

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

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

**CASE NOS. 24021-24024
and 24026-24027**

**GOODNIGHT’S RESPONSE IN OPPOSITION TO EMPIRE’S MOTION TO LIFT STAY
AND BRIEF IN SUPPORT OF ITS MOTION TO DISMISS**

Goodnight Midstream Permian, LLC (“Goodnight”) respectfully submits this Brief in (1) Response in Opposition to Empire New Mexico LLC’s (“Empire”) Motion to Lift Stay and Set for Status Conference (“Empire’s Motion”), and (2) support of its Motion to Dismiss (“Goodnight’s Motion”). For the reasons set forth below, Goodnight respectfully requests that the Oil Conservation Commission (“Commission”) deny Empire’s Motion and grant Goodnight’s Motion.

INTRODUCTION

In 2023, Empire New Mexico, LLC submitted six applications urging the Commission to revoke the injection authority provided to Goodnight Midstream Permian, LLC to operate six saltwater-disposal (“SWD”) wells outside the Eunice Monument South Unit (“EMSU”) (Case Nos. 24021–24024 and 24026–24027) based on Empire’s “information and belief” that the fluids injected outside of the EMSU are migrating into the EMSU. These cases were filed contemporaneously with several competing applications by the parties involving SWDs within the EMSU. In July of 2024, by Joint Order issued by the Commission, these six cases were all stayed pending the resolution of the other cases addressing the existence, extent of and possible

interference with a residual oil zone (“ROZ”) in the EMSU by Goodnight’s produced water injections.¹

The parties then spent several months presenting witnesses and testimony, preparing and delivering closing arguments, and briefing to the Commission on a rehearing of certain issues contained in the Commission’s Order. The Commission found in Order No. R-24004 that although there was substantial evidence of the existence of the ROZ in question, it would be premature to permanently revoke Goodnight’s injection authority because there was not substantial evidence that the ROZ was recoverable and there was not substantial evidence that Empire’s correlative rights were currently being impaired.² In that same Order, the Commission gave Empire a three-year period during which it could establish an EOR project to prove the recoverability of the ROZ.³ Upon rehearing, the Commission maintained its original position and clarified that the Oil Conservation Division (the “Division”) has authority to implement Empire’s pilot project, should it choose to exercise the opportunity the Commission provided, “and may, at its discretion, implement the ‘suspension’” of Goodnight’s injection “on any schedule OCD deems necessary” to provide Empire the opportunity to establish as CO2 EOR pilot project.⁴ The Commission’s amended order was issued in December 2025, and thus far, Empire has only made some initial filings as of May 1, 2026.⁵

¹ See Joint Order On Goodnight Midstream Permian LLC’s Motion To Limit Scope of Hearing on Cases Within The Eunice Monument South Unit and The Oil Conservation Motion Concerning The Scope Of The Evidentiary Hearing Set For September 23-27, 2024.

² See OCC Order No. R-24004 (C) – (E).

³ *Id.* at (E).

⁴ OCC Order No. R-24004-A, ¶ 24.

⁵ It is unclear exactly what Empire filed on May 1, 2026, with the Division. On May 13, 2026, Counsel for Goodnight requested a copy of the materials submitted to the Division but has not yet been provided copies.

ARGUMENT & AUTHORITIES

The Commission should deny Empire's Motion and grant Goodnight's Motion to dismiss these applications without prejudice because Empire has not, and cannot, make the requisite showings required for the Commission to revoke Goodnight's injection authority. The Commission just went through an extensive hearing process assessing the same allegations raised in these stayed applications targeting disposal outside the EMSU with respect to disposal inside the EMSU and found no basis to immediately shut-in Goodnight's disposal. Unless and until Empire comes forward with new evidence of impairment or waste, these applications should be dismissed without prejudice or, in the alternative, stayed pending completion of Empire's three-year CO2 EOR pilot project.

Notwithstanding the fact that no substantive facts were pled in support of Empire's Motion, it would be entirely premature for the Commission to take up these cases addressing disposal outside the EMSU before Empire is able to make a showing of impairment within the EMSU. Similarly, Empire has not yet undertaken any additional regulatory steps or testing to determine the recoverability of the ROZ or to implement its pilot project. The status quo from the time the Order and Amended Order were entered has not changed; accordingly, there are no facts that support the Commission taking up hearings on these six cases. The simple truth is that if Empire was unable to adduce substantial evidence that its correlative rights were being impaired by Goodnight's activities within the EMSU, it will not be able to adduce substantial evidence that its correlative rights are being impaired from disposal outside of the EMSU, either.⁶

⁶ As a matter of note, five of the six cases Empire seeks to lift the stay on involve SWD wells that are more than 1/2 mile away from the EMSU.

