

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

JUN 30 2004

APPLICATION OF GANDY CORPORATION
FOR APPROVAL OF A SALT WATER
DISPOSAL WELL, LEA COUNTY, NEW
MEXICO.

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

CASE NO. 13293

**DKD, LLC's RESPONSE TO
REQUEST FOR EMERGENCY ORDER TO OPERATE**

DKD, LLC, by and through counsel, responds to the Gandy Corporation Request for Emergency Order to Operate filed by facsimile on June 30, 2004 as follows:

1. DKD, LLC opposes Gandy Corporation's (Gandy's) Request for an Emergency Order to Operate.

2. In the letter to the Director of the Division, filed by hand delivery on May 25, 2004, DKD, LLC specifically stated its objection to the relief requested by Gandy in this case. In particular, in the May 25, 2004 letter, DKD specifically stated that "despite the fact that issue of the interval into which the Applicant in Case No. 12095 may inject was specifically raised and ruled upon by the Commission (*See* Order R-11855-B at 3, ¶ 9), the enclosed Application seeks authority to inject into an interval greater than that considered and authorized by the Commission."

3. In addition, in the Administrative Order at issue in this case, the Division specifically authorized injection from 6000 to 6200 feet, and required that a packer be set at 5950 feet (*See* Administrative Order No. SWD-836, issued April 30, 2002 at 2, *rescinded* by Order No. R-11855 (issued October 28, 2002, *reinstated* by Order No. R-11855-B (issued May 15, 2003)). Despite those requirements, it appears from the August 19, 2003 C-103 report filed by Pronghorn Management with the Division in this case that the casing of the well at issue was intentionally

perforated for injection purposes three times, and over 1390 feet, above the injection interval authorized by the Division in Order No. SWD-836, and three times, and over 680 feet below the injection interval authorized by the Division. (See C-103, August 19, 2003, at 2, item 15). Moreover, the packer was set at approximately 4750 feet, approximately 1200 feet above over the Division's requirement that the packer be set at 5950 feet.

4. In its June 21 request for a continuance, DKD, LLC stated that "[i]t does not appear that the Applicant will be prejudiced by the requested extension because the salt water disposal well at issue is currently in use pursuant to NMOCD Order No. R-11855-B." However, at that time, DKD, LLC was unaware of the May 3, 2004 Emergency Shut-In Order, and still does not have a copy of that Order.

5. The copy of the June 29, 2004 letter from Gail MacQuesten, Esq. filed with Gandy's Request for Emergency Order indicates that it was provided to counsel for Gandy at approximately 8:25 a.m. on Tuesday, June 29 (See Exhibit 4 to Gandy's Request, at 1, fax date/time line). Upon information and belief, DKD, LLC alleges that since that time, there were over 10 deliveries of salt water for injection to the Applicant's facilities. DKD, LLC will provide testimony and evidence supporting this allegation at the July 8, 2004 hearing. In partial support of that position, DKD, LLC submits Exhibits A, B, and C hereto, which are pictures taken on June 29, 2004, depicting at least three trucks which appear to be unloading salt water for injection.

6. The Applicant's compliance with the Division's rules and regulations is at the heart of this case. It appears that Order No. SWD-836 was wilfully violated by perforating over 2000 feet of interval over that authorized by the Division, and setting the packer 1200 feet above where

it was ordered to be set by the Division. Moreover, the Applicant informally, and without notice to any potentially affected party, apparently sought and obtained verbal approval to violate the Acting Director's May 3, 2004 Emergency Order requiring the Applicant to cease operations. Finally, even after the June 29, 2004 letter from counsel from the Division clarifying that the verbal approval was ineffective was received by counsel for the Applicant, the Applicant accepted at least 10 loads of salt water.

Therefore, DKD, LLC, requests that Gandy's Request for Emergency Order to Operate be denied, and that this matter be heard on the merits as scheduled on July 8, 2004.

MONTGOMERY & ANDREWS, P.A.

