

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, 2010 MAR -3 A 11:07
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 to Clarify Order

COMES NOW, the Enforcement & Compliance Manager of the Oil Conservation Division (OCD) and hereby moves the Oil Conservation Commission (Commission) to re-open the case in order to clarify the Order, which authorizes the OCD to plug and abandon all of the wells operated by C & D Management Company d/b/a Freedom Ventures Company (C & D) if C & D does not comply with portions of the Order on or before January 16, 2010.

AS GROUNDS, the Division states the following:

1. On December 16, 2009, the Commission issued Order No. R-12913-E.
2. Ordering Paragraph II of Order No. R-12913-E requires C & D to bring all wells that it operates into full compliance with OCD's reporting and financial assurance requirements. Ordering Paragraph II specifically states:

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Pursuant to 19.15.5.9 NMAC, C & D shall bring all wells that it operates into full compliance with (i) the reporting obligations under the 2008 Order and 19.15.7.24 NMAC and (ii) the financial assurance requirements in the rules promulgated pursuant to the Act. C & D shall be deemed to remain out of compliance with Rule 19.15.5.9 NMAC until a motion is granted pursuant to 19.15.5.9(D) (3) NMAC, containing a finding that C & D has complied with Paragraph II.

3. Ordering Paragraph III of Order No. R-12913-E requires C & D to bring each well that it operates into compliance with OCD's inactive well rule. Ordering Paragraph III specifically states in relevant part:

C & D shall, for each well that it operates, (i) bring the well into or back into production or, for gas wells, obtain from OCD certification that the well is capable of production, and (ii) place it on temporary abandonment status approved by the Division pursuant to the rules. In the alternative, C & D shall plug and abandon the well pursuant to the rules.

4. Ordering Paragraph IV of Order No. R-12913-E states:

If, on or before January 16, 2010, C & D has not fully complied with Paragraphs II and III of this Order for each well that C & D now operates, the Division shall be and hereby is authorized to plug all wells now operated by C & D.

5. Conclusion Paragraph J of Order No. R-12913-R cites Section 70-2-14(B), NMSA 1978, which is the basis for Order Paragraph IV. Section 70-2-14(B) 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.

6. As Section 70-2-14(B) indicates, the financial assurance shall be forfeited and a well plugged, if the order requiring a well to be plugged and abandoned by an operator or surety or both for non-compliance with any of the requirements of the Oil and Gas Act

or the rules promulgated pursuant to that Act has not been complied with in the time period set out in the order.

7. While Order No. R-12913-E authorizes the OCD to plug all wells now operated by C & D if C & D has not fully complied with Paragraphs II and III of the Order for each well that C& D now operates on or before January 16, 2010, Order No. R-12913-E does not order C & D to plug and abandon any well for C & D's non-compliance with the Oil and Gas Act and the rules promulgated pursuant to that Act requiring C & D to file monthly production or injection reports on form C-115 and post the required financial assurance. Since the Order contains no such order, which is required under Section 70-2-14(B), the OCD does not have the authority to plug and abandon any of C & D's wells pursuant to Section 70-2-14(B).

8. Since the Order does not order C & D to plug and abandon any of its wells for non-compliance with OCD rules but yet authorizes the OCD to plug and abandon all of C & D's wells for C & D's non-compliance with the Order, the Division is asking that the Commission clarify the Order and order C & D to plug and abandon its wells by a date certain for its non-compliance with OCD rules, and in the event of C & D's non-compliance with the Order, authorize OCD to plug and abandon the wells and forfeit any applicable financial assurance.

WHEREFORE, for the foregoing reasons, the Division respectfully request that:

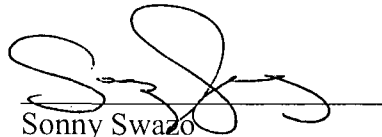
- (1) The Commission re-open the case to clarify the Order, and order C & D to plug and abandon its wells by a date certain for its non-compliance with OCD's reporting and financial assurance rules, and in the event of C & D's

non-compliance, authorize the OCD to plug and abandon the wells and forfeit any applicable financial assurance; and

(2) For any additional relief that the Commission deems appropriate.

Respectfully submitted

this 3rd day of March 2010 by

A handwritten signature in black ink, appearing to read 'Sonny Swazo', written over a horizontal line.

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CERTIFICATE OF SERVICE

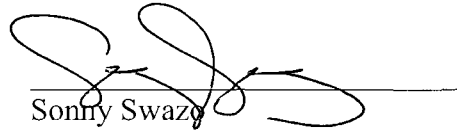
I hereby certify that a copy of the foregoing pleading was mailed and emailed to the following parties on this 3rd day of March, 2010.

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