

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

**APPLICATION OF PILOT WATER
SOLUTIONS SWD, LLC FOR
DE NOVO HEARING**

CASE NO. 26082

**SELECT WATER SOLUTIONS, LLC'S MOTION TO DISMISS PILOT WATER
SOLUTIONS SWD, LLC'S APPLICATION FOR HEARING DE NOVO, REQUEST FOR
LIMITED EVIDENTIARY HEARING, AND MOTION FOR STAY OF PROCEEDINGS**

Select Water Solutions, LLC (“Select”) files this Motion to Dismiss Pilot Water Solutions SWD, LLC’s (“Pilot”) Application for Hearing De Novo, Request for Limited Evidentiary Hearing, and Motion for Stay of Proceedings (“De Novo Application”). As demonstrated below, Pilot’s De Novo Application contravenes New Mexico law and policy and should be dismissed.¹

I. INTRODUCTION

Pilot, a competitor produced water disposal company, operates saltwater disposal wells (“SWDs”) in Texas that are subject to the jurisdiction of the Texas Railroad Commission. Pilot was properly denied intervention in New Mexico Oil Conservation Division (“Division”) proceedings involving Select’s applications for approval of four saltwater disposal wells because it lacks any interest within one mile of the proposed wells. Dissatisfied with that outcome, Pilot now seeks extraordinary and impermissible relief by asking the Commission to step in and reverse the Oil Conservation Division’s (“Division”) decision on intervention, and stay the Division’s proceedings, prior to the issuance of final orders on Select’s applications. In essence, Pilot asks the Commission to remove these cases from the Division’s jurisdiction because it dislikes the Division’s decision on standing. New Mexico law and policy do not permit this result.

¹ It is Select’s understanding that Pilot opposes this motion.

The Oil and Gas Act and longstanding Commission policy limit de novo hearings to circumstances where a final order has been issued by the Division, which has not occurred here. In addition, the collateral order doctrine, upon which Pilot relies, is an extremely limited appellate concept that does not apply to de novo hearings. Finally, the Division properly denied Pilot's attempted intervention. Pilot's De Novo Application lacks merit and must be dismissed.

II. PROCEDURAL BACKGROUND

On August 7, 2025, Select filed Case No. 25547, which seeks an order approving its proposed produced water disposal well, the Javelina Fed 4 SWD #1 ("Javelina SWD"). Also on August 7, 2025, Select filed Case No. 25548, seeking an order approving its proposed produced water disposal well, the Jackrabbit Fed SWD #1 ("Jackrabbit SWD").

On August 8, 2025, Select initially filed an application seeking approval of its Coyote Fed 14 SWD #1 ("Coyote SWD"). Following discussions with several affected parties, Select dismissed its original application and refiled Case No. 25899 on January 6, 2026.

Select also originally filed an application seeking approval of its Roadrunner Fed 26 SWD #1 ("Roadrunner SWD"). Like the Coyote SWD application, following discussions with several affected parties, Select dismissed its original application and refiled Case No. 25900 on January 6, 2026.

Pilot failed to enter an appearance in these matters until January 28, 2026. It is undisputed that Pilot does not operate any saltwater disposal wells within the half-mile Area of Review ("AOR") for any of Select's proposed SWD wells at issue in these cases. *See* Exhibits A and B to the Self-Affirmed Statement of Robert Huizenga, Exhibit 1 to Select's Motion to Strike Pilot's Entry of Appearance and Objection (attached as Exhibit 1). Further, Pilot does not operate any oil and gas wells, and does not own any working interest, overriding royalty interest, or royalty

interest, within one-mile of any of the proposed Select wells. *See id.* Pilot has no ownership or operational footprint in the vicinity of the proposed disposal wells that would give rise to any protectable interest under the Division's standing requirements.

On February 2, 2026, Select moved to strike Pilot's Entry of Appearance and Notice of Objection. *See* Exh. 1. In its Motion, Select demonstrated that Pilot lacked standing and that its intervention would not "contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment." NMAC 19.15.4.11(C) NMAC. The Division granted Select's Motion on February 4, 2026. Pilot filed a motion for reconsideration on February 19, 2026, which was denied on February 25, 2026.

The Division took Case Nos. 25547, 25548, and 25900 under advisement on February 5, 2026, but orders have not yet been issued. Case No. 25899 is set for hearing before the Division on May 13, 2026.

III. ARGUMENT

A. The Commission's de novo hearing process only applies to final Division orders.

Section 70-2-13 of the Oil and Gas Act provides that "[w]hen any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party of record adversely affected shall have the right to have the matter heard de novo before the commission[.]" Division regulations confirm that the statutory right to de novo hearing before the Commission is limited to circumstances where a final order has been entered following a hearing:

A. De novo applications. *When the division enters an order pursuant to a hearing that a division examiner held, a party of record whom the order adversely affects has the right to have the matter heard de novo before the commission, provided that within 30 days from the date the division issues the order the party files a written application for de novo hearing with the commission clerk. If a party files an application for a de novo hearing, the commission*

chairman shall set the matter or proceeding for hearing before the commission.