Empire has not yet proven recoverability of the ROZ within the EMSU. It is therefore premature for the Commission to take up the following six cases, which all allege the Empire is being impaired from disposal outside the EMSU:

1. Case No. 24021: This application challenges Order No. R-22506 in Case No. 21527, which granted injection authority to Goodnight to operate the Rocket SWD Well No. 1 (API# 30-025-pending). Goodnight has not yet drilled this well. When drilled, Empire alleges that the well will be about 4,715 feet from the EMSU.^{7,8} 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.

2. Case No. 24022: This application challenges Administrative Order No. SWD-2391, which granted injection authority to Goodnight to operate the Pedro SWD #001 Well (API# 30-025-50079). Goodnight is currently injecting produced water into this well. Empire alleges that the well is about 4,235 feet from the EMSU.⁹ Empire alleges—based solely “[u]pon information and belief”—that water injected into this well is migrating over to the EMSU, impairing Empire's ability to recover hydrocarbons within the Unitized Interval.

⁷ Empire appears to misapprehend the location and boundary of its own unit. Under the Unit Agreement, Tracts 14 and 71 exclude the S/2 S/2 of Sections 21 and 22, Township 21 South, Range 36 East, NMPM, Lea County, New Mexico. Ex. 3 (Ex. A and B to EMSU Agreement). This misapprehension causes Empire to substantially miscalculate the distances of Goodnight Midstream's Rocket SWD #1, Ted 28 SWDW #001, Yaz 28 SWD #001, and Pedro SWD #001 from EMSU's southern boundary.

⁸ The actual distance is 6,019 feet based on Division records establishing the EMSU boundary and approved location of the Rocket SWD Well No. 1. Ex. 1.

⁹ The actual distance is 5,580 feet based on Division records establishing the EMSU boundary and approved location of the Pedro SWD #001 Well. Ex. 1.

3. Case No. 24023: This application challenges Order No. R-22030 in Case No. 20825, which granted injection authority to Goodnight to operate the Verlander SWD Well No. 1 (API# 30-025-50632). Goodnight has not yet drilled this well. Empire alleges that the well is about 2,482 feet from the EMSU.¹⁰ Empire mistakenly alleges that Goodnight is currently injecting produced water into this well and alleges—based solely “[u]pon information and belief”—that water injected into this well is migrating over to the EMSU, impairing Empire’s ability to recover hydrocarbons from the Unitized Interval.

4. Case No. 24024: This application challenges Order No. R-20855 in Case No. 20555, which granted injection authority to Goodnight to operate the Nolan Ryan SWD Well No. 1 (API# 30-025-45349). Goodnight is currently injecting produced water into this well. Empire alleges that the well is about 3,285 feet from the EMSU.¹¹ Empire alleges—based solely “[u]pon information and belief”—that water injected into this well is migrating over to the EMSU, impairing Empire’s ability to recover hydrocarbons from the Unitized Interval.

5. Case No. 24026: This application challenges Administrative Order No. SWD-2075, which granted injection authority to Goodnight to operate the Ted 28 SWD Well No. 1 (API# 30-025-44386). Goodnight is currently injecting produced water into this well. Empire alleges that the well is about 2,402 feet from the EMSU.¹² Empire alleges—based solely “[u]pon information and belief”—that water injected into this well is migrating over to the EMSU, impairing Empire’s ability to recover hydrocarbons from the Unitized Interval.

¹⁰ The actual distance is 2,671 feet based on Division records establishing the EMSU boundary and approved location of the Verlander SWD Well No. 1. Ex. 1.

¹¹ The actual distance is 3,264 feet based on Division records establishing the EMSU boundary and approved location of the Nolan Ryan SWD Well No. 1. Ex. 1.

¹² The actual distance is 3,782 feet based on Division records establishing the EMSU boundary and approved location of the Ted 28 SWD Well No. 1. Ex. 1.

6. Case No. 24027: This application challenges Order No. R-20865 in Case No. 20558, which granted injection authority to Goodnight to operate the Yaz 28 SWD Well No. 1 (API# 30-025-46382). Goodnight is currently injecting produced water into this well. Empire alleges that the well is about 230 feet from the EMSU.¹³ Empire alleges—based solely “[u]pon information and belief”—that water injected into this well is migrating over to the EMSU, impairing Empire’s ability to recover hydrocarbons from the Unitized Interval.

