

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

**IN THE MATTER OF THE PROCEEDING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF CONSIDERING:**

**REQUEST OF GANDY CORPORATION
FOR AN EMERGENCY ORDER TO OPERATE**

**CASE NO. 13293
ORDER NO. R-12161**

ORDER

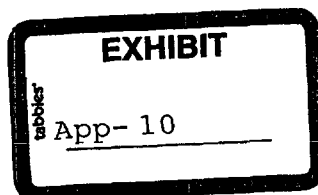
BY THE DIVISION:

This matter came on for decision before the Director of the Oil Conservation Division on July 1, 2004, upon the request of Gandy Corporation ("Gandy") for an emergency order allowing the operation of salt water disposal well State "T" Well No. 2 (API NO. 30-025-03735, located 4,290 feet from the South line and 500 feet from the West line, Lot 12, Section 6, Township 16 South, Range 36 East) until a determination is made by the Hearing Examiner on Gandy's application to amend the current permit.

NOW, on this 1st day of July, 2004, the Division Director, having considered the request, the response filed by DKD, LLC, and the file in this case,

FINDS THAT:

- (1) The Oil Conservation Division ("Division") has jurisdiction over this case and its subject matter.
- (2) Gandy Corporation ("Gandy"), OGRID 8426, is the operator of record of a commercial salt water disposal well, State "T" Well No. 2, API No. 30-025-03735, located 4290 FSL, 500 FWL, Unit L, Section 6, Township 16 South, Range 36 East, NMPM in Lea County, New Mexico (hereinafter the "subject well").
- (3) The subject well is permitted for injection pursuant to 19.15.9.701 NMAC under Commission Order No. R-11855-B. The permit provides for an injection interval from 6,000 to 6,400 feet.
- (4) According to Division records, the subject well was perforated from 4,810 to 6,880 feet.
- (5) On May 3, 2004, Cabinet Secretary Joanna Prukop, Acting Director, notified Gandy that the subject well was in violation of the permit, Commission Order No. R-11855-B and Division rules, and ordered Gandy to cease injection into the subject well until such time as



a. all perforation depths not permitted under Commission Order No. R-11855-B are squeezed off to the satisfaction of the Division's District I office, or

b. Gandy obtains an approved permit from the Division for injection into depths already perforated.

(6) Gandy has applied for a permit to inject into the depths already perforated. DKD, LLC has protested the application. The application is currently set for hearing July 8, 2004.

(7) According to a letter from Gandy's attorney, received by the Division's District I office on June 24, 2004, Gandy has continued to operate the subject well pending approval of its application. The letter states that on or about May 3, 2004, Gandy received verbal permission from the District I office to operate the subject well.

(8) By letter dated June 29, 2004, the Division attorney notified Gandy and its attorney that the districts do not have the authority to override a directive issued by the Cabinet Secretary or Division Director, and informed Gandy that continued injection outside the zone allowed by the applicable injection permit constitutes injection without a permit, in violation of Division rule 701 [19.15.9.701 NMAC].

(9) According to a letter dated June 30, 2004 from Gandy to the Supervisor of the Division's District I office, Gandy ceased its operations at the subject well after receiving the Division's June 29, 2004 letter.

(10) On June 30, 2004, Gandy filed a written request for an emergency order allowing it to operate the subject well. In support of its request, Gandy presented

a. a letter from the attorney for DKD, LLC, dated June 21, 2004 requesting a continuance of the original June 24, 2004 hearing date on the application, stating that it did not appear that Gandy would be prejudiced by a continuance because it was operating the subject well pending the hearing;

b. a letter from Gandy's technical consultants outlining the testimony they intend to present at the hearing on the application; and

c. a letter from Gandy stating that its clients would suffer hardship if Gandy shut in the subject well pending the hearing on the application.

(11) On June 30, 2004, DKD, LLC filed a response opposing Gandy's request for an emergency order on the following grounds:

a. DKD, LLC protested Gandy's original application to use the subject well for injection, and has protested Gandy's pending application for an amendment to the permit;

b. records provided by Gandy to the Division appear to show that the casing of the subject well was intentionally perforated for injection purposes three times, and over 1390 feet, above the injection interval authorized by the permit, and three times, and over 680 feet, below the injection interval authorized by the permit. In addition, the packer was set at approximately 1200 feet above the depth required by the permit.

c. at the time DKD LLC filed its request for continuance, indicating that Gandy would not be prejudiced by the grant of a continuance, DKD LLC was not aware that the Division had issued an emergency order requiring Gandy to shut in the subject well pending the hearing on the application for an amendment to the permit;

d. upon information and belief, Gandy accepted over 10 deliveries of salt water for injection after receiving the Division's June 29, 2004 letter informing Gandy that continued injection would be in violation of the permit.

(12) The records in this case indicate that there are substantial issues to be addressed at hearing regarding whether Gandy's application for an amendment to the permit shall be granted, including but not limited to issues involving the prevention of waste, protection of correlative rights, and the protection of the environment.

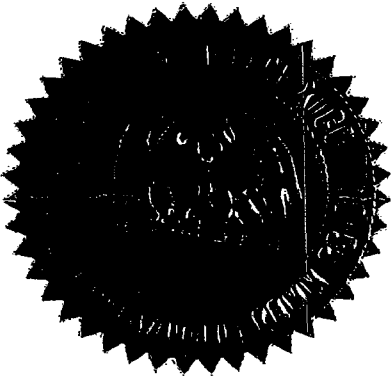
(13) Gandy has not demonstrated an emergency requiring the issuance of an order without a hearing allowing Gandy to operate the subject well in violation of the applicable permit pending a determination by the Hearing Examiner on Gandy's application to amend the current permit.

IT IS THEREFORE ORDERED THAT:

(1) Gandy Corporation's request for an emergency order allowing it to operate salt water disposal well State "T" Well No. 2 (API NO. 30-025-03735) until a determination is made by the Hearing Examiner on Gandy's application to amend the current permit is denied.

(2) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director