19.15.4.23(A) NMAC (emphasis added). Select has not located (and Pilot does not cite) a single case to support Pilot's theory that the Commission can or should review interlocutory orders issued by the Division.²

In New Mexico, statutes must be construed to effectuate their purpose and avoid absurd results.³ The plain language of Section 70-2-13 establishes that de novo hearings are only permitted after a Division examiner has issued a decision on a "matter or proceeding" referred by the Commission. Here, the Commission's procedures delegate to the Division authority to issue a decision on Select's applications. Thus, under Section 70-2-3, the Division must issue a decision on the applications (*i.e.* the proceedings or matters) before Pilot can pursue a de novo hearing. To hold otherwise would allow parties to request Commission review of any Division decision at any time, which would delay the Division's ability to expeditiously decide cases and waste resources of both the Commission and Division – an absurd result that is inconsistent with the statute and the Oil and Gas Act as a whole.

In addition, the rule and statute must be read against New Mexico's strong public policy against piecemeal litigation. *See, e.g., Handmaker v. Henney*, 1999-NMSC-043, ¶ 7, 128 N.M. 328, 992 P.2d 879 ("The principle of finality serves a multitude of purposes, including the prevention of piecemeal appeals and the promotion of judicial economy."); *Sundial Press v. City of Albuquerque*, 1992-NMCA-068, ¶ 11, 114 N.M. 236, 836 P.2d 1257 (recognizing the state's "strong public policy" against piecemeal litigation and cautioning that in a "close case" the court

² To the extent Pilot relies on the Division Hearing Examiner's statement that Pilot could appeal to the Commission, Pilot misconstrues the Hearing Examiner's statement. At a hearing on April 16, 2026, the Hearing Examiner clarified that parties can only pursue de novo hearings after the Division has issued a final order. 04/16/26 OCD Regular Docket (OCD Pecos Hall – YouTube), 28:13 – 28:22.

³ *Baker v. Hedstrom*, 2013-NMSC-043, ¶ 15, 309 P.3d 1047.

should err against permitting interlocutory review”). And these limitations makes sense—otherwise, parties could seek de novo hearings anytime they disagree with an OCD ruling in a pending proceeding. Such piecemeal litigation would necessarily delay merits decisions in Division cases. This result would waste resources of the Commission and the Division.

In addition, the OCD Director has the ability to refer cases to the Commission for hearing when deemed appropriate. *See* 19.15.4.20(B) NMAC. However, no such relief was requested or granted here. Under these circumstances, Pilot’s ability to seek a de novo hearing does not arise until a final order has been entered by the Division. Because the Commission hears this matters de novo, as opposed to sitting as an appellate court reviewing the record before the Division, Pilot loses nothing by having to wait for a final order—at that point, Pilot can seek a de novo hearing with the Commission and if it has standing, can present its merits evidence. This process aligns with the statute and rule and prevents aggrieved parties from running to the Commission each time the Division makes a decision that they dislike. For these reasons, Pilot’s Application should be dismissed.

B. The Collateral Order Doctrine has no application to de novo hearings before the Commission.

In the absence of statutory or regulatory authority in support of its application, Pilot relies on a disfavored, narrow exception to the rule that appellate courts lack jurisdiction to review non-final orders. *Carrillo v. Rostro*, 1992-NMSC-054, ¶ 14, 114 N.M. 607, 845 P.2d 130. This exception, known as the Collateral Order Doctrine, has been applied by New Mexico courts generally in two categories of cases: (1) “when an individual sues the state or a state agency, the trial court’s order denying the state’s motion to dismiss based on the lack of a written contract”; and (2) “in a civil rights action, a defendant’s motion for summary judgment based on the defense of qualified immunity is a collateral order and can be reviewed by writ of error.” *King v. Allstate*

Ins. Co., 2004-NMCA-031, ¶ 16, 135 N.M. 206, 86 P.3d 631. “A writ of error [Rule 12-503 NMRA] is the procedural vehicle used to invoke the collateral order doctrine in New Mexico.” *State ex rel. Balderas v. ITT Educ. Servs., Inc.*, 2018-NMCA-044, ¶ 7, 421 P.3d 849.

Pilot cites no authority for its position that the Collateral Order Doctrine applies to administrative proceedings under the Oil and Gas Act. For one, the Commission is not subject to the Rules of Appellate Procedure, which provide the applicable mechanism (*i.e.*, a writ of error) to invoke the Collateral Order Doctrine, *see, e.g.*, Rule 12-503 NMRA. In addition, *de novo* hearings before the Commission are new hearings on the merits – they are not appeals. *See* NMSA 1978, § 70-2-13; 19.15.4.23(A) NMAC. There is no appellate record and no mechanism for appellate review. Accordingly, there is no “appeal” from the Division and thus no basis for the Collateral Order Doctrine to apply in the first place.

