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

APPLICATIONS OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO	**CASE NOS. 25547-25548 25899 & 25900**

APPLICATION FOR HEARING DE NOVO, REQUEST FOR LIMITED EVIDENTIARY HEARING, AND MOTION FOR STAY OF PROCEEDINGS

Pilot Water Solutions SWD, LLC ("Pilot"), by and through undersigned counsel, respectfully submits this Application for Hearing De Novo under NMSA 1978, § 70-2-13 (1981), from the Hearing Examiner's Order Denying Pilot's Motion for Reconsideration in Case Nos. 25547–25548, 25899 and 25900 ("Denial Order"). Pilot has been denied party status and thereby excluded from participation in these proceedings. Because the proceedings concern four proposed saltwater disposal wells directed to the same Delaware Mountain Group ("DMG") formation in which Pilot actively operates, the Denial Order directly impairs Pilot's right to participate and to present formation-specific evidence relevant to the Commission's determination.

I. INTRODUCTION

The narrow question is whether the Division may exclude an active same-formation operator with documented evidence of reservoir-pressure constraint before the technical record is developed. The Hearing Examiner determined that exclusion of the operator is within the discretion of the Division. Pilot contends that this determination results from three legal errors that require reversal.

First, the Denial Order essentially replaced Rule 19.15.4.11(C) NMAC with extra-textual limitations the rule itself does not contain—requiring pre-verified expert credentials, in-state mineral interests, and a nexus to hydrocarbon recovery, none of which appears in the rule. Second,

it converted the half-mile notice rule into a categorical bar to participation. Third, it resolved disputed formation-specific facts against Pilot on an evidentiary record that Pilot was not permitted to contribute to and had no role in developing.

If the Order stands, the Commission will evaluate four high-volume DMG disposal wells on an incomplete record, without evidence from a major active operator that has already experienced pressure constraint in the very formation at issue. That result is incompatible with the Commission's statutory duty to prevent waste and protect correlative rights under NMSA 1978, § 70-2-11(A) (1977).[1]

II. JURISDICTION, STANDARD OF REVIEW, AND BASIS FOR IMMEDIATE COMMISSION REVIEW

The Commission has statutory authority to hear this appeal now. Section 70-2-13 provides for de novo Commission review when a matter has been referred to a hearing examiner and a decision has been rendered thereon. The Denial Order is an adverse decision because it conclusively denied Pilot party status and excluded Pilot from participation in these proceedings.

NMSA 1978, Section 70-2-6(B) (1979) independently confirms the Commission's concurrent jurisdiction with the Division to the extent necessary for the Commission to perform its duties under the Oil and Gas Act.

The procedural posture confirms that Commission review is expected at this stage. The Hearing Examiner expressly stated on the record to Desert Ram and Pilot, that the excluded parties could appeal his ruling to the Commission.[2] Pilot has relied on the Hearing Examiner's statement

[1] *See Santa Fe Expl. Co. v. Oil Conservation Comm'n*, 1992-NMSC-044, 114 N.M. 103, 835 P.2d 819 (describing prevention of waste and protection of correlative rights as the Commission's core mandate); *Continental Oil Co. v. Oil Conservation Comm'n*, 1962-NMSC-062, 70 N.M. 310, 373 P.2d 809 (those duties are "interrelated [and] inseparable").

[2] Hr'g Tr. at 158, ll. 5461–62, OCD Regular Hearing (Feb. 5, 2026) (attached as Exhibit E)

for this review to the commission.

Review under Section 70-2-13 is de novo. Questions of statutory and regulatory interpretation are reviewed de novo, and no deference is owed to an order resting on an erroneous understanding of the Oil and Gas Act or the Commission's own rules. *Marbob Energy Corp. v. N.M. Oil Conservation Comm'n*, 2009-NMSC-013, 146 N.M. 24, 206 P.3d 135.

Even if the Denial Order were characterized as interlocutory, immediate review is independently proper under the collateral-order doctrine. *Carrillo v. Rostro*, 1992-NMSC-054, 114 N.M. 607, 845 P.2d 130; *Handmaker v. Henney*, 1999-NMSC-043, 128 N.M. 328, 992 P.2d 879. A ruling is immediately reviewable where it conclusively determines a disputed question, resolves an issue completely separate from the merits, and would be effectively unreviewable if review were postponed until final disposition. The Denial Order satisfies that standard: it conclusively determined whether Pilot may participate; that issue is separate from whether proposed wells should ultimately be approved; and delayed review would be ineffective once the record closes without Pilot's evidence.

III. PROCEDURAL BACKGROUND

Select Water Solutions, LLC ("Select") filed four applications in August 2025 in Lea County seeking approval of produced-water disposal wells targeting the DMG formation. Pilot was not provided notice of those applications under the Division's half-mile area-of-review rule. After learning of the consolidated hearing docket in January 2026, Pilot promptly filed its Entry of Appearance and Objection (Exhibit A).

Select moved to strike Pilot's participation. Pilot opposed that motion, submitting a Response (Exhibit B) supported by formation-specific evidence, including self-affirmed statements from David Grounds and Ankush Gupta (with accompanying resumes) and Texas

Railroad Commission records documenting operational pressure constraints in the same DMG formation. The Hearing Examiner granted Select's motion and struck Pilot from the proceedings before any evidentiary hearing.

Pilot moved for reconsideration (Exhibit C), again invoking Rule 19.15.4.11(C) NMAC. The Hearing Examiner denied the motion and issued the Denial Order (Exhibit D) now on appeal.

IV. THE DIVISION'S ORDERS AGAINST PILOT RESOLVED DISPUTED FORMATION-SPECIFIC FACTS ON A PAPER RECORD WITHOUT AFFORDING PILOT ANY OPPORTUNITY TO BE HEARD

The Denial Order turned a threshold participation question into a summary merits determination. Before Pilot was permitted to present testimony, develop a factual record, or test contrary assumptions through cross-examination, the Hearing Examiner resolved against Pilot the central factual issues on which participation turned:

(a) whether Pilot's same-formation operations bear a sufficient nexus to Select's proposed wells;

(b) whether Pilot's Ross SWD 5 shut-in and December 2025 Railroad Commission of Texas amendment are probative of pressure constraint in the DMG;

(c) whether Pilot's operational presence was too remote to affect or be affected by Select's proposed injection; and

(d) whether Pilot's asserted injury reflects formation-level operational impairment or merely commercial competition.

Each of those questions was contested. Each turned on technical and factual determinations that could not properly be resolved on a paper motion. Contested administrative disputes involving material factual issues may not be resolved summarily without evidentiary development. *Resolute Wind 1, LLC v. N.M. Pub. Regul. Comm'n*, 2022-NMSC-011, 506 P.3d 346. An agency must act

on the basis of record evidence, and due process includes a meaningful opportunity to present evidence and make a record. *TW Telecom of N.M., L.L.C. v. N.M. Pub. Regul. Comm'n*, 2011-NMSC-029, 150 N.M. 12, 256 P.3d 24.

The Denial Order also imposed an improper merits burden at the participation stage. Pilot was not required to conclusively establish same-formation pressure propagation, cumulative burden, and operational interference before being allowed to participate. It was required only to show a plausible, non-speculative nexus between its operational interests and the challenged applications. If the threshold participation inquiry demands the same proof as the ultimate merits determination, the two become indistinguishable, and the right to participate is extinguished before it can be exercised. New Mexico law does not permit standing or threshold participation to become a disguised adjudication of the merits. *De Vargas Sav. & Loan Ass'n v. Campbell*, 1975-NMSC-026, 87 N.M. 469, 535 P.2d 1320.

This procedural error is independently sufficient to warrant reversal. Even if the Commission were to disagree with every substantive legal argument Pilot advances in the sections that follow, it cannot affirm a ruling that resolved contested factual questions against an excluded party on a paper record without affording that party any meaningful opportunity to be heard. At minimum, the participation issue required a narrow evidentiary process directed to the factual questions the Denial Order itself treated as dispositive.

V. THE DENIAL ORDER RESTS ON INDEPENDENT LEGAL ERRORS, EACH SUFFICIENT TO WARRANT REVERSAL

A. Rule 19.15.4.11(C) Independently Requires Pilot's Participation Because Its Formation-Specific DMG Evidence Will Substantially Assist the Commission

Rule 19.15.4.11(C) NMAC provides an independent basis for participation where the proposed intervenor's participation "will contribute substantially to the prevention of waste,

protection of correlative rights or protection of public health or the environment." The rule asks one question only: whether the proposed participation will contribute substantially.

The Denial Order did not apply that rule. It replaced Rule 19.15.4.11(C) with a different legal test. The Hearing Examiner denied participation because Pilot's witnesses' credentials had not been accepted as a matter of record, because Pilot's asserted interests involved Texas disposal operations, because Pilot had not alleged an effect on ultimate hydrocarbon recovery, and because the proffered evidence was not "newly discovered." None of those conditions appear in 19.15.4.11(C) NMAC. These were extra-textual limitations imposed by the Denial Order on very clear statutory language of 19.15.4.11(C).[3]

1. Pilot's Same-Formation Evidence Substantially Contributes to the Commission's Waste-Prevention and Correlative-Rights Duties.

The Oil and Gas Act places prevention of waste and protection of correlative rights at the center of the Commission's mandate.[4] Pilot offered evidence of a twelve-month shut-in of Ross SWD 5 associated with elevated DMG pressure, a December 2025 reduction in maximum authorized daily injection volume, and additional active DMG injectors in the same system. That evidence bears directly on whether the shared formation can safely absorb additional injection, whether cumulative injection burden is already constraining operations, and whether approval of additional disposal capacity risks waste or impairment of existing same-formation operations.

The Denial Order's categorical exclusion of same-formation operational evidence cannot

[3] An agency may not impose limitations that its governing law does not contain, and an order that applies the wrong legal standard or violates the agency's own rules is reversible. *Marbob Energy Corp*, 2009-NMSC-013; *N.M. Exch. Carrier Grp. v. N.M. Pub. Regul. Comm'n*, 2016-NMSC-015, ¶ 14, 369 P.3d 1058 (an agency is bound by its existing rules and regulations).

[4] NMSA 1978, § 70-2-11(A); *Santa Fe Expl. Co.*, 114 N.M. at 112, 835 P.2d at 828; *Continental Oil*, 70 N.M. at 323, 373 P.2d at 817.

be squared with the Division's own injection rules. Section 19.15.26.8 NMAC contemplates hearing-based determinations across the injection context, including produced-water disposal proceedings under Subsection E and correlative-rights determinations under Subsection F(4). And Subsection F(4) expressly recognizes that protection of correlative rights may require the Division, after notice and hearing, to account for operational realities in the surrounding area. The Division therefore erred in dismissing Pilot's same-formation evidence as outside the rule merely because Pilot operates disposal wells rather than producing wells.

2. Independently, Pilot Also Satisfies Rule 19.15.4.11(C) NMAC Because Its Participation Will Contribute Substantially to the Commission's Evaluation of Public Health and Environmental Concerns.

The Denial Order and the Order to Strike Pilot's intervention completely ignore this other half of Rule 19.15.4.11(C) NMAC. Additionally, protection of public health or the environment in water disposal context has statutory roots in the Oil and Gas Act. The Act expressly authorizes regulation of the "disposition, handling, transport, storage, recycling, treatment and disposal of produced water," including disposal by injection, "in a manner that protects public health, the environment and fresh water resources." NMSA 1978, § 70-2-12(B)(15) (2019).

Pilot's same-formation evidence is relevant to that statutory task because evidence of existing pressure-related operational constraint informs whether additional injection can proceed without increasing subsurface risk or creating conditions that warrant limits, monitoring, or denial. The Denial Order's focus on Pilot's lack of New Mexico mineral interests and the location of some Pilot facilities in Texas therefore misses the point. The relevant question under Rule 19.15.4.11(C) NMAC is whether Pilot's participation will materially assist the agency in evaluating the consequences of additional produced-water disposal in the target formation. It plainly will.

3. The Denial Order Misconstrues the Oil and Gas Act by Treating Same-Formation Disposal Evidence as Irrelevant to Waste Analysis

Paragraph 3 of the Denial Order rests on a mistaken statutory premise: because Pilot is a disposal operator, and because it did not frame its objection in terms of reduced ultimate hydrocarbon recovery, its same-formation evidence falls outside the Oil and Gas Act correlative rights determination. A plain reading of the act infers no such thing.

Produced-water disposal is not some regulatory domain apart from the Division's statutory charge. The Legislature has expressly authorized the Division to regulate the "disposition, handling, transport, storage, recycling, treatment and disposal of produced water," including disposal by injection. Section 70-2-12(B)(15). And the Division's overarching duty remains the same throughout the Act: to prevent waste and protect correlative rights. Section 70-2-11. The Denial Order's premise—that same-formation disposal evidence becomes legally irrelevant when offered by a disposal operator rather than a producer—cannot be squared with that statutory framework.

To the contrary, Section 70-2-11 makes prevention of waste and protection of correlative rights the Division's core duties, and Section 70-2-12(B)(15) expressly authorizes regulation of the "disposition, handling, transport, storage, recycling, treatment and disposal of produced water," including disposal by injection, "in a manner that protects public health, the environment and fresh water resources." The Denial Order's suggestion that same-formation disposal evidence is legally irrelevant unless it comes from a producer or mineral owner cannot be reconciled with that statutory scheme.

The Oil and Gas Act is also not blind to pressure behavior and water movement simply because an application concerns disposal wells. NMSA 1978, Section 70-2-3(A) (1965) defines

"underground waste" to include the inefficient, excessive, or improper use or dissipation of reservoir energy. Section 70-2-12(B)(4) separately authorizes the Division to prevent the premature and irregular encroachment of water or any other water encroachment that reduces or tends to reduce ultimate hydrocarbon recovery. Those provisions matter here because pressure propagation does not respect administrative labels. If injection into a shared formation contributes to over-pressurization, migration, or operational interference in that formation, the consequences may bear both on disposal capacity and on adjacent or connected oil-and-gas operations. The Commission therefore cannot sensibly declare same-formation pressure evidence irrelevant merely because the party offering it operates disposal wells rather than producing wells.

That does not mean every disposal operator asserts correlative rights in the same manner as an owner entitled to produce from a pool. It does mean, however, that the Act does not permit the Division to blind itself to same-formation evidence bearing on waste, reservoir energy, water encroachment, or impacts to adjacent oil-and-gas operations simply because that evidence is offered in opposition to a disposal-well application. By treating Pilot's evidence as outside the Act at the threshold, the Denial Order adopted an unduly narrow reading of the Division's statutory mandate and excluded evidence the Act itself makes relevant.

4. Even under a Narrower View of Correlative Rights, Pilot's Evidence Remains Relevant, and Pilot Alleged a Directly Affected Interest.

Even if the Commission were to adopt a narrower view of correlative rights in this context, the Denial Order still cannot stand. That is because Pilot's participation does not depend on any sweeping theory that a disposal operator stands in precisely the same position as a producer or mineral owner. Pilot independently satisfied Rule 19.15.4.11(C) NMAC by proffering evidence that bears directly on waste prevention and the public-health concerns implicated by produced-

water disposal through injection. And even apart from Rule 19.15.4.11(C) NMAC, Pilot alleged the hallmarks of a directly affected interest: an existing, concrete, and formation-specific injury; a plausible causal connection to the applications at issue; and a meaningful prospect of relief through participation in the proceeding. Section 70-2-12(B)(15) likewise confirms that produced-water disposal by injection falls squarely within the Division's regulatory authority.

Pilot's showing was specific, not abstract. It identified the shut-in of Ross SWD 5, an RRC-imposed volume reduction, and elevated pressure in the DMG. It further alleged that Select seeks approval for additional high-volume disposal wells in that same formation—the very formation in which Pilot asserts pressure constraints already exist. That is enough to make Pilot's evidence relevant to the proceeding. Participation would allow Select's applications to be evaluated on a complete record, and the Division indisputably possesses authority to impose conditions, limits, monitoring, or other protective measures in acting on injection applications. Select did not rebut that same-formation theory with technical evidence. It relied instead on Pilot's distance from the identified area of review and on the assertion that Pilot is merely a market competitor. But neither point answers Pilot's actual showing. Pilot did not seek participation based on generalized competition. It sought participation because additional disposal into the same formation could aggravate already existing pressure constraints affecting its operations.

The Denial Order thus erred in two independent respects. First, it adopted an unduly narrow view of the Oil and Gas Act by treating same-formation disposal evidence as legally irrelevant unless tied to a conventional producer-style claim of reduced ultimate recovery. Second, it treated that mistaken premise as dispositive of participation as a whole. But even under this narrower conception of correlative rights, Pilot's evidence remained relevant to the Commission's statutory responsibilities, and Pilot's allegations were sufficient to establish a direct and concrete stake in

the proceeding. That is enough to require reversal of the denial. New Mexico law recognizes that persons with a legitimate interest in the subject matter of an agency proceeding are entitled to be heard. *N.M. Bd. of Veterinary Med. v. Riegger*, 2007-NMSC-044, ¶ 27, 142 N.M. 248, 164 P.3d 947. The Act does not permit the Division to avoid same-formation evidence simply by declaring it irrelevant when it comes from the wrong kind of operator.

B. The Denial Order Erroneously Converts the Half-Mile Notice Rule into a Categorical Bar to Participation Under 19.15.4.11(C) NMAC

Rule 19.15.4 NMAC establishes two distinct paths to party status in an adjudicatory proceeding. Under 19.15.4.10(A)(2) NMAC, a person entitled to mandatory notice who enters an appearance becomes a party. Under 19.15.4.10(A)(3) NMAC, a person who properly intervenes becomes a party. The two paths operate independently.

The first depends on whether the applicant was required to notify the person; the second depends on whether the person has standing with respect to the case's subject matter. Rule 19.15.4.11(C) NMAC governs the second path and adds additional protection: even where a motion is filed to strike a notice of intervention for lack of standing, intervention survives if the intervenor demonstrates that its participation will contribute substantially to the prevention of waste, protection of correlative rights, or protection of public health or the environment. The Denial Order conflated these distinct functions by treating Pilot's absence from the half-mile Area of Review as effectively dispositive of participation rights under Rule 19.15.4.11(C) NMAC.

That legal conflation appears on the face of the Denial Order. The Hearing Examiner stated that Pilot "is not an 'affected person' entitled to mandatory notice, as it does not operate within the half-mile Area of Review," and then denied reconsideration while leaving Pilot excluded from the proceeding. But the mandatory notice analysis under 19.15.4.12(A)(7) NMAC, which requires

notice to surface owners within one-half mile of the site, addresses only the first path to party status. Rule 19.15.4.11(C) NMAC does not limit participation to persons within the Area of Review. Nor does it make geographic proximity the controlling inquiry. It asks whether the proposed participation will contribute substantially. The Denial Order never separately applied that standard on its own terms.

The textual structure of Rule 19.15.4.11(C) NMAC confirms the error. The substantial-contribution provision functions specifically as a safe harbor for intervenors who lack standing—allowing continued participation even after a successful motion to strike, provided substantial contribution is shown. If the Area of Review were the exclusive gateway to participation, there would have been no reason to adopt a separate intervention provision with a safe harbor for non-noticed operators. The Denial Order's construction therefore does more than deny Pilot relief in this case; it eliminates Rule 19.15.4.11(C)'s safe harbor in the precise proceedings where formation-specific evidence from non-noticed operators may be most material—injection well applications where subsurface pressure propagation extends well beyond the administrative notice radius. Select's own reservoir modeling projects pressure propagation well beyond the half-mile Area of Review, confirming that the notice radius is an administrative notice device, not a scientific boundary for formation-level effects.[5]

The Commission reviews this question of regulatory interpretation de novo and owes no deference to the Hearing Examiner's construction. The text of Rule 19.15.4.11(C) NMAC contains no geographic limitation. Reading one in was legal error.

[5] See Select Water Solutions, LLC, Applications for Disposal Wells, Case Nos. 25547, 25548, 25899 & 25900, Reservoir Modeling / Area-of-Review Analysis (Exhibit B).

C. The Denial Order Applies the Wrong Legal Framework and Rests on a Mistaken View of the Record

1. The Denial Order Imports a Reconsideration Standard That Does Not Govern This proceeding.

The Denial Order denied reconsideration under the "extraordinary remedy" framework of Federal Rules of Civil Procedure 59(e) and 60(b), requiring clear error, manifest injustice, or newly discovered evidence previously unavailable despite due diligence. That standard governs final-judgment motions by parties who have already litigated a dispute to conclusion. It does not govern an excluded nonparty's first effort to obtain party status in an ongoing administrative proceeding where the technical record has not yet been developed.

Even setting aside the inapplicability of federal civil procedure to this proceeding, the "extraordinary remedy" threshold is foreign to New Mexico administrative law as applied to interlocutory rulings on party status under the Oil and Gas Act. Where no final order disposing of the merits has been entered, a request to reconsider a ruling on party status is governed by the tribunal's inherent authority to correct its own interlocutory rulings and by the Division's procedural rules for pre-hearing motion practice. Rule 19.15.4.16(C) NMAC authorizes the director or division examiner to rule on motions "necessary or appropriate for disposition prior to a hearing on the merits." It imposes no elevated threshold. Neither does Section 70-2-13, which establishes powers of commission or division, and hearings before examiner. None of the governing authorities requires a showing of extraordinary circumstances before an interlocutory ruling on intervention may be reconsidered. The Division's rules (which the Division has exercised in the past) provide their own reconsideration and rehearing mechanisms.[6] The Denial Order cited

[6] The Division's procedural authority recognized in 19.15.4.16(C) NMAC to revisit the Orders for case-management reasons and to avoid an incomplete record; *see also* NMSA 1978, § 70-2-13.

no NMAC provision and no New Mexico authority for the standard it applied. That is independent legal error.

2. The Wrong Framework Produced the Wrong Result as to Pilot's Evidence.

Having adopted a "newly discovered evidence" standard, the Denial Order held that Pilot's Texas Railroad Commission materials were in Pilot's possession before the prior order and therefore did not qualify. That conclusion answers the wrong question.

The Texas materials were not first introduced on reconsideration. Pilot submitted them as Exhibits C–E to its Response to Select's Motion to Strike and reattached them to the Motion for Reconsideration.[7] They were already part of the Division's file. The relevant question was not whether those materials satisfied a civil "newly discovered" test. The relevant question was whether materials already in the Division's file, having been submitted with Pilot's Response to Select's Motion to Strike, demonstrated sufficient showing under Rule 19.15.4.11(C) NMAC to permit participation pending development of the record before it closed.

The Texas Railroad Commission materials document injection operations and formation-pressure data in the same or adjacent formations at issue in this proceeding, which are directly relevant to whether Pilot's participation would contribute substantially to protection of correlative rights or public health and the environment. By applying the wrong framework, the Denial Order treated previously submitted regulatory records as procedurally deficient for the sole reason that they were not "new." That is legal error.

