

FROM : GANDY CORP

FAX NO. : 505 396 6887

Nov. 09 2001 02:32PM

# GANDY CORPORATION

OILFIELD SERVICES

P. O. BOX 827

TATUM, NEW MEXICO 88267

(505) 398-4960



LOVINGTON FAX #

(505) 396-6887

TATUM FAX #

(505) 398-6887

## FAX COVER SHEET

DATE: 11/09/01

TIME: 2:15 PM

NUMBER OF PAGES INCLUDING COVER SHEET: 17

TO:

COMPANY: Dolan & Domevici, P.C.

ATTENTION: Pete Domevici

FAX #: (505) 884-3424

FROM:

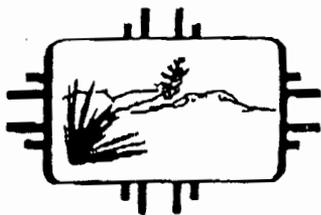
GANDY CORPORATION,

LOVINGTON, N.M. 88260

SENDER'S NAME: \_\_\_\_\_

MESSAGE: This is the only OSHA action  
against Gandy

IF THERE IS ANY TROUBLE IN RECEIVING THIS FAX, PLEASE CALL US AT  
(505) 396-4948. THANK YOU.



NEW MEXICO  
HEALTH AND ENVIRONMENT  
DEPARTMENT

ENVIRONMENTAL IMPROVEMENT DIVISION  
OCCUPATIONAL HEALTH AND SAFETY BUREAU

Post Office Box 968  
Santa Fe, New Mexico 87504-0968

C.O. No.	Report No.
E-9212	260

Gandy Corporation  
(and its successors)  
P. O. Box 827  
Tatum, New Mexico 88267

Dear Proprietor:

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the New Mexico Occupational Health and Safety Act. The nature of the alleged violations is described in the enclosed citation(s) with references to the applicable standard(s), regulation(s), or provision(s) of the Act. These conditions must be corrected on or before the date shown to the right of each alleged violation.

The Act requires that a copy of the enclosed citation be prominently posted "in a conspicuous place upon receipt" at or near each place where a violation referred to in the citation occurred. It must remain posted until all violations cited therein are corrected, or for 3 working days (does not include Saturday, Sunday, State or Federal holidays), whichever is the longer period of time.

You have the right to contest any or all parts of either the citation(s) or the proposed penalty(ies) before the Environmental Improvement Division and the New Mexico Occupational Health and Safety Review Commission. If you do contest, you must submit a letter to the Division at the above address within 15 working days after receipt of this notice. If you fail to contest within the 15 working day period, the citation(s) and penalty(ies) shall be deemed to be a final order of the Review Commission and not subject to review by any court or agency.

You may request a discussion concerning any results of this inspection. Please direct correspondence to the Division at the address shown above, or telephone (505)827-2872. A request for an informal discussion cannot extend the 15 working day period allowed for filing a notice of contest.

Alleged violations that are not contested must be corrected within the abatement period specified in the citation(s). A follow-up inspection may be made for the purpose of ascertaining that the citation(s) have been posted as required and that the alleged violations have been corrected. Failure to correct an alleged violation may result in further proposed penalties for each day the alleged violation has not been corrected.

Actions you have taken to correct alleged violations must be reported in writing to the Division promptly upon completion. The report should include specific corrective actions on each such alleged violation and the date such action was taken. On alleged violations having an abatement date of more than 30 days, a written progress report should be submitted each 30 days. The progress report should detail what has been done, what remains to be done, and the time needed to fully abate each violation. When the alleged violation is fully abated, the Division should be so advised.

If you cannot meet an abatement date contained in the citations and the contest period has expired, you may submit a petition to the Division for modification of the abatement date. This petition must be filed prior to the next working day following the date abatement was required. The petition must be posted in a conspicuous place or near the location where the violation occurred, and shall remain posted for 10 days.

The Act provides that whoever knowingly gives false information is subject to a fine of up to \$10,000, imprisonment up to 6 months, or both.

