

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

**APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC TO AMEND
ORDER NO. R-22506 (SWD-2392) FOR A
ONE YEAR EXTENSION TO COMMENCE
INJECTION OPERATIONS, LEA COUNTY,
NEW MEXICO.**

Case No. 24491

**EMPIRE NEW MEXICO, LLC'S BRIEF REQUESTING THAT THE NEW MEXICO
OIL CONSERVATION DIVISION REINSTATE STAY OF PROCEEDINGS PENDING
FINAL DETERMINATION BY THE NEW MEXICO
OIL CONSERVATION COMMISSION**

Pursuant to the Hearing Examiner's October 21, 2025 request, Empire New Mexico, LLC ("Empire") submits this brief requesting that the New Mexico Oil Conservation Division ("Division") reinstate a stay of proceedings in this matter pending a final determination by the New Mexico Oil Conservation Commission ("Commission") on the validity of SWD-2392. In support of its request, Empire states as follows.

1. Empire incorporates by reference and restates the arguments raised in its Motion to Reconsider Decision to Lift Stay, to Vacate Pre-Hearing Order, and to Refer to the Commission, dated October 1, 2025. The stay should remain in place while the propriety of the permit at issue is pending before the Commission because a final decision by the Commission may render Goodnight's application moot. Moreover, granting the extension will allow Goodnight Midstream Permian, LLC ("Goodnight") to wrongfully drill its Rocket SWD #1 while Empire's application to revoke Goodnight's permit for this well in Case No. 24021 is pending before the Commission,

and when the Commission has ruled in Empire's favor.¹ For these reasons, Empire respectfully requests that the Division reinstate the stay.

2. In this case, Goodnight seeks to extend the time to commence injection operations for the Rocket SWD #1 ("Rocket SWD" or "Well") under Order SWD-2392 to March 2, 2025. Application at 1.

3. In Case No. 24021, Empire filed an application to revoke the injection authority under SWD-2392 for the Rocket SWD, which is currently pending before the Commission along with several other applications to revoke permits for saltwater disposal wells located near the Eunice Monument South Unit ("EMSU"). These applications to revoke have been stayed by the Commission pending resolution of the applications regarding wells within the EMSU.²

4. On July 26, 2024, the Division stayed this matter because "Goodnight's Well is close to the Eunice Monument South Unit, which is the subject of intense litigation before the" Commission. Order to Stay Proceedings (July 26, 2024) ("Order to Stay"). The Order to Stay further recognized that the Commission would "decide factual and legal issues that will be dispositive in" this case and that "the stay will conserve administrative resources." *Id.*

5. Commission Case Nos. 23614-23617, 23775, 24018-24020, 24025, & 24123 involve applications by Goodnight and Empire regarding Goodnight's SWD operations within the EMSU.

6. Regarding those matters, on September 12, 2025, the Commission issued Order No. R-24004, which denied Goodnight's application to drill four new wells, denied Goodnight's application to request existing increase in an existing well, and suspended the permits for four

¹ In its brief on standing, Goodnight has taken the inexplicable position that it prevailed in the Commission proceeding. Any such argument is directly belied by the Commission's order denying Goodnight's new permits and suspending its existing permits and by Goodnight's lengthy Motion for Rehearing.

² See generally Commission Case Nos. 23614-23617, 23775, 24018-24020, 24025, & 24123.

existing wells “in order to provide Empire with the opportunity to establish the CO2 EOR pilot project.” *Id.* at 12-13.

7. The Commission’s Order No. R-24004 was the subject of competing motions for rehearing filed by Empire and Goodnight.

8. On October 2, 2025, the Hearing Examiner requested that the parties brief the issue of whether Empire has standing in the above-captioned matter. That issue has been fully briefed by the parties.

9. On October 17, 2025, the Commission entered an Order Partially Granting Goodnight’s Motion for Rehearing; Denying Empire’s Motion for Rehearing; Granting Goodnight’s Motion for Stay; Holding Empire’s Motion to Enforce in Abeyance. In its Order, the Commission directed the parties to provide additional briefing on various issues. The parties will submit initial briefing on or before October 31, 2025, with responses due on November 7, 2025. The Commission will hold oral argument on November 13, 2025. Thus, it is unlikely the Commission will issue a final order prior to the November 18, 2025 Division hearing on Goodnight’s extension application. And, even if the Commission does issue a final order prior to November 18, 2025, the parties will need time to determine how the Commission’s decision impacts this proceeding.

10. Once the Commission has fully resolved the pending issues in Commission Case Nos. 23614-23617, 23775, 24018-24020, 24025, & 24123, Empire intends to file a motion requesting that the Commission lift the stay and hear the remaining applications to revoke permits for wells located outside, but near, the EMSU, including the Rocket SWD #1.

11. Any decision as to whether good cause exists to extend Goodnight’s deadline to commence injection into the Rocket SWD #1 is impacted by the Commission’s anticipated

decision on Empire's application to revoke Goodnight's permit in Case No. 24021. And, as previously noted, Case No. 24021 is presently stayed by the Commission pending resolution of Case Nos. 23614-23617, 23775, 24018-24020, 24025, & 24123, which are the subject of ongoing proceedings before the Commission.

12. Staying this matter pending a final decision on Empire's application to revoke would conserve resources of the Division, Commission, and the parties. The Commission's decision on the application to revoke may ultimately render Goodnight's request in this matter moot. As a matter of administrative economy, it makes little sense to expend Division and parties' resources and time on a hearing to extend when the Commission may ultimately revoke the underlying permit. This is especially true given the complex technical issues involved in this matter. To promote administrative efficiency, this case should not be addressed by the Division while Empire's application to revoke Goodnight's permit is pending before the Commission.

WHEREFORE, Empire requests that the Division reconsider its decision to set this matter for hearing and, instead, reinstate the stay of proceedings pending a final decision by the Commission in Case No. 24021.

Respectfully submitted,

By: /s/ Dana S. Hardy

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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 October 24, 2025.

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