

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

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-
7767 TO EXCLUDE THE SAN ANDRES
FORMATION FROM THE EUNICE
MONUMENT OIL POOL WITHIN THE
EUNICE MONUMENT SOUTH UNIT AREA,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24277

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-
7765, AS AMENDED TO EXCLUDE THE SAN
ANDRES FORMATION FROM THE UNITIZED
INTERVAL OF THE EUNICE MONUMENT
SOUTH UNIT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24278

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

CASE NOS. 23614-23617

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

CASE NOS. 24018-24027

**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

**APPLICATION OF GOODNIGHT PERMIAN MIDSTREAM, LLC
FOR APPROVAL OF A SALTWATER DISPOSAL WELL, LEA
COUNTY, NEW MEXICO; ORDER NO. R-22869-A.**

CASE NO. 24123

**INTERVENOR PILOT WATER SOLUTIONS SWD, LLC'S PRE-HEARING
STATEMENT**

Intervenor, Pilot Water Solutions SWD, LLC ("Pilot"), provides this Pre-Hearing Statement as required by 19.15.4.13B NMAC and the Third Amended Pre-Hearing Order. This Statement addresses issues Pilot intends 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

Sharon T. Shaheen
Spencer Fane LLP
P.O. Box 2307
Santa Fe, NM 87504-2307
sshaheen@spencerfane.com

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

Michael H. Feldewert
Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, NM 87504
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
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
chris.moander@emnrd.nm.gov

INTERVENORS

Pilot Water Solutions SWD, LLC

Rice Operating Company &
Permian Line Service, LLC

ATTORNEY

Miguel A. Suazo
Jacob Everhart
James Parrot
Ryan McKee
Beatty & Wozniak, P.C.
500 Don Gaspar Ave.
Santa Fe, NM 87505
msuazo@bwenerylaw.com
jeverhart@bwenerylaw.com
jparrot@bwenerylaw.com
rmckee@bwenerylaw.com

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

STATEMENT OF THE CASE

Empire filed ten applications, including the four applications in Case Nos. 24018-20 and 24025, which are scheduled for a hearing before the Oil Conservation Commission (“Commission”) from February 20-28, 2025.

In these four cases, Empire seeks a Commission order revoking the injection authority granted under Order Nos. T-22026/SWD-2403, R-22027, SWD-2307, and R-21190. These orders authorize Goodnight, as the operator, to inject disposal waters into the San Andres formation, a non-productive zone that has been recognized as a commercially viable wastewater disposal zone for over 50 years.

Commercial disposal into the San Andres formation began on June 10, 1958, with the establishment of the Eunice-Monument-Eumont Salt Water Disposal System (“EME”). Notably,

Gulf Oil Corporation, Empire's predecessor-in-interest, was one of the original participants in the EME. Empire and all its predecessors-in-interest have historically been part of the EME and have committed wells to wastewater disposal in the San Andres formation, a practice in which Empire continues to participate today.

Pilot is a saltwater disposal company that is the designated operator of injection wells within the EMSU that are injecting into the San Andres formation, authorized by Oil Conservation Division injection permits issued pursuant to 19.15.24 NMAC.

On June 17, 2024, Pilot intervened in these cases because its injection permits into the San Andres formation may be adversely affected by any decision or order of the Commission issued through these proceedings which are the subject of the applications in these cases.

On June 26, 2024, the Commission stayed Case No. 24432, until the resolution of these cases. Empire filed an Application to Revoke the Injection Authority Granted Under Administrative Order SWD-1750 for the P 15 #001 Well Operated by OWL SWD Operating, LLC, Lea County, New Mexico; OWL SWD Operating, LLC is an affiliate of Pilot.

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."

Pilot therefore files 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.

Pilot submits this Pre-Hearing Statement to emphasize the serious practical consequences that would arise for both private and public business interests if the Commission were to revoke or alter a previously issued injection permit. Pilot urges the Commission to reject such action, particularly when Empire’s evidence of a residual oil zone (“ROZ”)—let alone a commercially viable ROZ impacted by Goodnight’s injection—is purely speculative.

PILOT’S OBJECTIONS TO EMPIRE’S APPLICATIONS

Pilot contends that Empire’s applications should be denied for the following reasons:

1. Empire has not — and cannot — demonstrate communication between the Grayburg formation and the San Andres formation within the EMSU.
2. Empire has not — and cannot — demonstrate the existence of a residual oil zone (ROZ) within the disposal zone where Goodnight is authorized to inject disposal waters under the relevant Orders.
3. Even if communication existed between the Grayburg and San Andres formations in the EMSU, or if a residual oil zone (ROZ) were present in the disposal zone, Empire has not — and cannot — demonstrate that the injection authority granted under the relevant Orders results in

waste or the impairment of 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 bar the Commission from revoking the injection permits at issue. These permits were issued by the Oil Conservation Division (“OCD”) following an application and hearing process in which Empire’s predecessors-in-interest were provided notice and had the opportunity to contest, object to, or oppose the applications before the permits were granted. However, neither Empire’s predecessors-in-interest, Empire itself, nor any other party claiming an affected interest participated in those proceedings.

Each permit was issued only after contested hearings, where other interested parties raised objections, yet Empire’s predecessors-in-interest chose not to participate, effectively acquiescing to the approval of the injection permits. When Empire acquired the operating rights on which it now bases its applications, it was fully on notice of each existing OCD-issued permit.

Accordingly, the doctrines of waiver, laches, and estoppel preclude the Commission from granting Empire the relief it now seeks.

PROPOSED EVIDENCE

Pilot does not anticipate presenting any witnesses or a case in chief, however, Pilot may present evidence through cross-examination of the parties’ witnesses at the hearing.

PROCEDURAL MATTERS

Goodnight has a motion for partial summary judgment pending, in which Pilot has joined, and respectfully requests that the Commission resolve this partial summary judgment motion prior to the hearing.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: 

Miguel A. Suazo

Jacob L. Everhart

James P. Parrot

Ryan McKee

500 Don Gaspar Ave.,

Santa Fe, NM 87505

(505) 946-2090

msuazo@bwenergylaw.com

jeverhart@bwenergylaw.com

jparrot@bwenergylaw.com

rmckee@bwenergylaw.com

Attorneys for Pilot Water Solutions SWD, 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 10th 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

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

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

Attorneys for Empire New Mexico, LLC

Michael H. Feldewert
Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, NM 87504
505-998-4421
505-983-6043 Facsimile
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
pmvance@hollandhart.com

Attorneys for Goodnight Midstream Permian, LLC

Matthew M. Beck

PEIFER, HANSON, MULLINS & BAKER,
P.A.
P.O. Box 25245
Albuquerque, NM 87125-5245
Tel: (505) 247-4800
mbeck@peiferlaw.com

*Attorneys for Rice Operating Company and
Permian Line Service, 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
chris.moander@emnrd.nm.gov

Attorneys for Oil Conservation Division


Rachael Ketchledge

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 430315

QUESTIONS

Operator: Pilot Water Solutions SWD LLC 20 Greenway Plaza, Suite 500 Houston, TX 77046	OGRID: 331374
	Action Number: 430315
	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.