

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

**APPLICATION OF DESERT RAM  
SOUTH RANCH FOR DE NOVO HEARING**

**CASE NO. 26053**

**DESERT RAM'S RESPONSE TO SELECT'S MOTION TO DISMISS AND RENEWED  
MOTION FOR STAY**

Desert Ram South Ranch, Inc. ("Desert Ram"), by and through undersigned counsel, respectfully submits this Response to Select Water Solutions, LLC's Motion to Dismiss and requests that the Oil Conservation Commission (Commission) deny Select's Motion, renews its request that the Commission issue a stay of the pending applications.

**I. INTRODUCTION**

This case presents a threshold question central to the Commission's role: whether a groundwater-right holder may be excluded from participating in a proceeding involving high-volume shallow injection into formations underlying the same aquifer on which that groundwater-right holder depends, based solely on a rigid application of a half-mile notice radius, where the applicant's own modeling demonstrates multi-mile subsurface influence.

At the outset, Desert Ram emphasizes what this case is—and is not—about. Desert Ram does not oppose shallow injection as a regulatory category. The Oil and Gas Act expressly authorizes disposal by injection, including pursuant to authority delegated under the Safe Drinking Water Act.<sup>1</sup> Properly designed and rigorously evaluated shallow injection can be appropriate. Desert Ram's objection is narrower and more practical: these specific applications do not reflect adequate technical diligence to support the

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<sup>1</sup> N.M. Stat. Ann. § 70-2-12(B)(15) (1978).

statutory requirement that produced water disposal by injection be regulated in a manner that protects public health, the environment, and freshwater resources.

The record demonstrates why that distinction matters. Select's own application states that its radial diffusion model shows pressure influence extending to two miles from the wellbore under the proposed injection scenario.<sup>2</sup> The proposed project involves four shallow disposal wells with combined volumes of up to approximately 80,000 barrels per day.<sup>3</sup> The Oil Conservation Division has separately acknowledged in Delaware Mountain Group disposal matters that subsurface information regarding faulting, fracture systems, and formation parting pressure is limited.<sup>4</sup> These facts make clear that the relevant inquiry is not or at least should not be confined to a narrow surface radius; it is whether the applications adequately address aquifer-scale pressure effects, migration pathways, and well integrity, such that groundwater is protected, as required by the statute.<sup>5</sup>

Desert Ram holds specific groundwater rights and operates wells drawing from the aquifer overlying the proposed injection intervals. It sought to participate in the Select SWD applications because they implicate freshwater resources on which Desert Ram's agricultural operations depend. The Hearing Examiner nevertheless struck Desert Ram's intervention because Desert Ram's water wells are beyond the ½-mile notice radius and because the Examiner did not believe Desert Ram's interests rose to a level sufficient to confer standing—interest, injury, redress.

Select's Motion to Dismiss attempts to insulate that ruling from Commission review by arguing that: (1) de novo review applies only to final Division orders; (2) the Commission cannot look to collateral-order principles in determining whether immediate review is appropriate; (3) the Commission lacks

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<sup>2</sup> Select Water Solutions, LLC, Applications in Case Nos. 25547, 25548, 25899, and 25900 at pgs. 63-64.

<sup>3</sup> *Id.* at pg. 1.

<sup>4</sup> N.M. Oil Conservation Comm'n Order No. R-23087 ¶¶ 40, 42 (Mar. 5, 2024) (the Division outlined its concerns re limited subsurface information regarding faulting and fracture systems within the DMG and the potential for induced seismicity events to increase with the use of the DMG for disposal; and that additional data is necessary to evaluate the impacts of DMG production on current and future production within the DMGRA and to analyze formation parting pressure).

<sup>5</sup> *See* N.M. Stat. Ann. § 70-2-12(B)(15) (1978).

authority to stay the underlying proceedings; and (4) Desert Ram cannot seek de novo review or a stay because it lacks standing and is not a party of record. None of those arguments is supported by the governing statute, the Commission's rules, or the practical realities of how these proceedings operate. At the threshold, Select's motion fails because Desert Ram is a party of record that actively participated in the Division proceeding and is entitled to de novo review.

## II. BACKGROUND

### **Desert Ram Ranching Operations and the Select SWDs**

Desert Ram owns and operates a cow-calf ranching operation in Lea County, New Mexico, with a total herd size of approximately 1,100.<sup>6</sup> Like most ranching operations in southeast New Mexico, the viability of the operation turns in large part on access to fresh water. Desert Ram, and its predecessors in interest, have, over the last century, invested significant resources securing, preserving, and maintaining numerous water rights and developing and maintaining watering infrastructure across its ranches to support its cow-calf operations. Specifically, Desert Ram owns dozens of ground water wells and related watering infrastructure across its footprint, from which it sources and distributes water for its operations.<sup>7</sup> The wells vary in depth from a few hundred feet to 800 feet. The water from these wells is critical to the cow-calf operation.

The four Select SWDs are proposed to be located within active Desert Ram pastures and near Desert Ram groundwater wells and other infrastructure. For example, the Roadrunner Fed SWD, is proposed to be located within Desert Ram's Southwest Pasture, just over one mile from a Desert Ram livestock well and two miles from the Ranch House and its domestic well, which house has been occupied by the same family for over a century.<sup>8</sup> The Coyote Fed SWD is also proposed to be located within the

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<sup>6</sup> See Self-Affirmed Statement of Tim Jurco, (attached as Exhibit A).

<sup>7</sup> Id.

<sup>8</sup> See history of Jal at <https://www.quepasaleacounty.com/jal-to-do> (the Beckham family homesteaded the area in the 1880s and Beckham family members continue to occupy the Ranch House).

Southwest Pasture, at just 1.01 miles from the J3 groundwater well and 1.5 miles from the C-3795 groundwater well. More completely:

A. The Roadrunner Fed SWD is proposed to be located within the Southwest Pasture, approximately:

- 1.10 miles from Desert Ram's Southwest Pasture Ag well;
- 1.10 miles from the C-3795 POD1;
- two miles from the Ranch house, which has been occupied by the same family for over a century;
- 2.01 miles from the J3 POD2
- 2.23 miles from the J26 POD1
- 2.25 miles from a domestic well at the Ranch house
- 2.25 miles from J33 POD 1;
- 2.25 miles from the J34 POD 1; and
- 2.6 miles from the J4 POD 1.

B. The Coyote Fed SWD is proposed to be located within the Southwest Pasture, approximately:

- 1.01 miles from the J3 well;
- 1.5 miles from the Southwest Pasture Ag well;
- 1.5 miles from the C-3795;
- 1.95 miles from CP 1170 POD1;
- 2.05 miles from CP 1267 POD2;
- 2.0 miles from CP 1263 POD2;
- 2.3 miles from CP 1351 POD2;
- 2.6 miles from CP 1351 POD1;
- 2.6 miles from CP 1263 POD3; and
- 2.3 miles from CP 1263 POD1.

C. The Javelina Fed injection SWD is proposed to be located within the Southwest Pasture, approximately:

- 1.6 miles from the Southwest Pasture Watering Station, located in NE1/4NE1/4 of Section 15, T26S R35E; and
- 2.9 miles from the Andrews Place Ag well.

D. The Jackrabbit Fed SWD is proposed to be located within the Andrews Place Pasture, approximately:

- 1.2 miles from the Andrews South Tank watering station; and
- 2.4 miles from the Andrews Place Ag well.

In short, the four Select SWDs are proposed to be located immediately on top of an active agricultural operation and propose to inject up to 80,000 bbls / day directly beneath groundwater resources owned and relied on by Desert Ram, into formations where information regarding faulting, fracture systems, and formation parting pressure is limited.

### **Procedural Background**

Select filed four SWD applications—the Javelina Fed (Case No. 25547) and the Jackrabbit Fed (Case No. 25548) on August 7, 2025 and the Coyote Fed (Case No. 25899) and the Roadrunner Fed (Case No. 25900) on January 6, 2026 (originally filed in August 2025, later dismissed and refiled).

Desert Ram became aware of the Select SWD applications on January 15, 2026. On January 16, 2026, Desert Ram contacted counsel for Select and advised that it intended to enter an appearance and object to the applications advancing via affidavit. The Select applications were scheduled to be heard by the Division on February 5, 2026.

The primary reason for delay between when Select filed its applications and when Desert Ram entered its appearance is that despite Desert Rams footprint and interests, Desert Ram did not receive notice of the Select SWD applications because Desert Ram is not an “affected person”, under 19.15.2.7, within one-half mile of the proposed SWDs.<sup>9</sup>

On February 3, 2026, Desert Ram filed an Entry of Appearance, Notice of Intervention and Objection to the Select shallow SWD applications proceeding by affidavit, wherein Desert Ram expressly invoked 19.15.4.10(A)(3) and 19.15.4.11 NMAC and set forth its interests and objections.<sup>10</sup> At 3:59 pm on February 4, 2026, Select filed a Motion to Strike Desert Ram’s Entry of Appearance and Notice of Intervention and Objection. At 11:42 p.m. on February 4, 2026, Desert Ram filed a Response in Opposition

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<sup>9</sup> 19.15.26.8(B) NMAC.

<sup>10</sup> See Desert Ram Entry of Appearance, a Notice of Intervention and Objection, filed February 3, 2026 (attached as Exhibit B).

to Select's Motion to Strike and requested a limited evidentiary hearing on standing, arguing that Rule 19.15.4.11(C) allows intervention where standing is shown or substantial contribution will be made.<sup>11</sup>

At 9:01 a.m. on February 5, 2026, as the OCD's February 5 docket was opening, the OCD Hearing Examiner released an order, granting Select's Motion to Strike. At 1:38 p.m. on February 5, 2026, Desert Ram moved for reconsideration of the order granting the motion to strike coupled with a renewed request for a limited evidentiary hearing on standing, supplying sworn facts via the Self-Affirmed Statement of Tim Jurco.<sup>12</sup> Shortly after filing, the Hearing Examiner denied Desert Ram's Motion for Reconsideration. Desert Ram's combined filings—appearance, intervention, objection, response, motion, and sworn factual proffer reflect significant participation in the Select application proceedings.

### **Safe Drinking Water Act and Area of Review**

Congress enacted the Safe Drinking Water Act (SDWA) to protect public health by safeguarding underground sources of drinking water (USDWs). As part of that framework, the SDWA established the Underground Injection Control (UIC) program, which regulates the subsurface injection of fluids to ensure that such activities do not endanger groundwater.<sup>13</sup>

Under the SDWA, injection activities, including oil and gas-related disposal and enhanced recovery operations (Class II wells), may not be authorized unless they are conducted in a manner that prevents the movement of fluids into USDWs, where such movement may endanger drinking water sources.<sup>14</sup>

A central mechanism for implementing the SDWA's non-endangerment mandate is the Area of Review (AOR) requirement. Federal regulations define the AOR as, "the region surrounding an injection

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<sup>11</sup> See Response in Opposition to Select's Motion to Strike and Request for Limited Evidentiary Hearing, filed February 4, 2026 (attached as Exhibit C).

<sup>12</sup> See Motion for Reconsideration, filed February 6, 2026 (attached as Exhibit D).

<sup>13</sup> See 42 U.S.C. § 300h(b)(1).

<sup>14</sup> *Id.*; see also 40 C.F.R. § 144.12(a) (prohibiting any underground injection that allows movement of fluid into USDWs if it may cause a violation of drinking water standards or otherwise adversely affect public health).

well...within which underground sources of drinking water may be endangered by the injection activity.”<sup>15</sup>

The AOR is intended to identify all wells, pathways, and geologic conditions through which injected fluids or pressure may migrate into USDWs. To that end, the regulations permit two approaches:

- a fixed-radius AOR (no less than ¼ mile), or
- a calculated AOR, based on modeling of pressure propagation and formation characteristics.

40 C.F.R. § 146.6(a).

Critically, however, the AOR, whether fixed or calculated, must reflect the actual “radius of endangering influence,” which is governed by factors such as injection rate, pressure, permeability, and time.<sup>16</sup> EPA guidance further explains that the fixed-radius method is a simplified screening tool that “may not be appropriate where injection conditions result in significant pressure buildup or where the hydrogeologic system is complex,” and that a calculated AOR is preferred where data are available because it “more accurately defines the radius of endangering influence.”<sup>17</sup> Thus, while the regulations permit a fixed-radius AOR, that option is conditioned on the overarching statutory requirement that the AOR capture the region in which USDWs may be endangered.<sup>18</sup>

New Mexico obtained primacy for Class II wells in the early 1980s, after the U.S. Environmental Protection Agency approved the State’s program.<sup>19</sup> The Oil Conservation Division administers the program pursuant to the New Mexico Oil and Gas Act, NMSA 1978, § 70-2-1 et seq. The Division’s authority includes regulating injection activities to prevent waste, protect correlative rights, and protect fresh water and environmental resources, including by controlling the disposal of produced water.<sup>20</sup>

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<sup>15</sup> 40 C.F.R. § 146.6(a).

<sup>16</sup> *Id.*

<sup>17</sup> U.S. EPA, *Guidance for Delineating Areas of Review* (1987).

<sup>18</sup> *See* 40 C.F.R. § 146.6(a).

<sup>19</sup> 47 Fed. Reg. 5412 (Feb. 5, 1982).

<sup>20</sup> *See* NMSA 1978, § 70-2-12.

Importantly, New Mexico's primacy program was approved on the condition that it would implement the SDWA's core requirement: that underground injection not endanger USDWs.<sup>21</sup> As a result, the Division's exercise of its authority must remain consistent with federal UIC standards, including the requirement to define the AOR in a manner that captures the full region of potential endangerment. Very much worth noting, the SDWA and the UIC program, say nothing about protection of correlative rights or prevention of waste. These concerns are features of the New Mexico Oil and Gas Act. The central concern of the SDWA and the UIC program is the protection of underground sources of drinking water, and that mandate establishes a baseline requirement that injection activities not endanger groundwater.

