

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

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

CASE NO. 24123

**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

**EMPIRE NEW MEXICO, LLC'S EMERGENCY MOTION TO ENFORCE
ORDER NO. R-24004, FOR ORDER TO SHOW CAUSE, AND
FOR EXPEDITED HEARING**

Empire New Mexico, LLC ("Empire") moves the Oil Conservation Commission (the "Commission") for an emergency order enforcing its September 12, 2025, Order No. R-24004 ("Suspension Order") and requiring Goodnight Midstream, LLC ("Goodnight") to appear before the Commission and address its contempt of the Suspension Order. As grounds, Empire states the following.

1. On August 14, 2025, after an exhaustive, five-week evidentiary hearing, the Commission publicly announced its decision to suspend Goodnight's injection authority for the

Dawson, Banks, Sosa, and Ryno wells.¹ In doing so, the Commission cleared the way for Empire to execute a pilot project testing enhanced oil recovery with carbon dioxide (*i.e.*, “a CO₂ EOR pilot”) in the Eunice Monument South Unit (“EMSU”).

2. In the month following that announcement, Goodnight apparently took no action. Goodnight did not seek clarification of the Commission’s decision or request emergency relief. Nor did Goodnight begin to comply with the Commission’s directive by shutting in its injection wells.

3. On September 12, 2025, the Commission issued the Suspension Order formally memorializing its decision to suspend Goodnight’s injection authority. The Order states, in relevant part, that the Commission:

“Suspends existing Goodnight’s injection wells Case No. 24018 (Dawson), Case No. 24019 (Banks), Case No. 24020 (Sosa), Case No. 24025 (Ryno) in order to provide Empire with the opportunity to establish the CO₂ EOR pilot project.”

See Suspension Order, Ordering ¶ 3.

4. In reaching its decision, the Commission found:

- a. the Unit Agreement gave Empire the “**exclusive right**, privilege and duty of exercising any and all rights of the parties hereto including surface rights which are necessary or convenient for prospecting for, producing, storing, allocating and distributing the Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator.” Suspension Order at ¶ 18 (emphasis added).
- b. “Empire purchased the EMSU . . . to start a new project to extract oil from the San Andres formation via a CO₂ flood as part of an Enhanced Oil Recovery (EOR) project.” Suspension Order at ¶ 26.
- c. “Based on the 1984 Commission Order, **Empire has the exclusive rights to decide how to best extract oil in the EMSU.**” Suspension Order at ¶ 27 (emphasis added).
- d. “injection of hundreds of thousands of barrels a day conflicts with Empire’s exclusive rights to extract oil in the EMSU because in order to perform a

¹ The Commission also denied Goodnight’s applications for new injection wells and increased injection volumes.

successful CO2 flood EOR project, the injection of CO2 and water must be monitored closely and adjustments made based upon design.” Suspension Order at ¶ 40.

- e. **“the injection of hundreds of thousands of barrels a day [by Goodnight] conflicts with Empire’s exclusive rights to extract oil in the EMSU because approval of the proposed new wells would contradict the responsibility of the Commission and Division to prevent drowning by water of any stratum or part thereof capable of producing oil.”** Suspension Order at ¶ 41 (emphasis added).

5. The Suspension Order is clear and unambiguous. It suspends Goodnight’s injection permits based on these findings and does not invite interpretation, negotiation, or phased compliance.

6. Although the Suspension Order states that the Oil Conservation Division (“Division”) “will implement this Order,” that language can only mean that the Division will oversee Goodnight’s compliance with Rule 19.15.26.12 NMAC, which states that “within 30 days after discontinuance of injection operations into any other well, the operator shall notify the division of the date of the discontinuance and the reasons for the discontinuance.”

7. Construing the implementation language in a manner that would allow Goodnight to continue its unfettered injection for some undetermined period of time would controvert the Commission’s clear statement, based on evidence presented at the five-week hearing, that it “**suspends** existing Goodnight’s injection wells . . .” (emphasis added).

