

**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

BRIEF ON EMPIRE STANDING

Goodnight Midstream Permian, LLC (“Goodnight”) (OGRID No. 372311), submits this legal memorandum addressing Empire New Mexico, LLC’s (“Empire”) lack of standing to object to Goodnight’s application in this case at the request of the Hearing Officer. For the reasons stated, Empire has no standing to raise its objections to this case.

INTRODUCTION

The single issue for the Division to decide is whether Empire has sufficient injury, and therefore standing, to challenge Goodnight’s routine application for a one-year extension to commence operations of Rocket SWD #1. And the answer is no. Empire’s objection rests entirely on its tenuous, speculative claim that the proposed well—located more than a mile from Empire’s operations—might someday impair Empire’s ability to recover alleged hydrocarbons from a purported residual oil zone (“ROZ”). But the Commission has already resolved the foundational issues underlying Empire’s objection: that Empire failed to prove any recoverable ROZ hydrocarbons exist in the relevant formations and that San Andres injection operations do not impair Empire’s correlative rights or existing waterflood operations. Having lost on the merits of its underlying claims, Empire lacks any cognizable injury—present or imminent—necessary to establish standing to challenge this administrative extension request. The Division should dismiss Empire’s objection and grant Goodnight’s application.

BACKGROUND

1. This case involves an administrative application filed by Goodnight to extend the time to commence injection operations through its proposed Rocket SWD #1.

2. Authority to inject was approved under Division Order No. R-22506 in Case No. 21527, which went to hearing before the Division on December 3, 2020.

3. Under the provisions of the UIC Class II Permit SWD-2392, the authorization to inject granted is valid for one year after the date of issuance, or until March 2, 2024. Goodnight Midstream submitted a timely request for a one-year extension in accordance with the terms of SWD-2392, which authorizes extensions for time to commence injection for up to one year for good cause shown.

4. The administrative extension request was protested by Empire on the grounds that Empire has an application pending before the Division in Case No. 24021 to revoke Goodnight's disposal authority for the Rocket SWD granted under Order No. R-22506. *See* **Exhibit A**, attached.

5. Empire's application to revoke Order No. R-22506 alleges that the proposed Rocket SWD #1 will be 4,715 feet from the EMSU boundary, which is operated by Empire, and will inject produced water into the same depths as the EMSU unitized interval, which includes the San Andres aquifer. *See* Empire Application to Revoke Rocket SWD #1, Case No. 24021, attached as **Exhibit B**.

6. Empire further alleges that the Rocket SWD #1 will dispose into the San Andres from 4,330 feet to 5,750 feet below the surface and that injected water "has the potential to migrate into the Unitized Interval." *Id.* at ¶ 4.

7. Empire also contends Goodnight "misrepresented that the San Andres is non-productive zone known to be compatible with formation water from the Bone Spring, Delaware, and Wolfcamp formations." *Id.* at ¶ 5.

8. Empire asserts that there are residual oil zones (“ROZ”) within the San Andres in the EMSU and that it “has the right to recover hydrocarbons therein.” *Id.* at ¶ 6.

9. It also contends that disposal through the Rocket SWD #1 “will impair the ability of Empire to recover hydrocarbons within the Unitized Interval and thereby adversely affects the correlative rights of Empire and other interest owners in the Unit and results in waste.” *Id.* at ¶ 8.

10. The Division Director referred Empire’s Case No. 24021 to the Commission to be considered with a set of other disputed cases involving Goodnight and Empire involving produced water disposal within and around the EMSU.

11. The Commission stayed Case No. 24021, along with several other cases in which Empire seeks to revoke the injection authority of other disposal wells, pending resolution of Case Nos. 24123, 23775, 23614-23617, 24018-24020, and 24025 (the “Goodnight/Empire Commission Matters”). *See* Order, attached as **Exhibit C**.

12. On September 12, 2025, the Commission issued Order No. R-24004 in the Goodnight/Empire Commission Matters. *See* Order No. R-24004, attached as **Exhibit D** (the “Commission Order”). The Commission determined that (1) alleged hydrocarbons in the purported residual oil zone (“ROZ”) in the EMSU have not been proven to be recoverable (let alone economic) and (2) injection into the San Andres disposal zone is not impairing Empire’s correlative rights or EMSU waterflood operations. *Id.* at III(C) ¶¶ 54-56, III(D) ¶¶ 57-60.

ARGUMENT

I. Commission Order No. R-24004 Disposes of All Empire’s Claims in this Matter and Establishes Empire Has No Present or Imminent Injury Necessary for Standing.

A. Commission Order No. R-24004 determined there is no recoverable hydrocarbons in the alleged ROZ and no impairment to EMSU operations.

Both parties agreed in advance of the Goodnight/Empire Matters that resolving the two foundational claims raised by Empire—that (1) alleged hydrocarbons in the purported residual oil

zone (“ROZ”) in the EMSU are economically recoverable and (2) injection into the San Andres disposal zone impairs Empire’s correlative rights EMSU and interferes with its waterflood operations—would be dispositive of all claims Empire raises against Goodnight in all cases pending before the Division and Commission. *See* Empire’s Joint Response in Opposition to Motions to Limit Scope of Evidentiary Hearing, filed 6/6/24, at pp. 3-4, 7-8, attached as **Exhibit E**. Empire acknowledged that if “there is not a viable ROZ within the San Andres . . . then resolving this question would impact all of the cases.” *Id.* at 3. “The same is true of the second issue—whether the injection of produced water is resulting in waste or impairing Empire’s correlative rights.” *Id.*

The Commission found that “Empire DID NOT adduce substantial evidence that their correlative rights in the Grayburg are CURRENTLY impaired by Goodnight’s injection in the San Andres.” **Ex. D** at III(C). It also found that “there was insufficient evidence presented at hearing to prove whether the ROZ is recoverable,” without even needing to reach the question of whether it is capable of being produced in paying quantities. *Id.* at III(D).

