

New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



February 20, 2009

C&D Management Company d/b/a Freedom Ventures Company
4801 Lang NE, Suite 110
Albuquerque, NM 87109

Certified Mail No.: 7002 0510 0003 5125 2508

Ernest L. Padilla
Attorney for C&D Management Company d/b/a Freedom Ventures Company
P.O. Box 2523
Santa Fe, NM 87504-2523

Certified Mail No.: 7002 0510 0003 5125 2492

South Central Bank of Barren Co., Inc.
P.O. Box 667
Glasgow, KY 42142-0667
Re: Letter of Credit 180

Certified Mail No.: 7002 0510 0003 5125 2485

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

Certified Mail No.: 7002 0510 0003 5125 2478

CASE NO. 14055: 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

*Case 14055 De Novo
C&D Management Company
dba Freedom Ventures Company
OCD Exhibit 41-A*

FORFEIT THE APPLICABLE FINANCIAL ASSURANCE, EDDY COUNTY, NEW MEXICO.

You are hereby notified that the Oil Conservation Division has filed a motion to re-open the case. In the motion the Division is seeking an amendment to the Order to require C & D Management Company d/b/a Freedom Ventures Company to plug and abandon its wells by a date certain for non-compliance with 19.15.7.24 NMAC (formerly 19.15.13.1115 NMAC), Division authorization to plug and abandon the wells and forfeit the applicable financial assurance in event of C & D Management Company's non-compliance, and a finding that an assessed \$5,000.00 civil penalty is due and owing. A copy of the motion is enclosed.

The Oil Conservation Commission will hear the Division's motion on **Thursday April 9, 2009, at 9:00 a.m., in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico.**

At the hearing you will have an opportunity to oppose the motion. **If you intend to present evidence at the hearing, you should file a pre-hearing statement at least four business days in advance of the hearing, as required by OCD Rule 19.15.4.13.B NMAC.**

Please contact me at (505) 476-3463 or sonny.swazo@state.nm.us if you have questions.

Sincerely yours,



Sonny Swazo
Assistant General Counsel
New Mexico Oil Conservation Division

cc: Daniel Sanchez, OCD Enforcement and Compliance Manager
Jane Prouty, OCD Automation and Records Bureau Chief
Sherry Bonham, OCD District II Supervisor
John Bramhall, BLM

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

RECEIVED
FEB 20 PM 3 23

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

Motion to Re-Open Case

COMES NOW, the Enforcement & Compliance Manager of the Oil Conservation Division (Division) and hereby moves the Oil Conservation Commission (Commission) to re-open the case and issue an Order requiring C & D Management Company d/b/a Freedom Ventures Company (Operator) to plug and abandon its wells by a date certain for Operator's non-compliance with the production reporting requirements of Division Rule 19.15.7.24 NMAC (formerly numbered Rule 19.15.13.1115 NMAC), Division authorization to plug and abandon the wells and forfeit the applicable financial assurance in the event of Operator's non-compliance, and a finding that an assessed \$5,000.00 civil penalty is due and owing.

AS GROUND, the Division states the following:

1. On August 14, 2008, the Commission issued Order No. R-12913-A. The Order applies to Operator's 17 wells.

2. Ordering Paragraph No. 1 of the Order required Operator to plug and abandon 4 identified dry hole wells on or before September 14, 2008. Operator has not plugged and abandoned the 4 identified wells as of February 19, 2009.
3. Ordering Paragraph No. 2 of the Order required Operator to plug and abandon 5 identified wells, or otherwise bring them into compliance with Division Rule 19.15.4.201 NMAC (now numbered 19.15.25.8 NMAC), on or before September 14, 2008. As of February 19, 2009, Operator has not plugged and abandoned the 5 identified wells or otherwise brought them into compliance.
4. Ordering Paragraph No. 3 of the Order states:

C & D Management Company shall comply with Rule 19.15.13.1115 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. C & D Management Company shall file the reports no later than September 14, 2008.

5. As of February 19, 2009, Operator has not filed any C-115 production reports for any of the reporting periods following the January 2008 reporting period. In fact, Operator has not filed any C-115 production reports since this case went to hearing before the Commission on July 30, 2008.
6. Ordering Paragraph No. 4 of the Order states:

In the event C & D Management Company fails to comply with Ordering Paragraphs 1 through 3 within the times provided, the Division may proceed to plug and abandon any or all of C & D Management Company's wells, and to restore the well sites, and any applicable financial assurance shall be forfeited to the Division.