3. The Denial Order Misstates the Record as to Witness Qualifications.

Paragraph 2 of the Denial Order states that no curriculum vitae or resume was included

[7] Both, Pilot's Response to Select's Motion to Strike and Pilot's Motion for Reconsideration—along with all their exhibits—are attached as Exhibits B and C respectively with this appeal.

along with the self-affirmed statements of David Grounds and Ankush Gupta and that the Division could not verify the expertise necessary to satisfy the substantial-contribution requirement of Rule 19.15.4.11(C) NMAC. That premise is factually incorrect, and the legal conclusion drawn from it is unsupported by the rule's text.

First, the record contained qualification information the Denial Order did not acknowledge. The self-affirmed statements identified Mr. Grounds as Pilot's Vice President for Regulatory Compliance and Mr. Gupta as its Senior Vice President for Engineering and Planning, and each witness described his years of experience and field of expertise in the statement itself. The Denial Order's assertion that the Division could not verify Pilot's claimed expertise overstates the actual state of the record.

Second, the resumes of David Grounds and Ankush Gupta were filed as Exhibits A and B to Pilot's Response to Select's Motion to Strike (Exhibit B). The prior order struck Pilot's Entry of Appearance and Objection. It did not strike the Response or its attachments.[8] The resumes remain in the Division's file.

Even if the qualifications showing were incomplete, the legal conclusion would not follow. Rule 19.15.4.11(C) NMAC does not require that a proposed intervenor's witnesses have previously testified before the Division. It does not require that their qualifications have been accepted as a matter of record before intervention is permitted. It does not condition participation on the submission of formatted resumes at the pleading stage. The rule asks one question: whether the intervenor's participation will contribute substantially to the prevention of waste, protection of

[8] *See Dorato v. Smith*, 163 F. Supp. 3d 837, 863 (D.N.M. 2015) (motions, briefs, memoranda, objections, and affidavits may not be attacked by a motion to strike; only material included in a "pleading" may be stricken); *Fannie Mae v. Milasinovich*, 161 F. Supp. 3d 981, 994 (D.N.M. 2016) (Motion to Strikes are narrowly construed).

correlative rights, or protection of public health or the environment. Witness qualifications are a matter for hearing testimony, not a threshold prerequisite the rule's text imposes. Treating an alleged gap in pre-hearing qualification submissions as a dispositive bar to participation reads into Rule 19.15.4.11(C) NMAC a gatekeeping requirement the rule does not contain—the same category of textual error identified in Section A above.

These three errors do not operate in isolation. Each flows from the threshold mistake of importing a civil finality standard into an ongoing administrative proceeding over party status. The "extraordinary remedy" framework preconditioned every subsequent analysis: it recast previously submitted exhibits as procedurally deficient "old" evidence, and it elevated an alleged gap in pre-hearing qualification submissions into a dispositive bar that the governing rule does not impose. The Denial Order's conclusion therefore does not rest on a faithful application of Rule 19.15.4.11(C) NMAC. It rests on a framework constructed from inapposite sources and applied to an incomplete view of the Division's own record.[9] The Commission should correct that error by permitting Pilot's participation on the merits.

VI. REQUEST FOR LIMITED EVIDENTIARY HEARING

If the Commission determines that the record is insufficient to resolve the participation question on the existing filings, Pilot requests a limited evidentiary hearing confined to the threshold participation issues. Such a hearing would be narrowly focused on:

(a) Pilot's active DMG operations and documented pressure constraint;

(b) the same-formation nexus and cumulative reservoir burden; and

[9] *Morrison v. Wyrsch*, 1979-NMSC-093, 93 N.M. 556, 603 P.2d 295 (the purpose of pleading is to facilitate decisions on the merits; procedural deficiencies should be evaluated for excusability before they become dispositive); *see also Hambaugh v. Peoples*, 75 N.M. 144, 401 P.2d 777 (1965).

(c) whether Pilot's participation will substantially assist the Commission under Rule 19.15.4.11(C).

VII. MOTION FOR STAY

The underlying applications are currently under consideration by the Division. Absent a stay, the Division may issue a final decision before the Commission resolves this appeal. If that occurs, the administrative record will close without Pilot's formation-specific evidence, and the Commission's review will be rendered practically ineffective. A brief stay preserves judicial economy and avoids duplicative proceedings if the Commission later reverses.

VIII. REQUESTED RELIEF

For the foregoing reasons, Pilot Water Solutions SWD, LLC respectfully requests that the Commission:

1. Accept jurisdiction and conduct de novo review of the Hearing Examiner's Denial Order and Pilot's exclusion to the proceedings;
2. Reverse the standing determination and hold that Pilot satisfies 19.15.4.11(C) NMAC and may participate in the underlying SWD proceedings as a party;
3. Stay further Division action on the underlying applications, or hold any final Division decision in abeyance, pending resolution of this appeal; and
4. Grant such other and further relief as the Commission deems just and proper.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: _____

Miguel A. Suazo
James P. Parrot
Jacob L. Everhart
Ryan McKee
500 Don Gaspar Ave.
Santa Fe, NM 87505
(505) 946-2090
msuazo@bwenergylaw.com
jparrot@bwenergylaw.com
jeverhart@bwenergylaw.com
rmckee@bwenergylaw.com

Attorneys for Pilot Water Solutions SWD, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 27th day of March 2026, as follows:

Dana S. Hardy
Jaclyn M. McLean
Yarithza Peña
Jamie R. Kennedy
125 Lincoln Ave, Ste. 223
Santa Fe, NM 87501
Phone: (505) 230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com
ypena@hardymclean.com
jkennedy@hardymclean.com
Counsel for Select Water Solutions, LLC

Elizabeth Ryan
Keri L. Hatley
ConocoPhillips
1048 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 780-8000
beth.ryan@concophillips.com
keri.hatley@conocophillips.com
Counsel for COG Operating

Adam G. Rankin
Paula M. Vance
A. Raylee Starnes
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile
agrankin@hollandhart.com
pmvance@hollandhart.com
arstarnes@hollandhart.com
Attorneys for Devon Energy Production Company, L.P.

Deana M. Bennett
Earl E. DeBrine, Jr.
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
Post Office Box 2168
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800
deana.bennett@modrall.com
earl.debrine@modrall.com
Attorneys for Coterra Energy Operating Co.

Matthias Sayer
Bradfute Sayer, P.C.
125 Lincoln Ave, Suite 222
Santa Fe, NM 87501
307-365-1814
matthias@bradfutelaw.com

Reagan Marble
Jackson Walker, LLP
1900 Broadway, Suite 1200
San Antonio, TX 78215
(210) 978-7770
rmarble@jw.com
Counsel for Desert Ram, Inc.

Rachael Ketchledge

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

ENTRY OF APPEARANCE AND
NOTICE OF OPPOSITION TO PRESENTATION BY AFFIDAVIT

Miguel A. Suazo, James P. Parrot, Jacob L. Everhart, and Ryan McKee of Beatty & Wozniak, P.C., hereby enter their appearances on behalf of Pilot Water Solutions SWD, LLC ("Pilot") in the above-referenced matters. Pilot further provides notice that it objects to presentation of these cases by affidavit under Rule 19.15.4.12(A)(1)(b).

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: _____

Miguel A. Suazo
James P. Parrot
Jacob L. Everhart
Ryan McKee
500 Don Gaspar Ave.
Santa Fe, NM 87505
(505) 946-2090
msuazo@bwenergylaw.com
jparrot@bwenergylaw.com
jeverhart@bwenergylaw.com
rmckee@bwenergylaw.com

Attorneys for Pilot Water Solutions SWD, LLC

Exhibit A
Pilot Water Solutions SWD, LLC - De Novo Application

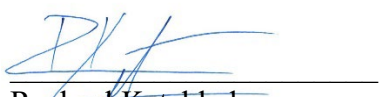
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 28th day of January 2026, as follows:

Dana S. Hardy
Jaclyn M. McLean
Jaime R. Kennedy
125 Lincoln Ave, Ste. 223
Santa Fe, NM 87501
Phone: (505) 230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com
Counsel for Select Water Solutions, LLC

Adam G. Rankin
Paula M. Vance
A. Raylee Starnes
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile
agrankin@hollandhart.com
pmvance@hollandhart.com
arstarnes@hollandhart.com
Attorneys for Devon Energy Production Company, L.P.

Elizabeth Ryan
Keri L. Hatley
ConocoPhillips
1048 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 780-8000
beth.ryan@conocophillips.com
keri.hatley@conocophillips.com
Attorneys for COG Operating, LLC



Rachael Ketchledge

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

APPLICATIONS OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO

CASE NOS. 25547-25548
25899 & 25900

PILOT WATER SOLUTIONS SWD, LLC'S RESPONSE TO SELECT WATER SOLUTIONS, LLC's MOTION TO STRIKE AND REQUEST FOR LIMITED ADDITIONAL TIME

Pilot Water Solutions SWD LLC ("Pilot"), provides this Response to Select Water Solutions LLC's ("Select"), Motion to Strike Pilot's Entry of Appearance and further makes a limited request for additional time to provide data and information to the Oil Conservation Division ("OCD" or the "Division") substantiating Pilot's good-faith concern that Select's proposed salt water disposal ("SWD") wells may adversely affect Pilot's existing operations and implicate matters within the Division's statutory authority. Pilot respectfully requests that the Division decline to strike its appearance and allow Pilot a short, defined period to submit additional technical and regulatory information substantiating the operational impacts that Pilot reasonably believes are likely to result from Select's proposed injection activities.

In support of this Response, Pilot submits sworn affidavits from its regulatory and engineering personnel, as well as limited publicly available regulatory records from the Texas Railroad Commission ("RRC"), demonstrating existing injection activity and pressure-related regulatory constraints affecting Pilot's saltwater disposal operations in the Delaware Mountain Group ("DMG") reservoir. These materials are submitted solely to illustrate the factual incompleteness of Select's Motion and to support Pilot's request for limited additional time. In support thereof, Pilot provides the following exhibits:

Exhibit A – Self-Affirmed Statement of David Grounds, Vice President for Regulatory Compliance, Pilot Water Solutions SWD, LLC

Exhibit B
Pilot Water Solutions SWD, LLC - De Novo Application

Exhibit B – Self-Affirmed Statement of Ankush Gupta, Senior Vice President for Engineering and Planning, Pilot Water Solutions SWD, LLC
Exhibit C – Selected RRC Annual Disposal/Injection Well Monitoring Reports (Form H-10) for Ross SWD 5
Exhibit D – Selected RRC Annual Disposal/Injection Well Monitoring Reports (Form H-10) for Ross SWD 9
Exhibit E – RRC Order Amending Ross SWD 5 UIC Permit (approved December 8, 2025)

I. BACKGROUND

Pilot was unaware of Select's pending applications for approval of saltwater disposal wells in Case Nos. 25547, 25548, 25899, and 25900 until the week of January 26, 2026. Pilot did not receive notice of Select's applications and did not otherwise learn of the proposed wells.

Although Select asserts that Pilot is not an "affected party" based on a rigid application of distance-based notice requirements, Select is fully aware that Pilot operates saltwater disposal infrastructure in the immediate vicinity of the proposed wells. Select and Pilot operate in the same regional disposal corridor, and Select knew or reasonably should have known that its proposed injection activities could implicate Pilot's operations. Nothing in the Division's rules prevented Select from providing courtesy notice to a nearby disposal operator whose operations may be affected, particularly where injection impacts are not constrained by artificial jurisdictional boundaries.

Upon learning of Select's applications, Pilot promptly entered an appearance and lodged an objection based on preliminary concerns regarding the potential operational impacts of Select's proposed wells. Pilot's objection was filed in good faith and without delay once Pilot became aware of the applications.

In moving to strike Pilot's appearance, Select relies on Area of Review exhibits and factual assertions that are incomplete and, in at least one material respect, inaccurate. Specifically, Select's exhibits characterize the Ross SWD 9 as inactive. In fact, Ross SWD 9 is an active injection well, as reflected in publicly available records maintained by the Texas RRC. Pilot is in the process of

compiling and submitting documentation from the TX RRC confirming the current injection status of Ross SWD 9.

Select's submissions further omit material information regarding Ross SWD 5, which has resumed injection operations. The absence of Ross SWD 5 from Select's analysis materially understates the cumulative disposal activity occurring in the area and distorts the operational context in which Select's proposed wells must be evaluated.

Additionally, Select's Area of Review analysis draws an arbitrary demarcation at the New Mexico–Texas border to exclude Pilot's operations from consideration. Injection behavior, pressure communication, and operational interference do not recognize state boundaries. By treating the state line as a limiting principle for notice and impact analysis—particularly with respect to the Jackrabbit SWD—Select improperly minimizes the relevance of nearby Texas disposal wells that operate in the same disposal system and pressure regime.

Pilot's technical staff is actively assembling the necessary operational, injection, and pressure data to fully document these issues and present them to the Division. At present, however, it is clear that Select's Motion to Strike rests on an incomplete factual record and seeks to foreclose Pilot's participation before the Division has the benefit of accurate and complete information regarding nearby disposal operations.

II. SELECT'S MOTION MISSTATES THE GOVERNING LEGAL STANDARD FOR INTERVENTION

Select's Motion to Strike is legally deficient because it ignores the express language of 19.15.4.11(C) NMAC, which governs intervention in Division adjudicatory proceedings. That rule provides that an intervenor may remain a party either by demonstrating standing or by demonstrating that its participation will contribute substantially to the prevention of waste, protection of correlative rights, or protection of public health or the environment.

Select's Motion addresses only one prong of this rule—traditional standing—and fails entirely to address the alternative and independent basis for intervention expressly authorized by the Division's regulations. This omission alone is sufficient grounds to deny the Motion or, at a minimum, defer ruling until the Division has the benefit of a complete factual record.

Select's reliance on Order Nos. R-10987-A(2) and R-12811 (*In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007)) is misplaced. Those orders denied intervention based on circumstances not present here, including the absence of any operational interest in the disposal reservoir, allegations of surface or environmental impacts outside the relevant zone of interest, speculative competitive concerns, and, in R-12811, a substantially delayed filing. By contrast, Pilot is an existing SWD operator injecting into the same DMG reservoir as Select's proposed wells and has identified credible, subsurface injection-related concerns directly tied to reservoir pressure management, waste prevention, and protection of correlative rights—matters squarely within the Division's core statutory responsibilities. At a minimum, these distinctions confirm that Select's cited orders do not compel striking Pilot's appearance at this preliminary stage.

Pilot's participation will contribute substantially to the Division's statutory duties because Pilot operates saltwater disposal wells injecting into the same disposal reservoir as Select's proposed wells and has already experienced regulatory constraints tied to reservoir pressure conditions. Evaluating cumulative injection impacts in a shared disposal formation falls squarely within the Division's mandate to prevent waste and protect correlative rights under NMSA 1978, § 70-2-11. In addition, the Division is "empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out" its duty to prevent waste and protect correlative rights. NMSA 1978, § 70-2-11; *Santa Fe Expl. Co. v. Oil Conservation Comm'n*, 1992-NMSC-044, ¶ 28, 114 N.M. 103, 835 P.2d 819.

At a minimum, 19.15.4.11(C) NMAC vests the Division with discretion to allow Pilot to remain in the proceeding while Pilot completes its technical review and submits additional information relevant to these statutory considerations.

III. SELECT'S MOTION IS PREMATURE

Select's Motion rests almost entirely on a distance-based characterization of standing and incorrectly treats the Division's notice provisions as a jurisdictional bar to intervention, notwithstanding the express discretion afforded under 19.15.4.11(C) NMAC. That framing is premature. The Division's rules and practice do not require an objector to conclusively prove injury at the moment it enters an appearance. Rather, the Division routinely allows parties with a credible basis for concern to develop and submit supporting evidence, particularly where technical and subsurface impacts are at issue.

While Select relies on a one-half mile radius for notice purposes, its own application and prehearing materials consistently analyze potential impacts over a one-mile Area of Review and beyond. This confirms that the geographic scope of potential operational effects is broader than the notice radius Select now treats as dispositive for standing.

Select's Motion is further premised on factual assumptions that are demonstrably incomplete. As reflected in publicly available RRC records submitted with this Response, Ross SWD 5 and Ross SWD 9 are active disposal wells injecting into the same DMG reservoir. Ross SWD 5 was shut in for a portion of 2024–2025 due to elevated reservoir pressures and recently resumed injection pursuant to a December 2025 permit amendment that increased allowable injection pressure while reducing authorized daily injection volume. These records underscore that reservoir pressure constraints already exist in the area and confirm that Pilot's concerns are grounded in present operational realities, not speculation.

Pilot has identified legitimate concerns regarding injection interference, pressure

communication, and operational constraints affecting its disposal operations. Those concerns are currently under technical review. Striking Pilot's appearance before that review is complete would deprive the Division of potentially relevant information and would elevate form over substance.

IV. PILOT HAS A GOOD-FAITH BASIS TO BELIEVE IT IS AFFECTED BY SELECT'S PROPOSED WELLS

The attached RRC regulatory records further demonstrate that Pilot's concerns arise from existing injection pressures and recent regulatory constraints affecting the DMG reservoir, reinforcing the need for additional time to assemble and present a complete technical record. Pilot's operational staff has identified specific characteristics of Select's proposed wells—including their location, proposed injection parameters, and disposal formations—that reasonably warrant further evaluation. While Pilot is still assembling the supporting data, these characteristics create a credible basis to believe that Select's operations may impact Pilot's existing or planned disposal activities. Pilot is merely asking for a short opportunity to document them. Independently, Pilot's participation will contribute substantially to the Division's evaluation of cumulative injection impacts in a shared disposal reservoir, an issue directly tied to the prevention of waste and protection of correlative rights. The affidavits submitted as **Exhibits A and B** and the regulatory records submitted as **Exhibits C–E** further demonstrate that Pilot's concerns arise from existing injection pressures and recent regulatory constraints affecting the DMG reservoir, reinforcing the need for additional time to assemble and present a complete technical record.

V. REQUEST FOR LIMITED ADDITIONAL TIME

Under 19.15.4.11(C) NMAC, the Division Examiner has discretion to deny Select's Motion to Strike where an intervenor's participation will contribute substantially to the Division's statutory duties, even where standing is disputed. Pilot respectfully requests that the Division deny Select's Motion to Strike or, in the alternative, defer ruling and allow Pilot a limited period of time

to submit supplemental affidavits and technical materials addressing the operational impacts raised by Select's applications.

Granting this limited request will not prejudice Select. It will ensure that the Division's decision is informed by a complete record and that potentially affected operators are not excluded before technical issues can be fully evaluated.

VI. CONCLUSION

Pilot has reason to believe that it is an affected party, or at a minimum that its participation will contribute substantially to the Division's statutory duties, and has articulated good-faith concerns grounded in existing reservoir pressure conditions and regulatory constraints affecting its operations. Pilot respectfully requests that the Division deny Select's motion or alternatively, defer ruling on Select's motion so that Pilot has time to provide the Division additional information substantiating its claims.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: _____

Miguel A. Suazo
James P. Parrot
Jacob L. Everhart
Ryan McKee
500 Don Gaspar Ave.
Santa Fe, NM 87505
(505) 946-2090
msuazo@bwenergylaw.com
jparrot@bwenergylaw.com
jeverhart@bwenergylaw.com
rmckee@bwenergylaw.com
Attorneys for Pilot Water Solutions SWD, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 3rd day of February 2026, as follows:

Dana S. Hardy
Jaclyn M. McLean
Yarithza Peña
Jamie R. Kennedy
125 Lincoln Ave, Ste. 223
Santa Fe, NM 87501
Phone: (505) 230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com
ypena@hardymclean.com
jkennedy@hardymclean.com
Counsel for Select Water Solutions, LLC

Elizabeth Ryan
Keri L. Hatley
ConocoPhillips
1048 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 780-8000
beth.ryan@concophillips.com
keri.hatley@conocophillips.com
Counsel for COG Operating

Adam G. Rankin
Paula M. Vance
A. Raylee Starnes
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile
agrankin@hollandhart.com
pmvance@hollandhart.com
arstarnes@hollandhart.com
Attorneys for Devon Energy Production Company, L.P.

Deana M. Bennett
Earl E. DeBrine, Jr.
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
Post Office Box 2168
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800
deana.bennett@modrall.com
earl.debrine@modrall.com
Attorneys for Coterra Energy Operating Co.

Matthias Sayer
Bradfute Sayer, P.C.
125 Lincoln Ave, Suite 222
Santa Fe, NM 87501
307-365-1814
matthias@bradfutelaw.com

Reagan Marble
Jackson Walker, LLP
1900 Broadway, Suite 1200
San Antonio, TX 78215
(210) 978-7770
rmarble@jw.com
Counsel for Desert Ram, Inc.

Rachael Ketchledge

EXHIBIT A

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

APPLICATION OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO

CASE NOS. 25547 - 25548
25899 & 25900

SELF-AFFIRMED STATEMENT OF DAVID GROUNDS

I, David Grounds, state the following:

1. My name is David Grounds, and I am employed by Pilot Water Solutions SWD, LLC ("Pilot") as Vice President for Regulatory Compliance. I am over 18 years of age, have personal knowledge of the matters addressed herein, and I am competent to provide this self-affirmed statement.

2. I have not previously testified before the New Mexico Oil Conservation Division ("Division"), and my qualifications as an expert in oil and gas regulatory compliance/injection operations and permitting have not been accepted and made a matter of record. A copy of my current resume is attached at the end of this statement.

3. I am familiar with the Division's regulations concerning saltwater disposal ("SWD") wells, including requirements related to injection pressures, monitoring and reporting obligations, seismic response protocols, and ongoing compliance responsibilities imposed on SWD operators.

4. I am familiar with the applications filed by Select Water Solutions, LLC ("Select") in the above-captioned cases and with the regulatory requirements applicable to the approval and operation of the proposed SWD wells.

Exhibit B
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT A

5. I have several years of experience in oil and gas regulatory matters, and I have worked directly or in a supervisory role in the geographic areas where Select proposes to drill the Javelina Fed 4 SWD #1, the Jackrabbit Fed SWD #1, the Coyote Fed 14 SWD #1, and the Roadrunner Fed 26 SWD #1.

6. Select did not provide Pilot with notice of the above-referenced applications, either informally or pursuant to the Division's notice requirements, and Pilot did not become aware of these applications until recently.

7. Based on my initial regulatory review, it is my professional opinion that Select's proposed SWD wells may create operational and compliance impacts for Pilot, including increased pressure interaction or other interference that could trigger reporting obligations, require temporary or permanent shut-ins, necessitate amendments to Pilot's existing SWD permits, or expose Pilot to regulatory scrutiny or enforcement that is not of Pilot's making.

8. Though I am not an attorney, it is my view that Select's analysis of standing is overly reliant on half-mile mapping and further fails to address cumulative and operational impacts in the geographic vicinity.

9. From a regulatory compliance perspective, Pilot is concerned that approval of Select's applications without further evaluation could result in reduced operational flexibility, increased compliance costs, and the risk of forced curtailment of Pilot's disposal operations.

10. As a matter of regulatory practice, Pilot cannot responsibly assert, waive, or fully characterize potential injection-related impacts without first assembling and reviewing relevant technical and operational data. Reaching conclusions without that information risks mischaracterizing potential impacts or omitting information the Division would reasonably expect an operator to evaluate.

