

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

FOR THE CONSIDERATION OF:
APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 24674
ORDER NO. R-21104-F

APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 25137
AMENDED CASE NO. 24837
OCDER NO. R-23748

APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 22536
ORDER NO. R-21123-C

APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 24963
AMENDED CASE NO. 25233
ORDER NO. R-21096-F

APPLICATION OF PERMIAN RESOURCES
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 26060

RESPONSE IN OPPOSITION TO PERMIAN MOTION TO DISMISS AND MOTION TO STRIKE
American Energy Resources LLC through its representative Jonathan Samaniego,
respectfully opposes Permian Resources Operating LLC Motion to Dismiss.

1. AMERICAN HAS STANDING AND A PROTECTABLE INTEREST

Permian's motion admits that Jonathan Samaniego owns a mineral interest and working interest in the Water Buffalo development Order No. R-23748 in Case No. 25137 and Amended Case no. 24837, but failed to recognize American mineral interest and working interest in the Barney or Betty development Order No. R-21104-F in Case No. 24674, and Water Buffalo development Order No. R-23748 in Case No. 25137 and Amended Case no. 24837, and Barney or Betty development Order No. R-21123-C in Case No. 22536, and Caveman development Order No. R-21096-F in Case No. 24963 and Amended Case no. 25233. The filing further confirms that Jonathan Samaniego was specifically identified as an interest owner and recipient in the mentioned cases.

Because American and Mr. Samaniego possess a recognized property interest directly affected by the pooling orders and related proceedings, they have standing to raise due process concerns, notice deficiencies, procedural irregularities, and jurisdictional objections affecting those interests.

Permian cannot simultaneously acknowledge Mr. Samaniego as an interest owner for purposes of compulsory pooling while denying his right to challenge the validity or administration of those proceedings.

2. QUESTIONS REGARDING NOTICE AND DELIVERY REMAIN UNRESOLVED

Permian argues that notice was proper merely because a certified mail was sent. However, the exhibits attached to Permian's own motion undermine that assertion and should be denied in its entirety because Permian's own exhibits establish that notice was improper, defective, and constitutionally insufficient.

- 1) Permian repeatedly asserts that notice was properly served upon Mr. Samaniego by certified mail. However, the very USPS records attached by Permian directly contradict that claim.
- 2) Permian's own exhibits demonstrate that certified mail tracking number 9589071052700581156858 addressed to Mr. Samaniego, was returned to sender on March 15, 2025.
- 3) A returned certified mailing is not proof of completed notice. It is proof that notice failed.
- 4) Permian cannot simultaneously argue: (a) notice was successfully provided; and (b) the certified mailing was returned back to the sender.
- 5) Those positions are irreconcilable.

- 6) Permian further admits that additional mailings to Mr. Samaniego remained indefinitely “In Transit” without delivery confirmation.
- 7) “In Transit” is not proof of receipt, not proof of delivery, and not proof of constitutionally adequate notice.
- 8) Permian bears the burden of demonstrating compliance with notice requirements under 19.15.4 NMAC and due process standards. Permian failed to provide evidence of actual completed delivery for the certified notice upon which it relies.
- 9) Instead, Permian attached documentary evidence proving the opposite by failed delivery and returned mail.
- 10) Permian’s motion is additionally misleading because it selectively characterizes the record while omitting the dispositive fact that the certified mailed was returned.
- 11) Permian’s assertion that “notice was proper” is therefore unsupported by its own evidence and lacks credibility.
- 12) Permian improperly attempts to convert disputed factual issues regarding notice into a motion to dismiss. Whether notice was legally sufficient is inherently a factual matter requiring evidentiary examination, not summary dismissal.
- 13) Permian also attempts to avoid scrutiny of defective notice by arguing about timeliness and standing. However, defective notice invalidates the procedural foundation upon which those arguments depend.
- 14) A party deprived of proper notice cannot reasonably be expected to comply with deadlines arising from proceedings of which the party was not properly notified.
- 15) Permian’s argument effectively asks the Division to reward failed notice by insulating the resulting orders from review. Such a position violates fundamental due process principles.
- 16) Permian’s motion further relies on inflammatory and irrelevant attacks concerning statements allegedly made in unrelated proceedings. Those allegations are immaterial to whether lawful notice was provided in this matter and serve no purpose other than prejudice and distraction.
- 17) The issue before the Division is straightforward: Permian’s own exhibits show failed certified delivery and returned mail.
- 18) That alone defeats Permian’s claim that notice was proper as a matter of law.
- 19) The Hearing Examiner has already rejected Permian’s earlier dismissal attempt after procedural efficiencies were identified by Mr. Samaniego. Permian now repackages the same defective arguments while continuing to ignore the contradictions in its own evidence.

