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## STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

## OIL CONSERVATION COMMISSION

ORIGINAL

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

APPLICATION OF THE NEW MEXICO OIL  
CONSERVATION COMMISSION FOR REPEAL OF  
EXISTING RULES

CASE NO. 14180

APPLICATION OF THE NEW MEXICO OIL  
CONSERVATION DIVISION FOR A COMPLIANCE  
ORDER AGAINST JACKIE BREWER, d/b/a  
SANDLOTT ENERGY

CASE NO. 14074

REPORTER'S TRANSCRIPT OF PROCEEDINGSCOMMISSIONER HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN  
JAMI BAILEY, COMMISSIONER  
WILLIAM C. OLSON, COMMISSIONER

November 7, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico  
Oil Conservation Commission, MARK E. FESMIRE, Chairman, on  
Friday, November 7, 2008, at the New Mexico Energy, Minerals  
and Natural Resources Department, 1220 South Saint Francis  
Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

PAUL BACA PROFESSIONAL COURT REPORTERS

500 4th Street, NW, Suite 105, Albuquerque, NM 87102

## A P P E A R A N C E S

## FOR THE APPLICANT:

Sonny Swazo, Esq.  
ASSISTANT GENERAL COUNSEL  
1220 South Saint Frances Drive  
Santa Fe, New Mexico 87505

## FOR THE RESPONDENT:

Gary W. Larson, Esq.  
HINKLE, HENSLEY, SHANOR & MARTIN, LLP  
218 Montezuma  
Santa Fe, New Mexico 87504

## FOR THE COMMISSION:

Cheryl Bada, Esq.

1 CHAIRMAN FESMIRE: At this time, we will call the  
2 Friday, November 7th, 2008, special meeting of the New Mexico  
3 Oil and Gas Conservation Commission to order.

4 Let the record reflect that Commissioners Bailey,  
5 Olson, and Fesmire are all present and, therefore, there is a  
6 quorum present, and the Commission is capable of transacting  
7 business.

8 This is, again, a special meeting that was called to  
9 address two issues: The continuation of Case No. 14180 and Case  
10 No. 14074.

11 At this time, we will take up the first order of  
12 business on the docket, Case No. 14180. It is the Application  
13 of the Oil Conservation Commission for Repeal of Existing Rules  
14 19.15.1 through 19.15.15 NMAC; adoption of new Rules 19.15.2  
15 through 19.15.16 NMAC; 19.15.18 through 19.15.26 NMAC; 19.15.29  
16 and 19.15.30 NMAC; 19.15.34 through 19.15.37 NMAC; and,  
17 19.15.39 NMAC and amending 19.15.17 and 19.15.36 NMAC, to make  
18 conforming changes Statewide.

19 At this time, are there -- we'll take an entry of  
20 appearance for any attorney present for that case. Seeing  
21 none, we will continue. Have the Commissioners had the chance  
22 to examine the order and attachments presented by counsel in  
23 this case?

24 COMMISSIONER BAILEY: Yes, I have, and I commend the  
25 OCD for undertaking this massive work.

1           COMMISSIONER OLSON: I'll agree with Commissioner  
2 Bailey. This was something that was needed to kind of  
3 reorganize and make things a little simpler for the average  
4 person to be able to follow through on the regulations. So I  
5 commend the Division for all their work on this as well,  
6 especially the counsel on this for preparing all this.

7           CHAIRMAN FESMIRE: And the Chair agrees with the  
8 statement of both Commissioners, and at this time, would  
9 entertain a motion to adopt the order as presented by counsel.

10          COMMISSIONER BAILEY: I so move.

11          COMMISSIONER OLSON: Second.

12          CHAIRMAN FESMIRE: All those in favor of adopting the  
13 order as presented by counsel, signify by saying "aye."

14          COMMISSIONER BAILEY: Aye.

15          COMMISSIONER OLSON: Aye.

16          CHAIRMAN FESMIRE: Aye. Let the record reflect that  
17 the order was unanimously adopted and will be signed and  
18 transmitted to the secretary.