EXHIBIT A

11. Pilot is currently in the process of conducting additional due diligence regarding Select's proposed wells and believes it will be able to substantiate these regulatory concerns if afforded a reasonable period of time to complete that review and submit supporting information to the Division.

12. I affirm that to the best of my knowledge and belief, all of the matters set forth herein are true, correct, and accurate and made under penalty of perjury under laws of the State of New Mexico.

[*Remainder of page left intentionally blank*]

EXHIBIT A

FURTHER AFFIANT SAYETH NOT.

Dated this 3rd day of February, 2026.

David Grounds
Pilot Water Solutions SWD, LLC

STATE OF Texas)
) ss.
CITY OF Harris)

The foregoing instrument was subscribed and sworn to before me this 3rd day of February, 2025, by David Grounds, Vice President for Regulatory Compliance for Pilot Water Solutions SWD, LLC.

Witness my hand and official seal.

My commission expires: 12-19-2027

YASMIN SALGADO
Notary Public, State of Texas
Comm. Expires 12-19-2027
Notary ID 134685875

Yasmin Salgado

EXHIBIT A

DAVID GROUNDS

Health, Safety, Environmental, and Regulatory Leader
817-897-0135 | davidgrounds@att.net | Dallas, TX

PROFESSIONAL SUMMARY

Accomplished health, safety, environmental (HSE), and regulatory executive with 20+ years of experience developing and driving safety, environmental, occupational health, wellness, chemical management, and regulatory compliance programs. Skilled in applying expertise in OSHA, RRC, TCEQ, BLM, NMSLO, NMOCD, EPA, MSHA and DOT regulatory requirements to define, develop, and evaluate programs, policies, and procedures in the oil and gas industry that maintain compliance. Collaborative, servant leader who fosters a strong HSE culture and executes regulatory compliance.

CORE COMPETENCIES

- HSE Strategic Planning
- HSE Program Development
- Regulatory Permits and Filings
- Emergency Preparedness
- Project Management
- Process Safety Management
- Environmental Compliance
- DOT Compliance
- Recruiting and Driver Quals
- Risk Analysis/Management
- Evaluations/Audits
- Gas Monitor Program
- KPI/Metrics Tracking and Analysis
- Executive/Stakeholder Engagement
- Government Relations and Sustainability

PROFESSIONAL EXPERIENCE

Pilot Water Solutions, LLC
Vice President, Regulatory Compliance & Quality, Health, Safety, and Environment (QHSE) Jan 2021 – current

- Manages all permitting activities for air, environmental, recycling, reuse, and injection operations for a nationwide midstream water disposal provider. Secured scores of permits and managed an annual budget of over $3MM.
- Develops the organization's regulatory strategy on permitting in new development projects. Evaluates business risk and operating climate to identify, assess, and select new development areas.
- Constructed the initial ESG strategy and internal benchmarks.
- Manages all federal, state, and local environmental and regulatory reporting across 1,110+ miles of water pipeline, 135 saltwater disposal wells, 29 source water and recycling facilities.
- Manages all government affairs with federal and state bodies and officials, including permitting, operational planning, reporting, government affairs, and special inquiries.
- Participate in industry memberships and trade associations.
- Served as the corporate representative for all agencies hearings and required depositions.
- Managed all aspects of the organization's QHSE program; established the principles, requirements, practices, and methods for integrating quality, health, and safety into daily operations.
- Designed and implemented an end-to-end QHSE management system to improve process and product quality, control environmental impact to promote sustainability, and ensure worker health and safety.

Vice President, DOT Compliance & Recruiting Oct 2021 – Dec 2023

- Managed a team of four driver attraction recruiting professionals.
- Managed all aspects of recruiting efforts, KPIs, and overall recruiting needs.
- Recruited on average of 600 drivers YoY.
- Served as the corporate representative for all agencies hearings and required depositions.

H_2O Midstream, LLC
Director, Health, Safety, Environmental, and Regulatory (HSER) 2017 – 2022

- Designed and implemented a comprehensive health, safety, environmental and regulatory program; defined, developed, and managed programs and initiatives that secure optimal levels of safety and ensure full compliance with industry, local, state, and federal regulatory standards and requirements.
- Oversaw all environmental management program procedures from development through to maintenance, including managing Tier II reporting, PBR, waste characterization and streams, wetlands, jurisdictional waters and floodplains, cultural resources and endangered species surveys, SWPPP, NORM, and SPCC.
- Designed, developed, and implemented a top-tier training and hazard recognition program, delivering metric-driven dynamic hazard recognition, competency-based and hands-on training that has significantly enhanced organization's capacity to work safer, and more efficiently.

Exhibit B
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT A

- Successfully maintained an injury-free workplace, and zero OSHA-recordable incidents since the organization's inception.
- Led a $2MM cleanup following a major spill and saved the company $450M by working with the landowners to provide creative remediation solutions.
- Leveraged regulatory knowledge to transition from a permitted to a nonpermitted required recycling facility saving $150M annually on the cost of bond and additional administrative duties across multiple facilities.
- Developed and implemented a preventative maintenance schedule, ensuring zero engine failures; met customer transfer point contractual meter calibration requirements, and reduced YoY R&M by 30%.

EOG Resources, Inc.
Environmental, Health, and Safety Consultant 2007 – 2017

- Built, designed, and implemented a safety and health program for a three-business unit division; authored the first process safety manual and general safety guidelines.
- Developed and implemented a cutting-edge health monitoring program for silica monitoring that included medical surveillance, initial physicals, and quantitative fit test respirators. Establishing a relationship with Johns Hopkins University to interpret chest x-rays and serve as company repository.
- Drove significant improvement in health and safety training culture, achieving a 100% monthly training metric in a division of 700 employees and 600 contractors.
- Planned and executed quantitative fit-testing and medical surveillance processes for workplace health hazards, including chemical/toxin exposure, and bloodborne pathogens.
- Led Shared Services business unit and achieved 1 million man-hours without a recordable injury.
- Implemented fundamental health and safety programs and initiatives that delivered an 87% injury rate reduction.

Nabors Drilling USA, LP
Health, Safety, and Environmental Supervisor 2003 – 2007

- Steered HSE programs across 26 drilling rigs and 650 employees. Oversaw a team of five operational safety trainers and 20 safety coaches.
- Designed and developed engaging and effective worker-specific training programs many of which were rolled-out company-wide.
- Built a strong HSE foundation and effectively executed on fundamentals; implemented monitoring, tracking, and evaluating programs and practices to maintain and enhance standards, resulting in a 70% injury rate reduction.

EDUCATION

M.S., Occupational Safety and Health – HSE Management, Columbia Southern University, 2012
B.S., Occupational Safety and Health – HSE Management, Cum Laude, Columbia Southern University, 2010
A.S., General Studies – Technical Writing, North Central Texas College, 2002

TRAINING

PEC Basic Orientation Trainer, 2017
PEC H2S Clear Trainer, 2017
Fall Protection Trainer, 2013
Smith Driving Trainer, 2010
Well Control Supervisor, 2007
DuPont STOP Trainer, 2006
Taproot Trainer, 2006
Bobby Jones Trainer, 2006

AWARDS and ACHIEVEMENTS

Texas Seismicity & Water Partnership, Technical Committee Ambassador, 2023
Texas Alliance of Energy Producers, Committee Member, 2023
Permian Basin Producers Association, Committee Member, 2023
NTEPS, Executive Committee Representative, 2009-2011
Division Leadership Champion, EOG Resources, 2008-2012
S&E Excellence Award, EOG Resources, 2007
Safety Leadership MVP, Nabors Drilling, 2006

EXHIBIT B

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

APPLICATION OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO

CASE NOS. 25547 - 25548
25899 & 25900

SELF-AFFIRMED STATEMENT OF ANKUSH GUPTA

I, Ankush Gupta state the following:

1. My name is Ankush Gupta and I am employed by Pilot Water Solutions SWD, LLC ("Pilot") as Senior Vice President for Engineering and Planning. I am over 18 years of age, have personal knowledge of the matters addressed herein, and I am competent to provide this self-affirmed statement.

2. I have 18 years of experience in oil and gas operations, including the planning, construction, operation, and monitoring of saltwater disposal ("SWD") wells. My responsibilities include evaluating injection capacity, monitoring pressure behavior, and assessing operational risks associated with nearby injection activity.

3. I have not previously testified before the New Mexico Oil Conservation Division ("Division"), and my qualifications as an expert in oil and gas injection operations and permitting have/have not been accepted and made a matter of record. A copy of my current resume is attached at the end of this statement.

4. I am familiar with Pilot's existing and planned SWD operations in the geographic area surrounding the locations where Select Water Solutions, LLC ("Select") proposes to drill the Javelina Fed 4 SWD #1, the Jackrabbit Fed SWD #1, the Coyote Fed 14 SWD #1, and the Roadrunner Fed 26 SWD #1.

EXHIBIT B

5. I am familiar with the applications filed by Select in the above-captioned cases and with the operational information provided in support of those applications, including Area of Review materials and proposed injection parameters.

6. Based on my initial review, Select's proposed SWD wells are located in proximity to Pilot's disposal operations such that there is a reasonable potential for operational interaction, including pressure communication, interference with injection capacity, or other impacts affecting Pilot's ability to operate its SWD facilities.

7. In my experience, operational impacts from SWD injection are not determined solely by linear distance, but are influenced by formation continuity, injection volumes and pressures, cumulative disposal activity, and existing pressure conditions in the disposal interval.

8. Evaluating the potential operational impacts of Select's proposed wells on Pilot's operations requires additional technical review, including analysis of historical injection data, pressure trends, formation characteristics, and cumulative disposal activity in the area.

9. Pilot is currently in the process of assembling and reviewing this information. Until that review is complete, it would be premature to definitively quantify the extent of any operational impacts; however, the proximity and characteristics of Select's proposed wells warrant further evaluation.

10. If Select's proposed wells are approved without additional analysis, Pilot is concerned that its disposal operations could be adversely affected, including through reduced injection capacity, operational constraints, or the need to modify existing disposal practices.

11. From an operational standpoint, Pilot cannot responsibly assess or rule out these potential impacts without completing its technical due diligence and presenting the resulting information to the Division.

EXHIBIT B

12. Pilot believes it will be able to substantiate its operational concerns regarding Select's proposed wells if afforded a reasonable period of time to complete its technical evaluation and submit supporting materials.

13. I affirm that to the best of my knowledge and belief, all of the matters set forth herein are true, correct, and accurate and made under penalty of perjury under laws of the State of New Mexico.

[*Remainder of page left intentionally blank*]

EXHIBIT B

FURTHER AFFIANT SAYETH NOT.

Dated this 3rd day of February, 2026.

Ankush Gupta
Pilot Water Solutions SWD, LLC

STATE OF Texas)
) ss.
CITY OF Harris)

The foregoing instrument was subscribed and sworn to before me this 3rd day of February, 2026, by Senior Vice President for Engineering and Planning for Pilot Water Solutions SWD, LLC.

Witness my hand and official seal.

My commission expires: 12-19-2027

YASMIN SALGADO
Notary Public, State of Texas
Comm. Expires 12-19-2027
Notary ID 134685875

Yasmin Salgado

EXHIBIT B

ANKUSH GUPTA

ENGINEERING AND OPERATIONS LEADER

832.948.2648 | ank_gupta@outlook.com | Sugarland, TX | LinkedIn

PROFESSIONAL SUMMARY

Visionary, results-driven leader known for turning strategy into execution, driving operational excellence, and positioning organizations for market leadership. Proven ability to optimize production, minimize costs, and execute complex capital projects with precision. Expert in harnessing technology and refining operations to unlock multimillion-dollar value across global energy infrastructure. Accelerate efficiency, profitability, and competitive advantage by cultivating high-performance teams, forging strategic partnerships, and driving seamless cross-functional collaboration.

ADVANCED TECHNICAL TRAINING & CERTIFICATIONS

- **PetroSkills Training:** Artificial Lift, Production Operations I & II, Gas Production Engineering, Production Surface Equipment
- **Specialized Drilling & Engineering Courses:** BP-Chevron Drilling & Directional Drilling, Blade Casing Design, Halliburton Geomechanics, K&M ERD School, TH Hill Drill String Design
- **Industry-Specific Training:** Liners, Bits, Mud, Cementing, Gas Deliquification
- **Field Experience:** Drilling wellsite manager experience in 2011. Onsite operations exposure across NE British Columbia, Alberta, Pennsylvania, South Texas, and the Permian Basin

WORK EXPERIENCE

Pilot Water Solutions | Jun 2023 - Present

Senior VP, Engineering, Planning & Operations (Promoted from VP after 6 months)

- Manage140+ SWDs and 1,100 miles of pipeline across TX, OH, WY, and UT, directing operations for 1 MMBbl/d of produced water and associated oil.
- Deliver CAPEX/OPEX projects on schedule and under budget while reducing facility downtime and enhancing system utilization through targeted maintenance and data analytics.
- Exceed KPIs by optimizing drilling, standardizing facility/pipeline designs, and revamping operation processes.
- Eliminated rental generators and refined chemical program to reduce OPEX by $0.02/bbl and boost revenue.
- Integrate innovative technologies to reinforce competitive advantage and uphold operational excellence.
- Directed drilling,completions, and workover programs, advancing operational objectives and reinforcing asset integrity.
- Served as board member at Pilot Water Solutions, participating in board meetings and reporting directly to the CEO.

Ecopetrol Permian LLC | Jun 2020 - Jun 2023

Production & Facilities Manager

- Commanded production of 70,000 BOEPD in a high-profile joint venture with Occidental Oil and Gas, driving new performance frontiers in the Midland Basin.
- Directed engineering teams in Houston and integrated efforts with Occidental secondees to oversee more than 250 wells and six mission-critical facilities.
- Drove ambitious emissions tracking and reduction initiatives while orchestrating advanced water management programs.
- Engineered robust real-time dashboards to monitor CAPEX, flowback, production metrics, artificial lift performance, failure data, emissions, and water disposal/recycling.

- Spearheaded a groundbreaking collaboration with Accenture, AWS, and Occidental to introduce the industry's first water usage tracking application, radically elevating recycling efficiency.
- Garnered Ecopetrol's Excellence Award for pioneering an emissions baseline that redefined operational benchmarks across the joint venture.
- Participated in board meetings at Ecopetrol Permian, reporting directly to the CEO.

Sanchez Oil & Gas | Aug 2019 - Jun 2020

Area Production Manager, Eagleford (Catarina & Maverick Assets)

- Directed 600+ wells and nine major facilities with 100% working interest, driving 35,000 net BOEPD production.
- Managed a $2.5MM monthly LOE budget, implementing cost-reduction strategies without compromising production output.
- Instituted a behavior-based safety program, significantly reducing TRIR and strengthening workplace culture.
- Led drilling, artificial lift optimization (gas lift, plunger lift, rod pumps), and root cause failure analyses to enhance asset reliability.
- Established SOPs for flowback and mobile compressor operations, standardizing operational excellence across the organization.
- Managed multiple workover rigs, overseeing downhole interventions.

Lead Production Engineer (Eagleford Asset) | Apr 2018 - Aug 2019

- Oversaw 450 wells in South Texas, representing 65% of Sanchez's total production.
- Optimized artificial lift systems, supervised workover rigs, and mentored production teams.
- Deployed offset frac mitigation with pre-load strategies to safeguard parent well productivity.
- Collaborated with completions, reservoir, and subsurface teams to manage proppant transfer via tracer studies and downhole gauges.
- Converted multiple plunger lift wells to gas lift, boosting output through favorable gas to liquids ratios.
- Managed five major gas and liquid handling facilities, ensuring robust infrastructure and stable operations.

Repsol/Equinor (Houston & Austin) | Jul 2013 - Apr 2018

Production/Operation/Midstream Engineer (Eagleford Asset)

- Hand-picked to represent Repsol in Equinor's unconventional South Texas operations, steering 200+ wells, three central distribution plants, and two high-capacity transfer stations.
- Teamed with reservoir, geology, facilities, and completions experts to overcome high H2S hurdles, enhance flowback methods, and shape strategic field development.
- Deployed advanced artificial lift solutions and orchestrated well workovers to amplify production performance, developing custom plunger-lift strategies for 70+ wells and optimizing gas-lift/rod-pump efficiency.
- Piloted a plant automation initiative that significantly reduced monthly OPEX/LOE, leveraging cross-functional alignment for maximum impact.
- Drove facility debottlenecking efforts to maintain seamless growth and uphold operational excellence.

Talisman Energy USA Inc. (Acquired by Repsol in 2015) | Pittsburgh, Houston & Calgary

Drilling Engineer (WEIS, COE & Appalachia Group) | May 2009 - Jul 2013

- Delivered well planning and execution for unconventional shale plays across Montney, Marcellus, and Eagle Ford.
- Directed up to four rigs simultaneously, overseeing AFE development and drilling operations.
- Optimized multi-well pad drilling, addressing horizontal well challenges to cut cycle times.
- Led offset analysis for new Alberta and BC plays within the Center of Excellence.
- Engineered casing design, torque & drag analysis, hydraulics, and bit performance in NE BC wells.
- Spearheaded drilling cost-reduction initiatives; earned multiple awards for cutting expenses and execution time.

EDUCATION

Bachelor of Engineering and Management, Mechanical Co-op
McMaster University, Hamilton, Ontario - 2009
General Management Program (In Progress) – Wharton School, University of Pennsylvania Expected Completion: Mid 2026 (Upon Completion, Wharton Alumni)

EXHIBIT C

RAILROAD COMMISSION OF TEXAS
OIL AND GAS DIVISION

H-10

TYPE OR PRINT IN BLUE OR BLACK INK. SEE RRC WEBSITE FOR FILING INSTRUCTIONS.

Return the completed original report to:
DIRECTOR, Technical Permitting
Oil and Gas Division
P.O. Box 12967
Austin, Texas 78711-2967

Annual Disposal/Injection Well Monitoring Report

RRC USE ONLY
UIC Control No: 000119379
Type: 1
DUE DATE: 06/01/2025

1. OPERATOR NAME, exactly as shown on P-5	2. OPERATOR P-5 NO.	3. RRC DISTRICT NO.
PILOT WATER GATH DELAWARE LLC	665590	08

4. ADDRESS, including city, state, and zip code	5. API NO.
20 GREENWAY PLAZA STE 500 HOUSTON, TX 77046	42-301-34491
	6. OIL LEASE NO. 56168

7. FIELD NAME, exactly as shown on Proration Schedule	8. GAS ID NO.
DIMMITT (DELAWARE)	

9. LEASE NAME, exactly as shown on Proration Schedule	10. COUNTY	11. WELL NO.
ROSS SWD	LOVING	5

12. MONTH YR	13. INJECTION PRESSURE AVG PSIG	13. INJECTION PRESSURE MAX PSIG	14. TOTAL VOLUME INJECTED BBLS	14. TOTAL VOLUME INJECTED MCF	15. ANNULUS PRESSURE (BETWEEN TUBING AND CASING) [See instructions (item B)] # OF READINGS	15. ANNULUS PRESSURE MIN PSIG	15. ANNULUS PRESSURE MAX PSIG
05/2024	1273	1304	284406	0	31	0	0
06/2024	1296	1324	242254	0	30	0	0
07/2024	1110	1173	393450	0	31	0	0
08/2024	1289	1302	249090	0	31	0	0
09/2024	1277	1291	185972	0	30	0	0
10/2024	1289	1301	189569	0	31	0	0
11/2024	1267	1277	158901	0	30	0	0
12/2024	1242	1251	47715	0	31	0	0
01/2025	1247	1254	0	0	31	0	0
02/2025	1239	1245	0	0	29	0	0
03/2025	1246	1251	0	0	31	0	0
04/2025	1267	1280	0	0	30	0	0

16. Completed Injection Interval (perforated or open hole interval):	FROM: 5,324 ft	TO: 7,684 ft	17. Depth of Tubing Packer: 5,298 ft

18. Are the injected fluids produced from sources other than your own ?	19. Injection through:
[X] 1. YES [ ] 2. NO	[X] 1. Tubing [ ] 2. Casing

20. Type of fluids injected during reporting cycle:

	Total	Anthropogenic
A Salt Water 100 %	B Fresh Water ____ %	C Fracture Water Flow Back ____ %
D Norm ____ %	E(a) CO2 ____ %	E(a) CO2 ____ %
F Natural Gas ____ %	G H2S ____ %	H Polymer ____ %
I Steam ____ %	J Air ____ %	K Nitrogen ____ %
L Other Fluid ____ %	Specify Fluid ____	

This facsimile H-10 was generated electronically from data submitted to the RRC. A certification of the automated data is available in the RRC's Austin office.

Name of Person: Tami Parker Phone: (432)-296-2053

Company: PILOT WATER SOLUTIONS SWD LLC Date: 06/18/2025

Exhibit B

EXHIBIT D

RAILROAD COMMISSION OF TEXAS
OIL AND GAS DIVISION

H-10

TYPE OR PRINT IN BLUE OR BLACK INK. SEE RRC WEBSITE FOR FILING INSTRUCTIONS.

Return the completed original report to:
DIRECTOR, Technical Permitting
Oil and Gas Division
P.O. Box 12967
Austin, Texas 78711-2967

Annual Disposal/Injection Well Monitoring Report

RRC USE ONLY
UIC Control No: 000124802
Type: 1
DUE DATE: 06/01/2025

1. OPERATOR NAME, exactly as shown on P-5	2. OPERATOR P-5 NO.	3. RRC DISTRICT NO.
PILOT WATER GATH DELAWARE LLC	665590	08

4. ADDRESS, including city, state, and zip code	5. API NO.
20 GREENWAY PLAZA STE 500 HOUSTON, TX 77046	42-301-00000
	6. OIL LEASE NO.

7. FIELD NAME, exactly as shown on Proration Schedule	8. GAS ID NO.

9. LEASE NAME, exactly as shown on Proration Schedule	10. COUNTY	11. WELL NO.
ROSS SWD	LOVING	9

12.	13. INJECTION PRESSURE		14. TOTAL VOLUME INJECTED		15. ANNULUS PRESSURE (BETWEEN TUBING AND CASING) [See instructions (item B)]		
MONTH YR	AVG PSIG	MAX PSIG	BBLS	MCF	# OF READINGS	MIN PSIG	MAX PSIG
05/2024	1530	1642	518921	0	31	0	0
06/2024	1578	1662	549925	0	30	0	0
07/2024	1516	1597	444210	0	31	0	0
08/2024	1620	1697	532179	0	31	0	0
09/2024	1588	1670	452577	0	30	0	0
10/2024	1624	1700	531216	0	31	0	0
11/2024	1529	1642	404726	0	30	0	0
12/2024	1482	1558	343239	0	31	0	0
01/2025	1648	1725	460846	0	31	0	0
02/2025	1628	1692	118683	0	29	0	0
03/2025	1666	1713	404621	0	31	0	0
04/2025	1626	1722	433376	0	30	0	0

16. Completed Injection Interval (perforated or open hole interval): FROM: 5,345 ft TO: 7,700 ft

17. Depth of Tubing Packer: 5,251 ft

18. Are the injected fluids produced from sources other than your own ? [X] 1. YES [ ] 2. NO

19. Injection through: [X] 1. Tubing [ ] 2. Casing

20. Type of fluids injected during reporting cycle: Total / Anthropogenic

A Salt Water 100 % B Fresh Water ____ % C Fracture Water Flow Back ____ % D Norm ____ % E(a) CO2 ____ % E(a) CO2 ____ %

F Natural Gas ____ % G H2S ____ % H Polymer ____ % I Steam ____ % J Air ____ % K Nitrogen ____ %

L Other Fluid ____ % Specify Fluid ____

This facsimile H-10 was generated electronically from data submitted to the RRC. A certification of the automated data is available in the RRC's Austin office.

