

**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**

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

**OIL CONSERVATION DIVISION'S RESPONSE TO EMPIRE NEW MEXICO, LLC'S  
MOTION TO LIFT STAY AND SET STATUS CONFERENCE**

COMES NOW Jesse Tremaine, Legal Director, Michael Hall and Chris Moander, Assistant General Counsels, on behalf of the New Mexico Oil Conservation Division ("OCD"), and hereby provides its Response to Empire New Mexico, LLC's ("Empire") Motion to Lift Stay and Set Status Conference. OCD opposes Empire's Motion on the grounds that it is premature, unripe for decision, and should be denied as argued below.

**I. Background**

The OCC is, at this point, intimately familiar with the procedural background of the above-captioned cases, having dealt with them and the affiliated cases since approximately April 4, 2024, when the Oil Conservation Commission ("OCC") accepted the OCD Hearing Examiner's referral of the above captioned and affiliated cases to the OCC.

Starting with more relevant and useful facts, the OCC entered its 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 [sic] Motion Concerning the Scope of the Evidentiary Hearing Set for September 23-27, 2024 ("Joint Order") on or about July 2, 2024. The Joint Order states in Paragraph 4, p. 2 as follows:

"4. The following cases, previously part of this case, have been stayed by other Order of the Commission *pending resolution* of the cases above:

a. Division Case Nos. 24021-24024, 24026, and 24027. . ."  
*Emphasis added.*

OCD notes here that Empire omitted any reference to the OCD's involvement in the Joint Order, mischaracterizing the nature of the Joint Order and underlying motion practice. Ultimately, the Joint Order stayed the above captioned cases while permitting OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 to proceed to a merits hearing.

Subsequently, a merits hearing was completed for those cases not stayed by the OCC, resulting in an Order Denying Goodnight's Applications & Partially Granting/Partially Denying Empire's Applications, then amended on December 17, 2025 in the OCC's Amended Order Denying Goodnight's Applications & Partially Granting/Partially Denying Empire's Applications.

Unfortunately, Empire omitted crucial facts in play in order for the OCC to make a complete analysis of the merits of Empire's Motion, facts that do not favor Empire.

**a. Empire's Appeal of the OCC's December 17, 2025 Amended Order**

On January 20, 2026, Empire filed with the OCC its Notice of Appeal of the OCC's Amended Order from December 2025, filed in the First Judicial District Court and receiving Case No. D-101-CV-2026-00177. OCD notes here this is Empire's appeal, filed of its own accord and removing the case from the OCC for appellate review. Empire's Notice of Appeal was accompanied by Empire's Certificate of Satisfactory Arrangements on the same date. For the sake of completeness, OCD also recognizes that Goodnight Midstream Permian, LLC filed its own Notice of Appeal with the First Judicial District Court on January 27, 2026, receiving Case No. D-101-CV-2026-00177. Both District Court cases were consolidated under Case No. D-101-CV-2026-00177. As of this filing, Empire had filed its Statement of Appellate Issues on May 4, 2026, triggering the briefing cycle for District Court appeals and the District Court has yet to make any substantive rulings on the merits of the appeals, thus the case remains active.

**b. Empire's filing of its March 24, 2026 Motion to Require Modification of the Oil Conservation Division's Implementation Decision**

On March 24, 2026, Empire filed its Motion to Require Modification of the Oil Conservation Division's Implementation Decision, complaining that the OCD's Implementation Letter was legally flawed. As of Wednesday, May 13, 2026, that matter remains undecided by the OCC and so shall be recalled for a status conference on June 11, 2026.

**II. Empire presents no legal authority for its proposed relief, depriving the Parties of that ability to offer a meaningful response**

In failing to provide *any* legal authority outside of a citation to the Joint Order, Empire set a trap for the remaining Parties, a trap OCD politely declines to activate. Once Parties respond to Empire's Motion, Empire will then likely provide what it thinks is legal authority to support its position. Should Empire do so, the Parties will be denied the opportunity to brief on paper (or pixel) their respective interpretations of said authority, as well as legal authority – at that point, Parties are left with oral argument and paper supplementation of applicable statutes and caselaw, resulting in prejudice against those Parties. In other words, Empire is engaged in improper burden-shifting from itself to the remaining Parties. Thus, OCD requests that the OCC permit OCD and any other Party seeking to respond to Empire's Motion the privilege of filing a sur-reply seven (7) calendar days after Empire serves its Reply.

**III. OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 are clearly and obviously not "resolved" but remain active before a District Court on appeal**

Empire elected to continue litigation beyond the OCC by filing its January 20, 2026 Notice of Appeal with both the OCC and the First Judicial District Court. Empire was not required to file its Notice nor was it required to pursue an appellate review of the OCC's December 2025 Order. But Empire chose to take that action, thereby continuing the life of OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025. The issues decided by the OCC in December 2025 are not, in fact, resolved, but continue to be very much in controversy before a District Court. The status of OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 remains active, running contrary to Empire's assertions about the Joint Order's language and application thereto

**IV. Empire’s continued filing of pleadings before the OCC indicates Empire does not consider OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 to be resolved in any meaningful way**

Despite its appeal of OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025, Empire continues to litigate matters before the OCC as demonstrated by the filing of its March 24, 2026 Motion. This is not how a party behaves when it considers a matter “resolved;” rather, it indicates Empire considers Case Nos. 23775, 23614-23617, 24018-24020, and 24025 to be very much alive and active. If it did not, it would not seek to draw further from the OCC well. It is reasonable for the OCC to conclude on this topic alone that Case Nos. 23775, 23614-23617, 24018-24020, and 24025 are not, in fact, resolved.

**V. Conclusion**

Plainly stated, OCD’s position is that the relief sought by Empire is premature, the issues presented by Empire in its Motion are unripe for consideration, and Empire’s Motion should be denied. Empire provided zero legal authority in support of its Motion, Empire has an active District Court Appellate case concerning OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 (sister cases to the above captioned cases), and currently remains before the OCC in OCC Case Nos. 23775, 23614-23617, 24018-24020, and 24025 concerning OCD’s Implementation Letter. These facts weigh exclusively against Empire, justifying denial of its Motion. OCD also requests that the OCC grant all Parties responding to Empire’s Motion the privilege of filing a sur-reply seven (7) calendar days of Empire filing its Reply to address uncited legal authority in the Empire’s original Motion.

Respectfully submitted,

**Christopher Moander**  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this pleading was mailed electronically on May 14, 2026, to:

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