

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

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

CASE NO. 24277

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

CASE NO. 24278

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

CASE NOS. 23614-23617

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

CASE NOS. 24018-24027

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN LLC TO AMEND ORDER NO. R-22026/SWD-2403
TO INCREASE THE APPROVED INJECTION RATE
IN ITS ANDRE DAWSON SWD #1,
LEA COUNTY, NEW MEXICO.**

CASE NO. 23775

**MOTION TO LIMIT THE SCOPE OF THE COMMISSION HEARING TO CASES
WITHIN THE EUNICE MONUMENT SOUTH UNIT**

Pursuant to the Scheduling Order orally approved by the Commission at its May 9, 2024, meeting, Goodnight Midstream Permian, LLC (“Goodnight Midstream”) respectfully submits this Motion to Limit the Scope of the Commission Hearing set for September 23-27, 2024. The hearing should be limited to cases pending before the Division and Commission that involve existing or proposed produced water disposal wells within the Eunice Monument South Unit (“EMSU”). The Commission also should hear at the same time Goodnight Midstream’s applications to amend the EMSU’s unitized interval and special pool to exclude the San Andres aquifer, as the legal and factual issues raised completely overlap the EMSU SWD cases.

Specifically, the Director should refer Division Case Nos. 24432, 24434, and 24436 to the Commission for hearing and the Commission should hear all the cases together that are identified in the table attached as **Exhibit A**. Empire New Mexico LLC’s (“Empire”) other pending applications to revoke injection authority for disposal wells operated by Goodnight Midstream outside the EMSU should be dismissed for lack of standing¹ or, in the alternative, stayed pending resolution of the EMSU cases in Exhibit A, along with applications Empire filed targeting SWDs located outside the EMSU operated by third-parties.² In support, Goodnight Midstream states as follows.

INTRODUCTION

The core issues in the dispute between Goodnight Midstream and Empire are whether (1) the San Andres formation within the EMSU contains hydrocarbons that are economically

¹ Goodnight Midstream is filing concurrently herewith a Motion to Dismiss Empire’s applications in Case Nos. 24021-24024, and 24026-24027.

² **Exhibit B** is a table of the cases that should be stayed pending resolution of the EMSU cases in Exhibit A.

recoverable through tertiary recovery (i.e., a residual oil zone or “ROZ”); (2) injection of produced water into the San Andres unreasonably impairs Empire’s ability to produce hydrocarbons within the EMSU from the San Andres and/or from the overlying Grayburg formation thereby causing waste and harming correlative rights;³ and (3) whether the San Andres should be excluded from the unitized interval and special pool that govern the EMSU.

While Empire contends all orders authorizing produced water disposal into the San Andres within the EMSU and up to two miles from its boundary should be terminated and barred,⁴ consolidating all the targeted SWDs and affected parties in a single hearing before the Commission would make for an unwieldy and unmanageable evidentiary proceeding. More troublesome, Empire still has not filed applications to revoke all similarly situated SWDs outside the EMSU.⁵ That puts at risk a fair and equitable hearing if the Commission were to include only SWDs outside the EMSU that Empire has specifically targeted. Accordingly, the Commission should limit the scope of the hearing to only cases involving SWDs within the EMSU and Goodnight Midstream’s applications to amend the EMSU unitized interval and special pool rule for at least the following reasons.

³ We note that any concerns about alleged waste or impairment of correlative rights with respect to purported economic hydrocarbons in the EMSU’s San Andres must be evaluated against substantial existing production in the Delaware Basin that will be materially impaired by shutting off a critical produced water disposal zone in the San Andres.

⁴ Testimony of William West, Empire Amended Exhibits Case Nos. 23614-23617, Empire Exhibit G-2, addressing active and proposed SWDs inside the EMSU: “Any and all third-party water disposal oil and gas unit [sic] must be immediately stopped. 1. no increases on disposal volumes. 2. any new applications must be revoked[.] 3. existing well permits should be revoked.” (emphasis added); Empire Exhibit G-6: “No wells within 2 miles of unit boundary should be allowed. No disposal 1,000 feet above or below any productive zone should be allowed. Depending on the volumes, disposal volumes within 2-5 miles must be approved by all unit holders.” (emphasis added).

⁵ Inexplicably, Empire has omitted filing an application to revoke the injection authority of the Parker Energy SWD #005 Well (API No. 30-025-38789), operated by Parker Energy Support Services, Inc., even though it is closer to the EMSU boundary than the State E Tract 27 Well #001 (API No. 30-025-26317), operated by Rice Operating, and the subject of Case No. 24435.

First, grouping all the cases together in a single hearing—or even just all the cases in which Empire targets Goodnight Midstream SWDs—will not result in administrative efficiencies; rather, the opposite will result. Combining the EMSU cases with non-EMSU cases in a single hearing will result in an unwieldy process requiring mini hearings within a hearing on disparate legal and factual issues.

Second, including all the non-EMSU cases Empire targets in a single hearing will bring in an additional 12 SWDs and additional parties. More concerning, including these additional wells will exclude at least one SWD that is similarly situated relative to the wells Empire is targeting. That raises the risk of an arbitrary and capricious agency action and an inequitable outcome.

Third, the legal framework governing the EMSU pool and unitized interval is significantly different compared to the pool and formations outside the EMSU, requiring a different legal analysis for the EMSU cases that is inapplicable to the non-EMSU cases. Commission Order Nos. R-7765 and R-7767 that authorized the creation of the EMSU under the Statutory Unitization Act and created a special oil pool within the EMSU create unique legal issues that are inapplicable to the non-EMSU cases.