Further, the New Mexico Supreme Court has cautioned against permitting “unwarranted expansion of the ‘small class’ of cases in which the doctrine may be appropriately applied.” *Carrillo*, 1992-NMSC-054, ¶¶ 23-24. According to the Supreme Court, if the Collateral Order Doctrine is applied in too many contexts, “the benefits of the final-judgment rule will be lost; and piecemeal appeals—despite [our Supreme] Court's and most other courts’ strong policy against them—will become the order of the day.” *Id.* ¶ 23 (citation omitted). Here, Pilot argues for a new rule that will open the floodgates by allowing parties to appeal to the Commission each time they disagree with a non-final order of the Division. Neither the Oil and Gas Act nor the Commission’s regulations allow this result, and the Collateral Order Doctrine should not be applied in this manner.

For these reasons, the Commission should decline Pilot’s attempt to invoke the Collateral Order Doctrine to seek piecemeal review of the Division’s non-final order.

C. There is no basis for the Commission to stay the Division's proceedings.

Pilot also makes the unprecedented argument that the Commission should stay the Division's proceedings pending review of the Division's decision on Pilot's standing. Yet again, this argument is predicated on a fundamental misunderstanding of the Commission's de novo hearing process. Unlike an appellate court, the Commission does not exercise appellate jurisdiction over Division decisions. Rather, parties can seek de novo hearings – not de novo appeals – before the Commission. *See* NMSA 1978, § 70-2-13; 19.15.4.23(A) NMAC. Pilot's improper request that the Commission intervene in these Division proceedings is contrary to law and should be rejected.

D. The Division correctly determined that Pilot lacks standing.

The Division's rules provide that the “division examiner or the commission chairman may strike a notice of intervention on a party's motion if the intervenor fails to show that the intervenor has standing, unless the intervenor shows that intervenor's participation will contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment.” 19.15.4.11(C) NMAC. 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, 22-24. In this matter, the Division appropriately struck Pilot's Notice of Intervention and Objection for lack of standing.

Pilot must meet the following elements to establish standing: (1) injury in fact, (2) causation, and (3) redressability. *See, e.g., ACLU of New Mexico v. Santillanes*, 546 F.3d 1313, 1317-18 (10th Cir. 2008). To establish an “injury in fact,” a complainant must demonstrate that an “invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical” occurred. *Id.* In relation to injection permits, Affected Parties are those who hold an interest “within any tract wholly or partially contained within one-

half mile of the well.” See 19.15.26.8.B(2) NMAC; see also Order No. R-12811, *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007). Further, the Commission has held that surface-related concerns are not a valid basis for intervention when such concerns are to be “addressed by proceedings and rules governing the actual drilling, recompletion, operating, and production of oil and gas wells, and the disposition of oil field wastes.” Commission Order No. R-10987-A(2), ¶¶ 23-24.

i. The Division appropriately rejected Pilot’s arguments that the OGA’s prevention of waste and protection of correlative rights extend to out-of-state water disposal operators.

Throughout its briefing on the standing question, Pilot repeatedly insists that its participation in this matter will prevent waste and protect correlative rights. However, Pilot is a market competitor to Select that operates saltwater disposal wells in Texas. Pilot is not an affected person or entity as contemplated by the Division’s rules governing objections to SWD applications or by the Oil and Gas Act’s protections against waste and in favor of correlative rights.

The first, and often only step, in statutory construction is to “look first to the plain language of the statute, *giving the words their ordinary meaning*, unless the Legislature indicates a different one was intended.” *Marbob Energy Corp. v. N.M. Oil Conservation Comm’n*, 2009-NMSC-013, ¶ 9, 146 N.M. 24, 206 P.3d 135 (emphasis added). Where, as here, “statutory language is clear and unambiguous, [the Commission] must give effect to that language and refrain from further statutory interpretation.” *Id.*

The Oil and Gas Act defines “waste” in part as:

...the inefficient, excessive or improper, use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating or producing, of any well or wells in a manner to reduce or tend to *reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool*[.]

§ 70-2-3(A) (emphasis added). Waste is integral to correlative rights, which afford the “opportunity . . . to produce without waste the owner’s *just and equitable share of the oil or gas* or both.” § 70-2-17(A) (emphasis added).

The cases involving Empire New Mexico LLC (“Empire”),⁴ upon which Pilot relies, illustrate this point. In those cases, Empire, *an oil and gas operator*, sought to prevent waste and protective correlative rights by ending wastewater disposal operations that were threatening the *recoverability of oil* within its unitized interval. Unlike Pilot, Empire’s correlative rights were at stake.

