

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

**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
FOR THE PURPOSE OF CONSIDERING:**

Case No. 13100 *de novo*

**APPLICATION OF THE FRUITLAND COALBED
METHANE STUDY COMMITTEE TO AMEND
RULES 4 AND 7 OF THE SPECIAL RULES AND
REGULATIONS FOR THE BASIN-FRUITLAND
COAL (GAS) POOL IN SECTIONS 17 AND 18,
TOWNSHIP 30 NORTH, RANGE 14 WEST, AND
THE S/2 OF SECTION 13, THE S/2 OF SECTION 14,
AND SECTIONS 23, 24, 25, 26 AND 35,
TOWNSHIP 30 NORTH, RANGE 15 WEST, N.M.P.M.,
SAN JUAN COUNTY, NEW MEXICO.**

RECEIVED
APR 20 2004
Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

SAN JUAN COAL COMPANY'S MOTION TO WITHDRAW OR DISMISS

San Juan Coal Company ("San Juan") requests the Oil Conservation Commission to permit the withdrawal of San Juan's appeal of the decision of the Oil Conservation Division in the proceedings below, or to dismiss the appeal. The grounds for this request are that Dugan Production Corporation ("Dugan"), the Bureau of Land Management, and San Juan have reached an amicable settlement concerning the matters raised by this proceeding. Consequently, San Juan requests that the withdrawal or dismissal be with prejudice as to Dugan. In light of the pending proceedings in Commission Case No. 12734 (*de novo*), presently on review by the Secretary of the Energy, Minerals, and Natural Resources Department, and any related appeal that might arise therefrom, the dismissal of this proceeding should have no precedential, *res judicata*, collateral estoppel, or other effect on the positions that San Juan has asserted in those proceedings, or any similar proceedings involving parties other than Dugan. Counsel for Dugan

concurs in this motion. A proposed form of order is attached hereto for the Commission's consideration and use.

Respectfully Submitted,

By: 

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(505) 982-2043

-and-

Charles E. Roybal
San Juan Coal Company
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ATTORNEYS FOR SAN JUAN COAL
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record via first class mail this 20th day of April, 2004:

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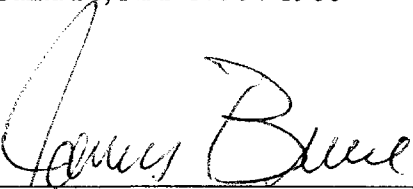
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ORDER GRANTING MOTION TO WITHDRAW OR DISMISS

This matter came before the Oil Conservation Commission on San Juan Coal Company's Motion to Withdraw or Dismiss. The Commission finds that the Motion is well founded and should be granted. Therefore, the Commission orders that this appeal is dismissed with prejudice as to Dugan Production Corporation, due to the settlement reached between Dugan Production Corporation and San Juan Coal Company. This Order shall have no precedential, *res judicata*, collateral estoppel, or other effect on the positions asserted by San Juan Coal Company in Commission Case No. 12734 (*de novo*), or any related review or appeals that may arise therefrom, or any similar proceedings involving parties other than Dugan Production Corporation.

APPROVED:

By: Approved by telephone 4/19/04 *AB*
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Edmund H. Kendrick
Attorneys for Dugan Production Corporation

By: *James Bruce*
Larry P. Ausherman
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