These distinct statutory objectives result in a disconnect between the State's notice framework and the federal UIC mandate. The SDWA requires that injection activities be evaluated based on the full "radius of endangering influence," which is governed by pressure propagation, geologic conditions, and potential migration pathways—not by surface ownership boundaries or mineral interests. Yet the Division's notice rules identify "affected persons" almost exclusively by reference to operators and mineral interest holders within a fixed radius.<sup>22</sup> Those categories are rooted in the Oil and Gas Act's distinct objectives of preventing waste and protecting correlative rights; they do not track the hydrogeologic realities that govern groundwater risk.<sup>23</sup>

In this case, Select's own modeling demonstrates pressure propagation extending approximately two miles from the wellbore, far beyond the ½-mile radius used to define notice and participation. Desert Ram's groundwater wells fall within that modeled zone of influence, yet outside the notice radius. This mismatch illustrates the problem: a procedural framework designed around mineral interests is being used to exclude a groundwater-right holder whose interests fall squarely within the area the SDWA requires the

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<sup>21</sup> See 42 U.S.C. § 300h(b)(1).

<sup>22</sup> See 19.15.2.7(8) NMAC.

<sup>23</sup> See NMSA 1978, § 70-2-12.

agency to evaluate. Where the agency's process excludes participants whose interests align directly with the federal non-endangerment mandate, reliance on that framework should not substitute for the substantive requirement that underground sources of drinking water be protected.

While the regulations permit use of a fixed-radius AOR, they simultaneously require that the AOR reflect the actual extent of pressure and fluid migration that could endanger groundwater. Where injection conditions—such as high-volume, long-duration injection into heterogeneous formations—result in pressure propagation extending well beyond a nominal radius, reliance on a fixed-radius AOR risks failing to identify migration pathways and may be inconsistent with the SDWA's non-endangerment mandate.

### **III. ARGUMENT**

#### **a. DESERT RAM IS A PARTY OF RECORD**

A de novo hearing before the Oil Conservation Commission is available when the applicant is a party of record adversely affected by a decision rendered by the Oil Conservation Division in an adjudicatory matter. The Oil and Gas Act provides that, after a matter is referred to a Division hearing examiner and a decision is rendered by the Division / Division Examiner, "any party of record adversely affected shall have the right to have the matter heard de novo before the commission."<sup>24</sup> The application for a de novo hearing must be filed with the Division within thirty days from the time the Division's decision is rendered. The Act requires the application be filed "within thirty days from the time any such decision is rendered. Desert Ram is entitled to a hearing de novo because 1) it is a party of record, 2) is adversely affected by the Division / Division Examiner decision, and 3) filed its application for de novo hearing within thirty days.

#### **i. A Party of Record is One Who Timely Took Formal, Legally Significant Steps to Participate**

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<sup>24</sup> See NMSA 1978, § 70-2-13.

The Commission should accept de novo jurisdiction because Desert Ram took timely, formal, and legally significant steps to participate in the Division proceeding, which is the governing standard for party-of-record status under Section 70-2-13 NMAC, Order R-14097-A, and *New Energy Economy, Inc. v. Vanzi*. Consistent with the *Vanzi* case, participants whose engagement is legally significant, through formal appearance and substantive involvement, qualify to pursue further review. Commission Order No. R-14097-A likewise recognizes that formal entry and on-record engagement control whether a participant becomes a party of record. Denying de novo review where a participant timely intervened and substantively contributed would contravene those authorities and risk insulating standing determinations from meaningful review. Ensuring access to a de novo hearing here promotes fair participation in OCD proceedings and aligns with the Act's framework.

In Order No. R-14097-A, the Commission addressed who qualifies as a “party of record” entitled to a de novo hearing under Section 70-2-13, concluding that the right attaches to those who took the necessary actions to become part of the record before the Division, such as entering an appearance prior to or at hearing or submitting evidence or argument.<sup>25</sup>

In *New Energy Economy, Inc. v. Vanzi*, the New Mexico Supreme Court endorsed a “legally significant participation” standard to determine who may pursue further participation in agency-related appellate proceedings, favoring those who took formal steps or presented technical evidence and disfavoring those who failed to take formal actions to participate before the agency. Under *Vanzi*'s “legally significant” participation standard, the Commission's inquiry must focus on Desert Ram's substantive and formal engagement with the tribunal, rather than relying on labels that can vary under administrative rules, such as whether a party was formally identified as a party or not.<sup>26</sup>

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<sup>25</sup> OCC Order No. R-14097-A

<sup>26</sup> *New Energy Econ., Inc. v. Vanzi*, 2012-NMSC-005, ¶ 47-49.

Applied together, *Vanzi* and Order No. R-14097-A, establish that where a participant timely enters an appearance, invokes intervention rights, and seeks to present or preserve substantive issues for adjudication, that participant attains party-of-record status.

**ii. Desert Ram's Participation Was Timely and Legally Significant, Satisfying Order R-14097-A and *Vanzi***

Rule 19.15.4.10(A)–(B) recognizes that parties include applicants, persons entitled to notice who enter an appearance, and persons who properly intervene, with appearances permitted by written filing or oral appearance on the record, subject to limitations on presenting technical evidence for late appearances absent good cause.<sup>27</sup> Here, the Desert Ram filed an Entry of Appearance that also noticed intervention and objected to disposition of the Select shallow SWD applications by affidavit, invoking 19.15.4.10 and 19.15.4.11 and asserting concrete, case-specific interests and risks tied to the pending applications.<sup>28</sup>

Desert Ram subsequently moved for a limited evidentiary hearing on standing, explaining that standing turns on case-specific facts and offering to present those facts through a narrow record, while opposing the motion to strike to preserve participation rights.<sup>29</sup> After the Hearing Examiner struck Desert Ram's appearance and intervention, Desert Ram promptly sought reconsideration to correct material factual omissions, tendered a self-affirmed statement detailing its specific property and water-right interests, and renewed its request for a limited standing hearing or acceptance of sworn affidavits to complete the record on participation rights.<sup>30</sup> Desert Ram also filed a notice of intervention nunc pro tunc out of an abundance of caution to ensure its formal status as an intervenor was reflected in the docket without expanding issues beyond standing.<sup>31</sup>

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<sup>27</sup> See 19.15.4.10 NMAC.

<sup>28</sup> Desert Ram Entry of Appearance (Exhibit B).

<sup>29</sup> Desert Ram Response in Opposition (Exhibit C).

<sup>30</sup> Desert Ram Motion for Reconsideration (Exhibit D)

<sup>31</sup> Desert Ram Notice of Intervention Nunc Pro Tunc (Exhibit E)

These steps—formal entry, invocation of intervention, opposition to affidavit-only disposition, motions to develop a standing record, and submission of sworn evidence—are the very actions Order R-14097-A and *Vanzi* identify as necessary to establish “party of record” through timely and legally significant participation. Unlike the late, post-hearing, non-participatory filer in R-14097-A, Desert Ram acted while the Division proceeding was pending and repeatedly sought to create a record on its participation and interests.

**iii. Non-Reviewability Concerns Counsel in Favor of Recognizing Party-of-Record Status to Preserve Access to De Novo Review**

Standing and participation rulings at the Division level often precede or accompany merits disposition and may evade meaningful review if access to the Commission’s de novo process turns on an unduly narrow view of “party of record.” Order R-14097-A’s framework avoids that problem by tethering party status to timely, formal, record-creating participation. Desert Ram’s filings and requests for a limited standing record ensured that participation questions were squarely presented; denying party-of-record status despite those efforts would effectively render standing determinations unreviewable in close cases and risk arbitrary exclusion from Commission oversight. Such an outcome would contravene Commission precedent, rule, and statute. If party-of-record status could be defeated simply by striking participation at the Division level, then any erroneous standing determination would be effectively unreviewable, and the Commission’s de novo authority would depend entirely on the correctness of the ruling being challenged.

Order R-14097-A emphasizes that the Act and Commission rules are designed to promote a full and fair proceeding before Division hearing examiners, with the Commission providing de novo review for parties of record adversely affected; it cautions against defining “party of record” so broadly as to undermine orderly process, yet it relies on formal, timely participation as the touchstone.<sup>32</sup>

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<sup>32</sup> OCC Order No. R-14097-A.

Where, as here, a participant timely appears, invokes intervention standards, and diligently seeks to create a focused standing record, recognizing party-of-record status vindicates orderly process and fairness. It also preserves the Commission's role to correct participation errors through de novo review in matters implicating significant rights and interests.

Desert Ram's formal, timely, and substantive engagement before the Division—entry of appearance and intervention, opposition to affidavit-only disposition, motions for a limited standing hearing, submission of sworn evidence, and corrective filings—constitutes legally significant participation that made the Client a “party of record” under Order R-14097-A and *Vanzi*. The Commission should therefore accept jurisdiction and grant a de novo hearing under 19.15.4.23 NMAC.

#### **iv. Adversely Affected Requirement**

In addition to being a party of record, the statute requires that the applicant demonstrate that it is adversely affected by the Division's decision.<sup>33</sup> Desert Ram is “adversely affected” within the meaning of Section 70-2-13. The loss of the ability to participate in a proceeding that may affect legally protected interests is itself a concrete and immediate adverse effect.

#### **b. THE COMMISSION HAS AUTHORITY TO HEAR THIS DISPUTE NOW**

Select contends that the Commission's de novo hearing process applies only to final Division orders. That argument fails because it adds limiting language to § 70-2-13 that the Legislature did not include. The statute provides that when “any matter or proceeding” is referred to an examiner and “a decision is rendered thereon,” any party of record adversely affected has the right to have the matter heard de novo before the Commission.<sup>34</sup> The Legislature did not say “final order,” and the Commission should not read that requirement into the text.

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<sup>33</sup> See NMSA 1978, § 70-2-13.

<sup>34</sup> *Id.*

The words “any matter or proceeding” are significant. They indicate that the statute reaches more than one type of examiner disposition and is not limited to a fully completed administrative case. That reading is reinforced by the structure of the Act, which treats examiner determinations as operative decisions with real procedural effect long before the very last agency action in a permit matter.

That reading also makes practical sense. The ruling at issue here did not merely set a schedule or resolve an incidental evidentiary objection. It conclusively determined Desert Ram’s right to participate. Once the proceeding moves forward without Desert Ram, the record will be developed without its evidence, without its cross-examination, and without adversarial testing of the technical deficiencies it has identified. Those lost opportunities cannot later be recreated in any meaningful way. A rule that defers review until after final permit disposition would therefore make review of participation denials largely illusory.

In short, Select’s “final order only” theory is contrary to the statutory text and incompatible with meaningful review of rulings that finally determine who gets to participate in the case. The Commission therefore has authority to hear Desert Ram’s application now.

**c. COLLATERAL-ORDER PRINCIPLES ARE RELEVANT AS A GUIDE TO ORDERLY REVIEW EVEN IF THE DOCTRINE IS NOT FORMALLY IMPORTED**

Select next argues that the Collateral Order Doctrine has no application here because the Commission is not a civil appellate court and the New Mexico Rules of Civil Procedure do not govern Commission proceedings. That objection misses Desert Ram’s point. Desert Ram does not argue that the Commission is bound to apply the doctrine as if this were an appeal under the civil rules. Rather, Desert Ram invokes collateral-order principles as a well-developed guide to deciding when immediate review is necessary to prevent irreparable loss of participation rights. The Commission need not adopt the doctrine wholesale to recognize that immediate review is warranted where a ruling conclusively determines participation rights and cannot be meaningfully reviewed later.

The use of judicial doctrines as a guide is neither unusual nor improper. Administrative bodies are not bound by the formal rules of judicial procedure, but they are required to conduct proceedings consistent with principles of due process and fundamental fairness and may look to judicial doctrines for persuasive guidance in doing so.<sup>35</sup> Courts likewise recognize that agencies may adopt procedural approaches informed by judicial practice where their own rules do not expressly resolve the issue.<sup>36</sup> The Commission itself has looked to appellate authority in determining who qualifies as a party of record and what constitutes legally significant participation.<sup>37</sup>

The relevance of collateral-order principles here is straightforward. The ruling striking Desert Ram's intervention: (1) conclusively determines Desert Ram's ability to participate; (2) resolves an issue separate from the ultimate merits of whether the permits should issue; and (3) will be effectively unreviewable later because the record will already have been built without Desert Ram's participation.<sup>38</sup> That is precisely why the final-judgment rule in judicial settings recognizes narrow exceptions for orders that would otherwise evade effective review.

Select's floodgates argument is unpersuasive because the same limiting criteria that make collateral-order review narrow in court settings make immediate Commission review narrow here. Not every interim ruling qualifies. Scheduling disputes, ordinary discovery disagreements, and routine evidentiary rulings do not conclusively extinguish a party's right to participate in the proceeding. This one does. The Commission need not adopt the doctrine wholesale to recognize that immediate review is warranted where participation rights would otherwise be irretrievably lost.

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<sup>35</sup> See, e.g., *Duke City Lumber Co. v. New Mexico Environmental Improvement Board* 101 N.M. 291, 681 P.2d 717 (Ct. App. 1984) (recognizing flexibility of administrative procedures subject to fairness constraints); *FCC v. Schreiber* 381 U.S. 279, 290 (1965) (affirming agency discretion to structure procedures using sound legal principles).

<sup>36</sup> *Richardson v. Perales*, 402 U.S. 389, 400 (1971).

<sup>37</sup> See OCC Order No. R-14097-A, citing *New Energy Econ., Inc. v. Vanzi*, 2012-NMSC-005.