Fourth, focusing on just the EMSU SWD cases will allow the Commission to address the core claims Empire raises without additional complicating factors of numerous additional wells, operators, and a disparate legal framework. Only if there is merit to Empire's claims, would it be potentially necessary to evaluate impacts from SWDs outside the EMSU.

Finally, staying the non-EMSU cases for a later hearing or hearings will not prejudice Empire or result in immediate or imminent harm. Empire confirmed as much by taking arguing to the Commission that its recently filed applications to revoke injection authority of SWDs in

and around the EMSU can be stayed pending resolution of their cases against Goodnight Midstream.

Argument

I. The Facts and Evidence Between the EMSU and Non-EMSU SWD Cases Will Vary Substantially.

In all, Empire targets a total of 16 existing SWD permits authorized to inject produced water into the San Andres formation and 5 proposed SWDs in and around the EMSU operated by four different parties Empire claims cause waste and impair correlative rights within the EMSU. See **Exhibit C**.⁶ Eight of the targeted SWDs actively inject produced water within the EMSU. See Case Nos. 24018-24020, 24025 (Goodnight Midstream – Andre Dawson, Ernie Banks, Ryno, and Sosa, respectively); Case No. 24432 (OWL SWD Operating LLC – P 15 #001 SWD); Case No. 244343 (Rice Operating – EME SWD #021);⁷ and Case No. 24436 (Rice Operating – N 11 #001 Well). It is undisputed that these SWDs inject produced water into the San Andres within EMSU's unitized interval.

Importantly, all the SWDs or proposed SWDs within the EMSU are the subject of an application to revoke injection authority pending before either the Division or Commission. That means once the EMSU SWD cases pending before the Division are referred to the Commission, the Commission will have all the cases at issue involving SWDs in the EMSU set up for hearing together at one time.

The contested issues for these EMSU cases are whether the San Andres is an economic ROZ and whether injection of produced water causes waste, impairs correlative rights, or

⁶ Map of EMSU-area SWDs depicting San Andres produced water disposal wells including first injection date and cumulative injection volumes.

⁷ This well has been injecting produced water into the San Andres since 1966—almost two decades before the EMSU was approved as a statutory waterflood unit in 1984.

otherwise interferes with operations in the EMSU. Because these EMSU SWDs all inject produced water in the San Andres within the EMSU, the facts and analyses as to these claims will be the same for each well.

In contrast, the SWD permits that Empire targets outside the EMSU are located varying distances from the Unit boundary—anywhere from less than 200 feet away (Case No. 24433, Rice Operating EME SWD #033M)⁸ to more than a mile away (*see, e.g.*, Case No. 24435, Rice Operating State E Tract 27 Well #001). *See* **Exhibit D**.⁹ Despite this carpet-bomb approach, Empire inexplicably excluded from its hit list the Parker Energy SWD #005 (API No. 30-025-38789), operated by Parker Energy Support Services, Inc., located in Section 24 (Unit A), Township 21 South Range 36 East, Lea County, New Mexico. It is closer to the EMSU than the State E Tract 27 Well #001 that Empire targets in Case No. 24435 and the N 7 #001 well in Case No. 24439 and has injected nearly 8 million barrels of produced water since commencing injection in 2015, or about 1,600 times volumes than the N 7 #001 well. *See* **Exhibit C**.

As to the SWDs Empire targets outside the EMSU, Empire has not articulated a factual basis for its allegation that injection from these wells cause waste or impair correlative rights in the EMSU. Empire's speculation based on "information and belief" that injection from these wells reaches the EMSU's unitized interval fails to establish a basis for standing to file its applications¹⁰ and is heavily contested. Not only will the facts and evidence adduced at hearing necessarily vary substantially between the EMSU and non-EMSU cases—assuming the applications survive the motion to dismiss—but the analyses and evaluations with respect to each

⁸ This well has been injecting produced water—more than 59 million barrels cumulatively to date—since 1960, or about a quarter century before the EMSU was approved in 1984.

⁹ Map showing distances from permitted or proposed SWD locations to the EMSU boundary based on Division records.

¹⁰ *See* Goodnight Midstream's Motion to Dismiss Case Nos. 24021-24024, and 24026-24027, filed contemporaneously herewith.

non-EMSU SWD will also vary from well to well based on the distance from the EMSU boundary and other geologic and engineering factors that influence injection radius and areas of influence. See Exhibit D.

For example, offsetting disposal well injection rates and volumes, and production volumes from nearby water supply wells, are likely to substantially influence water movement in the San Andres within and around the EMSU. See Exhibit E. It will be important therefore to understand how these injection and water supply wells affect injection plumes within the San Andres for each non-EMSU SWD. Localized geologic conditions will also influence each SWD's radius of injection and water migration within the San Andres, especially as there is known reservoir anisotropy/heterogeneity and complex diagenetic alteration in the area. Similarly, produced water chemistries likely vary between SWDs, depending on the sources of injected water, their volumes and ratios, and any treatment protocols instituted over time. Individualized analyses of water chemistries from each non-EMSU SWD may influence whether and to what extent each SWD contributes to the water chemistry within the San Andres that Empire alleges is causing impairment in the EMSU.