At the time Empire filed each of these applications, it was unable to plead any facts that would properly support the Commission revoking Goodnight’s injection authority- and in the last several years, there have been no changes in fact or circumstances that warrant these applications being taken up now. As more thoroughly briefed in its original Motion to Dismiss, Goodnight believes that Empire cannot prove the requisite elements of standing to successfully challenge Goodnight’s injection authority.¹⁴ To be successful in its applications to revoke Goodnight’s injection authority, Empire would need to show injury, causation, and redressability- a hurdle Empire is not positioned to overcome.

To have standing, the applicant must establish that there is (1) an injury in fact, (2) a causal relationship between the injury and the challenged conduct, and (3) a likelihood that the injury will be redressed by a favorable decision. *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-45, ¶ 1, 188 P.3d 1222. As Goodnight has already stated, based on the final disposition of the cases within the EMSU, Empire cannot prove injury in fact, especially not without further pursuing its pilot project. To be clear: if Empire has not yet been able to prove injury (i.e. impairment of its correlative rights) from saltwater injection directly into the EMSU, it cannot prove that same injury

¹³ The actual distance is 1,575 feet based on Division records establishing the EMSU boundary and approved location of the Yaz 28 SWD Well No. 1. Ex. 1.

¹⁴ See Goodnight Motion to Dismiss, filed May 23, 2024.

from alleged migration of injection outside of the EMSU (in some cases more than 1/2 of a mile outside the EMSU). Accordingly, Empire's Motion should be denied, and these cases should be dismissed until such time that Empire can provide new information from its pilot project.

CONCLUSION

For the foregoing reasons, Goodnight Midstream Permian, LLC respectfully requests the Commission deny Empire's Motion to Lift Stay and Set for Status Conference and grant Goodnight's Motion to Dismiss without Prejudice. Unless and until Empire elects to actually undertake its pilot project and comes forward with new evidence of impairment or waste, these cases are not ripe for hearing. Goodnight requests that these cases be dismissed without prejudice to allow Empire to refile at any time after making the requisite findings or, in the alternative, that the cases remain stayed.

Respectfully submitted,

HOLLAND & HART LLP

By: /s/ Adam G. Rankin
Adam G. Rankin
Nathan R. Jurgensen
Paula M. Vance
A. Raylee Starnes
Post Office Box 2208
Santa Fe, NM 87504
505-988-4421
505-983-6043 Facsimile
agrarkin@hollandhart.com
nrjurgensen@hollandhart.com
pmvance@hollandhart.com
arstarnes@hollandhart.com

**ATTORNEYS FOR GOODNIGHT MIDSTREAM
PERMIAN, LLC**

-and-

By: /s/ Matthew M. Beck

Matthew M. Beck
PEIFER, HANSON, MULLINS & BAKER,
P.A.
P.O. Box 25245
Albuquerque, NM 87125-5245
Tel: (505) 247-4800
mbeck@peiferlaw.com

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

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2026, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Dana S. Hardy
Jaclyn M. McLean
HARDY MCLEAN LLC
125 Lincoln Ave., Suite 223
Santa Fe, NM 87505
(505) 230-4410
dhardy@hardymclean.com
jmclean@hardymclean.com

Sharon T. Shaheen
Spencer Fane LLP
Post Office Box 2307
Santa Fe, New Mexico 87504-2307
(505) 986-2678
sshhaheen@spencerfane.com
cc: dortiz@spencerfane.com

Corey F. Wehmeyer
SANTOYO WEHMEYER P.C.
IBC Highway 281 N. Centre Bldg.
12400 San Pedro Avenue, Suite 300
San Antonio, Texas 78216
cwehmeyer@swenergylaw.com

Attorneys for Empire New Mexico, LLC

Miguel A. Suazo
BEATTY & WOZNIAK, P.C.
500 Don Gaspar Ave.
Santa Fe, NM 87505
Tel: (505) 946-2090
msuazo@bwenergylaw.com

Attorneys for Pilot Water Solutions SWD, LLC

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

Attorneys for New Mexico Oil Conservation Division

Matthew M. Beck
PEIFER, HANSON, MULLINS & BAKER,
P.A.
P.O. Box 25245
Albuquerque, NM 87125-5245
Tel: (505) 247-4800
mbeck@peiferlaw.com

Attorneys for Rice Operating Company and Permian Line Service, LLC

/s/ Adam G. Rankin

Adam G. Rankin