Name of Person: Tami Parker Phone: (432)-296-2053

Company: PILOT WATER GATH DELAWARE LLC Date: 06/18/2025

Exhibit B

EXHIBIT E

JIM WRIGHT, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
WAYNE CHRISTIAN, COMMISSIONER

DANNY SORRELLS
DEPUTY EXECUTIVE DIRECTOR
DIRECTOR, OIL AND GAS DIVISION
PAUL DUBOIS, P.E.
ASSISTANT DIRECTOR, TECHNICAL PERMITTING

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

PERMIT TO DISPOSE OF NON-HAZARDOUS OIL AND GAS WASTE BY INJECTION INTO A POROUS FORMATION NOT PRODUCTIVE OF OIL AND GAS

PERMIT NO. 16380 AMENDMENT

PILOT WATER GATH DELAWARE LLC
20 GREENWAY PLAZA STE 500
HOUSTON TX 77046

Authority is granted to inject Non-Hazardous Oil and Gas waste into the well identified herein in accordance with Statewide Rule 9 of the Railroad Commission of Texas and based on information contained in the application (Form W-14) dated April 21, 2025, for the permitted interval(s) of the BELL CANYON and CHERRY CANYON formation(s) and subject to the following terms and special conditions:

ROSS SWD (56168) LEASE
DIMMITT (DELAWARE) FIELD
LOVING COUNTY
DISTRICT 08

WELL IDENTIFICATION AND PERMIT PARAMETERS:

Well No.	API No.	UIC No.	Permitted Fluids	Top Interval (feet)	Bottom Interval (feet)	Maximum Liquid Daily Injection Volume (BBL/day)	Maximum Surface Injection Pressure for Liquid (PSIG)
5	30134491	000119379	Salt Water; Other Non-Hazardous O/G Waste	5300	7700	30000	1666

Exhibit B
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT E

SPECIAL CONDITIONS:

Well No.	API No.	Special Conditions
5	30134491	**1. Bottomhole Pressure (BHP) data:** **(1) The operator shall collect and report initial and periodic static bottomhole pressure (BHP) measurements. All bottomhole pressures should be depth adjusted to the top of the permitted injection interval. The BHP shall be collected in accordance with the following:** **i. Initial static bottomhole pressure prior to injection. This value will be used as the initial average reservoir pressure for the well.** **ii. Initial bottomhole fracturing pressure (or frac gradient) of the permitted injection interval before injection into the well begins.** **iii. On a semiannual basis the operator will report the following two data points:** **a. A bottomhole pressure value for instantaneous shut in pressure (ISIP) measured including last measured injection rate immediately prior to shut-in.** **b. A static bottomhole reservoir pressure obtained after a minimum of four- (4) hours of shut-in after injection is stopped.** **(2) The operator shall collect daily injection volume and daily surface injection pressure data and report this data monthly. This must include the following daily parameters: maximum surface injection pressure (pounds per square inch), average surface injection pressure (pounds per square inch), injection volume (barrels per day), and maximum injection rate (barrels per minute). Operators shall report this data on the 15th day of the month following the reporting period. The data will be uploaded to the Bureau of Economic Geology's (BEG) TexNet Injection Volume and Pressure Reporting Tool available at or other system designated by RRC UIC which is available to industry, academia, the public and RRC staff (https://injection.texnet.beg.utexas.edu/).** **(3) The operator shall submit all pressure data required via two separate methods (formats).** **a. DIRECTLY TO RRC INJECTION-STORAGE PERMITS UNIT. The operator shall submit a report directly to UIC_Permits@rrc.texas.gov (Attn: BHP) under the signature of a Registered Professional Engineer. This report shall contain at a minimum the following information:** **i. UIC number** **ii. API number** **iii. Operator name and P-5 number** **iv. Pressure reading time stamp for vii & ix below** **v. Depth actual data was gathered (TVD)** **vi. Injection Formation Name** **vii. Bottomhole Instantaneous Shut In Pressure (ISIP).** **viii. Bottomhole fracturing pressure (or gradient)** **ix. Bottomhole average reservoir pressure.**

Note: This document will only be distributed electronically.

EXHIBIT E

		b. TEXNET - The data will be uploaded to the Bureau of Economic Geology's (BEG) TexNet Injection Volume and Pressure Reporting Tool available at or other system designated by RRC UIC which is available to industry, academia, the public and RRC staff (https://injection.texnet.beg.utexas.edu/). **INSTRUCTIONS: The following are the allowable methods for obtaining reported bottomhole pressure measurements.** **(A) Calculated BHP Method: Operator shall pump twice the tubing-volume of a fluid of known density. The well must be shut in for at least four (4) hours, after which the shut-in surface pressure shall be recorded. The BHP shall be calculated by BHP = surface pressure + hydrostatic pressure and corrected to a depth indicated by the operator as the shallowest open vertical depth of the completed injection interval. If the well fails to maintain a fluid level to the surface, a fluid level shall be acquired by using reliable downhole tools and technology. The BHP shall then be calculated by the hydrostatic pressure of the liquid column extending from the fluid level depth to a depth indicated by the operator as the shallowest open vertical depth of the completed injection interval.** **(B) Dip-In BHP Measurement Method: The well must be shut-in for at least four (4) hours before pressure measurement is taken. A BHP measuring device shall be run in the well.** **(C) Permanent BHP Probe Method: A bottomhole pressure probe may be installed in the well. The reported bottomhole pressures, from a downhole gauge will be corrected for all necessary depth/density adjustments necessary to depth register the pressures to the top of the permitted injection interval.** **(4) Disposal into the Delaware Mountain Group Formations:** **(A) The operator shall run, annotate, and provide to the Commission a well log of the well that includes at a minimum, gamma ray, resistivity, porosity, and full-waveform acoustic tracks.** **(B) The operator shall run and provide to the Commission a cement bond log on all casing strings.** **(C) The operator shall assess, and quantify using best practices, the fracture closure pressure in the disposal zone, the upper confining strata, and the lower confining strata.**

STANDARD CONDITIONS:

1. Injection must be through tubing set on a packer. The packer must be set no higher than 100 feet above the top of the permitted interval.

2. The District Office must be notified 48 hours prior to:
   a. running tubing and setting packer;
   b. beginning any work over or remedial operation;
   c. conducting any required pressure tests or surveys.

Note: This document will only be distributed electronically.

EXHIBIT E

3. The wellhead must be equipped with a pressure observation valve on the tubing and for each annulus.

4. Prior to beginning injection and subsequently after any work over, an annulus pressure test must be performed. The test pressure must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test must be performed and the results submitted in accordance with the instructions of Form H-5.

5. The injection pressure and injection volume must be monitored at least monthly and reported annually on Form H-10 to the Commission's Austin office.

6. Within 30 days after completion, conversion to disposal, or any work over which results in a change in well completion, a new Form W-2 or G-1 must be filed to show the current completion status of the well. The date of the disposal well permit and the permit number must be included on the new Form W-2 or G-1.

7. Written notice of intent to transfer the permit to another operator by filing Form P-4 must be submitted to the Commission at least 15 days prior to the date of the transfer.

8. This permit will expire when the Form W-3, Plugging Record, is filed with the Commission. Furthermore, permits issued for wells to be drilled will expire three (3) years from the date of the permit unless drilling operations have commenced.

Provided further that, should it be determined that such injection fluid is not confined to the approved interval, then the permission given herein is suspended and the disposal operation must be stopped until the fluid migration from such interval is eliminated. Failure to comply with all of the conditions of this permit may result in the operator being referred to enforcement to consider assessment of administrative penalties and/or the cancellation of the permit.

APPROVED AND ISSUED ON December 08, 2025.

for Reed Baker, Manager
Oil & Gas Injection Permits Unit (OGIP)

Note: This document will only be distributed electronically.

EXHIBIT E

Amendment Comments:

Well No.	API No.	Amendment Comments
5	30134491	**1. Amends permit dated 2022/01/05. 2. Amends maximum surface injection pressure for liquid from 1325 psig. 3. Amends maximum daily injection volume for liquid from 40000 bbl/day. 4. Amends listing of permitted injection formation name(s). The previous injection formation name listing was: BELL CANYON{CHERRY CANYON{BRUSHY CANYON.**

Note: This document will only be distributed electronically.

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

APPLICATIONS OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO	**CASE NOS. 25547-25548 25899 & 25900**

PILOT WATER SOLUTIONS SWD, LLC'S MOTION FOR RECONSIDERATION OF ORDER GRANTING SELECT'S MOTION TO STRIKE PILOT'S ENTRY OF APPEARANCE AND OBJECTION, AND REQUEST FOR LEAVE TO INTERVENE UNDER 19.15.4.11(C) NMAC

Pilot Water Solutions SWD, LLC ("Pilot"), by and through undersigned counsel, respectfully moves the Hearing Examiner to reconsider the order granting Select Water Solutions, LLC's ("Select") Motion to Strike (MTS) Pilot's Entry of Appearance and Objection (the "Strike Order") and to grant Pilot's leave to intervene under 19.15.4.11(C) NMAC. Pilot further requests that the Hearing Examiner exercise the Division's procedural case-management authority under 19.15.4.16(C) NMAC, consistent with the Division's application of that provision in Case No. 24491, Order Reconsidering Prior Order, ¶¶ 5–6 (N.M. Oil Conservation Div. Oct. 28, 2025)

Pilot's participation will contribute substantially to the prevention of waste and protection of correlative rights in a shared disposal formation—the Delaware Mountain Group ("DMG")—where Pilot operates multiple active saltwater disposal wells. Pilot provides preliminary documentation (Exhibits A - E) demonstrating that Select's proposed injection activity may alter reservoir pressure conditions, reduce available disposal capacity, and interfere with Pilot's ability to efficiently and safely utilize the shared formation, thereby implicating the Division's statutory duty to prevent waste and ensure that disposal operations do not impair Pilot's correlative rights within the formation. *See* NMSA 1978, § 70-2-11; *See also* 19.15.4.11(C) NMAC; 19.15.26 NMAC (governing injection wells, adopted pursuant to §§ 70-2-6, 70-2-11, and related provisions, and authorizing Division action to protect correlative rights where necessary).

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

This Motion is supported by specific injury to Pilot evidencing from: (a) a year-long well shut-in caused by elevated DMG reservoir pressure (Exhibit C: showing zero injection volumes for Ross SWD 5 beginning January 2025 and Exhibit A at ¶ 8); (b) a regulator-mandated 25% reduction in injection capacity (Exhibit E: amending Permit No. 16380 to reduce maximum daily injection volume from 40,000 to 30,000 BBL/day); (c) cumulative injection stress from existing and recently permitted wells in the same formation (Exhibit B at ¶ 8); (d) subsurface modeling indicating that any additional injections affect the reservoir's total disposal capacity (Exhibit B at ¶¶ 6, 10, 13); and (e) inaccurate factual representations by Select concerning Pilot's operations (Exhibit A at ¶¶ 8, 9). Select's characterization of Pilot as a mere competitor with no technical basis for participation is contradicted by this evidence and by the legal standards governing standing and intervention.

In support thereof, Pilot provides the following exhibits:

Exhibit A – Self-Affirmed Statement of David Grounds, Vice President for Regulatory Compliance, Pilot Water Solutions SWD, LLC
Exhibit B – Self-Affirmed Statement of Ankush Gupta, Senior Vice President for Engineering and Planning, Pilot Water Solutions SWD, LLC
Exhibit C – Selected RRC Annual Disposal/Injection Well Monitoring Reports (Form H-10) for Ross SWD 5
Exhibit D – Selected RRC Annual Disposal/Injection Well Monitoring Reports (Form H-10) for Ross SWD 9
Exhibit E – RRC Order Amending Ross SWD 5 UIC Permit (approved December 8, 2025)
Exhibit F – Tr. of Oil Conservation Comm'n Proceedings at 20, 27, 82-88, 95, Agenda No. 5-24 (June 20, 2024)
Exhibit G – Empire N.M. LLC's Resp. in Opp'n to Goodnight's Mot. to Dismiss, Case Nos. 24021–24024, 24026–24027 (N.M. Oil Conservation Comm'n June 6, 2024)
Exhibit H – Order Reconsidering Prior Order Lifting Stay, Reinstating Administrative Stay, and Permitting Intervention, *In re Application of Goodnight Midstream Permian*, LLC, Case No. 24491, (N.M. Oil Conservation Div. Oct. 28, 2025)
Exhibit I – Goodnight's Br. on Empire Standing at 1-7, Case No. 24491 (N.M. Oil Conservation Div. Oct. 16, 2025)
Exhibit J – Tr. of Oil Conservation Div. Proceedings at 151 (June 13, 2024)

I. PROCEDURAL BACKGROUND

On August 7–8, 2025, Select filed applications for four produced water disposal wells in Lea County, New Mexico: the Javelina Fed 4 SWD #1 (Case No. 25547), Jackrabbit Fed SWD #1 (Case No. 25548), Coyote Fed 14 SWD #1 (Case No. 25899), and Roadrunner Fed 26 SWD #1 (Case No. 25900). Each proposes to inject produced water into the DMG formation. Select dismissed and refiled Case Nos. 25899 and 25900 on January 6, 2026.

Pilot did not receive notice because it does not operate within the half-mile Area of Review ("AOR") under 19.15.26.8(B)(2) NMAC. Pilot learned of the consolidated hearing docket the week of January 26, 2026, and promptly filed its Entry of Appearance and Objection. Select moved to strike. The Hearing Examiner granted the MTS ("Motion to Strike").

Pilot now respectfully asks the Hearing Examiner to revisit the Strike Order and to permit Pilot's intervention under 19.15.4.11(C) NMAC. To the extent the Division has not yet entered a final order on Select's applications, this Motion is timely and the Division retains full authority to act.

II. THE DIVISION HAS AUTHORITY TO REVISIT THE STRIKE ORDER

This Motion invokes the Division's procedural case-management authority under 19.15.4.16(C) NMAC. *See* Case No. 24941, Transcript of Proceedings at 84 (N.M. Oil Conservation Div. Mar. 27, 2025) (Summarizing Permian's procedural error in submitting a second MTS instead of a Motion for Reconsideration); *See also* Case No. 24491, Order Reconsidering Prior Order (N.M. Oil Conservation Div. Oct. 28, 2025) (The Division relied on 19.15.4.16(C) NMAC to reconsider and vacate a prior procedural order for orderly docket management and good-cause reasons).

Good cause exists to revisit the Strike Order because the current record lacks formation-specific operational and pressure data from Pilot's existing SWD wells injecting into the same

DMG disposal interval targeted by Select's applications—data that is uniquely within Pilot's possession as an active operator in that formation. This operator-level information includes historical injection volumes, pressure behavior, operational constraints, and regulatory-driven permit modifications affecting Pilot's wells, all of which bear directly on the Division's statutory obligation to evaluate cumulative formation conditions and prevent waste and impairment of correlative rights. NMSA 1978, § 70-2-11. Without this formation-specific operational record from an existing DMG injector, the Division lacks critical evidence necessary to assess pressure communication, reservoir capacity, and the operational feasibility of authorizing additional disposal wells in the same formation.

The Strike Order was entered before Pilot could present this material technical evidence, and reconsideration is necessary to ensure that the Division's decision is based on a complete and technically adequate record consistent with its statutory mandate. Pilot seeks only a limited opportunity to submit formation-specific evidence and participate on defined terms, which will ensure that the Division has the information necessary to carry out its obligations under the Oil and Gas Act and its own procedural rules.

III. PILOT'S PARTICIPATION WILL CONTRIBUTE SUBSTANTIALLY TO THE PREVENTION OF WASTE AND PROTECTION OF CORRELATIVE RIGHTS UNDER 19.15.4.11(C) NMAC

A. The Governing Standard.

The Division's intervention rule, 19.15.4.11(C) NMAC, provides that even where standing is disputed or not established, the examiner may allow intervention if "the intervenor's participation will contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment." This is an independent basis for participation—separate from, and not limited by, the half-mile AOR notice provisions under 19.15.26.8(B)(2) NMAC. The half-mile AOR determines who must receive mandatory notice; it

does not determine who may participate or the outer boundary of injection impacts.

The Division's statutory mandate confirms this reading. The Oil and Gas Act charges the Division with preventing waste and protecting correlative rights. NMSA 1978, § 70-2-11. The Division is "empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out" that duty. Section 70-2-11(A); *Santa Fe Expl. Co. v. Oil Conservation Comm'n*, 1992-NMSC-044, ¶ 28, 114 N.M. 103, 835 P.2d 819. Formation pressure propagates through the reservoir without regard to administrative boundaries. Excluding an operator with an already established presence in the DMG that also possesses documented, formation-level pressure data from this shared disposal reservoir would leave the Division without evidence it needs to fulfill its statutory duties.

B. Pilot's Participation Will Provide Formation-Specific Evidence Necessary to Adjudicate the Proceedings.

Pilot is not a surface owner, environmental group, or speculative competitor. Pilot is an active saltwater disposal operator injecting into the DMG formation targeted by Select's proposed wells. Pilot's contribution is formation-specific operational evidence bearing directly on whether additional injection capacity can be safely added to this reservoir without causing waste or impairing correlative rights:

(a) Pilot's Ross SWD 5 was shut in for a full twelve months (December 2024 through December 2025) due to elevated DMG reservoir pressure. *See* Exhibit A at ¶ 8; Exhibit C (H-10 Report, showing zero injection volumes for Ross SWD 5 from January 2025 through April 2025). The pressure constraints confirm that the shared DMG disposal formation is already experiencing operational pressure interference, including impacts observed in Pilot's Texas operations across the state line, and additional injection authorized in New Mexico will increase cumulative reservoir pressure in this continuous formation. Select's

applications would further restrict Pilot's ability to exercise its permitted injection rights, directly impairing correlative rights and may increase the risk of waste through forced curtailment of existing disposal capacity.

(b) In December 2025, the Railroad Commission of Texas (RRC) approved a Ross 5 permit amendment that reduced Pilot's maximum daily injection volume from 40,000 to 30,000 barrels per day (a 25% reduction) while increasing the permitted injection pressure to 0.33 psi/ft. *See* Exhibit E (RRC Permit No. 16380 Amendment). These RRC actions confirm that reservoir pressure conditions require operational constraints, and such conditions exist in the DMG reservoir.

(c) Pilot's Ross SWD complex includes multiple active wells (Ross 2, 7, and 8) injecting into the DMG, plus the COM 4-24 development (four SWDs injecting, two DUCs drilled, four recently approved permits). Adding Select's four wells compounds the cumulative injection burden.

(d) Select's standing analysis is overly reliant on half-mile mapping and fails to address cumulative and operational impacts in the geographic vicinity of the proposed wells. Pilot has worked directly in the geographic areas where Select proposes to inject, and Select did not provide Pilot with notice of the above-referenced applications. Regardless of the Division's notice requirement, the Division should not evaluate Pilot's operational presence or standing based on an incomplete geographic analysis that disregards formation-level evidence of cross-border pressure interaction documented from RRC in Exhibits C and E.

(e) Select depicted Ross SWD 5 as "Inactive" and Ross SWD 9 as "Inactive." Both are inaccurate. Ross 5 returned to active injection after the December 2025 amendment. Ross 9 continues to inject (the RRC display is a system issue). *See* Exhibit A at ¶¶ 8, 9. The

Division should not rely on inaccurate representations to conclude Pilot lacks an operational presence close by.

None of this evidence is otherwise before the Division. No other party in these proceedings can supply it. Excluding Pilot means the Division will evaluate four SWD applications in a shared disposal formation without the operational and pressure data from an active operator documenting reservoir pressure constraints in that formation.

IV. THE COMMISSION AND DIVISION'S RECENT PRECEDENT IN RECOGNIZING STANDING IN SUCH MATTERS SUPPORTS PILOT'S MOTION

A. Commission's Ruling in Case Nos. 24021–24024, 24026, and 24027.

In consolidated proceedings involving saltwater disposal wells injecting into the San Andres formation, Empire New Mexico LLC ("Empire") filed applications seeking revocation of injection authority for multiple Goodnight Midstream Permian, LLC ("Goodnight") wells located outside the Eunice Monument South Unit (EMSU). *See* Empire N.M. LLC's Resp. in Opp'n to Goodnight's Mot. to Dismiss at 2, Case Nos. 24021–24024, 24026–24027 (N.M. Oil Conservation Comm'n June 6, 2024) (Exhibit G). Goodnight moved to dismiss six of those applications—Case Nos. 24021–24024, 24026, and 24027—arguing that Empire lacked standing because Empire failed to allege concrete, particularized injury, that Empire had not demonstrated how produced water from wells located outside the EMSU could impact operations inside it, and that the Division's half-mile guideline under *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007), established a bright-line bar to standing. *See* id. at 3–4, 6, 9–10 (summarizing MTD arguments). Empire responded that it is the designated operator of the EMSU and owns correlative rights within the unitized interval, *id.* at 10; that the San Andres formation is included in its unitized interval and that Goodnight was injecting — and at times over-injecting — massive volumes of produced water into the formation, causing migration into the

unitized interval and impairing Empire's ability to extract hydrocarbons, *id.* at 2–3, 8; and that Residual Oil Zones (ROZ) exist in the San Andres that Goodnight's injection would impair. *Id.* at 2; Tr. of Oil Conservation Comm'n Proceedings at 20:12–18, 27:10–14, Case No. 24277, Agenda No. 5-24 (June 20, 2024) (Exhibits F). Empire further argued that Goodnight's motion conflated standing with causation and impermissibly sought to shift the burden to Empire at the pleading stage. Empire Resp. at 3–5, 14–15 (Exhibit G).

These filings squarely presented whether an operator alleging formation-level pressure impacts and correlative rights impairment could be excluded at the threshold stage based solely on geographic distance, the half-mile AOR, and alleged pleading deficiencies — before the underlying factual questions were resolved at an evidentiary hearing.