19               The record should reflect that the order has been  
20 signed by all three Commissioners and transmitted to the  
21 secretary.

22                               \* \* \*

23          CHAIRMAN FESMIRE: The next order of business before  
24 the Commission is Case No. 14074, the de novo Application of  
25 the New Mexico Oil Conservation Division for a Compliance Order

1 against Jackie Brewer, d/b/a Sandlott Energy. Would the  
2 attorneys present please enter their appearances?

3 MR. SWAZO: Sonny Swazo on behalf of the Oil  
4 Conservation Division.

5 MR. LARSON: Larry Larson of the Santa Fe office of  
6 Hinkle, Hensley, Shanor and Martin for Jackie Brewer, d/b/a  
7 Sandlott Energy.

8 CHAIRMAN FESMIRE: Mr. Swazo, I understand you have  
9 an announcement for the Commission.

10 MR. SWAZO: Yes. Thank you, Mr. Chair. We have  
11 entered into a stipulated order and settlement agreement in  
12 this case. The terms of the settlement order are that  
13 Mr. Brewer -- is that the operator remediate the pollution at  
14 the ten well sites that are the subject of this compliance  
15 action by May 7th, 2009.

16 We have entered into an agreement whereby operator  
17 will pay a \$12,000 penalty by November, I believe, 21st of  
18 2008. He's also agreed to the imposition of \$48,000, which  
19 \$12,000 is part of this civil penalty. We have agreed, the OCD  
20 has agreed, to waive the \$36,000 portion of the \$48,000 civil  
21 penalty on the condition that the operator has these sites  
22 remediated by May 7th, 2008.

23 One thing that I would like to ask the Commission to  
24 do in this case is I'd like to have this case put on the  
25 Commission's -- on the first docket after the May 7th deadline

1 to see exactly where we stand in this case and to make sure  
2 that the operator has properly remediated these sites.

3 Oh, yes, in the agreement, the operator has agreed to  
4 allow the OCD to plug and abandon these wells the forfeit the  
5 applicable financial assurance if he does not meet the  
6 remediation deadline of May 7th, 2009.

7 CHAIRMAN FESMIRE: Mr. Swazo, that's Stipulation 18  
8 in the order? Is that -- is it my understanding that the  
9 Division and Mr. Brewer have agreed that no further action will  
10 be necessary to forfeit the \$50,000 if he does not comply with  
11 the requirements in the order?

12 MR. SWAZO: Yes.

13 CHAIRMAN FESMIRE: Mr. Larson, is that your  
14 understanding?

15 MR. LARSON: Yes, Mr. Chairman.

16 CHAIRMAN FESMIRE: Mr. Swazo, continue. I'm sorry I  
17 interrupted you.

18 MR. SWAZO: I think that's it. I think I got  
19 everything.

20 CHAIRMAN FESMIRE: Okay. Mr. Larson, did you have  
21 anything to add?

22 MR. LARSON: I agree with Mr. Swazo's  
23 characterization of the terms of the order.

24 CHAIRMAN FESMIRE: And I notice that the agreed --  
25 that the settlement agreement has been signed by both Mr.

1 Brewer and Mr. Swazo, and that you're asking the Commission  
2 today to ratify that agreement the make it part of the  
3 Commission record.

4 MR. LARSON: That's correct, Mr. Chairman.

5 CHAIRMAN FESMIRE: Have the Commissioners had a  
6 chance to review the stipulated order and settlement agreement  
7 in Case 14074?

8 COMMISSIONER BAILEY: Yes, I have, and I agree that  
9 this is a reasonable solution.

10 CHAIRMAN FESMIRE: Commissioner Olson, have you had a  
11 chance to review it?

12 COMMISSIONER OLSON: Yes, I have, and I'll just say  
13 that I'm glad that the parties were able to reach some  
14 agreement in this matter and to resolve this without the  
15 Commission having to take action on it.

