

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

**APPLICATIONS OF GOODNIGHT MIDSTREAM  
PERMIAN, LLC FOR APPROVAL OF  
SALTWATER DISPOSAL WELLS  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 23614-23617**

**APPLICATION OF GOODNIGHT MIDSTREAM  
PERMIAN LLC TO AMEND ORDER NO. R-22026/SWD-2403  
TO INCREASE THE APPROVED INJECTION RATE  
IN ITS ANDRE DAWSON SWD #1,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23775**

**APPLICATIONS OF EMPIRE NEW MEXICO LLC  
TO REVOKE INJECTION AUTHORITY,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 24018-24020, 24025**

**APPLICATION OF GOODNIGHT PERMIAN MIDSTREAM,  
LLC FOR APPROVAL OF A SALTWATER DISPOSAL  
WELL, LEA COUNTY, NEW MEXICO.**

**DIVISION CASE NO. 22626  
ORDER NO. R-22869-A  
COMMISSION CASE NO. 24123**

**INTERVENORS RICE OPERATING COMPANY'S AND PERMIAN  
LINE SERVICE, LLC'S PRE-HEARING STATEMENT AND EXHIBIT LIST**

Intervenors Rice Operating Company ("Rice") and Permian Line Service, LLC ("Permian") provide this Pre-Hearing Statement and Exhibit List as required by Rule 19.15.4.13B NMAC and the Third Amended Pre-Hearing Order. This Statement addresses issues Rice and Permian intend to raise in opposition to the Applications of Empire New Mexico LLC ("Empire") to revoke the injection authority of Goodnight Midstream Permian, LLC ("Goodnight") under certain Division Orders.

## APPEARANCES

### APPLICANTS

Empire New Mexico LLC

Goodnight Midstream Permian, LLC

### OIL CONSERVATION DIVISION

Oil Conservation Division

### ATTORNEYS

Ernest L. Padilla  
Padilla Law Firm, P.A.  
P.O. Box 2523  
Santa Fe, NM 87504  
[padillalaw@qwestoffice.net](mailto:padillalaw@qwestoffice.net)

Sharon T. Shaheen  
Spencer Fane LLP  
P.O. Box 2307  
Santa Fe, NM 87504-2307  
[sshaheen@spencerfane.com](mailto:sshaheen@spencerfane.com)

Dana S. Hardy  
Jaclyn McLean  
Hinkle Shanor LLP  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
[dhardy@hinklelawfirm.com](mailto:dhardy@hinklelawfirm.com)  
[jmclean@hinklelawfirm.com](mailto:jmclean@hinklelawfirm.com)

Michael H. Feldewert  
Adam G. Rankin  
Paula M. Vance  
P.O. Box 2208  
Santa Fe, NM 87504  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[agrankin@hollandhart.com](mailto:agrankin@hollandhart.com)  
[pmvance@hollandhart.com](mailto:pmvance@hollandhart.com)

### ATTORNEYS

Jesse Tremaine  
Chris Moander  
Assistant General Counsels  
New Mexico Energy, Minerals, and  
Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
[jessek.tremaine@emnrd.nm.gov](mailto:jessek.tremaine@emnrd.nm.gov)  
[chris.moander@emnrd.nm.gov](mailto:chris.moander@emnrd.nm.gov)

INTERVENORS

Pilot Water Solutions SWD, LLC

Rice Operating Company &  
Permian Line Service, LLC

ATTORNEY

Miguel A. Suazo  
Sophia A. Graham  
Kaitlyn A. Luck  
Beatty & Wozniak, P.C.  
500 Don Gaspar Ave.  
Santa Fe, NM 87505  
[msuazo@bwenergylaw.com](mailto:msuazo@bwenergylaw.com)  
[sgraham@bwenergylaw.com](mailto:sgraham@bwenergylaw.com)  
[kluck@bwenergylaw.com](mailto:kluck@bwenergylaw.com)