<sup>38</sup> See, e.g., *Carrillo v. Rostro*, 114 N.M. 607, 614, 845 P.2d 130, 137 (1992) (recognizing collateral order doctrine where order conclusively determines an important issue separate from the merits and is effectively unreviewable on appeal).

**d. THE COMMISSION HAS AUTHORITY TO STAY THE UNDERLYING PROCEEDINGS, AND A STAY IS WARRANTED HERE**

Select also argues that there is no basis for the Commission to stay the Division's proceedings because the Commission is not acting as an appellate court. That argument again confuses labels with function. The Commission's authority to manage proceedings and issue orders necessary to carry out the Act does not depend on whether its review is characterized as appellate or de novo. Section 70-2-6(B) NMAC grants the Division and Commission authority to make and enforce orders and to do whatever may be reasonably necessary to carry out the purposes of the Act.<sup>39</sup> Commission orders have likewise recognized stay authority in appropriate circumstances.<sup>40</sup>

A stay is warranted here because the harm from proceeding without Desert Ram is irreparable. If the Division completes the hearings and moves toward disposition while Desert Ram's application remains unresolved, the record will close without: (1) Desert Ram's technical evidence; (2) cross-examination concerning the AOR deficiencies identified below; and (3) any adversarial development of the groundwater-protection issues the statute prioritizes. That harm cannot be undone simply by revisiting the matter later on paper.

A stay also promotes administrative efficiency. If the Commission later determines that Desert Ram was wrongly excluded, the likely result would be remand, duplication of proceedings, or reconstruction efforts that consume more agency resources than a short stay at the threshold. The balance of equities therefore favors preserving the status quo while the Commission resolves the participation question. The Commission should either stay the underlying proceedings or, at minimum, direct that no final action be taken until Desert Ram's right to participate is resolved.

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<sup>39</sup> See NMSA 1978, § 70-2-6(B) (providing that Commission shall have concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties as required by law).

<sup>40</sup> See e.g. Commissioner Order Nos. R-12108-D; R-12275-A, and R-12343; R-21679-A; R-20913-E; R-21454-A.

**e. DESERT RAM HAS STANDING UNDER NEW MEXICO LAW, AND THE ½-MILE NOTICE RULE DOES NOT DEFINE WHO MAY BE AFFECTED**

Select's central substantive argument is that Desert Ram lacks standing because it falls outside the ½-mile radius used for notice and AOR purposes. That argument fails because notice status and standing are different legal questions. The applicable New Mexico cases make clear that standing turns on injury in fact, causation, and whether the asserted interest falls within the zone of interests protected by the governing statute.<sup>41</sup> None of those cases makes notice status dispositive.

That distinction is critical here. Section 19.15.26.8 NMAC tells the applicant and the agency who must receive notice as a baseline procedural matter. It does not say that everyone outside that radius is legally incapable of being affected by the permit, much less that such a person is categorically barred from participation. If the Commission were to accept Select's view, the notice radius would cease to be a procedural tool and would become a substantive limitation on standing—without any statutory or regulatory language to that effect.

Desert Ram satisfies the actual standing standard. It has identified specific groundwater permits and specific wells that support its agricultural operations.<sup>42</sup> Those are concrete, legally protected interests. It has also shown a plausible risk to those interests. Select's own modeling projects pressure influence out to approximately two miles and the OCD has acknowledged uncertainty in the Delaware Mountain Group. And, as discussed below, Desert Ram has identified application-specific deficiencies involving penetrating wells, problem wells, and plugging assumptions that bear directly on whether injected fluids will remain

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<sup>41</sup> See, e.g., *ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶¶ 7-9 (standing requires injury in fact, causation, and redressability); *Key v. Chrysler Motors Corp.*, 121 N.M. 764, 769 (1996) (recognizing zone-of-interests component of standing).

<sup>42</sup> See Jurco Statement (Exhibit A).

confined.<sup>43</sup> At the standing stage, that is more than sufficient to establish a plausible connection between the proposed activity and Desert Ram’s protected groundwater interests.

At this stage, Desert Ram is not required to prove the precise mechanics by which injected fluids or pressure may affect its groundwater resources. The evidentiary showing required to establish standing is relaxed at the pleading stage, and general factual allegations of injury resulting from the challenged conduct may suffice.<sup>44</sup> New Mexico courts likewise recognize that standing requires a plausible showing of injury and causation, not proof of the ultimate merits at the outset.<sup>45</sup>

New Mexico follows a notice-pleading standard.<sup>46</sup> Select’s demand that Desert Ram demonstrate detailed hydrogeologic connectivity and migration pathways at the outset imposes a heightened pleading standard unsupported by New Mexico law.

The fit between Desert Ram’s interests and the statute is equally direct. Section 70-2-12(B)(15) expressly requires produced water disposal by injection to be regulated in a manner that protects freshwater resources. Section 70-2-29 further authorizes “any person or party in interest adversely affected” by a violation of the Act or related rules to seek injunctive relief if the Division fails to act. These provisions make clear that groundwater-right holders are not outside the statute’s concern; they are among the parties most directly aligned with it.

Select’s suggestion that Desert Ram is merely a midstream water company dressed as an agricultural producer does not change the analysis. The relevant question is not how Select characterizes Desert Ram for strategic purposes; it is whether Desert Ram holds legally protected groundwater interests and whether those interests are plausibly threatened in a manner the statute is designed to prevent. The

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<sup>43</sup> See Self-Affirmed Statement of Nathan Alleman (attached as Exhibit F).

<sup>44</sup> See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992).

<sup>45</sup> See, e.g., *ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶¶ 7-9 (standing requires injury in fact and causation, not proof of the merits).

<sup>46</sup> See *Herrera v. Quality Pontiac*, 2003-NMSC-018, ¶ 2 (motions to dismiss test legal sufficiency, not evidentiary support); *Madrid v. Village of Chama*, 2012-NMCA-071, ¶¶ 17–18 (requiring only sufficient facts to put the opposing party on notice).

record reflects that Desert Ram does hold and use groundwater rights for agricultural operations. Those facts are enough. The Commission need not resolve claims about Desert Ram's broader business profile to decide whether Desert Ram may participate as a groundwater-right holder whose aquifer is implicated by these applications.

Select's Motion, although framed as a challenge to standing, in substance seeks a premature determination of disputed factual and technical issues that go to the merits of Desert Ram's claims. Courts consistently reject such efforts. A motion to dismiss cannot be used to obtain a pre-hearing ruling on causation or technical sufficiency by recasting merits questions as standing defects. This principle is well established in both federal and New Mexico law.<sup>47</sup>

Here, Select's arguments focus on alleged deficiencies in Desert Ram's explanation of pressure propagation, hydrogeologic connectivity, and migration pathways. Those are not standing questions—they are merits questions that must be resolved on a developed evidentiary record. Attempting to resolve those issues at the threshold stage improperly collapses the distinction between participation and proof. Finally, Select's Motion also improperly shifts the burden of proof. On a motion to dismiss, the court tests the legal sufficiency of the claim, and dismissal is appropriate only if the claimant cannot obtain relief under any provable set of facts.<sup>48</sup> Select does not meet that burden. It offers no evidence demonstrating that pressure effects are confined within the asserted radius or that Desert Ram's groundwater cannot be affected. Instead, it merely asserts that Desert Ram has not yet proven its case. That is insufficient to warrant dismissal.

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<sup>47</sup> See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (at the pleading stage, "general factual allegations of injury...may suffice"); *Citizen Center v. Gessler*, 770 F.3d 900, 910 (10th Cir. 2014) (rejecting attempts to "conflate standing with the merits"); *Forest Guardians v. New Mexico Game Commission*, 2001-NMCA-028, ¶ 5 (motion to dismiss tests legal sufficiency, not evidentiary support).

<sup>48</sup> See also *Forest Guardians*, 2001-NMCA-028, ¶ 5.

**f. The Hearing Examiner’s Reliance on the ½-Mile Radius as a Proxy for Impact Is Arbitrary and Inconsistent with the Record**

The Hearing Examiner’s ruling effectively treats the ½-mile notice radius as a substantive boundary of impact and standing. That approach is both legally and scientifically unsound. Desert Ram was excluded not because it lacks a concrete interest, but because its groundwater wells fall outside a fixed ½-mile radius. Had those same wells been located marginally closer—by a matter of hundreds or even tens of feet—Desert Ram would have been deemed an “affected person” and permitted to participate. The difference is not one of substance, but of arbitrary geography.

That result cannot be reconciled with the governing legal standard. Standing turns on injury, causation, and redressability, not on whether a party falls within a notice radius.<sup>49</sup> The notice rule identifies who must receive notice; it does not define who may be affected.

The arbitrariness of the exclusion is particularly stark here because Select’s own modeling demonstrates pressure propagation extending approximately two miles from the wellbore, four times the ½-mile radius used to exclude Desert Ram. Where the applicant’s own technical analysis shows that injection effects extend well beyond the notice radius, it is irrational to treat that radius as a dispositive boundary of impact.

In effect, the ruling creates a system in which participation is determined not by whether a party’s legally protected interests may be affected, but by whether those interests fall within an administratively convenient circle, even where the science demonstrates that the relevant effects extend far beyond it. That approach is inconsistent with both the Commission’s statutory obligations and the underlying UIC framework, which requires evaluation of the full “radius of endangering influence,” not a fixed proxy.

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<sup>49</sup> See *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-045, ¶¶ 7-9.

For these reasons, the Commission should reject any attempt to use the ½-mile radius as a substitute for the actual legal standard governing standing and participation. If the ½-mile radius were dispositive of impact, Select's own modeling demonstrating multi-mile pressure propagation would be irrelevant. It is not.

**g. EVEN IF STANDING WERE DISPUTED, RULE 19.15.4.11(C) REQUIRES PARTICIPATION WHERE DESERT RAM'S INVOLVEMENT WILL SUBSTANTIALLY CONTRIBUTE TO GROUNDWATER PROTECTION**

Even if the Commission were to conclude that standing remains contested, Select's motion still fails because the Commission's own rule independently permits intervention where the intervenor's participation will contribute substantially to the protection of public health or the environment. Rule 19.15.4.11(C) NMAC expressly provides that a notice of intervention should not be stricken if the intervenor shows either standing or that participation will contribute substantially to the prevention of waste, protection of correlative rights, or protection of public health or the environment.

That rule is particularly important in technically complex injection matters. It recognizes that rigid participation barriers may deprive the decision-maker of exactly the information needed to satisfy statutory obligations. Desert Ram's participation here is not duplicative or tangential. It has identified specific errors and omissions in the applications' AOR analysis, including wells misclassified as non-penetrating, wells not identified as problem wells despite inadequate isolation of the injection interval, and plugging assumptions inconsistent with OCD file materials.<sup>50</sup> Those issues go directly to confinement, migration pathways, and groundwater protection—the very subjects the statute commands the agency to evaluate.<sup>51</sup>

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<sup>50</sup> See Alleman Statement (Exhibit F).

<sup>51</sup> 42 U.S.C. § 300h(b)(1); *see also* 40 C.F.R. § 144.12(a) (prohibiting any underground injection that allows movement of fluid into USDWs if it may cause a violation of drinking water standards or otherwise adversely affect public health).

In a proceeding centered on groundwater risk, a groundwater-right holder who has identified concrete technical deficiencies in the permit applications is exactly the type of participant Rule 19.15.4.11(C) was designed to admit. Excluding such a participant would not streamline the proceeding; it would truncate the inquiry in a way that is contrary to the Commission's own rule.

**h. THE HEARING EXAMINER APPLIED THE WRONG LEGAL STANDARD AND RESOLVED DISPUTED FACTS WITHOUT A RECORD**

The denial of Desert Ram's participation rests on two related errors. First, the Hearing Examiner required Desert Ram to prove site-specific hydrogeologic connectivity and impact before being allowed to participate. That is not the governing standing standard under New Mexico law. The cited standing cases require a plausible risk to a legally protected interest, not proof of the ultimate technical merits.<sup>52</sup> By imposing a merits-level burden at the threshold stage, the ruling effectively guarantees exclusion in technically complex cases because the excluded party is denied the very process needed to develop that proof.

Second, the Hearing Examiner resolved disputed factual matters without allowing Desert Ram to develop an evidentiary record. Desert Ram was not permitted to present sworn testimony, expert analysis, or even a limited evidentiary showing directed to standing. Yet the ruling concluded that Desert Ram had not shown a sufficient nexus to the proposed operations. That approach is inconsistent with basic administrative due process principles, which require procedures appropriate to the interests at stake.<sup>53</sup> It is especially problematic where the issues are technical and the agency itself has acknowledged uncertainty in the relevant formations.

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<sup>52</sup> See, e.g., *ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶ 9 (standing requires injury in fact and a causal connection to the challenged conduct).

<sup>53</sup> See, e.g., *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (due process requires procedures tailored to the nature of the interest involved); *Duke City Lumber Co. v. New Mexico Environmental Improvement Board*, 101 N.M. 291, 292–93, 681 P.2d 717, 718–19 (Ct. App. 1984) (administrative proceedings must satisfy fundamental fairness).

The proper course in this circumstance was not categorical exclusion. It was to allow a limited evidentiary development on standing and participation so that the nexus question could be resolved on a factual record rather than on assumptions. The refusal to do so is reversible error and independently supports Commission intervention.

**i. THE APPLICATIONS THEMSELVES DEMONSTRATE WHY BROADER SCRUTINY AND DESERT RAM'S PARTICIPATION ARE NECESSARY**

The legal errors discussed above cannot be separated from the substance of the applications. Desert Ram has identified specific technical deficiencies that go directly to whether the proposed injection will remain confined in a manner consistent with the statute and the UIC framework.<sup>54</sup> Those deficiencies are not abstract. They are based on direct comparison of Select's application materials with underlying OCD well records.