In its Order Denying Pilot’s Motion for Reconsideration, the Hearing Examiner correctly observed that “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.” Order at ¶ 3.B. The Hearing Examiner held that 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.” *Id.* at ¶ 3.C.

Notwithstanding the Hearing Examiner’s correct interpretation of the Oil and Gas Act, Pilot now asserts that despite the plain language in the Act regarding waste and correlative rights vis-à-vis hydrocarbon recovery, the Division should have applied those protections to Pilot’s out-of-state wastewater disposal interests. Pilot’s strained interpretation of the Act is unsupported by basic statutory construction principles and provides no basis for standing in this matter.

ii. Pilot cannot satisfy the elements of standing in this matter.

⁴ Case Nos. 24021–24024, 24026, and 24027.

Turning back to the elements of standing, Pilot's claims fall outside the "zone of interests" protected by the statutes and rules that apply to Select's SWD applications. Pilot's claims fall outside the "zone of interests" protected by the statutes and rules that apply to Select's SWD applications. Under the "injury in fact" requirement, a party must show that it is "imminently threatened with injury" or that it faces "a real risk of future injury." *See ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶ 11, 144 N.M. 471, 188 P.3d 1222.

Here, there is no invasion of any legally protected interest because "Pilot does not own any working interest, royalty interest, overriding royalty interest, or other property interest within one-half mile of any of the proposed SWD wells." Order Granting Select Water's Motion to Strike at ¶ 5. Additionally, "Pilot does not operate any saltwater disposal wells within the one-half mile Area of Review applicable to the proposed SWD wells under 19.15.26 NMAC." *Id.* at ¶ 6. As observed by the Hearing Examiner, "Pilot's asserted interests are not based on ownership or operation of wells within the applicable Area of Review, but on generalized concerns regarding cumulative injection and competitive impacts." *Id.* at ¶ 10. There are no claimed concerns of location, migration, interference with injection operations, or any other technical or environmental effect that would give rise to standing under the Division's rules. Absent an alleged injury or potential adverse impact, Pilot's objection amounts to a competitor's disagreement with the application, which is insufficient to establish standing.

Pilot's entry of appearance in these cases is almost identical to that of DKD, LLC ("DKD") in Case No. 13962. Similar to this case, DKD was a competitor of the applicant and entered an appearance five months after the application was filed with the Division. *See* Order No. R-12811 at 3, ¶ 12. Further, DKD's nearest injection well was located over a mile from the applicant's proposed well and therefore much further than the half-mile cutoff required for DKD to be

considered an "affected party" pursuant to the Division rules. *Id.* For these reasons, the Division denied DKD intervention. *Id.*, ¶¶ 9–12. Just like Case No. 13962, Pilot's objection fails at the threshold because it is grounded solely in competitive interests, not in any legally cognizable claim due to neighboring wells within the AOR. Allowing a competitor to object on this basis would undermine Division precedent and the long-standing half-mile rule for affected parties. *See* 19.15.26.8.B(2) NMAC; Order No. R-12811. If competitive status alone was sufficient to support intervention, virtually any operator could intervene in any proceeding, effectively eviscerating the Division's standing requirements and transforming technical permitting proceedings into competitive disputes.

Pilot's alleged surface and pore space concerns do not pertain to any interest within the AOR for the Select SWDs and therefore do not involve any concrete risk, harm, or operational impairment to Pilot's wells, facilities, or correlative rights. For these reasons, the Commission should dismiss Pilot's De Novo Application.

E. Pilot's complaints regarding legal standards for reconsideration and expert qualifications are immaterial to the standing question or the Commission's ability to hear this matter de novo.

Pilot's arguments concerning the appropriate legal standards and other complaints regarding the Division's Order do not provide a basis for an interlocutory de novo hearing. Again, Pilot misunderstands the Commission's de novo hearing process. The Commission does not sit as an appellate court. Rather, parties can seek de novo hearings before the Commission when permitted by NMSA 1978, Section 70-2-13 and 19.15.4.23(A) NMAC. Here, the Division's Order is interlocutory and Pilot cannot seek a de novo hearing before the Commission at this point in the proceedings. For these reasons, Pilot's De Novo Application should be denied.

IV. CONCLUSION

For the foregoing reasons, Pilot's De Novo Application contravenes the statutes, regulations, and policies that govern de novo hearings before the Commission and should be dismissed.

Respectfully submitted,

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I hereby certify that a true and correct copy of the foregoing was served upon the following counsel of record by electronic mail on April 20, 2026.

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**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**

**SELECT WATER SOLUTIONS, LLC’S MOTION TO STRIKE PILOT WATER
SOLUTIONS SWD, LLC’S ENTRY OF APPEARANCE AND OBJECTION**

Select Water Solutions, LLC, (“Select”) moves to strike the entry of appearance and objection filed by Pilot Water Solutions SWD, LLC (“Pilot”) in Case Nos. 25547, 25548, 25899 and 25900 (collectively “Select SWD Cases”) due to Pilot’s lack of standing. Pilot is a competitor of Select that operates saltwater disposal wells more than one mile away from Select’s proposed wells and is not an affected party under the New Mexico Oil Conservation Division’s (“Division”) regulations. Accordingly, Pilot has no standing to enter an appearance in these cases and its objection should be stricken.

