

**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

**GOODNIGHT'S RESPONSE IN SUPPORT OF
THE DIVISION'S ORDER DISOLVING STAY**

Earlier this month, the New Mexico Oil Conservation Commission ("Commission") partially granted Goodnight Midstream Permian LLC's ("Goodnight") Application for Rehearing regarding OCC Order R-24004 in Case Nos. 24018, 24019, 24020, and 24025. *See* OCC Order dated 10/17/2025, ("Order"). In the Order, the Commission granted a limited rehearing on two questions of law:

1. Does the Commission have legal authority to "Suspend[] existing Goodnight's injection wells . . . in order to provide Empire with the opportunity to establish the CO2 EOR pilot project" given that "there was insufficient evidence presented at hearing to prove whether the ROZ is recoverable?"
2. Does Commission Order R-24004 provide OCD with discretion in managing the "Suspen[sion of] existing Goodnight[] injection wells . . . [and] to provide Empire with the Opportunity to establish the CO2 EOR pilot project"?

Order at ¶¶ 9(i) & (ii). The Commission denied Goodnight's Application for Rehearing and Empire New Mexico LLC's ("Empire") Motion for Rehearing "in so far as they seek to reopen the factual record for this matter, or to relitigate the Commission's finds of fact." Order at ¶ 8.

Because the Commission's decision on these limited questions will not affect the key findings that there are no recoverable hydrocarbons and no impairment, the Division should move forward with its hearing of Case No. 24491. *Id.*

When the Division issued its October 7th order in this case, denying Empire's motions, it did so with the knowledge and understanding of the Order as it was written. Since then, the Commission has partially granted Goodnight's Application for Rehearing focused on the limited questions of authority and implementation. The Commission is not reconsidering any of its other findings contained within the Order. Notably, the Commission is **not** reconsidering its determination that Empire failed to prove recoverability of hydrocarbons in the alleged Residual Oil Zone and the Commission is **not** reconsidering its determination that, thus far, Empire has not suffered any harm by Goodnight's activities. *See* Order R-24004; *see also* Order. These threshold issues on which the Division relied in denying Empire's Motion to Reconsider have not changed. *See* Division Order Dissolving Stay of Proceedings and Denying Empire New Mexico LLC's Motion to Reconsider Decision, entered October 7, 2025, (the "October 7th Order"). Moreover, the suspension (if allowed to remain in place) only suspends injections *inside* the EMSU- a fact that has no bearing on the facts of this case as the Rocket SWD is located *outside* the EMSU.

If anything, the only change predicated on the Commission's ruling on Rehearing is whether the Commission can suspend Goodnight's injections at all. Order at ¶ 9(i). If the Commission rules in Empire's favor regarding its authority, then the facts will be just as they were when the Division held that it has the authority to make the initial determination on Goodnight's extension. If the Commission rules in Goodnight's favor regarding its authority, then the Division need not concern itself with the facts underlying the "unrelated, although factually related, revocation case," because those other permits will remain active. October 7th Order, ¶ 4. The Division's conclusion that the original basis for the stay "is no longer an impediment to hear this Application" is still correct—the Commission's resolution of these two remaining legal questions will not have any impact on their extensive conclusions of fact. *Id.* at ¶ 2. At the conclusion of the Commission's deliberations over the questions posed in the Order, the salient facts affecting this case will remain unchanged: there is no proof that the hydrocarbons in the alleged ROZ are

physically or economically recoverable, and there is no evidence that Goodnight's activities to date have caused any impairment to Empire's correlative rights.

CONCLUSION

For the reasons stated, Goodnight requests that the October 7th Order remain in effect and for the scheduled hearing to proceed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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