In Case No. 25900, re the Roadrunner application, Select's AOR materials classify several wells as non-penetrating based on total depth comparisons even though the underlying records show that, once formation dip is taken into account, those wells in fact penetrate the proposed injection formation. That matters because misclassifying a well as non-penetrating removes it from the deeper construction and plugging analysis needed to assess migration risk. The result is not just an imprecise table; it is an incomplete confinement evaluation.<sup>55</sup>

In Case No. 25548, re the Jackrabbit application, a penetrating well was identified as having "no issues" even though the construction details show that the injection interval is not isolated in a way that would prevent vertical migration or annular pressure concerns. Again, that is not a minor drafting issue.

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<sup>54</sup> See Alleman Statement (Exhibit F).

<sup>55</sup> Id.

If a well allows injectate to move outside the intended interval, it is exactly the sort of “problem well” AOR analysis is supposed to identify.<sup>56</sup>

In Case No. 25547, re the Javelina application, the plugging analysis states that a 100-foot cement plug was set across the top of the Delaware Sands, while the completion report indicates the plug is actually set above both the Delaware Sands and Lamar formation. That discrepancy changes the migration analysis because it affects whether injected fluids could travel vertically before encountering a barrier.<sup>57</sup>

And, in Case No. 25899, re the Coyote Fed application, Select’s AOR table identifies well API No. 30-025-46152 as having “no issues.” However, review of well construction details shows the well’s casing and cement placement do not isolate the injection interval. Specifically, per well records, the top of cement on the 8-5/8” casing is insufficient to cover and isolate the injection interval. As a result, injected fluids could migrate vertically outside the permitted injection zone. Additionally, the lack of annular cement above the proposed injection formation could allow injected fluids to migrate vertically and put pressure on the surface casing shoe which is located only 86 ft below the top of the Rustler formation, which in Lea County, NM is commonly used to determine the base of the lowermost USDW. This well should be classified as a “problem well” because it presents a potential pathway for injected fluids to migrate out of the permitted injection interval and may pose a threat of communication with the USDW.<sup>58</sup>

These examples show why Desert Ram’s participation matters. This is not a case in which Desert Ram merely speculates that something could go wrong. It has identified specific deficiencies in the applications that bear directly on confinement, migration pathways, and groundwater protection. In a proceeding governed by a statute that prioritizes freshwater resources, excluding the party that has surfaced those deficiencies distorts the process rather than protecting it.

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<sup>56</sup> Id.

<sup>57</sup> Id.

<sup>58</sup> Id.

**j. A RIGID ½-MILE AOR CANNOT DEFINE IMPACT OR PARTICIPATION WHERE THE APPLICANT'S OWN MODELING AND REAL-WORLD EXPERIENCE SHOW BROADER RISK**

The final problem with Select's position is that it treats the ½-mile AOR as though it were a substantive boundary of concern. It is not. That is why the argument fails once the actual record is considered. Select's own modeling extends pressure influence to approximately two miles. The problem wells and penetrating wells Desert Ram identified fall outside or near the edge of the ½-mile AOR, yet still implicate the same injection system.

Texas experience underscores why this matters. The point is not that Texas law controls. It does not. The point is that shallow injection experience in the same basin has demonstrated that loss of confinement, migration through legacy well infrastructure, and pressure effects beyond assumed radii are real—not hypothetical. Public reporting and analysis have documented the risks associated with abandoned and legacy wells in the Permian Basin, the challenges posed by shifts toward shallower injection, and allegations of catastrophic injection-related impacts tied to pressure propagation and fluid movement. Those materials do not prove that identical harm will occur here, but they do confirm that rigid reliance on a fixed-radius AOR is insufficient where the actual science and the actual well conditions point to broader concern.

That is why Desert Ram's central point should resonate with the Commission. The ½-mile AOR may be useful as a starting point. It is not the legal or technical endpoint where: (1) the statute requires protection of freshwater resources; (2) the UIC framework requires prevention of migration; (3) the applicant's own model shows multi-mile pressure influence; and (4) the record contains specific evidence of potentially problematic wells beyond the ½-mile circle. Under those circumstances, the scope of inquiry must follow the science, and affected parties cannot be excluded merely because they fall outside a procedural screening radius.

#### IV. CONCLUSION

This case is not about opposing shallow injection. It is about ensuring that shallow injection is pursued responsibly, on the basis of adequate due diligence and in a manner consistent with the statutory mandate to protect groundwater. Select's Motion to Dismiss attempts to prevent the Commission from addressing serious participation errors and serious technical deficiencies in the applications. The Commission should decline that invitation. Select's motion seeks to convert a procedural exclusion into a jurisdictional bar. The Act does not permit that result

For the foregoing reasons, Desert Ram respectfully requests that the Commission: (1) deny Select's Motion to Dismiss; (2) confirm jurisdiction over Desert Ram's application for de novo review; (3) recognize Desert Ram as a participant or, at minimum, remand for a limited evidentiary hearing on standing and participation; and (4) stay the underlying proceedings or otherwise preserve the status quo until these threshold issues are resolved.

Respectfully Submitted,

/s/ Matthias Sayer

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

**APPLICATION OF DESERT RAM  
SOUTH RANCH FOR DE NOVO HEARING**

**CASE NO. 26053**

**SELF-AFFIRMED STATEMENT OF TIM JURCO**

1. I am employed by Desert Ram South Ranch, Inc. (Desert Ram) as Manager. I am over the age of eighteen (18), am competent to testify, and have personal knowledge of the matters set forth herein. I submit this Self-Affirmed Statement in support of Desert Ram's Motion for Reconsideration and Renewed Motion for Limited Evidentiary Hearing on Standing before the New Mexico Oil Conservation Division.
2. I am a Manager at Desert Ram and am familiar with Desert Ram's landholdings, agricultural operations, groundwater wells, and water rights in Lea County, New Mexico.
3. Desert Ram operates a cow-calf operation (approximately 1,100 head) in Lea County, New Mexico, on lands its owns and lands it leases from the New Mexico State Land Office and the Bureau of Land Management. More relevant to the Select shallow SWD applications, Desert Ram's operations cover Township 26 South, Range 35 East and Township 26 South, Range 36 East, Lea County, New Mexico. These lands are located within the same township and surrounding area in which Select Water Solutions, LLC proposes four high-volume saltwater disposal wells in Case Nos. 25547, 25548, 25899, and 25900.
4. To support its operations, Desert Ram sources water from valid New Mexico groundwater rights and permits, including but not limited to:
  - Water Right File Nos. J3, J4, J25/26, J33-L, J34-L
  - Water Right File Nos. CP-465, CP-1170, CP-1263, CP-1351
  - Water Right File Nos. CP-1728, CP-4239, CP-4241

These water rights are actively exercised and are essential to Desert Ram's ongoing ranching operations. They constitute legally protected interests under New Mexico law.

5. Desert Ram owns / operates multiple points of diversion (groundwater wells) to supply water from the above-identified water rights for its ranching and agricultural operations, including wells commonly identified as:
 

• J00003	• J00033 POD 1	• CP 01170 POD 4
• J00003 POD2	• J00034 POD 1	• CP 01170 POD 5
• J00004 POD 1	• CP 00465 POD 1	• CP 01170 POD 6
• J00025 POD 1	• CP 01170 POD 1	• CP 01267 POD 1
• J00025 POD 3	• CP 01170 POD 2	• CP 01263 POD 1
• J00026 POD 1	• CP 01170 POD 3	• CP 01263 POD 2

- CP 01263 POD 3
  - CP 01263 POD 4
  - CP 01263 POD 6
  - CP 01263 POD 7
  - CP 01263 POD 8
  - CP 01351 POD 1
  - CP 01351 POD 2
  - CP 01728 POD 1
  - CP 01728 POD 2
  - CP 01728 POD 3
  - CP 01728 POD 5
  - Andrews Place Ag
  - Southwest Pasture Ag
  - C 3795 POD 1
6. The various wells range in depth from approximately 500 to 800 feet in depth and source water from the Jal, Capitan Reef, and Carlsbad declared groundwater basins.
7. Each of the Select SWDs is proposed to be located within a pasture, where cow-calf operations occur.
8. The Roadrunner Fed SWD is proposed to be located within the Southwest Pasture approximately:
- 1.10 miles from Desert Ram's Southwest Pasture Ag well;
  - 1.10 miles from the C-3795 POD1;
  - two miles from the Ranch house, which has been occupied by the same family for over a century;
  - 2.01 miles from the J3 POD2
  - 2.23 miles from the J26 POD1
  - 2.25 miles from a domestic well at the Ranch house
  - 2.25 miles from J33 POD 1;
  - 2.25 miles from the J34 POD 1; and
  - 2.6 miles from the J4 POD 1.
9. The Coyote Fed SWD is proposed to be located within the Southwest Pasture approximately:
- 1.01 miles from the J3 well;
  - 1.5 miles from the Southwest Pasture Ag well;
  - 1.5 miles from the C-3795;
  - 1.95 miles from CP 1170 POD1;
  - 2.05 miles from CP 1267 POD2;
  - 2.0 miles from CP 1263 POD2;
  - 2.3 miles from CP 1351 POD2;
  - 2.6 miles from CP 1351 POD1;
  - 2.6 miles from CP 1263 POD3; and
  - 2.3 miles from CP 1263 POD1.
10. The Javelina Fed injection SWD is proposed to be located within the Southwest Pasture, approximately:
- 1.6 miles from the Southwest Pasture Watering Station, located in NE1/4NE1/4 of Section 15, T26S R35E; and
  - 2.9 miles from the Andrews Place Ag well.

11. The Jackrabbit Fed SWD is proposed to be located within the Andrews Place Pasture, approximately:
- 1.2 miles from the Andrews Place Pasture, Andrews South Tank watering station; and
  - 2.4 miles from the Andrews Place Ag well.
12. Desert Ram's wells draw from declared groundwater basins underlying the township in which Select proposes to locate the four saltwater disposal wells and that necessarily overlies the proposed injection intervals. Desert Ram's operations depend on the continued quality and hydraulic integrity of these groundwater basins.
13. Based on Select's applications and associated Area of Review materials, Desert Ram's surface lands, groundwater wells, and water rights are located within areas affected by Select's modeled pressure propagation, which Select's own reservoir modeling indicates will extend out to at least two miles from the proposed wells over the life of injection.
14. If pressure migration, fracture communication, or fluid movement occur, impacts could propagate through the connected groundwater system supplying Desert Ram's wells through normal groundwater flow and cone-of-depression effects.
15. The potential for impairment of groundwater quality or pressure conditions within the aquifer supplying Desert Ram's wells constitutes a concrete and non-speculative risk of injury to Desert Ram's water rights and agricultural operations, irrespective of surface distance from the injection locations.
16. I provide this Self-Affirmed Statement solely to identify Desert Ram's specific interests, including groundwater rights and points of diversion to access those rights, and to explain the basis for Desert Ram's standing concerns. Desert Ram does not seek, through this Statement, to litigate the merits of Select's applications, but only to demonstrate that its legally protected interests are plausibly and directly at risk from the proposed injection operations.
17. I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct to the best of my knowledge.

/s/ Tim Jurco  
Tim Jurco

4/14/2026  
Date

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

**APPLICATION OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 25547**

**ENTRY OF APPEARANCE NOTICE OF INTERVENTION &  
OBJECTION TO PROCEEDINGS BY AFFIDAVIT**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, hereby enters its appearance in the above-referenced application and further provides notice of its intervention and objection to this matter proceeding by affidavit.

Desert Ram seeks to intervene in this matter as a party under 19.15.4.10(A)(3) NMAC, which provides that parties to an adjudicatory proceeding include “a person who properly intervenes in the case.” Desert Ram’s intervention is governed by 19.15.4.11 NMAC, which provides that a person with standing may intervene by filing notice stating the nature of the intervenor’s interest and the extent of opposition to the application. Under the rule, intervention is proper where the intervenor demonstrates standing or will contribute substantially to the Division’s statutory duties. 19.15.4.11(C).

The Oil Conservation Division has broad statutory authority to conduct hearings and regulate oilfield waste disposal in furtherance of the Oil and Gas Act. *See NMSA 1978, § 70-2-12(A)(5) and § 70-2-11(A)*. The Division is further expressly authorized to regulate the disposal of produced water by injection “in a manner that protects public health, the environment and freshwater resources.” *NMSA 1978, § 70-2-12(B)(15)*.

Desert Ram has standing because it faces a concrete and particularized injury to legally protected surface and groundwater interests that is fairly traceable to the proposed shallow high-volume injection operations and redressable through the Division’s authority to deny, condition, or require further process before approval. *See 19.15.4.11(C) NMAC*.

Moreover, even if standing were disputed, Desert Ram's participation will contribute substantially to the Division's statutory duties in this proceeding, including the prevention of waste and the protection of public health, the environment, and freshwater resources. 19.15.4.11(C) NMAC.

Desert Ram is a lessee of surface lands within two (2) miles of the proposed saltwater disposal well and maintains freshwater wells on the surface estate, which are critical to Desert Ram's ongoing ranching and agricultural operations. Desert Ram is concerned that shallow high-volume injection may create risks of surface uplift, groundwater impairment, and communication with older vertical wells and historic boreholes on or near the property, including the potential for loss of integrity or uncontrolled releases. Desert Ram further notes that the proposed disposal operations involve unusually shallow injection, warranting heightened caution and fuller consideration. Taken together, the impacts fall squarely within the Division's authority to evaluate and prevent, prior to any permit approval.