I. BACKGROUND

A. Select’s Pending Cases and Procedural History

On August 7, 2025, Select filed Case No. 25547, which seeks an order approving its proposed produced water disposal well, the Javelina Fed 4 SWD #1 (“Javelina SWD”), to be drilled at a location 408’ from the south line and 831’ from the east line (Unit P) of Section 4, Township 26 South, Range 35 East, Lea County, New Mexico. Also on August 7, 2025, Select filed Case No. 25548, seeking an order approving its proposed produced water disposal well, the Jackrabbit Fed SWD #1 (“Jackrabbit SWD”), to be drilled at a location 556’ from the south line and 1,968’ from the east line (Unit O) of Section 28, Township 26 South, Range 35 East, Lea

County, New Mexico. Notice of the Javelina SWD and Jackrabbit SWD applications was sent to all affected parties on August 14, 2025, and notice was published in the Hobbs News-Sun on August 22, 2025. *See* Select Case Nos. 25547 & 25548, Ex. F (Jan. 6, 2026). Due to objections submitted by certain affected parties, the Javelina SWD and Jackrabbit SWD cases were set for a contested hearing on January 13, 2026. Select was able to resolve the objections, which were withdrawn. Due to withdrawal of the objections, the Division cancelled the January 13th hearing docket and re-set the cases for hearing by affidavit on February 5, 2026.

On August 8, 2025, Select initially filed an application seeking approval of its Coyote Fed 14 SWD #1 (“Coyote SWD”), to be drilled at a location 2,631’ from the north line and 901’ from the east line (Unit H) of Section 14, Township 26 South, Range 35 East, Lea County, New Mexico. Following discussions with several affected parties, Select dismissed its original application and refiled Case No. 25899 on January 6, 2026. Notice was timely sent to the affected parties. *See* Self-Affirmed Statement of Robert Huizenga (Exhibit 1), at ¶ 10.

Select also originally filed an application seeking approval of its Roadrunner Fed 26 SWD #1 (“Roadrunner SWD”) seeking approval of a proposed produced water disposal well, to be drilled at a location 2,561’ from the south line and 2,086’ from the east line (Unit J) of Section 26, Township 26 South, Range 35 East, Lea County, New Mexico, in August 2025. Like the Coyote SWD application, following discussions with several affected parties, Select dismissed its original application and refiled Case No. 25900 on January 6, 2026. Notice for the Roadrunner SWD was initially sent to all affected parties on August 14, 2025, and published in the Hobbs News-Sun on August 22, 2025. Following re-filing of the Roadrunner SWD application, notice was sent to all affected parties on January 7, 2026 and published on January 15, 2026. *See* Select Case No. 25900, Ex. F (Jan. 29, 2026).

Due to extended negotiations with affected parties, Select's Javelina SWD and Jackrabbit SWD cases have been pending for almost six months, and Select's original Coyote SWD and Roadrunner SWD cases were also filed nearly six months ago. Select and its customers need the disposal capacity provided by these proposed wells, and Pilot has only now decided to attempt to enter an appearance and object. This, paired with the fact that Pilot is not an affected party, is grounds for striking its entry of appearance and objection.

B. Pilot's Operations and Interests

Pilot does not operate any active saltwater disposal wells within the half-mile Area of Review ("AOR") for any of Select's proposed SWD wells at issue in these cases. *See* Exhibits A and B to the Self-Affirmed Statement of Robert Huizenga (Exhibit 1). Further, Pilot does not operate any oil and gas wells, and does not own any working interest, overriding royalty interest, or royalty interest, within one-mile of any of the proposed Select SWD wells. *See id.* Pilot has no ownership or operational footprint in the vicinity of the proposed disposal wells that would give rise to any protectable interest under the Division's standing requirements.

Because Pilot does not operate any SWD wells within the AOR and holds no ownership or operating interests within one mile of the proposed facilities, Pilot falls outside the AOR in every one of the Select applications at issue. Accordingly, Pilot is not an affected person or entity as contemplated by the Division's rules governing objections to SWD applications. Indeed, its objections appear to be based solely on its status as a market competitor, which does not grant standing and cannot serve as a good-faith basis for its objection.