Matthew M. Beck  
Peifer, Hanson, Mullins & Baker,  
P.A.  
P.O. Box 25245  
Albuquerque, NM 87125-5245  
[mbeck@peiferlaw.com](mailto:mbeck@peiferlaw.com)

**STATEMENT OF THE CASE**

Empire filed ten applications, including the four applications in Case Nos. 24018-20 and 24025, which are currently set for a hearing before the Oil Conservation Commission (the “Commission”) on February 20-28, 2025. In these four cases, Empire seeks an order from the Commission revoking the injection authority entered under Order Nos. T-22026/SWD-2403, R-22027, SWD-2307, R-21190. Each of these orders provides to the operator, in this case, Goodnight, authority to inject disposal waters into the San Andres formation, a non-productive zone. This zone has been recognized as a commercially-viable wastewater disposal zone for over 50 fifty years. Commercial disposal into this zone began when, on June 10, 1958, the Eunice-Monument-Eumont Salt Water Disposal System (“EME”) was established. Notably, Gulf Oil Corporation, Empire’s predecessor-in-interest, was one of the original parties to the EME in 1958. And all of Empire’s predecessors-in-interest, as well as Empire itself, joined in the EME and remained (and Empire remains) in the EME, with wells committed to disposing of

wastewater into the San Andres.

On June 20, 2024, Rice and Permian intervened in these cases.

On July 2, 2024, the Commission issued its Order limiting the scope of this hearing to Empire case Nos. 24018-20, and 24025, to hear evidence, testimony and argument “on the issue of the existence, extent of and possible interference with a residual oil zone [sic] the Eunice Monument South Unit (‘EMSU’) by produced water injection activities undertaken by Goodnight.” While these cases do not include any of Rice’s or Permian’s injection wells, Rice and Permian operate permitted SWD wells in the area that inject in the San Andres formation and have done so for many years. Rice and Permian therefore file this pre-hearing statement to object to Empire’s Applications in Case Nos. 24018-20 and 24025. The San Andres formation at issue in these cases has been a commercially-viable target for necessary wastewater disposal in the area for a generation – almost 67 years. Empire was well aware of this when it purchased the assets in the EMSU from XTO Energy, as XTO Energy, its predecessors-in-interest Chevron and Exxon Mobil, and their predecessor-in-interest Gulf Oil Corporation, all were parties to the EME, and, indeed, Empire was admitted as a party to the EME in November 2021, in which capacity it continues today. Empire has continued to dispose of wastewater in the EME and on its own into the EMSU.

It is undisputed that Empire disposed of wastewater in the EMSU, including while the underlying applications were pending. It is undisputed that Empire is a party to the EME – and its predecessors were parties to the EME since 1958. It is also undisputed that Empire has not produced and sold any hydrocarbons from the targeted zone.

Rice and Permian therefore file this Pre-Hearing statement to underscore the grave practical implications to private and public business interests that would flow from “adversely

acting against a previously issued injection permit,” and to urge the Commission not to do so when Empire’s evidence for a residual oil zone (“ROZ”), let alone a commercially-viable ROZ that is in any way affected by Goodnight’s injection, is speculative at best.

### **RICE AND PERMIAN’S OBJECTIONS TO EMPIRE’S APPLICATIONS**

Rice and Permian contend that Empire’s applications should be denied for the following reasons:

