

BW - _____022_____

**COMPLIANCE
REVIEW**

2020

From: [Chavez, Carl J, EMNRD](#)
To: "Tayni.L.Kennedy@wellsfargo.com"; [Griswold, Jim, EMNRD](#); [Sanchez, Daniel J., EMNRD](#); [Mathes, Eva, EMNRD](#); [Collins, Karen, EMNRD](#)
Cc: jonrgandy@aol.com; lgandy@gandycorporation.com; StandbyCustomerCare@wellsfargo.com; Kathie.A.Wiseman@wellsfargo.com; [Ames, Eric, EMNRD](#)
Subject: RE: (JR) RE: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT
Date: Wednesday, February 5, 2020 10:28:00 AM

Ms. Kennedy:

The New Mexico Oil Conservation Division (OCD) is confused by your message with attachment form.

OCD has indicated the document cannot be found, and requested a Duplicate Original be sent to the OCD so it may work on accepting the financial assurance document and processing the "Transfer of Permit" between Wasserhund Inc. to Gandy Corporation.

OCD cannot complete the transfer of permit until it receives the requested document.

Thank you.

From: Tayni.L.Kennedy@wellsfargo.com <Tayni.L.Kennedy@wellsfargo.com>
Sent: Monday, February 3, 2020 4:04 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>; [Griswold, Jim, EMNRD](#) <Jim.Griswold@state.nm.us>; [Sanchez, Daniel J., EMNRD](#) <daniel.sanchez@state.nm.us>; [Mathes, Eva, EMNRD](#) <Eva.Mathes@state.nm.us>; [Collins, Karen, EMNRD](#) <Karen.Collins@state.nm.us>
Cc: jonrgandy@aol.com; lgandy@gandycorporation.com; StandbyCustomerCare@wellsfargo.com; Kathie.A.Wiseman@wellsfargo.com
Subject: [EXT] FW: (JR) RE: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT

Please see instructions below in order to obtain duplicate originals. Our records indicate that the original was sent via:

FedEx tracking #:775336321069 to State of NM, 1220 South Frances Drive, Santa Fe NM 87505. Signed for on 05/30/19 at 10:15 by Matthew Masarenas.

Tayni L. Kennedy

Senior Business Relationship Manager
Hobbs Business Banking

Wells Fargo Bank, N.A. 1 1910 N. Turner St. 1 Hobbs, NM 88240
MAC Q2705-011
Tel 575-391-3640 1 Fax 575-391-0107 1 Cell 575-263-7072

tayni.l.kennedy@wellsfargo.com

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based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply email and delete this message. Thank you for your cooperation.

From: Standby Customer Care <StandbyCustomerCare@wellsfargo.com>

Sent: Monday, February 3, 2020 6:53 AM

To: Kennedy, Tayni L. <Tayni.L.Kennedy@wellsfargo.com>

Cc: Wiseman, Kathie A. <Kathie.A.Wiseman@wellsfargo.com>

Subject: (JR) RE: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT

Hi Tayni,

Please be advised unfortunately the below request will not suffice for a duplicate original, I have included the instructions to obtain.

In the event the original letter of credit can not be located, the beneficiary may request a duplicate original by completing the Indemnity for Duplicate Original form. There is a cost of \$150.00.

Please return the original copy of the completed letter and a check for \$150.00 to:

Wells Fargo Bank N.A.

U.S. Trade Services

Standby Letters of Credit

MAC D4004-017

401 North Research Parkway, 1st Floor
Winston-Salem, North Carolina 27101

Or

Wells Fargo Bank N.A.

U.S. Trade Services

Standby Letters of Credit

MAC A0283-023

794 Davis Street, 2nd Floor
San Leandro, CA 94577-6922

If you have additional questions, please contact a Standby Letter of Credit representative at 800-776-3862 option 2.

Thank you for contacting Wells Fargo Standby Letters of Credit Trade Customer Connection area. We appreciate your business.

Regards,

J'Lysa Robinson

Client Services Consultant

US Trade Services – Standby Customer Connection

Wells Fargo Bank, N.A. | 401 N Research Pkwy | Winston-Salem, NC 27101-4157

MAC: D4004-012/017

Tel 1-800-776-3862, Option 2 | Fax 844-879-2898

StandbyCustomerCare@wellsfargo.com

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addressee(s) indicated above. The sender does not waive any of its rights, privileges or other protections respecting this information. Any distribution, copying or other use of this E-Mail or the information it contains, by other than an intended recipient, is not sanctioned and is prohibited. If for any reason you are not the intended recipient, please return this E-Mail to the sender immediately.

From: Kennedy, Tayni L. <Tayni.L.Kennedy@wellsfargo.com>
Sent: Friday, January 31, 2020 2:30 PM
To: Standby Customer Care <StandbyCustomerCare@wellsfargo.com>
Cc: Wiseman, Kathie A. <Kathie.A.Wiseman@wellsfargo.com>
Subject: FW: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT

Please remit a "Duplicate Original" to the NMOCD (see email below).

Tayni L. Kennedy

Senior Business Relationship Manager
Hobbs Business Banking

Wells Fargo Bank, N.A. | 1910 N. Turner St. | Hobbs, NM 88240
MAC Q2705-011
Tel 575-391-3640 | Fax 575-391-0107 | Cell 575-263-7072

tayni.l.kennedy@wellsfargo.com

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From: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Sent: Thursday, January 30, 2020 4:15 PM
To: Kennedy, Tayni L. <Tayni.L.Kennedy@wellsfargo.com>; Larry Gandy <lgandy@gandycorporation.com>; jonrgandy Gandy <JonRGandy@aol.com>
Cc: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Sanchez, Daniel J., EMNRD <daniel.sanchez@state.nm.us>; Collins, Karen, EMNRD <Karen.Collins@state.nm.us>; Mathes, Eva, EMNRD <Eva.Mathes@state.nm.us>
Subject: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT

Ms. Kennedy:

The New Mexico Oil Conservation Division (OCD) hereby requests a "Duplicate Original" of

the recent Gandy Corporation "Letter of Credit"- LOC (I) for \$50K) sent by the Wells Fargo Bank representing Mr. Larry Gandy with Gandy Corporation. It appears after OCD performed a search to locate the LOC, it could not be found. Please see the "Chronology of Events" below to better understand the situation.

OCD Financial Assurance Chronology of Events:

- Carl on 1/14 received a forwarded e-mail from Brad J with copy to Eva M regarding Tayni Kennedy (Wells Fargo) inquiry on the status of "Letter of Credit" (IS000084758U) for \$50K.
- Carl on 1/15 responded to Tayni Kennedy the facility is under a compliance action, and no transfers are being approved at this time. OCD will retain the letter until the compliance issues are resolved. Carl updated the admin. record. Larry Gandy was supposed to submit an initial reply to the letter by COB on 1/15 after speaking to him on 1/14.
- Carl on 1/17 along with OCD Bond Administrator assistance searched for the LOC without success.
- Carl on 1/22 received copies of letters to the OCD Director sent by Jon Gandy and Larry Gandy requesting the Transfer of Permit be approved for the BW-22 Facility and Brine Well.
- Carl on 1/30 was directed by Eric Ames (EMNRD Attorney) to request a "Duplicate Original" of the OCD lost financial assurance document. The OCD Bond Administrators were recently hired and after a review of our records, the "Letter of Credit" could not be located. Once OCD receives the financial assurance document, the OCD Bond Administrators will review and seek to issue an approval letter. Once approved by OCD, the Environmental Bureau will act on the "WQCC Transfer of Permit" from Mr. Jon Gandy (Wasserhund Inc.) to Mr. Larry Gandy (Gandy Corporation).

You may direct the Duplicate Original of the Gandy Corporation "Letter of Credit" to the attention of "OCD Bond Administrator" at the address at the bottom of this message.

Please contact me if you have questions. OCD apologizes for the inconvenience this may have caused you.

Thank you for your cooperation in this matter.