II. ARGUMENT

A. Legal standard

Under Division rules, only “an operator or producer or other person with standing may file an application with the division for an adjudicatory hearing.” 19.15.4.8(A) NMAC. 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, 22-24. Pilot must meet the following elements to establish standing: (1) injury in fact, (2) causation, and (3) redressability. *See, e.g., ACLU of New Mexico v. Santillanes*, 546 F.3d 1318, 1317 (10th Cir. 2008). To establish an “injury in fact”, a complainant must demonstrate that an “invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical” occurred. *Id.*

Affected parties for the purposes of injection permits are parties “within any tract wholly or partially contained within one-half mile of the well.” *See* 19.15.26.8.B(2) NMAC; *see also* Order No. R-12811, *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007). Here, there is no invasion of any legally protected interests because Pilot does not operate any wells, or own any interest, within the “half mile cutoff requirement.” *See* Order No. R-12811 at 3. In fact, Pilot does not operate any active wells within one-mile of Select’s proposed SWDs. There is simply no basis for Pilot’s objection and allowing its intervention would waste resources of the parties and the Division.

B. Pilot is not an affected party and cannot establish standing.

Pilot’s attempt to enter an appearance and object to Select’s SWD Cases should be stricken because Pilot is not an affected party. Pilot’s entry of appearance in these cases is almost identical to that of DKD, LLC (“DKD”) in Case No. 13962. Similar to this case, DKD was a competitor of

the applicant and entered an appearance five months after the application was filed with the Division. *See* Order No. R-12811 at 3, ¶ 12. Further, DKD's nearest injection well was located over a mile from the applicant's proposed well and therefore much further than the half-mile cutoff required for DKD to be considered an "affected party" pursuant to the Division rules. *Id.* For these reasons, the Division denied DKD intervention. *Id.*, ¶¶ 9–12.

Pilot, Select's competitor, lacks standing to object to these cases. The AOR for the Select SWD Wells shows that no Pilot wells fall within the one-half-mile cutoff. *See* Exhibit 1 at ¶¶ 7-9. Numerous parties entered an appearance, and where applicable, objected in the Select SWD Cases. Despite repeated and adequate notice, Pilot did not enter an appearance until approximately one week before hearing in three of the four cases.

Under the "injury in fact" requirement, a party must show that it is "imminently threatened with injury" or that it faces "a real risk of future injury." *See ACLU*, 2008, NMSC-045, ¶ 11. Pilot has not alleged, and cannot allege, any concrete risk, harm, or operational impairment to its wells, facilities, or correlative rights. There are no claimed concerns of location, migration, interference with injection operations, or any other technical or environmental effect that would give rise to standing under the Division's rules. Absent an alleged injury or potential adverse impact, Pilot's objection amounts to a competitor's disagreement with the application, which is insufficient to establish standing.

Just like Case No. 13962, Pilot's objection fails at the threshold because it is grounded solely in competitive interests, not in any legally cognizable claim due to neighboring wells within the AOR. Allowing a competitor to object on this basis would undermine Division precedent and the long-standing half-mile rule for affected parties. *See* 19.15.26.8.B(2) NMAC; Order No. R-12811. If competitive status alone was sufficient to support intervention, virtually any operator

could intervene in any proceeding, effectively eviscerating the Division's standing requirements and transforming technical permitting proceedings into competitive disputes.

III. CONCLUSION

Because Pilot is neither an affected party nor able to articulate any specific risk or harm within the AOR for Select's proposed wells, its attempt to intervene and object should be dismissed for lack of standing. Accordingly, Select respectfully requests that the Division strike Pilot's objection from the record and permit Select to proceed with its applications without Pilot's participation. Counsel for Pilot has been contacted and opposes this Motion.

Respectfully submitted,

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**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**

SELF-AFFIRMED STATEMENT OF ROBERT HUIZENGA

1. I am employed by Select Water Solutions, LLC, (“Select”) (OGRID No. 289068) as Vice President, Technical Advisory and Special Projects. I am over 18 years of age, have personal knowledge of the matters addressed herein, and am competent to provide this Self-Affirmed Statement.

2. I am familiar with Select’s applications in these cases and the objection filed by Pilot Water Solutions SWD, LLC (“Pilot”).

3. In Case No. 25547, Select seeks an order approving its proposed produce water disposal well, the Javelina Fed 4 SWD #1 (“Javelina SWD”), to be drilled at a location 408’ from the south line and 831’ from the east line (Unit P) of Section 4, Township 26 South, Range 35 East, Lea County, New Mexico. Select filed its application for the Javelina SWD on August 7, 2025.

4. In Case No. 25548, Select seeks an order approving its proposed produced water disposal well, the Jackrabbit Fed SWD #1 (“Jackrabbit SWD”), to be drilled at a location 556’ from the south line and 1,968’ from the east line (Unit O) of Section 28, Township 26 South, Range 35 East, Lea County, New Mexico. Select filed its application for the Jackrabbit SWD on August 7, 2025.