As part of its burden as applicant, Empire will have to proffer individualized evidence with respect to each disposal well outside the EMSU to show produced water from each well reaches the EMSU and is causing waste and impairing correlative rights. Likewise, Goodnight Midstream will present individualized evidence in its case-in-chief and on rebuttal contesting Empire's claims as to each well.

The range of issues outlined above are just a few examples of the types of factual issues and analyses that will likely vary between each SWD outside the EMSU. As a result, a hearing with all cases combined will necessarily be presented as a series of hearings within a hearing to

address these individualized issues. Adding these factual complexities puts at risk completing the hearing within a week. The addition of these non-EMSU cases also introduces more uncommon issues between the cases that would need to be addressed and resolved at hearing than issues that are common.

II. Including SWDs Outside the EMSU Implicates Additional SWDs and Parties, Further Complicating Management of the Hearing and Evidentiary Record.

Limiting the hearing to EMSU SWDs keeps the targeted wells at issue to a total of 12 SWDs—seven active disposal wells and five proposed disposal wells operated by three different parties, Goodnight Midstream, OWL, and Rice (excluding Empire’s own SWD). *See Exhibit C*. Including all targeted SWDs outside the EMSU increases the well count to 20 SWDs—six additional active SWDs and two approved SWDs that have not yet been drilled. *See id.* But beyond increasing the number of SWDs that need to be analyzed and evaluated, including these additional SWDs in the hearing also raises two additional complications.

First, including the non-EMSU SWDs will likely bring in at least one additional party that would not be involved if the hearing were limited to SWDs within the EMSU. The N 7 #001 well at issue in Case No. 24439 is operated by Rice, but it is owned by a different entity: Sundance Services West, Inc. It is likely that the owner-entity of the N 7 #001 will seek to be a party at a hearing that will decide the fate of its SWD.

Second, including all Empire’s targeted wells outside the EMSU raises the problem that the Parker Energy SWD #005 (API No. 30-025-38789), operated by Parker Energy Support Services, Inc., would be excluded from the hearing because the well is not yet the subject of an application to revoke. The Parker Energy SWD #005 is closer to the EMSU than at least four other SWDs Empire targets in Case Nos. 24021, 24022, 24435, and 24439. *See Exhibit D*. Thus, including all the SWDs targeted by Empire outside the EMSU means at least one well that is

similarly situated would be inexplicably excluded, raising concerns about excluding affected parties from the hearing and an agency action that is arbitrary and capricious. If the Commission hearing is going to include SWDs outside the EMSU, the Commission should ensure all similarly situated SWDs are joined in the hearing.

But including these additional eight SWDs in the hearing (nine SWDs if Parker Energy SWD #005 is included) unnecessarily complicates resolution of the core issues within the EMSU. It will inject disparate legal and factual matters into the analysis on top of the need to include additional disposal wells and operators outside the EMSU. The Commission should instead stay the non-EMSU cases and sort out the key legal and factual issues Empire alleges directly affect the EMSU—preferably with the input and participation of all disposal well operators affected within the EMSU. Hearing the non-EMSU cases separately later will allow the Commission to properly consider the individualized facts and evidence necessary to decide those cases.

III. The Legal Framework and Issues that Govern the EMSU Cases Are Substantially Different than for the Non-EMSU Cases.

Not only are the factual issues dissimilar between the EMSU and non-EMSU cases, but the legal framework governing the EMSU pool and unitized interval is significantly different compared to the pool and formations outside the EMSU, requiring a different legal analysis for the EMSU cases than for the non-EMSU cases. Commission Order Nos. R-7765 and R-7767 created a discrete legal framework giving rise to legal issues applicable only within the EMSU and to the EMSU cases. It makes no sense to lump non-EMSU cases, which are not subject to the same Commission-created legal framework and EMSU-specific legal challenges, into the same consolidated hearing.

The EMSU—unlike the surrounding acreage—is subject to Commission Order No. R-7765 that was issued pursuant to the Statutory Unitization Act, NMSA 1978, Sections 70-7-1 through 70-7-21. The Statutory Unitization Act has certain required conditions precedent or predicate factual determinations that were not established in the record at the hearing approving the EMSU or were found to exist despite uncontested evidence to the contrary at the time Order No. R-7765 was issued. These legally significant infirmities make the Order’s inclusion of the San Andres aquifer in the unitized interval void ab initio. *See* Application in Case No. 24277.

For example, the Statutory Unitization Act requires the applicant demonstrate that the “reservoir or portion thereof involved in the application has been reasonably defined by development.” § 70-7-5(B). The Statutory Unitization Act also applies only to a hydrocarbon pool or portion of a pool, as defined by the Act. At the hearing, Gulf, the applicant for creation of the EMSU, presented testimony and exhibits demonstrating that the targeted, continuous oil column reasonably defined by development was limited to the Grayburg and Lower Penrose formations and did not extend into the San Andres. The evidence and testimony established that the oil-water contact around and within the EMSU is at a depth of approximately -325 feet subsea, well above the top of the San Andres formation. Gulf’s expert testified that the oil-water contact “determines the lower limit of oil production in the area.” *See* Case No. 8399, Hrg. Tr. 46:24-47:3, 11/7/1984. That means the San Andres had not been “reasonably defined by production” at the time of the EMSU hearing and that it does not meet the definition of a pool or a portion of a pool. Accordingly, and for the additional reasons outlined in Goodnight Midstream’s Application for Case No. 24277, the San Andres aquifer was improperly included within the EMSU’s unitized interval. It does not contain a common accumulation of oil or gas.

