

State of New Mexico  
Energy, Minerals and Natural Resources Department

**Susana Martinez**

Governor

**John H. Bemis**  
Cabinet Secretary

**Brett F. Woods, Ph.D.**  
Deputy Cabinet Secretary

**Jami Bailey**  
Division Director  
Oil Conservation Division



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March 15, 2012

Jami Bailey, Chair  
Oil Conservation Commission  
1220 S. St. Francis Dr.  
Santa Fe, NM 87505

**Re: Case No. 14055, Application of C & D Management Company to re-open  
Case No. 14055, etc., Eddy County, New Mexico**

Dear Chair Bailey:

Please find enclosed a copy of the Oil Conservation Division's proposed findings of fact and conclusions of law for the above-entitled case.

Sincerely,

Sonny Swazo  
OCD Assistant General Counsel

ec: James Bruce, Attorney for C & D Management Company  
Bill Brancard, Attorney for the Oil Conservation Commission

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

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**APPLICATION OF C & D MANAGEMENT COMPANY TO RE-OPEN CASE NO. 2: 40  
14055, ETC., EDDY COUNTY, NEW MEXICO**

**CASE NO. 14055**

**OIL CONSERVATION DIVISION'S PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**COMES NOW** the Oil Conservation Division (hereinafter, "Division") and hereby submits its proposed findings of fact and conclusions of law in the above-styled matter:

**THIS MATTER**, having come before the New Mexico Oil Conservation Commission (hereinafter, "Commission") on February 23, 2012 at Santa Fe, New Mexico, on the application of C & D Management Company d/b/a Freedom Ventures Company (hereinafter, "C & D") to re-open the case to allow it additional time to comply with the terms of Order No. R-12913, as amended, and reinstatement of its authority to transport for all wells, and the Commission having carefully considered the evidence and other materials submitted by the parties hereby finds and orders as follows:

**FINDS THAT:**

1. Due public notice has been given, and the Commission has jurisdiction of this case and of the subject matter.
2. Division records show C & D as the operator of the following oil or gas wells in Eddy County, New Mexico:

<u>Name</u>	<u>Location</u>	<u>API No.</u>
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
Schneider #001	J-24-17S-27E	30-015-22907
Shearn Shilo Federal #001	B-14-17S-27E	30-015-31061

3. Pursuant to Commission Order R-12913-A, which ordered C & D to bring the following five wells into compliance with the Division's inactive well rule or plug and abandon the wells by September 14, 2008, and authorized the Division to plug and abandon the wells and decree forfeiture of any applicable financial assurance if C & D failed to comply with this requirement by September 14, 2008, the Division plugged the following five wells operated by C & D at the following costs:

<u>Name</u>	<u>API NO.</u>	<u>Plugging Cost</u>
Muncy Federal #001	30-015-23083	\$19,627.76
Muncy federal #002	30-015-25012	\$35,317.27
Saunders #012	30-015-22348	\$41,173.42
Schneider #001	30-015-22907	\$46,262.41
Scott Federal #001	30-015-25437	<u>\$28,525.98</u>
Total Cost		\$170,906.84

4. Minus the \$10,000 financial assurance that C & D forfeited as a result of the five wells being plugged by the Division, the Division's out of pocket expenses for plugging the five wells is approximately \$160,906.84. C & D has not reimbursed the Division for the plugging costs.

5. According to Division records, the Hastie #021 and the Michael State #001 are out of compliance with the Division's inactive well rule (19.15.25.8 NMAC) and are on the inactive well list.

6. Division records show the Schneider #001 as requiring additional bonding in the amount of \$6,725.

7. On December 6, 2011, C & D filed an application to re-open the case to allow it additional time to comply with the terms of Order No. R-12913, as amended, and reinstatement of its authority to transport for all wells.

8. Paragraph 4 of Commission Order R-12913-G (hereinafter, "Paragraph 4") ordered C & D to plug and abandon all wells it operates if, on or by July 17, 2010, C & D did not bring all its wells into (i) full compliance with the reporting obligations under the August 14, 2008 Commission order, Order No. R-12913-A, and 19.15.7.24 NMAC; (ii) into full compliance with the financial assurance requirements in the rules promulgated pursuant to the Act; (iii) into production or back into production or, for gas wells, obtain from the Division certification that the well is capable of production; and (iv) place the wells on temporary abandonment status approved by the Division pursuant to the rules.

9. C & D did not comply with the requirements of Paragraph 4 as provided.

10. Paragraph 5 of Commission Order R-12913-G (hereinafter, "Paragraph 5") authorized the Division to plug all wells operated by C & D and decree forfeiture of C & D's

applicable financial assurance, if any, if C & D failed to fully comply with Paragraph 4 on or by July 17, 2010.

11. Since C & D failed to comply with the requirements of Paragraph 4 as provided, the Division is authorized pursuant to Paragraph 5 to plug all wells operated by C & D and decree forfeiture of C & D's applicable financial assurance.

12. The Division has not yet plugged all wells operated by C & D as authorized by Paragraph 5.

13. Paragraph I of Commission Order R-12913-E suspended C & D's authority to transport or inject for all wells C & D operates until C & D is in full compliance with the Order. Commission Order R-12913-G ordered the suspension to continue until C & D is in full compliance with Order R-12913-E and Order R-12913-G.

14. C & D is not in compliance with Order R-12913-E and Order R-12913-G. Nonetheless, C & D is requesting that its authority to transport be reinstated to allow it to sell oil on hand and to produce and sell oil to raise funds to allow it to comply further with the Commission's orders.