Sincerely,

Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division
Energy Minerals and Natural Resources Department
1220 South St Francis Drive
Santa Fe, New Mexico 87505
Ph. (505) 476-3490
E-mail: CarlJ.Chavez@state.nm.us

"Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?" (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see "Publications")

From: [Chavez, Carl J. EMNRD](#)
To: ["Tayni.L.Kennedy@wellsfargo.com"](mailto:Tayni.L.Kennedy@wellsfargo.com); [Larry Gandy](#); [jonrgandy Gandy](#)
Cc: [Griswold, Jim, EMNRD](#); [Sanchez, Daniel J., EMNRD](#); [Collins, Karen, EMNRD](#); [Mathes, Eva, EMNRD](#)
Bcc: [Ames, Eric, EMNRD](#); ["Wayne Price"](#)
Subject: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): REQUEST FOR DUPLICATE ORIGINAL OF THE RECENT GANDY CORPORATION IRREVOCABLE LETTER OF CREDIT
Date: Thursday, January 30, 2020 4:14:00 PM

Ms. Kennedy:

The New Mexico Oil Conservation Division (OCD) hereby requests a "Duplicate Original" of the recent Gandy Corporation "Letter of Credit"- LOC ((IS000084758U) for \$50K) sent by the Wells Fargo Bank representing Mr. Larry Gandy with Gandy Corporation. It appears after OCD performed a search to locate the LOC, it could not be found. Please see the "Chronology of Events" below to better understand the situation.

OCD Financial Assurance Chronology of Events:

- Carl on 1/14 received a forwarded e-mail from Brad J with copy to Eva M regarding Tayni Kennedy (Wells Fargo) inquiry on the status of "Letter of Credit" (IS000084758U) for \$50K.
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- Carl on 1/17 along with OCD Bond Administrator assistance searched for the LOC without success.
- Carl on 1/22 received copies of letters to the OCD Director sent by Jon Gandy and Larry Gandy requesting the Transfer of Permit be approved for the BW-22 Facility and Brine Well.
- Carl on 1/30 was directed by Eric Ames (EMNRD Attorney) to request a "Duplicate Original" of the OCD lost financial assurance document. The OCD Bond Administrators were recently hired and after a review of our records, the "Letter of Credit" could not be located. Once OCD receives the financial assurance document, the OCD Bond Administrators will review and seek to issue an approval letter. Once approved by OCD, the Environmental Bureau will act on the "WQCC Transfer of Permit" from Mr. Jon Gandy (Wasserhund Inc.) to Mr. Larry Gandy (Gandy Corporation).

You may direct the Duplicate Original of the Gandy Corporation "Letter of Credit" to the attention of "OCD Bond Administrator" at the address at the bottom of this message.

Please contact me if you have questions. OCD apologizes for the inconvenience this may have caused you.

Thank you for your cooperation in this matter.

Sincerely,

Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division
Energy Minerals and Natural Resources Department
1220 South St Francis Drive
Santa Fe, New Mexico 87505
Ph. (505) 476-3490
E-mail: CarlJ.Chavez@state.nm.us

“Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?” (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see “Publications”)

WASSERHUND, INC.

P.O. Box 2073

Lovington, NM 88260

575-396-0522

FAX 575-396-0797

JAN 21 2020 PM02:28

January 15, 2020

Sent Via E-Mail

To: Adrienne Sandoval
Oil Conservation Division Director
1220 S. Saint Francis Drive
Santa Fe, NM 87505

Reference: Change of Ownership of BW-22 Tatum Brine Well from Wasserhund Inc. to
Gandy Corporation

Subject: December 26, 2019 Letter from OCD to Wasserhund Inc.

Dear Director Sandoval,

Please note that Wasserhund Inc. notified OCD of the Transfer of the Facility Well and Discharge Permit back in the summer of 2019. We then submitted a C-145 Change of Operator executed and signed by Wasserhund Inc. (Jon Gandy) and Gandy Corporation (Larry Gandy).

I understand the transfer was held until the Gandy Corporation provided the proper financial bonding per the WQCC regulations. It's my understanding that the correct bonding is in place.

My Consultant Wayne Price of Price LLC discussed this with both Carl Chavez and Jim Griswold, and OCD indicated that the C-145 would take care of the WQCC notification of transfer requirements and they had no objection at the time and was just waiting on the bonding.

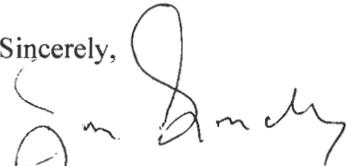
The letter recently sent by your office still reflects Wasserhund Inc. as the responsible party. Please accept my apology for not responding sooner.

For reasons we do not know, OCD has not approved the Change of Operator.

Wasserhund Inc., through a legal binding arrangement, may not have the legal authority to enter the property or act on your letter. However, we do understand your position if the Change of Operator is not approved.

In order to clear this up, I respectfully request OCD approve the Change of Operator. It's my understanding Gandy Corporation has been in touch with Carl and accepts responsibility of the permit that was in place.

Sincerely,



Jon Gandy-President
Wasserhund Inc.
P.O. Box 827
Tatum, NM 88267

**GANDY CORPORATION
OILFIELD SERVICES**

P.O. Box 2140
Lovington, NM 88260
575-396-0522
FAX 575-396-0797

January 14, 2020

Certified Return Receipt

To: Adrienne Sandoval
NM Oil Conservation Division Director
1220 S. Saint Francis Dr.
Santa Fe, NM 87505

Reference: Change of Ownership of BW-22 Tatum Brine Well

Subject: December 26, 2019 Letter from OCD to Wasserhund Inc.

Dear Director Sandoval,

OCD sent the above subject letter to Mr. Larry Gandy addressed to Wasserhund Inc. Mr. Gandy is no longer affiliated with Wasserhund Inc. and this has been communicated in a number of correspondences to your environmental staff member Mr. Carl Chavez and Mr. Griswold, Environmental Bureau Chief. The new contact for Wasserhund Inc. is Mr. Jon Gandy.

Please note the letter was sent out during the recent holiday period and there was a delay in the process. In addition, there was a lack of communication between the two companies and therefore the time line to respond was not met.

We apologize for this delay, but on behalf of the Gandy Corporation we fully intend to address all of the issues spelled out in the letter once it is addressed to the appropriate party, which should be Mr. Larry Gandy-Gandy Corporation

On July 10, 2019 OCD acknowledged receipt of the C-145 Change of Ownership for the Referenced well and noted the only issue was the required WQCC bond. Shortly thereafter Mr. Chavez told us that the current Bond Administrator had left the agency and it may be awhile before we received the Approval Letter.

We do not have a copy of the approval letter; however, our bank records indicate that the new bond has been accepted and initiated.

For some reason the Change of Operator was not acknowledged by OCD.

Before the Change of Operator was requested, Wasserhund Inc. properly notified Mr. Chavez pursuant to the OCD/WQCC rules for the termination and closure of BW-22.

It appears there is a Catch 22 scenario existing in this process. The Gandy Corporation by change of operator/ownership is responsible for the BW-22 permit but cannot proceed until the change of operator is completed.

Your letter indicated that the "Change of Operator" has been denied.

The Gandy Corporation is fully prepared to meet and address the obligations of the letter once the change of operator is approved.

We respectfully request that OCD approve the change of operator from Wasserhund Inc. to Gandy Corporation. Once that is approved, we will follow-up on all of the issues at hand.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Gandy". The signature is written in a cursive style with a large initial "L" and "G".

Larry Gandy-President
Gandy Corporation

From: [Chavez, Carl J. EMNRD](#)
To: "Tayni.L.Kennedy@wellsfargo.com"
Cc: [Mathes, Eva, EMNRD](#); [Larry Gandy](#); "gandy2@leaco.net"
Bcc: [Griswold, Jim, EMNRD](#); [Ames, Eric, EMNRD](#); [Wade, Gabriel, EMNRD](#); [Sanchez, Daniel J., EMNRD](#)
Subject: BW-22 (Wasserhund, Inc. Watson #1 API# 30-025-28162): OCD Letter of 12/26/2020 to Larry Gandy
Date: Thursday, January 16, 2020 8:32:00 AM

Ms. Kennedy:

The New Mexico Oil Conservation Division (OCD) is receipt of your inquiry below of 1/15/2020.

OCD issued a letter (letter) of 12/26/2020 to Mr. Larry Gandy with facility issues for resolution before moving forward to address financial assurance at the facility.

OCD is not approving any transfer of operator until the letter is addressed. **OCD is currently awaiting a reply(ies) to the letter from the owner/operator of record.**

OCD will retain the Letter of Credit (LOC) mentioned in your inquiry until that time, and will work to review and approved the transfer of permit which includes the financial assurance or LOC to issue any approval at that time.

Please contact me if you have questions.

Thank you for contacting OCD.