And it does not meet the statutory definition of a pool or portion of a pool subject to statutory unitization orders.

Similarly, at the same time the EMSU was approved, Commission Order No. R-7767 created a special pool for the EMSU comprised of the Lower Penrose, Grayburg, and San Andres formations applicable only within EMSU. That means the pool in this area governing the Grayburg-San Andres and its vertical limits is different inside the EMSU than outside it. As a consequence, different pool operators exist outside the EMSU in the Grayburg-San Andres pool than within the EMSU pool, where Empire is the only operator in the special EMSU pool. In creating the EMSU pool under Order No. R-7767, however, the Commission erroneously retained the San Andres aquifer within the EMSU pool in contravention of the Oil and Gas Act, the Statutory Unitization Act, and the Commission's regulations. *See* NMSA 1978, § 70-2-33(B); NMSA 1978, § 70-2-1 through 70-7-21; 19.15.2.7.P(5) NMAC. Like the order creating the EMSU, these legal challenges and others arising from Order No. R-7767 are implicated only within the EMSU, affect only the EMSU cases, and are addressed in Goodnight Midstream's application to amend Commission Order No. R-7767 under Case No. 24278.

Given the distinct legal framework governing the EMSU, the Commission should limit the hearing to only the SWDs and cases that directly implicate the EMSU. That will ensure the legal and factual issues addressed are common to all cases. It also will allow the Commission to evaluate Empire's claims within a relatively discrete area without implicating the viability of injection into the San Andres more generally outside and around the EMSU. *See* **Exhibit C** (depicting existing SWDs injecting produced water into the San Andres in the area).

IV. Empire’s Claims that Produced Water Disposal in the San Andres is Causing Waste and Impairing Operations and Correlative Rights Inside the EMSU Will Be Addressed by the EMSU SWD Cases.

Empire argues in its applications that produced water disposal into the San Andres formation—whether that injection occurs within the boundary of the EMSU or outside the Unit—“impairs the ability of Empire to recover hydrocarbons within the Unitized Interval and thereby adversely affects the correlative rights of Empire and other interest owners in the Unit and results in waste.” *See, e.g.*, Applications in Case Nos. 24018-24027; *see also* Applications in Case Nos. 24432-24436, and 24439. This core claim will be addressed even if the Commission limits the hearing to only the cases involving SWDs within the EMSU.

In all, Empire targets a total of 16 existing SWD permits authorized to dispose produced water into the San Andres formation in and around the EMSU that are operated by four different parties Empire claims cause waste and impair its correlative rights in the EMSU. Eight of the SWDs are within the EMSU boundary. *See* Case Nos. 24018-24020, 24025 (Goodnight Midstream – Andre Dawson, Ernie Banks, Ryno, and Sosa, respectively); Case No. 24432 (OWL SWD Operating LLC – P 15 #001 SWD); Case No. 244343 (Rice Operating – EME SWD #021); and Case No. 24436 (Rice Operating – N 11 #001 Well). It is not disputed that these SWDs inject produced water into the San Andres within the EMSU’s unitized interval.

The SWD permits that Empire targets outside the EMSU are located varying distances from the Unit boundary—anywhere from less than 200 feet away (Case No. 24433, Rice Operating EME SWD #033M) to more than a mile away (*see, e.g.*, Case No. 24435, Rice Operating State E Tract 27 Well #001). Despite this carpet-bomb approach, Empire inexplicably excluded from its hit list the Parker Energy SWD #005 (API No. 30-025-38789), operated by Parker Energy Support Services, Inc., located in Section 24 (Unit A), Township 21 South Range

36 East, Lea County, New Mexico, even though it is closer to the EMSU than the State E Tract 27 Well #001 that Empire targets in Case No. 24435. See **Exhibit D**.

As to these SWDs Empire targets outside the EMSU, Empire has not articulated a factual basis for its contention that injection from these wells causes waste or impairs correlative rights in the EMSU.¹¹ Other than targeting additional SWDs and operators, the applications against non-EMSU SWDs do not raise additional discrete claims that would not otherwise be addressed by the EMSU cases. The claims Empire raises are all at issue in the cases involving SWDs Empire targets within the EMSU.

At bottom, the factual issues to be decided are relatively narrow in scope: Whether an economic residual oil zone (“ROZ”) exists in the San Andres within the EMSU and whether injection of produced water into that formation will cause waste, impair correlative rights, or otherwise interfere with operations in the EMSU. Because it is undisputed that produced water from the SWDs listed in Exhibit A is injected into the San Andres within the EMSU’s unitized interval, addressing claims around only those SWDs first is likely to substantially resolve the disputed issues in all the cases without introducing the burdensome complications of additional parties and SWDs outside the EMSU and additional disparate factual issues, including individualized, multi-factored analyses regarding the radius of injection for each targeted SWD.¹² In other words, no benefit obtains from including at the hearing eight additional SWDs targeted by Empire around the EMSU. The core issues outlined above will be addressed squarely

¹¹ See Goodnight Midstream Motion to Dismiss Case Nos. 24021-24024, and 24026-24027, filed contemporaneously herewith.