Quantity	Citation(s) Enclosed	Pages
4	Other than Serious	2
	Serious	
	Willful and/or Repeated	

Program Manager Charles E. Steele  
Date 5/10/88

**N.M. Environmental Improvement Division**

Occupational Health and Safety Bureau

P.O. Box 968  
Santa Fe, NM 87503

**Citation and Notification of Penalty**

3. Issuance Date 05/10/88	4. Inspection Number 104710959
5. Reporting ID 653510	6. CO ID E-9212
7. Optional Report No. 260	8. Page No. 1 of 2

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

10. Inspection Date(s): 2/4/88

1. Type of Violation(s)	2. Citation Number
SERIOUS	1

11. Inspection Site:

9. To: Gandy Corporation  
(and its successors)  
P. O. Box 827  
Tatum, New Mexico 88267

On the basis of the inspection it is alleged that you have violated the New Mexico Occupational Health and Safety Act (Section 50-9-1 et seq. NMSA 1978). You must correct the violation(s) referred to in this citation within the time specified below and pay the penalties proposed, unless within 15 working days (excluding weekends and holidays) from your receipt of this citation and penalty, you mail a notice of contest to the HED Environmental Improvement Division at the address shown above. Pursuant to the provisions of Section 50-9-17 NMSA 1978, the penalty(ies) set forth below is/are being proposed, based on the citation(s). This notification and the penalty(ies) proposed by the Environmental Improvement Division shall be deemed to be the final order of the New Mexico Occupational Health and Safety Review Commission and not subject to review by any court or agency unless, within 15 working days from the date of receipt of this notification, you submit a letter of contest to the EID at the address shown above. If no notice of contest is filed within the 15 working day period, the proposed penalty(ies) becomes final and is immediately payable. THE LAW REQUIRES that a copy of this Citation be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the Citation occurred. The Citation must remain posted until all violations cited therein are corrected, or for the three working days (excluding weekends and holidays), whichever period is longer.

12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
M OHSR 200	9 CFR 1910.134(a)(2):	The employer did not provide the respirators which were applicable and suitable for the purpose intended:  On February 2, 1988, at the C. S. Caylor tank battery, employees were assigned to clean an oil field stock tank. The employees began working without appropriate respiratory protection equipment.	Immediately	\$420.00
M OHSR 200	9 CFR 1910.134(b)(8):	Appropriate surveillance of work area conditions and degree of employee exposure or stress was not maintained:  On February 2, 1988 at the C. S. Caylor tank battery, employees were assigned to clean an oil field stock tank. The levels of H <sub>2</sub> S to which the employees were exposed were not monitored.	Immediately	\$420.00

17. Program Manager  
*Charles E. Steele* Charles E. Steele 5/10/88

18. ON LAST PAGE

EMPLOYER RESPONSIBILITIES AND COURSES OF ACTION — The cover letter outlines employer responsibilities and courses of action and should be read in conjunction with this Citation.

RIGHTS OF EMPLOYEES — Any employee or representative of employees who believes that any period of time fixed in this Citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the HED Environmental Improvement Division at the address shown above within 15 working days from the date of receipt by the employer of this Citation.

EMPLOYEE DISCRIMINATION PROHIBITED — The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under the Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination with the HED Environmental Improvement Division at the address shown above.

Total Penalty for This Citation  
Make Check or Money Order Payable to: State of New Mexico

Penalties Are Due Within 15 Working Days of Receipt of This Notification Unless Contested

This Section May Be Detached Before Posting

P.O. Box 968  
 Santa Fe, NM 87503

**Citation and Notification of Penalty**

The violation(s) described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

3. Issuance Date 05/10/88	4. Inspection Number 104710959
5. Reporting ID 653510	6. CO ID E-9212
7. Optional Report No. 260	8. Page No. 2 of 2