The Commission unanimously denied Goodnight's motion to dismiss and stayed Case Nos. 24021–24024, 24026–24027 pending the conclusion of a separate evidentiary hearing scheduled for September 2024. Tr. of Oil Conservation Comm'n Proceedings at 95:1–12, Agenda No. 5-24 (June 20, 2024) (Exhibit F). The Chair recommended denial, observing that under applicable motion-to-dismiss standards there were not "clear enough facts on either side" to warrant dismissal before an evidentiary hearing, and that the existence of a residual oil zone and the impact of injection upon it constituted "the core factual nugget . . . that carries through all of these cases." *Id.* at 82:25–83:5. The Chair further noted that if recoverable oil existed in the San Andres, the OCD independently would be obligated under the Oil and Gas Act to review injection authority within the EMSU under its duty to protect correlative rights. *Id.* at 85:3–9. Commission Counsel concurred, recommending denial because the motion was "only a preliminary motion" and unresolved factual issues precluded its resolution at the pleading stage. *Id.* at 59:12–15. The OCD, through Division Counsel, supported the Chair's recommendation on the motion. *Id*. at 88:5–6.

Pilot's circumstances present an even stronger case for participation. Unlike Empire, which alleged formation-level impacts largely on information and belief at the pleading stage, see Empire Resp. at 8, Pilot proffers documented operational injury, regulatory findings confirming pressure constraints, and subsurface modeling demonstrating reservoir limitations. *See* Exhibits A-E.

B. Division Ruling in Case No. 24491.

In Case No. 24491, the intervenor (Empire) operated in a production unit, the EMSU, that was not within the half-mile AOR of Goodnight's Rocket SWD #1 well. Goodnight's Br. on Empire Standing at 6, Case No. 24491 (N.M. Oil Conservation Div. Oct. 16, 2025) (Exhibit I). Goodnight moved to dismiss, arguing that Empire fell outside the half-mile AOR and was a mere competitor (the same arguments that Select makes against Pilot's participation in this matter). Goodnight specifically invoked Order No. R-12811 (*Gandy*) for the proposition that the half-mile cutoff barred Empire's participation. *See* Goodnight's Br. on Empire Standing at 6 (Exhibit I) ("The Rocket will be more than a half mile from the EMSU . . . That fact provides another, independent ground to dismiss Empire's objection and find it lacks standing in this case.").

Empire responded—as Pilot responds now—alleging formation-level pressure impacts from injection into the same disposal formation; that the half-mile AOR is a notice provision, not a jurisdictional bar; that standing at the pleading stage requires only generalized allegations; and that *Gandy* was distinguishable. Tr. of Oil Conservation Div. Proceedings at 151:16–20 (June 13, 2024) (Exhibit J).

The Division exercised its procedural case-management authority under 19.15.4.16(C) NMAC to reconsider a prior procedural order and to permit Empire's intervention under 19.15.4.11(C) NMAC—even though Empire was not entitled to notice as of right under 19.15.4.10 NMAC. *See* Order Reconsidering Prior Order Lifting Stay, Reinstating Administrative Stay, and

Permitting Intervention, *In re Application of Goodnight Midstream Permian, LLC*, Case No. 24491, ¶¶ 5–6 (N.M. Oil Conservation Div. Oct. 28, 2025) (Exhibit H). The Division found that Empire's participation as a same-formation operator would contribute substantially to the correlative-rights analysis. *Id.* at ¶ 6.

Pilot's case is analogous to Empire's in every material respect and stronger in several.

V. THE AUTHORITIES SELECT CITES IN SUPPORT OF ITS MOTION ARE INCOMPLETE AND CLEARLY DISTINGUISHABLE

A. Incomplete Standard for Standing

Select's MTS is legally deficient because it ignores the express language of 19.15.4.11(C) NMAC, which governs intervention in Division adjudicatory proceedings. That rule provides that an intervenor may remain a party either by demonstrating standing or by demonstrating that its participation will contribute substantially to the prevention of waste, protection of correlative rights, or protection of public health or the environment.

Select's Motion addresses only one prong of this rule—traditional standing—and fails entirely to address the alternative and independent basis for intervention expressly authorized by the Division's regulations. This omission alone is sufficient grounds to deny the Motion or, at a minimum, defer ruling until the Division has the benefit of a complete factual record.

B. Order No. R-12811 (Gandy/DKD).

Select relies principally on Order No. R-12811, which is distinguishable on every material fact. Most importantly, *Gandy* does not create a bright-line rule that distance alone forecloses participation.

Gandy was decided after a full evidentiary hearing—DKD had its opportunity to present evidence and failed. *See* Order No. R-12811, ¶¶ 9–12. Here, Pilot has been excluded before presenting any evidence.

DKD presented no technical evidence of formation-level impacts—no pressure data, no shut-in history, no regulatory findings, and no subsurface modeling. Its objection seemed like a bare competitor protest. *See* Order No. R-12811, ¶ 11 (DKD's owner stated only that DKD "is a competitor" with concerns about "possible corroded casing and poor cement"). Instead, Pilot proffers an evidentiary record of documented operational injury, and RRC's confirmation that the reservoir requires operational constraints. *See* Exhibits A-E.

DKD operated a competing injection well that "uses a shallower interval for injection." *See* Order No. R-12811, ¶ 12(c). Pilot injects into the identical DMG formation targeted by Select's proposed wells.

C. Order No. R-10987-A(2) (Hilcorp/SJCA).

Select also cited Commission Order No. R-10987-A(2), Case No. 16403, *In re Application of Hilcorp Energy Co.*, ¶¶ 22–23 (N.M. Oil Conservation Comm'n Dec. 4, 2018), for its standing analysis. That case involved the San Juan Citizens Alliance, a citizens' environmental group that alleged surface-related harms (not formation-level injection impacts) and had no "special expertise necessary to contribute substantially to the prevention of underground waste or the protection of correlative rights." *See* Order No. R-10987-A(2), ¶¶ 22–23.

Pilot is not a citizens' group alleging surface impacts—Pilot is a commercial SWD operator with formation-specific operational data and documented reservoir pressure injury. The Commission's reasoning in R-10987-A(2) supports Pilot's intervention.

D. Standing at the Pleading Stage Requires Only Generalized Allegations.

Select demanded that Pilot demonstrate, as threshold issues, conclusive evidence of "concrete risk, harm, or operational impairment." Select's MTS at 5. At pleadings stage, even "general factual allegations of injury resulting from the defendant's conduct may suffice" to establish standing. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). Accordingly, Select's

demand that Pilot conclusively prove harm or operational impairment before being allowed to participate imposes a merits-level evidentiary burden that exceeds the threshold requirements for standing.

Select's Motion demands that Pilot prove the mechanics of pressure interference before being allowed to participate. Select's MTS at 5. That conflates standing with the merits. Whether Select's injection will worsen Pilot's conditions is a factual question for hearing, not a prerequisite to being heard. *See Citizen Ctr. v. Gessler*, 770 F.3d 900, 910 (10th Cir. 2014) ("We reject the court's rationale because it conflates standing with the merits.").

E. In the Alternative, Pilot Satisfies Each Element of The *Lujan* Standard

To plead standing, one needs to only allege facts that, if true, give rise to an inference of: (1) direct injury, (2) a causal relationship, and (3) likely redressability. *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-045, ¶ 1, 144 N.M. 471, 188 P.3d 1222; *See also Lujan* at 557. Pilot satisfies each of these elements as set forth below.

Injury in Fact. Pilot's injury is neither speculative nor competitive in nature — it is operational, documented, and already occurring. Pilot's Ross SWD Well No. 5 was shut in for twelve months due to elevated DMG reservoir pressure, recording zero injection volumes from January through April 2025, the full period reflected in the most recent H-10 report on record. *See* Exhibit C. The RRC mandated a 25% reduction in Pilot's permitted daily injection volume for that same well — from 40,000 to 30,000 barrels per day — in a permit amendment approved December 8, 2025. *See* Exhibit E. These are not theoretical future harms. They are concrete, particularized, and already-realized injuries to Pilot's disposal operations caused by pressure conditions in the very formation into which Select proposes to inject. Pilot has also identified, through initial engineering review, a reasonable potential for further operational interaction — including pressure communication and interference with injection capacity — should Select's proposed wells be

approved. *See* Exhibit B.

Causation. Select's four proposed wells target the identical DMG formation that is already experiencing the pressure conditions responsible for Pilot's shut-in and mandated capacity reduction. Authorizing additional injection into this shared, continuous formation will worsen the cumulative pressure burden that has already forced operational constraints on Pilot's existing permitted operations. Pilot need not demonstrate that Select's injection would be the sole cause of further harm — only that it would be a contributing cause. *See Herrera v. Quality Pontiac*, 2003-NMSC-018, ¶ 32, 134 N.M. 43, 73 P.3d 181 (A proximate cause of an injury need not be the only cause, it is sufficient if it occurs with some other cause acting at the same time, which in combination with it, causes the injury). The causal chain here is direct: additional injection volume into a pressure-constrained formation will compound existing operational constraints on operators already injecting into that formation, including Pilot.

Redressability. A favorable decision by the Division would directly redress Pilot's injury. The Division has full authority to deny Select's applications, impose injection volume limitations, require pressure monitoring and reporting conditions, or grant approval subject to protective conditions designed to safeguard existing operators' correlative rights. *See* NMSA 1978, § 70-2-11. Any of these remedies would meaningfully reduce the risk of additional pressure accumulation in the DMG formation and protect Pilot's ability to continue operating its existing permitted disposal facilities. Pilot therefore satisfies the *Lujan* standard and has direct standing as an injured party in this proceeding.

VI. REQUESTED RELIEF

For the foregoing reasons, Pilot respectfully requests that the Division enter an order:

(a) Vacating the Strike Order and granting Pilot leave to intervene under 19.15.4.11(C) NMAC;

(b) In the alternative, ordering that Pilot's response to Select's MTS and supporting exhibits be included in the official record even if Pilot is not granted full intervenor status, so the Division may consider formation-specific evidence in fulfilling its statutory duties under NMSA 1978, § 70-2-11; and

(c) Granting such other and further relief as the Division deems just and proper.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: _____

Miguel A. Suazo
James P. Parrot
Jacob L. Everhart
Ryan McKee
500 Don Gaspar Ave.
Santa Fe, NM 87505
(505) 946-2090
msuazo@bwenergylaw.com
jparrot@bwenergylaw.com
jeverhart@bwenergylaw.com
rmckee@bwenergylaw.com
Attorneys for Pilot Water Solutions SWD, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 19th day of February 2026, as follows:

Dana S. Hardy
Jaclyn M. McLean
Yarithza Peña
Jamie R. Kennedy
125 Lincoln Ave, Ste. 223
Santa Fe, NM 87501
Phone: (505) 230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com
ypena@hardymclean.com
jkennedy@hardymclean.com
Counsel for Select Water Solutions, LLC

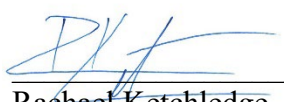
Elizabeth Ryan
Keri L. Hatley
ConocoPhillips
1048 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 780-8000
beth.ryan@concophillips.com
keri.hatley@conocophillips.com
Counsel for COG Operating

Adam G. Rankin
Paula M. Vance
A. Raylee Starnes
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile
agrankin@hollandhart.com
pmvance@hollandhart.com
arstarnes@hollandhart.com
Attorneys for Devon Energy Production Company, L.P.

Deana M. Bennett
Earl E. DeBrine, Jr.
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
Post Office Box 2168
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800
deana.bennett@modrall.com
earl.debrine@modrall.com
Attorneys for Coterra Energy Operating Co.

Matthias Sayer
Bradfute Sayer, P.C.
125 Lincoln Ave, Suite 222
Santa Fe, NM 87501
307-365-1814
matthias@bradfutelaw.com

Reagan Marble
Jackson Walker, LLP
1900 Broadway, Suite 1200
San Antonio, TX 78215
(210) 978-7770
rmarble@jw.com
Counsel for Desert Ram, Inc.



Rachael Ketchledge

EXHIBIT A

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

APPLICATION OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO

CASE NOS. 25547 - 25548
25899 & 25900

SELF-AFFIRMED STATEMENT OF DAVID GROUNDS

I, David Grounds, state the following:

1. My name is David Grounds, and I am employed by Pilot Water Solutions SWD, LLC ("Pilot") as Vice President for Regulatory Compliance. I am over 18 years of age, have personal knowledge of the matters addressed herein, and I am competent to provide this self-affirmed statement.

2. I have not previously testified before the New Mexico Oil Conservation Division ("Division"), and my qualifications as an expert in oil and gas regulatory compliance/injection operations and permitting have not been accepted and made a matter of record. A copy of my current resume is attached at the end of this statement.

3. I am familiar with the Division's regulations concerning saltwater disposal ("SWD") wells, including requirements related to injection pressures and volumes, monitoring and reporting obligations, reservoir pressure management, seismic response protocols, and ongoing compliance responsibilities imposed on SWD operators.

4. I am familiar with the applications filed by Select Water Solutions, LLC ("Select") in the above-captioned cases and with the regulatory requirements applicable to the approval and operation of the proposed SWD wells.

EXHIBIT A

5. I have several years of experience in oil and gas regulatory matters, and I have worked directly or in a supervisory role in the geographic areas where Select proposes to drill the Javelina Fed 4 SWD #1, the Jackrabbit Fed SWD #1, the Coyote Fed 14 SWD #1, and the Roadrunner Fed 26 SWD #1.

6. Select did not provide Pilot with notice of the above-referenced applications, either informally or pursuant to the Division's notice requirements, and Pilot did not become aware of these applications until recently.

7. Based on my initial regulatory review, it is my professional opinion that Select's proposed SWD wells may create operational and compliance impacts for Pilot, including increased pressure interaction or other interference that could trigger reporting obligations, require temporary or permanent shut-ins, necessitate amendments to Pilot's existing SWD permits, or expose Pilot to regulatory scrutiny or enforcement that is not of Pilot's making.

8. Ross SWD 5 was shut in from December 2024 through December 2025 due to elevated reservoir pressure conditions in the Delaware Mountain Group disposal formation. Such pressure-related shut-ins are a recognized regulatory consequence of cumulative injection stress and directly implicate ongoing compliance obligations for Pilot.

9. Ross SWD 9 is currently an active injection well. Any indication in Select's application materials that Ross SWD 9 is inactive is inaccurate and does not reflect Pilot's actual operations.

10. From a regulatory compliance standpoint, disposal formations do not conform to state boundaries. Injection activity authorized in New Mexico can affect reservoir pressure conditions and compliance obligations for SWD operations in Texas, including Pilot's Ross SWD

EXHIBIT A

facilities. Increased cross-border injection pressure may require additional permit amendments, operational restrictions, or curtailment actions imposed by regulators.

11. From a regulatory compliance perspective, Pilot is concerned that approval of Select's applications without further evaluation could result in reduced operational flexibility, increased compliance costs, and the risk of forced curtailment of Pilot's disposal operations.

12. As a matter of regulatory practice, Pilot cannot responsibly assert, waive, or fully characterize potential injection-related impacts without first assembling and reviewing relevant technical and operational data. Reaching conclusions without that information risks mischaracterizing potential impacts or omitting information the Division would reasonably expect an operator to evaluate.

13. Pilot is currently in the process of conducting additional due diligence regarding Select's proposed wells and believes it will be able to substantiate these regulatory concerns if afforded a reasonable period of time to complete that review and submit supporting information to the Division.

14. I affirm that to the best of my knowledge and belief, all of the matters set forth herein are true, correct, and accurate and made under penalty of perjury under laws of the State of New Mexico.

[*Remainder of page left intentionally blank*]

EXHIBIT A

FURTHER AFFIANT SAYETH NOT.

Dated this 19th day of February, 2026.

David Grounds
Pilot Water Solutions SWD, LLC

STATE OF Texas)
) ss.
CITY OF Houston)

The foregoing instrument was subscribed and sworn to before me this 19th day of February, 2025, by David Grounds, Vice President for Regulatory Compliance for Pilot Water Solutions SWD, LLC.

Witness my hand and official seal.

My commission expires: 12-19-2027

Yasmin Salgado

YASMIN SALGADO
Notary Public, State of Texas
Comm. Expires 12-19-2027
Notary ID 134685875

EXHIBIT B

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

APPLICATION OF SELECT WATER SOLUTIONS, LLC FOR APPROVAL OF SALTWATER DISPOSAL WELLS, LEA COUNTY, NEW MEXICO

CASE NOS. 25547 - 25548
25899 & 25900

SELF-AFFIRMED STATEMENT OF ANKUSH GUPTA

I, Ankush Gupta state the following:

1. My name is Ankush Gupta and I am employed by Pilot Water Solutions SWD, LLC ("Pilot") as Senior Vice President for Engineering and Planning. I am over 18 years of age, have personal knowledge of the matters addressed herein, and I am competent to provide this self-affirmed statement.

2. I have 18 years of experience in oil and gas operations, including the planning, construction, operation, and monitoring of saltwater disposal ("SWD") wells. My responsibilities include evaluating injection capacity, monitoring pressure behavior, and assessing operational risks associated with nearby injection activity.

3. I have not previously testified before the New Mexico Oil Conservation Division ("Division"), and my qualifications as an expert in oil and gas injection operations and permitting have not been accepted and made a matter of record. A copy of my current resume is attached at the end of this statement.

4. I am familiar with Pilot's existing and planned SWD operations in the geographic area surrounding the locations where Select Water Solutions, LLC ("Select") proposes to drill the Javelina Fed 4 SWD #1, the Jackrabbit Fed SWD #1, the Coyote Fed 14 SWD #1, and the

EXHIBIT B

Roadrunner Fed 26 SWD #1, including Pilot's Ross SWD facilities injecting into the Delaware Mountain Group ("DMG") formation.

5. I am familiar with the applications filed by Select in the above-captioned cases and with the operational information provided in support of those applications, including Area of Review materials and proposed injection parameters.

6. Based on my initial review, Select's proposed SWD wells are located in proximity to Pilot's disposal operations such that there is a reasonable potential for operational interaction, including pressure communication, interference with injection capacity, or other impacts affecting Pilot's ability to operate its SWD facilities.

7. In my experience, operational impacts from SWD injection are not determined solely by linear distance, but are influenced by formation continuity, injection volumes and pressures, cumulative disposal activity, and existing pressure conditions in the disposal interval.

8. Ross SWD 5 was shut in from December 2024 through December 2025 due to elevated reservoir pressure conditions in the DMG formation. Such a sustained shut-in is indicative of material formation-level pressure constraints and demonstrates that the disposal interval is sensitive to cumulative injection stress.

9. As part of the December 2025 permit amendment process for Ross SWD 5 before the Railroad Commission of Texas, Pilot underwent subsurface review under the Delaware Basin Permitting Guidelines. That review required pressure modeling and evaluation of cumulative injection effects within the relevant area of review.

10. In my professional opinion, additional injection volume from Select's proposed wells into the same DMG formation—though located across the state line—has the potential to increase cumulative reservoir pressure and further constrain Pilot's injection capacity.

EXHIBIT B

11. Evaluating the potential operational impacts of Select's proposed wells on Pilot's operations requires additional technical review, including analysis of historical injection data, pressure trends, formation characteristics, and cumulative disposal activity in the area.

12. Pilot is currently in the process of assembling and reviewing this information. Until that review is complete, it would be premature to definitively quantify the extent of any operational impacts; however, the proximity and characteristics of Select's proposed wells warrant further evaluation.

13. If Select's proposed wells are approved without additional analysis, Pilot is concerned that its disposal operations could be adversely affected, including through reduced injection capacity, operational constraints, or the need to modify existing disposal practices.

14. From an operational standpoint, Pilot cannot responsibly assess or rule out these potential impacts without completing its technical due diligence and presenting the resulting information to the Division.

15. Pilot believes it will be able to substantiate its operational concerns regarding Select's proposed wells if afforded a reasonable period of time to complete its technical evaluation and submit supporting materials.

16. I affirm that to the best of my knowledge and belief, all of the matters set forth herein are true, correct, and accurate and made under penalty of perjury under laws of the State of New Mexico.

[*Remainder of page left intentionally blank*]

EXHIBIT B

FURTHER AFFIANT SAYETH NOT.

Dated this 19th day of February, 2026.

Ankush Gupta
Pilot Water Solutions SWD, LLC

STATE OF Texas)
) ss.
CITY OF Houston)

The foregoing instrument was subscribed and sworn to before me this _____ day of February, 2026, by Senior Vice President for Engineering and Planning for Pilot Water Solutions SWD, LLC.

Witness my hand and official seal.

My commission expires: 12·19·2027

Yasmin Salgado

YASMIN SALGADO
Notary Public, State of Texas
Comm. Expires 12-19-2027
Notary ID 134685875

EXHIBIT C

RAILROAD COMMISSION OF TEXAS
OIL AND GAS DIVISION

H-10

TYPE OR PRINT IN BLUE OR BLACK INK. SEE RRC WEBSITE FOR FILING INSTRUCTIONS.

Return the completed original report to:
DIRECTOR, Technical Permitting
Oil and Gas Division
P.O. Box 12967
Austin, Texas 78711-2967

Annual Disposal/Injection Well Monitoring Report

RRC USE ONLY
UIC Control No: 000119379
Type: 1
DUE DATE: 06/01/2025

1. OPERATOR NAME, exactly as shown on P-5	2. OPERATOR P-5 NO.	3. RRC DISTRICT NO.
PILOT WATER GATH DELAWARE LLC	665590	08

4. ADDRESS, including city, state, and zip code	5. API NO.
20 GREENWAY PLAZA STE 500 HOUSTON, TX 77046	42-301-34491
	6. OIL LEASE NO. 56168

7. FIELD NAME, exactly as shown on Proration Schedule	8. GAS ID NO.
DIMMITT (DELAWARE)	

9. LEASE NAME, exactly as shown on Proration Schedule	10. COUNTY	11. WELL NO.
ROSS SWD	LOVING	5

12. MONTH YR	13. INJECTION PRESSURE AVG PSIG	13. INJECTION PRESSURE MAX PSIG	14. TOTAL VOLUME INJECTED BBLS	14. TOTAL VOLUME INJECTED MCF	15. ANNULUS PRESSURE (BETWEEN TUBING AND CASING) [See instructions (item B)] # OF READINGS	MIN PSIG	MAX PSIG
05/2024	1273	1304	284406	0	31	0	0
06/2024	1296	1324	242254	0	30	0	0
07/2024	1110	1173	393450	0	31	0	0
08/2024	1289	1302	249090	0	31	0	0
09/2024	1277	1291	185972	0	30	0	0
10/2024	1289	1301	189569	0	31	0	0
11/2024	1267	1277	158901	0	30	0	0
12/2024	1242	1251	47715	0	31	0	0
01/2025	1247	1254	0	0	31	0	0
02/2025	1239	1245	0	0	29	0	0
03/2025	1246	1251	0	0	31	0	0
04/2025	1267	1280	0	0	30	0	0

16. Completed Injection Interval (perforated or open hole interval):	FROM: 5,324 ft	TO: 7,684 ft	17. Depth of Tubing Packer: 5,298 ft

18. Are the injected fluids produced from sources other than your own ?	19. Injection through:
[X] 1. YES [ ] 2. NO	[X] 1. Tubing [ ] 2. Casing

20. Type of fluids injected during reporting cycle:

	Total	Anthropogenic
A Salt Water 100 %	B Fresh Water ____ %	C Fracture Water Flow Back ____ %
D Norm ____ %	E(a) CO2 ____ %	E(a) CO2 ____ %
F Natural Gas ____ %	G H2S ____ %	H Polymer ____ %
I Steam ____ %	J Air ____ %	K Nitrogen ____ %
L Other Fluid ____ %	Specify Fluid ____	

This facsimile H-10 was generated electronically from data submitted to the RRC. A certification of the automated data is available in the RRC's Austin office.

