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January 9, 2006

VIA OVERNIGHT MAIL

Florene Davidson
Hearing Clerk
EMNRD
Oil Conservation District
1220 So. St. Francis Drive
Santa Fe, NM 87505

2006 JUN 10 AM 11 57

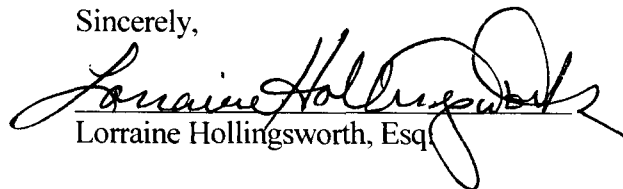
Re: Case No. 13480 *de novo*: GMI's Motion for Dismissal

Dear Ms. Davidson:

Enclosed please find the original and requisite copies of GMI's *Motion for Dismissal of De Novo Appeal and Presentment of Order* for filing with the Commission in the above captioned matter. Please return an endorsed copy in the enclosed envelope.

Thank you for your courtesies in this matter.

Sincerely,


Lorraine Hollingsworth, Esq.

Encls.

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

2005 JAN 10 AM 11 57

**APPLICATION OF GANDY MARLEY, INC.
TO MODIFY THEIR EXISTING NMOCD RULE 711
PERMIT NO. NM-01-019 SO THEY MAY ACCEPT
SALT-CONTAMINATED OILFIELD WASTES**

APPEAL OF ORDER NO. R-12306-B

CASE NO. 13480 *de novo*

**MOTION FOR DISMISSAL OF *DE NOVO* APPEAL AND
PRESENTMENT OF ORDER**

COMES NOW Gandy Marley, Inc. (GMI), by and through undersigned counsel of record, and requests that the Oil Conservation Commission adopt the proposed Order dismissing the *de novo* appeal in this matter and in support of the Motion states as follows.

1. This matter is before the Commission on GMI's request for *de novo* review of the Oil Conservation Division Order No. R-12306-B, denying GMI's application for a permit modification.

2. As part of Order No. R-12306-B, the Division ordered GMI to submit a revised application for permit modification in conformity with OCD Rule 711 (19.15.9.711 NMAC) and to readvertise the request for permit modification in compliance with the public notice requirements of Rule 711.

3. The Order stated that, "after proper notice thereof is provided, the Director hereby refers this matter directly to the Commission for further proceedings thereon." Order R-12306-B, p. 20, ¶¶ 3-5.

4. GMI submitted its revised Application for Permit Modification on October 4, 2005.

5. On December 1, 2005, the Oil Conservation Division (OCD) determined that the application is administratively complete.

6. Rule 711 requires the applicant to "issue public notice in a form approved by the division in a newspaper of general circulation in the county in which the facility is to be located."

19.15.9.711.B(2)(b). The Roswell Daily Record is the newspaper of general circulation that meets the requirements of Rule 711 and notice was published in the Roswell Daily Record on December 5, 2005.

7. The OCD has not received any comments from the public or interested parties concerning the application. The OCD has not received a request for hearing pursuant to 19.15.9.711.B(2)(c) and there is no evidence of a significant public interest that would require a hearing in this matter.

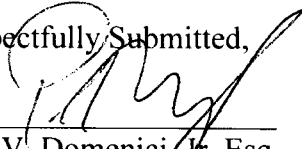
8. The OCD has issued a revised permit based on the application and GMI concurs in the conditions and terms of the draft permit.

9. The Commission does not need to hold a hearing on GMI's permit modification application.

10. All issues raised in GMI's *de novo* appeal have been resolved by the issuance of the revised permit.

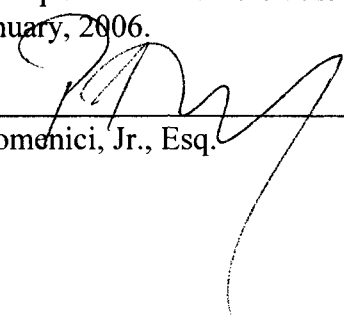
Therefore, GMI requests that the Commission dismiss the *de novo* appeal with prejudice. A proposed Order is attached hereto.

Respectfully Submitted,



Pete V. Domenici, Jr. Esq.
Attorney for Gandy Marley Inc.
320 Gold SW Suite 1000
Albuquerque, NM 87102
(505) 883-6250

I hereby certify that a true and
correct copy of the foregoing was
served on all parties of record on the 9th
day of January, 2006.



Pete V. Domenici, Jr., Esq.

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

**APPLICATION OF GANDY MARLEY, INC.
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APPEAL OF ORDER NO. R-12306-B

CASE NO. 13480 *de novo*

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER came before the Oil Conservation Commission (the Commission) for hearing on January 12, 2006 at Santa Fe, New Mexico on Gandy Marley's Motion for Dismissal of *De Novo* Appeal and Presentment of Order, and the Commission, having carefully considered the same, now, on this 12th day of January, 2006,

FINDS:

1. This matter is before the Commission on GMI's request for *de novo* review of the Oil Conservation Division Order No. R-12306-B, denying GMI's application for a permit modification.

2. As part of Order No. R-12306-B, the Division ordered GMI to submit a revised application for permit modification in conformity with OCD Rule 711 (19.15.9.711 NMAC) and to readvertise the request for permit modification in compliance with the public notice requirements of Rule 711.

3. The Order stated that, "after proper notice thereof is provided, the Director hereby refers this matter directly to the Commission for further proceedings thereon." Order R-12306-B, p. 20, ¶¶ 3-5.

4. GMI submitted its revised Application for Permit Modification on October 4, 2005.

5. On December 1, 2005, the Oil Conservation Division (OCD) determined that the application is administratively complete.

6. Rule 711 requires the applicant to "issue public notice in a form approved by the division in a newspaper of general circulation in the county in which the facility is to be located." 19.15.9.711.B(2)(b). The Roswell Daily Record is the newspaper of general circulation that meets the requirements of Rule 711 and notice was published in the Roswell Daily Record on December 5, 2005.

7. The OCD has not received any comments from the public or interested parties concerning the application. The OCD has not received a request for hearing pursuant to 19.15.9.711.B(2)(c) and there is no evidence of a significant public interest that would require a hearing in this matter.

8. The OCD has issued a revised permit based on the application and GMI concurs in the conditions and terms of the draft permit.

9. The Commission does not need to hold a hearing on GMI's permit modification application.

IT IS THEREFORE ORDERED THAT:

All issues raised in GMI's *de novo* appeal have been resolved by the issuance of the revised permit and Case No. 13480 *de novo* appeal of Order No. R-12306-B is hereby dismissed.

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

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**