The Postal Delivery reports show that multiple certified mailings to Jonathan Samaniego remained “In Transit”, delayed, or returned to sender. Specifically, one mailing was returned to the original sender on March 15, 2025.

These records create factual disputes concerning whether constitutionally sufficient notice was actually completed, whether delivery occurred within legally meaningful timeframes, and whether affected parties received a fair opportunity to respond before orders became final.

As the motion to dismiss stage, factual disputes regarding notice must be construed in favor of allowing the matter to proceed.

3. PROCEDURAL DEFECTS DO NOT JUSTIFY DISMISSAL

Permian’s primary argument is technical: that American referenced the OCC rather than the Division in portions of its filing. Such clerical or procedural issues are not grounds for dismissal where substantive rights are implicated.

Administrative tribunals routinely construe filings liberally, particularly where property rights and due process protections are involved. The substance of American’s filing clearly identified the challenged orders, the relief requested, and the underlying legal concerns. No prejudice to Permian has been shown.

Dismissal based on captioning or tribunal reference technicalities would elevate form over substance and deny meaningful review.

4. THE HEARING EXAMINER HAS ALREADY REJECTED A PRIOR DISMISSAL ATTEMPT

The record reflects that the hearing examiner previously denied Permian’s earlier motion to dismiss. The hearing examiner further instructed that any renewed motion must accurately state the opposing party’s position and permit a response period. This prior denial demonstrates that dismissal is neither automatic nor procedurally appropriate under the circumstances presently before the Division.

5. AMERICAN CLAIMS OF THE PROCESS DO NOT WAIVE ITS RIGHTS

Permian improperly attempts to characterize Mr. Samaniego’s prior claims of the OCC and OCD process as grounds for dismissal. A party’s claims of perceived bias, unfairness, or procedural deficiencies do not waive constitutional rights nor eliminate standing.

To the contrary, allegations of arbitrary treatment, unequal enforcement, or procedural unfairness are precisely the types of claims administrative review processes are designed to address.

American retains the rights to preserve objections while simultaneously seeking relief through available administrative procedures.

6. DISMISSAL WOULD BE PREMATURE

This matter involves unresolved factual and legal questions concerning:

- 1) Adequacy of notice,
- 2) Affected party rights,
- 3) Procedural fairness,
- 4) Validity of pooling administration,
- 5) and the effect of delivery failures reflected in Permian's own exhibits.

Such issues are more appropriately addressed on a developed evidentiary record rather than through summary dismissal.

Furthermore, American motions to strike, disqualify counsel, and for sanctions against Adam G. Rankin and Paula M. Vance from the record.

In support thereof, American states:

- 1) Mr. Rankin and Ms. Vance has engaged in a continuing patter of bad faith conduct designed to improperly influence the Division and prejudice American rights through misleading procedural representations and materially inaccurate factual assertions.
- 2) The Division has already acknowledged procedural deficiencies associated with Permian's deficiencies associated with Permian's prior dismissal effort.
- 3) On May 14, 2026, the Hearing Examiner denied Permian's earlier motion to dismiss after determining the filing improperly characterized the opposing party's position and failed to accurately comply with procedural requirements.
- 4) The Division specifically instructed that if Permian wishes to refile a motion to dismiss it must accurately include the other party's position.
- 5) Despite Mr. Rankin and Ms. Vance actions of proceeding to file another motion continuing the same pattern of misleading conduct.
- 6) Most significantly, Mr. Rankin and Ms. Vance knowingly represented to the Division that notice was proper while simultaneously attaching documentary exhibits proving the opposite.
- 7) Permian's own USPS tracking exhibits demonstrate that certified mail directed to Mr. Samaniego was returned to sender and never successfully completed delivery.