1. Empire has not and cannot establish that there is communication between the Grayburg formation and the San Andres formation in the EMSU.
2. Empire has not and cannot establish that there exists a ROZ in the disposal zone into which the permits authorize Goodnight, as the operator, to inject disposal waters under the Orders at issue.
3. Even if there were communication between the Grayburg and San Andres in the EMSU, or if there were a ROZ in the disposal zone at issue, Empire has not and cannot establish that the injection authority granted in the Orders at issue results in waste or impairs correlative rights. *See* NMSA 1978, §§ 70-2-3(A), 70-2-6, 70-2-11, 70-2-33(H).
4. The doctrines of waiver, laches, and estoppel operate to prevent the Commission from revoking the injection permits at issue. The permits were issued by the Oil Conservation Division (“OCD”) after the application and hearing process in which Empire’s predecessor-in-interest were provided notice of the applications and in which Empire’s predecessor-in-interest, Empire itself, or anyone else claiming an interest affected by the application, had the opportunity to contest – to object to or to oppose – the injection permits before the OCD issued the permits. Empire’s predecessor-in-interest did not contest or otherwise participate in the OCD proceedings that led to issuance of the permits. Indeed, each of these permits were issued only after contested

hearings, as other interested parties contested the applications that led to each of these orders. Empire's predecessor-in-interest therefore acquiesced in the approval of those injection permits. When Empire acquired the operating rights on which it bases its applications here, it was on notice of each of the OCD-issued permits. The doctrines of waiver, laches, and estoppel thus prevent the Commission from properly granting to Empire the relief it seeks in these applications.

5. Allowing Empire the relief that it requests – the Commission's revocation of previously properly issued salt water disposal permits – has “not only regional effects but also more profound and far reaching consequences.” OCD Testimony of Deputy Director Brandon Powell at 18 (filed Aug. 27, 2024). “A result of such permit approval leads operators to invest money, time, equipment costs, and other expenses in both preparing to apply for such a permit, but also afterwards in the actual process of implementing the permit by preparing a wellsite, drilling a well and then subsequent injection. In essence, operators rely on the injection permit as the bedrock for the operator's investment in a given well or wells.” *Id.* at 18-19. “A dependable regulatory regime likewise allows for operators to act efficiently, which in turn generates tax revenues for the State. . . . Taking adverse actions without meeting these thresholds could undermine the confidence in OCD's regulatory environment by both the regulated community, and New Mexican citizens.” *Id.* at 20. In addition to the injection permits that Empire applies to the Commission to revoke here, which existed and were in operation when Empire acquired the rights on which these applications are based, there are saltwater disposal wells in and around the EMSU that have been in operation for a generation – over 67 years. These long-existing SWD wells include those in EME system, in which Empire participated, Empire's predecessors-in-interest participated, and in which Empire's predecessor-in-interest was a party in the founding

in 1958. The Commission should not upset the regulatory framework on which operators rely for investments in New Mexico *in this hearing at this time* based on Empire's evidence. The evidence establishes that Empire or its predecessors-in-interest withdrew 380 mmbbls from the San Andres without production of oil or skim oil. With that evidence, the Commission should not upset the regulatory framework New Mexico operators have relied on for decades and decades, and need to continue to rely on, based on Empire's position that there may be a ROZ in the San Andres into which Goodnight disposes, that hydrocarbons in that potential ROZ may be recoverable, and that, if either of those potentials is perhaps true, then Empire might at some point be able to produce economically those potential hydrocarbons. The evidence will establish that Empire's evidence currently does not prove by a preponderance of the evidence any one of these three conditions precedent to entitlement to the relief it requests. The Commission should not, therefore, disturb what the OCD recognizes is the "bedrock" of significant investment in the New Mexico oil and gas industry.

### PROPOSED EVIDENCE

Rice and Permian do not anticipate presenting any witnesses or case in chief, but may present evidence through cross-examination of the parties' witnesses at the hearing. The following are the exhibits that Rice and Permian may introduce at the hearing.

### EXHIBITS

Ex No.	Document	Date	Bates No.
1	EME Articles of Agreement	6/10/1958	B0001 - B0040
2	EME List of Committed Wells	3/31/2024	B0041 - B0046
3	OCD Change of Operator - XTO - Empire	7/23/2021	B0047 - B0064
4	EME Adjoinder in EME Articles	11/29/2021	B0065
5	Ballot - EME Forty Acres Sale	11/29/2022	B0066 - B0069
6	Empire Email re Forty Acres Sale	3/29/2023	B0070 - B0071
7	Ballot - Outside Capacity to EME	10/4/2023	B0072 - B0084

## PROCEDURAL MATTERS

Goodnight has a motion for partial summary judgment pending, in which Rice and Permian join, that the Commission should resolve before the hearing.