Desert Ram did not receive direct notice of the application during the initial objection window because it was not classified as an "affected person" under the Division's radius-based notice provisions. Desert Ram submits this appearance and objection promptly upon learning that the application remains pending for disposition by affidavit. The absence of notice does not mean the absence of impact, particularly where critical groundwater resources, surface impacts, and legacy well integrity are at issue. And, to the extent Desert Ram's intervention is considered late, the Division Examiner may, in his discretion, allow late intervenors to participate. 19.15.4.11(B) NMAC.

Accordingly, Desert Ram respectfully requests that the Division decline to resolve this application solely by affidavit and instead require further process sufficient to address the direct surface and groundwater impacts to Desert Ram's operations. Such further process is necessary to ensure that produced water disposal by shallow injection is conducted consistent with the Division's statutory mandate to protect public health, the environment, and freshwater resources.

Respectfully Submitted,

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

**APPLICATION OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 25548**

**ENTRY OF APPEARANCE NOTICE OF INTERVENTION &  
OBJECTION TO PROCEEDINGS BY AFFIDAVIT**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, hereby enters its appearance in the above-referenced application and further provides notice of its intervention and objection to this matter proceeding by affidavit.

Desert Ram seeks to intervene in this matter as a party under 19.15.4.10(A)(3) NMAC, which provides that parties to an adjudicatory proceeding include “a person who properly intervenes in the case.” Desert Ram’s intervention is governed by 19.15.4.11 NMAC, which provides that a person with standing may intervene by filing notice stating the nature of the intervenor’s interest and the extent of opposition to the application. Under the rule, intervention is proper where the intervenor demonstrates standing or will contribute substantially to the Division’s statutory duties. 19.15.4.11(C).

The Oil Conservation Division has broad statutory authority to conduct hearings and regulate oilfield waste disposal in furtherance of the Oil and Gas Act. *See NMSA 1978, § 70-2-12(A)(5) and § 70-2-11(A)*. The Division is further expressly authorized to regulate the disposal of produced water by injection “in a manner that protects public health, the environment and freshwater resources.” *NMSA 1978, § 70-2-12(B)(15)*.

Desert Ram has standing because it faces a concrete and particularized injury to legally protected surface and groundwater interests that is fairly traceable to the proposed shallow high-volume injection operations and redressable through the Division’s authority to deny, condition, or require further process before approval. *See 19.15.4.11(C) NMAC*.

Moreover, even if standing were disputed, Desert Ram's participation will contribute substantially to the Division's statutory duties in this proceeding, including the prevention of waste and the protection of public health, the environment, and freshwater resources. 19.15.4.11(C) NMAC.

Desert Ram is the owner of surface lands within two (2) miles of the proposed saltwater disposal well and maintains freshwater wells on the surface estate, which are critical to Desert Ram's ongoing ranching and agricultural operations. Desert Ram is concerned that shallow high-volume injection may create risks of surface uplift, groundwater impairment, and communication with older vertical wells and historic boreholes on or near the property, including the potential for loss of integrity or uncontrolled releases. Desert Ram further notes that the proposed disposal operations involve unusually shallow injection, warranting heightened caution and fuller consideration. Taken together, the impacts fall squarely within the Division's authority to evaluate and prevent, prior to any permit approval.

Desert Ram did not receive direct notice of the application during the initial objection window because it was not classified as an "affected person" under the Division's radius-based notice provisions. Desert Ram submits this appearance and objection promptly upon learning that the application remains pending for disposition by affidavit. The absence of notice does not mean the absence of impact, particularly where critical groundwater resources, surface impacts, and legacy well integrity are at issue. And, to the extent Desert Ram's intervention is considered late, the Division Examiner may, in his discretion, allow late intervenors to participate. 19.15.4.11(B) NMAC.

Accordingly, Desert Ram respectfully requests that the Division decline to resolve this application solely by affidavit and instead require further process sufficient to address the direct surface and groundwater impacts to Desert Ram's operations. Such further process is necessary to ensure that produced water disposal by shallow injection is conducted consistent with the Division's statutory mandate to protect public health, the environment, and freshwater resources.

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

**APPLICATION OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 25899**

**ENTRY OF APPEARANCE NOTICE OF INTERVENTION &  
OBJECTION TO PROCEEDINGS BY AFFIDAVIT**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, hereby enters its appearance in the above-referenced application and further provides notice of its intervention and objection to this matter proceeding by affidavit.

Desert Ram seeks to intervene in this matter as a party under 19.15.4.10(A)(3) NMAC, which provides that parties to an adjudicatory proceeding include “a person who properly intervenes in the case.” Desert Ram’s intervention is governed by 19.15.4.11 NMAC, which provides that a person with standing may intervene by filing notice stating the nature of the intervenor’s interest and the extent of opposition to the application. Under the rule, intervention is proper where the intervenor demonstrates standing or will contribute substantially to the Division’s statutory duties. 19.15.4.11(C).

The Oil Conservation Division has broad statutory authority to conduct hearings and regulate oilfield waste disposal in furtherance of the Oil and Gas Act. *See NMSA 1978, § 70-2-12(A)(5) and § 70-2-11(A)*. The Division is further expressly authorized to regulate the disposal of produced water by injection “in a manner that protects public health, the environment and freshwater resources.” *NMSA 1978, § 70-2-12(B)(15)*.

Desert Ram has standing because it faces a concrete and particularized injury to legally protected surface and groundwater interests that is fairly traceable to the proposed shallow high-volume injection operations and redressable through the Division’s authority to deny, condition, or require further process before approval. *See 19.15.4.11(C) NMAC*.

Moreover, even if standing were disputed, Desert Ram's participation will contribute substantially to the Division's statutory duties in this proceeding, including the prevention of waste and the protection of public health, the environment, and freshwater resources. 19.15.4.11(C) NMAC.

Desert Ram is the owner of surface lands within two (2) miles of the proposed saltwater disposal well and maintains freshwater wells on the surface estate, which are critical to Desert Ram's ongoing ranching and agricultural operations. Desert Ram is concerned that shallow high-volume injection may create risks of surface uplift, groundwater impairment, and communication with older vertical wells and historic boreholes on or near the property, including the potential for loss of integrity or uncontrolled releases. Desert Ram further notes that the proposed disposal operations involve unusually shallow injection, warranting heightened caution and fuller consideration. Taken together, the impacts fall squarely within the Division's authority to evaluate and prevent, prior to any permit approval.

Desert Ram did not receive direct notice of the application during the initial objection window because it was not classified as an "affected person" under the Division's radius-based notice provisions. Desert Ram submits this appearance and objection promptly upon learning that the application remains pending for disposition by affidavit. The absence of notice does not mean the absence of impact, particularly where critical groundwater resources, surface impacts, and legacy well integrity are at issue. And, to the extent Desert Ram's intervention is considered late, the Division Examiner may, in his discretion, allow late intervenors to participate. 19.15.4.11(B) NMAC.

Accordingly, Desert Ram respectfully requests that the Division decline to resolve this application solely by affidavit and instead require further process sufficient to address the direct surface and groundwater impacts to Desert Ram's operations. Such further process is necessary to ensure that produced water disposal by shallow injection is conducted consistent with the Division's statutory mandate to protect public health, the environment, and freshwater resources.

Respectfully Submitted,

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

**APPLICATION OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 25900**

**ENTRY OF APPEARANCE NOTICE OF INTERVENTION &  
OBJECTION TO PROCEEDINGS BY AFFIDAVIT**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, hereby enters its appearance in the above-referenced application and further provides notice of its intervention and objection to this matter proceeding by affidavit.

Desert Ram seeks to intervene in this matter as a party under 19.15.4.10(A)(3) NMAC, which provides that parties to an adjudicatory proceeding include “a person who properly intervenes in the case.” Desert Ram’s intervention is governed by 19.15.4.11 NMAC, which provides that a person with standing may intervene by filing notice stating the nature of the intervenor’s interest and the extent of opposition to the application. Under the rule, intervention is proper where the intervenor demonstrates standing or will contribute substantially to the Division’s statutory duties. 19.15.4.11(C).

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Desert Ram has standing because it faces a concrete and particularized injury to legally protected surface and groundwater interests that is fairly traceable to the proposed shallow high-volume injection operations and redressable through the Division’s authority to deny, condition, or require further process before approval. *See 19.15.4.11(C) NMAC*.

Moreover, even if standing were disputed, Desert Ram's participation will contribute substantially to the Division's statutory duties in this proceeding, including the prevention of waste and the protection of public health, the environment, and freshwater resources. 19.15.4.11(C) NMAC.

Desert Ram is the owner of surface lands within two (2) miles of the proposed saltwater disposal well and maintains freshwater wells on the surface estate, which are critical to Desert Ram's ongoing ranching and agricultural operations. Desert Ram is concerned that shallow high-volume injection may create risks of surface uplift, groundwater impairment, and communication with older vertical wells and historic boreholes on or near the property, including the potential for loss of integrity or uncontrolled releases. Desert Ram further notes that the proposed disposal operations involve unusually shallow injection, warranting heightened caution and fuller consideration. Taken together, the impacts fall squarely within the Division's authority to evaluate and prevent, prior to any permit approval.

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Accordingly, Desert Ram respectfully requests that the Division decline to resolve this application solely by affidavit and instead require further process sufficient to address the direct surface and groundwater impacts to Desert Ram's operations. Such further process is necessary to ensure that produced water disposal by shallow injection is conducted consistent with the Division's statutory mandate to protect public health, the environment, and freshwater resources.

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/s/ Matthias Sayer

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*Counsel for Desert Ram, Inc.*

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

**APPLICATIONS OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 25547, 25548,  
25899 & 25900**

**DESERT RAM'S RESPONSE IN OPPOSITION TO SELECT WATER  
SOLUTIONS, LLC'S MOTION TO STRIKE AND MOTION FOR LIMITED  
EVIDENTIARY HEARING ON STANDING**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, submits this Response in Opposition to Select Water Solutions, LLC's (Select) Motion to Strike Desert Ram's Entry of Appearance, Notice of Intervention, and Objection (Motion to Strike). Desert Ram also incorporates herein a Motion for Limited Evidentiary Hearing on Standing and respectfully requests that the Division deny Select's Motion or, at minimum, defer ruling until a limited factual record is developed.

**I. INTRODUCTION**

These proceedings present a narrow but important threshold question: whether a surface owner with active freshwater interests and reliance may be categorically excluded from participation in produced water disposal proceedings involving novel-to-New Mexico high-volume shallow injection, based solely on radius-based notice rules, before any factual record pertaining to standing or intervention is developed. Select's Motion asks the Hearing Examiner to answer that question by treating these applications as routine saltwater disposal matters and collapsing the standing inquiry into the Division's radius-based notice provisions. The Division's statutes, rules, and delegated responsibilities to protect public health, the environment, and freshwater resources do not permit that result.

These cases involve high-volume produced water disposal by injection into relatively shallow intervals, with Select's own modeling indicating pressure propagation approaching two miles over a multi-decade injection life at rates up to 20,000 barrels per day. (*See Select Applications, Case Nos. 25899, 25900, 25548, and 25547 at Appendix B*). Desert Ram is a surface owner and ranching operation that maintains

freshwater wells and water rights essential to its ongoing agricultural operations within that vicinity. Desert Ram does not seek to litigate the merits at this stage.

The Legislature has expressly directed that produced water disposal by injection be regulated “pursuant to authority delegated under the federal Safe Drinking Water Act” and “in a manner that protects public health, the environment and freshwater resources.” NMSA 1978, § 70-2-12(A)(15). Select’s effort to foreclose participation by a surface owner with freshwater interests and reliance—before a factual record is developed and before key site-specific injection constraints are established—conflicts with that mandate.

## II. THE DIVISION’S RULES DO NOT LIMIT STANDING OR INTERVENTION TO “AFFECTED PERSONS”

Select’s Motion rests on the premise that because Desert Ram is not an “affected person” entitled to notice under 19.15.26.8 NMAC, it necessarily lacks standing and must be excluded. The Division’s rules do not support that conclusion.

Under 19.15.4.11(C) NMAC, a notice of intervention may be stricken only if the intervenor fails to show standing, unless the intervenor shows that its participation will contribute substantially to the prevention of waste, protection of correlative rights, or protection of public health or the environment. The rule thus expressly contemplates participation by persons who are not otherwise entitled to notice as “affected persons”, particularly where environmental and groundwater protection concerns are implicated.

Select’s attempt to convert the notice provision into a categorical standing bar improperly narrows the Division’s adjudicatory framework and undermines the Division’s ability to satisfy its statutory obligations. Being an “affected person” may be sufficient to achieve standing, but the rules make it clear that it is not necessary.

## III. DESERT RAM HAS STANDING BASED ON CONCRETE, LEGALLY PROTECTED FRESHWATER AND PROPERTY INTERESTS

Desert Ram is a surface owner and ranching operation that maintains freshwater wells and water rights critical to its agricultural operations. These are legally protected property interests. Desert Ram’s interests and concerns are not competitive, speculative, or generalized; they are grounded in the potential for pressure-driven impacts, migration pathways through legacy wellbores, surface uplift, and impairment

of freshwater resources associated with high-volume shallow injection.

At the standing stage, Desert Ram is not required to prove that harm will occur. Desert Ram must demonstrate a concrete interest subject to a real, non-speculative risk that is fairly traceable to the challenged action and redressable through the Division's authority to deny, condition, or require additional process. See 19.15.4.11(C) NMAC; *ACLU of N.M. v. Santillanes*, 2008-NMSC-045, ¶ 11; see also Commission Order No. R-10987-A(2), ¶¶ 13, 22–24. Given the scale, duration, and shallow nature of the proposed injection operations, Desert Ram easily meets that standard—or, at minimum, has demonstrated the need for limited factual development before standing is foreclosed. At minimum, these facts warrant limited factual development before Desert Ram's participation is foreclosed.

