

DOMENICI LAW FIRM, P.C.**ATTORNEYS AT LAW****320 Gold Avenue SW, Suite 1000
Albuquerque, New Mexico 87102**Pete V. Domenici, Jr.
pdomenici@domicilaw.comJcann: Cameron Washburn
jwashburn@domicilaw.com-
(505) 883-6250 Telephone
(505) 884-3424 FacsimileCharles N. Lakin
clakin@domicilaw.comLorraine Hollingsworth
lhollingsworth@domicilaw.com

January 9, 2007

VIA FACSIMILE FILING 505-476-3462Florence Davidson, Hearing Clerk
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: Matter of the Application of DKD, LLC for an Order Directing Gandy Corporation to Show Case, Lea County, New Mexico; Case No. 13686

Dear Ms. Davidson:

Please find attached Gandy-Marley's *Reply to DKD, LLC's Response to Gandy Corporation's Motion to Continue* for filing in the above captioned case. The originals are being sent via U.S. Mail.

Thank you for your courtesies.

Sincerely,
DOMENICI LAW FIRM, P.C.
Sylvia Rudy, Admin. Asst.cc: 1679
J. Scott Hall, Attorney for DKD
Cheryl Bada, Attorney for OCD
Mark Fesmire

Sylvia Rudy, Administrative Assistant
srudy@domicilaw.comGlenna Bergeron, Administrative Assistant
gbergeron@domicilaw.com

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

**IN THE MATTER OF THE APPLICATION OF
DKD, LLC FOR AN ORDER DIRECTING
GANDY CORPORATION TO SHOW CAUSE,
LEA COUNTY, NEW MEXICO**

**CASE NO. 13686
Order NO. R-12649
DE NOVO**

**GANDY CORPORATION'S REPLY TO DKD, LLC'S RESPONSE TO
GANDY CORPORATION'S MOTION TO CONTINUE**

COMES NOW Gandy Corporation (Gandy), by and through undersigned counsel of record, and, in Reply to DKD's Response to Gandy Corporation's Motion to Continue, states as follows.

Gandy filed and served its Motion to Continue the hearing scheduled for January 11, 2007 on January 8, 2007. The Oil Conservation Commission rules require that motions for continuance be filed and served "no later than 48 hours prior to time the hearing is set to begin..." 19.15.14.1212 NMAC. Gandy's Motion for Continuance was timely filed in compliance with the rule.

The following procedural history is relevant to the consideration of DKD's opposition to the continuance of the January 11, 2007 hearing:

1. DKD filed an application requesting the OCD to enter an order "immediately and permanently revoking the authority of Gandy Corporation to utilize its State "T" Well No. 2 for the injection of produced water for disposal purposes." (Amended Application at 1). The Amended Application asked for specific relief as to Gandy's use of State "T" Well No. 2, including the plugging and abandonment of the well. (*Id.* at 7).

2. A hearing was held on April 27, 2006. DKD and Gandy presented testimony and evidence at the hearing in support of their respective positions.
3. As a result of the hearing, the OCD issued Order No. R-12649 on October 24, 2006, revoking, within 30 days of the Order, Gandy's permit to inject and ordering Gandy to cease injection into its State "T" Well No. 2. The Order addressed the specific relief requested by DKD in its Amended Application.
4. Gandy has complied with Order No. R-12549 and has ceased injection into the well. In addition, on December 15, 2006, Gandy filed a C-103 Form, notifying the OCD that it intends to plug and abandon State "T" Well No. 2.
5. Gandy timely filed an Application for De Novo Hearing Before the Oil Conservation Commission.
6. DKD did not file a request for de novo hearing.
7. Following the request for a de novo hearing, Gandy filed a number of motions with the Commission, including a motion to stay and a motion to dismiss for lack of jurisdiction.
8. The first action taken by DKD since the conclusion of the hearing in April, 2006, was the filing of its Pre-hearing Statement on January 4, 2007.
9. On January 5, 2007, Gandy Corporation filed notice that it is withdrawing its request for a de novo hearing. DKD objected to the withdrawal of the request for de novo hearing.

Because Gandy has withdrawn its request for a de novo hearing and DKD has objected, the Commission first needs to decide if the de novo hearing will be held. The decision on

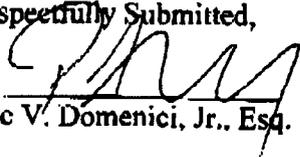
Gandy's withdrawal should be made before the Parties make preparations for a de novo hearing. Depending on the Commission's decision, the Parties can such further actions as are appropriate.

There is no support for DKD's opposition to Gandy's Motion to Continue. DKD's response to the Motion to Continue alleges that there are conditions in the field that warrant immediate action by the Commission. However, since the hearing concluded on April 27, 2006, DKD did not taken any actions or request any further relief until it filed its pre-hearing statement on January 4, 2007. Order No. R-12549 addressed the relief requested by DKD in the Amended Application. Although the Order did not require Gandy to plug and abandon the well, Gandy has since notified OCD that the well will be plugged and abandoned. DKD has obtained the relief requested by its Amended Application and has not taken any actions to obtain additional relief. In fact, prior to its response to the Motion to Continue, DKD did not indicate that it would be requesting "further administrative action" beyond that requested in the Amended Application and addressed in the Order.

DKD refers to actions that it has taken in reliance on the Application for De Novo Hearing filed by Gandy. However, other than filing the Pre-hearing Statement and responding to Gandy's Motion to Dismiss, all of the activities identified were undertaken in preparation for the original hearing held before the Hearing Examiner.

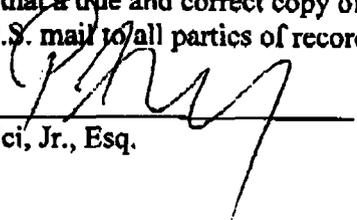
Since the hearing concluded in April, 2006, DKD has not taken any actions indicating the need for immediate action by the Commission. Nor is there support for DKD's position that it will be prejudiced by a continuation of the hearing scheduled for January 11, 2007. Therefore, Gandy respectfully requests that the Commission grant its Motion to Continue.

Respectfully Submitted,


Pete V. Domenici, Jr., Esq.

Attorney for Gandy Corporation
320 Gold Avenue SW, Suite 1000
Albuquerque, NM 87102
(505) 883-6250

I hereby certify that a true and correct copy of the foregoing was sent via
facsimile and U.S. mail to all parties of record this 9th day of January 2007.



Pete V. Domenici, Jr., Esq.