

 **ENTERED**

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

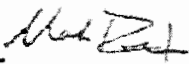
COURT OF APPEALS OF NEW MEXICO  
FILED

WESTERN REFINING SOUTHWEST, INC.

JAN 03 2017

Appellant,

v.

Ct. App. No. 33,365 

NEW MEXICO ENVIRONMENT  
DEPARTMENT,

Appellee,

WESTERN REFINING SOUTHWEST INC.  
APPLICATION FOR A RENEWED HAZARDOUS  
WASTE POST-CLOSURE CARE PERMIT UNDER  
THE NEW MEXICO HAZARDOUS WASTE ACT  
EPA. NO. NMD 000333211

No. HWB-WRG-10-008

**JOINT MOTION FOR A REMAND AND FOR STAY OF APPELLATE  
PROCEEDINGS**

Pursuant to Rule 20-309 NMRA, Appellant Western Refining Southwest, Inc. (“Western”) and Appellee New Mexico Environment Department (“NMED”) (collectively the “parties”), hereby respectfully request that the Court grant the instant Motion remanding this matter to the Secretary of Environment of the NMED, and staying this appellate proceeding. In support of this agreed motion, the parties state the following:

1. On March 23 and 24, 2015, and subsequently thereafter, the parties engaged in a mediation in this appeal, which resulted in a Settlement Agreement between the parties, which is attached hereto.

2. The Settlement Agreement establishes a series of actions to be performed by the respective parties by specified deadlines, including a requirement that Western move to dismiss this appeal with prejudice, as provided in paragraph 10 of the Settlement Agreement, upon timely completion by the parties of certain of the required actions.

3. The Settlement Agreement also requires the parties to file this Joint Motion. A remand is necessary to bring the Settlement Agreement before the Secretary of Environment so that a Final Order approving the Settlement Agreement may be issued. A stay is necessary in order to allow the parties the time needed to comply with the required actions leading to the dismissal of this appeal without unnecessarily expending resources of this Court and the parties.

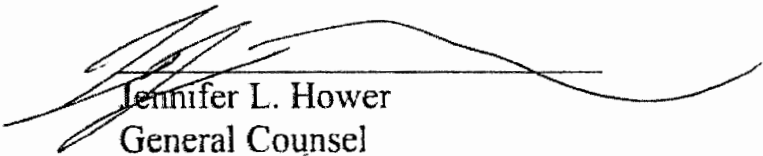
4. The parties request the stay remain in place until such time as either: (i) the parties jointly move to lift the stay based on their representation to the Court that the conditions precedent established under the Settlement Agreement for dismissal of the appeal have been satisfied; or (ii) either of the parties moves to lift the stay based on its representation to the Court that a breach of the Settlement Agreement resulting in a failure of the conditions precedent for the dismissal has occurred.

5. The parties estimate that the prerequisites in the Settlement Agreement to be satisfied prior to the filing of a Joint Motion to lift the stay and motion for dismissal of this appeal with prejudice will take approximately 150 calendar days from the date that the Court grants this Joint Motion.

6. Until such time as either or both of the parties move to lift the stay, the parties will provide the Court's appellate mediator, Mr. Robert Rambo, with status reports every ninety (90) days. The first such status report shall be due ninety (90) days following the date that the Court grants this Joint Motion.

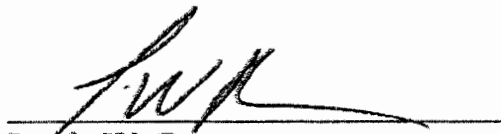
WHEREFORE, the parties respectfully request that the Court grant this Joint Motion.

Respectfully submitted,



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*Attorneys for Western Refining Southwest,  
Inc.*

MOTION GRANTED. MANDATE SHALL ISSUE FORTHWITH.

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COURT OF APPEALS JUDGE

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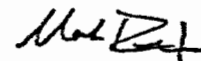
Ct. App. No. ~~23,365~~

NEW MEXICO ENVIRONMENT  
DEPARTMENT,

COURT OF APPEALS OF NEW MEXICO  
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Appellee,

JAN 03 2017



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~~Tom M. [unclear]~~  
 M. Monica Zama 1/10/17  
 [unclear] 1/10/17