

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

**RECEIVED**

MAY 21 2003

Oil Conservation Division

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

**Case No. 12888**

**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 AND  
FOR THE TERMINATION OF THE CEDAR HILL-FRUITLAND  
BASAL COAL POOL AND THE CONCOMITANT EXPANSION  
OF THE BASIN-FRUITLAND COAL(GAS) POOL, RIO ARRIBA,  
SAN JUAN, MCKINLEY AND SANDOVAL COUNTIES, NEW MEXICO.**

**MOTION OF SAN JUAN COAL COMPANY TO  
INCORPORATE RECORD OR TO BIFURCATE**

San Juan Coal Company ("SJCC") moves the Oil Conservation Commission ("Commission") to incorporate in this proceeding the record in Commission Case No. 12734, consisting of the record before the Secretary of the Energy, Minerals and Natural Resources Department (this record includes both the transcripts, exhibits and filings both before the Commission and before the Secretary) ("Record"). If the Record is not incorporated, SJCC moves separately to bifurcate the hearing so that the conflict between coal development and coal bed methane ("CBM") is heard separately from the other evidence in this proceeding.

As grounds for this Motion, SJCC states:

1. Incorporation of the Record here will streamline the hearing in this matter by obviating the need to present certain testimony in this proceeding that was presented in proceedings before the Commission and Secretary in Case No. 12734. Streamlining the hearing in this manner will promote administrative efficiency and economy. For example, in Case No.

12734, SJCC presented evidence describing (1) the lands and leases associated with SJCC's underground mine; (2) the longwall mining process; (3) the public interests served in royalty revenue generated by SJCC's underground mine; (4) the risks of gas development to SJCC's underground mine; and (5) the comparative values of the CBM and coal resources within the mine area.

2. If the Record is incorporated, SJCC's estimates that it would reduce significantly the time, witnesses, and exhibits of its remaining presentation. If the Record is incorporated here, SJCC would present only one or two witnesses, and it now estimates that the testimony of those would be scaled back to a total of less than one hour of direct testimony. Dan Smith may build upon his testimony to focus specifically on Dugan Production Corporation's wells, which were not at issue in Case No. 12734. An SJCC witness, probably John Mercier or Steve Bessinger, may testify about SJCC's experience since the February 10-11, 2003 hearing before the Secretary in Case No. 12734 with gob vent boreholes and horizontal drilling, both of which are potential means to limit waste.

3. The Record also contains evidence presented by Richardson Operating Company that Dugan Production Corporation ("Dugan") could utilize here. Dugan participated in Case No. 12734 by filing statements in support of infill drilling. A Dugan representative attended significant amounts of the Commission hearings in Case No. 12734.

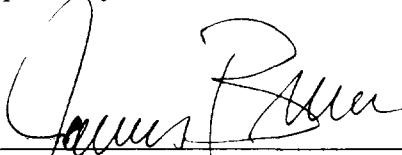
4. The issues surrounding the coal/CBM conflict in the mine area are quite distinct from the issues of concern to the other hearing participants here. For example, SJCC has expressly made clear in its November 14, 2002 Application for Hearing *De Novo* that its Application concerns only certain lands within its mine lease. It does not take a position on the other lands outside the mine area that are of concern to other participants in the hearing.

5. Precedent exists in this proceeding for incorporation of the record. In the OCD Basinwide hearing from which this *De Novo* review is taken, the OCD record in Case No. 12734 was incorporated at SJCC's request. SJCC's requested approach here is quite similar to that adopted previously by the OCD.

6. If the Record is not incorporated and SJCC is required to present all of its witnesses and evidence, SJCC estimates that it would take approximately two days to present the coal/CBM conflict case. There is not adequate time in the schedule contained in the Commission's Pre-Hearing Order of May 9, 2003, and SJCC would request that the hearing should be bifurcated.

SJCC respectfully requests that the Record in Case No. 12734 be incorporated here in its entirety, or if not, that the hearing be bifurcated to allow the coal vs. CBM dispute to be heard for at least two days at another time.

Respectfully Submitted,

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**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 21<sup>st</sup> day of May, 2003.

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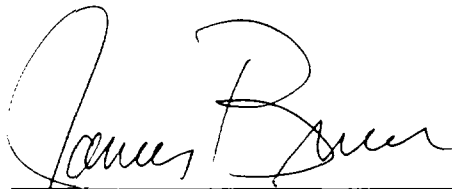
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