From: Mathes, Eva, EMNRD <Eva.Mathes@state.nm.us> **On Behalf Of** AdminComp, OCD, EMNRD
Sent: Wednesday, January 15, 2020 4:08 PM
To: Jones, Brad A., EMNRD <brad.a.jones@state.nm.us>
Cc: Sanchez, Daniel J., EMNRD <daniel.sanchez@state.nm.us>
Subject: FW: API 30-025-28162

From: Tayni.L.Kennedy@wellsfargo.com <Tayni.L.Kennedy@wellsfargo.com>
Sent: Wednesday, January 15, 2020 3:25 PM
To: AdminComp, OCD, EMNRD <OCDAdminComp@state.nm.us>
Cc: Kathie.A.Wiseman@wellsfargo.com
Subject: [EXT] API 30-025-28162

My customer, GANDY CORPORATION, established a new Irrevocable Standby Letter of Credit (IS000084758U) to the benefit of NMOCD as of 05/29/19. This is on the Quality Brine Watson No. 001 (BW22). Neither GANDY CORPORATION nor Wells Fargo has received acceptance of this \$50,000 letter. Can I get documentation acknowledging this acceptance? It was send via FedEx package, tracking #: 775336321069 to State of NM, 1220 South Frances Drive, Santa Fe NM 87505. Signed for on 05/30/19 at 10:15 by Matthew Masarenas.

This property was changed from Wasserhund, Inc. to GANDY CORPORATION and as I understand it,

the NMOCD was requiring that both letters be in place and that a "Change of Operator" form must be filled out before the Wasserhund, Inc. letter could be released. The customer is telling me that they have sent that form in. As of this time, Wells Fargo has security against both letters and we will need to obtain documentation to release the Wasserhund, Inc Irrevocable Standby Letter of Credit (IS0002681 as of 09/01/11).

I would greatly appreciate it if someone would please look into this and advise.

Thank you,

Tayni L. Kennedy

**Senior Business Relationship Manager
Hobbs Business Banking**

Wells Fargo Bank, N.A. | 1910 N. Turner St. | Hobbs, NM 88240
MAC Q2705-011
Tel 575-391-3640 | Fax 575-391-0107 | Cell 575-263-7072

tayni.l.kennedy@wellsfargo.com

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Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division
Energy Minerals and Natural Resources Department
1220 South St Francis Drive
Santa Fe, New Mexico 87505
Ph. (505) 476-3490
E-mail: CarlJ.Chavez@state.nm.us

“Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?” (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see “Publications”)

From: [Griswold, Jim, EMNRD](#)
To: [Chavez, Carl J, EMNRD](#); [Ames, Eric, EMNRD](#); [Bratcher, Mike, EMNRD](#)
Subject: Compliance letter to Wasserhund regarding brine well BW-22 in Tatum
Date: Thursday, December 26, 2019 4:22:09 PM
Attachments: [Wasserhund BW-22 compliance ltr of 12-26-19.pdf](#)

See attached. Original sent to Mr. Gandy with Wasserhund via snailmail today. Carl, would you please be sure this gets into the administrative record. Thanks.

Jim Griswold

Environmental Bureau Chief
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
505.476.3465
email: jim.griswold@state.nm.us

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval
Director, Oil Conservation Division



CERTIFIED MAIL - RETURN RECEIPT REQUESTED
No. 7018 0040 0000 3405 6925

December 26, 2019

Mr. Larry Gandy
Wasserhund Inc.
P.O. Box 827
Tatum, New Mexico 88267

RE: WQCC Discharge Permit (BW-022)
Quality Brine Watson Well No. 1, API No. 30-025-28162

Mr. Gandy,

The Energy, Minerals and Natural Resources Department, New Mexico Oil Conservation Division (“OCD”) requests that Wasserhund Inc. (“Wasserhund”) confirm that it is not operating the well and implement the closure plan and plugging and abandonment plan submitted on April 12, 2019, as conditioned below.

WQCC Discharge Permit BW-022 expired on November 8, 2018. Prior to the expiration date, Wasserhund submitted a permit renewal application, but subsequently withdrew it and submitted a closure plan. Accordingly, OCD presumes that Wasserhund is no longer operating the well. Please confirm the date on which the well ceased operation in writing within five (5) business days of receipt of this letter.

On April 12, 2019, Wasserhund submitted a closure plan and a plugging and abandonment plan for the well. OCD approves the plan, subject to the following conditions of approval:

- Wasserhund shall restore the land surface to its original condition.
- Wasserhund shall dispose brine line effluent into the brine well.
- Wasserhund shall conduct environmental soil sampling beneath the decommissioned brine storage tanks pursuant to Table 1 of 19.15.29 NMAC.
- Wasserhund shall conduct environmental soil sampling for all stained areas pursuant to Table 1 of 19.15.29 NMAC.

December 26, 2019

Page 2

- Wasserhund shall submit a revised C-103 to OCD specifying that the “two plug” method will be used.
- Wasserhund shall submit a copy of the revised C-103 to the Office of the State Engineer.
- Wasserhund shall use a total of approximately 180 sacks of cement to fill the casing from 2150 feet to the surface.
- Wasserhund shall report the number of sacks of cement used to comply with the previous condition no later than 30 days after completion of the plugging.
- Wasserhund shall set the final marker in accordance with 19.15.25.10 NMAC.

Please note that OCD has identified additional violations of the discharge permit, including:

- Condition 2.A (failure to submit quarterly reports with water quality data)
- Conditions 2.B(1) & 5.C (failure to submit surface subsidence monitoring plan)
- Conditions 2.B(2) & 5.D (failure to submit solution cavern characterization program)
- Condition 2.B(3) (failure to submit annual certifications)
- Conditions 2.J & 5.A (failure to submit annual reports)
- Condition 3.C (failure to install continuous monitoring device)
- Condition 3.K (failure to continuously monitor brine injection and production)

OCD reserves the right to enforce these violations.

Finally, OCD has determined that Wasserhund’s proposed transfer of the permit to Gandy Corporation is not effective because it did not comply with the applicable requirements of 20.6.5.5101(H) NMAC.

Please contact Mr. Carl Chavez of my staff at your earliest convenience to arrange for the submittal of the requested documents. Mr. Chavez can be reached at (505) 476-3490. Your failure to comply with this letter may result in the filing of an enforcement action.

Sincerely,



Adrienne Sandoval
OCD Director

cc: Carl Chavez, OCD Environmental Bureau
OCD Hobbs District Office
Office of General Counsel, EMNRD

Chavez, Carl J, EMNRD

From: Chavez, Carl J, EMNRD
Sent: Thursday, May 3, 2018 9:48 AM
To: 'Shonna McFarlin'
Cc: Griswold, Jim, EMNRD
Subject: Wasserhund OCD Discharge Permits (BW-4 and 22) Records Review and Recent Uploaded Files

Shonna:

Good morning. The New Mexico Oil Conservation Division (OCD) is in receipt of the electronic compliance letters received via the Varonis Secure Upload System for OCD Discharge Permits "BW-4" and "BW-22."

OCD is working to update its admin. records today.

Thank you for sending the electronic files as OCD's scanning system has been down over the past couple of weeks and currently in repair.

Thank you for your cooperation in this matter. Please contact me if you have questions.

Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division
Energy Minerals and Natural Resources Department
1220 South St Francis Drive
Santa Fe, New Mexico 87505
Ph. (505) 476-3490
E-mail: CarlJ.Chavez@state.nm.us

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From: Shonna McFarlin <smcfarlin@gandycorporation.com>
Sent: Wednesday, May 2, 2018 4:47 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Subject: RE: Uploaded Files

Carl,

I have uploaded the Compliance letters for the Wasserhund wells on the OCD website.

Thanks,

Shonna McFarlin, Comptroller

*Gandy Corporation
P.O. Box 2140
1623 S. Main
Lovington, NM 88260*

575-396-0522 Phone
575-396-0797 Fax
smcfarlin@gandycorporation.com

What if you woke up today with only the things you remembered to thank God for yesterday?

From: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Sent: Wednesday, March 14, 2018 4:28 PM
To: Shonna McFarlin <smcfarlin@gandycorporation.com>
Subject: RE: Uploaded Files

Ok. Thank you.

From: Shonna McFarlin [<mailto:smcfarlin@gandycorporation.com>]
Sent: Wednesday, March 14, 2018 4:21 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Subject: RE: Uploaded Files

Carl,

I think Wayne and Larry are going to go over a few more things, just to make sure. I will let you know when we are ready to tell you that we have it all done.

Thanks!

Shonna McFarlin, Comptroller

*Gandy Corporation
P.O. Box 2140
1623 S. Main
Lovington, NM 88260
575-396-0522 Phone
575-396-0797 Fax
smcfarlin@gandycorporation.com*

What if you woke up today with only the things you remembered to thank God for yesterday?

From: Chavez, Carl J, EMNRD [<mailto:CarlJ.Chavez@state.nm.us>]
Sent: Wednesday, March 14, 2018 4:18 PM
To: Shonna McFarlin <smcfarlin@gandycorporation.com>
Subject: RE: Uploaded Files

Shonna:

Hi. Ok. Thanks, I'll get them organized for entry into the admin. record. So, Wasserhund believes all of the information it has provided will update OCD's administrative record for BW-4 and BW-22.

