

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

**APPLICATION OF EMPIRE NEW MEXICO
LLC TO REVOKE THE INJECTION
AUTHORITY GRANTED UNDER ORDER NO.
R-21190 FOR THE SOSA SA 17 NO. 2 WELL
OPERATED BY GOODNIGHT MIDSTREAM
PERMIAN LLC, LEA COUNTY, NEW
MEXICO.**

CASE NO. 24025

**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. 24018-24020

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

**APPLICATION OF GOODNIGHT PERMIAN MIDSTREAM,
LLC FOR APPROVAL OF A SALTWATER DISPOSAL WELL,
LEA COUNTY, NEW MEXICO; ORDER NO. R-22869-A.**

CASE NO. 24123

**RICE OPERATING COMPANY AND PERMIAN LINE SERVICE,
LLC'S RESPONSE TO THE MOTIONS FOR REHEARING**

On October 2, 2025, Goodnight Midstream Permian, LLC (“Goodnight”) filed its Application for Rehearing (“Goodnight Motion”). Also on October 2, 2025, Empire New Mexico LLC (“Empire”) filed its Motion for Rehearing (“Empire Motion”). Empire takes issue with the Oil Conservation Commission’s (“Commission”) proper finding that Empire did not meet its burden to prove that Goodnight’s injections cause waste or impair correlative rights. *See* OCC Order No. R-24004 ¶ C, at 9. Thus, Rice Operating Company (“Rice”) and Permian Line Service, LLC (“Permian”) oppose the Empire Motion.

Rice and Permian support the Goodnight Motion in full. Rice and Permian agree with the grounds and arguments Goodnight sets forth in the Goodnight Motion. Recognizing that the Goodnight Motion is thorough and well-supported, Rice and Permian cannot (certainly in the time ordered for response) add much substance of use to the Commission. So Rice and Permian provide this response in support of the Goodnight Motion to focus on the Commission’s finding referenced above that Goodnight’s injection pursuant to its validly-issued permits do not impair Empire’s correlative rights or cause waste. Given that finding, if the Commission intended OCC Order No. R-24004 to suspend immediately Goodnight’s injection authority, that order is not supported by substantial evidence, is not in accordance with law, and is arbitrary and capricious. *See* Rule 1-074(R) NMRA. The Commission’s OCC Order No. R-24004 anticipates that Empire will at some point in the future apply for an enhanced CO₂ pilot project to recover the alleged hydrocarbons from the alleged ROZ in the San Andres; indeed, the Order provides to Empire three years to undertake that project. But unless and until Empire applies to the Commission for the project, and that application is approved, the suspension of Goodnight’s injection authority causes waste and impairs correlative rights. The Commission should therefore grant the rehearing to at least reconsider the suspension of Goodnight’s injection authority.

1. The New Mexico Statutes Annotated provide that the Commission is empowered to “prevent waste . . . and protect correlative rights,” including by orders. NMSA 1978, § 70-2-11.

2. Goodnight’s Applications heard by the Commission at the hearing requested authority to drill five new injection wells (Case Nos. 23614-23617, 24123) and to increase injection under its existing permit for the Dawson well (Case No. 23775).

3. Empire’s Applications heard by the Commission at the hearing requested that the Commission “revoke” Goodnight’s injection authority for four wells (Case No. 24018-24020, 24025).

4. Accordingly, the Commission provided to the parties notice that the hearing would concern:

(A) Whether the granting of the application[s] by Goodnight would (1) impair correlative rights or cause waste, pursuant to § 70-2-11; . . . and

(B) Whether the granting of the applications by Empire would prevent the impairment of correlative rights or cause waste, pursuant to § 70-2-11.

Tr. Vol. IV, at 503:11-504:2 (modifying ¶ 2 of the Joint Order on the Motion for the Scope of the Hearing (filed Jul. 2, 2024)).

5. Empire and Goodnight, accordingly, presented evidence and arguments over the course of the hearing’s four weeks on “[w]hether the granting of the applications” of either parties would impair correlative rights or cause waste; neither Empire nor Goodnight adduced evidence nor directed arguments specifically to whether suspension of Goodnight’s injection authorities is warranted or proper, the legal framework for suspension of injection authority, or

when, if ever, injection authority may or should be suspended. *See generally* Rice & Permian’s Brief in Support of Goodnight’s Motion to Stay.

6. The definition of “waste” is found in NMSA 1978, § 70-2-3, which provides that, in addition to its ordinary meaning, underground waste includes waste as it is “generally understood in the oil and gas business,” and includes operation of that business “in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ***ultimately recovered*** from any pool.” (Emphasis added.)

7. The definition of “correlative rights” is found in NMSA 1978, § 70-2-33(H), which relates to each owner’s opportunity to produce “without waste” the owner’s share of the oil or gas or both, but only “so far as ***it is practicable*** to do so.” (Emphasis added.)

