

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

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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 19.15.13.1115 NMAC AND 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
RE-OPENED

AMENDED ENTRY OF APPEARANCE AND
PRE-HEARING STATEMENT

The Oil Conservation Division submits this amended entry of appearance and pre-hearing statement pursuant to OCD Rule 19.15.4.13 NMAC.

APPEARANCES

APPLICANT

Oil Conservation Division

APPLICANT'S ATTORNEY

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RESPONDENT

C & D Management Company
d/b/a Freedom Ventures Company

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STATEMENT OF THE CASE

In Order No. R-12913-A (issued August 14, 2008) the Oil Conservation Commission ordered Operator C & D Management Company d/b/a Freedom Ventures Company to plug and abandon 5 dry holes by September 14, 2008; plug and abandon 5 inactive wells or otherwise bring them into compliance with Rule 19.15.4.201 NMAC by September 14, 2008; file true and accurate C-115 production reports for all its well from January 2008 thru the current reporting period of May 2008 by September 14, 2008; and pay civil penalties by September 15, 2008.

Operator did not comply with the Order's September 14, 2009 deadlines (Operator's non-payment of civil penalties is not at issue in this case in light of the New Mexico Supreme Court's holding in Marbob Energy Corp. v. N.M. Oil Conservation Comm'n, 2009-NMSC-013, 146 N.M. 24, 206 P.3d 135). As a result, in March and April 2009 the Oil Conservation Division began to enforce the Order by plugging and abandoning the wells the Commission had authorized it to plug and abandon in the Order. However, because the Order did not include language requiring Operator to plug and abandon wells in the event of Operator's non-compliance with the Order's C-115 filing requirement, the Division did not have the authority to plug and abandon the wells and forfeit the applicable financial assurance under NMSA 1978, Section 70-2-14(B), which states:

If any of the requirements of the Oil and Gas Act or the rules promulgated to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

Since the Operator did not comply with the Order's requirement that Operator comply with Rule 19.15.13.1115 NMAC (since re-numbered Rule 19.15.7.24 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, by September 14, 2008, the Division is asking the Commission to order Operator to plug and abandon all of its wells by a date certain. And, if Operator does not comply with the Commission's order requiring Operator to plug and abandon all of its wells by a date certain, the Division is asking for authorization to plug and abandon the wells and forfeit the applicable financial assurance. This is what the Division asked for in its application.

Non-reporting, among other things, has been a constant problem with Operator since it acquired the wells in 2004. Except for the January 2008 C-115, Operator did not file any of the C-115's by the September 14 deadline as ordered. Operator did not file any C-115's for the subsequent reporting periods within the required rule time limits. Operator

recently filed C-115 reports for the subject reporting periods and subsequent reporting periods, up to and including March 2009. However, Operator indicated that the C-115's do not show accurate production, and field inspectors indicate that the wells reporting production actually might not be active. Operator has not filed C-115's for the April 2009 reporting period even though the reports were due June 15, 2009.

Section 70-2-14(B) requires the showing of non-compliance before the Commission or Division may order a well plugged and abandoned by the operator or surety or both in accordance with division rules. (Operator also is in non-compliance with additional financial assurance requirements (see Rule 19.15.8.9 NMAC) on the Schneider No. 001, 30-015-22907, J-24-17S-27E, despite his testimony at the July 30, 2008 hearing that he would resolve it. Operator also has not complied with the change of operator requirements of Rule 19.15.9.9 NMAC for the Shearn Saranda Federal No. 001 30-015-31060.) Because Operator has not complied with Division rules, the Division is asking the Commission to issue an Order requiring Operator to plug and abandon its wells. However, should the Commission decide not to issue an Order requiring Operator to plug and abandon its wells, then the Division asks the Commission to monitor Operator's compliance in this case and require Operator to re-appear before the Commission in six months to review Operator's compliance with Division rules.

The Division is also asking the Commission to enter an Order finding Operator to be in violation of the Order requiring Operator to plug and abandon 5 inactive wells or otherwise bring them into compliance with Rule 19.15.4.201 NMAC by September 14, 2008.

Rule 19.15.5.9 NMAC states "An operator is in compliance with Subsection A of Rule 19.15.5.9 NMAC if the operator . . . is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action."

As previously stated, Order No. R-12913-A required Operator to plug and abandon 5 inactive wells or otherwise bring them into compliance with Rule 19.15.4.201 NMAC by September 14, 2008. Operator did not plug and abandon the wells or otherwise bring them into compliance. As a result the Division began plugging the wells in March and April 2009, and paid around \$177,000 to plug the wells. Operator has not reimbursed the State for the plugging costs.

Because Operator did not comply with the Order and bring the 5 inactive wells into compliance, the Division is asking the Commission to enter an Order finding the Operator to be in violation of the Order requiring corrective action. Once the Operator reimburses the State for the actual plugging costs, the Operator could move, pursuant to Rule 19.15.5.9.D.3 NMAC, for an Order declaring the order satisfied.

APPLICANT'S PROPOSED EVIDENCE

WITNESSES:

ESTIMATED TIME:

Daniel Sanchez
Enforcement and Compliance Manager

1 hour

Jane Prouty
Production and Permitting Supervisor

1 hour

Richard Inge
Compliance Officer

30 Minutes

Dorothy Phillips
Bond Administrator

10 Minutes

David Brooks
Hearing Examiner

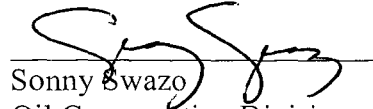
10 Minutes

PROCEDURAL MATTERS

None at this time.

Respectfully submitted

this 9th day of July 2009 by



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Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties on July 9, 2009:

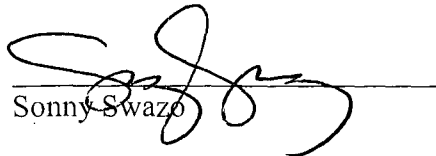
Ernest L. Padilla
Attorney for C&D Management Company d/b/a Freedom Ventures Company

P.O. Box 2523
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by hand-delivery

South Central Bank of Barren Co., Inc.
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Re: Letter of Credit 180

The First National Bank
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Artesia, NM 88210
Re: Letter of Credit 203556-71


Sonny Swazo