10. Inspection Date(s): 2/4/88

1. Type of Violation(s)	2. Citation Number
SERIOUS	1

11. Inspection Site:

9. To: **Gandy Corporation**  
 (and its successors)  
 P. O. Box 827  
 Tatum, New Mexico 88267

On the basis of the inspection it is alleged that you have violated the New Mexico Occupational Health and Safety Act (Section 50-9-1 et seq. NMSA 1978). You must correct the violation(s) referred to in this citation within the time specified below and pay the penalties proposed, unless within 15 working days (excluding weekends and holidays) from your receipt of this citation and penalty, you mail a notice of contest to the HED Environmental Improvement Division at the address shown above. Pursuant to the provisions of Section 50-9-17 NMSA 1978, the penalty(ies) set forth below is/are being proposed, based on the citation(s). This notification and the penalty(ies) proposed by the Environmental Improvement Division shall be deemed to be the final order of the New Mexico Occupational Health and Safety Review Commission and not subject to review by any court or agency unless, within 15 working days from the date of receipt of this notification, you submit a letter of contest to the EID at the address shown above. If no notice of contest is filed within the 15 working day period, the proposed penalty(ies) becomes final and is immediately payable. THE LAW REQUIRES that a copy of this Citation be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the Citation occurred. The Citation must remain posted until all violations cited therein are corrected, or for the three working days (excluding weekends and holidays), whichever period is longer.

12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. Penalty
1M OHSR 200	9 CFR 1910.134(e)(3):	Written procedures were not prepared covering safe use of respirators in dangerous atmospheres that might have been encountered in normal operations or in emergencies:  On February 2, 1988, at the C. S. Caylor tank battery, employees were assigned to clean an oil field stock tank and no program for the use of respirators had been established.	Immediately	\$420.00
1M OHSR 200	9 CFR 1910.134(e)(3)(iii):	Persons using air line respirators in atmospheres immediately hazardous to life or health were not equipped with safety harnesses and safety lines for lifting or removing persons from hazardous atmospheres, or were other equipment provisions for the rescue of persons from hazardous atmospheres used.  On February 2, 1988 at the C. S. Caylor tank battery, employees were working in an atmosphere that was immediately dangerous to life and health, but were not supplied with safety harnesses and lifelines nor were other provisions used.	Immediately	\$420.00

17. Program Manager: Charles E. Steele 5/10/88 Charles E. Steele

18. \$1680.00

EMPLOYER RESPONSIBILITIES AND COURSES OF ACTION — The cover letter outlines employer responsibilities and courses of action and should be read in conjunction with this Citation.

RIGHTS OF EMPLOYEES — Any employee or representative of employees who believes that any period of time fixed in this Citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the HED Environmental Improvement Division at the address shown above within 15 working days from the date of receipt by the employer of this Citation.

EMPLOYEE DISCRIMINATION PROHIBITED — The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under the Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination with the HED Environmental Improvement Division at the address shown above.

Total Penalty for This Citation

Make Check or Money Order Payable to: State of New Mexico

Penalties Are Due Within 1 Working Days of Receipt of This Notification Unless Contest

This Section May Be Detached Before Posting

C. GENE SAMBERSON  
MICHAEL T. NEWELL

LAW OFFICES  
HEIDEL AND SAMBERSON  
311 NORTH FIRST STREET  
POST OFFICE DRAWER 1599  
LOVINGTON, NEW MEXICO 88260  
(505) 396-5303

F. L. HEIDEL  
(1013-1005)

May 18, 1988

Mr. Charles E. Steele  
Program Manager  
NM Environmental Improvement Division  
Occupational Health & Safety Bureau  
Post Office Box 968  
Santa Fe, New Mexico 87504-0968

Re: Gandy Corporation, Tatum, New Mexico  
C.O. No. E-9212; Report No. 260

Dear Mr. Steele:

Pursuant to our telephone conversation earlier this date, I am by this letter on behalf of Gandy Corporation, Tatum, New Mexico, providing you with written Notice of Contest of all parts of the four (4) citations issued on May 10, 1988, including the proposed penalties and abatement dates.

I understand that it is necessary to file the Notice of Contest in order to reach the second stage of the administrative process, which would be an informal administrative review. It is my further understanding that I will be contacted after you have received this Notice of Contest to establish the details for such an informal administrative review.