8. Empire inquired twice by email to Goodnight whether it had complied with the Commission’s Suspension Order. Goodnight completely ignored both inquiries. Then, on September 15, 2025, Goodnight wrote to Division staff suggesting that the Suspension Order only provides “guidance” and requested a meeting to discuss “when, how, and over what period of time” Goodnight must suspend injection into the Dawson, Banks, Sosa and Ryno wells. In the meantime, Goodnight has apparently continued its unabated injection into the EMSU unitized

interval. *See* September 15, 2025 e-mail from A. Rankin to J. Tremaine and C. Moander, attached as Exhibit A.

9. Contrary to Goodnight's assertions, nothing in the Suspension Order suggests that Goodnight may continue injecting over an indefinite "wind-down" period. Nor is the suspension of Goodnight's injection permits contingent on Empire breaking ground on the pilot project. Indeed, Empire's science and engineering studies to execute the pilot project commenced years ago and were presented during the Commission's hearing. The Suspension Order suspends Goodnight's injection authority, present tense.

10. Goodnight's refusal to comply with the plain and unambiguous language of Suspension Order defies Commission authority and the Suspension Order's clear purpose: to prevent waste of New Mexico's natural resources and protect the correlative rights of the EMSU working interest and royalty owners, including Empire, the State of New Mexico, and the United States, in accordance with the Oil and Gas Act.

11. Empire seeks an emergency order enforcing the Suspension Order and requiring Goodnight to: (a) immediately suspend injection into the Dawson, Banks, Sosa, and Ryno wells; and (b) file the required discontinuance paperwork with the Division. *See* Rule 19.15.26.12(B) (requiring injection well operators to provide notice and obtain Division approval before abandoning an injection well).

12. Empire also seeks the earliest available hearing on Goodnight's contempt for willfully violating the Suspension Order. An emergency hearing on this matter with the Commission is critical, as Division counsel has stated that the Division "cannot and will not make any guarantees or assurances *as to how it will ultimately decide to implement*" the Suspension

Order (emphasis added). *See* Exh. A. Goodnight's feigned misunderstanding of the effect of its injection permits being suspended is no excuse for willful disobedience of the Commission.

13. Due to the nature of this motion, it is presumed that Goodnight opposes the relief sought.

WHEREFORE, Empire respectfully requests that the Commission: (1) enter an order directing Goodnight to immediately discontinue its injection into the Dawson, Banks, Sosa, and Ryno wells; and (2) set a hearing on this motion at the Commission's earliest convenience.

Respectfully submitted,

HARDY McLEAN LLC

By: /s/ Dana S. Hardy

Dana S. Hardy

Jaclyn M. McLean

Timothy B. Rode

125 Lincoln Ave., Ste. 223

Santa Fe, NM 87501

(505) 230-4410

dhardy@hardymclean.com

jmclean@hardymclean.com

trode@hardymclean.com

Corey F. Wehmeyer

SANTOYO WEHMEYER, P.C.

IBC Highway 281 N. Centre Bldg.

12400 San Pedro Avenue, Suite

300 San Antonio, Texas 78216

(210) 998-4190

cwehmeyer@swenergylaw.com

Attorneys for Empire New Mexico, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the following counsel of record by electronic mail on September 23, 2025.

Michael H. Feldewert
Adam G. Rankin
Nathan R. Jurgensen
Julia Broggi
Paula M. Vance
Holland & Hart LLP
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
Telephone: (505) 986-2678
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
nrjurgensen@hollandhart.com
jbroggi@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***

Miguel A. Suazo
BEATTY & WOZNIAK, P.C.
500 Don Gaspar Ave.
Santa Fe, NM 87505
Tel: (505) 946-2090
msuazo@bwenergylaw.com
sgraham@bwenergylaw.com
kluck@bwenergylaw.com
***Attorneys for Pilot Water Solutions SWD,
LLC***