By



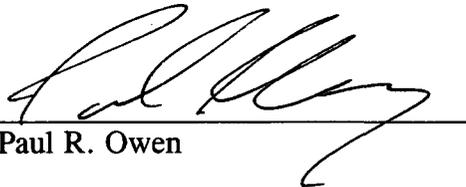
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ATTORNEY FOR DKD, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 21 day of June, 2004, I have caused a copy of the foregoing pleading in the above-captioned case to be served via facsimile and U.S. Mail upon the following named parties:

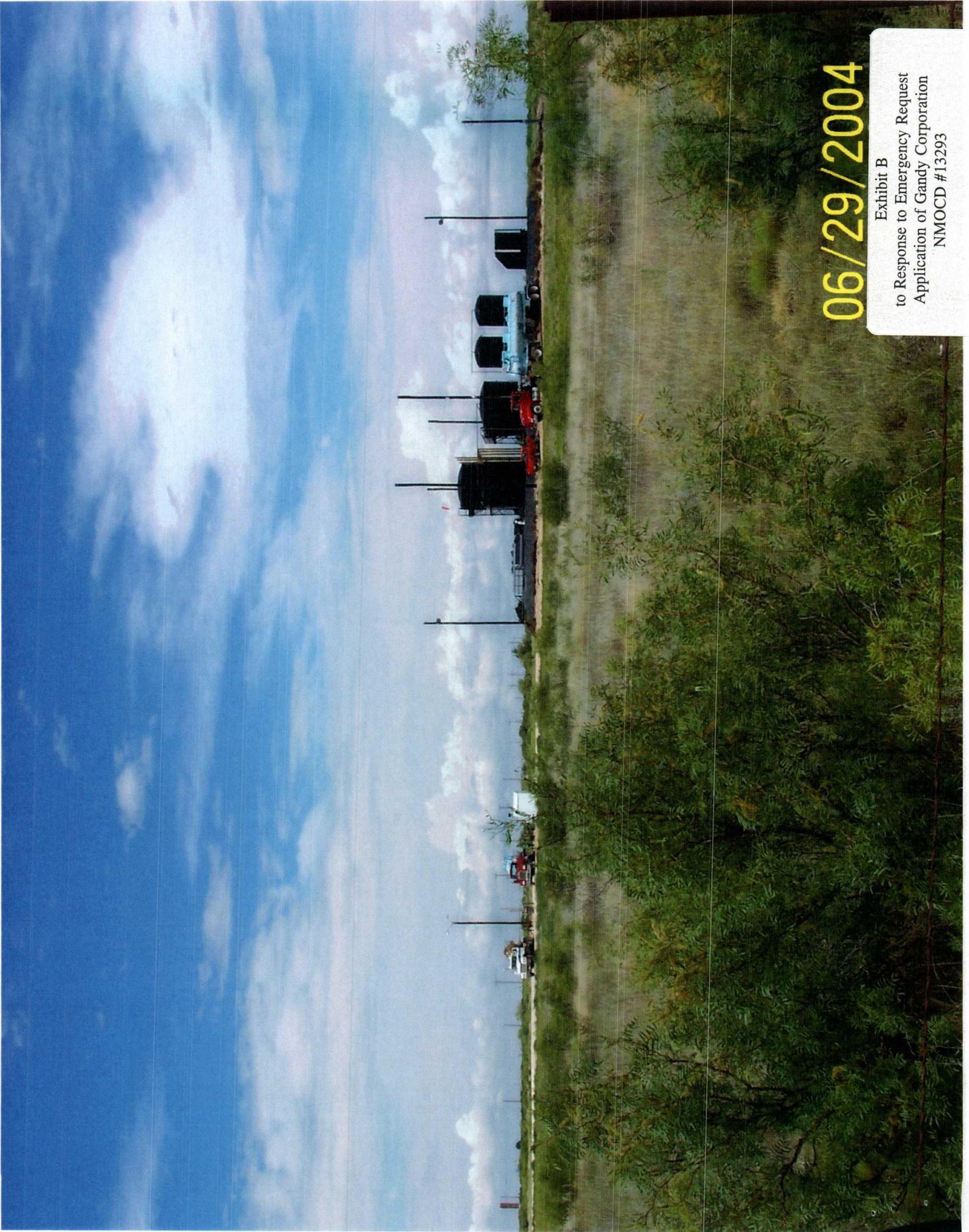
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ATTORNEYS FOR APPLICANT