Name of Person: Tami Parker Phone: (432)-296-2053

Company: PILOT WATER SOLUTIONS SWD LLC Date: 06/18/2025

Exhibit C

EXHIBIT D

RAILROAD COMMISSION OF TEXAS
OIL AND GAS DIVISION

TYPE OR PRINT IN BLUE OR BLACK INK. SEE RRC WEBSITE FOR FILING INSTRUCTIONS.

Return the completed original report to:
DIRECTOR, Technical Permitting
Oil and Gas Division
P.O. Box 12967
Austin, Texas 78711-2967

H-10

Annual Disposal/Injection Well Monitoring Report

RRC USE ONLY
UIC Control No: 000124802
Type: 1
DUE DATE: 06/01/2025

1. OPERATOR NAME, exactly as shown on P-5	2. OPERATOR P-5 NO.	3. RRC DISTRICT NO.
PILOT WATER GATH DELAWARE LLC	665590	08

4. ADDRESS, including city, state, and zip code	5. API NO.
20 GREENWAY PLAZA STE 500 HOUSTON, TX 77046	42-301-00000
	6. OIL LEASE NO.

7. FIELD NAME, exactly as shown on Proration Schedule	8. GAS ID NO.

9. LEASE NAME, exactly as shown on Proration Schedule	10. COUNTY	11. WELL NO.
ROSS SWD	LOVING	9

12.	13. INJECTION PRESSURE		14. TOTAL VOLUME INJECTED		15. ANNULUS PRESSURE (BETWEEN TUBING AND CASING) [See instructions (item B)]		
MONTH YR	AVG PSIG	MAX PSIG	BBLS	MCF	# OF READINGS	MIN PSIG	MAX PSIG
05/2024	1530	1642	518921	0	31	0	0
06/2024	1578	1662	549925	0	30	0	0
07/2024	1516	1597	444210	0	31	0	0
08/2024	1620	1697	532179	0	31	0	0
09/2024	1588	1670	452577	0	30	0	0
10/2024	1624	1700	531216	0	31	0	0
11/2024	1529	1642	404726	0	30	0	0
12/2024	1482	1558	343239	0	31	0	0
01/2025	1648	1725	460846	0	31	0	0
02/2025	1628	1692	118683	0	29	0	0
03/2025	1666	1713	404621	0	31	0	0
04/2025	1626	1722	433376	0	30	0	0

16. Completed Injection Interval (perforated or open hole interval): FROM: 5,345 ft TO: 7,700 ft

17. Depth of Tubing Packer: 5,251 ft

18. Are the injected fluids produced from sources other than your own ? [X] 1. YES [ ] 2. NO

19. Injection through: [X] 1. Tubing [ ] 2. Casing

20. Type of fluids injected during reporting cycle: Total Anthropogenic

A Salt Water 100 % B Fresh Water ____ % C Fracture Water Flow Back ____ % D Norm ____ % E(a) CO2 ____ % E(a) CO2 ____ %

F Natural Gas ____ % G H2S ____ % H Polymer ____ % I Steam ____ % J Air ____ % K Nitrogen ____ %

L Other Fluid ____ % Specify Fluid ____

This facsimile H-10 was generated electronically from data submitted to the RRC. A certification of the automated data is available in the RRC's Austin office.

Name of Person: Tami Parker Phone: (432)-296-2053

Company: PILOT WATER GATH DELAWARE LLC Date: 06/18/2025

Exhibit C

EXHIBIT E

JIM WRIGHT, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
WAYNE CHRISTIAN, COMMISSIONER

DANNY SORRELLS
DEPUTY EXECUTIVE DIRECTOR
DIRECTOR, OIL AND GAS DIVISION
PAUL DUBOIS, P.E.
ASSISTANT DIRECTOR, TECHNICAL PERMITTING

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

PERMIT TO DISPOSE OF NON-HAZARDOUS OIL AND GAS WASTE BY INJECTION INTO A POROUS FORMATION NOT PRODUCTIVE OF OIL AND GAS

PERMIT NO. 16380 AMENDMENT

PILOT WATER GATH DELAWARE LLC
20 GREENWAY PLAZA STE 500
HOUSTON TX 77046

Authority is granted to inject Non-Hazardous Oil and Gas waste into the well identified herein in accordance with Statewide Rule 9 of the Railroad Commission of Texas and based on information contained in the application (Form W-14) dated April 21, 2025, for the permitted interval(s) of the BELL CANYON and CHERRY CANYON formation(s) and subject to the following terms and special conditions:

ROSS SWD (56168) LEASE
DIMMITT (DELAWARE) FIELD
LOVING COUNTY
DISTRICT 08

WELL IDENTIFICATION AND PERMIT PARAMETERS:

Well No.	API No.	UIC No.	Permitted Fluids	Top Interval (feet)	Bottom Interval (feet)	Maximum Liquid Daily Injection Volume (BBL/day)	Maximum Surface Injection Pressure for Liquid (PSIG)
5	30134491	000119379	Salt Water; Other Non-Hazardous O/G Waste	5300	7700	30000	1666

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT E

SPECIAL CONDITIONS:

Well No.	API No.	Special Conditions
5	30134491	**1. Bottomhole Pressure (BHP) data:** **(1) The operator shall collect and report initial and periodic static bottomhole pressure (BHP) measurements. All bottomhole pressures should be depth adjusted to the top of the permitted injection interval. The BHP shall be collected in accordance with the following:** **i. Initial static bottomhole pressure prior to injection. This value will be used as the initial average reservoir pressure for the well.** **ii. Initial bottomhole fracturing pressure (or frac gradient) of the permitted injection interval before injection into the well begins.** **iii. On a semiannual basis the operator will report the following two data points:** **a. A bottomhole pressure value for instantaneous shut in pressure (ISIP) measured including last measured injection rate immediately prior to shut-in.** **b. A static bottomhole reservoir pressure obtained after a minimum of four- (4) hours of shut-in after injection is stopped.** **(2) The operator shall collect daily injection volume and daily surface injection pressure data and report this data monthly. This must include the following daily parameters: maximum surface injection pressure (pounds per square inch), average surface injection pressure (pounds per square inch), injection volume (barrels per day), and maximum injection rate (barrels per minute). Operators shall report this data on the 15th day of the month following the reporting period. The data will be uploaded to the Bureau of Economic Geology's (BEG) TexNet Injection Volume and Pressure Reporting Tool available at or other system designated by RRC UIC which is available to industry, academia, the public and RRC staff (https://injection.texnet.beg.utexas.edu/).** **(3) The operator shall submit all pressure data required via two separate methods (formats).** **a. DIRECTLY TO RRC INJECTION-STORAGE PERMITS UNIT. The operator shall submit a report directly to UIC_Permits@rrc.texas.gov (Attn: BHP) under the signature of a Registered Professional Engineer. This report shall contain at a minimum the following information:** **i. UIC number** **ii. API number** **iii. Operator name and P-5 number** **iv. Pressure reading time stamp for vii & ix below** **v. Depth actual data was gathered (TVD)** **vi. Injection Formation Name** **vii. Bottomhole Instantaneous Shut In Pressure (ISIP).** **viii. Bottomhole fracturing pressure (or gradient)** **ix. Bottomhole average reservoir pressure.**

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EXHIBIT E

		b. TEXNET - The data will be uploaded to the Bureau of Economic Geology's (BEG) TexNet Injection Volume and Pressure Reporting Tool available at or other system designated by RRC UIC which is available to industry, academia, the public and RRC staff (https://injection.texnet.beg.utexas.edu/). **INSTRUCTIONS: The following are the allowable methods for obtaining reported bottomhole pressure measurements.** **(A) Calculated BHP Method: Operator shall pump twice the tubing-volume of a fluid of known density. The well must be shut in for at least four (4) hours, after which the shut-in surface pressure shall be recorded. The BHP shall be calculated by BHP = surface pressure + hydrostatic pressure and corrected to a depth indicated by the operator as the shallowest open vertical depth of the completed injection interval. If the well fails to maintain a fluid level to the surface, a fluid level shall be acquired by using reliable downhole tools and technology. The BHP shall then be calculated by the hydrostatic pressure of the liquid column extending from the fluid level depth to a depth indicated by the operator as the shallowest open vertical depth of the completed injection interval.** **(B) Dip-In BHP Measurement Method: The well must be shut-in for at least four (4) hours before pressure measurement is taken. A BHP measuring device shall be run in the well.** **(C) Permanent BHP Probe Method: A bottomhole pressure probe may be installed in the well. The reported bottomhole pressures, from a downhole gauge will be corrected for all necessary depth/density adjustments necessary to depth register the pressures to the top of the permitted injection interval.** **(4) Disposal into the Delaware Mountain Group Formations:** **(A) The operator shall run, annotate, and provide to the Commission a well log of the well that includes at a minimum, gamma ray, resistivity, porosity, and full-waveform acoustic tracks.** **(B) The operator shall run and provide to the Commission a cement bond log on all casing strings.** **(C) The operator shall assess, and quantify using best practices, the fracture closure pressure in the disposal zone, the upper confining strata, and the lower confining strata.**

STANDARD CONDITIONS:

1. Injection must be through tubing set on a packer. The packer must be set no higher than 100 feet above the top of the permitted interval.

2. The District Office must be notified 48 hours prior to:
   a. running tubing and setting packer;
   b. beginning any work over or remedial operation;
   c. conducting any required pressure tests or surveys.

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EXHIBIT E

3. The wellhead must be equipped with a pressure observation valve on the tubing and for each annulus.

4. Prior to beginning injection and subsequently after any work over, an annulus pressure test must be performed. The test pressure must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test must be performed and the results submitted in accordance with the instructions of Form H-5.

5. The injection pressure and injection volume must be monitored at least monthly and reported annually on Form H-10 to the Commission's Austin office.

6. Within 30 days after completion, conversion to disposal, or any work over which results in a change in well completion, a new Form W-2 or G-1 must be filed to show the current completion status of the well. The date of the disposal well permit and the permit number must be included on the new Form W-2 or G-1.

7. Written notice of intent to transfer the permit to another operator by filing Form P-4 must be submitted to the Commission at least 15 days prior to the date of the transfer.

8. This permit will expire when the Form W-3, Plugging Record, is filed with the Commission. Furthermore, permits issued for wells to be drilled will expire three (3) years from the date of the permit unless drilling operations have commenced.

Provided further that, should it be determined that such injection fluid is not confined to the approved interval, then the permission given herein is suspended and the disposal operation must be stopped until the fluid migration from such interval is eliminated. Failure to comply with all of the conditions of this permit may result in the operator being referred to enforcement to consider assessment of administrative penalties and/or the cancellation of the permit.

APPROVED AND ISSUED ON December 08, 2025.

for Reed Baker, Manager
Oil & Gas Injection Permits Unit (OGIP)

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EXHIBIT E

Amendment Comments:

Well No.	API No.	Amendment Comments
5	30134491	**1. Amends permit dated 2022/01/05. 2. Amends maximum surface injection pressure for liquid from 1325 psig. 3. Amends maximum daily injection volume for liquid from 40000 bbl/day. 4. Amends listing of permitted injection formation name(s). The previous injection formation name listing was: BELL CANYON{CHERRY CANYON{BRUSHY CANYON.**

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EXHIBIT F

format and the layout of where we are. Right? That's the first thing. Okay.

THE COMMISSIONER: Yes.

MS. HARDY: So, you know, in these cases, we have competing applications by Goodnight and Empire. Empire, of course, operates the Eunice Monument South Unit and has done so for several years. The unit was approved in the 1980s. It was approved by the Division, the State Land Office and the BLM. So there are of course numerous parties involved and who have interest in the unit. It's not just Empire.

And here, Goodnight's injection, of course, and it's our position into the wells within the unit as well as the wells outside of the unit that are in proximity to it are impacting the units by reaching it or increasing pressure or other mechanisms that are impairing the production of hydrocarbons within the unit and will continue to impair that and will limit tertiary recovery possibilities, which of course raises issues for the interest owners as well the State of New Mexico because of course there are substantial revenues resulting from the production of hydrocarbons within the unit.

So it's an important issue for The Commission to consider. The pending motions -- the

EXHIBIT F

welcome your perspective on that sort of factual hypothetical.

MR. PADILLA: Mr. Chairman, members of The Commission, let me speak for Empire here.

In answering your question about the San Andres, it's not producing any oil at this time. At the time of the hearing in 1984, however, there was considerable discussion about inclusion of the San Andres formation because there was a potential for tertiary recovery. Our main case presently is going to be that there are residual oil zones in the San Andres formation and therefore, injection of very dirty water in that formation is going to destroy residual oil zones that has still to be developed.

So I don't -- it's not a question right now whether or not there has been past production in the San Andres formation. The potential for production in the San Andres from residual oil zones is clear. Residual oil zones are being developed throughout the Permian Basin in a number of instances and our main case is going to focus on residual oil zones.

To say that The Commission was wrong or that it made a mistake in 1984 is inappropriate. In 1984, Exxon and Mobil went at it in a contested

EXHIBIT F

frame for the cases.

That at least seems to me, looking at all of this, as a reasonable bite for The Commission to deal with in September that gets at core issues in the proceeding here without overwhelming us with saying, "Hey, we're going to look at disposal in the San Andres writ large."

MR. RUBIN: Mr. Chairman, members of the commission, I would hardly agree. I don't believe it's the position of The Division that there are factual issues, as Dr. Ampomah has also pointed out, precluding granting any motion to dismiss. You know, a denial -- but I think would be proper at this point to deny the motion to dismiss 'cause it is only a preliminary motion.

And so the parties should have that closure on the motion and of course with all respect to Mr. Rankin's contention that the law comes first, I see the factual issues getting to the bottom of whether there's an ROZ. That -- September.

As part of that hearing, the parties can amply brief what the -- whether the unit itself needs to be amended. That is certainly part of the scope of that hearing. And those are of course legal issues, but that is part of what we have a hearing

EXHIBIT F

applications today.

THE COMMISSIONER: I have one factual question. With respect to the Goodnight wells that are outside the EMSU, is Empire the mineral interest holder in the minerals adjacent to those wells or is your mineral interests solely bound within the EMSU, at least to those wells?

MS. SHAHEEN: Empire does have mineral rights outside of the EMSU.

THE COMMISSIONER: Approximate to Goodnight's existing disposal operations?

MS. SHAHEEN: Yes. Within that township and range and I believe within the AGU as well and within that same township and range of that AGU which I want to say is 21 South 36 East and 22 South 37 East, but I'm not exactly sure. It might be evident on Mr. Rankin's Exhibit C.

THE COMMISSIONER: My other -- I have a couple more, but I'm looking at my other commissioners.

DR. AMPOMAH: I'm out of advice at this point.

THE COMMISSIONER: Yep.

We've had a lot of argument here this morning and if I think back to some of the basic

EXHIBIT F

standards about a motion to dismiss and some of the arguments made by the parties, I'm not sure there's clear enough facts on either side to that it would be appropriate for The Commission to deny the motions, even facts candidly not addressed by the proceedings.

And I'll just observe for the record I'm surprised the party didn't address it. Questions of participation in administrative proceedings leading up to this. I mean, there was no discussion of, you know, I had a question here and I don't think it's relevant to these motions, but you know, Empire's a successor in interest to prior companies that held it. Those prior companies opted not to participate in administrative proceedings related to injection wells.

There are I think legitimate questions about how are you bound by, you know, actions by, you know, predecessors and interests. I think there are maybe some similar questions in Empire's posturing of the case. All of that to say, at least where I am right now, is I think The Commission should deny the motion to dismiss Goodnight's applications to amend orders R-7765 and R-7767 filed by Empire, that those applications should be stayed.

I think that issue actually clouds a little bit the questions that Ms. Shaheen so

EXHIBIT F

eloquently put are most relevant to our hearing in September, which is is there an ROZ in the San Andres, is injection into the San Andres going to impair it. Right? That's the core factual nugget in my mind that carries through all of these cases and, you know, arguments about amending an order, establishing the unit, if there's no ROZ, whether the unit includes it or not, I don't think precludes, you know, the OCD authorization of injection into that formation.

So it's unclear. I think in terms of management of scope, we should also deny the motions to dismiss filed by Goodnight related to cases no. 24021 through 24024, 24026 and 24027. But for similar reasons of focusing the hearings and focusing the issues to be resolved in September, I would recommend to my fellow commissioners that those cases also be stayed until following a hearing that is focused on the presence or not of hydrocarbons and the recoverable hydrocarbons in the San Andres formation and the disposal wells that are using that formation within the unit.

I'll recognize for the group that that may knock-on issues for external cases. It's going to have knock-on issues for other disposal operations in there. And I think it's knock-on issues independent

EXHIBIT F

of what applications people file. I think there is a pathway here where if there's recoverable oil in the San Andres, the OCD independently, with its own independent authority, will have to review injection authority within the EMSU because we have potentially authorized injection that is flooding out a zone with recoverable oil inconsistent with our obligations under the -- its obligation under the Oil and Gas Act and its obligations to protect correlative rights.

And that's an independent action OCD can initiate and I don't know how we can do that and just pretend they're existing in little silos or rely on an assumption that injections are low. I am also sensitive to adding more parties at a late date and Counsel Rubin's suggestion to narrow what you have to put before you, but I also think there's a question of whether we as The Commission should stay Division Cases 24432, 24434 and 24436 to let these issues -- let the factual issues that will be developed here play out.

They will have impact on those injection authorities that we can't say independently right now will be zero on the parties that are -- they are depending on the findings.

MR. RUBIN: Mr. Chair, I'm sorry to

EXHIBIT F

interrupt. Of course, the Open Meetings Act always is the ultimate constraint. I'm just looking through -- there are a lot of numbers here. I'm looking through the agenda as to Goodnight's motions to dismiss that you just started talked about.

THE COMMISSIONER: Yep.

MR. RUBIN: Are those on the agenda?

THE COMMISSIONER: Yeah. They're on the --

MR. RUBIN: Clearly.

THE COMMISSIONER: -- bottom of the agenda.

MR. RUBIN: Twenty-four.

THE COMMISSIONER: Under "The following consolidated meeting motions regarding the scope of the hearing, motions to dismiss," all which were filed and logged.

MR. RUBIN: Yeah.

THE COMMISSIONER: And those cases are in the list of if you look at the third bullet, right in the middle, case no. -- they're all in that run, 24018 to 24027.

MR. RUBIN: Okay.

THE COMMISSIONER: The cases are --

MR. RUBIN: Thank you.

THE COMMISSIONER: The cases are there.
MR. RUBIN: Okay. Thank you. Sorry.
THE COMMISSIONER: So maybe I'll open it up for some discussion on my fellow commissioners about that as a potential landing spot.
MR. BLOOM: So the two issues, you're looking for comments on both of those recommending recommendation regarding staying --
THE COMMISSIONER: Well, denying both motions to dismiss.
MR. BLOOM: Yeah.
THE COMMISSIONER: Staying the cases by the motion to dismiss and then basically moving forward with the hearing that is the EMSU injection cases in September as sort of the best package 'cause we resolve the motion to dismiss that way, the motion as to scope naturally -- the natural consequence, that's where you'd end up is to scope.
And then the sort of separate question is whether we want to consider staying 24432, 24434 or 24436 or whether we just want to leave those alone and let the parties take their own counsel on, you know, potential impacts to their interests by participating in or not in this matter.
MR. BLOOM: I know, Mr. Chair, I don't

EXHIBIT F

know if we've heard from the OCD on this or if there's any thoughts there.

MR. TREMAINE: I'll try to be brief. Thank you, Commissioner Bloom and Mr. Chair.

I think the OCD supports I think much of the outline or recommendation that the Chair just outlined. I think that the current cases before The Commission related to the EMSU are the appropriate bite size for the hearing that's currently scheduled and will allow all parties with interest in the area to participate. There's been a lot of talk and briefing about the issue of joinder and implication of due process concerns.

I can concur with the Chair's statement that the Chair and the director have the authority to elevate those cases. I'm dubious of the Sixth Amendment claims that were raised. So that's something that The Commission or the director could do, but ultimately, I think that those concerns may largely be resolved by the entries of appearance this morning. And so while those other cases have not been elevated up, my understanding is Rice and all of the other parties that we've been discussing have actually now entered appearance and notice of intervention.

So unless any party is opposing those,

EXHIBIT F

reflect that motion was approved unanimously. The second motion I'm proposing to make is that we dismiss the motion to dismiss filed by Goodnight to dismiss cases 24021 through 24024 and 24026 and 24027. Those are Division case numbers that are all part of case of -- Commission case 24123. And much like the first, those cases be stayed until some future date following the hearing in September.

MR. BLOOM: I so move.

DR. AMPOMAH: I second.

THE COMMISSIONER: Let the record reflect that that motion was approved unanimously. And then the final motion I would make as to the scope of the hearing, and I think this flows from the actions that were just approved on the motions to dismiss, that the hearing in September have the following scope: that it is to address the potential for a recoverable oil zone, residual oil zone in the San Andres within the EMSU unit and that it covers any applications to inject or applications to revoke the authority to inject for SWDs located within the EMSU boundary.

MR. BLOOM: I so move.

DR. AMPOMAH: I second.

THE COMMISSIONER: Let the record

EXHIBIT G

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

EXHIBIT G

EMPIRE NEW MEXICO, LLC'S RESPONSE IN OPPOSITION TO GOODNIGHT PERMIAN LLC'S MOTION TO DISMISS CASE NOS. 24021-24024, 24026, 24027

Empire New Mexico, LLC, ("Empire"), by and through its undersigned counsel of record, submits the following response in opposition to Goodnight Midstream Permian, LLC's ("Goodnight") Motion to Dismiss Case Nos. 24021-24024, 24026, 24027 ("MTD" or "Motion"). For the reasons that follow, the Motion should be denied.

INTRODUCTION

In Case Nos. 24021-24024, 24026, and 24027, Empire seeks to revoke Goodnight's authority to inject produced water into the San Andres formation via six saltwater disposal wells ("SWDs") located in proximity to Empire's Eunice Monument South Unit ("EMSU"). The San Andres formation is included in Empire's unitized interval, and Goodnight admits it has capacity to inject approximately 400,000 barrels of water *per day* into the formation.[1] In Case Nos. 23614-23617, in which Goodnight seeks approval of new SWDs, Empire previously filed testimony and hearing exhibits that include extensive engineering and geological evidence that a Residual Oil Zone exists in the San Andres that will be developed through tertiary recovery and that Goodnight's massive injection enterprise will impair production within the EMSU. Those exhibits include testimony that by 2028, Goodnight's cumulative disposal volume will amount to 1.08 billion barrels inside the EMSU *and another .28 billion barrels outside the unit*.[2] These injection volumes dwarf injection by any other operators within and surrounding the EMSU. Given the

[1] *See* Goodnight's Response to Empire's Motion to Dismiss Case Nos. 24277 and 24278 at 2-3 (filed April 4, 2024).