16 CHAIRMAN FESMIRE: Counsel Bada, is there anything  
17 that you need to add before the Commission today?

18 MS. BADA: No. Just a motion to adopt the stipulated  
19 order.

20 MR. SWAZO: Mr. Chair, if I may interrupt for a  
21 minute. I may have said 2008. I'd like to clarify the record.  
22 It is May 7th, 2009.

23 CHAIRMAN FESMIRE: Mr. Swazo, does the order include  
24 anything about placing it on the first docket after the May 7th  
25 deadline?

1 MR. SWAZO: No, it does not.

2 CHAIRMAN FESMIRE: So that will take an independent  
3 action by the Chair; is that correct?

4 MR. SWAZO: That's fine.

5 CHAIRMAN FESMIRE: At this time, the Chair would  
6 entertain a motion to adopt the stipulated order and settlement  
7 agreement as presented by counsel.

8 COMMISSIONER BAILEY: I so move.

9 COMMISSIONER OLSON: I just have a question. Do we,  
10 since this is an agreement between the parties, isn't the case  
11 moot, then?

12 MS. BADA: Not if they're submitting a stipulated  
13 order. If they just had a settlement agreement to dismiss the  
14 case, then it would be --

15 COMMISSIONER OLSON: So we have to also approve the  
16 stipulated order?

17 MS. BADA: Yes.

18 COMMISSIONER OLSON: Okay.

19 COMMISSIONER BAILEY: I so move.

20 COMMISSIONER OLSON: Second.

21 CHAIRMAN FESMIRE: All those in favor signify by  
22 saying "aye."

23 COMMISSIONER BAILEY: Aye.

24 COMMISSIONER OLSON: Aye.

25 CHAIRMAN FESMIRE: Aye.

1           The record should reflect that the Commissioners  
2 voted unanimously to adopt the stipulated order and settlement  
3 agreement. It will be signed and transmitted to the secretary.

4           The record should reflect that the stipulated order  
5 and settlement agreement has been signed by all three  
6 Commissioners and transmitted to the secretary.

7           Is there any further action before the Commission  
8 today?

9           COMMISSIONER BAILEY: No.

10          CHAIRMAN FESMIRE: Commissioner Olson?

11          COMMISSIONER OLSON: No.

12          CHAIRMAN FESMIRE: At this time, the Chair would  
13 entertain a motion to adjourn.

14          COMMISSIONER BAILEY: I move we adjourn.

15          COMMISSIONER OLSON: Second.

16          CHAIRMAN FESMIRE: All those in favor signify by  
17 saying "aye."

18          COMMISSIONER BAILEY: Aye.

19          COMMISSIONER OLSON: Aye.

20          CHAIRMAN FESMIRE: Aye.

21          The meeting is adjourned at 10:22 a.m.

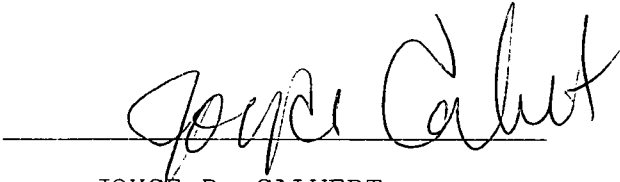
22                   \* \* \*

1  
2 **REPORTER'S CERTIFICATE**  
3

4 I, JOYCE D. CALVERT, Provisional Court Reporter for  
5 the State of New Mexico, do hereby certify that I reported the  
6 foregoing proceedings in stenographic shorthand and that the  
7 foregoing pages are a true and correct transcript of those  
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9 supervision.

10 I FURTHER CERTIFY that I am neither employed by nor  
11 related to any of the parties or attorneys in this case and  
12 that I have no interest in the final disposition of this  
13 proceeding.


14 DATED this 7th day of November, 2008.  
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11               Dated at Albuquerque, New Mexico, 7th day of  
12       November, 2008.

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