¹² The eight cases targeting Goodnight Midstream’s SWDs outside the EMSU that Goodnight Midstream contends should be stayed pending resolution of the September Commission hearing are included in the table attached as **Exhibit B**.

in a hearing involving SWDs injecting directly into the San Andres formation within the EMSU unitized interval.

The claims that will not be addressed are whether and to what extent produced water injected by each of the eight SWDs outside the EMSU targeted by Empire reaches the EMSU unitized interval and, if so, whether those volumes cause waste, harm correlative rights, or impair EMSU operations. If the hearing addresses only the SWDs within the EMSU and the evidence shows there is no economic ROZ in the San Andres and the anhydrite barrier between the Grayburg and San Andres injection zone is competent and sustained across the EMSU area, as already has been established, then Empire's applications attacking non-EMSU SWDs become essentially moot. In contrast, if Empire establishes a potentially economic ROZ exists in the San Andres or that produced water injected into the San Andres harms EMSU operations, then the Commission can hold a subsequent hearing to determine whether and to what extent produced water injected by each of the eight SWDs outside the EMSU reaches the unitized interval and, if so, whether those volumes cause waste, harm correlative rights, or impair EMSU operations. In short, addressing any remaining complex, individualized factual issues associated with the non-EMSU SWDs after first resolving the core claims will substantially streamline the issues to be heard before Commission.

V. Staying the Non-EMSU Cases Will Not Harm Empire.

Empire will not be harmed by a stay of the non-EMSU cases pending resolution of the EMSU cases at the Commission for at least the following three reasons.

First, if disposal of produced water within the San Andres truly presented a dire threat, Empire would discontinue disposing in the San Andres formation itself through its EMSU #001 SWD, which is in the heart of the EMSU. See **Exhibit C**. Empire has not taken even that basic step to protect against its own disposal within the EMSU, let alone seek to revoke the injection

authority of the Parker Energy well that is within one mile of the EMSU boundary—closer than at least four of the SWDs Empire is targeting outside the EMSU. See **Exhibit D**. The fact that Empire has not taken these actions confirms there is no risk of imminent harm.

Second, Empire has no plan or strategy for how or when to conduct tertiary recovery in the San Andres within the EMSU. Goodnight Midstream has repeatedly requested Empire's ROZ plans through discovery only to be told it has no written plans to provide. It also has not articulated how tertiary recovery through a CO₂ flood is technically possible, let alone practical or economic, where the San Andres has been depleted by upwards of 330 million barrels of water within the EMSU without mobilizing a single barrel of oil. Nor has it explained how, after allegedly becoming immobilized through "Nature's Waterflood," oil purportedly present in the San Andres for millions of years is suddenly at risk of adverse impact by injection that started more than two decades before EMSU was created. Empire also does not have the regulatory authorizations in place to inject CO₂ and will need to amend Commission Order No. R-7765 to authorize tertiary recovery and approve a new allocation formula. Even if the San Andres is deemed to be a hydrocarbon pool or a portion of a pool, it has not been reasonably defined by production, making the Statutory Unitization Act inapplicable to govern any proposed ROZ plan of development within the San Andres. In sum, tertiary recovery in the San Andres is barely a concept let alone a potential.

Finally, counsel for Empire took the position at the last Commission status conference on May 9, 2024, that the new applications Empire filed with the Division that target SWDs inside and outside the EMSU—Case Nos. 24432-24439—should be stayed at the Division pending resolution of the Goodnight Midstream SWD cases before the Commission. In other words, Empire is fine deferring a hearing on SWDs that have cumulatively injected more than 146

million barrels of produced water in and around the EMSU—notwithstanding Empire’s claims that injection into the San Andres causes substantial and immediate harm. That position makes plain Empire is punitively singling out Goodnight Midstream’s operations. More concretely, it establishes that staying cases involving SWDs outside the EMSU until a later hearing or hearings will do no harm to Empire.

CONCLUSION

For the reasons stated, the Motion should be granted, the Director should refer Division Case Nos. 24432, 24434, and 24436 to the Commission for hearing, and the Commission should hear all the cases together that are identified in the table attached as **Exhibit A**. Empire New Mexico LLC’s (“Empire”) other pending applications to revoke injection authority for disposal wells operated by Goodnight Midstream outside the EMSU should be dismissed for lack of standing¹³ or, in the alternative, stayed pending resolution of the EMSU cases in Exhibit A, along with applications Empire filed targeting SWDs located outside the EMSU operated by third-parties.

¹³ Goodnight Midstream is filing concurrently herewith a Motion to Dismiss Empire’s applications in Case Nos. 24021-24024, and 24026-24027.

Respectfully submitted,

HOLLAND & HART LLP

By: _____

Michael H. Feldewert
Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, NM 87504
505-988-4421
505-983-6043 Facsimile
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
pmvance@hollandhart.com

**ATTORNEYS FOR GOODNIGHT MIDSTREAM
PERMIAN, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2024, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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

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

Sharon T. Shaheen
Daniel B. Goldberg
Montgomery & Andrews, P.A.
Post Office Box 2307
Santa Fe, NM 87504-2307
(505) 986-2678
sshhaheen@montand.com
dgoldberg@montand.com
cc: *wmcginnis@montand.com*

Attorneys for Empire New Mexico, LLC

Jesse Tremaine
Chris Moander
Assistant General Counsels
New Mexico Energy, Minerals, and
Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 741-1231
(505) 231-9312
jessek.tremaine@emnrd.nm.gov
chris.moander@emnrd.nm.gov