#### IV. THESE ARE NOT ROUTINE SWD APPLICATIONS; SHALLOW INJECTION TRIGGERS HEIGHTENED SCRUTINY

A central flaw in Select's Motion is its insistence that these applications be treated as routine and interchangeable with the deep disposal wells the Division has permitted for years. They are not.

Select seeks approval to inject produced water at very high daily volumes into relatively shallow formations for decades all within the same township. Shallow injection inherently reduces the margin of confinement between the injection interval and usable groundwater and increases reliance on accurate identification of fracture behavior, pressure limits, and the integrity of legacy penetrations.

Critically, Select's own application materials acknowledge that key subsurface safety parameters—most notably the actual fracture gradient and maximum allowable injection pressure—have not yet been confirmed and will be determined only after permit approval through step-rate testing. (See *Select Applications, Case Nos. 25899, 25900, 25548, and 25547, at C-108 pgs 3-7*). Until those parameters are established, the true pressure envelope and fracture response of the injection interval remain unverified.

Real-world experience underscores why this matters. In recent years, regulators and operators in Texas have documented flowbacks at the surface, surface uplift, and groundwater contamination associated with shallow or inadequately constrained injection. Desert Ram does not cite these examples to suggest inevitability of harm here, but to emphasize a well-recognized principle: shallow injection behaves

differently than deep disposal and carries greater consequences if assumptions prove incorrect. Accordingly, shallow injection should trigger heightened scrutiny, not abbreviated process.

V. THE DIVISION'S RESPONSIBILITY UNDER UIC PRIMACY REQUIRES RISK-RESPONSIVE REVIEW

Select's Motion appears to ignore that the statutes and rules governing these applications implement New Mexico's delegated primacy under the federal Underground Injection Control ("UIC") program. NMSA 1978, § 70-2-12(A)(15). The central purpose of the UIC program is the protection of underground sources of drinking water.

While federal law establishes minimum requirements, it is the Division—not EPA—that determines the appropriate area of review, the scope of investigation, and the conditions necessary to protect groundwater in any particular case. The half-mile AOR used for notice and baseline review is a regulatory tool, not a liability shield or safe harbor.

If shallow injection results in groundwater contamination because pressure effects or migration pathways extend beyond the area examined during permitting, the fact that the Division adhered to a minimum radius would not constitute a defense of the program's effectiveness. Shallow injection magnifies the consequences of error, and the Division's discretion under UIC primacy must be exercised in a risk-responsive manner.

Excluding a surface owner with freshwater wells reliant on the aquifer at-risk from the Select applications from participation at the threshold—before a factual record is developed and before fracture gradients are established—is inconsistent with that responsibility.

Select's Motion further relies on the premise that Desert Ram's freshwater wells are too distant from the proposed injection sites to be at risk. (*See Select Motion* at p.5). That premise misappreciates how groundwater systems function and how the UIC program defines protected resources. Freshwater aquifers are laterally continuous hydrogeologic units that underlie broad areas—often entire townships—and necessarily overlie the projected injection pressure plume. Desert Ram's agricultural operations occur across the entirety of the township within which Select is proposing to locate the four wells, on private or

leased federal and state lands.

If contamination or pressure-induced migration were to occur nearer to the injection wells, the fact that Desert Ram's fee surface interests and water wells are located further away would not sever the hydrologic connection. To the extent Select contends otherwise, that assertion presents a factual question that can only be resolved through development of an evidentiary record. Because Desert Ram's freshwater wells draw from the same aquifer, any impairment within that aquifer has the potential to migrate toward pumping wells through normal groundwater flow and cone-of-depression effects. The relevant question is not simply how far the surface owner is from the injection well, but whether the owner relies on the same underground source of drinking water the UIC program is designed to protect.

For these reasons, the protection of groundwater under the Safe Drinking Water Act and its implementing state statutes is aquifer-based, not parcel-based. Excluding a surface owner with freshwater reliance from participation based solely on surface distance ignores the hydrogeologic reality that contamination within a connected aquifer can propagate and affect users well beyond an arbitrary half-mile radius. In the context of the aquifer potentially affected by the Select applications, Desert Ram is uniquely situated as a surface owner with active freshwater wells to assist the Division in ensuring that aquifer-level impacts are adequately considered in these proceedings.

#### VI. SELECT OVERSTATES THE EXTENT OF ITS SUBSURFACE INVESTIGATION

Select repeatedly asserts that it has conducted a "thorough" subsurface or hydrologic investigation and that Desert Ram's concerns are therefore "dispensed with." (See *Select Motion at pg. 7 and Exhibit 1*). That assertion overstates the record and conflates preliminary screening with well-specific subsurface confirmation.

The application materials reflect regional mapping, literature review, seismic interpretation, and reservoir modeling based on offset data. Select's "No Hydrologic Connection Statement" focuses primarily on vertical separation between the proposed injection interval and the Rustler Formation USDW and the absence of mapped faults enabling direct communication. These materials may be sufficient to satisfy baseline administrative filing requirements, but they do not establish site-specific injection constraints or

confirm safe operating limits for the proposed shallow wells.

Critically, Select acknowledges that essential well-specific parameters governing injection safety—most notably the formation fracture gradient and the maximum allowable surface injection pressure—will not be determined until *after* the well is drilled, through a step-rate test conducted prior to commencing injection. While Select provides modeled fracture gradient estimates for confining layers, the Applications do not provide a transparent, well-specific showing tying the requested maximum surface injection pressure of 1,035 psi to a confirmed fracture limit for the injection interval itself.

In a conventional deep saltwater disposal context—where injection occurs thousands of feet below any usable groundwater and long-standing operational experience has established wide margins of confinement—this type of modeling and deferred confirmation may be sufficient at the permitting stage. But these applications do not present that scenario.

Here, Select seeks approval of unusually shallow, high-volume commercial disposal wells in formations significantly closer to the base of the groundwater relied on by Desert Ram, with injection pressures and fracture limits that have not yet been empirically established. Shallow injection materially narrows the margin of confinement, increases sensitivity to legacy wellbores and historic penetrations, and elevates the consequences of error if fracture pressures are exceeded or pressure communication occurs outside modeled assumptions. In this context, reliance on generalized modeling and post-approval testing is not sufficient to foreclose standing at the threshold as a matter of law or to dismiss the concerns of a surface owner with active freshwater reliance.

Further, Select's own reservoir performance modeling anticipates pressure effects approaching approximately two miles from the wellbore under sustained injection at 20,000 barrels per day over a 20-year period. (*See Select Applications, Case Nos. 25899, 25900, 25548, and 25547, at Appendix B*). This projection directly undermines Select's assertion that impacts can be categorically excluded based on surface-distance thresholds alone and underscores why Desert Ram's interests cannot be dismissed as speculative at the standing stage.

Select's merits assertions regarding injectate confinement and modeling outcomes cannot substitute

for a standing analysis and cannot justify striking Desert Ram’s intervention without affording any opportunity to develop a factual record. Where the proposed operations are novel in depth, scale, and risk profile, the Division’s obligation to protect groundwater and freshwater resources warrants a measured, fact-based evaluation—not categorical exclusion based on assumptions drawn from materially different disposal scenarios.

## VII. SELECT’S “SURFACE-RELATED” PRECEDENT IS NOT ON-POINT

Select relies on Commission precedent addressing surface owners’ objections in *drilling, spacing, or density* proceedings—most notably Application of Hilcorp Energy Co., Order No. R-10987-A(2) (Dec. 4, 2018), and Application of Gandy Corp., Order No. R-12811 (Sept. 24, 2007)—to argue that Desert Ram’s concerns fall outside the “zone of interests” protected by the statutes and rules governing these cases. Those authorities are not applicable to the present cases.

In *Hilcorp*, surface owners sought to intervene in a proceeding to amend well density requirements, raising generalized concerns about surface disturbance, property impacts, and speculative environmental effects. The Commission concluded that those alleged injuries were “surface-related issues” not implicated by the spacing and density order at issue and were instead addressed through separate drilling and operational permitting processes. Order No. R-10987-A(2) at ¶¶ 23–24. Likewise, *Gandy* addressed standing in the context of spacing and operational interests confined to the half-mile affected-party framework applicable to that proceeding.

These cases do not concern produced water disposal by injection, nor do they address the statutory and regulatory framework governing underground injection control. By contrast, the Legislature has expressly placed groundwater protection and environmental integrity squarely within the Oil Conservation Division’s mandate for produced water disposal operations. See NMSA 1978, § 70-2-12(A)(15) (authorizing the Division to regulate produced water disposal by injection “in a manner that protects public health, the environment and freshwater resources”).

Desert Ram’s concerns are not limited to surface disturbance or generalized land-use impacts. They go to the integrity of subsurface containment, pressure propagation, and the protection of groundwater

resources—the very interests the UIC program exists to protect. Unlike the spacing and density proceedings at issue in *Hilcorp* and *Gandy*, these proceedings involve high-volume shallow injection into subsurface formations under state-delegated UIC authority, where risks to freshwater aquifers and confinement integrity are central to the Division’s statutory responsibilities.

Accordingly, precedent addressing surface owners’ participation in drilling or spacing matters does not foreclose intervention here, where the alleged injury arises from subsurface injection operations and implicates groundwater protection duties expressly assigned to the Division by statute.

#### VIII. DESERT RAM’S PARTICIPATION WILL CONTRIBUTE SUBSTANTIALLY EVEN IF STANDING WERE DISPUTED

Even if standing were disputed, Desert Ram’s participation independently satisfies the “substantial contribution” standard in 19.15.4.11(C) NMAC. A surface owner with freshwater reliance brings a perspective directly relevant to the Division’s statutory duties, particularly where applications involve high-volume shallow injection and unresolved site-specific constraints. In fact, there may not be a party better-positioned than a surface owner agricultural producer with freshwater interests to substantially contribute to the Division satisfying its statutory obligations in this case.

#### IX. MOTION FOR LIMITED EVIDENTIARY HEARING ON STANDING

Standing is a threshold issue that turns on case-specific facts, not categorical rules. Select’s Motion challenges Desert Ram’s factual assertions while simultaneously asking the Hearing Examiner to resolve disputed technical questions without a record.

Accordingly, Desert Ram respectfully requests that the Hearing Examiner set a limited evidentiary hearing confined to standing, or, in the alternative, permit Desert Ram to submit an affidavit within a brief preparation window addressing the factual basis for standing, prior to ruling on the Motion to Strike. As a surface owner—not a repeat operator steeped in injection mechanics—Desert Ram reasonably relies on the Division’s process to both understand and assess technically complex risks associated with novel shallow injection proposals.

#### X. CONCLUSION

For the foregoing reasons, Desert Ram respectfully requests that the Hearing Examiner:

1. DENY Select's Motion to Strike; or
2. In the alternative, DEFER ruling and set a limited evidentiary hearing on standing.

Respectfully Submitted,

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

**APPLICATIONS OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 25547, 25548,  
25899 & 25900**

**DESERT RAM'S MOTION FOR RECONSIDERATION OR ORDER  
GRANTING SELECT WATER SOLUTIONS, LLC'S MOTION TO STRIKE  
AND RENEWED MOTION FOR LIMITED EVIDENTIARY HEARING ON  
STANDING**

Desert Ram South Ranch, Inc. (Desert Ram), by and through undersigned counsel, respectfully moves for reconsideration of the Hearing Examiner's Order Granting Select Water Solutions, LLC's Motion to Strike Desert Ram's Entry of Appearance, Notice of Intervention, and Objection (the Order). This Motion is narrowly directed to correcting material factual omissions and clarifying the record regarding Desert Ram's legally protected surface and groundwater interests and the concrete risks posed by the proposed operations. In support of this Motion, Desert Ram states as follows:

**I. STANDARD FOR RECONSIDERATION**

The Division has inherent authority to reconsider an interlocutory order where material facts were not fully developed or where reconsideration is necessary to prevent manifest injustice. Reconsideration is particularly appropriate where an order rests on findings that the movant "has not identified" specific interests or facts that can now be presented through sworn evidence without reopening the merits of the application.

Desert Ram does not seek to relitigate the merits of Select's applications. Desert Ram seeks only reconsideration of the standing determination based on a clarified and sworn factual record addressing the precise deficiencies identified in the Order.

Reconsideration is particularly appropriate where, as here, the Order rests on findings that Desert Ram "has not identified" site-specific interests or facts, and Desert Ram now seeks to supply that information through sworn evidence or limited factual presentation. A narrow evidentiary hearing confined

to standing—or, alternatively, submission of sworn affidavits—falls squarely within the Division’s authority to manage its proceedings and would permit reconsideration without addressing the merits of Select’s applications.

## II. THE ORDER RESTS ON THE ABSENCE OF SITE-SPECIFIC FACTS THAT DESERT RAM NOW SUPPLIES

The Order concludes that Desert Ram lacks standing because it “has not identified” groundwater wells, water rights, or site-specific facts demonstrating a plausible risk to a legally protected interest. (Order ¶¶ 7, 9).

That conclusion was reached before Desert Ram was permitted to submit sworn evidence and prior to any limited factual development on standing. Standing does not require a surface owner or water-right holder to marshal expert hydrogeologic proof or to conclusively demonstrate injection-to-aquifer connectivity at the threshold stage. Requiring such proof would improperly collapse standing into the merits and foreclose participation precisely where site-specific uncertainty exists. At the standing stage, identification of legally protected interests and exposure to a real, non-speculative risk—based on the applicant’s own modeling and project design—is sufficient.

