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October 25, 2005

VIA OVERNIGHT MAIL

**RECEIVED**

OCT 2 2005

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

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

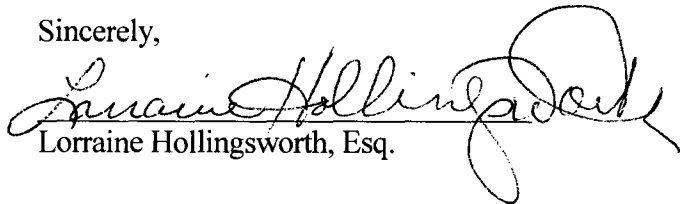
Re: Case No. 13480 *de novo*: GMI's Motion for Continuance

Dear Ms. Davidson:

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

Thank you for your courtesies in this matter.

Sincerely,

  
Lorraine Hollingsworth, Esq.

Encls.

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

**RECEIVED**  
OCT 26 2005

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

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

**APPEAL OF ORDER NO. R-12306-B**

**CASE NO. 13480 *de novo***

**MOTION FOR CONTINUANCE**

COMES NOW Gandy Marley, Inc. (GMI), by and through undersigned counsel of record, and requests that the Commission continue the *de novo* hearing on the above-captioned matter, currently set for the November 10, 2005 Commission Meeting. In support of this motion, GMI states as follows:

1. On May 23 and 24, 2005, a hearing was held by the Division, before a hearing examiner, on GMI's application for a permit modification to allow GMI's commercial waste management facility, permitted under OCD Rule 711, to accept salt-contaminated oilfield waste. The request for a permit modification was necessary because, on March 4, 2005, Division Director Mark Fesmire issued a letter immediately modifying the GMI permit to prohibit the acceptance of oilfield waste contaminated with salts.

2. On August 5, 2005, the Division issued Order R-12306-B, denying GMI's application for a permit modification. As part of the Order, the Division stated that:

GMI may submit a revised application in conformity with Rule 711. Any revised application filed by GMI shall be readvertised and notice thereof shall be given as required by Rule 711. Following filing by GMI of a revised application in conformity with Rule 711, and after proper notice thereof is provided, the Director hereby refers this matter directly to the Commission for further proceedings thereon."

Order R-12306, p. 20, ¶¶3-5.

3. On August 24, 2005, GMI filed an Application for De Novo Hearing Before the Commission on Order R-12306-B. In the de novo hearing application, GMI requested that "the de novo hearing on the permit modification be stayed until GMI submits a revised permit modification application to the Commission pursuant to Rule 711 and in accordance with the Order." (Application for De Novo Hearing, at p. 3, ¶1). Rule 711 requires that the permit modification application be submitted to the Division and notice given to the public, with at least a 30-day public comment period before a hearing is held. 19.15.9.711(B)(2) NMAC.

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

5. The Division has not yet determined if the Application for Permit Modification is administratively complete.

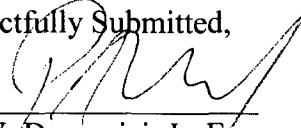
6. As stated in Order R-12306-B, the revised permit modification application will be set for hearing before the Commission. There is not sufficient time for the Division to make a completeness determination and to allow for the thirty-day public comment period before November 10, 2005.

7. GMI requests that the de novo hearing scheduled for the November 10, 2005 Commission Meeting be continued until such time as the Division makes a completeness determination and the public notice requirements are met. GMI anticipates that the application will be ready for the Commission's review at the Commission's January, 2006 meeting and requests that the de novo hearing be continued until such time so that the Commission may consider the revised application and GMI's de novo appeal at the same time.

WHEREFORE, GMI requests an Order of the Commission continuing the de novo hearing scheduled for November 10, 2005 Commission Meeting until January, 2006 to allow


time for the Division to make a completeness determination on GMI's revised Application for Permit Modification, and to meet the public notice and public comment requirements for the revised permit application.

Respectfully Submitted,



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

I hereby certify that a true and correct copy of the foregoing was served on all parties of record on the 25 day of October, 2005.



Pete V. Domenici, Jr., Esq.