

**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:**

**CASE NO. 14055
ORDER NO. R-12913**

**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
VIOATED 19.15.13.1115 NMAC AND 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.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 24, 2008, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 3rd day of March, 2008, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) C & D Management Company of Edmonton, Kentucky ("Operator") is the operator of the following oil or gas wells in Eddy County, New Mexico (the "subject wells"):

<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

(3) The Oil Conservation Division (the "Division") filed this application seeking an order pursuant to Section 70-2-14 NMSA 1978 and Division Rule 101.H directing Operator to properly plug and abandon the subject wells, or otherwise bring the subject wells into compliance with Division Rule 201, by a date certain. The Division also seeks an order directing Operator to file production reports on the subject wells, as required by Division Rule 1115, for the months of April 2006 through and including December 2007. The Division further seeks assessment of civil penalties by reason of the Operator's failure to bring the subject wells into compliance with Rule 201 and failure to file production reports as required by Rule 1115. In event of Operator's failure to comply with such order, the Division seeks an authorization to plug said wells and forfeiture of Operator's applicable financial assurance.

(4) The Division presented evidence that demonstrates the following:

(a) Operator has not filed production reports on any of the subject wells for any month subsequent to March 2006.

(b) The following wells ("the dry holes") are not capable of producing oil or gas and have been inactive for a continuous period exceeding sixty days following suspension of drilling operations, triggering the requirement of Rule 201.B(1) that these 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

(c) As to the remaining subject wells, although such wells are, or may be, capable of producing, or actually producing, the Operator has wholly failed to file reports of production applicable to a continuous period exceeding one year plus 90 days prior to the hearing, making it impossible for the Division to determine whether or not these wells are in compliance with Rule 201.B(3).

(d) None of the subject wells has been plugged and abandoned in accordance with Division Rule 202, nor is any of them currently in approved temporary abandonment status in accordance with Division Rule 203.

(e) After being informed by the Division of previous violations relating to the subject wells, Operator consented to the issuance of Agreed Order Directing Compliance and Assessing Penalty No. NMOCD-171, dated March __[date on copy admitted in evidence illegible], 2007 ("the ACO").

(f) The ACO assessed civil penalties in the amount of \$24,000, of which Operator was required to pay \$6,000 in two equal installments, the first due upon execution of the ACO, and the second thirty days thereafter. The remaining \$18,000 was payable only in the event that Operator failed to comply with certain conditions.

(g) \$4,000 of the \$18,000 conditional penalty was made payable in the event that Operator failed to properly plug, or otherwise bring into compliance, certain wells, including the dry holes. Operator failed to comply with this condition.

(h) Operator paid the initial installment of the unconditionally assessed \$6,000 penalty, but, in payment of the second installment, tendered a check in the amount of \$3,000 that was returned to the Division with the notation "Insufficient Funds." By letter dated August 16, 2007, the Division notified Operator of the return of the check, and demanded that Operator tender an acceptable form of payment of this penalty amount, but Operator has not complied.

(i) As of the date of the hearing, the dry holes were still out of compliance with Rule 201, and production reports on all of the subject wells for all months subsequent to March, 2006, remained unfiled.

(j) Operator has furnished financial assurance to the Division to secure its obligation to properly plug and abandon the Michael State Well No. 1, in the form of Letter of Credit No.180, in the amount of \$7,038, issued by South Central Bank of Barren Co. Operator 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.

(5) Operator was duly notified of the hearing of this case by certified mail directed to Operator's addresses on file with the Division and the New Mexico Public Regulation Commission, but Operator wholly failed to appear herein.

(6) Division Rule 101.H authorizes the Director to order the operator to plug and abandon any well not in compliance with Rule 201, and to restore the location thereof, by a date certain, and further authorizes the Director to forfeit the operator's financial assurance upon failure or refusal of the operator to comply.

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

(8) In this case, Operator has violated requirements of Division rules promulgated pursuant to the Oil and Gas Act by failing to file required production reports. Thus the Division is authorized to order the plugging of all of the subject wells regardless of whether or not any particular well is capable of producing, or is in fact producing, hydrocarbons at this time.

(9) By reason of Operator's failure to properly plug the dry holes, and to file reports on the subject wells as and when required, Operator should be ordered to plug and abandon the dry holes and to restore the sites thereof in accordance with Division rules, and should be ordered to restore the remaining subject wells to compliance with Rule 201. If Operator fails to comply, any applicable financial assurance should be forfeited.