5. In Case No. 25899, Select seeks an order approving its proposed produced water disposal well, Coyote Fed 14 SWD #1 (“Coyote SWD”), to be drilled at a location 2,631’ from the

EXHIBIT 1

EXHIBIT 1 TO MOTION TO DISMISS

north line and 901' from the east line (Unit H) of Section 14, Township 26 South, Range 35 East, Lea County, New Mexico. Select originally filed its application for the Coyote SWD in Case No. 25545 on August 8, 2025. After working with various parties, Select dismissed the original application and refiled its application on January 6, 2026.

6. In Case No. 25900, Select seeks an order approving its proposed produced water disposal well, the Roadrunner Fed 26 SWD #1 ("Roadrunner SWD"), to be drilled at a location 2,561' from the south line and 2,086' from the east line (Unit J) of Section 26, Township 26 South, Range 35 East, Lea County, New Mexico. Select originally filed its application for the Roadrunner SWD in Case No. 25545 on August 7, 2025. After working with various parties, Select dismissed the original application and refiled for case 25900 on January 6, 2026.

7. **Exhibit A** is an Area of Review map that shows all four of Select's proposed SWD well locations along with wells located within a half-mile and one-mile of each proposed SWD.

8. **Exhibit B** is an Area of Review map that provides a closer view of the wells located within a half-mile and one-mile of the Roadrunner SWD and Jackrabbit SWD wells.

9. As shown on both maps, Pilot does not operate any SWDs within the half-mile AOR for each Select SWD well and does not operate any wells, or own an interest within, one-mile of the Select SWDs.

10. Select provided notice of its hearing applications to the affected parties, as required by the Oil Conservation Division rules.

11. Select has conducted a diligent search of all county public records, including phone directories and computer databases, as well as internet searches, to locate the interest owners and offset operators.

12. It is my opinion that Select undertook a good faith effort to locate and identify the correct parties and valid addresses required for notice within the well's area of review. There were no unlocatable parties.

13. Pilot is not an affected party entitled to notice of any of Select's applications.

14. The attached exhibits were either prepared by me or under my supervision, or were compiled from company business records.

15. I understand that this Self-Affirmed Statement will be used as written testimony in this case. I affirm that my testimony above is true and correct and is made under penalty of perjury under the laws of the State of New Mexico. My testimony is made as of the date handwritten next to my signature below.