[2] *See* Case Nos. 23614-23617, Self-Affirmed Statement of William West (Exhibit G), at 3 (filed November 3, 2023).

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT G

Commission's statutory obligation to prevent waste and protect correlative rights, these issues are highly concerning and must be expeditiously addressed. *See* NMSA 1978, § 70-2-11.

Despite the serious concerns raised by Empire's applications, Goodnight seeks to preclude the Commission from deciding these cases based on arguments that conflate standing and causation and rely on non-existent heightened pleading standards. Goodnight's MTD, though styled as a motion to dismiss for "lack of standing," demands far more specificity in a Commission application than anything the standing doctrine requires. What the Motion *really* seeks is a preemptive decision on the merits; namely, whether Empire has proven that Goodnight's injection into its SWDs located outside of the EMSU has impaired Empire's correlative rights within the EMSU. Goodnight's argument controverts extensive authority – including United States Supreme Court precedent on establishing standing at the pleading stage – and must be rejected.

First, Empire has met and exceeded the requirements for pleading standing in a Commission proceeding. All that is required to *plead* standing – as opposed to proving standing or injury at a hearing – are generalized allegations of harm. Here, Empire alleges that saltwater injected into Goodnight's SWDs – in some cases in excess of Goodnight's daily injection limit – migrates into the unitized interval within the EMSU, thereby impairing Empire's ability to extract hydrocarbons from areas that Goodnight previously misrepresented as non-productive. If true, these allegations give rise to standing. The MTD demands a degree of specificity in a Commission application beyond anything required in a state or federal court. Empire need not demonstrate in its *applications* the exact mechanics of how this migration occurs. That question must be resolved based on evidence presented at hearing.

Second, as noted above, the MTD does not address *standing* so much as *causation*, a fact question that must be resolved based on evidence. The MTD asserts two principal arguments: (1)

EXHIBIT G

that Empire has failed to explain how produced water from SWDs located outside of the EMSU could potentially impact Empire's operations inside the EMSU, and (2) that if produced water is migrating into the San Andres formation and impacting Empire's operations, Empire has not ruled out the possibility that companies other than Goodnight might be responsible. Both of these contentions seek to challenge causation under the guise of standing: one attempts to negate the nexus between Goodnight's injection and over-injection and Empire's harm, and the other attempts to present alternative theories for how that harm might have occurred. Thus, the MTD is a standing challenge in name only. It actually seeks to circumvent the evidentiary hearing phase of this proceeding and obtain an immediate, premature ruling on disputed fact questions. Moreover, Goodnight's causation argument is unfounded because it incorrectly assumes Empire must prove Goodnight's injection is the only cause of harm, and it ignores Empire's extensive evidence that supports Empire's requests. That other operators may inject into approximately seven (7) SWDs in and around the EMSU does nothing to refute Empire's standing. Goodnight's existing and proposed injection of massive volumes of water into sixteen (16) wells within and surrounding the EMSU is causing harm.

Third, the MTD engages in confused and impermissible burden-shifting. It is well established that Goodnight, as the moving party seeking pre-hearing dismissal, bears the burden of showing why it is entitled to the relief it seeks in its motion; *i.e.*, of showing why Empire lacks standing. To meet this burden, Goodnight must either affirmatively disprove Empire's standing (*i.e.*, with evidence), or demonstrate that Empire's applications fail to allege facts that, even if true, give rise to a cognizable claim of standing. Goodnight does neither. Instead, Goodnight simply bemoans the fact that Empire has not presented what it deems to be sufficient evidence at the pleading stage, drawing an "imaginary line" between injection wells inside and outside of the

EMSU, beyond which it claims no produced water can migrate. This is insufficient to meet *Goodnight's* burden of showing why its motion should be granted.

For these reasons, and those set forth below, the MTD should be denied.

ARGUMENT

I. The Commission should reject Goodnight's attempt to impose heightened, inapplicable pleading requirements.

Goodnight's Motion misconstrues well-established standing requirements, particularly at the pleading stage. For example, Goodnight claims that Empire fails to "allege concrete, particularized facts showing that it has suffered injury, or will suffer imminent injury, from Goodnight's injection of produced water . . ."[3] and that "Empire has failed to allege facts showing that the produced water from Goodnight's six wells outside the EMSU is materially contributing to the produced water within the San Andres formation."[4] Goodnight's characterization of these pleading standards is inaccurate. Neither New Mexico law nor the United States Supreme Court decisions Goodnight cites support its exacting view of standing.

As is relevant here, Commission Rule 19.15.4.8(A) requires "standing" to bring an application for an adjudicatory proceeding before the Commission. *See* 19.15.4.8 NMAC ("…[A]n operator or producer or other person *with standing* may file an application with the division for an adjudicatory hearing.") (emphasis added). Although the Rule does not define "standing," the Commission has previously embraced the standing analysis applicable in civil court cases. *See, e.g.,* Commission Order No. R-10987-A(2), ¶¶ 13. Thus, to plead standing in an application for an adjudication, applicants need only allege facts that, if true, give rise to an inference that: "(1) they are directly injured as a result of the action they seek to challenge; (2) there is a causal

[3] Motion at 2.

[4] Motion at 8.

EXHIBIT G

relationship between the injury and the challenged conduct; and (3) the injury is likely to be redressed by a favorable decision." *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-045, ¶ 1, 188 P.3d 1222 (reciting traditional three-part test for standing).

Contrary to Goodnight's claims, Empire need not allege concrete, particularized facts showing that it has suffered injury, will suffer imminent injury, or that Goodnight is materially contributing to the produced water within the San Andres formation. None of the cases Goodnight cites support this draconian position. In *Simon v. East Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976), the Supreme Court held that charitable organizations lacked standing to sue the Secretary of the Treasury and Commissioner of Internal Revenue for issuing a revenue ruling that "encouraged" hospitals to deny services to low-income individuals. The Court found that it was entirely speculative whether the revenue ruling actually encouraged hospitals to deny care and whether withdrawing the ruling would have any impact. The case has no bearing here, where it is undisputed that Goodnight is injecting millions of barrels of produced water into the San Andres formation via wells adjacent to the EMSU. In fact, the case only demonstrates that Empire's allegations establish standing. *Cf. Duke Power Co. v. Carolina Env't Study Group*, 438 U.S. 59 (1978) (plaintiffs had standing to challenge a statute that limited the liability of power companies for nuclear accidents based on concerns about nuclear radiation).

Further, the evidentiary showing required to establish each standing element – *i.e.*, injury-in-fact, causation, and redressability – is relaxed at the pleading stage. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561, 112 S. Ct. 2130, 2137 (1992). At the pleading stage, even "*general factual allegations* of injury-in-fact resulting from an adverse party's conduct may suffice to establish standing." *Id.* (on a motion to dismiss, courts "presum[e] that general allegations embrace those specific facts that are necessary to support the claim") (emphasis added); *see also In re*

EXHIBIT G

LIBOR-Based Fin. Instruments Antitrust Litig., 299 F. Supp. 3d 430, 459 (S.D.N.Y. 2018) (for standing purposes, "an injury-in-fact need not be capable of sustaining a valid cause of action," and a plaintiff may have standing even if his claim is later debunked for lack of causation).

Additionally, because Goodnight challenges Empire's standing at the pleading stage, New Mexico's liberal, "notice" pleading standard applies. Under that standard, which is even more favorable to Empire, a motion to dismiss hinges on the legal sufficiency of a pleading and not the facts supporting it. *Herrera v. Quality Pontiac,* 2003–NMSC–018, ¶ 2, 134 N.M. 43 (internal quotation marks and citation omitted).[5] That is, courts accept all factual allegations in a pleading as true and resolve all doubts in favor of its sufficiency. *Madrid v. Village of Chama*, 2012-NMCA-071, ¶¶ 17-18, 283 P.3d 871 (noting that "New Mexico is a notice-pleading state, requiring only that the plaintiff allege facts sufficient to put the defendant on notice of his claims."); *see also* Rule 1-008 NMRA (requiring a short and plain state of the claim entitling the pleading party to relief). Unless the pleading party can neither recover nor obtain relief under any provable state of facts alleged, a motion to dismiss should be denied. *Village of Logan v. Eastern New Mexico Water Utility Authority*, 2015-NMCA 103 ¶ 8, 357 P.3d 433.46; *see also Healthsource, Inc. v. X-Ray Associates of New Mexico*, 2005-NMCA-97 ¶ 16, 138 N.M. 70 (holding that a complaint should not be dismissed unless there is a total failure to allege some matter essential to the relief sought). New Mexico's pleading requirements that govern standing are far more lenient than Goodnight suggests.

[5] The same standard governing motions to dismiss for failure to state a claim applies to a motion to dismiss based on an alleged lack of standing. *Forest Guardians v. Powell,* 2001-NMCA-028, ¶ 5, 130 N.M. 368 (in reviewing a motion to dismiss for lack of standing, the court accepts as true all material allegations of the complaint and construes the complaint in favor of the complaining party); *Deutsche Bank Nat. Tr. Co. v. Johnston*, 2016-NMSC-013, ¶ 11, 369 P.3d 1046 ("As a general rule, "standing in our courts is not derived from the state constitution, and is not jurisdictional.").

EXHIBIT G

II. Empire has adequately pled standing.

With these principles in mind, there is no question that Empire alleges facts that, if true, establish Empire's standing to bring the applications. As Goodnight concedes, "an *identifiable trifle* is enough for standing to fight out a question of principle; the trifle is the basis for standing and the principle supplies the motivation." *See* Motion at 11-12 (Apr. 4, 2024) (citing *Ramirez v. City of Santa Fe*, 1993-NMCA-049, ¶ 9, 852 P.2d 690). First, Empire has plead injury-in-fact. Empire alleges that saltwater injected into Goodnight's SWDs – in some cases in excess of Goodnight's daily injection limit – migrates into the unitized interval within the EMSU, thereby impairing Empire's ability to extract hydrocarbons there. Although some of Empire's allegations are pled based on information and belief, they will be substantiated by evidence presented at hearing.

Accepting Empire's allegations as true, Empire raises more than an "identifiable trifle" giving rise to a potential injury-in-fact. *See, e.g.,* Case No. 24021, Application at ¶¶ 2 and 8 (stating that Goodnight's well will inject into the same depths as the unitized interval and that "disposal in the Well will impair 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 also S. Utah Wilderness All. v. Palma*, 707 F.3d 1143, 1155 (10th Cir. 2013) ("Neither our court nor the Supreme Court has ever required an environmental plaintiff to show it has traversed each bit of land that will be affected by a challenged agency action."). It does not matter for standing purposes if Empire is ultimately proved wrong, because standing can exist even without a viable claim. *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 299 F. Supp. 3d 430, 459 (S.D.N.Y. 2018) (for standing purposes, "an injury-in-fact need not be capable of sustaining a valid cause of action").

EXHIBIT G

In arguing that Empire failed to sufficiently allege an injury-in-fact, Goodnight contends that Empire should have included specific "facts and information" explaining how "produced water from [Goodnight's] wells is migrating or will migrate to the EMSU." *See* MTD at 7. But this argument goes to loss causation – *i.e.*, the causal link between Goodnight's injection and over-injection and harm to Empire's operations – not whether Empire has alleged a "concrete and particularized" injury-in-fact for standing purposes. *S. Utah Wilderness All. v. Palma*, 707 F.3d 1143, 1156 (10th Cir. 2013) (reversing district court's finding that plaintiffs had failed to allege injury-in-fact).[6] As already noted, establishing standing at the pleading stage requires only "generalized allegations" showing concrete and particularized injury. *Lujan*, 504 U.S. at 561. It does not require the applicant to detail and provide conclusive evidentiary support explaining every aspect of causation, particularly where doing so would require expert testimony on produced water migration.

Goodnight also relies on the Division's decision in *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. September 24, 2007) ("*Gandy*") to advocate a bright-line rule that if any SWD is located more than a half a mile away from the EMSU, Empire cannot have suffered an injury in fact from Goodnight's injection into that SWD. *See* MTD at 7, citing Division Rule 701(B)(2). *Gandy*, however, did not involve a motion to dismiss for lack of standing at the application stage, but rather after the Division held a full evidentiary hearing. *Gandy,* ¶¶ 4-6. And, the party whom the Division determined lacked standing belatedly sought to intervene in the proceeding, did not timely file an objection to the application, and operated a competing injection well located more than a mile away from the applicant's proposed well that would inject at a

[6] Similarly, Goodnight's last-ditch argument on the "redressability" element of standing is really a loss causation argument; *i.e.*, that because Empire can't prove that Goodnight is responsible for causing the produced water impairing Empire's operations, the impairment is not "redressable" or traceable to a particular actor. *See* MTD at 10.

EXHIBIT G

shallower interval. *Id.* ¶ 12.[7] In fact, Goodnight mistakenly claims that Empire is "a competitor" like the party at issue in Gandy. *See* Motion at 12. Empire is not a competitor – it is the designated operator of the EMSU and owns correlative rights that are being violated. None of the facts at issue in *Gandy* exist here and the case is inapposite. Empire's applications sufficiently allege injury-in-fact, causation, and redressability.

III. The MTD conflates loss causation with standing, then proceeds to misstate causation standards.

As noted above, the MTD is primarily concerned with making a premature, causation argument on the merits. This argument has two parts: first, that Empire failed to demonstrate, at the pleading stage, exactly how produced water from Goodnight's SWDs could impair Empire's operations within the EMSU; and second, that Empire did not rule out the possibility that companies other than Goodnight – namely, Permian Line Service, LLC; Pilot Water Solutions; Rice Operating Company; Parker Energy – might have contributed to the migration into the productive portions of the San Andres. *See* MTD at 8-9. In Goodnight's own words, "[i]n standing parlance, Empire has failed to allege facts showing that the produced water within the San Andres formation of the EMSU is 'fairly traceable' to Goodnight's six SWD wells outside of the EMSU." MTD at 9.

For the reasons set forth above, Empire is not required to plead allegations that marshal evidence definitively resolving the causation issues raised in the MTD. All that is required for an injury to be "fairly traceable" to challenged conduct is a potential "causal relationship" between the two. *Hernandez v. Grisham*, 499 F. Supp. 3d 1013, 1047 (D.N.M. 2020) (Browning, J.). Empire

[7] The Division's half-mile guideline for providing notice of injection applications, even if relevant to standing, would not apply to Goodnight's Yaz SWD (Case No. 24027), which is located less than a half mile from the EMSU.

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT G

has alleged that by injecting, and over-injecting, produced water into the SWDs in question, including the Yaz well located approximately 1550 feet from the EMSU, Goodnight has caused produced water to migrate into the productive portions of the San Andres. Although Goodnight argues that Empire miscalculated the distances of the SWDs from the EMSU boundary,[8] the footage differences do not alter the fact that Goodnight's significant injection surrounding the unit is pressuring the reservoir and causing water to migrate into the unitized interval, resulting in waste and violating Empire's correlative rights.

Goodnight's causation arguments are intertwined with the merits of Empire's case, are premature, and should be rejected. *Citizen Ctr. v. Gessler*, 770 F.3d 900, 910 (10th Cir. 2014) ("We reject the court's rationale because it conflates standing with the merits.") ("For purposes of standing, the question cannot be whether the Constitution, properly interpreted, extends protection to the plaintiff's asserted right or interest. If that were the test, every losing claim would be dismissed for want of standing.").

Moreover, Goodnight's causation argument is unfounded because New Mexico law does not – as Goodnight seems to claim – require a party to demonstrate that a respondent's conduct is the *only* cause of an alleged injury to establish causation. Rather, an applicant need only establish that a respondent's actions are *a* cause of an alleged injury. *See, e.g., Herrera v. Quality Pontiac,* 2003-NMSC-018, ¶ 34, 134 N.M. 43 ("A proximate cause of an injury need not be the only cause . . . It is sufficient if it occurs with some other cause acting at the same time, which in combination with it, causes the injury.") (internal citation omitted). That other operators are also

[8] *See* Motion at footnotes 2 through 8. As shown on Exhibit 3 to Goodnight's Motion, the EMSU map shows that the boundary includes the S/2 S/2 of Sections 21 and 22, Township 21 South, Range 36 East, but the tract descriptions on the exhibit do not include this acreage. As a result, it appears Goodnight is correct regarding the well location footages. However, many of the differences are minor, and one of the wells, the Nolan Ryan SWD Well No. 1, is closer to the EMSU than Empire had alleged. As discussed herein, Goodnight's injection is substantial, and Empire will present evidence at hearing to establish the injection is resulting in waste and violating correlative rights.

EXHIBIT G

injecting produced water into the San Andres formation – albeit at far lower volumes than Goodnight – does not alleviate the fact that Goodnight's injection is impairing correlative rights and causing waste. As Goodnight has admitted and as discussed above, Goodnight has extensive capacity to inject produced water and is in fact doing so. Goodnight's persistent focus on injection by others and arguments regarding well location footages only constitute an attempt to evade the critical issue in these cases – whether Goodnight's injection of millions of barrels of produced water into the San Andres formation in close proximity to the EMSU violates Empire's correlative rights and results in waste.

Goodnight also ignores that prior to the transfer of these matters to the Commission, Empire filed several hundred pages of geology and engineering testimony and exhibits that explain how Goodnight's injection is impairing Empire's correlative rights. *See* Empire's Hearing Exhibits in Case Nos. 23614-23617 (filed October 27, 2023). Although Empire is not required to prove causation to establish standing as Goodnight claims, Empire's initial exhibits establish causation and it will provide further evidence on that issue at hearing.

IV. Goodnight's argument that Empire lacks standing to challenge permitted wells that have not yet been drilled controverts New Mexico law and ignores Goodnight's own claims.

Goodnight argues that because it has not begun drilling the Rocket 1 or Verlander wells, any injury-in-fact is "too speculative" to pass standing muster. MTD at 8. If true, Goodnight's argument would preclude parties from opposing permit applications because no injury has occurred. That is clearly not the case, as the Oil and Gas Act and Division rules allow parties to challenge permit applications. Indeed, that is the entire focus of the Commission's Adjudication Rule, set out in 19.15.4.1 through 19.15.4.26 NMAC.

EXHIBIT G

Goodnight's claim that any harm resulting from these permitted wells would be speculative also ignores Goodnight's admission that it has constructed and operates extensive SWD infrastructure in this area. *See* Goodnight's Response to Empire's Motion to Dismiss Case Nos. 24277 and 24278 at 2-3 (filed April 4, 2024) (stating that Goodnight owns and operates 116 miles of pipeline with a projected capacity of approximately 400,000 barrels of water per day with 11 approved SWDs in this area). The notion that Empire (and presumably any other party) cannot challenge permitted wells directly controverts established New Mexico law and policy.

Further, this timing-based argument raises an issue of ripeness more than standing.[9] Whereas standing relates to whether a person is the proper party to bring suit, ripeness is intended to prevent courts from engaging in "premature adjudication" or "entangling themselves in abstract disagreements" before they have materialized. *See City of Sunland Park, Santa Teresa Services Co., Inc. v. Macias*, 2003-NMCA-098, ¶ 23, 134 N.M. 216 (reversing trial court decision dismissing, on ripeness grounds, petition for declaratory and injunctive relief).

Here, Goodnight has obtained injection permits for Rocket 1 and Verlander and can begin injecting into those wells at any time. The mere fact that Goodnight has so far opted not to do so does not render the harm alleged Empire's applications "abstract" or "hypothetical." In fact, the mere preparation to construct or operate a challenged facility may satisfy the ripeness test. *See, e.g., E. Navajo Dine Against Uranium Mining v. Martin*, No. 32,447, 2013 WL 597042 (N.M. Ct. App. Jan. 14, 2013) (unpublished) (in challenge to groundwater injection system, "triggering events" would make the challenge ripe for review included construction of system or ordering

[9] Although standing and ripeness often overlap, the two doctrines are distinct in that "[w]hen determining standing, a court asks whether [the challenged] persons are the proper *parties* to bring the suit, thus focusing on the qualitative sufficiency of the injury and whether the complainant has personally suffered the harm. When determining ripeness, a court asks whether this is the correct *time* for the complainant to bring the action." *S. Utah Wilderness All. v. Palma*, 707 F.3d 1143, 1157 (10th Cir. 2013), citing Erwin Chemerinsky, *Federal Jurisdiction* § 2.4.1 (1989).

EXHIBIT G

materials for the construction of the system). For these reasons, Empire has alleged an injury-in-fact sufficient to establish standing at the pleading stage.

V. The MTD should be denied because it impermissibly seeks to shift to Empire the burden of persuasion on Goodnight's MTD.

Goodnight repeatedly suggests in the MTD that it is Empire's burden, on Goodnight's motion, to show that Empire has standing. MTD at 6; *id.*at 7 ("Empire has not carried its burden to allege facts showing that Goodnight's injection activities have caused or will imminently cause Empire to suffer injury."); *id.* ([T]his bare-bones allegation does not satisfy Empire's burden under the rules to *show* that it has standing. Instead, to satisfy its burden, Empire must allege the facts and 'information' it is relying on…"). This argument conflates Empire's general burden of persuasion to establish the elements of its case – including standing – with Goodnight's burden, as the moving party, to demonstrate its entitlement to the relief sought in its motion.

No doubt, Empire, as the applicant, bears the burden of establishing standing to bring its applications. *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-45, ¶ 1. As discussed above, Empire has met that burden at this stage. Nevertheless, on a motion to dismiss for lack of standing, the moving party has the burden of establishing the relief sought in the motion. *See* 35B C.J.S. Federal Civil Procedure § 849 (on a motion to dismiss for failure to state a claim the moving party bears the burden of showing that no claim has been stated); *see also Golden Jubilee Realty, LLC v. Castro*, 196 A.D.3d 680, 682 (2021) ("On a defendant's motion to dismiss the complaint based upon the plaintiff's alleged lack of standing, the burden is on the moving defendant to establish, *prima facie*, the plaintiff's lack of standing.").

In this case, Goodnight has not met its burden, as the moving party, to demonstrate Empire's lack of standing. Goodnight does not provide any affirmative evidence rebutting Empire's standing, or showing how produced water injected into the six SWDs at issue could under

EXHIBIT G

"no set of facts" migrate into the EMSU, or impact Empire's operations within the EMSU. *See Village of Logan*, 2015-NMCA-103, at ¶ 8 (unless the pleading party can neither recover nor obtain relief under any provable state of facts alleged, a motion to dismiss should be denied). Goodnight simply complains that Empire has not yet provided technical evidence explaining how this migration could occur. This is not enough to demonstrate a lack of standing.

Nor has Goodnight demonstrated that Empire's applications do not adequately *allege* standing, as the standard for pleading standing is relaxed at this early stage. Accordingly, Goodnight has not met its burden, as the moving party, to demonstrate its entitlement to the extraordinary relief sought in the MTD.

CONCLUSION

For the foregoing reasons, Goodnight's MTD should be denied and these matters should proceed to an evidentiary hearing.