Once in our records, OCD will review the information to verify there are no unrealized issues or problems that need to be resolved with operators.

Please contact me if you have questions.

Thank you.

Mr. Carl J. Chavez, CHMM (#13099)
New Mexico Oil Conservation Division
Energy Minerals and Natural Resources Department
1220 South St Francis Drive
Santa Fe, New Mexico 87505
Ph. (505) 476-3490
E-mail: CarlJ.Chavez@state.nm.us

“Why not prevent pollution, minimize waste to reduce operating costs, reuse or recycle, and move forward with the rest of the Nation?” (To see how, go to: <http://www.emnrd.state.nm.us/OCD> and see “Publications”)

From: Shonna McFarlin [<mailto:smcfarlin@gandycorporation.com>]
Sent: Wednesday, March 14, 2018 2:00 PM
To: Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Subject: Uploaded Files

Carl,

I am so sorry, I forgot to let you know that I had uploaded some files. You should have all of the Annual Reports for both wells.

Thank you,

Shonna McFarlin, Comptroller

*Gandy Corporation
P.O. Box 2140
1623 S. Main
Lovington, NM 88260
575-396-0522 Phone
575-396-0797 Fax
smcfarlin@gandycorporation.com*

What if you woke up today with only the things you remembered to thank God for yesterday?

WASSERHUND, INC.

P.O. Box 2140
Lovington, NM 88260
575-396-0522
FAX 575-396-0797

March 30, 2018

Mr. Jim Griswold-Environmental Bureau Chief
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505

Subject: February 16, 2018 Brine Well Compliance Letter

Reference: Wasserhund Inc. BW-22 API# 30-025-28162

Dear Mr. Griswold:

Pursuant to your February 16, 2018 letter, Wasserhund Inc. has provided the OCD with the requested information and was up-loaded per OCD's instructions.

Please find herein specific responses to the items mentioned in your OCD letter. Please note we are hereby requesting certain minor modifications to the current permit, or to be incorporated in the new upcoming renewal permit application.

• **Section 2.A Quarterly analysis of injected fluids and brine.**

Response: *Wasserhund Inc. has collected Fresh and Brine water quarterly samples and had them analyzed for the required permit constituents. These results have been submitted in the annual reports. The 2011-2016 annual reports were resubmitted in March of 2018 at the request of OCD.*

• **Section 2.B.1 Surface Subsidence Monitoring Plan information.**

Response: *Wasserhund Inc. submitted a Surface Subsidence Monitoring Plan in the 2013 Annual Report. In a past annual report Wasserhund Inc. requested a waiver of this requirement and provided the following statement.*

This facility currently does not have subsidence monitors installed and Wasserhund Inc. respectfully requests waiver of this requirement until further evaluation can be completed or closure of the site commences.

This request is based on the fact the well continues to exhibit good Cavern Mechanical Integrity, very low D/H ratio, and the fact the radius of the cavern does not encroach upon any buildings, wells, or public ROW's. Currently there have been no subsidence issues noted or experienced.

Wasserhund Inc. respectfully requests a minor modification to the permit to waive this current requirement.

• **Section 2. B.2 Solution Cavern Characterization Plan.** □

Response: The 2013 annual report included a Solution Cavern Characterization Plan using a combination of calculated results and experimenting with various geophysical methods, including actually performing an “Induced Current Method”.

To date, the geophysical method proposed has only been partially successful and due to the high cost of other methods, an accurate cavern shape has not been delineated.

We currently are not aware of any one single tool that can accomplish this requirement. The Carlsbad old I&W well is an example where many methods were used and the exact cavern shape is estimated using a consensus of several very expensive methods. When OCD required sonar testing, it also was not totally successful.

The best method still appears to be the “Worst Case” cone calculation method.

OCD has not provided guidance on this issue and Wasserhund Inc. Would like to participate in a study group on this issue.

Therefore, **Wasserhund Inc. respectfully request a minor modification to the permit to allow the calculation method, unless there is some sort of critical issue that would require such geophysical methods to be used.**

• **Section 2.B.3 Annual Certification.**

Response: □ *Wasserhund Inc. has certified by signature in the 2011-2016 annual reports that continued salt solution mining will not cause cavern collapse, surface subsidence, property damage, or otherwise threaten public health and the environment, based on geologic and engineering data.*

• **Section 2.J Annual Report (note list of items to be included) due by June 1st of each year.**

Response: □ *Wasserhund Inc. has submitted the required Annual Reports for the permit years of 2011-2016. Each item of the permit was addressed in detail. During these time periods, Wasserhund Inc. did request certain variances, as mentioned herein.*

• **Section 3.C Continuous Monitoring Devices; and**

• **Response:** *Wasserhund Inc. Buckeye Brine Station currently has flow meters and pressure gauges installed on both the fresh and brine water lines. In addition there is an automated dispensing and tracking station. The pumping system has hi-pressure cutoff devices to prevent over pressuring of the brine well.*

• **Section 3.K Fluids Injection and Brine Production Volumes and Pressures** submittal of
 monthly reports of injection and production volumes on or before the 10th day of the following month.

Response: *Wasserhund Inc. submitted all injected fluids, production volumes and average pressures in all of the annual reports. Pursuant to OCD's February 2018 compliance letter, Wasserhund Inc. followed up in March of 2018 by making sure all of these reports were uploaded per OCD's instructions.*

Special Note: Permit condition **3.K. FLUIDS INJECTION AND BRINE PRODUCTION VOLUMES AND PRESSURES: Reads**

“The Permittee shall continuously monitor the volumes of water injected and brine production. The Permittee shall submit monthly reports of its injection and production volumes on or before the 10th day of the following month. The Permittee shall suspend injection if the monthly injection volume is less than 110% or greater than 120% of associated brine production. If such an event occurs, the Permittee shall notify OCD within 24 hours.”

Wasserhund Inc.'s consultant Price LLC has had a number of discussions with OCD (i.e. Mr. Jim Griswold-Environmental Bureau Chief) concerning this requirement.

Due to well dynamics, interruptions in production, well flow parameters, and other issues, the current permit language is not viable as written.

Because of this issue, Wasserhund Inc. requested a variance in the annual reports and had verbally received permission to utilize the following language.

“The Permittee shall immediately suspend injection and notify the agency within 72 hours, if the Fresh Water Injection does not cause a normal immediate return of Brine Water to the surface, or if the well flows excessively for an unusual amount of time without fresh water injection after the cavern pressure has been stabilized to it's normal operating pressure, or if permittee has become aware of any out of zone injection or communication. The Permittee shall include in each annual report a summary showing the monthly variance, the average monthly variance for the year and the total accumulative variance over the life of the well. The operator shall certify and explain that any yearly variance that falls outside of the range of 20%, (Difference between the Fresh Water input and Brine Water output) will not cause harm to Fresh Water, Public Health or the Environment.”

Under Section 2.B.2.b (Solution Cavern Characterization Program:) Somewhat mirrors the above language, except when the permit was written, it included the word Monthly instead of Annually. It Reads;

“The Permit shall compare the ratio of the volume of injected fluids to the volume of produced brine monthly. If the average ratio of injected fluid to produced brine varies is less than 90% or greater than 110%, the Permittee shall report this to OCD and cease injection and production operations of its Class III well within 24 hours. The Permittee shall begin an investigation to determine the cause of this abnormal ratio within 72 hours. The Permittee shall submit to OCD a report of its investigation within 15 days of cessation of injection and production operations of its Class III well.”

The two permit requirements 3K and 2.B.2.b appear to be in contradiction.

Wasserhund Inc. recommends that OCD change its permit condition back to annually. As stated above, monthly variances can be substantial at times, but annual variances are generally within the 20% range.

The 10% monthly requirement is simply not valid in a brine well and will cause unnecessary shut downs and loss of revenue.

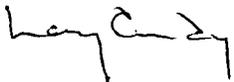
Therefore, Wasserhund Inc. respectfully requests a minor modification exception to the permit requirements and request the language be changed to:

“The Permittee shall immediately suspend injection and notify the agency within 72 hours, if the Fresh Water Injection does not cause a normal immediate return of Brine Water to the surface, or if the well flows excessively for an unusual amount of time without fresh water injection after the cavern pressure has been stabilized to it's normal operating pressure, or if permittee has become aware of any out of zone injection or communication.

The Permittee shall include in each annual report a summary showing the monthly variance, the average monthly variance for the year and the total accumulative variance over the life of the well. The operator shall certify and explain that any yearly variance that falls outside of the range of 20%, (Difference between the Fresh Water input and Brine Water output) will not cause harm to Fresh Water, Public Health or the Environment.”