(10) Operator has consented to the assessment of the penalties provided in the ACO, and should be ordered to pay penalties, in the total amount of Seven Thousand Dollars (\$7,000), therein provided and not heretofore paid.

(11) Section 70-2-31(A) NMSA 1978 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 (\$1,000) for each violation, and that, in the case of a continuing violation, each day of violation shall constitute a separate violation.

(12) The evidence in this case demonstrates that Operator's failure to plug the dry holes during the period from September 20, 2007 to January 24, 2008, the date of the hearing, and Operator's failure to file production reports for the months of April 2006 through and including December, 2007, were knowing and willful violations of the applicable Division Rules.

(13) Additional civil penalties, pursuant to Section 70-2-31(A) should be assessed against Operator for its knowing and willful violations described in Finding Paragraph (12).

IT IS THEREFORE ORDERED THAT:

(1) Operator shall properly plug each of the dry holes, in accordance with Division Rules 202.A and 202.B(1) and (2), and with a plugging procedure approved by the Division's Artesia District Office, on or before May 31, 2008.

(2) Operator shall properly plug each of the remaining subject wells, in accordance with Division Rule 202.A and 202.B(1) and (2), and with a plugging procedure approved by the Division's Artesia District Office, or shall otherwise bring each such wells into compliance with Rule 201 (by placing such wells in approved temporary abandonment status or returning them to production), on or before May 31, 2008. No well shall be deemed in compliance with Rule 201 or this Order until Operator 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.

(3) Operator shall file true and accurate reports electronically on form C-115 for all of the subject wells, for all months from March 2006, through and including the last month preceding the date of filing. Such reports shall be filed not later than March 31, 2008.

(4) Operator shall restore the well sites of the dry holes, and of any of the remaining subject wells that it does not place in approved temporary abandonment status or return to production [as provided in Ordering Paragraph (1)], in the manner and within the time provided in Division Rule 202.B(3).

(5) In the event that Operator fails to comply with Ordering Paragraphs (1) and (2) within the times provided, the Division may proceed to plug and abandon any or all of the subject 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 subject wells or restoring the well sites exceeding the amount recoverable from applicable financial assurance, the Division may bring suit to recover the excess costs so incurred from the Operator.

(6) In the event that Operator fails to comply with Ordering Paragraph (4) within the time provided, the Division may proceed to restore the well sites of the subject wells, and any remaining applicable financial assurance shall be forfeited to the Division. If the Division incurs costs in restoring the well sites exceeding the amount recoverable from applicable financial assurance, the Division may bring suit to recover the excess costs so incurred from the Operator.

(7) Operator shall pay civil penalties in the amount of \$7,000, assessed in the ACO and not heretofore paid or waived, to the Division, on or before March 31, 2008, by delivery of a certified check or cashier's check to the Division's Santa Fe Office.

(8) An additional civil penalty is assessed against Operator in the amount of Four Thousand Dollars (\$4,000) by reason of Operator's knowing and willful failure to return the subject wells to compliance with Division Rule 201 for the period from September 20, 2007 to January 24, 2008.

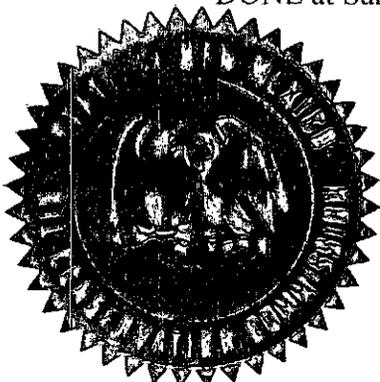
(9) An additional civil penalty is assessed against Operator in the amount of Twenty-Two Thousand Dollars (\$22,000) by reason of Operator's knowing and willful failure, during the period from September 20, 2007 through January 24, 2008, to file production reports for the subject wells for the months from March 2006, through and including December, 2007.

(10) Operator shall pay the penalties provided in Ordering Paragraphs (8) and (9) by delivery of a certified check or cashier's check to the Division's Santa Fe Office on or before March 31, 2008.

(11) In the event Operator fails to comply with any provision of this Order within the time provided, the Division may, after notice and hearing, assess additional penalties, not to exceed \$1,000 per day, per violation.

(12) Jurisdiction of this case is 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.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Director