Respectfully submitted,

HINKLE SHANOR, LLP

By: *Dana S. Hardy*
Dana S. Hardy
Jaclyn McLean
Timothy B. Rode
P.O. Box 2068
Santa Fe, NM 87504-2068
Phone: (505) 982-4554
Facsimile: (505) 982-8623
dhardy@hinklelawfirm.com
jcmlean@hinklelawfirm.com
trode@hinklelawfirm.com

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

EXHIBIT G

Sharon T. Shaheen
Montgomery & Andrews, P.A.
P.O. Box 2307
Santa Fe, NM 87504-2307
(505) 986-2678
sshaheen@montand.com

Attorneys for Empire New Mexico, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to the following counsel of record by electronic mail this 6th day of June, 2024:

Michael H. Feldewert	mfeldewert@hollandhart.com
Adam G. Rankin	agrankin@hollandhart.com
Paula M. Vance	pmvance@hollandhart.com
Chris Moander	chris.moander@emnrd.nm.gov

/s/ Dana S. Hardy
Dana S. Hardy

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT H

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

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

Case No. 24491

ORDER RECONSIDERING PRIOR ORDER LIFTING STAY, REINSTATING ADMINISTRATIVE STAY, AND PERMITTING INTERVENTION

This matter comes before the Oil Conservation Division ("Division") on its own motion to reconsider its prior order dissolving the administrative stay in Case No. 24491, following issuance of the Oil Conservation Commission's October 17, 2025 **Order Partially Granting Goodnight Midstream Permian, LLC's Motion for Rehearing** ("Commission Rehearing Order"). Having reviewed the Commission's order, applicable Division rules, and the procedural record, the Division **FINDS** and **CONCLUDES** as follows:

FINDINGS

1. **Procedural Posture.**

   Goodnight Midstream Permian, LLC ("Goodnight") filed this application under NMSA 1978, § 70-2-12(B)(15), seeking to amend Division Order No. R-22506 (SWD-2392) to allow a one-year extension to commence injection operations at the Rocket SWD #1 well.

2. **Prior Stay and Lifting Order.**

   Proceedings in Case No. 24491 were previously stayed pending entry of a final order by the Oil Conservation Commission ("Commission") in consolidated cases

EXHIBIT H

concerning the same parties and formation. After the Commission entered Order R-24004, the Division lifted the stay to allow Case 24491 to proceed to contested hearing on the issue of "good cause" to extend the original order.

3. **Commission Rehearing Order.**

   On October 17, 2025, the Commission entered an **Order Partially Granting Goodnight's Motion for Rehearing**, **denying Empire New Mexico, LLC's ("Empire") rehearing motion**, and **granting Goodnight's motion for stay**.

   The Commission's rehearing is **limited to two legal questions** regarding:

   (a) the Commission's authority to suspend Goodnight's existing injection wells to allow Empire's proposed CO_2 EOR pilot project; and

   (b) whether Commission Order R-24004 grants the Division discretion in managing such suspensions.

   The Commission retained jurisdiction and **granted a stay of its prior order pending resolution of the rehearing.**

4. **Overlap of Issues.**

   The Commission's rehearing concerns the scope of the Division's discretion in managing Goodnight's injection wells, which bears directly on the legal and administrative framework governing Goodnight's request in Case 24491 for an extension of injection authority under SWD-2392. Proceeding with a contested hearing at this time risks inconsistency with the Commission's continuing jurisdiction.

EXHIBIT H

5. **Reconsideration of Prior Lifting Order.**

   Pursuant to 19.15.4.16(C) NMAC, the Division may, on its own motion, reconsider prior procedural orders to ensure orderly docket management. Good cause exists to reconsider and vacate the prior order lifting the stay and to place this case back on administrative stay pending the Commission's final action on rehearing.

6. **Intervention of Empire New Mexico, LLC.**

   Empire is not a person entitled to notice as of right under 19.15.4.10 NMAC, but as operator of the Eunice Monument-South Unit producing from the same San Andres formation, Empire has demonstrated that its participation may contribute substantially to the protection of correlative rights. The Division therefore exercises its discretion under 19.15.4.11(C) NMAC to permit Empire's intervention as a party in this matter.

ORDER

IT IS THEREFORE ORDERED THAT:

A. The Division's prior order dissolving the administrative stay in **Case No. 24491** is **RECONSIDERED AND VACATED**.

B. **Case No. 24491 is hereby placed back on administrative stay** pending the conclusion of the Commission's limited rehearing in **Order R-24004** and entry of a final Commission order resolving that rehearing.

EXHIBIT H

C. Upon issuance of the Commission's final order, any party may move to lift the stay, and the Division will reset the matter for hearing on the limited issue of whether Goodnight has demonstrated good cause to extend Order No. R-22506.

D. **Empire New Mexico, LLC is permitted to intervene** in Case No. 24491 pursuant to 19.15.4.11(C) NMAC. Empire shall have all rights of a party to receive service of pleadings, participate in conferences, and present evidence when the case resumes.

E. This order does not adjudicate the merits of Goodnight's application or Empire's protest, which remain reserved pending further order of the Division.

By: Gregory Chakalian Digitally signed by Gregory Chakalian Date: 2025.10.28 11:26:02 -06'00'

GREGORY CHAKALIAN,
HEARING EXAMINER

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

EXHIBIT I

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

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

CASE NO. 24491

BRIEF ON EMPIRE STANDING

Goodnight Midstream Permian, LLC ("Goodnight") (OGRID No. 372311), submits this legal memorandum addressing Empire New Mexico, LLC's ("Empire") lack of standing to object to Goodnight's application in this case at the request of the Hearing Officer. For the reasons stated, Empire has no standing to raise its objections to this case.

INTRODUCTION

The single issue for the Division to decide is whether Empire has sufficient injury, and therefore standing, to challenge Goodnight's routine application for a one-year extension to commence operations of Rocket SWD #1. And the answer is no. Empire's objection rests entirely on its tenuous, speculative claim that the proposed well—located more than a mile from Empire's operations—might someday impair Empire's ability to recover alleged hydrocarbons from a purported residual oil zone ("ROZ"). But the Commission has already resolved the foundational issues underlying Empire's objection: that Empire failed to prove any recoverable ROZ hydrocarbons exist in the relevant formations and that San Andres injection operations do not impair Empire's correlative rights or existing waterflood operations. Having lost on the merits of its underlying claims, Empire lacks any cognizable injury—present or imminent—necessary to establish standing to challenge this administrative extension request. The Division should dismiss Empire's objection and grant Goodnight's application.

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

EXHIBIT I

BACKGROUND

1. This case involves an administrative application filed by Goodnight to extend the time to commence injection operations through its proposed Rocket SWD #1.

2. Authority to inject was approved under Division Order No. R-22506 in Case No. 21527, which went to hearing before the Division on December 3, 2020.

3. Under the provisions of the UIC Class II Permit SWD-2392, the authorization to inject granted is valid for one year after the date of issuance, or until March 2, 2024. Goodnight Midstream submitted a timely request for a one-year extension in accordance with the terms of SWD-2392, which authorizes extensions for time to commence injection for up to one year for good cause shown.

4. The administrative extension request was protested by Empire on the grounds that Empire has an application pending before the Division in Case No. 24021 to revoke Goodnight's disposal authority for the Rocket SWD granted under Order No. R-22506. *See* **Exhibit A**, attached.

5. Empire's application to revoke Order No. R-22506 alleges that the proposed Rocket SWD #1 will be 4,715 feet from the EMSU boundary, which is operated by Empire, and will inject produced water into the same depths as the EMSU unitized interval, which includes the San Andres aquifer. *See* Empire Application to Revoke Rocket SWD #1, Case No. 24021, attached as **Exhibit B**.

6. Empire further alleges that the Rocket SWD #1 will dispose into the San Andres from 4,330 feet to 5,750 feet below the surface and that injected water "has the potential to migrate into the Unitized Interval." *Id.* at ¶ 4.

7. Empire also contends Goodnight "misrepresented that the San Andres is non-productive zone known to be compatible with formation water from the Bone Spring, Delaware, and Wolfcamp formations." *Id.* at ¶ 5.

Exhibit C
Pilot Water Solutions SWD, LLC - De Novo Application

8. Empire asserts that there are residual oil zones ("ROZ") within the San Andres in the EMSU and that it "has the right to recover hydrocarbons therein." *Id.* at ¶ 6.

9. It also contends that disposal through the Rocket SWD #1 "will impair 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." *Id.* at ¶ 8.

10. The Division Director referred Empire's Case No. 24021 to the Commission to be considered with a set of other disputed cases involving Goodnight and Empire involving produced water disposal within and around the EMSU.

11. The Commission stayed Case No. 24021, along with several other cases in which Empire seeks to revoke the injection authority of other disposal wells, pending resolution of Case Nos. 24123, 23775, 23614-23617, 24018-24020, and 24025 (the "Goodnight/Empire Commission Matters"). *See* Order, attached as **Exhibit C**.

12. On September 12, 2025, the Commission issued Order No. R-24004 in the Goodnight/Empire Commission Matters. *See* Order No. R-24004, attached as **Exhibit D** (the "Commission Order"). The Commission determined that (1) alleged hydrocarbons in the purported residual oil zone ("ROZ") in the EMSU have not been proven to be recoverable (let alone economic) and (2) injection into the San Andres disposal zone is not impairing Empire's correlative rights or EMSU waterflood operations. *Id*. at III(C) ¶¶ 54-56, III(D) ¶¶ 57-60.

ARGUMENT

I. Commission Order No. R-24004 Disposes of All Empire's Claims in this Matter and Establishes Empire Has No Present or Imminent Injury Necessary for Standing.

A. Commission Order No. R-24004 determined there is no recoverable hydrocarbons in the alleged ROZ and no impairment to EMSU operations.

Both parties agreed in advance of the Goodnight/Empire Matters that resolving the two foundational claims raised by Empire—that (1) alleged hydrocarbons in the purported residual oil

EXHIBIT I

zone ("ROZ") in the EMSU are economically recoverable and (2) injection into the San Andres disposal zone impairs Empire's correlative rights EMSU and interferes with its waterflood operations—would be dispositive of all claims Empire raises against Goodnight in all cases pending before the Division and Commission. *See* Empire's Joint Response in Opposition to Motions to Limit Scope of Evidentiary Hearing, filed 6/6/24, at pp. 3-4, 7-8, attached as **Exhibit E**. Empire acknowledged that if "there is not a viable ROZ within the San Andres . . . then resolving this question would impact all of the cases." *Id.* at 3. "The same is true of the second issue—whether the injection of produced water is resulting in waste or impairing Empire's correlative rights." *Id.*

The Commission found that "Empire DID NOT adduce substantial evidence that their correlative rights in the Grayburg are CURRENTLY impaired by Goodnight's injection in the San Andres." **Ex. D** at III(C). It also found that "there was insufficient evidence presented at hearing to prove whether the ROZ is recoverable," without even needing to reach the question of whether it is capable of being produced in paying quantities. *Id.* at III(D).

Empire's objection to this case and Goodnight's application for a one-year extension of its injection authority for good cause is entirely based on Empire's underlying claims that the proposed injection—which has not even commenced yet—will cause waste by impairing its ability to produce the ROZ and conduct its existing waterflood operations. *See, supra*, ¶¶ 4-9. As Empire acknowledges, the Commission's Order disposes of these claims within the EMSU but also with respect to Empire's claims regarding injection outside the boundaries of the EMSU, including the proposed Rocket SWD #1.

Having disposed of its foundational claims entirely, the Commission Order eliminates the purported injuries to Empire that are the basis for its objections in this case. Lacking any basis for

its claims, Empire is without sufficient injury to demonstrate standing in this case. Accordingly, its objections should be dismissed.

B. Empire is unable to demonstrate imminent injury.

The Commission Order also forecloses any claim that Empire is at risk of imminent injury from approving an extension to the Rocket SWD #1 order. Because there are no recoverable ROZ hydrocarbons in the EMSU—in either the San Andres or the Grayburg formations[1]—injection into the San Andres disposal zone will not risk imminent injury to Empire unless or until Empire is able to demonstrate through a preponderance of the evidence that ROZ hydrocarbons in the San Andres are not only recoverable but capable of being produced in paying quantities. *See* Empire Motion for Rehearing in Goodnight/Empire Matters, filed 10/2/25 ("As part of its obligation to prevent waste, the Commission has authority "to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities" (emphasis added) (quoting NMSA 1978, § 70-2-12(B)(4)).

Under the Commission Order, Empire has three years to establish a pilot project to prove that ROZ hydrocarbons in the EMSU are capable of being produced in paying quantities. *See* **Ex. D**. Three years is not imminent. Moreover, injury in this context is entirely contingent on the highly speculative outcome that Empire will be able to establish the purported ROZ in Goodnight's disposal interval is capable of being produced in paying quantities.

But even if Empire somehow succeeds in making that showing, the EMSU is still more than one mile away from the location of the proposed Rocket SWD, not the 4,715 feet from the EMSU boundary that Empire alleges. *See* Self-Affirmed Statement of M. Osborn, Ex. 1 at ¶ 11 ("The EMSU is more than a mile away from this [Rocket SWD #1] location." (citing Goodnight Exhibit A-4). Empire's allegation that the proposed Rocket SWD #1 location is within one mile

[1] Commission Order at III(D).

EXHIBIT I

of the EMSU is based on a misapprehension of the EMSU boundary. In fact, the proposed Rocket SWD #1 is 6,019 feet based on Division records establishing the EMSU boundary and approved location of the Rocket SWD Well No. 1. *See* **Exhibit F**. Empire alleges that water injected into this well might at some point migrate over to the EMSU. Were that to happen, Empire says, Empire's ability to recover hydrocarbons within the Unitized Interval would be impaired. But such a potential outcome is entirely speculative and hinges on uncertain, unproven, compounded potentialities—contingent first, on proof of economic recoverability of the purported ROZ and, second, on potential future impairment of the Grayburg and/or San Andres from Goodnight's injection, which is itself contingent on proof that Goodnight's injection fluids from the Rocket SWD #1 will migrate more than a mile to the EMSU boundary and that the San Andres will fail to confine the injection fluids within the disposal zone. These contingencies are no sufficient to establish imminent harm under any standing analysis.

Empire has another, independent problem: the Division's precedent set down in Order No. R-12811, *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007), attached as **Exhibit G**. In that case, a competitor of the applicant sought to intervene to oppose the applicant's request for injection authority for a disposal well. *Id.* ¶ 9. Similar to Empire here, the competitor raised concerns that water from the applicants well might migrate and adversely affect the competitor's own SWD well. *Id.* ¶ 11. But the Division determined that the competitor lacked standing. *Id.* ¶ 12. One reason for that determination was that the competitor's well was beyond the "1/2 mile cutoff required for consideration of 'affected' parties as per Division Rule 701(B)(2)." *Id.* ¶ 12(b); *see* 19.15.26.8.B(2) NMAC (current rule). The Rocket will be more than a half mile from the EMSU. **Ex. F**. That fact provides another, independent ground to dismiss Empire's objection and find it lacks standing in this case.

EXHIBIT I

Empire's objection suffers from a third, independent deficiency: Goodnight has not yet drilled the challenged Rocket SWD #1. Because of that, Empire's asserted injury is "simply too speculative" at this point. *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-45, ¶ 24, 188 P.3d 1222. This future injury depends on a string of contingencies: (1) Goodnight will inject a sufficiently large volume of produced water into the wells; (2) some of that water will somehow migrate 6,019 feet over to the EMSU; (3) Empire will prove the ROZ in the San Andres is capable of producing in paying quantities; and (4) enough of this water will migrate to the EMSU to materially impair Empire's ability to produce hydrocarbons from the Unitized Interval. Because Empire has not alleged facts shedding any light on if or when these contingencies will come to pass—and the Commission Order has already established there are no recoverable ROZ hydrocarbons in the EMSU and Empire is not being impaired even from San Andres disposal within the EMSU—it has failed to carry its burden to establish a "high likelihood" that it will suffer imminent future injury from Goodnight's Rocket SWD Well No. 1. *Id.* ¶ 29.

CONCLUSION

For the reasons stated, Empire lacks standing to object to Goodnight's application in this case.

Respectfully submitted,

HOLLAND & HART LLP

By: _____

Adam G. Rankin
Paula M. Vance
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile
agrankin@hollandhart.com
pmvance@hollandhart.com

ATTORNEYS FOR GOODNIGHT MIDSTREAM PERMIAN, LLC

EXHIBIT J

Commission on Mr. Rankin's motion to dismiss for lack of standing that is not yet fully graved. So I would submit at this point that it probably makes sense for the Division to stay this case pending a decision by the Commission on those matters.

THE HEARING EXAMINER: And, Ms. Hardy, this motion practice before the Commission regarding standing, does it -- how would it impact -- I mean, if each well is a different distance from the Eunice Monument, wouldn't that -- wouldn't that make a difference in standing?

MS. HARDY: Well, we have to show that the wells are impacting the unit regardless, I think, of where they're located, and that's what we're prepared to establish. And I think that Mr. Rankin's view of the half-mile radius is really for notice purposes with respect to injection wells, and that does not control whether a party has standing if the party can show that it's perlative rights are being impaired.

THE HEARING EXAMINER: I see.

Mr. Rankin?

MR. RANKIN: I think that's part of the question. I don't -- again, this is a well that hasn't been drilled. So there's that issue. In

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

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

CASE NOS. 25547, 25548, 25899 & 25900

ORDER DENYING MOTION FOR RECONSIDERATION

This matter comes before the Hearing Examiner on Pilot Water Solutions SWD, LLC's ("Pilot") Motion for Reconsideration of Order Granting Select's Motion to Strike Pilot's Entry of Appearance and Objection. Having reviewed the Motion, the Response in Opposition filed by Select Water Solutions, LLC ("Select"), and the supporting exhibits, the Hearing Examiner finds and concludes as follows:

1. **Standard for Reconsideration**

Reconsideration is an extraordinary remedy intended to correct clear error, prevent manifest injustice, or address newly discovered evidence that was previously unavailable despite due diligence.

2. **Failure to Establish Expert Qualifications**

Pilot's Motion relies heavily on the "material technical evidence" and "special expertise" of its witnesses, David Grounds and Ankush Gupta. However, the record reveals significant procedural deficiencies:

Exhibit D
Pilot Water Solutions SWD, LLC - De Novo Application

- Both witnesses acknowledge they have not previously testified before the Division and their qualifications have not been accepted as a matter of record.
- While both statements declare that a "copy of my current resume is attached," no such Curriculum Vitae (CV) or resume was included in the filed materials.
- Without these credentials, the Division cannot verify the expertise necessary to satisfy the "substantial contribution" requirement for intervention under 19.15.4.11(C) NMAC.

3. Jurisdiction and the Scope of the Oil and Gas Act

Pilot's primary grievance concerns operational pressure interference and a reduction in disposal capacity for its facilities located in Texas. The Hearing Examiner finds Select's jurisdictional argument persuasive:

A. The Oil and Gas Act defines "waste" and "correlative rights" specifically in the context of the recovery of "crude petroleum oil or natural gas".

B. Pilot has not alleged that Select's proposed New Mexico wells will reduce the ultimate recovery of hydrocarbons; rather, Pilot seeks to protect its commercial disposal capacity and operational flexibility in a foreign jurisdiction.

C. The Division's statutory mandate to protect correlative rights does not extend to the protection of commercial saltwater disposal capacity for a market competitor operating outside the state's borders.

4. Distinguishing Recent Precedent

Pilot's reliance on Case No. 24491 (Empire New Mexico, LLC) is misplaced. In that matter, the intervenor was an oil and gas producer seeking to protect the recoverability of hydrocarbons within a unitized interval. Here, Pilot is a commercial disposal operator with no New Mexico mineral interests at stake.

5. Procedural Finality

Pilot concedes it is not an "affected person" entitled to mandatory notice, as it does not operate within the half-mile Area of Review. The evidence proffered — including Texas Railroad Commission monitoring reports — was in Pilot's possession or publicly available prior to the entry of the Strike Order and does not constitute "newly discovered" evidence.

ORDER

IT IS THEREFORE ORDERED THAT:

I. Pilot Water Solutions SWD, LLC's Motion for Reconsideration is hereby **DENIED**.

II. The Division's prior order granting Select Water Solutions, LLC's Motion to Strike remains in full force and effect.

DATED: February 25, 2026

Gregory Chakalian

GREGORY CHAKALIAN
HEARING EXAMINER

These I don't find this helpful in making that connection.
Between what he wants me to think and what I do, think I I don't see enough here to change my decision.
So I'm gonna deny the motion for reconsideration and ask Miss Hardy to present her cases.
Thank you, Mr. Examiner.

Miguel Suazo 2:02:21
Mr.
Can pilot be heard?

Pecos Hall 2:02:24
About what, Mr. Suazo.

Miguel Suazo 2:02:26
Well, we just wanted to kind of make a few remarks for the record and in the event that pilot's not allowed through Council to appear in this proceeding, I have asked a representative pilot to appear to hopefully present to the division pilot's position through the public.
Comment process.

Pecos Hall 2:02:44
OK so.
I'm I'm not sure.
M's Hardy.
I don't think that that's permissible or appropriate under.
No, I know why not.
Well, it's if it's not evidence.
I haven't seen the division. Consider public comment of a party who was declined intervention status.
You know, Mr. Suazo, just like Mr. Sayer and I know, Mr. Sayer knows this because he used to be Deputy Secretary here.
If you disagree with the division's analysis and resulting order, you can appeal it to the Commission.
I just don't find that intervention by pilot or by desert Ram would substantially

contribute to these proceedings, and neither one is an effective party under the rules.
So I don't, I don't.
I don't think it's appropriate at this point.
I appreciate your offering it, but I I just don't feel it's fair to Miss Hardy's client.
I have to give her due process just the way I need to give you and your client.
Process and desert Ram due process so I feel like I've done that and I've looked at all of your affidavits that you filed because you filed many affidavits with your yes, and I've read every one of them carefully and analyzed them and researched them and I feel very.

MS **Miguel Suazo** 2:04:07
Correct.

PH **Pecos Hall** 2:04:14
Strongly about my decision not to let pilot nor desert RAM for different reasons intervene in this case so.
Thank you, Mr. Suazo, but I don't feel like your comment now would be helpful.
To this proceeding, so please, Miss Hardy. Let's get on because we're gonna have questions from Mr.
Getz and Mr. Harris, etcetera. I'm sure we will follow up question at risk of testing the examiner's patience.
I wanted to just make clear that what we were asking for, and I appreciate as you read.
Mr. Giarko's statement that there's you still have some questions, which is exactly why we were our request, was to put on.
You know, through a limited evidence, you're hearing some some better refined and you know, again noting that desert cram is not, you know, sophisticated operator, an opportunity to present some of the the evidence to answer some of the very questions that you're looking at. Mr. Giorgio is not.
An expert duly noted.
But it's what desert Ram has and is asking for.
A small window within which to develop that evidence.
And Mr. Sayer?
It's not that I have questions.
That's not what I said before.