If OCD has any questions concerning the above information and/or the Minor Modification requests please do not hesitate to call Wayne Price-Price LLC (505-715-2809) or E-mail wayneprice@q.com.

Sincerely,



Larry Gandy-President

Wasserhund, Inc.

LG/wp

Chavez, Carl J, EMNRD

From: Marks, Allison, EMNRD
Sent: Friday, February 23, 2018 3:59 PM
To: Wayne Price
Cc: Larry Gandy; jonrgandy Gandy; Griswold, Jim, EMNRD; Chavez, Carl J, EMNRD; Riley, Heather, EMNRD
Subject: RE: Complaint of Process

Good afternoon, Mr. Price.

Thank you for your feedback regarding OCD's recent review of Wasserhund Inc.'s permit. The Environment Bureau will review the documentation associated with this file and prepare a more detailed response of any missing documentation. After such review has taken place, it would be helpful for the Bureau and you to determine a path forward.

Please let me know if you have any additional concerns at this time.

Allison R. Marks
New Mexico Oil Conservation Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505
Tel: (505) 476-3206
Fax: (505) 476-3462

From: Wayne Price [mailto:wayneprice@q.com]
Sent: Thursday, February 22, 2018 7:52 PM
To: Marks, Allison, EMNRD <AllisonR.Marks@state.nm.us>
Cc: Wayne Price <wayneprice@q.com>; Larry Gandy <lgandy@gandycorporation.com>; jonrgandy Gandy <JonRGandy@aol.com>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>
Subject: Complaint of Process

Dear Deputy Director Marks,

Recently Wasserhund Inc received a letter titled "Compliance Letter" (Attached Below) notifying the operator of the upcoming Discharge Plan Renewal. In the letter, OCD required that Wasserhund Inc. conduct a 5-year review and audit of the OCD on-line records and submit any deficiencies by May 04, 2018. In addition, OCD made the comment " *The OCD is aware of some of these submittals, but other required information appears to be absent.* "

It long has been known and very well demonstrated that OCD has lost, misfiled or just didn't file submittals. For OCD to require Wasserhund Inc. to audit what has or has not been properly filed by OCD is an injustice to the system. If OCD was aware of any deficiencies they have had five years to point those out. Now it appears if something is not in your files a company may be fined for a 5-year period?

I can only hope the letter was not constructed to actually mean that, but a reminder of the up coming deadlines and voluntary compliance.

On behalf of Wasserhun Inc., we have submitted annual reports every year and these reports appear to contain all of your requested information. Not once did we every receive any feedback for these submittals, which tells me OCD staff didn't even look at them. So, if OCD found deficiencies, please let us know what they are so we can address them. Exactly what did you noticed was missing?

Sometimes we are not perfect, but a five year total audit is uncalled for and very overreaching, especially when we have submitted the reports in a timely fashion and never once received any acknowledgement from OCD.

If you want to audit our records, then we are willing to set down with OCD anytime and discuss what OCD thinks is a problem, but we have to know your thoughts and concerns first, as some issues are not totally clear, straight forward or interpreted the same way. Communication is "KEY"

I just have to believe this letter was hastily crafted without critical review by the OCD legal staff.

Sincerely,

Wayne Price-Price LLC (Consultant for Wasserhund Inc.)
312 Encantado Ridge CT NE
Rio Rancho, NM 87124
wayneprice@q.com
505-715-2809

Chavez, Carl J, EMNRD

From: Wayne Price <wayneprice@q.com>
Sent: Thursday, February 22, 2018 7:52 PM
To: Marks, Allison, EMNRD
Cc: Wayne Price; Larry Gandy; jonrgandy Gandy; Griswold, Jim, EMNRD; Chavez, Carl J, EMNRD
Subject: Complaint of Process
Attachments: BW-04.pdf; ATT00001.htm; BW-22.pdf; ATT00002.htm

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Sincerely,

Wayne Price-Price LLC (Consultant for Wasserhund Inc.)
312 Encantado Ridge CT NE
Rio Rancho, NM 87124
wayneprice@q.com
505-715-2809

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Ken McQueen
Cabinet Secretary

Matthias Sayer
Deputy Cabinet Secretary

Heather Riley, Division Director
Oil Conservation Division



FEBRUARY 16, 2018

Mr. Larry Gandy
Wasserhund, Inc.
P.O. Box 827
Tatum, New Mexico 88267

**Re: Discharge Plan Permit (BW-22) Wasserhund, Inc., UIC Class III Brine Well
Watson No. 1 Brine Well API No. 30-025-28162 UL: M Section 20 Township 12
South, Range 36 East, NMPM, Lea County, New Mexico**

The OCD notices Wasserhund's discharge permit will expire this year on November 8, 2018. The OCD hereby requests that Wasserhund review the submittal deadlines for documents over the past 5-years which are required under the permit, i.e.,

- Section 2.A Quarterly analysis of injected fluids and brine
- Section 2.B.1 Surface Subsidence Monitoring Plan information
- Section 2.B.2 Solution Cavern Characterization Plan
- Section 2.B.3 Annual Certification
- Section 2.J Annual Report (note list of items to be included) due by June 1st of each year
- Section 3.C Continuous Monitoring Devices, and
- Section 3.K Fluids Injection and Brine Production Volumes and Pressures submittal of monthly reports of injection and production volumes on or before the 10th day of the following month.

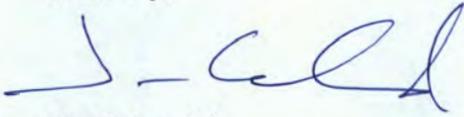
The OCD has some of these submittals, but other required information appears to be absent. Therefore, the OCD is requesting Wasserhund to review the OCD administrative record (BW-22) on "OCD Online" and submit all required and/or missing no later than May 4, 2018. The OCD will then complete its review of the records to determine the scope of any actions, if any, it may take to bring the discharge permit into compliance.

If you have any questions, please contact Carl Chavez of my staff at (505) 476-3490 or by email at Car1J.Chavez@state.nm.us.

February 16, 2018

Page 2

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Griswold", is written over a light green rectangular background.

Jim Griswold

Environmental Bureau Chief

JG/cc

Enclosure: Discharge Permit BW-22

cc: Hobbs District Office

DISCHARGE PERMIT BW-22

1. GENERAL PROVISIONS:

1.A. PERMITTEE AND PERMITTED FACILITY: The Director of the Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department renews Discharge Permit BW-22 (Discharge Permit) to Wasserhund, Inc. (Permittee) to operate its Underground Injection Control (UIC) Class III well for the in situ extraction of salt (Watson #1 - API No. 30-025-28162) located 593 feet FSL and 639 feet FWL (SW/4 SW/4, Unit Letter M) in Section 20, Township 12 South, Range 36 East, NMPM, Lea County, New Mexico at its Brine Production Facility (Facility). The Facility is located within Tatum, New Mexico to the north of US 380.

The Permittee is permitted to inject water into the subsurface salt layers and produce brine for use in the oil and gas industry. Ground water that may be affected by a spill, leak, or accidental discharge occurs at a depth of approximately 30 feet below ground surface and has a total dissolved solids concentration of approximately 700 mg/L.

1.B. SCOPE OF PERMIT: OCD has been granted the authority by statute and by delegation from the Water Quality Control Commission (WQCC) to administer the Water Quality Act (Chapter 74, Article 6 NMSA 1978) as it applies to Class III wells associated with the oil and gas industry (See Section 74-6-4, 74-6-5 NMSA 1978).

The Water Quality Act and the rules promulgated pursuant to the Act protect ground water and surface water of the State of New Mexico by providing that, unless otherwise allowed by 20.6.2 NMAC, no person shall cause or allow effluent or leachate to discharge so that it may move directly or indirectly into ground water unless such discharge is pursuant to an approved discharge plan (See 20.6.2.3104 NMAC, 20.6.2.3106 NMAC, and 20.6.2.5000 through 20.6.2.5299 NMAC).

This Discharge Permit for a Class III well is issued pursuant to the Water Quality Act and WQCC rules, 20.6.2 NMAC. This Discharge Permit does not authorize any treatment of, or on-site disposal of, any materials, product, by-product, or oil-field waste.

Pursuant to 20.6.2.5004A NMAC, the following underground injection activities are prohibited:

1. The injection of fluids into a motor vehicle waste disposal well is prohibited.
2. The injection of fluids into a large capacity cesspool is prohibited.
3. The injection of any hazardous or radioactive waste into a well is prohibited except as provided by 20.6.2.5004A(3) NMAC.
4. Class IV wells are prohibited, except for wells re-injecting treated ground water into the same formation from which it was drawn as part of a removal or remedial action.