/s/ Dana S. Hardy
Dana S. Hardy

Dana S. Hardy

From: Dana S. Hardy
Sent: Thursday, September 18, 2025 11:08 AM
To: Moander, Chris, EMNRD; Adam Rankin; Tremaine, Jesse, EMNRD
Cc: Jaclyn M. McLean; Ernest Padilla; Matthew M. Beck; jparrot@bwenenergylaw.com; Shaheen, Sharon; Miguel Suazo; cwehmeyer; Nathan R. Jurgensen; Raylee Starnes; John C. Anderson; Jacqueline F. Hyatt; Dana S. Hardy
Subject: RE: [EXTERNAL] Goodnight / Empire - OCC Order No. R-24004

Dear Jesse and Chris,

We appreciate the Division's willingness to meet with Goodnight and Empire. However, Order No. R-24004 was issued on September 12, 2025 and states that the Commission:

"Suspends existing Goodnight's injection wells Case No. 24018 (Dawson), Case No. 24019 (Banks), Case No. 24020 (Sosa), Case No. 24025 (Ryno) in order to provide Empire with the opportunity to establish the CO2 EOR pilot project."

This language is clear and does not allow for interpretation, negotiation, or delay. The Order "suspends" Goodnight's permits, present tense. The Order does not suspend Goodnight's permits contingent on Empire initiating a CO2 EOR pilot project or allow Goodnight to continue injecting into these wells over some unspecified period of time. To the extent Goodnight is continuing to inject into these wells, it is violating the Commission's order.

Moreover, although the Commission issued the Order on September 12th, the Commission publicly announced its decision to suspend Goodnight's permits on August 14, 2025. Thus, Goodnight knew its permits would be suspended and apparently failed to take any action to comply.

The Commission's statement that "The Division will implement this Order" does not mean that Goodnight's permits are still in effect or may be revoked over time. Any such interpretation would contravene the plain language of the ordering paragraphs. Rather, implementation means the Division must ensure Goodnight complies with the requirements set out in the Division's regulations:

19.15.26.12 COMMENCEMENT, DISCONTINUANCE AND ABANDONMENT OF INJECTION OPERATIONS:

A. The following provisions apply to injection projects, storage projects, produced water disposal wells and special purpose injection wells.

B. Notice of commencement and discontinuance.

(1) Immediately upon the commencement of injection operations in a well, the operator shall notify the division of the date the operations began.

(2) Within 30 days after permanent cessation of gas or liquefied petroleum gas storage operations or within 30 days after discontinuance of injection operations into any other well, the operator shall notify the division of the date of the discontinuance and the reasons for the discontinuance.

(3) Before temporarily abandoning or plugging an injection well, the operator shall obtain approval from the appropriate division district office in the same manner as when temporarily abandoning or plugging oil and gas wells or dry holes.

Based on the clear language of the Order and the Division's regulations, Goodnight must immediately cease injection into the Dawson, Banks, Sosa, and Ryno wells and file the paperwork required to do so. Empire will seek relief for Goodnight's contempt of the Order by Monday, September 22nd if Goodnight has not ceased injection.

Please let me know if you need any additional information.

Best,
Dana



Dana S. Hardy

Senior Managing Partner

Phone: 505-230-4426

Email: dhardy@hardymclean.com

Web www.hardymclean.com

125 Lincoln Avenue, Suite 223, Santa Fe, NM 87501



This message (including attachments) constitutes a confidential attorney-client or is otherwise a confidential communication from the law firm, Hardy McLean LLC, that is covered by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521, and is intended solely for the use of the individual(s) or entity to whom it is addressed. It is not intended for transmission to, or receipt by, any unauthorized person. If you are not the intended recipient or received these documents by mistake or error, please do not read it and immediately notify us by collect telephone call to (505) 230-4410 for instructions on its destruction or return. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, action or reliance upon the contents of the documents is strictly prohibited.