The Order further appears to reason that Desert Ram lacks standing because the Division “routinely evaluates groundwater protection, injection depth, confining zones, and well integrity as part of its technical review.” Order ¶ 11. Respectfully, that framing seems to misappreciate the standing inquiry. The question is not whether the Division analyzes groundwater impacts, but whether Desert Ram holds legally protected interests that may be adversely affected by the challenged action. The existence of agency review cannot extinguish standing for a surface owner and water-right holder whose aquifer may be exposed to pressure or contamination risks arising from the proposed injection operations. Standing turns on injury or exposure to risk to the movant’s interests—not on whether the agency is capable of evaluating those risks without the movant’s participation. Desert Ram now submits, concurrently with this Motion, a Self-Affirmed Statement of Tim Jurco, (attached as Exhibit 1) which identifies Desert Ram’s surface ownership, groundwater wells, and water rights with specificity.

### III. DESERT RAM HOLDS LEGALLY PROTECTED GROUNDWATER RIGHTS AND OPERATES FRESHWATER WELLS WITHIN THE AREA OF PROJECTED IMPACT

Desert Ram owns and operates agricultural lands within the township in which Select proposes four high-volume saltwater disposal wells. Desert Ram relies on groundwater drawn from the freshwater aquifer underlying that township pursuant to multiple valid New Mexico water rights and permits, including but not limited to:

- Permit Nos. CP-1728, CP-4239, CP-4241, CP-465, CP-1170, CP-1263, and CP-1351; and
- Groundwater wells identified as J-3, J-4, J-25/26, J-33-L, J-34-L, and J-35-L.

These water rights and wells are actively used to support Desert Ram's ongoing ranching and agricultural operations and constitute legally protected property interests under New Mexico law. The groundwater rights are exercised from the same laterally continuous aquifer that necessarily overlies the proposed injection intervals. If pressure migration, fracture communication, or fluid movement were to occur nearer to the injection wells, impairment within the aquifer would not be confined to the immediate vicinity of the wellbore but could propagate through the connected groundwater system supplying Desert Ram's wells. The potential for such impairment constitutes a particularized risk of injury that is actual or imminent, not conjectural or hypothetical.

Impairment of groundwater quality or pressure conditions within the aquifer supplying these wells would directly and materially injure Desert Ram's operations and property rights.

### IV. SELECT'S OWN APPLICATIONS IDENTIFY PRESSURE PROPAGATION APPROACHING TWO MILES

Select's applications acknowledge, through reservoir modeling submitted with the C-108 forms, that sustained injection at rates of up to 20,000 barrels per day over a 20-year injection life may result in pressure propagation approaching approximately two miles from the wellbore.

Those modeled impacts directly overlap with Desert Ram's surface lands and groundwater reliance identified above. The risk is therefore not speculative and is not premised on generalized concerns, but instead arises from Select's own modeling assumptions. At the standing stage, Desert Ram need not prove that such impacts will occur. Exposure of Desert Ram's water rights and wells to a real, particularized risk

of injury that is actual or imminent, not conjectural or hypothetical, based on the applicant's own modeling, is sufficient to establish standing.

V. THE APPLICATIONS DO NOT ANALYZE CUMULATIVE IMPACTS FROM FOUR WELLS IN THE SAME TOWNSHIP

Each of Select's four proposed saltwater disposal wells was evaluated in isolation. The applications do not analyze cumulative pressure effects, interference, or risk pathways arising from four high-volume, shallow disposal wells operating within the same township and drawing on the same geologic system.

The absence of cumulative analysis is material where, as here:

- injection is shallow compared to traditional SWD wells;
- pressure effects are modeled to extend well beyond the half-mile notice radius; and
- the aquifer supplying Desert Ram's water rights necessarily overlies the projected injection plume.

The lack of cumulative analysis is particularly significant at the standing stage. Where multiple shallow, high-volume injection wells are proposed within the same township, the potential for additive or interacting pressure effects presents a materially different risk profile than single-well injection. Desert Ram's concern is therefore not hypothetical, but grounded in the structure of the project as proposed. This omission further supports the need for participation by a surface owner with direct freshwater reliance and reinforces that Desert Ram's concerns are tethered to real project features, not abstract speculation.

VI. THE NOVELTY OF SHALLOW, HIGH-VOLUME INJECTION HEIGHTENS RISK TO GROUNDWATER

The proposed wells involve commercial-scale produced water injection at shallow depths, a scenario materially different from the deep saltwater disposal wells historically permitted by the Division.

Select's applications acknowledge that critical well-specific parameters governing safe injection—most notably formation fracture gradient and maximum allowable injection pressure—will not be determined until after drilling, through step-rate testing conducted post-approval. The fact that these constraints remain unconfirmed at the time of approval cannot be used to defeat standing. To the contrary, where site-specific confinement limits have not yet been empirically established, exclusion of a surface owner with freshwater reliance at the threshold improperly resolves uncertainty against the interest holder

most exposed to risk.

The Division itself has recently acknowledged that subsurface uncertainty exists in the Delaware Mountain Group with respect to faulting and fracture systems. In approving two Bell and Cherry Canyon disposal wells in 2024, which were approved as “pilot projects”, OCD staff expressly noted concerns regarding “limited subsurface information regarding faulting and fracture systems within the DMG” and further observed that “additional data is necessary to ... analyze formation parting pressure.” *See* Commission Order No. R-23087 (Mar. 5, 2024), Findings ¶¶ 40 & 42.

That acknowledgment is significant. It confirms that subsurface behavior in the DMG—particularly fracture connectivity and pressure response—is not fully characterized and remains an area of regulatory concern. Where the Division itself has identified limits on subsurface knowledge, a surface owner’s concerns regarding pressure migration, fracture communication, or aquifer exposure cannot be dismissed as “generalized” or “dispensed with” as a matter of law.

The Order’s conclusion that Desert Ram failed to raise issues beyond those already addressed by the Division cannot be reconciled with the Division’s own recent findings acknowledging subsurface uncertainty and elevated risk in the same disposal interval. Excluding a surface owner and water-right holder at the threshold—while conceding unresolved subsurface constraints—resolves doubt against the interest holder most exposed to risk and constitutes manifest injustice.

Where injection is shallow and fracture limits are unconfirmed, the margin of confinement protecting freshwater resources is reduced and the consequences of error are magnified. These features distinguish this project from routine SWD permitting and underscore why exclusion of a surface owner with freshwater reliance—without factual development—is unwarranted.

## VII. RECONSIDERATION IS WARRANTED TO PREVENT MANIFEST INJUSTICE

The Order concludes that Desert Ram’s concerns are “generalized” and unsupported by site-specific facts. Desert Ram now supplies those facts through sworn evidence, without seeking to expand the scope of the proceeding or litigate the merits.

Reconsideration is warranted to allow the Hearing Examiner to evaluate standing based on a

complete and accurate record—particularly where the proposed operations implicate the Division’s statutory mandate to protect freshwater resources under NMSA 1978, § 70-2-12(A)(15) and delegated UIC authority.

#### VIII. RENEWED MOTION FOR LIMITED EVIDENTIARY HEARING ON STANDING

Desert Ram respectfully renews its request for a limited evidentiary hearing confined solely to standing, or, in the alternative, permission to submit sworn affidavits addressing the factual basis for standing. The standard for intervention is not whether the Division is capable of analyzing groundwater impacts, but whether Desert Ram’s legally protected interests are or will be affected by the proposed operations. If agency review alone were sufficient to defeat standing, no surface owner or water-right holder could ever establish standing in a UIC proceeding—an outcome not contemplated by the Act, the rules, or due process principles.

The Order concludes that Desert Ram failed to identify groundwater wells, water rights, and site-specific facts demonstrating a plausible nexus between the proposed injection operations and Desert Ram’s interests. Those conclusions turn on factual issues—not legal deficiencies—and can be efficiently addressed through a narrow evidentiary record.

A limited hearing would allow Desert Ram to:

1. Identify its surface ownership, water rights, and groundwater wells;
2. Describe its water rights and reliance on the aquifer;
3. Address the spatial relationship between its lands and Select’s modeled pressure propagation; and
4. Clarify why the risk to its interests is real and non-speculative.

Such a hearing would:

- be limited to standing only;
- require minimal time;
- not reopen the merits of the applications; and
- Assist the Hearing Examiner in resolving standing based on a complete and accurate record.

This request is materially distinguishable from the intervention sought by Pilot Water Solutions.

Desert Ram is not a competitor, does not seek to litigate economic impacts, and asserts legally protected surface and groundwater interests directly implicated by the proposed operations.

REQUESTED RELIEF

For the foregoing reasons, Desert Ram respectfully requests that the Hearing Examiner:

1. Reconsider and vacate the Order striking Desert Ram's Entry of Appearance and Notice of Intervention and Deny Select's Motion to Strike; or
2. Reconsider and vacate the Order striking Desert Ram's Entry of Appearance and Notice of Intervention;
3. Admit Desert Ram's Self-Affirmed Statement for purposes of standing; and,
4. Set a limited evidentiary hearing confined to standing, or, in the alternative, permit Desert Ram to submit sworn affidavits within a brief preparation window addressing the factual basis for standing, prior to reaffirming or modifying the standing determination.

Respectfully Submitted,

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**STATE OF NEW MEXICO  
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CONSERVATION DIVISION**

**APPLICATIONS OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 25547, 25548,  
25899 & 25900**

**SELF-AFFIRMED STATEMENT OF TIM JURCO**

1. I am employed by Desert Ram South Ranch, Inc. (Desert Ram) as Manager. I am over the age of eighteen (18), am competent to testify, and have personal knowledge of the matters set forth herein. I submit this Self-Affirmed Statement in support of Desert Ram's Motion for Reconsideration and Renewed Motion for Limited Evidentiary Hearing on Standing before the New Mexico Oil Conservation Division.
2. I am a Manager at Desert Ram and am familiar with Desert Ram's landholdings, agricultural operations, groundwater wells, and water rights in Lea County, New Mexico.
3. Desert Ram owns and leases surface lands used for ranching and agricultural operations within Township 26 South, Range 35 East and Township 26 South, Range 36 East, Lea County, New Mexico. These lands are located within the same township and surrounding area in which Select Water Solutions, LLC proposes four high-volume saltwater disposal wells in Case Nos. 25547, 25548, 25899, and 25900.
4. Desert Ram holds valid New Mexico groundwater rights and permits, including but not limited to:
  - Water Right File Nos. J3, J4, J25/26, J33-L, J34-L
  - Water Right File Nos. CP-465, CP-1170, CP-1263, CP-1351
  - Water Right File Nos. CP-1728, CP-4239, CP-4241

These water rights are actively exercised and are essential to Desert Ram's ongoing agricultural and ranching operations. They constitute legally protected property interests under New Mexico law.

5. Desert Ram owns and operates multiple points of diversion / groundwater wells used to supply water from the above-identified water rights for its ranching and agricultural operations, including wells commonly identified as:
 

• J00003	• J00034 POD 1	• CP 01170 POD 6
• J00003 POD2	• CP 00465 POD 1	• CP 01267 POD 1
• J00004 POD 1	• CP 01170 POD 1	• CP 01263 POD 1
• J00025 POD 1	• CP 01170 POD 2	• CP 01263 POD 2
• J00025 POD 3	• CP 01170 POD 3	• CP 01263 POD 3
• J00026 POD 1	• CP 01170 POD 4	• CP 01263 POD 4
• J00033 POD 1	• CP 01170 POD 5	• CP 01263 POD 6

- CP 01263 POD 7
- CP 01263 POD 8
- CP 01351 POD 1
- CP 01351 POD 2
- CP 01728 POD 1
- CP 01728 POD 2
- CP 01728 POD 3
- CP 01728 POD 5

6. Desert Ram's groundwater wells draw from a laterally continuous freshwater aquifer that underlies the township in which Select proposes to locate the four saltwater disposal wells and that necessarily overlies the proposed injection intervals. Desert Ram's operations depend on the continued quality and hydraulic integrity of this aquifer.
7. Based on Select's applications and associated Area of Review materials, Desert Ram's surface lands, groundwater wells, and water rights are located within areas affected by Select's modeled pressure propagation, which Select's own reservoir modeling indicates may extend out to approximately two miles from the proposed wells over the life of injection.
8. If pressure migration, fracture communication, or fluid movement were to occur nearer to the proposed injection wells, impairment within the aquifer would not be confined to the immediate vicinity of the wellbore. Such impairment could propagate through the connected groundwater system supplying Desert Ram's wells through normal groundwater flow and cone-of-depression effects.
9. The potential for impairment of groundwater quality or pressure conditions within the aquifer supplying Desert Ram's wells constitutes a **concrete and non-speculative risk of injury** to Desert Ram's water rights and agricultural operations, irrespective of surface distance from the injection locations.
10. I provide this Self-Affirmed Statement solely to identify Desert Ram's specific surface ownership, groundwater wells, and water rights, and to explain the basis for Desert Ram's standing concerns. Desert Ram does not seek, through this Statement, to litigate the merits of Select's applications, but only to demonstrate that its legally protected interests are plausibly and directly at risk from the proposed injection operations.
11. I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct to the best of my knowledge.

/s/ Tim Jurco

\_\_\_\_\_  
Tim Jurco

Feb. 5, 2026

\_\_\_\_\_  
Date

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

**APPLICATIONS OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 25547, 25548,  
25899 & 25900**

**DESERT RAM'S NOTICE OF INTERVENTION (NUNC PORO TUNC)**

Desert Ram South Ranch, Inc. ("Desert Ram"), by and through undersigned counsel, hereby gives notice of its intervention in the above matters, pursuant to 19.15.4.10 NMAC.

