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**FAX TRANSMITTAL COVER SHEET****ATTORNEY-CLIENT PRIVILEGED INFORMATION**

**DATE:** July 25, 2007 **TIME:** 11:15 AM  
**TO:** Florene Davidson  
J. Scott Hall, Esq.  
James Bruce, Esq.  
**FAX NO:** 505-476-3462  
505-989-9857 (1679)  
505-982-2151

**FROM:** Charles N. Lakins, Esq.  
**RE:** OCD Case #13,962, Gandy Corp - Julia Culp Injection

**NUMBER OF PAGES, INCLUDING COVER:** 06

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL Charles at (505) 883-6250.

Hard Copy to Follow ☐ Yes By: ☐ Mail ☐ Overnight ☐ Hand Deliver  
☒ No

All, Please see attached cover letter to OCD and Motion fax-filed this date.

CN Lakins

*CNL*  
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July 25, 2007**VIA FACSIMILE FILING 505-476-3462****Total Fax: 5 pages**Florene Davidson  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505RE: Matter of the Gandy Corporation's Administrative Application for Authorization to Inject  
Saltwater Disposal fluids into the Julia Culp No. 2 Well: Case No.: 13,962

Dear Ms. Davidson:

Please find attached Gandy Corporations's *Motion to Determine DKD as a Non-Party* for fax-filing

Thank you for your attention to this matter.

Sincerely,  
DOMENICI LAW FIRM, P.C.  
\_\_\_\_\_  
Charles N. Lakins, Esq.cc: client  
J. Scott Hall

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

**IN THE MATTER OF GANDY  
CORPORATION'S APPLICATION FOR  
AUTHORIZATION TO INJECT  
INTO THE JULIA CULP No. 2 WELL,  
LEA COUNTY, NEW MEXICO**

**CASE NO. 13,962**

**GANDY CORPORATION'S MOTION TO DETERMINE DKD AS A NON-PARTY AND  
PROHIBIT DKD'S PARTICIPATION IN THE JULY 26, 2007 HEARING**

The Applicant Gandy Corporation comes before the Oil Conservation Division, and requests that the Division determine that DKD is not a party to this matter, as that term is defined in NMAC 19.15.14.1208, and is therefore not eligible to participate in the hearing. In support of this motion, Gandy states as follows:

1. This matter concerns Gandy Corporation's application for a permit to reenter the plugged and abandoned Julia Culp No. 2 Well (API 30-025-30879, located at 2,310 FNL, 660 FEL, Section 34, Township 15 South, Range 35 East, Unit H, Lea County, New Mexico) wellbore for the purpose of injecting commercial saltwater disposal fluids into the non-productive Devonian formation strata, at an interval from 13,865 to 14,500 feet.
2. Gandy Corporation ("Gandy") submitted its C-108 Application for Authorization to Inject form with the New Mexico Oil Conservation Division on February 1, 2007.
3. Notice of the Application was properly published, and all identified "Affected Persons" were properly served notice.
4. OCD received protests from: 1) P. Kay Stokes, 2) D.B. Wharton, 3) Energen, 4) J&J Services and 5) Visa Industries of Arizona.

5. DKD is a commercial competitor to Gandy Corporation, which has protested other of Gandy's applications for injection operations before the OCD. The most recent was OCD Case No. 13,686, which concerned a commercial salt-water disposal well, located 4,290' FSL and 500' FWL, Section 6, Township 16 South, Range 36 East, NMPM, in Lea County, New Mexico.
6. DKD did not file an objection, timely or otherwise in this matter.
7. Notice of the July 26, 2007 Hearing was properly served on all protestants, and publication of the hearing was properly made.
8. DKD is not an "Affected Person" under NMAC 19.15.9.1701 for the purposes of this Application. Gandy was not required under NMAC 19.15.14.1210(A)(7) to notify DKD of this Application or of this hearing. There is no statute, rule or order that required that Gandy provide DKD notice of this application, or of this hearing.
9. Pre-Hearing Statements were required to be filed in this case no later than 5:00 p.m. on July 19, 2007, per NMAC 19.15.14.1211(B).
10. Under NMAC 19.15.14.1209(A), "Any person with standing with respect to the case's subject matter may intervene by filing a written notice of intervention with the division or commission clerk, as applicable, at least one business day before the date for filing a pre-hearing statement."
11. DKD filed its "Entry of Appearance" in this matter on July 24, 2007.
12. DKD did not file a Pre-Hearing Statement in this matter.
13. DKD did not Intervene in this matter under NMAC 19.15.14.1209.
14. Under NMAC 19.15.14.1208(A) (Parties to Adjudicatory Proceedings), the parties to an adjudicatory proceeding shall include:

- (1) the applicant;
- (2) any person to whom statute, rule or order requires notice (not including those persons to whom 19.15.14.1207 NMAC requires distribution of hearing notices, who are not otherwise entitled to notice of the particular application), who has entered an appearance in the case; and
- (3) any person who properly intervenes in the case.

15. DKD is not a "party" for the purpose of this hearing under any provision of NMAC

19.15.14.1208(A).

16. NMAC 19.15.14.1212(C) (Conduct of Adjudicatory Hearings) states:

Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.14.1208 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow any other person present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. Any person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

17. Because DKD is not a Party in this matter, under NMAC 19.15.14(C), DKD is prohibited from participating in the July 26, 2007 hearing.

18. Under NMAC 19.15.14.1212(C), DKD is prohibited from presenting evidence or cross-examining any witnesses.

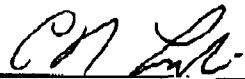
19. Under NMAC 19.15.14.1212(C), DKD is limited to, at the hearing examiner's discretion, making a relevant statement, and being subject to cross-examination by the parties.

WHEREFORE, the Applicant Gandy Corporation requests that the Oil Conservation Division:

1. Determine that DKD is not a Party to this case.
2. Prohibit DKD from participating in the July 26, 2007 hearing.

3. Prohibit DKD from presenting evidence or cross-examining any witnesses at the July 26, 2007 hearing.
4. Determine that, because DKD did not timely protest, did not timely intervene, and has no affected interests, DKD should present any statement at the July 26, 2007 hearing.

Respectfully Submitted,  
DOMENICI LAW FIRM, P.C.



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I hereby certify that a true and correct copy of the foregoing was sent via facsimile and/or U.S. mail to all parties of record this 25th day of July 2007.



Charles N. Lakins, Esq.