Very truly yours,

HEIDEL & SAMBERSON

BY 

CGS:lt

cc: Gandy Corporation

FROM : GANDY CORP

RAUTHERS  
Director  
MUTH  
Secretary  
BURKHART  
Secretary

# RECEIPT

Date November 15 19 88 No. 13071

Received From Gandy Corporation

Address P.O. Box 827 Tatum NM 88267

Two hundred ten and 00/100 Dollars \$ 210.00

For OSHA Penalty

ACCOUNT		HOW PAID	
AMOUNT RECEIVED	210.00	CASH	
AMT. PAID	210.00	CHECKS	#23252
BALANCE DUE	0	MONEY ORDER	

By Marie Cordy

November 15, 1988

Gandy Corporation  
P. O. Box 827  
Tatum, NM 88267

Dear Proprietor:

This office is in receipt of your check #23252 in the amount of \$210. Enclosed is our receipt #13071 for your records.

Thank you for your cooperation in this matter.

Sincerely,

Charles E. Steele  
Program Manager

LAW OFFICES

## HEIDEL AND SAMBERSON

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1599  
LOVINGTON, NEW MEXICO 88260  
(505) 396-5303F. L. HEIDEL  
(1013-1055)

C. GENE SAMBERSON

MICHAEL T. NEWELL

November 2, 1988

Mr. Dale Gandy  
Gandy Corporation  
Post Office Box 827  
Tatum, New Mexico 88267Re: EID vs. Gandy Corporation  
No. 88-27

Dear Dale:

Enclosed herewith, please find for your file a conformed copy of the Order Approving Settlement Agreement in the above captioned case.

I believe you will recall that under the terms of the Settlement Agreement Gandy Corporation must request the Environmental Improvement Divisions's Consultative Services to assist in the review and further development of H<sub>2</sub>S and work practice procedures within sixty (60) days after entry of the Order approving the Settlement Agreement. I suggest that you make that request at the earliest date.

In addition, I will need Gandy Corporation's check payable to the Environmental Improvement Division in the amount of \$210.00. If you would cause the check to be forwarded to me, I will in turn submit it to the EID. If you have questions, please advise.

Very truly yours,

HEIDEL &amp; SAMBERSON

BY *C. Gene Samberson*CGS:lt  
Enclosure

CK 23252

\$ 210.00

11/7/88

STATE OF NEW MEXICO  
OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION

ENVIRONMENTAL IMPROVEMENT  
DIVISION,

Complainant,

v.

GANDY CORPORATION,

Respondent.



No. 88-27

ORDER APPROVING SETTLEMENT AGREEMENT

THIS MATTER having come before the Commission for consideration of the Settlement Agreement between the Complainant, Environmental Improvement Division ("Division"), and Respondent, Gandy Corporation ("Gandy") and the Commission being otherwise fully advised of the premises herein;

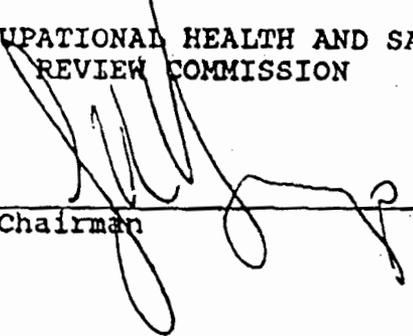
THE COMMISSION FINDS that the Settlement Agreement between the parties complies with Commission Rule 601 and is otherwise in accordance with the Occupational Health and Safety Act.