Respectfully submitted,

PEIFER, HANSON, MULLINS & BAKER, P.A.

By: /s/ Matthew M. Beck

Matthew M. Beck

P.O. Box 25245

Albuquerque, NM 87125-5245

Tel: (505) 247-4800

Fax: (505) 243-6458

Email: mbeck@peiferlaw.com

*Attorneys for Rice Operating Company and  
Permian Line Service, LLC*

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail this 10<sup>th</sup> day of February, 2025.

Sharon T. Shaheen  
Spencer Fane LLP  
P.O. Box 2307  
Santa Fe, NM 87504-2307  
(505) 986-2678  
[sshaheen@spencerfane.com](mailto:sshaheen@spencerfane.com)

Ernest L. Padilla  
Padilla Law Firm, P.A.  
P.O. Box 2523  
Santa Fe, NM 87504  
(505) 988-7577  
[padillalawnm@outlook.com](mailto:padillalawnm@outlook.com)



Dana S. Hardy  
Jaclyn M. McLean  
Hinkle Shanor LLP  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
(505) 982-4554  
[dhardy@hinklelawfirm.com](mailto:dhardy@hinklelawfirm.com)  
[jmclean@hinklelawfirm.com](mailto:jmclean@hinklelawfirm.com)

*Attorneys for Empire New Mexico, LLC*

Michael H. Feldewert  
Adam G. Rankin  
Paula M. Vance  
P.O. Box 2208  
Santa Fe, NM 87504  
(505) 998-4421  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
[pmvance@hollandhart.com](mailto:pmvance@hollandhart.com)

*Attorneys for Goodnight Midstream Permian, LLC*

Miguel A. Suazo  
Sophia A. Graham  
Kaitlyn A. Luck  
Beatty & Wozniak, P.C.  
500 Don Gaspar Ave.  
Santa Fe, NM 87505  
(505) 946-2090  
[msuazo@bwenergylaw.com](mailto:msuazo@bwenergylaw.com)  
[sgraham@bwenergylaw.com](mailto:sgraham@bwenergylaw.com)  
[kluck@bwenergylaw.com](mailto:kluck@bwenergylaw.com)

*Attorneys for Pilot Water Solutions SWD, LLC*

Jesse Tremaine  
Chris Moander  
Assistant General Counsels  
New Mexico Energy, Minerals, and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
(505) 741-1231  
(505) 231-9312  
[jessek.tremaine@emnrd.nm.gov](mailto:jessek.tremaine@emnrd.nm.gov)  
[chris.moander@emnrd.nm.gov](mailto:chris.moander@emnrd.nm.gov)

*Attorneys for Oil Conservation Division*

PEIFER, HANSON, MULLINS & BAKER, P.A.

/s/ Matthew M. Beck

Matthew M. Beck

Sante Fe Main Office  
Phone: (505) 476-3441

General Information  
Phone: (505) 629-6116

Online Phone Directory  
<https://www.emnrd.nm.gov/ocd/contact-us>

State of New Mexico  
Energy, Minerals and Natural Resources  
Oil Conservation Division  
1220 S. St Francis Dr.  
Santa Fe, NM 87505

QUESTIONS

Action 430274

QUESTIONS

Operator: RICE OPERATING COMPANY 122 W Taylor Hobbs, NM 88240	OGRID: 19174
	Action Number: 430274
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

QUESTIONS

Testimony	
Please assist us by provide the following information about your testimony.	
Number of witnesses	Not answered.
Testimony time (in minutes)	Not answered.