7. Section 70-2-14(B), NMSA 1978, 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.

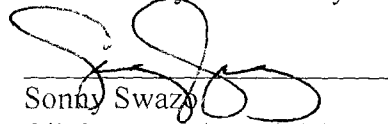
8. Section 70-2-14(B) requires the Division to order the operator to plug wells by a date certain before the Division may be authorized to do so.
9. Ordering Paragraphs No. 1 and No. 2 of the Order require Operator to plug 9 identified wells by a date certain. However, the Order contains no provision that requires Operator to plug and abandon the remaining 8 wells by a date certain for Operator's non-compliance. As a result, the Division does not have the present authority to plug the remaining 8 wells and forfeit the applicable financial assurance. Therefore, the Division needs the Commission to issue an amended order requiring Operator to plug the remaining 8 wells by a date certain, and in the event of Operator's non-compliance, Division authorization to plug the wells and forfeit the applicable financial assurance.
10. Ordering Paragraph No. 6 of the Order assesses a \$5,000.00 civil penalty against Operator for its knowing and willful failure to bring 5 identified wells into compliance with Division Rule 19.15.4.201 NMAC. Ordering Paragraph No. 6 provides that if Operator brings the 5 wells into compliance with Division Rule 19.15.4.201 NMAC on or before September 14, 2008, the \$5,000.00 penalty will be abated. Order Paragraph No. 6 further provides that if Operator fails to bring the wells into compliance with Division Rule 19.15.4.201 NMAC on or before September 14, 2008, Operator shall pay the civil penalty of \$5,000.00 no later than 5:00 p.m. on September 15, 2008.

11. Operator has not brought the 5 identified wells into compliance as of today's date. Therefore, the Division is also asking the Commission to issue an amended order finding the \$5,000.00 civil penalty due and owing.

FOR THE FOREGOING REASONS, the Division Enforcement & Compliance Manager moves the Commission to re-open the case and issue an Order requiring Operator to plug and abandon its wells by a date certain, Division authorization to plug and abandon the wells and forfeit the applicable financial assurance in the event of Operator's non-compliance, and a finding that an assessed \$5,000.00 civil penalty is due and owing.

Respectfully submitted

this 20th day of February 2009 by



Sonny Swazo
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3463
Email: sonny.swazo@state.nm.us
Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed and emailed to the following parties on this 20th day of February, 2009.

C&D Management Company d/b/a Freedom Ventures Company
4801 Lang NE, Suite 110
Albuquerque, NM 87109
Email: oilfreedom@aol.com

Ernest L. Padilla
Attorney for C&D Management Company d/b/a Freedom Ventures Company
P.O. Box 2523
Santa Fe, NM 87504-2523
Email: padillalaw@qwest.com

South Central Bank of Barren Co., Inc.
208 South Broadway
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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

The First National Bank
303 West Main
Artesia, NM 88210

2. Article Number (Copy from service label)

7002 0510 0003 5125 2478

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Phillip Lawson

B. Date of Delivery

2-24-09

C. Signature

X Phillip Lawson

☐ Agent☒ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes**SENDER: COMPLETE THIS SECTION**

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

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

2. Article Number (Copy from service label)

7002 0510 0003 5125 2485

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

LARRY ALEXANDER

B. Date of Delivery

2-24-09

C. Signature

X Larry Alexander

☐ Agent☒ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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1. Article Addressed to:

C&D Management Company dba
Freedom Ventures Company
4801 Lang NE, Suite 110
Albuquerque, NM 87109

2. Article Number

(Transfer from service label)

7002 0510 0003 5125 2508

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x Ruby Pello

☐ Agent☐ Addressee

B. Received by (Printed Name)

Ruby Pello

C. Date of Delivery

2-24-09

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes**SENDER: COMPLETE THIS SECTION**

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1. Article Addressed to:

Ernest L. Padilla
Attorney for C & D Management Company
dba Freedom Ventures Company
P.O. Box 2523
Santa Fe, NM 87504-2523

2. Article Number (Copy from service label)

7002 0510 0003 5125 2492

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

ERNEST L. PADILLA

B. Date of Delivery

C. Signature

x Ernest L. Padilla

☐ Agent☐ AddresseeD. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes