

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

IN THE MATTER OF THE HEARING
BEFORE THE HEARING EXAMINER
FOR THE PURPOSE OF CONSIDERING:

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

RECEIVED
JUL 2 2004
OIL CONSERVATION COMMISSION
1220 S. St. Francis Drive
Santa Fe, NM 87505
CASE NO. 14293
JUL 7 48

**GANDY CORPORATION REQUEST FOR
EMERGENCY ORDER TO OPERATE**

COMES NOW, Gandy Corporation ("Gandy"), by and through undersigned counsel of record, and, pursuant to Rule 19.15.14.1202 NMAC, requests the issuance of an Emergency Order allowing the operation of the salt water disposal well designated as State "T" Well No. 2 (API No. 30-025-03735, located 4,290 feet from the South line and 500 feet from the West line, Lot 12, Section 6, Township 16 South, Range 36 East) until a determination is made by the Hearing Examiner on Gandy's application to amend the current permit. In support of the request, Gandy Corporation states as follows:

1. On May 15, 2003, Gandy's predecessor in interest received a permit authorizing the injection of produced water for disposal purposes into the San Andres and Glorieta formations from a depth of 6,000 feet to 6,200 feet.

2. On May 3, 2004, Joanna Prukop, Acting Director of the Division, issued an Emergency Shut-In Order directing Gandy to cease operations at the State "T" No. 2 well until Gandy obtains an approved permit to inject into the depths already perforated. Chris Williams, Oil and Gas Inspector and District Supervisor for OCD District 1, subsequently granted Gandy verbal permission to continue operating pending approval of a permit application.

EXHIBIT

App-9

3. On May 11, 2004, Gandy filed an Application to amend the permit to allow the disposal through perforations from 4,810 feet to 6,880 feet. DKD, LLC ("DKD") opposed the Application. An Examiner Hearing was set for June 24, 2004. Exhibit 1, attached hereto. Gandy filed its Pre-Hearing Statement on June 21, 2004. DKD also filed its Pre-Hearing Statement on June 21, 2004.

4. On June 21, 2004, DKD requested a four-week extension for the Hearing. The request was made in writing to Mark Fesmire, Director of OCD. Exhibit 2, attached hereto. Gandy opposed the request for an extension. In its letter, DKD stated that Gandy would not be prejudiced by the postponement "because the salt water disposal well at issue is currently in use pursuant to NMOCD Order No. R-11855-B."

5. The Hearing Examiner, David Katnick, reviewed the request for an extension of the hearing and had several telephone calls with counsel for Gandy and DKD. Counsel for Gandy informed Mr. Katnick that Gandy was opposed to the postponement. Mr. Katnick suggested that the hearing be re-scheduled for July 8, 2004. Mr. Katnick also inquired about the May 3, 2004 Emergency Shut-In Order directing Gandy to cease injection into the well until Gandy received an approved permit from the Division. In a subsequent phone call, after speaking with Gandy and Larry Scott, Gandy's expert in this matter, counsel for Gandy informed Mr. Katnick that Gandy was currently operating the well based on the verbal permission from Mr. Williams of OCD District 1. Counsel informed Mr. Katnick that Gandy would not object to a postponement until July 8, 2004 with the understanding that Gandy would be able to continue operating based on the verbal approval by Mr. Williams. On that basis, the hearing was re-scheduled for July 8, 2004.

6. On June 22, 2004, counsel for Gandy sent a letter to Mr. Williams, confirming Gandy's understanding of the basis for the continued operation of the well. Exhibit 3, attached hereto. On June 29, 2004, Counsel for Gandy received a letter from Gail MacQuesten stating the Mr. Williams did not have the authority to grant verbal approval for Gandy to continue operating during the period in which the Application was pending. Exhibit 4, attached hereto.

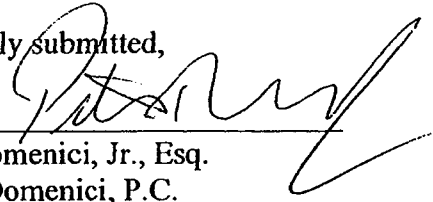
7. As shown by Gandy's Pre-Hearing Statement, Larry Scott will present expert testimony that there is no technical evidence that the current levels of injection, from 4,810 feet to 6,880 feet is creating harm to water resources or correlative rights. The attached letter from Mr. Scott, Exhibit 5, requesting that the Emergency Shut-In Order be rescinded, demonstrates that the operation of the well between now and the date on which a determination is made by the Hearing Examiner on Gandy's application to amend the current permit will not cause any harm, will be fully protective of correlative rights, and will result in the conservation of oil and gas resources and the prevention of waste.

8. As demonstrated by Exhibit 6, attached hereto, if Gandy is required to immediately cease operations until completion of the July 8 hearing, it will be severely prejudiced. As discussed above, Gandy did not object to the two-week postponement of the original hearing because it was Gandy's understanding that it would be able to continue well operations. As evidenced from DKD's letter of June 21, 2004, DKD is aware that the well is currently in operation.

9. The June 29, 2004 letter requiring Gandy to cease operating the well and the prejudice that will immediately result if Gandy must cease operations constitute an emergency situation that allows the issuance of the requested Emergency Order.

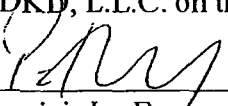
WHEREFORE, Gandy Corporation requests an Emergency Order allowing it to continue operations at the State "T" Well No. 2 until a determination is made by the Hearing Examiner on Gandy's application to amend the current permit.

Respectfully submitted,



Pete V. Domenici, Jr., Esq.
Dolan & Domenici, P.C.
Attorneys for Applicant
6100 Seagull St, NE, Suite 205
Albuquerque, New Mexico 87109
505-883-6250

I hereby certify that a true and correct copy
of the foregoing was sent by facsimile and U.S. Mail
to the Gail MacQuesten of the Oil Conservation Division
and Paul R. Owen, Montgomery & Andrews,
attorney for DKD, L.L.C. on this 30th day of June, 2004.



Pete V. Domenici, Jr., Esq.

DOCKET: EXAMINER HEARING - THURSDAY - JUNE 24, 2004

8:15 A.M. - 1220 South St. Francis

Santa Fe, New Mexico

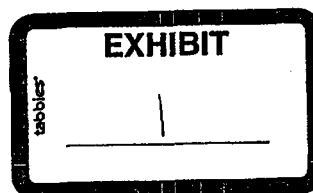
Docket Nos. 18-04 and 19-04 are tentatively set for July 8, 2004 and July 15, 2004. Applications for hearing must be filed at least 23 days in advance of hearing date. The following cases will be heard by an Examiner.

CASE 13281: *Application of Samson Resources Company for Compulsory Pooling and Approval of an Unorthodox Gas Well Location, Lea County, New Mexico.* Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S/2 of Section 14, Township 20 South, Range 33 East, to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent, including but not limited to the Undesignated Teas-Pennsylvanian Gas Pool and Undesignated Quail Ridge-Morrow Gas Pool. The unit will be dedicated to applicant's Maverick "14" Fed. Well No. 1, to be drilled at a location approximately 1980 feet from the South line and 1830 feet from the West line (Unit K) of Section 14. Applicant also requests unorthodox location approval for the well in the Teas-Pennsylvanian Gas Pool and Quail Ridge-Morrow Gas Pool. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The unit is located approximately 5½ miles east-northeast of the intersection of State Highway 176 and U.S. Highway 62/180.

CASE 13282: *Application of Chi Energy, Inc. for Compulsory Pooling, Eddy County, New Mexico.* Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the N/2 of Section 25, Township 19 South, Range 29 East, to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent, including the Undesignated Turkey Track-Atoka Gas Pool and Undesignated Turkey Track-Morrow Gas Pool. The unit is to be dedicated to applicant's Peacekeeper State Com. Well No. 1, to be located at an orthodox well location in the NE/4 NE/4 of Section 25. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The unit is located approximately 13 miles south-southwest of Loco Hills, New Mexico.

CASE 13283: *Application of Nearburg Exploration Company, L.L.C. for an Exception to Division Rule 104.C.(2)(c), Lea County, New Mexico.* Applicant seeks an order granting an exception to Division Rule 104.C.(2)(c) to allow two operators in all formations developed on 320-acre spacing in the N/2 of Section 14, Township 21 South, Range 34 East, to form a standard 320-acre gas spacing and proration unit in the Wilson-Atoka Gas Pool and Wilson-Morrow Gas Pool. The unit will be simultaneously dedicated to the existing Corner Pocket 14 State Well No. 1, operated by ConocoPhillips Company, located in the NE/4 NE/4 of Section 14, and the proposed Outland South 14 State Well No. 1, to be operated by applicant, located in the NE/4 NW/4 of Section 1. The unit is located approximately 11½ miles west of Oil Center, New Mexico.

CASE 13284: *Application of Mewbourne Oil Company for Compulsory Pooling, Eddy County, New Mexico.* Applicant seeks an order pooling all mineral interests from 3000 feet subsurface to the base of the Morrow formation underlying the following described acreage in Section 33, Township 16 South, Range 28 East, and in the following manner: the W/2 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent, including the Southeast Crow Flats-Morrow Gas Pool; the NW/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within that vertical extent; and the NE/4 NW/4 to form a standard oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within that vertical extent. The units are to be dedicated to applicant's Falcon Keys "33" State Com. Well No. 1, to be drilled at an orthodox location in the NE/4 NW/4 of Section 33. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The units are located approximately 12½ miles east-northeast of Artesia, New Mexico.



OCD -
505-476-3441

Examiner Hearing - June 24, 2004

Docket No. 17-04

Page 4 of 6

CASE 13253: Continued from June 10, 2004, Examiner Hearing

Application of Yates Petroleum Corporation for an Order Authorizing the Drilling of Three Wells in the Potash Area, Eddy County, New Mexico. Applicant seeks an order approving the drilling of the following three wells located within the Potash Area in Section 2, Township 23 South, Range 30 East:

- (A) Yates Petroleum Corporation Theodore "BDY" State Well No. 1 1980 feet from the South and West lines (Unit K);
- (B) Yates Petroleum Corporation Theodore "BDY" State Well No. 2 330 feet from the South line and 1650 feet from the East line (Unit O); and
- (C) Yates Petroleum Corporation Theodore "BDY" State Well No. 3 843 feet from the South line and 774 feet from the East line (Unit P).

These wells will be drilled as wildcat wells to an approximate depth of 7,850 or 100 feet below the base of the Delaware formation to test all formations from the surface to the base of the Delaware formation. These wells will be drilled at orthodox oil well locations on standard 40-acre oil spacing units in Section 2, Township 23 South, Range 30 East. Said location is within the Potash Area and approximately 8 miles east of Carlsbad, New Mexico.

CASE 13292: Application of Platinum Exploration, Inc. for Approval of a Salt Water Disposal Well, Lea County, New Mexico. Applicant seeks approval to utilize its Huber State Well No. 1 (API No. 30-025-27290) located 330 feet from the North line and 1150 feet from the East line, Section 5, Township 16 South, Range 38 East, to dispose of produced water into the Devonian formation from an openhole depth of 13,300 feet to 13,600 feet. This well is located approximately 16 miles east of Lovington, New Mexico, near the Texas state line.

