

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)
APPLICATION OF GANDY MARLEY, INC., TO)
MODIFY THEIR EXISTING NMOCD RULE 711)
PERMIT NO. NM-01-019 SO THAT THEY MAY)
ACCEPT SALT-CONTAMINATED OILFIELD WASTES)

CASE NO. 13,480

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

February 9th, 2006

Santa Fe, New Mexico

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This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, February 9th, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

February 9th, 2006
Commission Hearing
CASE NO. 13,480

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REPORTER'S CERTIFICATE

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A P P E A R A N C E S

FOR THE COMMISSION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 9:50 a.m.:

3 CHAIRMAN FESMIRE: We're going to go a little bit
4 out of order here. We're going to go to Cause Number
5 13,480, the *de novo* Application of Gandy Marley, Inc., to
6 modify their existing NMOCD Rule 711 Permit so that they
7 may accept salt-contaminated oilfield wastes.

8 Mr. Brooks, would you -- Counsel Brooks, would
9 you like to bring the Commission up to speed in this case?

10 MR. BROOKS: Yes, Mr. Chairman, honorable
11 Commissioners. This case was originally commenced as an
12 application to modify a Rule 711 disposal facility permit.
13 The Division held a hearing on the Application. The
14 Division determined that the Application was deficient and
15 the notice that was given of the Application was deficient,
16 and the Division denied the Application without prejudice
17 to its being re-asserted if a proper application were filed
18 and proper notice given.

19 Following that order, the Applicant, which was
20 Gandy Marley, Inc., applied for a *de novo* review of that
21 order by the Commission. However, the Applicant also
22 separately pursued the avenue of filing a new application
23 and giving new notice as the Commission -- as the
24 Division's order specified.

25 I forgot to mention that the Division Order, in

1 addition to stating that it was without prejudice to the
2 filing of a new application and re-noticing, also stated
3 that if a new application and notice were undertaken, that
4 the matter would be heard by the Commission rather than by
5 a Division Examiner, which of course this was an order of
6 your Honor in your capacity as Director of the Division,
7 and you have the authority to direct that any matter be
8 heard by the Commission.

9 Subsequent to that, as I say, the Applicant,
10 Gandy Marley, Inc., did file a new application, did give
11 new notice. Controlled Recovery, Inc., which had protested
12 the original Application, withdrew its protest. And after
13 the notice was given, no other person or party protested
14 the new Application.

15 Accordingly, your Honor entered another order in
16 your capacity as Director of the Division, determining that
17 the Application was not protested, and accordingly
18 rescinding the referral of the Application to the
19 Commission and directing the Division to handle the matter
20 administratively in the normal course, as such applications
21 are normally handled.

22 I do not have definite information, but I believe
23 that has been done and the permit has now been granted.
24 Accordingly, I think the case is now moot and I have
25 prepared an order of dismissal.

1 CHAIRMAN FESMIRE: Are there any entries of
2 appearance in this case?

3 Seeing none, the Chair would entertain a motion
4 to dismiss Cause Number 13,480.

5 COMMISSIONER BAILEY: I so move.

6 COMMISSIONER OLSON: Second.

7 CHAIRMAN FESMIRE: All those in favor?

8 COMMISSIONER BAILEY: Aye.

9 COMMISSIONER OLSON: Aye.

10 CHAIRMAN FESMIRE: Let the record reflect that
11 the motion carried. Case Number 13,480 -- Counsel Brooks,
12 you've prepared an order in that case also?

13 MR. BROOKS: I believe that an order was
14 prepared, yes. Do you have the order here?

15 CHAIRMAN FESMIRE: Yes.

16 MR. BROOKS: I know that I drafted an order. I
17 had assumed that it had been brought down.

18 COMMISSIONER OLSON: Is this the same order that
19 we were given the draft of?

20 CHAIRMAN FESMIRE: I believe it is, yes.

21 MR. BROOKS: I prepared this order yesterday, I
22 believe, and -- yes, you circulated it to the Commissioner?

23 COMMISSIONER OLSON: Yeah, I think it was
24 circulated to us through e-mail, so -- I have no problem
25 with it, as long as it hasn't changed.

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MR. BROOKS: No, it's been no change.

CHAIRMAN FESMIRE: Okay. The motion having been made, seconded and duly passed to dismiss Cause Number 13,480, the Commission will now sign the order.

(Thereupon, these proceedings were concluded at 9:54 a.m.)

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CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL February 10th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006