IT IS THEREFORE ORDERED that:

1. The Division may amend its Citations as set forth in paragraph 1 of the Settlement Agreement;
2. Gandy may withdraw its contest, as set forth in paragraph 3 of the Settlement Agreement; -
3. If Gandy fails to comply with the contingency set forth in paragraph 1 of the Settlement Agreement, the original penalties of \$1680.00, in lieu of the reduced penalty of \$210.00, shall be due and owing to the Division; and

4. The Citation, as amended, is affirmed and made a final order of the Commission.

OCCUPATIONAL HEALTH AND SAFETY  
REVIEW COMMISSION

By:   
Chairman

APPROVED:



Weldon L. Merritt  
Attorney for Complainant



C. Gene Samberson  
Attorney for Respondent

LAW OFFICES

## HEIDEL AND SAMBERSON

311 NORTH FIRST STREET  
POST OFFICE DRAWER 1599LOVINGTON, NEW MEXICO 88260  
(505) 396-5303

C. GENE SAMBERSON

MICHAEL T. NEWELL

F. L. HEIDEL  
(913-1965)

November 10, 1988

Mr. Weldon L. Merritt  
Assistant General Counsel  
Health and Environment Department  
Post Office Box 968  
Santa Fe, New Mexico 87504-0968

Re: EID vs. Gandy Corporation  
NM OHSRC No. 88-27

Dear Mr. Merritt:

I have now received a copy of the Order Approving Settlement Agreement entered October 28, 1988, in the above captioned Docket.

A representative of the EID's Consultative Services has been on the premises of Gandy Corporation within the past week to assist in the review and further development of H<sub>2</sub>S and work practice procedures for Gandy Corporation.

Pursuant to the terms of the Settlement Agreement, I am enclosing herewith Gandy Corporation's Check No. 23252 dated 11/7/88 in the amount of \$210.00 payable to the order of the Environmental Improvement Division in payment of the reduced penalty. In the event that I have erroneously forwarded the enclosed check to you, would you please see that it is forwarded to the appropriate authority. Thank you.

Very truly yours,

HEIDEL & SAMBERSON

By *C. Gene Sambersson*

CGS:lt  
Enclosure

cc: Occupational Health & Safety Review Commission  
Attn: Vivian Ortiz, Secretary for the Commission  
Gandy Corporation

Page 2  
November 10, 1988  
Mr. Weldon L. Merritt

P.S. Dale, I still have your Occupational Health and Safety Standards For General Industry (29 CFR Part 1910) With Amendments as of July 31, 1986). The first time you have someone down town we will return it on request. In addition, in reviewing my file, I apparently did not keep a photocopy of the signed Settlement Agreement, therefore, if you would furnish me with your copy which I forwarded to you with a copy of my letter to Weldon L. Merritt dated September 16, 1988, I will make a photocopy of same and return your copy of the Settlement Agreement. Thanks.

C.G.S.

*copy*

Osha

STATE OF NEW MEXICO  
OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION

ENVIRONMENTAL IMPROVEMENT  
DIVISION,

Complainant,

v.

No. 88-27

GANDY CORPORATION,

Respondent.

SETTLEMENT AGREEMENT

Complainant, Environmental Improvement Division ("Division"), and Respondent, Gandy Corporation ("Gandy"), hereby agree to dispose of this matter on the following terms:

1. The Division hereby amends the Citation and Notification of Penalty ("Citation") as follows, contingent upon Gandy requesting the Division's Consultative Services to assist in the review and further development of H<sub>2</sub>S and work practice procedures within sixty days after entry of an order approving this Settlement Agreement:

a. Items 1 and 2 of the Citation are combined into one alleged violation, to read as follows:

1  
NM OHSR 200  
29 CFR 1910.134(a)(2): The employer did not provide the respirators which were applicable and suitable for the purpose intended:

- a. On February 2, 1988, at the C.S. Caylor tank battery, employees were assigned to clean an oil field stock tank. The employees began working without appropriate respiratory protection equipment.

## OR IN THE ALTERNATIVE

1  
NM OHSR 200  
29 CFR 1910.134(b)(8): Appropriate surveillance of work area conditions and degree of employee exposure or stress was not maintained:

- a. On February 2, 1988, at the C.S. Caylor tank battery, employees were assigned to clean an oil field stock tank. The levels of H<sub>2</sub>S to which the employees were exposed was not monitored.
- b. The proposed penalty for the amended Item 1 is reduced from a total of \$840.00 (\$420.00 each for the previous Items 1 and 2) to \$210.00; and
- c. Items 3 and 4, and the proposed penalties therefor, are vacated.