CASE 13293: Application of Gandy Corporation for Approval of a Salt Water Disposal Well, Lea County, New Mexico. Applicant seeks approval to utilize its State "T" Well No. 2 (API No. 30-025-03735) located 4,290 feet from the South line and 500 feet from the West line, Lot 12, Section 6, Township 16 South, Range 36 East, to dispose of produced water into the San Andres and Glorieta formations through perforations from 4,810 feet to 6,880 feet. This well is located approximately 2 miles west of Lovington, New Mexico.

CASE 13258: Continued from May 27, 2004, Examiner Hearing.

Application of the New Mexico Oil Conservation Division for a Compliance Order. The Applicant seeks an order requiring operator Inter-Continental Energy Inc. to bring one well into compliance with 19.15.4.201 NMAC and 19.15.4.202 NMAC by a date certain, assessing appropriate civil penalties against the operator, authorizing the Division to plug said well, forfeiting the operator's plugging security, and for such other relief as the Director deems appropriate. The affected well is: R. Fant #1, API #30-039-26436, Unit Letter O, Section 24, Township 31 North, Range 2 East, Rio Arriba County, New Mexico.

CASE 13294: In the matter of the hearing called by the Oil Conservation Division for an order creating and extending certain pools in Chaves and Eddy Counties, New Mexico.

- (a) CREATE a new pool in Eddy County, New Mexico classified as a gas pool for Morrow production and designated as the South Black River-Morrow Gas Pool (Pool Code 97352). The discovery well is the Yates Petroleum Corporation Humidor State Well No. 1 (API No. 30-015-32889) located in Unit A of Section 23, Township 24 South, Range 27 East, NMPM. Said pool would comprise:

TOWNSHIP 24 SOUTH, RANGE 27 EAST, NMPM

Section 23: E/2

MONTGOMERY & ANDREWS
PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

Paul R. Owen
Direct Dial (505) 986-2538
powen@montand.com

Post Office Box 2307
Santa Fe, New Mexico 87504-2307
325 Paseo de Peralta
Santa Fe, New Mexico 87501
Telephone (505) 982-3873
Fax (505) 982-4289

June 21, 2004

VIA FACSIMILE

Mr. Mark Fesmire, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Facsimile No. (505) 476-3462

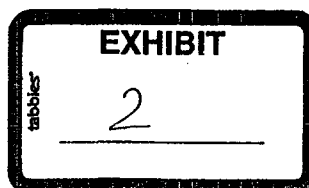
Re: *Application of Gandy Corporation for Approval of a Salt Water Disposal Well,
Lea County, New Mexico
NMOCD Case No. 13293*

Dear Mr. Fesmire:

This is a request for a four-week extension for the Hearing in the above-referenced case, to July 22, 2004. This matter is currently scheduled for hearing this Thursday, June 24, 2004. The requested extension is necessary so that DKD, LLC, can exchange documents with the applicant, prepare for the hearing, and because of a personal scheduling conflict on behalf of DKD's principal.

If a four-week extension is not possible, DKD can and will prepare for a hearing on July 8. However, counsel for DKD has scheduling conflicts that week; therefore, a four-week extension is requested.

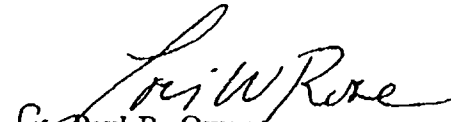
Counsel for the Applicant does not agree to any requested extension. Counsel for the Applicant has agreed to exchange documents with counsel for DKD, without any compulsory or formal discovery, on Wednesday, June 22; however, DKD will be unable to prepare for the hearing in a meaningful way. It does not appear that the Applicant will be prejudiced by the requested extension because the salt water disposal well at issue is currently in use pursuant to NMOCD Order No. R-11855-B.



Mr. Mark Fesmire, Director
Oil Conservation Division
June 21, 2004
Page 2

Please let me know as soon as possible whether the requested extension will be granted.