Robert Huizenga



Date

Overview of all Locations

Red Circle = 0.5 mile radius
Black Circle = 1 mile radius

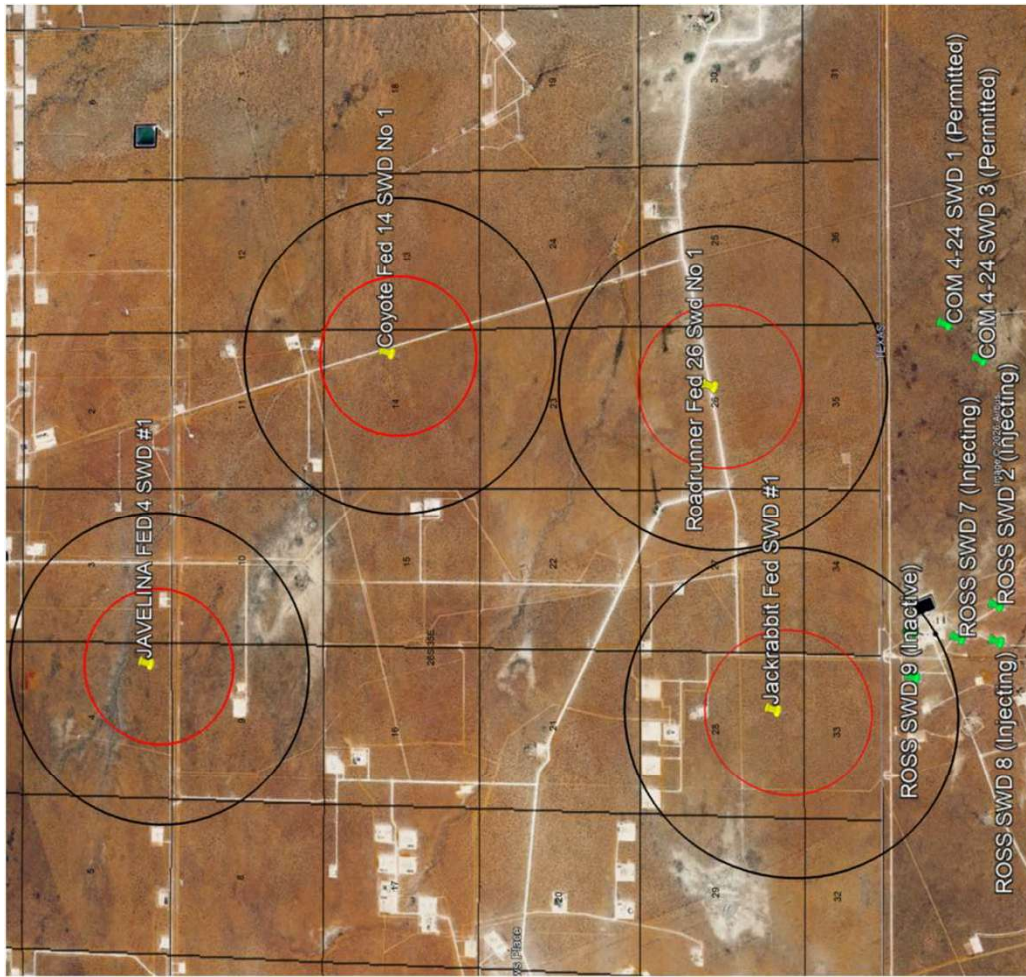


EXHIBIT A

Zoom-in on Jackrabbit and Roadrunner

Red Circle = 0.5 mile radius
Black Circle = 1 mile radius

Nearest Injector to Jackrabbit ~ 1.1 miles

Nearest Injector to Roadrunner ~ 2 miles

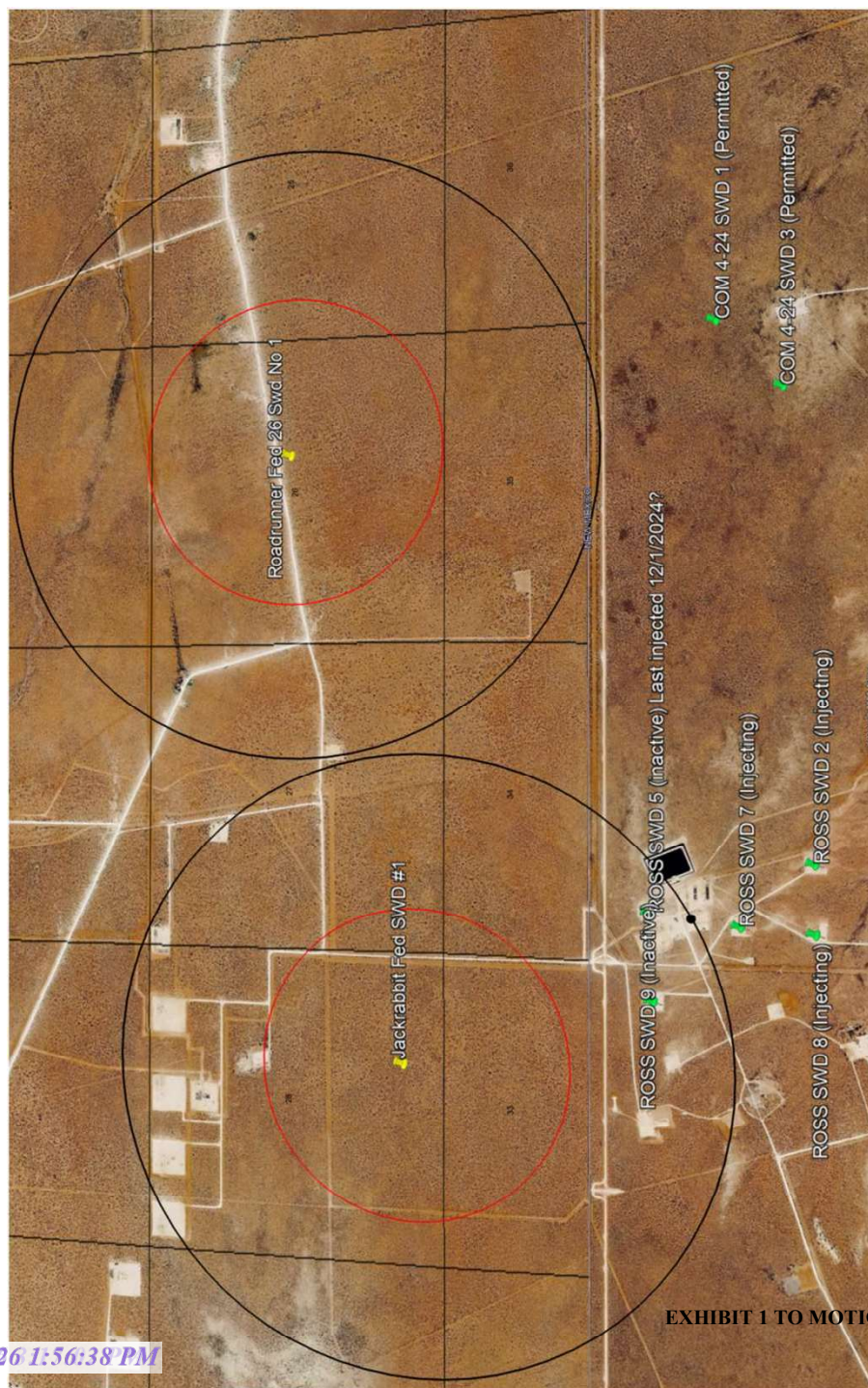


EXHIBIT B