

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER AGAINST JACKIE BREWER D/B/A SANDLOTT ENERGY, FINDING THAT OPERATOR KNOWINGLY AND WILLFULLY VIOLATED RULE 19.15.3.116 NMAC; ORDERING OPERATOR TO RETURN WELLS TO COMPLIANCE BY A DATE CERTAIN; ORDERING OPERATOR TO PLUG THE WELLS AND AUTHORIZING THE DIVISION TO PLUG THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE IF OPERATOR FAILS TO COMPLY WITH THE ORDER; ASSESSING PENALTIES; EDDY COUNTY, NEW MEXICO.

CASE NO. 14074

JACKIE BREWER, D/B/A SANDLOTT ENERGY'S MOTION FOR STAY

Pursuant to 19.15.4.23(B) NMAC, Jackie Brewer, d/b/a Sandlott Energy ("Brewer") moves the Commission to enter an order staying any enforcement of Order No. R-12961-B by the Division during the pendency of Brewer's contemporaneously filed motion under 19.15.5.9(D)(3) NMAC, which requests a declaration by the Commission that Order No. R-12961-B has been satisfied. In support of his motion, Brewer states:

1. Order No. R-12961-B is a Settlement Agreement and Stipulated Final Order that was approved by the Commission. The Order: (1) requires Brewer to (a) immediately pay \$12,000 of the \$48,000 civil penalty assessed by the Division Director in Order No. R-12961, and (b) complete environmental remediation at ten of his well sites by May 7, 2009; and (2) defers payment of the remaining penalty amount, contingent upon Brewer timely completing the required remedial action. The Order further provides that: (1) if Brewer does not timely complete the remedial action, he would have to immediately pay the remaining \$36,000 penalty amount and plug and abandon the wells; and (2) if Brewer does not plug the wells by that date,

the Division would be authorized to plug and abandon the wells and forfeit Brewer's \$50,000 blanket plugging bond issued by RLI Insurance ("RLI").

2. As explained in greater detail in his motion for declaratory relief, Brewer contends that Order No. R-12961-B has been satisfied because he successfully completed all of the required environmental remediation at the ten well sites prior to the May 7, 2009 deadline. The Division's District 2 office has agreed with the conclusions of Brewer's environmental consultant that all of the required environmental remediation was successfully completed, and that no further remedial action by Brewer is required.

3. Nevertheless, the Division believes that Brewer has violated Order No. R-12961-B. Consequently, the Division has placed the ten wells on its plugging list and is demanding that Brewer pay the deferred \$36,000 penalty amount.

4. In reliance on the Division's representations that Brewer has violated Order No. R-12961-B, RLI has deemed Brewer to be in default and has demanded that Brewer tender a \$25,000 to RLI payment no later than October 9, 2009.

5. While Brewer and the Division have staked out differing positions with regard to the issue of Brewer's compliance with Order No. R-12961-B, there can be no question that Brewer will suffer significant economic injuries if the Division proceeds with its enforcement actions and RLI continues to demand a cash payment from Brewer.

6. Accordingly, Brewer requests that the Commission stay any further enforcement action by the Division under Order No. R-12961-B until the Commission rules on Brewer's motion for declaratory relief. Entry of an order staying the Division's enforcement efforts is

necessary to prevent severe economic consequences to Brewer. The Division will not be prejudiced in any way if the Commission enters a stay.

7. A proposed Order Staying Division Enforcement of Order No. R-12961-B is attached hereto as Exhibit A.

WHEREFORE, Brewer respectfully requests that the Commission grant his motion and enter an order staying any further Division enforcement action pursuant to Order No. R-12961-B until the Commission rules on Brewer's pending motion for declaratory relief.

Respectfully submitted,

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Attorneys for Jackie Brewer, d/b/a Sandlott Energy

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Jackie Brewer, d/b/a Sandlott Energy's Motion for Stay* was mailed this 8th day of October 2009 to:

Sonny Swazo, Esq.
Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505


Gary W. Larson

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CASE NO. 14074

**ORDER STAYING DIVISION
ENFORCEMENT OF ORDER NO. R-12961-B**

THIS MATTER came before the Commission on the motion of Jackie Brewer, d/b/a Sandlott Energy ("Brewer"), to stay any enforcement action by the Division under Order No. R-12961-B until the Commission rules on Brewer's pending motion for declaratory relief pursuant to 19.15.5.9(D)(3) NMAC.

Having reviewed Brewer's motion, and being otherwise fully advised, the Commission finds that the motion for a stay is well taken and should be granted.

IT IS THEREFORE ORDERED that any enforcement action by the Division under Order No. R-12961-B is hereby stayed pending the outcome of Brewer's motion for declaratory relief.

Done on the ____ day of October, 2009 in Santa Fe, New Mexico.