance with 19.15.4.201 NMAC and that corrective action was due by June 22, 2007:

Schneider No. 1	J-24-17S-27E	30-015-22907
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17. C & D Management Company has not plugged and abandoned the wells listed above in paragraphs 11 and 13 in accordance with 19.15.4.202 NMAC and has not placed them in approved temporary abandonment status in accordance with 19.15.4.203 NMAC.

18. NMSA 1978, Section 70-2-14, as amended, provides that if any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to the act have not been complied with, the Division Director may order that the operator plug and abandon the well in accordance with Division rules, and if the operator fails to comply with the order, authorize the Division to plug the well and decree forfeiture of applicable financial assurance.

19. NMSA 1978, Section 70-2-12(B)(18) and NMSA 1978, Section 70-2-38 authorize the Division to plug and abandon wells, and restore and remediate the location of abandoned wells.

20. Subsection H of 19.15.3.101 NMAC authorizes the Division Director to order the operator of wells that are not in compliance with 19.15.4.201 NMAC to plug and abandon the wells and to restore the locations. It also authorizes the Division Director to forfeit the operator's financial assurance upon the operator's failure to comply.

21. NMSA 1978, Section 70-2-6(B) provides that the Commission shall have concurrent jurisdiction or authority with the Division to the extent necessary for the Commission to perform its duties.

22. All of C & D Management Company's wells except for two - the Michael State No. 1 and the Schneider No. 1 - are wells drilled on federal lands. Operators of federal wells within New Mexico are not required to post financial assurance to secure the plugging of the wells. Therefore, except for the Muncy Federal No. 1, C & D Management has not posted financial assurance with the State of New Mexico to secure the plugging of the federal wells.

23. C & D Management Company has furnished financial assurance to the Division to secure its obligation to properly plug and abandon the Schneider Well No. 1 and the Muncy Federal Well No. 1 in the form of Letter of Credit No. 20355671, in the amount of \$10,000, issued by First National Bank of Artesia.

24. C & D Management Company has posted a \$7,038 irrevocable letter of credit on the Michael State No. 1.

25. Because of C & D Management Company's failure to properly plug and abandon the wells listed in paragraph 11 above, C & D Management Company should be ordered to plug and abandon the dry holes and to restore the well sites in accordance with 19.15.4.202 NMAC.

26. Because of C & D Management Company's failure to bring the wells listed in paragraph 13 above into compliance with 19.15.4.201 NMAC, C & D Management Company should be ordered to properly plug and abandon the wells in accordance with 19.15.4.202 NMAC and with a plugging procedure approved by the Division's Artesia District Office, or otherwise bring them into compliance with 19.15.4.201 NMAC by placing them in approved temporary abandonment status, 19.15.4.203 NMAC, or returning them to production.

27. NMSA 1978, Section 70-2-12 gives the Division the authority to collect data, and to provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports.

28. 19.15.13.1115 NMAC requires operators to 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, setting forth complete

information and data indicated on the form in the order, format, and style that the Director prescribes.

29. The Agreed Order Directing Compliance and Assessing Civil Penalty, of which Thomas Kizer testified that he had received a copy clearly states on page 5 the requirement that operators must file a monthly report, C-115, for each non-plugged well completion for which the Division has approved a C-104 authorization. In addition, it states on page 2 that C & D Management Company failed to file C-115s from October 2004 through March 2006.

30. As of July 30, 2008, C & D Management Company had failed to report production on its wells for the months of January 2008 through May 2008 as required by Subsection A of 19.15.13.1115 NMAC.

31. In addition, C & D Management Company failed to timely report production on its wells for the period from April 2006 through December 2007 as required by Subsection B of 19.15.13.1115 NMAC, which requires that

“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, or if such day falls on a weekend or holiday, the first workday following the 15th.”

C & D Management did not file reports for April and May 2006 until June 6, 2008 and did not file reports for June 2006 through December 2007 until June 17, 2008.

32. The Division notified C & D Management that it had not filed the required form C-115s on several occasions. For example, the Division sent notice to C & D Management Company at its Albuquerque address, 4801 Lange NE, Suite 110, on February 11, 2008 that its C-115 for October 2007 had not been filed; on March 13, 2008 that its C-115s for November 2007 and December 2007 had not been filed, and on July 1, 2008 that its C-115s for February 2008 and March 2008 had not been filed.

33. NMSA 1978, Section 70-2-31(A) provides that any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars for each violation, and that, in the case of a continuing violation, each day of violation shall constitute a separate violation.

34. The evidence in this case demonstrates that C & D Management Company’s failure to plug the dry holes listed in paragraph 11, failure to bring the wells listed in paragraphs 15 and 16 into compliance with 19.15.4.201 NMAC, and failure to timely file production reports were knowing and willful violations of the applicable Division rules. Therefore, civil penalties should be assessed against C & D Management Company.