5. Barrier wells, drainage wells, recharge wells, return flow wells, and motor vehicle waste disposal wells are prohibited.

This Discharge Permit does not convey any property rights of any sort nor any exclusive privilege, and does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of state, federal, or local laws, rules or regulations.

The Permittee shall operate in accordance with the terms and conditions specified in this Discharge Permit to comply with the Water Quality Act and the rules issued pursuant to that Act, so that neither a hazard to public health nor undue risk to property will result (see 20.6.2.3109C NMAC); so that no discharge will cause or may cause any stream standard to be violated (see 20.6.2.3109H(2) NMAC); so that no discharge of any water contaminant will result in a hazard to public health, (see 20.6.2.3109H(3) NMAC); so that the numerical standards specified of 20.6.2.3103 NMAC are not exceeded; and, so that the technical criteria and performance standards (see 20.6.2.5000 through 20.6.2.5299 NMAC) for Class III wells are met. Pursuant to 20.6.2.5003B NMAC, the Permittee shall comply with 20.6.2.1 through 20.6.2.5299 NMAC.

The Permittee shall not allow or cause water pollution, discharge, or release of any water contaminant that exceeds the Water Quality Control Commission (WQCC) standards specified at 20.6.2.3101 NMAC and 20.6.2.3103 NMAC or 20.6.4 NMAC (Water Quality Standards for Interstate and Intrastate Streams). Pursuant to 20.6.2.5101A NMAC, the Permittee shall not inject non-hazardous fluids into ground water having 10,000 mg/l or less total dissolved solids (TDS).

The issuance of this permit does not relieve the Permittee from the responsibility of complying with the provisions of the Water Quality Act, any applicable regulations or water quality standards of the WQCC, or any applicable federal laws, regulations or standards (See Section 74-6-5 NMSA 1978).

1.C. DISCHARGE PERMIT RENEWAL: This Discharge Permit is a permit renewal that replaces the permit being renewed. Replacement of a prior permit does not relieve the Permittee of its responsibility to comply with the terms of that prior permit while that permit was in effect.

1.D. DEFINITIONS: Terms not specifically defined in this Discharge Permit shall have the same meanings as those in the Water Quality Act or the rules adopted pursuant to the Act, as the context requires.

1.E. FILING FEES AND PERMIT FEES: Pursuant to 20.6.2.3114 NMAC, every facility that submits a Discharge Permit application for initial approval or renewal shall pay the permit fees specified in Table 1 and the filing fee specified in Table 2 of 20.6.2.3114 NMAC. OCD has already received the required \$100.00 filing fee. The Permittee is now required to submit the \$1,700.00 permit fee for a Class III well. Please remit payment made payable to the Water Quality Management Fund in care of OCD at 1220 South St. Francis Drive in Santa Fe, New Mexico 87505.

1.F. EFFECTIVE DATE, EXPIRATION, RENEWAL CONDITIONS, AND PENALTIES FOR OPERATING WITHOUT A DISCHARGE PERMIT: This Discharge Permit becomes effective 30 days from the date that the Permittee receives this discharge permit or until the permit is terminated or expires. This Discharge Permit will expire on **November 8, 2018**. The Permittee shall submit an application for renewal no later than 120 days before that expiration date, pursuant to 20.6.2.5101F NMAC. If a Permittee submits a renewal application at least 120 days before the Discharge Permit expires and is in compliance with the approved Discharge Permit, then the existing Discharge Permit will not expire until OCD has approved or disapproved the renewal application. A discharge permit continued under this provision remains fully effective and enforceable. Operating with an expired Discharge Permit may subject the Permittee to civil and/or criminal penalties (See Section 74-6-10.1 NMSA 1978 and Section 74-6-10.2 NMSA 1978).

1.G. MODIFICATIONS AND TERMINATIONS: The Permittee shall notify the OCD Director and OCD's Environmental Bureau of any Facility expansion or process modification (See 20.6.2.3107C NMAC). The OCD Director may require the Permittee to submit a Discharge Permit modification application pursuant to 20.6.2.3109E NMAC and may modify or terminate a Discharge Permit pursuant to Sections 74-6-5(M) through (N) NMSA 1978.

1. If data submitted pursuant to any monitoring requirements specified in this Discharge Permit or other information available to the OCD Director indicate that 20.6.2 NMAC is being or may be violated, then the OCD Director may require modification or, if it is determined by the OCD Director that the modification may not be adequate, may terminate this Discharge Permit for a Class III well that was approved pursuant to the requirements of 20.6.2.5000 through 20.6.2.5299 NMAC for the following causes:

a. Noncompliance by Permittee with any condition of this Discharge Permit;
or,

b. The Permittee's failure in the discharge permit application or during the discharge permit review process to disclose fully all relevant facts, or Permittee's misrepresentation of any relevant facts at any time; or,

c. A determination that the permitted activity may cause a hazard to public health or undue risk to property and can only be regulated to acceptable levels by discharge permit modification or termination (See Section 75-6-6 NMSA 1978; 20.6.2.5101I NMAC; and, 20.6.2.3109E NMAC).

2. This Discharge Permit may also be modified or terminated for any of the following causes:

a. Violation of any provisions of the Water Quality Act or any applicable regulations, standard of performance or water quality standards;

b. Violation of any applicable state or federal effluent regulations or limitations; or

c. Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge (See Section 75-6-5M NMSA 1978).

1.H. TRANSFER OF CLASS III WELL DISCHARGE PERMIT:

1. The transfer provisions of 20.6.2.3111 NMAC do not apply to a discharge permit for a Class III well.

2. Pursuant to 20.6.2.5101H NMAC, the Permittee may request to transfer its Class III well discharge permit if:

a. The OCD Director receives written notice 30 days prior to the transfer date; and,

b. The OCD Director does not object prior to the proposed transfer date. OCD may require modifications to the discharge permit as a condition of transfer, and may require demonstration of adequate financial responsibility.

3. The written notice required in accordance with Permit Condition 1.H.2.a shall:

a. Have been signed by the Permittee and the succeeding Permittee, and shall include an acknowledgement that the succeeding Permittee shall be responsible for compliance with the Class III well discharge permit upon taking possession of the facility; and

b. Set a specific date for transfer of the discharge permit responsibility, coverage and liability; and

c. Include information relating to the succeeding Permittee's financial responsibility required by 20.6.2.5210B(17) NMAC.

1.I. COMPLIANCE AND ENFORCEMENT: If the Permittee violates or is violating a condition of this Discharge Permit, OCD may issue a compliance order that requires compliance immediately or within a specified time period, or assess a civil penalty, or both (See Section 74-6-10 NMSA 1978). The compliance order may also include a suspension or termination of this Discharge Permit. OCD may also commence a civil action in district court for appropriate relief, including injunctive relief (See Section 74-6-10(A)(2) NMSA 1978). The Permittee may be subject to criminal penalties for discharging a water contaminant without a discharge permit or in violation of a condition of a discharge permit; making any false material statement, representation, certification or omission of material fact in a renewal application, record, report, plan or other document filed, submitted or required to be maintained under the Water Quality Act; falsifying, tampering with or rendering inaccurate any monitoring device, method or record required to be maintained under the Water Quality Act; or failing to monitor, sample or report as required by a Discharge Permit issued pursuant to a state or federal law or regulation (See Section 74-6-10.2 NMSA 1978).

2. GENERAL FACILITY OPERATIONS:

2.A. QUARTERLY MONITORING REQUIREMENTS FOR CLASS III WELLS: The Permittee may use either or both fresh water or water from otherwise non-potable sources. Pursuant to 20.6.2.5207C, the Permittee shall provide analysis of the injected fluids at least quarterly to yield data representative of their characteristics. The Permittee shall analyze the injected fluids for the following characteristics:

- pH;
- density;
- concentration of total dissolved solids; and,
- chloride concentration.

The Permittee shall also provide analysis of the produced brine on a quarterly basis. The Permittee shall analyze the produced brine for the following characteristics:

- pH;
- density;
- concentration of total dissolved solids;
- chloride concentration; and,
- sodium concentration.

2.B. SOLUTION CAVERN MONITORING PROGRAM:

1. Surface Subsidence Monitoring Plan: The Permittee shall submit a Surface Subsidence Monitoring Plan to OCD within 180 days of the effective date of this permit. The Surface Subsidence Monitoring Plan shall specify that the Permittee will install at least three survey monuments and shall include a proposal to monitor the elevation of the monuments at least semiannually.