From: Moander, Chris, EMNRD <Chris.Moander@emnrd.nm.gov>

Sent: Thursday, September 18, 2025 10:14 AM

To: Adam Rankin <AGRankin@hollandhart.com>; Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>

Cc: Dana S. Hardy <dhardy@hardymclean.com>; Jaclyn M. McLean <jmclean@hardymclean.com>; Ernest Padilla <PadillaLawNM@outlook.com>; Matthew M. Beck <mbeck@peiferlaw.com>; jparrot@bwenergylaw.com; Shaheen, Sharon <sshaheen@spencerfane.com>; Miguel Suazo <msuazo@bwenergylaw.com>; cwehmeyer <cwehmeyer@swenergylaw.com>; Nathan R. Jurgensen <NRJurgensen@hollandhart.com>; Raylee Starnes <ARStarnes@hollandhart.com>; John C. Anderson <JCAnderson@hollandhart.com>; Jacqueline F. Hyatt <JFHyatt@hollandhart.com>

Subject: RE: [EXTERNAL] Goodnight / Empire - OCC Order No. R-24004

Mr. Rankin,

OCD is happy to meet with you and your client, per your request, and leave the door open for Empire or others to do the same. Unfortunately, due to scheduling issues, key staff will not be available to meet until Thursday, September 25th from 10-12. OCD's position is that the key staff members are essential to

a fruitful discussion with you and your client. Please confirm that works – we would need to host the meeting *via* Teams.

Insofar as the OCC Order, OCD is actively reviewing the order and evaluating its next steps. OCD's intention is to inform all parties to the underlying cases of its decisions once they are made so matters are clear for everyone. **However, OCD cannot and will not make any guarantees or assurances as to how it will ultimately decide to implement the order, including timing and nature of actions OCD may require of either Goodnight or Empire.**

Please let me know if the proposed meeting date and time work for you and your client.

Regards,
Chris

From: Adam Rankin <AGRankin@hollandhart.com>

Sent: Monday, September 15, 2025 4:35 PM

To: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>; Moander, Chris, EMNRD <Chris.Moander@emnrd.nm.gov>

Cc: dhardy@hardymclean.com; Jaclyn M. McLean <jmclean@hardymclean.com>; Ernest Padilla <PadillaLawNM@outlook.com>; Matthew M. Beck <mbeck@peiferlaw.com>; jparrot@bwenergylaw.com; Shaheen, Sharon <sshaheen@spencerfane.com>; Miguel Suazo <msuazo@bwenergylaw.com>; Corey Wehmeyer <cwehmeyer@swenergylaw.com>; Nathan R. Jurgensen <NRJurgensen@hollandhart.com>; Raylee Starnes <ARStarnes@hollandhart.com>; John C. Anderson <JCAAnderson@hollandhart.com>; Jacqueline F. Hyatt <JFHyatt@hollandhart.com>

Subject: [EXTERNAL] Goodnight / Empire - OCC Order No. R-24004

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Jesse and Chris,

Pursuant to the Commission's Order and Commission counsel's response to my direct questions following adoption of the written order (see <https://www.youtube.com/watch?v=Zc0BhNb67B4>), **Goodnight would like to schedule a meeting with the Division regarding the Commission's guidance for implementing the order, including when, how, and over what period of time Goodnight will be required to shut in its EMSU disposal wells, as well as the parameters and requirements for Empire to implement a pilot project, including what zones it is going to target, reporting requirements, and other considerations.** As we understand the order, we see the two issues as being closely linked.

Please let us know if there is an opportunity for a conference on these points. Of course, we are open to additional considerations from the Division and anticipate an opportunity to respond to any of the Division's considerations or proposals for implementation.

Sincerely,
Adam



Holland
& Hart

Adam Rankin

Partner

HOLLAND & HART LLP

110 North Guadalupe Street, Suite 1, Santa Fe, NM 87501

agrankin@hollandhart.com | **T:** (505) 954-7294 | **M:** (505) 570-0377

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this email.