15. In support of its application C & D presented the following evidence at hearing:

- a. C & D is the operator of the 17 wells that are involved in this case.
- b. Martina Castle became the sole shareholder and president of C & D in mid-2011 after its sole shareholder Thomas Kizer died from cancer on April 6, 2011. Mr. Kizer was Ms. Castle's boyfriend of 20 years, and she inherited all his property upon his death, including his shares of C & D stock.
- c. Ms. Castle had no involvement in C & D.
- d. Ms. Castle contacted the Division after she became the owner of C & D and discussed what was necessary to start complying with the Commission's orders. She has spoken with Daniel Sanchez, the Division's Compliance and Enforcement Manager, several times about what C & D needs to do. She understands that C & D has several compliance issues that still need to be resolved.
- e. Ms. Castle hired an accountant in Artesia who is familiar with reporting matters to correct all of C & D's C-115 reports. The accountant corrected and completed all reporting up to January 2012 for all wells with both the Division and federal government.
- f. Ms. Castle hired an experienced pumper in Artesia to physically operate and bring the wells into compliance.

- g. Ms. Castle knows that C & D has to return wells to production or plug the wells, but C & D needs additional time to do so.
  - h. Ms. Castle knows C & D has to post bonding on the Schneider #001 well and repay the Division the approximately \$160,000 the Division paid to plug wells, but it does not have the funds right now to post the bond and repay the Division the \$160,000 in full.
  - i. C & D has approximately 180 barrels of oil sitting in its tanks waiting for transportation but it cannot transport and sell the oil due to its authority to transport being suspended.
  - j. C & D also has approximately \$18,000 in suspense with the purchaser of production.
  - k. If C & D were allowed to transport, it could produce and sell oil and it would use the funds to bring wells into compliance with the Commission's orders and rules. It would also allow C & D to post the bond on the Schneider #001 and repay the Division the approximately \$160,000 it owes the Division for plugging its wells.
  - l. C & D would direct the purchaser of production to pay 50% of C & D's interest of the production proceeds directly to the Division for reimbursement of the Division's plugging costs. The remaining 50% would be used to pay operating costs. This 50% would be used to post the additional bonding on the Schneider #001 well and to bring the wells into compliance. This arrangement would continue until C & D reimbursed the Division in full for the plugging costs.
  - m. C & D's pumper believes the wells could produce a load of oil, about 180 barrels, every four to six weeks, and that would allow C & D to pay off the \$1600,000 in a couple of years.
16. The Division presented the following evidence at the February 23, 2012 hearing.
- a. Daniel Sanchez, the Division's Compliance and Enforcement Manager, has been involved with the case since when these compliance issues first began with C & D, which was shortly after it became an operator in the state in 2005.
  - b. The Division does not oppose C & D's request for additional time for several reasons:
    - i. Mr. Kizer is no longer involved with C & D.

- ii. Ms. Castle has demonstrated that she is more than willing to comply with the Commission's orders.
  - iii. Ms. Castle contacted him after Mr. Kizer passed away to let the Division know what was happening.
  - iv. Ms. Castle contacted the Bureau of Land Management to let them know what she was planning to do.
  - v. Ms. Castle hired an accountant to correct and bring all of C & D's 115 reports into compliance.
  - vi. Ms Castle hired a pumper to bring the wells into compliance.
  - vii. Ms. Castle is willing to reimburse the Division for the plugging costs the Division paid to plug C & D's wells.
  - viii. Ms. Castle is willing to post the financial assurance on the Schneider #001 well.
- c. Mr. Sanchez testified that if the Commission were to grant C & D's request for additional time to bring its wells into compliance, the Division would like to see the Commission retain those conditions of Paragraph 4 that require C & D to plug and abandon all its wells by a date certain if it does not bring the wells into compliance, and the conditions of Paragraph 5 that authorizes the Division to plug all wells operated by C & D and decree forfeiture of C & D's applicable financial assurance if C & D fails to plug and abandon all of its wells by the date certain.
  - d. The Division wants to retain these conditions of the Order because the Division has invested a lot of time and resources going back to 2006 to get the current order, and it does not want to have to start from scratch if C & D does not comply again.
  - e. The Division does not oppose reinstatement of C & D's authority to transport to allow C & D to get the funds it needs to comply with the Commission's orders.
  - f. The Schneider #001 well has been plugged but the site has not been released.

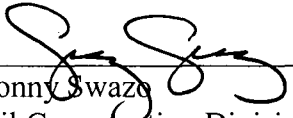
**IT IS THEREFORE ORDERED:**

- 1) Pursuant to Division Rule 19.15.4.23B NMAC, the Commission hereby stays Commission Order R-12913- G for one year until March 15, 2013 on the following conditions:

- a. C & D shall bring all its inactive wells into compliance during this one year period;
  - b. C & D shall post the required financial assurance on the Schneider #001 well;
  - c. C & D shall make significant progress in paying down the approximately \$160,000 debt that it owes the Division for the wells the Division plugged;
  - d. C & D shall comply with the Division's reporting requirements; and
  - e. C & D shall otherwise comply with all other conditions;
- 2) The Commission hereby reinstates C & D's authority to transport or inject for all wells C & D operates.
  - 3) The Division shall not schedule any of the wells for plugging during the one year period.
  - 4) Jurisdiction of this case is retained for the entry of such further orders as the Commission may deem necessary.


Respectfully submitted

this 15th day of March 2012 by

  
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Resources Department  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served upon James Bruce, Attorney for Applicant, via email at [jamesbruc@aol.com](mailto:jamesbruc@aol.com) and via first-class mail at P.O. Box 1056, Santa Fe, NM 87504.

  
Sonny Swazo