***Attorneys for New Mexico Oil Conservation
Division***



Adam G. Rankin

EXHIBIT A

Cases to Include

#	Case No.	Applicant	Case Caption
1	23614	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for Approval of a Saltwater Disposal Well, Lea County, New Mexico, NM OCD (“ Doc Gooden SWD Application ”)
2	23615	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for Approval of a Saltwater Disposal Well, Lea County, New Mexico, NM OCD (“ Hernandez SWD Application ”)
3	23616	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for Approval of a Saltwater Disposal Well, Lea County, New Mexico, NM OCD (“ Hodges SWD Application ”)
4	23617	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for Approval of a Saltwater Disposal Well, Lea County, New Mexico, NM OCD (“ Seaver SWD Application ”)
5	23755	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for to Amend Order No. R-22026/SWD-2403 to Increase the Approved Injection Rate in its Andre Dawson SWD #1, Lea County, New Mexico, NM OCD (“ Andre Dawson SWD Rate Increase Application ”)
6	24123	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC for Approval of a Saltwater Disposal Well, Lea County, New Mexico, NM OCD Case No. 22626, denied by NM OCD Order No. R-22869-A, appeal docketed, NM OCC (“ Piazza SWD De Novo Application ”)
7	24277	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC to Amend Order No. R-7767 to Exclude the San Andres Formation from the Eunice Monument Oil Pool within the Eunice Monument South Unit Area, Lea County, New Mexico (“ Application to amend EMSU Unitized Interval ”)
8	24278	Goodnight Midstream	Application of Goodnight Permian Midstream, LLC to Amend Order No. R-7765, as Amended, to Exclude the San Andres Formation from the Unitized Interval of the Eunice Monument South Unit, Lea County, New Mexico (“ Application to amend EMSU Special Pool Rule ”)

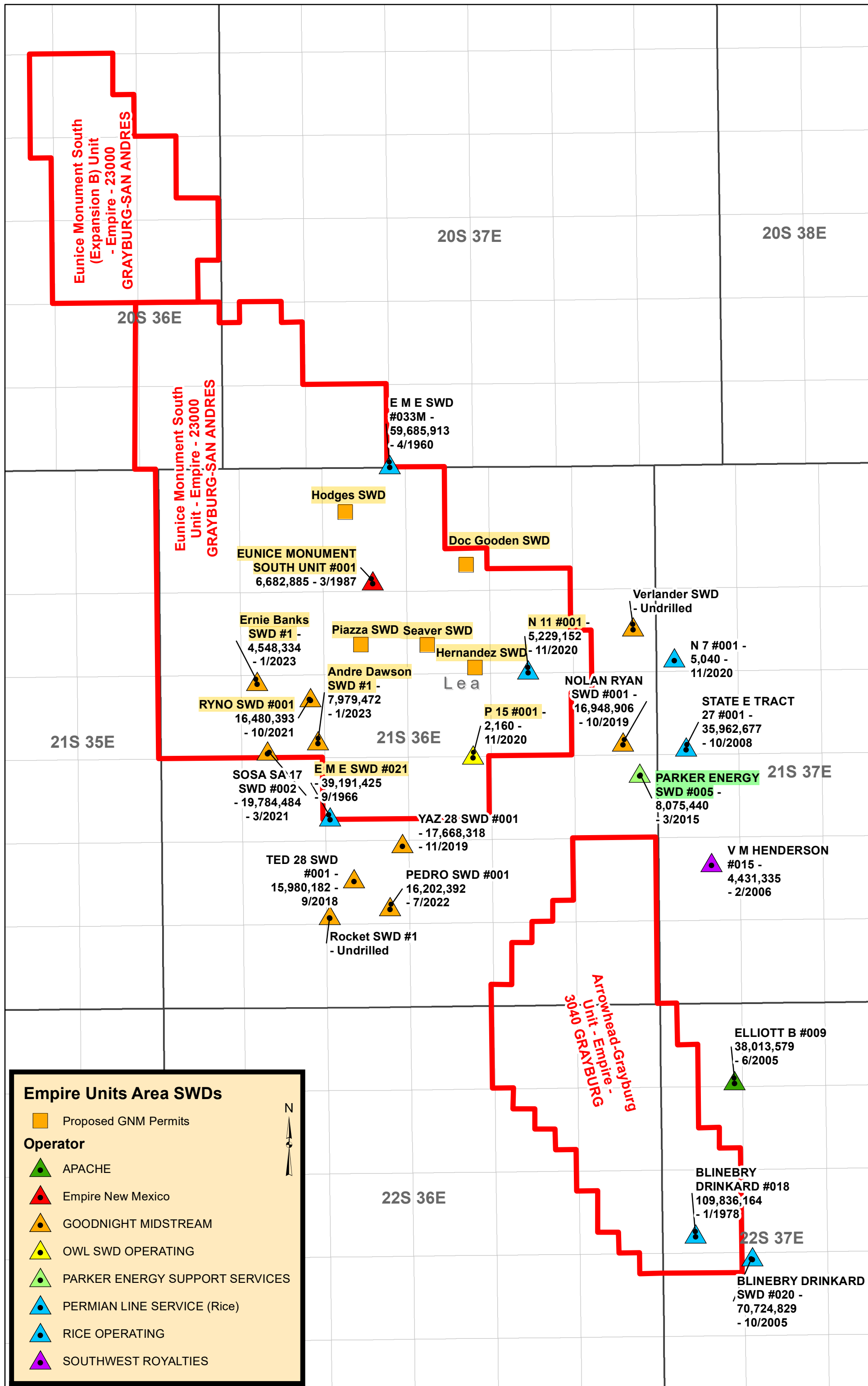
9	24491	Goodnight Midstream	Application of Goodnight Midstream Permian, LLC to Amend Order No. R-22506 (SWD-2392) for a One-Year Extension to Commence Injection Operations, Lea County, New Mexico (“Rocket SWD Extension Application”)
9	24018	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-22026 for the Andre Dawson SWD #001 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Andre Dawson SWD Application”)
10	24019	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-22027 for the Ernie Banks SWD No. 1 Well Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Ernie Banks SWD Application”)
11	24020	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted by Administrative Order SWD-2307 for the Ryno SWD #001 f/k/a Snyder SWD Well No. 1 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Ryno SWD Application”)
12	24025	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-21190 for the Sosa SA 17 SWD Well No. 2 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD Case No. 24025 (“Ted SWD Application”)
13	24432	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-1750 for the P 15 #001 SWD Well Operated by OWL SWD Operating, LLC, Lea County, New Mexico.
14	24434	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Order No. R-3102 for the EME SWD #021 Operated by Rice Operating Company, Lea County, New Mexico.
15	24436	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-1754 for the N 11 #001 Well Operated by Permian Line Service, Lea County, New Mexico.