Very truly yours,


Paul R. Owen

PRO/jr

cc: Peter V. Domenici, Jr., Esq. (via facsimile)
Mr. Danny Watson (via facsimile)

FILE COPY

DOLAN & DOMENICI, P.C.
ATTORNEYS AT LAW
6100 Seagull NE, Suite 205
Albuquerque, New Mexico 87109
(505) 883-6250

DANIEL R. DOLAN, II^{1,2,3}
PETER V. DOMENICI, JR.²
JEANNE CAMERON WASHBURN²
CHARLES N. LAKINS²
LORRAINE HOLLINGSWORTH²
Licensed in ¹ KY; ² NM; ³ TX.

Fax: (505) 884-3424
E-mail: hollings@dolan-domenici.com

June 22, 2004

Chris Williams
OCD District 1
1625 N. French Dr.
Hobbs, New Mexico 88240

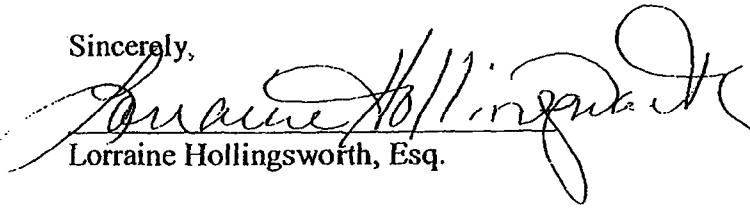
RE: Gandy Corporation, State T #2 Well, T16S, R36E, NMPM, Lea County, New Mexico
NMOCD SWD 836

Dear Mr. Williams:

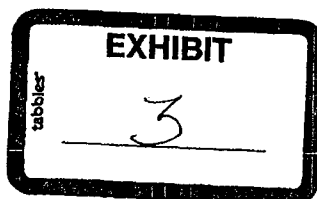
This letter is to confirm that you have provided Gandy Corporation with verbal permission to operate the above SWD well during the time period that Gandy's application for approval of changes in the well is pending before the OCD. The hearing in this matter was originally scheduled for June 24, 2004. Based on a request of DKD, Inc., the hearing has been postponed until July 8, 2004. Pursuant to your earlier verbal approval, given on or about May 3, 2004, Gandy Corporation will continue to operate the well.

If the above is not consistent with your understanding of the status of the well, please contact either myself or Pete Domenici, Jr., at the above number.

Sincerely,


Lorraine Hollingsworth, Esq.

cc: Dale Gandy





NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON

Governor

Joanna Prukop

Cabinet Secretary

Mark E. Fesmire, P.E.

Director

Oil Conservation Division

June 29, 2004

Ms. Lorraine Hollingsworth
Dolan & Domenici, P.C.
6100 Seagull NE, Suite 205
Albuquerque, NM 87109

Via e-mail: Hollings@dolando-domenici.com

Via fax: (505) 884-3424

Re: Gandy Corporation, State "T" Well No. 2, T16S, R36E, NMPM, Lea County, New Mexico NMOCD SWD 836

Dear Ms. Hollingsworth,

Your letter dated June 22, 2004, addressed to Chris Williams, Director of the Oil Conservation Division's District I office, was referred to the Division's Legal Bureau for a response. That letter seeks confirmation that Mr. Williams provided Gandy Corporation ("Gandy") with verbal permission to operate the State "T" Well No. 2 pending the hearing on Gandy's application for an amendment to its permit.

The State "T" Well No. 2 is permitted under Commission Order No. R-11855. The Order permits injection from 6,000 to 6,400 feet. According to Division records, the well was perforated from 4,810 to 6,880 feet. On May 3, 2004, Cabinet Secretary Joanna Prukop, as Acting Director of the Oil Conservation Division, issued an "Emergency Shut-In Order" notifying Gandy that the well was in violation of the permit, Commission Order No. R-11855-B and Division rules, and ordering Gandy to cease injection into the State "T" Well No. 2 until such time as

- a. all perforation depths not permitted under Commission Order No. R-11855-B are squeezed off to the satisfaction of the Division's District I office, or
- b. Gandy obtains an approved permit to inject into the depths already perforated.