Paul R. Owen



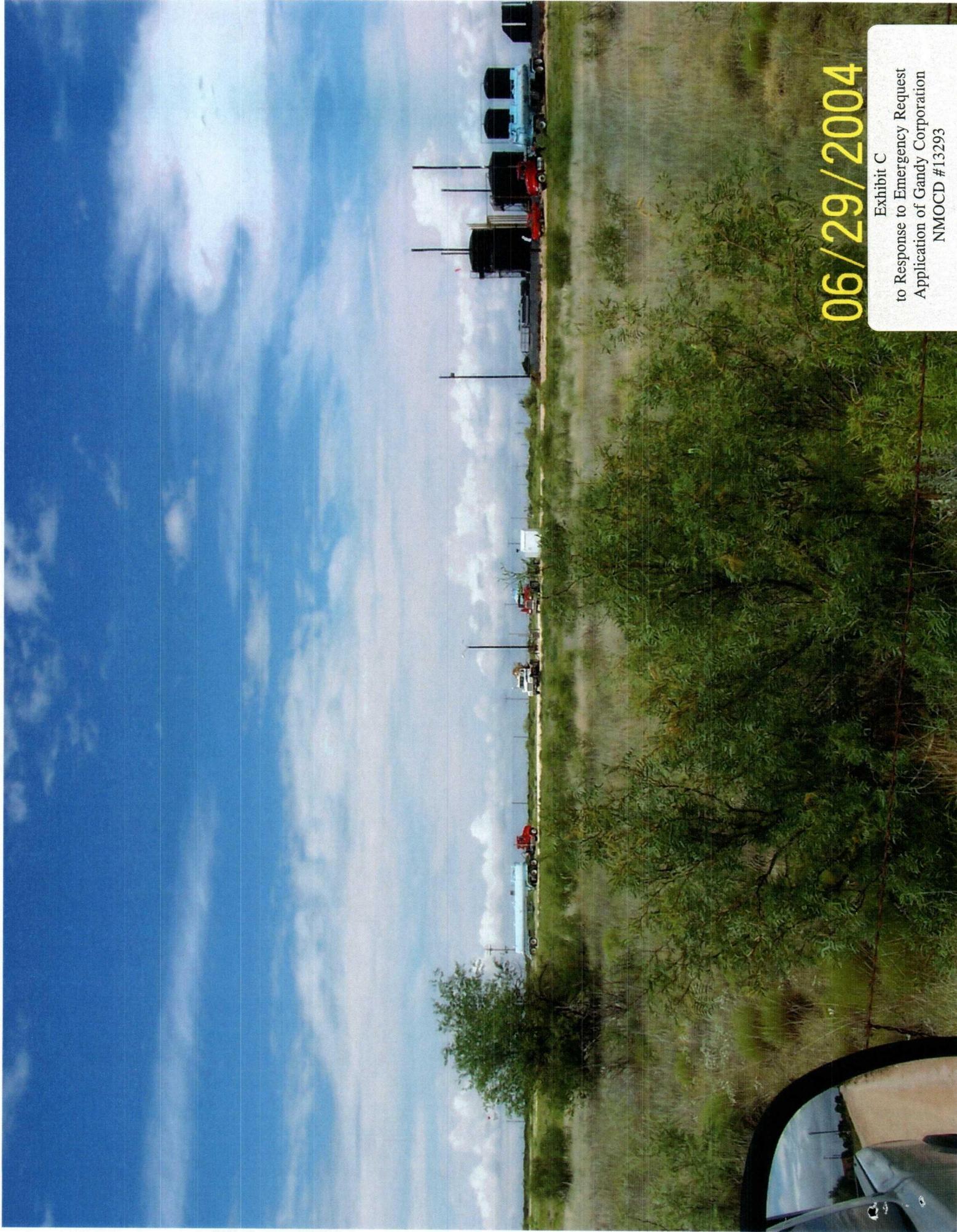
06/29/2004

Exhibit A
to Response to Emergency Request
Application of Gandy Corporation
NMOCD #13293



06/29/2004

Exhibit B
to Response to Emergency Request
Application of Gandy Corporation
NMOCD #13293



06/29/2004

Exhibit C

to Response to Emergency Request
Application of Gandy Corporation
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