EXHIBIT B**Cases to Exclude & Stay**

#	Case No.	Applicant	Case Caption
1	24021	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-22027 for the Rocket SWD No. 1 Well Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Rocket SWD Application”)
2	24022	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Administrative Order No. SWD-2391 for the Pedro SWD #001 Well Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Pedro SWD Application”)
3	24023	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-22030 for the Verlander SWD Well No. 1 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Verlander SWD Application”)
4	24024	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-20855 for the Nolan Ryan SWD Well #001 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Nolan Ryan SWD Application”)
5	24026	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Administrative Order No. SWD-2075 for the Ted 28 SWD Well No. 1 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Ted SWD Application”)
6	24027	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted under Order No. R-20865 for the Yaz 28 SWD Well No. 1 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico, NM OCD (“Empire Yaz SWD Application”)

7	24433	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Order No. R-1647 for the EME SWD #033M Operated by Rice Operating Company, Lea County, New Mexico (“Empire EME SWD #033M Application”)
8	24435	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-985-A for the State E Tract 27 #001 Well Operated by Rice Operating Company, Lea County, New Mexico (“Empire State E Tract 27 #001 Well Application”)
9	24437	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-184 for the Blinebry Drinkard SWD #018 Operated by Rice Operating Company, Lea County, New Mexico (“Empire Blinebry Drinkard SWD #018 Application”)
10	24438	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-965 for the Blinebry Drinkard SWD #020 Well Operated by Rice Operating Company, Lea County, New Mexico (“Empire Blinebry Drinkard SWD #020 Application”)
11	24439	Empire	Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Administrative Order SWD-1751 for the N 7 #001 Well Operated by Rice Operating Company, Lea County, New Mexico (“Empire N 7 #001 Well Application”)