8. OCC Order No. R-24004, which was issued after the Hearing on these matters, provides “Empire the opportunity to establish a CO2 EOR pilot project within a period of 3 years to ascertain the recoverability of the ROZ and return to the Commission with further data/analysis.” OCC Order No. R-24004 at 12. OCC Order No. R-24004 “[s]uspends existing Goodnight’s injection wells . . . in order to provide Empire with the opportunity to establish the CO2 EOR pilot project.” *Id.* ¶ 3, at 13.

9. While there was no analysis in OCC Order No. R-24004 or during the hearing on what is the standard to suspend an injection well or any authority to order an injection well’s suspension, 19.15.26.10(E) NMAC provides the requirement: that the well “ha[s] exhibited failure to confine the injected fluids to the authorized injection zone or zones” At that point, the well may be suspended “until the operator has identified and corrected the failure.” *Id.*

10. A threshold requirement for suspension, therefore, is a finding that the well failed to confine the injected fluids to the authorized injection zone(s).

11. OCC Order No. R-24004 does not include any finding that any of the four wells for which Empire applied to the Commission to “revoke” injection authority failed to confine the injected fluids to the authorized injection zone(s). Indeed, the findings from the hearing show the opposite: that “Empire DID NOT adduce substantial evidence that their correlative rights in the Grayburg are CURRENTLY impaired by Goodnight’s injection into the San Andres.” OCC Order No. R-24004 ¶ C, at 9. Under this section of OCC Order No. R-24004, the Commission noted that there is no evidence of migration of Goodnight’s injection waters and also pointed to Knights’s testimony that the San Andres reservoir is in material balance as “[t]he strongest evidence” for lack of any communication from the San Andres reservoir. *Id.* ¶¶ 54-56.

12. So there was no finding at the hearing to support suspension of Goodnight’s permitted injection at the hearing.

13. Of course, given that an ROZ contains – by definition – only oil that cannot be mobilized by injection waters, *see* Empire Direct Testimony Exhibit C ¶ 3; *id.* ¶ 5; Apr. 10, 2025 Tr., at 86:3-6 (West); Apr. 23, 2025 Tr., at 226:3-23 (McBeath); Feb. 26, 2025 Tr. 522:13-18; Apr. 21, 2025 Tr., at 253:3-20, there likewise was no finding (and no evidence to support a finding) that Goodnight’s current permitted injection possibly could “tend to reduce the total volume of crude petroleum oil” recovered from the San Andres if Empire ever applies to the commission to attempt to recover hydrocarbons from the San Andres, NMSA 1978, § 70-2-3(A).

14. Thus, because the Commission held the hearing only on whether granting applications for new permits, increased permitting authority, or to revoke injection authority, the Commission was not aided in its order to suspend injection authority. As a result, the Commission’s order suspending Goodnight’s current injection authority was not informed by the legal requirements for suspension, and resulted in an order of suspension that “is not supported

by substantial evidence,” is “not otherwise in accordance with law,” and is “arbitrar[y] or capricious[.]” Rule 1-074(R).

15. Based on the evidence at the Hearing, therefore, the Commission properly should grant Goodnight’s Motion and provide a rehearing to revise OCC Order No. R-24004 to comport with the law.

Respectfully submitted,

PEIFER, HANSON, MULLINS & BAKER, P.A.

By: /s/ Matthew M. Beck

Matthew M. Beck

P.O. Box 25245

Albuquerque, NM 87125-5245

Tel: (505) 247-4800

Fax: (505) 243-6458

Email: mbeck@peiferlaw.com

*Attorneys for Rice Operating Company and
Permian Line Service, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 10th day of October 2025, as follows:

Corey F. Wehmeyer
Santoyo Wehmeyer, P.C.
IBC Highway 281 N. Centre Bldg.
12400 San Pedro Avenue, Suite 300
San Antonio, Texas 78216
(210) 998-4190
cwehmeyer@swenergylaw.com

Sharon T. Shaheen
Spencer Fane LLP
P.O. Box 2307
Santa Fe, NM 87504-2307
(505) 986-2678
sshaheen@spencerfane.com

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

Dana S. Hardy
Jaclyn M. McLean
Hardy McLean
125 Lincoln Ave., Suite 223
Santa Fe, NM 87501
(505) 230-4426
dhardy@hardymclean.com
jmclean@hardymclean.com

Attorneys for Empire New Mexico, LLC

Michael H. Feldewert
Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, NM 87504
(505) 998-4421
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
pmvance@hollandhart.com

Attorneys for Goodnight Midstream Permian, LLC

Miguel A. Suazo
Sophia A. Graham
Kaitlyn A. Luck
Beatty & Wozniak, P.C.
500 Don Gaspar Ave.
Santa Fe, NM 87505
(505) 946-2090
msuazo@bwenergylaw.com
sgraham@bwenergylaw.com
kluck@bwenergylaw.com

Attorneys for Pilot Water Solutions SWD, 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 Oil Conservation Division

PEIFER, HANSON, MULLINS & BAKER, P.A.

/s/ Matthew M. Beck
Matthew M. Beck