

**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**

MOTION TO DISMISS WITHOUT PREJUDICE

Goodnight Midstream Permian, LLC (“Goodnight”) respectfully submits this Motion to Dismiss without prejudice Case Nos. 24021-24024 and 24026-24027. For the reasons set forth below and in the accompanying brief in support, Goodnight respectfully requests that the Oil Conservation Commission (“Commission”) grant this Motion.

1. In 2023, Empire New Mexico, LLC (“Empire”) submitted six applications urging the Commission to revoke the injection authority provided to Goodnight Midstream Permian, LLC (“Goodnight”) to operate six saltwater-disposal (“SWD”) wells outside the Eunice Monument South Unit (“EMSU”) (Case Nos. 24021–24024 and 24026–24027).

2. These applications were all stayed on or about July 2, 2024, via Joint Order issued by the Commission, pending resolution of Empire’s similarly situated applications concerning Goodnight’s SWD wells inside the EMSU.

3. Empire now moves to lift the stay and set for status conference these cases, but doing so would be premature.

4. As Empire correctly asserts in its Motion- the Commission has heard and fully disposed of all the issues between the parties as to the competing claims within the EMSU at the administrative level but fails to address the fact that the dispute remains unresolved and on appeal at the district court.

5. Empire also overlooks the importance of the Commission's specific findings. Namely, that it was premature to grant Empire's applications to revoke Goodnight's injection authority, as it did not (and still has not) adduce substantial evidence that its correlative rights are currently being impaired by Goodnight's injections, nor did it adduce substantial evidence that the ROZ was recoverable. *See* OCC Order No. R-24004 (C) – (E). The Commission therefore granted Empire the opportunity to establish a pilot project and determine the recoverability of the ROZ. *See id.*

6. As more thoroughly briefed in Goodnight's Motion to Dismiss these non-EMSU applications filed in May 2024, Empire's claims in these applications are even more tenuous than those regarding Goodnight's operations actually within the EMSU. The holdings from the Commission's Order Nos. R-24004 and R-24004-A govern and apply to the facts at issue in these cases. Empire still faces similar hurdles regarding proving impairment of its correlative rights and recoverability of the ROZ, except Empire's claims of impairment are more attenuated in these cases involving disposal outside the EMSU.

7. Accordingly, Empire lacks standing and these applications should be dismissed, without prejudice, until such time as Empire conducts its pilot project and is able to determine the recoverability of the ROZ within the EMSU. Without such clarity, the same uncertainties identified in Order No. R-24004-A remain unresolved.

CONCLUSION

Because Empire has not yet undertaken the work necessary to make the requisite showing to revoke Goodnight's permits within the EMSU, let alone support immediate shut-in of its disposal operations, the Commission should dismiss Case Nos. 24021–24024 and 24026–24027 without prejudice, and allow Empire to refile these cases at a later time, if and when it can make the applicable arguments in support.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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