The Permittee shall survey each benchmark at least semiannually to monitor for possible surface subsidence and shall tie each survey to the nearest USGS benchmark. The Permittee shall employ a licensed professional surveyor to conduct the subsidence monitoring program. The Permittee shall submit the results of all subsidence surveys to OCD within 15 days of the survey. If the monitored surface subsidence at any measuring point reaches 0.10 feet compared to its baseline elevation, then the Permittee shall suspend operation of the Class III well. If the Permittee cannot demonstrate the integrity of the cavern and well to the satisfaction of OCD, then it shall cease all brine production and submit a corrective action plan to mitigate the subsidence.

2. Solution Cavern Characterization Program: The Permittee shall submit a Solution Cavern Characterization Plan to characterize the size and shape of the solution cavern using geophysical methods within 180 days of the effective date of this permit. The Permittee shall characterize the size and shape of the solution cavern using a geophysical method approved by OCD at least once before November 8, 2018. The Permittee shall demonstrate that at least 90% of the calculated volume of salt removed based upon injection and production volumes has been accounted for by the approved geophysical method(s) for such testing to be considered truly representative.

a. The Permittee shall provide an estimate of the size and shape of the solution cavern at least annually, based on fluid injection and brine production data.

b. The Permit shall compare the ratio of the volume of injected fluids to the volume of produced brine monthly. If the average ratio of injected fluid to produced brine varies is less than 90% or greater than 110%, the Permittee shall report this to OCD and cease injection and production operations of its Class III well within 24 hours. The Permittee shall begin an investigation to determine the cause of this abnormal ratio within 72 hours. The Permittee shall submit to OCD a report of its investigation within 15 days of cessation of injection and production operations of its Class III well.

3. Annual Certification: The Permittee shall certify annually that continued salt solution mining will not cause cavern collapse, surface subsidence, property damage, or otherwise threaten public health and the environment, based on geologic and engineering data.

If the solution cavern is determined by either OCD or the Permittee to be potentially unstable by either direct or indirect means, then the Permittee shall cease all fluid injection and brine production within 24 hours. If the Permittee ceases operations because it or OCD has determined that the solution cavern is unstable, then it shall submit a plan to stabilize the solution cavern within 30 days. OCD may require the Permittee to implement additional subsidence monitoring and to conduct additional corrective action.

2.C. CONTINGENCY PLANS: The Permittee shall implement its proposed contingency plan(s) included in its Permit Renewal Application to cope with failure of a system(s) in the Discharge Permit.

2.D. CLOSURE: Prior to closure of the facility, the Permittee shall submit for OCD's approval, a closure plan including a completed form C-103 for plugging and abandonment of the Class III well. The Permittee shall plug and abandon its well pursuant to 20.6.2.5209 NMAC and as specified in Permit Condition 2.D.

1. Pre-Closure Notification: Pursuant to 20.6.2.5005A NMAC, the Permittee shall submit a pre-closure notification to OCD's Environmental Bureau at least 30 days prior to the date that it proposes to close or to discontinue operation of its Class III well. Pursuant to 20.6.2.5005B NMAC, OCD's Environmental Bureau must approve all proposed well closure activities before Permittee may implement its proposed closure plan.

2. Required Information: The Permittee shall provide OCD's Environmental Bureau with the following information:

- Name of facility;
- Address of facility;
- Name of Permittee (and owner or operator, if appropriate);
- Address of Permittee (and owner or operator, if appropriate);
- Contact person;
- Phone number;
- Number and type of well(s);

- Year of well construction;
- Well construction details;
- Type of discharge;
- Average flow (gallons per day);
- Proposed well closure activities (*e.g.*, sample fluids/sediment, appropriate disposal of remaining fluids/sediments, remove well and any contaminated soil, clean out well, install permanent plug, conversion to other type of well, ground water and vadose zone investigation, other);
- Proposed date of well closure;
- Name of Preparer; and,
- Date.

2.E. PLUGGING AND ABANDONMENT PLAN: Pursuant to 20.6.2.5209A NMAC, when the Permittee proposes to plug and abandon its Class III well, it shall submit to OCD a plugging and abandonment plan that meets the requirements of 20.6.2.3109C NMAC, 20.6.2.5101C NMAC, and 20.6.2.5005 NMAC for protection of ground water. If requested by OCD, Permittee shall submit for approval prior to closure, a revised or updated plugging and abandonment plan. The obligation to implement the plugging and abandonment plan as well as the requirements of the plan survives the termination or expiration of this Discharge Permit. The Permittee shall comply with 20.6.2.5209 NMAC.

2.F RECORD KEEPING: The Permittee shall maintain records of all inspections, surveys, investigations, *etc.*, required by this Discharge Permit at its Facility office for a minimum of five years and shall make those records available for inspection by OCD.

2.G. RELEASE REPORTING: The Permittee shall comply with the following permit conditions, pursuant to 20.6.2.1203 NMAC, if it determines that a release of oil or other water contaminant, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of property, has occurred. The Permittee shall report unauthorized releases of water contaminants in accordance with any additional commitments made in its approved Contingency Plan. If the Permittee determines that any constituent exceeds the standards specified at 20.6.2.3103 NMAC, then it shall report a release to OCD's Environmental Bureau.

1. Oral Notification: As soon as possible after learning of such a discharge, but in no event more than twenty-four (24) hours thereafter, the Permittee shall notify OCD's Environmental Bureau. The Permittee shall provide the following:

- The name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the facility;
- The name and location of the facility;
- The date, time, location, and duration of the discharge;
- The source and cause of discharge;
- A description of the discharge, including its chemical composition;
- The estimated volume of the discharge; and,

- Any corrective or abatement actions taken to mitigate immediate damage from the discharge.

2. Written Notification: Within one week after the Permittee has discovered a discharge, the Permittee shall send written notification (may use form C-141 with attachments) to OCD's Environmental Bureau verifying the prior oral notification as to each of the foregoing items and providing any appropriate additions or corrections to the information contained in the prior oral notification.

The Permittee shall provide subsequent written reports as required by OCD's Environmental Bureau.

2.H. OTHER REQUIREMENTS:

1. Inspection and Entry: Pursuant to Section 74-6-9 NMSA 1978 and 20.6.2.3107A NMAC, the Permittee shall allow any authorized representative of the OCD Director, to:

- Upon the presentation of proper credentials, enter the premises at reasonable times;
- Inspect and copy records required by this Discharge Permit;
- Inspect any treatment works, monitoring, and analytical equipment;
- Sample any injection fluid or produced brine; and,
- Use the Permittee's monitoring systems and wells in order to collect samples.

2. Advance Notice: The Permittee shall provide OCD's Environmental Bureau and Hobbs District Office with at least five (5) working days advance notice of any environmental sampling to be performed pursuant to this Discharge Permit, or any well plugging, abandonment or decommissioning of any equipment associated with its Class III well.

3. Environmental Monitoring: The Permittee shall ensure that any environmental sampling and analytical laboratory data collected meets the standards specified in 20.6.2.3107B NMAC. The Permittee shall ensure that all environmental samples are analyzed by an accredited "National Environmental Laboratory Accreditation Conference" (NELAC) Laboratory. The Permittee shall submit data summary tables, all raw analytical data, and laboratory QA/QC.

2.I. BONDING OR FINANCIAL ASSURANCE: Pursuant to 20.6.2.5210B(17) NMAC, the Permittee shall maintain at a minimum, a single well plugging bond in the amount that it shall determine, in accordance with Permit Condition 5.B, to cover potential costs associated with plugging and abandonment of the Class III well, surface restoration, and post-operational monitoring, as may be needed. OCD may require additional financial assurance to ensure adequate funding is available to plug and abandon the well and/or for any required corrective actions.

Methods by which the Permittee shall demonstrate the ability to undertake these measures shall include submission of a surety bond or other adequate assurances, such as financial statements or other materials acceptable to the OCD Director, such as: (1) a surety bond; (2) a trust fund with a New Mexico bank in the name of the State of New Mexico, with the State as Beneficiary; (3) a

non-renewable letter of credit made out to the State of New Mexico; (4) liability insurance specifically covering the contingencies listed in this paragraph; or (5) a performance bond, generally in conjunction with another type of financial assurance. If an adequate bond is posted by the Permittee to a federal or another state agency, and this bond covers all of the measures specified above, the OCD Director shall consider this bond as satisfying the bonding requirements of Sections 20.6.2.5000 through 20.6.2.5299 NMAC wholly or in part, depending upon the extent to which such bond is adequate to ensure that the Permittee will fully perform the measures required hereinabove.