- 8) Permian's supposable mailings remained indefinitely "In Transit" without proof of completed delivery.
- 9) Mr. Rankin and Ms. Vance nevertheless affirmatively represented to the Division that notice was proper and sufficient.
- 10) A Lawyer cannot attach documentary evidence disproving his own factual assertions while simultaneously asking the tribunal to rely upon those assertions as true.
- 11) Such conduct constitutes a material misrepresentation to the tribunal and demonstrates either:(a) reckless disregard for the accuracy of representations made to the Division; or (b) intentional bad faith conduct designed to mislead the tribunal.
- 12) Either circumstance warrants, sanctions or disqualification or both.
- 13) Mr. Rankin and Ms. Vance further engaged in improper conduct by injecting inflammatory and prejudicial allegations unrelated to the legal issue before the Division.
- 14) Rather than addressing the merits of defective notice, Mr. Rankin and Ms. Vance attempted to divert attention through personal attacks and selective quotations from unrelated proceedings.
- 15) Such tactics are improper, prejudicial, and inconsistent with the obligations of candor and professionalism required before administrative tribunals, that lack any reasonable factual or legal basis and serves no purpose other than to delay justice.
- 16) Mr. Rankin and Ms. Vance conduct has materially prejudiced American by forcing unnecessary litigation over issues contradicted by Permian's own evidence.
- 17) Moreover, Mr. Rankin and Ms. Vance actions undermine confidence in the integrity of the proceedings and impair the Division's ability to fairly adjudicate the matter.
- 18) Disqualification is appropriate where counsel's conduct demonstrates bad faith, abuse or process, misrepresentation, or conduct prejudicial to the administration of justice.
- 19) Sanctions are additionally appropriate because lessor corrective measures have already been proven ineffective after the Division previously denied Permian's defective dismissal effort and instructed counsel regarding procedural deficiencies.
- 20) Sanctions are additionally appropriate because the Counsel of Permian should be additionally sanctioned from filing additional frivolous motions without demonstrating factual basis with standing and merit for its claims.

21) Despite those warnings, Mr. Rankin and Ms. Vance escalated the misconduct by refileing substantially similar defective arguments while continuing to misrepresent the evidentiary record.

Wherefore, American respectfully requests that the matter proceed to full consideration on the merits, that the Division strike Permian's Motion to Dismiss in its entirety from the record and disqualify Adam G. Rankin and Paula M. Vance from further participation in this matter, impose appropriate sanctions for bad faith conduct and material misrepresentations; prohibit further filings containing unsupported factual assertions regarding notice; grant such additional relief as justice requires; and permit reopening of the proceedings concerning defective notice.

Respectfully submitted,



Jonathan Pennington
P.O. Box 174 Hagerman, NM 88232
(575)492-7330
Energyjs@gmail.com
Representative of American Energy Resources LLC

CERTIFICATE OF SERVICE I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico New Mexico Oil Conservation Commission and was served on counsel of record via electronic mail on 24, 2026:

Paula M. Vance
Post Office Box 2208
Santa Fe, NM 87504
505-988-4421
505-983-6043 Facsimile
pmvance@hollandhart.com
Attorneys for Permian Resources Operating, LLC

Dana S. Hardy
Jaclyn M. McLean
Yarithza Pena
125 Lincoln Ave., Ste. 223
Santa Fe, NM 87501
Phone (505)230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com
ypena@hardymclean.com
Attorneys for Earthstone Permian LLC and Earthstone Operating LLC