EXHIBIT C

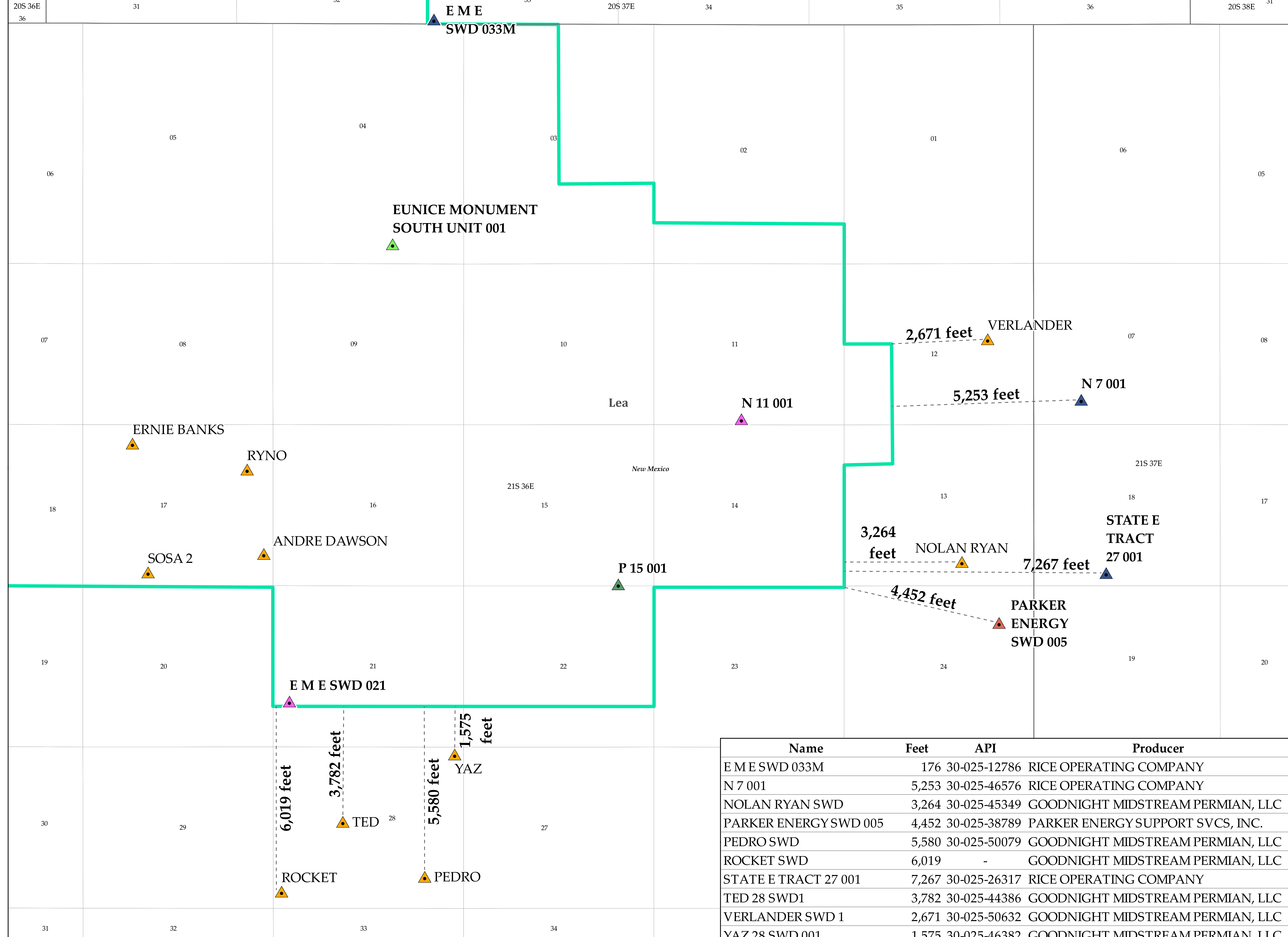


Date: 5/22/2024

Miles

Yellow Highlighting = Inside EMSU
Green Highlighting = Not the subject of an Empire Application to Revoke

EXHIBIT D



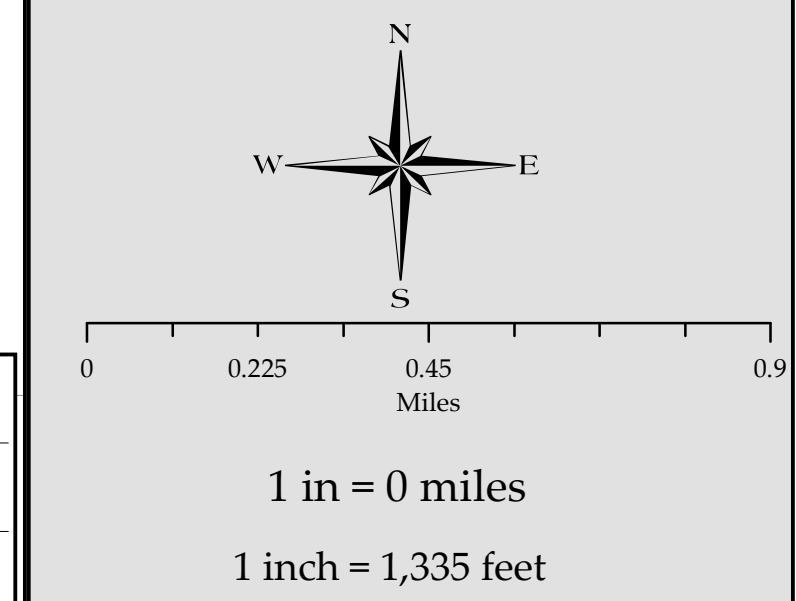
EMSU + GNM Wells

Goodnight Midstream

- ▲ SWD's
- Producer**
- ▲ EMPIRE PETROLEUM CORP
- ▲ MERIT ENERGY
- ▲ PARKER ENERGY SUPPORT
- ▲ PERMIAN LINE SERVICE, LLC
- ▲ PILOT WATER SOLUTIONS
- ▲ RICE OPERATING COMPANY
- EMSU Outline

Printed Date: May 22, 2024

Document Path: C:\Users\jennacalder\OneDrive - Goodnight Midstream\Desktop\Geology Region\EMSU\EMSU Data\emsd.mxd



Name	Feet	API	Producer
E M E SWD 033M	176	30-025-12786	RICE OPERATING COMPANY
N 7 001	5,253	30-025-46576	RICE OPERATING COMPANY
NOLAN RYAN SWD	3,264	30-025-45349	GOODNIGHT MIDSTREAM PERMIAN, LLC
PARKER ENERGY SWD 005	4,452	30-025-38789	PARKER ENERGY SUPPORT SVCS, INC.
PEDRO SWD	5,580	30-025-50079	GOODNIGHT MIDSTREAM PERMIAN, LLC
ROCKET SWD	6,019	-	GOODNIGHT MIDSTREAM PERMIAN, LLC
STATE E TRACT 27 001	7,267	30-025-26317	RICE OPERATING COMPANY
TED 28 SWD1	3,782	30-025-44386	GOODNIGHT MIDSTREAM PERMIAN, LLC
VERLANDER SWD 1	2,671	30-025-50632	GOODNIGHT MIDSTREAM PERMIAN, LLC
YAZ 28 SWD 001	1,575	30-025-46382	GOODNIGHT MIDSTREAM PERMIAN, LLC

Coordinate System: GCS WGS 1984
Datum: WGS 1984
Units: Degree

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EXHIBIT E