2.J. ANNUAL REPORT: The Permittee shall submit its annual report pursuant to 20.6.2.3107 NMAC to OCD's Environmental Bureau by **June 1st** of the following year. The annual report shall include the following:

- Cover sheet marked as "Annual Class III Well Report, Name of Permittee, Discharge Permit Number, API number of well(s), date of report, and person submitting report;
- Summary of Class III well operations for the year including a description and reason for any remedial or major work on the well with a copy of form C-103;
- Monthly fluid injection and brine production volume, including the cumulative total carried over each year;
- Injection pressure data;
- A copy of the quarterly chemical analyses shall be included with data summary and all QA/QC information;
- Copy of any mechanical integrity test chart, including the type of test, *i.e.*, duration, gauge pressure, etc.;
- Brief explanation describing deviations from the normal operations;
- Results of any leaks and spill reports;
- An Area of Review (AOR) update summary;
- A summary with interpretation of MITs, surface subsidence surveys, cavern volume and geometry measurements with conclusion(s) and recommendation(s);
- A summary of the ratio of the volume of injected fluids to the volume of produced brine;
- A summary of all major Facility activities or events, which occurred during the year with any conclusions and recommendations;
- Annual Certification in accordance with Permit Condition 2.B.3.
- A summary of any new discoveries of ground water contamination with all leaks, spills and releases and corrective actions taken; and,
- The Permittee shall file its Annual Report in an electronic format with a hard copy submittal to OCD's Environmental Bureau.

3. CLASS III WELL OPERATIONS:

3.A. OPERATING REQUIREMENTS: The Permittee shall comply with the operating requirements specified in 20.6.2.5206A NMAC and 20.6.2.5206A NMAC to ensure that:

1. Injection will occur through the innermost tubing string and brine production through the annulus between the casing and tubing string to promote cavern development at depth. Injection and production flow can be reversed as required to achieve optimal cavern shaping, mine salt most efficiently, and to periodically clean the tubing and annulus. Injection must only occur in the intended solution mining interval.

2. Injection between the outermost casing and the well bore is prohibited in a zone other than the authorized injection zone. If the Permittee determines that its Class III well is discharging or suspects that it is discharging fluids into a zone or zones other than the permitted injection zone specified in Permit Condition 3.B.1., then the Permittee shall within 24 hours notify OCD's Environmental Bureau and Hobbs District Office of the circumstances and action(s) taken. The Permittee shall cease operations until proper repairs are made and it has received approval from OCD to re-start injection operations.

3.B. INJECTION OPERATIONS:

1. **Well Injection Pressure Limit:** The Permittee shall ensure that the maximum wellhead or surface injection pressure on its Class III well shall not exceed the fracture pressure of the injection salt formation and will not cause new fractures or propagate any existing fractures of cause damage to the system.

2. **Pressure Limiting Device:** The Permittee shall equip and operate its Class III well or system with a pressure limiting device which shall, at all times, limit surface injection pressure to the maximum allowable pressure for its Class III well. The Permittee shall monitor the pressure-limiting device daily and shall report all pressure exceedances within 24 hours of detecting an exceedance to OCD's Environmental Bureau.

The Permittee shall take all steps necessary to ensure that the injected fluids enter only the proposed injection interval and is not permitted to escape to other formations or onto the ground surface. The Permittee shall report to OCD's Environmental Bureau within 24 hours of discovery any indication that new fractures or existing fractures have been propagated, or that damage to the well, the injection zone, or formation has occurred.

3.C. CONTINUOUS MONITORING DEVICES: The Permittee shall use continuous monitoring devices to provide a record of injection pressure, flow rate, flow volume, and pressure on the annulus between the tubing and the long string of casing.

3.D. MECHANICAL INTEGRITY FOR CLASS III WELLS:

1. Pursuant to 20.6.2.5204 NMAC, the Permittee shall demonstrate mechanical integrity for its Class III well at least once every five years or more frequently as the OCD

Director may require for good cause during the life of the well. The Permittee shall demonstrate mechanical integrity for its Class III well every time it performs a well workover, including when it pulls the tubing. A Class III well has mechanical integrity if there is no detectable leak in the casing or tubing which OCD considers to be significant at maximum operating temperature and pressure; and no detectable conduit for fluid movement out of the injection zone through the well bore or vertical channels adjacent to the well bore which the OCD Director considers to be significant. The Permittee shall conduct a casing Mechanical Integrity Test (MIT) from the surface to the approved injection depth to assess casing integrity. The MIT shall consist of a 30-minute test at a minimum pressure of 300 psig measured at the surface.

The Permittee shall notify OCD's Environmental Bureau 5 days prior to conducting any MIT to allow OCD the opportunity to witness the MIT.

2. The following criteria will determine if the Class III well has passed the MIT:

- a. Passes MIT if zero bleed-off during the test;
- b. Passes MIT if final test pressure is within $\pm 10\%$ of starting pressure, if approved by OCD;
- c. When the MIT is not witnessed by OCD and fails, the Permittee shall notify OCD within 24 hours of the failure of the MIT.

3. Pursuant to 20.6.2.5204C NMAC, the OCD Director may consider the use by the Permittee of equivalent alternative test methods to determine mechanical integrity. The Permittee shall submit information on the proposed test and all technical data supporting its use. The OCD Director may approve the Permittee's request if it will reliably demonstrate the mechanical integrity of the well for which its use is proposed.

4. Pursuant to 20.6.2.5204D NMAC, when conducting and evaluating the MIT(s), the Permittee shall apply methods and standards generally accepted in the oil and gas industry. When the Permittee reports the results of all MIT(s) to the OCD Director, it shall include a description of the test(s), the method(s) used, and the test results.

3.E. WELL WORKOVER OPERATIONS: Pursuant to 20.6.2.5205A(5) NMAC, the Permittee shall provide notice to and shall obtain approval from OCD's District Office in Hobbs and the Environmental Bureau in Santa Fe prior to commencement of any remedial work or any other workover operations to allow OCD the opportunity to witness the operation. The Permittee shall request approval using form C-103 (Sundry Notices and Reports on Wells) with copies sent to OCD's Environmental Bureau and Hobbs District Office. Properly completed Forms C-103 and/or C-105 must be filed with OCD upon completion of workover activities and copies included in that year's Annual Report.

3.K. FLUIDS INJECTION AND BRINE PRODUCTION VOLUMES AND PRESSURES: The Permittee shall continuously monitor the volumes of water injected and brine production. The Permittee shall submit monthly reports of its injection and production volumes on or before the 10th day of the following month. The Permittee shall suspend injection if the monthly injection volume is less than 110% or greater than 120% of associated brine production. If such an event occurs, the Permittee shall notify OCD within 24 hours.

3.L. AREA OF REVIEW (AOR): The Permittee shall report within 72 hours of discovery any new wells, conduits, or any other device that penetrates or may penetrate the injection zone within a 1-mile radius from its Class III well.

4. CLASS V WELLS: Pursuant to 20.6.2.5002B NMAC, leach fields and other waste fluids disposal systems that inject non-hazardous fluid into or above an underground source of drinking water are UIC Class V injection wells. This Discharge Permit does not authorize the use of a Class V injection well for the disposal of industrial waste. Pursuant to 20.6.2.5005 NMAC, the Permittee shall close any Class V industrial waste injection well that injects non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes (*e.g.*, septic systems, leach fields, dry wells, *etc.*) within 90 calendar days of the issuance of this Discharge Permit. The Permittee shall document the closure of any Class V wells used for the disposal of non-hazardous industrial wastes or a mixture of industrial wastes and domestic wastes other than contaminated ground water in its Annual Report. Other Class V wells, including wells used only for the injection of domestic wastes, shall be permitted by the New Mexico Environment Department.

5. SCHEDULE OF COMPLIANCE:

5.A. ANNUAL REPORT: The Permittee shall submit its annual report to OCD by June 1st of each year.

5.B. BONDING OR FINANCIAL ASSURANCE: The Permittee shall submit an estimate of the minimum cost to properly close, plug and abandon its Class III well, conduct ground water restoration if applicable, and any post-operational monitoring as may be needed (see 20.6.2.5210B(17) NMAC) within 90 days of permit issuance (See 20.6.2.5210B(17) NMAC). The Permittee's cost estimate shall be based on third person estimates. After review, OCD will require the Permittee to submit a single well plugging bond based on the third person cost estimate.

5.C. SURFACE SUBSIDENCE MONITORING PLAN: The Permittee shall submit the Surface Subsidence Monitoring Plan required in accordance with Permit Condition 2.B.1 within 180 days of permit issuance.

5.D. SOLUTION CAVERN CHARACTERIZATION PLAN: The Permittee shall submit the Solution Cavern Characterization Plan required in accordance with Permit Condition 2.B.2 within 180 days of permit issuance.