IT IS THEREFORE ORDERED that.

1. C & D Management Company shall properly plug and abandon each of the dry holes listed below in accordance with 19.15.4.202 NMAC and with a plugging procedure approved by the Division's Artesia District Office, on or before September 14, 2008.

Shearn Becky Federal No. 1	B-14-17S-27E	30-015-34440
Shearn Freedom Federal No. 2	A-14-17S-27E	30-015-34454
Shearn Samantha Federal No. 1	G-14-17S-27E	30-015-31059
Shearn Shilo Federal No. 1	B-14-17S-27E	30-015-31061

2. C & D Management Company shall properly plug and abandon the wells listed below in accordance with 19.15.4.202 NMAC and with a plugging procedure approved by the Division's Artesia District Office, or shall otherwise bring each such well into compliance with 19.15.4.201 NMAC by placing them in approved temporary abandonment status pursuant to 19.15.4.203 NMAC or returning them to production, on or before September 14, 2008. No well shall be deemed in compliance with 19.15.4.201 NMAC or this Order until C & D Management Company shall have filed true and accurate production reports, form C-115, with the Division with respect to such well for all months for which such reports are due.

Muncy Federal No. 1	F-13-17S-27E	30-015-23803
Muncy Federal No. 2	E-13-17S-27E	30-015-25012
Saunders No. 12	O-13-17S-27E	30-015-22348
Schneider No. 1	J-24-17S-27E	30-015-22907
Scott Federal No. 1	P-12-17S-27E	30-015-25437

3. C & D Management Company shall comply with 19.15.13.1115 NMAC and file true and accurate reports electronically on form C-115 for all of its wells, for all months from January 2008 through and including May 2008. C & D Management Company shall file the reports no later than September 14, 2008.

4. In the event that C & D Management Company fails to comply with Ordering Paragraphs 1 through 3 within the times provided, the Division may proceed to plug and abandon any or all of C & D Management Company's wells, and to restore the well sites, and any applicable financial assurance shall be forfeited to the Division. If the Division incurs costs in plugging the wells or restoring the well sites exceeding the amount recoverable from applicable financial assurance, the Division may bring suit to recover the excess costs incurred from C & D Management Company.

5. A civil penalty is assessed against C & D Management Company in the amount of \$16,000 because of its knowing and willful failure to timely report production of its wells from February 2007 through May 2008 as required by 19.15.13.1115 NMAC. C & D Management Company shall pay the \$16,000 civil penalty on or before 5:00 p.m. on September 15, 2008.

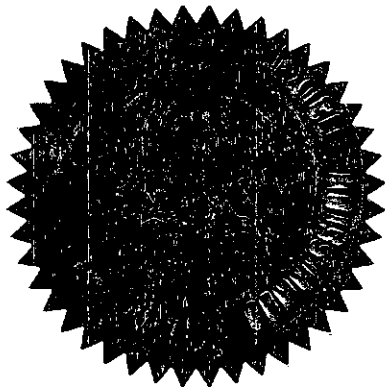
6. A civil penalty of \$5000 is assessed against C & D Management Company for its knowing and willful failure to return the wells listed below to compliance with 19.15.4.201 NMAC. If C & D Management Company properly plugs and abandons the wells listed below in accordance with 19.15.4.202 NMAC and with a plugging procedure approved by the Division's Artesia District Office, or otherwise brings each well listed below into compliance with 19.15.4.201 NMAC by placing the wells in approved temporary abandonment status or returning them to production on or before September 14, 2008 the \$5000 penalty will be abated. If C & D Management Company, however, fails to properly plug and abandon the wells or otherwise bring them into compliance with 19.15.4.201 NMAC on or before September 14, 2008, it shall pay the civil penalty of \$5000 no later than 5:00 p.m. on September 15, 2008.

Shearn Becky Federal No. 1	B-14-17S-27E	30-015-34440
Shearn Freedom Federal No. 2	A-14-17S-27E	30-015-34454
Shearn Samantha Federal No. 1	G-14-17S-27E	30-015-31059
Shearn Shilo Federal No. 1	B-14-17S-27E	30-015-31061
Muncy Federal No. 2	E-13-17S-27E	30-015-25012

7. C & D Management Company shall pay the penalties provided in Ordering Paragraphs 5 and 6 by delivery of certified check or cashier's check to the Division's Santa Fe Office.

8. Jurisdiction of this case is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico on the 14th of August 2008.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

  
MARK FESMIRE, CHAIR

  
JAMI BAILEY, MEMBER

  
WILLIAM OLSON, MEMBER