Gandy subsequently applied for a permit to inject into the depths already perforated. The hearing on that application is scheduled for July 8, 2004.

The districts do not have the authority to override a directive issued by the Cabinet Secretary or Division Director. As stated in Secretary Prukop's notice, Gandy must cease injection into the State "T" Well No. 2 until all perforation depths not permitted under the Order are squeezed off, or until Gandy obtains an approved permit to inject into the depths already perforated.

Injection outside the zone allowed by the applicable injection permit constitutes injection without a permit, in violation of Division rule 701 [19.15.9.701 NMAC]. Any person who knowingly and willfully violates a Division rule shall be subject to a civil penalty of not more than one thousand dollars for each violation, and in the case of a continuing violation, each day of violation constitutes a separate violation. NMSA 1978, § 70-2-31(A). With this letter the Division notifies Gandy that any continued violation will be viewed as "knowing and willful."

Very truly yours,

Gail MacQuesten

EXHIBIT

4

JUN-29-2004 TUE 08:26 AM

FAX NO.

P. 03

Assistant General Counsel

cc: Gandy Corporation
cc: Chris Williams, District I

Lynx Petroleum Consultants, Inc.

P.O. Box 1708
3325 Enterprise Drive
Hobbs, New Mexico 88241

505 392-6950

Fax: 505 392-7886

June 30, 2004

Mr. Mark Fesmire, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Facsimile No. 505-476-3462

RE: Application of Gandy Corp. for Approval of a Salt Water Disposal Well
Lea County, New Mexico
NMOCD Case No. 13293

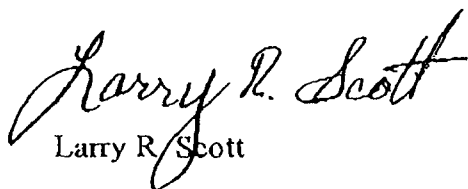
Dear Mr. Fesmire:

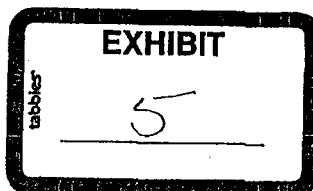
Lynx Petroleum Consultants, Inc. as technical consultants for Gandy Corp. is respectfully requesting that the "Emergency Shut-In Order" issued by Secretary Prukop on May 3, 2004, be rescinded pending hearing on this Application. As justification we are prepared to testify to the following:

1. All water disposed into the State 'T' No. 2 will be in formations older than Triassic (Rule 701.E.(1))
2. Formations in the injection interval contain waters having total dissolved solids concentrations greater than 10,000 mg/l (Rule 701.E.(2))
3. None of the formations in the injection interval 4810'-6880' contain commercially producible quantities of oil or gas
4. Injection operations into intervals similar to those under consideration in this Application have already been approved in three previous cases in this area.

It is our opinion that continued operation of the State 'T' No. 2 well pending final resolution of this Application will result in the conservation of oil and gas resources, the prevention of waste, and full protection of correlative rights.

Sincerely,


Larry R. Scott



GANDY CORPORATION

OILFIELD SERVICES

P.O. BOX 827

TATUM, NEW MEXICO 88267

(505) 398-4960

FAX 505-398-6887

June 30, 2004

Gail MacQuesten
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: Emergency Permit Approval for State T #2

Dear Ms. MacQuesten:

Gandy Corporation respectfully requests an emergency injection permit to restart injection operations on the State T #2 SWD due to the following hardships.

Gandy Corporation has considerable obligations to its clients to accept their produced water to keep their leases in operation. The availability of capacity at the other area public injections wells makes it extremely difficult to satisfy our clients needs and adds a burden of financial distress because of the additional trucking costs.

Sincerely,



Larry Gandy