1. **Intervenor:** Desert Ram South Ranch, Inc.
2. **Address / Counsel:** [as before]
3. **Nature of Interest:** Desert Ram is a surface owner and agricultural operator holding legally protected groundwater rights and operating freshwater wells drawing from the aquifer underlying the township in which Select proposes four high-volume saltwater disposal wells. Desert Ram's water rights and wells are subject to a real, non-speculative risk of injury from pressure propagation and subsurface uncertainty identified in Select's applications. See *Self-Affirmed Statement of Tim Jurco* for additional discussion of interest.
4. **Position:** Desert Ram opposes issuance of the requested orders absent appropriate factual development and safeguards.

Desert Ram previously filed an Entry of Appearance and Objection intended to effect intervention under Rule 19.15.4.10. This Notice is filed out of an abundance of caution and does not seek to expand the scope of participation beyond the standing issues presently before the Division.

Respectfully Submitted,

/s/ Matthias Sayer

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*Counsel for Desert Ram, Inc.*

## CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2026, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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

**APPLICATIONS OF SELECT WATER  
SOLUTIONS, LLC FOR APPROVAL  
OF A SALTWATER DISPOSAL WELL,  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 25547, 25548,  
25899 & 25900**

**SELF-AFFIRMED STATEMENT OF TIM JURCO**

1. I am employed by Desert Ram South Ranch, Inc. (Desert Ram) as Manager. I am over the age of eighteen (18), am competent to testify, and have personal knowledge of the matters set forth herein. I submit this Self-Affirmed Statement in support of Desert Ram's Motion for Reconsideration and Renewed Motion for Limited Evidentiary Hearing on Standing before the New Mexico Oil Conservation Division.
2. I am a Manager at Desert Ram and am familiar with Desert Ram's landholdings, agricultural operations, groundwater wells, and water rights in Lea County, New Mexico.
3. Desert Ram owns and leases surface lands used for ranching and agricultural operations within Township 26 South, Range 35 East and Township 26 South, Range 36 East, Lea County, New Mexico. These lands are located within the same township and surrounding area in which Select Water Solutions, LLC proposes four high-volume saltwater disposal wells in Case Nos. 25547, 25548, 25899, and 25900.
4. Desert Ram holds valid New Mexico groundwater rights and permits, including but not limited to:
  - Water Right File Nos. J3, J4, J25/26, J33-L, J34-L
  - Water Right File Nos. CP-465, CP-1170, CP-1263, CP-1351
  - Water Right File Nos. CP-1728, CP-4239, CP-4241

These water rights are actively exercised and are essential to Desert Ram's ongoing agricultural and ranching operations. They constitute legally protected property interests under New Mexico law.

5. Desert Ram owns and operates multiple points of diversion / groundwater wells used to supply water from the above-identified water rights for its ranching and agricultural operations, including wells commonly identified as:
 

• J00003	• J00034 POD 1	• CP 01170 POD 6
• J00003 POD2	• CP 00465 POD 1	• CP 01267 POD 1
• J00004 POD 1	• CP 01170 POD 1	• CP 01263 POD 1
• J00025 POD 1	• CP 01170 POD 2	• CP 01263 POD 2
• J00025 POD 3	• CP 01170 POD 3	• CP 01263 POD 3
• J00026 POD 1	• CP 01170 POD 4	• CP 01263 POD 4
• J00033 POD 1	• CP 01170 POD 5	• CP 01263 POD 6

- CP 01263 POD 7
- CP 01263 POD 8
- CP 01351 POD 1
- CP 01351 POD 2
- CP 01728 POD 1
- CP 01728 POD 2
- CP 01728 POD 3
- CP 01728 POD 5

6. Desert Ram's groundwater wells draw from a laterally continuous freshwater aquifer that underlies the township in which Select proposes to locate the four saltwater disposal wells and that necessarily overlies the proposed injection intervals. Desert Ram's operations depend on the continued quality and hydraulic integrity of this aquifer.
7. Based on Select's applications and associated Area of Review materials, Desert Ram's surface lands, groundwater wells, and water rights are located within areas affected by Select's modeled pressure propagation, which Select's own reservoir modeling indicates may extend out to approximately two miles from the proposed wells over the life of injection.
8. If pressure migration, fracture communication, or fluid movement were to occur nearer to the proposed injection wells, impairment within the aquifer would not be confined to the immediate vicinity of the wellbore. Such impairment could propagate through the connected groundwater system supplying Desert Ram's wells through normal groundwater flow and cone-of-depression effects.
9. The potential for impairment of groundwater quality or pressure conditions within the aquifer supplying Desert Ram's wells constitutes a **concrete and non-speculative risk of injury** to Desert Ram's water rights and agricultural operations, irrespective of surface distance from the injection locations.
10. I provide this Self-Affirmed Statement solely to identify Desert Ram's specific surface ownership, groundwater wells, and water rights, and to explain the basis for Desert Ram's standing concerns. Desert Ram does not seek, through this Statement, to litigate the merits of Select's applications, but only to demonstrate that its legally protected interests are plausibly and directly at risk from the proposed injection operations.
11. I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct to the best of my knowledge.

/s/ Tim Jurco

\_\_\_\_\_  
Tim Jurco

Feb. 5, 2026

\_\_\_\_\_  
Date

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

**APPLICATION OF DESERT RAM SOUTH  
RANCH FOR DE NOVO HEARING.**

**CASE NO. 26053**

**SELF-AFFIRMED STATEMENT OF  
NATHAN ALLEMAN**

I, Nathan Alleman state as follows:

1. I am over eighteen years of age and have personal knowledge of the matters stated herein.

I am the President and Chief Regulatory Advisor for Ace Energy Advisors.

2. I have previously testified before the New Mexico Oil Conservation Division (“Division” or “NMOCD”) as well as the New Mexico Oil Conservation Commission (“Commission” or “NMOCC”) as an expert witness in saltwater disposal well permitting and regulatory matters. My credentials as an expert in regulatory matters and permitting of saltwater disposal wells (SWDs) have been accepted by the Division and Commission, and made a matter of record.

3. In summary, I received a Bachelor’s Degree in Biology from Pittsburg State University in 2007 and a Master’s Degree in Environmental Policy and Management from the University of Denver in 2013. I have worked in the oil and gas industry for almost 20 years as an environmental and regulatory consultant supporting operators in a variety of roles and on a variety of issues across the country. In 2018, while working at ALL Consulting (ALL), I began serving as the SWD Team Lead where I managed a team of interdisciplinary experts including regulatory specialists, geologists, and engineers. Since that time, I have managed the permitting of over 200 SWDs, over 150 of which were located in New Mexico. In those efforts, my specific responsibilities consisted of a variety of tasks including, but not limited to, staying up to date with current SWD regulations and permitting requirements; performing/preparing pre-application desktop location analyses,

production reviews, AOR Evaluations, wellbore diagrams, and water sampling; identifying and notifying Affected Persons; preparing and publishing public notices; and compiling and submitting applications, or managing other specialists in doing the same. I believe these credentials qualify me to testify as an expert in these areas.

#### **BASIS AND SCOPE OF TESTIMONY**

4. I am familiar with the applications filed by Select Water Solutions, LLC (Select) in Case Nos. 25547, 25548, 25899, and 25900 for approval of the proposed Javelina Fed 4 SWD #1, Jackrabbit Fed SWD #1, Coyote Fed SWD #1, and the Roadrunner Fed 26 SWD #1, and associated Form C-108 supporting materials.

5. I have conducted an initial review of Select's C-108 filings, specifically including the Area of Review (AOR) tables, well construction summaries, and wellbore diagrams (WBD), as well as underlying OCD well records and completion reports for wells identified within the AOR.

6. I submit this affidavit to address certain deficiencies in Select's evaluation of:

- a. Penetrating wells within the AOR;
- b. Identification of "problem wells"; and
- c. Accuracy of wellbore construction and plugging representations.

#### **PURPOSE OF TESTIMONY**

7. My testimony evaluates whether Select's AOR evaluations were adequate to identify wells that could provide pathways for injected fluid to migrate outside the permitted injection interval, in accordance with 19.15.26 NMAC and the General Conditions of OCD Injection Permits.

8. Specifically, I address:

- a. Misclassification of wells as non-penetrating based solely on total depth;

- b. Failure to identify wells as “problem wells” when the wells’ construction does not isolate the injection interval; and
- c. Inaccuracies in characterizations and representations of plugged wells.

## **AOR EVALUATION FRAMEWORK**

9. AOR evaluations require a detailed review and analysis of well records for each identified well to determine if any of the wells:

- a. Penetrate the top of the proposed injection formation or lack adequate data to confirm whether the offset well penetrates the proposed injection formation. This is an evaluation of whether the offset well penetrates proposed injection formation itself, not simply a comparison of the offset well’s total vertical depth to the proposed injection interval depths;
- b. Have well casing, cement, and/or plugs that may not be adequate to provide isolation of the injection interval.

10. A well that penetrates the injection formation but lacks adequate isolation can serve as a pathway for vertical or lateral fluid migration, regardless of whether it protects underground sources of drinking water (“USDW”).

## **EXAMPLE 1 MISCLASSIFICATION OF PENETRATING WELLS**

(Roadrunner Fed 26 SWD #1)

11. Select’s AOR table for the Roadrunner Fed 26 SWD #1 identifies certain wells as not penetrating the injection interval based on total depth comparisons.

12. However, review of OCD well records shows that several of these wells do in fact penetrate the Delaware Sands/Bell Canyon injection formation by approximately 100 to 244 feet.

13. This difference in the depth to the top of the proposed injection formation at the proposed SWD as compared to the offset wells is a common occurrence based on geologic variability and structural dip, which causes the top of a formation to vary from location to location, making a comparison of total vertical depths inadequate to determine whether the offset well actually penetrates the proposed injection interval.

14. Because Select's identified confining interval lies above the injection formation, any well that penetrates the injection formation should be treated as a penetrating well for AOR purposes.

15. These wells are plugged; however, since Select did not identify the wells as "penetrating wells", plugged WBDs were not prepared for the wells to allow for evaluation of the suitability of the wells' casing, cement, and plugs to isolate injected fluids to the permitted injection interval.

16. In my opinion, these wells should have been:

- a. Classified as penetrating wells; and
- b. Evaluated for potential migration pathways.

## **EXAMPLE 2 – FAILURE TO IDENTIFY A PROBLEM WELL**

(Arena Roja Federal Unit #006 – Jackrabbit Fed SWD #1)

17. Select's AOR table for the Jackrabbit Fed SWD #1 identifies the Arena Roja Federal Unit #006 well (API No. 30-025-27752) as having "No Issues."

18. However, review of well construction details shows the well's casing and cement placement do not isolate the injection interval.

19. Specifically, per well records, the depth of cement on the 9-5/8" casing is insufficient to prevent movement of injected fluids outside the injection interval.

20. As a result, injectate could migrate vertically outside the injection zone and may result in annular pressure.

21. Although the well may be protective of USDW, it does not ensure that injected fluids will be confined to the permitted injection interval.

22. In my opinion, this well should be classified as a “problem well” because it presents a potential pathway for injected fluids to migrate out of the permitted injection interval.

### **EXAMPLE 3 – INACCURATE PLUGGED WELL REPRESENTATION**

*(30-025-20999 – Javelina Fed 4 SWD #1)*

23. Select’s application includes a plugged WBD indicating a cement plug placed across the top of the Delaware Sands.

24. However, review of well records (i.e. Completion Report) found on OCD’s online well files shows that the plug was actually placed above both the Delaware Sands and the Lamar formation, not across the top of the Delaware Sands as is stated on the plugged WBD.

25. Because the plug is located above the injection interval, it does not isolate the injection formation.

26. Under this configuration, injected fluids could migrate outside the injection interval before encountering the plug.

27. In my opinion, the WBD provided in the application does not accurately reflect the well’s actual configuration, per OCD well records, or its ability to confine injected fluids to the permitted injection interval.

### **EXAMPLE 4 – FAILURE TO IDENTIFY A PROBLEM WELL**

*(30-025-46152 – Coyote Fed 14 SWD #1)*

28. Select’s AOR table for the Coyote Fed 14 SWD #1 identifies this offset (API No. 30-025-46152) as having “No Issues.”

29. However, review of well construction details shows the well's casing and cement placement do not isolate the injection interval.

30. Specifically, per well records, the top of cement on the 8-5/8" casing is insufficient to cover and isolate the injection interval.

31. As a result, injected fluids could migrate vertically outside the permitted injection zone.

32. Additionally, the lack of annular cement above the proposed injection formation could allow injected fluids to migrate vertically and put pressure on the surface casing shoe which is located only 86 ft below the top of the Rustler formation, which in Lea County, NM is commonly used to determine the base of the lowermost USDW.

33. In my opinion, this well should be classified as a "problem well" because it presents a potential pathway for injected fluids to migrate out of the permitted injection interval and may pose a threat of communication with the USDW.

## **OVERALL CONCLUSIONS**

34. These examples demonstrate that Select's AOR evaluations:

- a. Do not consistently evaluate formation penetration using actual formation tops;
- b. Do not adequately identify wells whose construction may not confine injected fluids to the permitted injection interval; and
- c. In some instances, fail to accurately reflect the actual well construction details as found in the available well records, and then rely upon the inaccurate data to evaluate whether the offset well might be considered a "problem well".


35. Proper AOR evaluation requires:

- d. Review of formation tops and geologic context;

- e. Evaluation of whether well construction isolates the injection interval; and
  - f. Accurate representation of well construction and plugging details.
36. Failure to properly evaluate these factors increases the risk that injected fluids may migrate outside the permitted injection interval.

37. I understand this Self-Affirmed Statement will be used as written testimony in this case.

I affirm my testimony above is true and correct and is made under penalty of perjury under the laws of the State of New Mexico. My testimony is made as of the date identified next to my signature below.

  
\_\_\_\_\_  
Nathan Alleman

04/15/2026  
\_\_\_\_\_  
Date