

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

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2009 SEP 30 P 3: 44

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*

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

The Oil Conservation Division submits this second 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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Energy, Minerals and Natural  
Resources Department  
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**RESPONDENT**

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

**RESPONDENT'S ATTORNEY**

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## STATEMENT OF THE CASE

At the end of the August 13, 2009 hearing the Oil Conservation Commission continued the case to “take evidence with respect to the costs incurred by the Oil Conservation Division in plugging the five wells and testing that evidence.” This apparently was in response to the Division’s request for an Order finding Operator C & D Management Company d/b/a Freedom Ventures Company in violation of an Order requiring corrective action. Division Counsel referred to this Order as a Rule 5.9 Order.

The Division is asking for this Order pursuant to Rule 19.15.5.9 NMAC, which is an enforcement tool that allows the Commission and Division to enforce its compliance orders. If an operator is in non-compliance with Rule 19.15.5.9 NMAC the Division may—and in some cases must—deny certain privileges. The privileges the Division may deny are registration by the operator or certain related entities, applications for change of operator that would transfer wells to the operator, and APD’s. The Division may also revoke, after notice and hearing, injection permits. The privileges the Division must deny are injection permits, and allowables and authorization to transport.

One criteria for being in compliance with Rule 19.15.5.9 NMAC is that 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.”

The Division has presented evidence showing Operator to be in violation of an Order requiring corrective action. Specifically, the Division presented evidence showing that Operator is in violation with Commission Order No. R-12913-A, Ordering Paragraph Two (Ordering Paragraph Two), which required Operator to plug and abandon 5 specified inactive wells or otherwise bring them into compliance with Rule 19.15.4.201 NMAC by September 14, 2008. (Additionally, the evidence showed Operator to be in violation of Order No. R-12913-A, Ordering Paragraph Three, which required Operator to file true and accurate C-115 reports for all of its wells, for all months from January 2008 through and including May 2008, by September 14, 2008. Operator testified that the C-115’s he filed are inaccurate.) This evidence alone is sufficient to find Operator in violation of an Order requiring corrective action.

More than six months after Operator was required to bring the 5 specified wells into compliance, the Division began plugging the wells pursuant to Order No. R-12913-A, Ordering Paragraph Four, which authorized the Division to plug and abandon the 5 specified inactive wells and forfeit any applicable financial assurance in the event of Operator’s non-compliance with Ordering Paragraph Two.

Since Operator did not comply with Ordering Paragraph Two, the Division is asking the Commission to issue an Order pursuant to Rule 19.15.5.9 NMAC, finding Operator to be

in violation of Order No. R-12913-A. See Rule 19.15.5.9.A.2 NMAC (“An operator is in compliance with Subsection A of 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.” (emphasis added)).

Since the wells have been plugged Operator cannot perform the corrective action it was ordered to take. However, the Division is willing to consider Operator to be in compliance with Ordering Paragraph Two, if Operator reimburses the Division for the costs the Division paid to plug the wells. The total cost for plugging the 5 specified wells minus the \$10,000 financial assurance is \$160,906.84. The Division has provided the plugging invoices to Operator for reimbursement. The invoices are attached as OCD Exhibit 97.

Once Operator completes the corrective action the order required, Operator’s recourse is to 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.” (emphasis added)). The Commission may grant Operator’s motion with or without hearing.

#### **APPLICANT’S PROPOSED EVIDENCE**

**WITNESSES:**

**ESTIMATED TIME:**

Phil Hawkins  
Compliance Officer  
(by telephone)

15 Minutes

Sherry Bonham  
Environmental  
(by telephone)

15 Minutes

David Brooks  
OCD Hearing Examiner

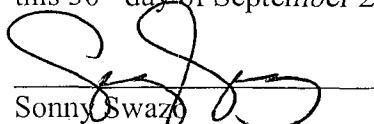
30 Minutes

#### **PROCEDURAL MATTERS**

None at this time.

Respectfully submitted

this 30<sup>th</sup> day of September 2009 by

  
Sonny Swazo

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Energy, Minerals and Natural  
Resources Department  
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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 September 30, 2009:

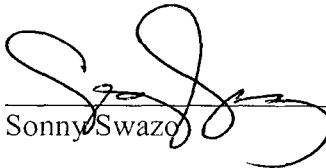
Ernest L. Padilla  
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P.O. Box 2523  
Santa Fe, NM 87504-2523

South Central Bank of Barren Co., Inc.  
P.O. Box 667  
Glasgow, KY 42142-0667

**Re: Letter of Credit 180**

The First National Bank  
303 West Main  
Artesia, NM 88210

**Re: Letter of Credit 203556-71**

  
Sonny Swazo