

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

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

CASE NO. 14055

**ENTRY OF APPEARANCE AND
PRE-HEARING STATEMENT**

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

APPEARANCES

APPLICANT

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

APPLICANT'S ATTORNEY

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RESPONDENT

Oil Conservation Division

RESPONDENT'S ATTORNEY

Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
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STATEMENT OF THE CASE

The Applicant is requesting:

- (1) that Case No. 14055 be re-opened to allow it to present evidence of its compliance with the reporting obligations and financial assurance requirements;

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(2) an order granting it additional time to bring wells into compliance with the terms of Oil Conservation Commission Order R-12913; and

(3) reinstatement of its authority to transport.

The Oil Conservation Division does not generally oppose Applicant's requests.

However, if Applicant requests an Order declaring the Order satisfied (it is the Division's opinion that Applicant is not making such a request), the Division would oppose the issuance of such an Order because Applicant did not complete all of the corrective action that the Order required. See 19.15.5.9(D)(3) NMAC ("An operator who completes the corrective action the order requires may file a motion with the order's issuer to declare the order satisfied." (emphasis added)).

Ordering Paragraph 2 of Order R-12913-A required Applicant to bring 5 specific wells into compliance with the Division's inactive well rule by September 14, 2008. Applicant did not comply with this Order. As a result the Division plugged the 5 wells pursuant to Ordering Paragraph 4, which authorized the Division to plug the wells in the event of Applicant's non-compliance with Ordering Paragraph 2.

The balance for plugging the 5 wells minus forfeited financial assurance is \$160,906.84. The Division has asked the Applicant to reimburse the Division for the plugging cost of the 5 wells. However, as of today's date Applicant has not reimbursed the Division for the plugging costs of the 5 wells.

The Division had asked the Commission for an Order pursuant to 19.15.5.9(D)(1) NMAC, finding Applicant in violation of an order requiring corrective action based upon Applicant's failure to comply with Ordering Paragraph 2 of Order R-12913-A. See 19.15.5.9(D)(1) NMAC ("The division shall make available on its website division or commission orders, issued after notice and hearing, finding an operator to be in violation of an order requiring corrective action." (emphasis added)).

While the Commission found Applicant to be in violation of Commission Order R-12913-A based upon Applicant's failure to comply with Ordering Paragraph 2 (see Factual Findings 3, 13, Conclusions G, I), for some unknown reason the Commission did not issue an Order to that effect. Rather, the Commission issued an order finding Applicant out of compliance with 19.15.5.9 NMAC due to Applicant's non-compliance with the reporting obligations of Order R-12913-A and the financial assurance requirements in the Division rules.

Since Applicant cannot complete the corrective action required by Ordering Paragraph 2 because the 5 wells are now plugged, the one way that Applicant could comply with the corrective action requirements of Ordering Paragraph 2 is to reimburse the Division for the costs of plugging the 5 wells. The Division would be willing to consider the corrective action completed if Applicant reimbursed the Division for the plugging costs of the 5 wells. Once Applicant reimburses the Division the Applicant may file a motion

with the Commission to declare the order satisfied. See 19.15.5.9(D)(3) NMAC ("An operator who completes the corrective action the order requires may file a motion with the order's issuer to declare the order satisfied. The division or commission, as applicable, may grant the motion without hearing, or may set the matter for hearing.").

Thus, the Division opposes the issuance of any Order that declares the Order satisfied. However, it is the Division's position that Applicant is not asking for such an Order.

RESPONDENT'S PROPOSED EVIDENCE

WITNESSES:

ESTIMATED TIME:

Daniel Sanchez
OCD Compliance and Enforcement Manager

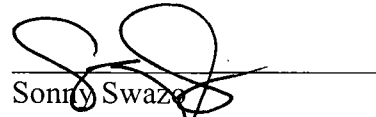
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PROCEDURAL MATTERS

None at this time.

Respectfully submitted

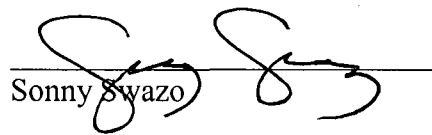
this 16th day of February 2012 by



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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 James Bruce, Attorney for Applicant, via email at jamesbruc@aol.com and via first-class mail at P.O. Box 1056, Santa Fe, NM 87504.



Sonny Swazo