2. Gandy has no objection to the amendment of the Citations as set forth in paragraph 1 above.

3. Gandy, without admitting that it was in violation of the Occupational Health and Safety Act or any of the cited standards, hereby withdraws its contest, and agrees to abate the violations and pay the penalty, as amended.

4. The Division has no objection to withdrawal of Gandy's contest as set forth in paragraph 3 above.

5. Gandy hereby requests the assistance of the Division's Consultative Services in the review and further development of H<sub>2</sub>S and work practice procedures.

6. Gandy hereby certifies that a copy of this Settlement Agreement has been served on affected employees in the manner specified in Commission Rule 109.

7. The parties agree that the Commission should enter an order which:

a. allows the Division to amend its Citation as set forth in paragraph 1 above;

b. allows Gandy to withdraw its contest as set forth in paragraph 3 above;

c. provides that if Gandy fails to comply with the contingency set forth in paragraph 1 above, the Citation shall remain unamended, and the original penalties of \$1680.00, in lieu of the reduced penalty of \$210.00, shall be due and owing to the Division; and

d. affirms the Citation issued to Gandy, as amended, and makes it a final order of the Commission.

GANDY CORPORATION

ENVIRONMENTAL IMPROVEMENT  
DIVISION

By: C. Gene Samberson  
c. Gene Samberson  
Heidel and Samberson  
Post Office Drawer 1599  
Lovington, NM 88260  
(505) 396-5303

By: Weldon L. Merritt  
Weldon L. Merritt  
Assistant General Counsel  
Office of General Counsel  
Health and Environment  
Department  
Santa Fe, NM 87503  
(505) 827-2990

Dated: September 16, 1988

Dated: August 9, 1988

NOTICE TO EMPLOYEES

Any authorized representative of affected employees or any affected employee not represented by an authorized representative who has any objection entry of an order as set forth in paragraph 7 of this Settlement Agreement should communicate such objections, together with reasons therefor, within ten days after posting of this Settlement Agreement (or thirteen days after mailing, if the Settlement Agreement is served by mail), to the Occupational Health and Safety Review Commission, 1190 St. Francis Drive, Santa Fe, New Mexico 87503, with copies to the representatives of the Division and Gandy whose names appear on the Settlement Agreement. Proof of service as set forth in Commission Rule 108 must accompany any objection filed.

STATE OF NEW MEXICO  
OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION

ENVIRONMENTAL IMPROVEMENT  
DIVISION,

Complainant,

v.

No. 88-27

GANDY CORPORATION,

Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT

THIS MATTER having come before the Commission for consideration of the Settlement Agreement between the Complainant, Environmental Improvement Division ("Division"), and Respondent, Gandy Corporation ("Gandy") and the Commission being otherwise fully advised of the premises herein;

THE COMMISSION FINDS that the Settlement Agreement between the parties complies with Commission Rule 601 and is otherwise in accordance with the Occupational Health and Safety Act.

IT IS THEREFORE ORDERED that:

1. The Division may amend its Citations as set forth in paragraph 1 of the Settlement Agreement;
2. Gandy may withdraw its contest, as set forth in paragraph 3 of the Settlement Agreement;
3. If Gandy fails to comply with the contingency set forth in paragraph 1 of the Settlement Agreement, the original penalties of \$1680.00, in lieu of the reduced penalty of \$210.00, shall be due and owing to the Division; and

4. The Citation, as amended, is affirmed and made a final order of the Commission.

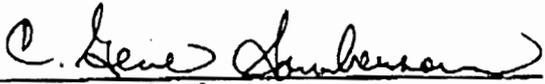
OCCUPATIONAL HEALTH AND SAFETY  
REVIEW COMMISSION

By: \_\_\_\_\_  
Chairman

APPROVED:



Weldon L. Merritt  
Attorney for Complainant



C. Gene Samberson  
Attorney for Respondent