

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

ORIGINAL

APPLICATION OF THE NEW MEXICO OIL  
CONSERVATION DIVISION FOR A  
COMPLIANCE ORDER AGAINST JACKIE  
BREWER D/B/A SANDLOTT ENERGY, EDDY  
COUNTY, NEW MEXICO

CASE NO. 14074

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TRANSCRIPT OF PROCEEDINGS  
Commission Meeting  
April 8, 2010  
9:07 a.m.  
1220 South St. Francis Drive, Room 102  
Santa Fe, New Mexico 87504

BEFORE: MARK FESMIRE, Chair  
JAMI BAILEY, Commissioner  
WILLIAM OLSON, Commissioner

ALSO PRESENT: FLORINE DAVIDSON, Secretary  
MARK SMITH, Counsel

A P P E A R A N C E S

For the Oil Conservation Division:

SONNY SWAZO  
Assistant General Counsel  
1220 South St. Francis  
Santa Fe, New Mexico 87504

1 MR. FESMIRE: The next order of  
2 business before the Commission is to address a  
3 stipulated order presented to the Commission in De  
4 Novo Case 14074, the Application of the New Mexico  
5 Oil Conservation Division for a Compliance Order  
6 against Jackie Brewer doing business as Sandlott  
7 Energy, Eddy County, New Mexico.

8 There is an attorney present in this  
9 case. Mr. Swazo, would you make your appearance on  
10 the record, please.

11 MR. SWAZO: Good morning. Sonny  
12 Swazo on behalf of the Oil Conservation Division.

13 MR. FESMIRE: And Mr. Swazo, would  
14 you like to present the stipulated order?

15 MR. SWAZO: Yes, I would.

16 MR. FESMIRE: Would you do so,  
17 please, sir?

18 MR. SWAZO: I would like to present  
19 the order. I have talked to the -- this is an  
20 agreement that the OCD, myself, and Gary Larson, the  
21 attorney for Sandlott, has entered into, and so we're  
22 presenting it to the Commission for its approval.

23 MR. FESMIRE: Okay. I understand  
24 that there is some questions from the commissioners.  
25 Commissioner Bailey?

1 MS. BAILEY: I have several  
2 questions.

3 MR. FESMIRE: Sure.

4 MS. BAILEY: In your conference with  
5 the attorney, were there any indications that the  
6 company would change their operations to prevent such  
7 contamination or need for remediation in the future?  
8 This case showed five years' worth of contamination  
9 at the ten well sites, and I was hoping that there  
10 was discussion concerning changes in the company's  
11 operations to prevent this in the future.

12 MR. SWAZO: Well, Mr. Larson  
13 represented to me that Sandlott was going to take  
14 these things more seriously, but I cannot speak as  
15 far as what types of actions that they have taken to  
16 prevent these types of situations from happening in  
17 the future.

18 MS. BAILEY: Okay. Is prevention of  
19 future occurrence any part of the discussions that  
20 you've had with the companies for these compliance  
21 orders?

22 MR. SWAZO: Yes, it is to a certain  
23 extent. In this situation, we decided to go ahead  
24 and just settle the case, even though Sandlott had  
25 not completed the remediation actions in accordance

1 with OCD rules by the deadline. In this case, it was  
2 simply a matter of, according to Mr. Larson, getting  
3 the paperwork in on time, and they did not get the  
4 paperwork in on time. And until we actually have the  
5 paperwork, then from our perspective, the releases  
6 have not been remediated.

7 Since we approved the paperwork that  
8 we got in late, the remediation that they reported in  
9 their paperwork, that became an issue with regard to  
10 this case, but we decided to just go ahead and settle  
11 it with Sandlott. We did discuss Sandlott's  
12 responsibilities towards any future releases, and  
13 Mr. Larson indicated that Sandlott would be -- would  
14 take any future releases seriously.

15 I have spoken to the district people,  
16 and they have indicated that there has been an  
17 improvement in the operations with this operator in  
18 terms of releases. The sites have been -- they  
19 haven't seen the sites as -- the sites haven't been  
20 in this good shape --

21 MR. FESMIRE: Ever.

22 MR. SWAZO: -- for a long time.

23 MS. BAILEY: Well, that's what I was  
24 hoping to hear was that there have been changes in  
25 the company's operations. That they would clean up

1 their act in the future. But you touched on another  
2 question that I had, and that was paragraph 13 where  
3 you make the distinction between remedial action not  
4 completed and remedial fieldwork.

5 Could you explain to me the  
6 differences in those two terms that you use  
7 separately here?

8 MR. SWAZO: Sure. Remedial fieldwork  
9 is simply the work that is involved in cleaning up  
10 the sites. Whereas the remedial actions, under our  
11 rules and also our guidelines, it entails the act of  
12 filing the appropriate paperwork with the district  
13 officials to make sure that the site is being  
14 properly remediated.

15 In this case, Sandlott had conducted  
16 the remedial fieldwork. They had done the physical  
17 part of the cleanup prior to the deadline that they  
18 had agreed to in their settlement agreement, but they  
19 never did file that paperwork by the deadline in  
20 their settlement agreement, and that was part of  
21 their settlement agreement. And I actually had to  
22 prod Mr. Larson concerning the status of the  
23 remediation, because until we actually get paperwork  
24 indicating -- showing us the type of remedial  
25 fieldwork that the operators did so that we can

1 review it, the site isn't remediated.

2 MS. BAILEY: Thank you for that  
3 clarification. I was just confused over what  
4 distinctions you made between those two terms. Those  
5 are all my questions.

6 MR. FESMIRE: Commissioner Olson, do  
7 you have any questions?

8 MR. OLSON: So the remedial action  
9 that you're referring to here are just they have to  
10 file all the paperwork as well to document that they  
11 actually completed the remedial fieldwork?

12 MR. SWAZO: Yes.

13 MR. OLSON: Okay.

14 MR. SWAZO: And that is part of our  
15 remediation guidelines.

16 MR. OLSON: Okay.

17 MR. FESMIRE: Mr. Swazo, so Sandlott  
18 is up to speed -- I mean is up to speed -- all ten of  
19 the locations are in compliance now; is that correct?

20 MR. SWAZO: At the time that this  
21 agreement was entered into, yes. They did have a  
22 subsequent release, but I believe that when I talked  
23 to district staff about that, that they were  
24 addressing that release properly. So they are up  
25 to -- we are satisfied with what they have done to

1 the sites.

2 MR. FESMIRE: Okay. And if my  
3 understanding is correct, we still waived the last  
4 three-quarters of the penalty, even though they did  
5 not do it timely. Is that specific to this case, or  
6 is that with respect -- sort of a deference to the  
7 Marbob decision?

8 MR. SWAZO: No, that's just we had an  
9 agreement, so the Marbob decision had no bearing on  
10 it, but in the interest of just putting this behind  
11 us and moving on, that's why we went ahead and just  
12 entered into the settlement agreement.

13 MR. FESMIRE: So Mr. Larson, Sandlott  
14 is a viable operator now and the properties are  
15 functioning adequately, and we brought one back from  
16 the brink, huh?

17 MR. SWAZO: At the time that we  
18 entered into this agreement, yes.

19 MR. FESMIRE: Okay. Commissioner  
20 Olson?

21 MR. OLSON: I just wondered how much  
22 they spent on the cleanups.

23 MR. SWAZO: I don't have that  
24 information. I'm not sure, but I know that it took a  
25 considerable amount of time, and I really think that



1 this case could have been behind us a long time ago,  
2 but I don't know the answer to that question.

3 MR. FESMIRE: Ms. Bailey? Mr. Olson?  
4 At this time, the chair would entertain a motion from  
5 the Commission to either adopt or reject the  
6 stipulated order presented.

7 MS. BAILEY: I move that we adopt the  
8 order as presented.

9 MR. OLSON: Second.

10 MR. FESMIRE: All of those in favor  
11 signify by saying aye.

12 MS. BAILEY: Aye.

13 MR. OLSON: Aye.

14 MR. FESMIRE: Aye. Let the record  
15 reflect that the Commission has unanimously adopted  
16 the order. It will be signed by the commissioners  
17 and transmitted to the secretary for recording. Mr.  
18 Swazo, thank you very much.

19 MR. SWAZO: Thank you.

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## REPORTER'S CERTIFICATE

I, CONNIE JURADO, do hereby certify that I reported the foregoing case in stenographic shorthand and transcribed, or had the same transcribed under my supervision and direction, the foregoing matter and that the same is a true and correct record of the proceedings had at the time and place.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this 8th day of April, 2010.



Connie Jurado, CCR, RPR  
New Mexico CCR No. 254  
Expires: December 31, 2010