Empire’s objection to this case and Goodnight’s application for a one-year extension of its injection authority for good cause is entirely based on Empire’s underlying claims that the proposed injection—which has not even commenced yet—will cause waste by impairing its ability to produce the ROZ and conduct its existing waterflood operations. *See, supra*, ¶¶ 4-9. As Empire acknowledges, the Commission’s Order disposes of these claims within the EMSU but also with respect to Empire’s claims regarding injection outside the boundaries of the EMSU, including the proposed Rocket SWD #1.

Having disposed of its foundational claims entirely, the Commission Order eliminates the purported injuries to Empire that are the basis for its objections in this case. Lacking any basis for

its claims, Empire is without sufficient injury to demonstrate standing in this case. Accordingly, its objections should be dismissed.

B. Empire is unable to demonstrate imminent injury.

The Commission Order also forecloses any claim that Empire is at risk of imminent injury from approving an extension to the Rocket SWD #1 order. Because there are no recoverable ROZ hydrocarbons in the EMSU—in either the San Andres or the Grayburg formations¹—injection into the San Andres disposal zone will not risk imminent injury to Empire unless or until Empire is able to demonstrate through a preponderance of the evidence that ROZ hydrocarbons in the San Andres are not only recoverable but capable of being produced in paying quantities. *See* Empire Motion for Rehearing in Goodnight/Empire Matters, filed 10/2/25 (“As part of its obligation to prevent waste, the Commission has authority “to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities” (emphasis added) (quoting NMSA 1978, § 70-2-12(B)(4)).

Under the Commission Order, Empire has three years to establish a pilot project to prove that ROZ hydrocarbons in the EMSU are capable of being produced in paying quantities. *See* **Ex. D**. Three years is not imminent. Moreover, injury in this context is entirely contingent on the highly speculative outcome that Empire will be able to establish the purported ROZ in Goodnight’s disposal interval is capable of being produced in paying quantities.

But even if Empire somehow succeeds in making that showing, the EMSU is still more than one mile away from the location of the proposed Rocket SWD, not the 4,715 feet from the EMSU boundary that Empire alleges. *See* Self-Affirmed Statement of M. Osborn, Ex. 1 at ¶ 11 (“The EMSU is more than a mile away from this [Rocket SWD #1] location.” (citing Goodnight Exhibit A-4). Empire’s allegation that the proposed Rocket SWD #1 location is within one mile

¹ Commission Order at III(D).

of the EMSU is based on a misapprehension of the EMSU boundary. In fact, the proposed Rocket SWD #1 is 6,019 feet based on Division records establishing the EMSU boundary and approved location of the Rocket SWD Well No. 1. See **Exhibit F**. 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. But such a potential outcome is entirely speculative and hinges on uncertain, unproven, compounded potentialities—contingent first, on proof of economic recoverability of the purported ROZ and, second, on potential future impairment of the Grayburg and/or San Andres from Goodnight's injection, which is itself contingent on proof that Goodnight's injection fluids from the Rocket SWD #1 will migrate more than a mile to the EMSU boundary and that the San Andres will fail to confine the injection fluids within the disposal zone. These contingencies are no sufficient to establish imminent harm under any standing analysis.

Empire has another, independent problem: the Division's precedent set down in Order No. R-12811, *In re Application of Gandy Corp.*, Case No. 13962 (N.M. Oil Conservation Div. Sept. 24, 2007), attached as **Exhibit G**. In that case, a competitor of the applicant sought to intervene to oppose the applicant's request for injection authority for a disposal well. *Id.* ¶ 9. Similar to Empire here, the competitor raised concerns that water from the applicants well might migrate and adversely affect the competitor's own SWD well. *Id.* ¶ 11. But the Division determined that the competitor lacked standing. *Id.* ¶ 12. One reason for that determination was that the competitor's well was beyond the "1/2 mile cutoff required for consideration of 'affected' parties as per Division Rule 701(B)(2)." *Id.* ¶ 12(b); see 19.15.26.8.B(2) NMAC (current rule). The Rocket will be more than a half mile from the EMSU. **Ex. F**. That fact provides another, independent ground to dismiss Empire's objection and find it lacks standing in this case.

Empire's objection suffers from a third, independent deficiency: Goodnight has not yet drilled the challenged Rocket SWD #1. Because of that, Empire's asserted injury is "simply too speculative" at this point. *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-45, ¶ 24, 188 P.3d 1222. This future injury depends on a string of contingencies: (1) Goodnight will inject a sufficiently large volume of produced water into the wells; (2) some of that water will somehow migrate 6,019 feet over to the EMSU; (3) Empire will prove the ROZ in the San Andres is capable of producing in paying quantities; and (4) enough of this water will migrate to the EMSU to materially impair Empire's ability to produce hydrocarbons from the Unitized Interval. Because Empire has not alleged facts shedding any light on if or when these contingencies will come to pass—and the Commission Order has already established there are no recoverable ROZ hydrocarbons in the EMSU and Empire is not being impaired even from San Andres disposal within the EMSU—it has failed to carry its burden to establish a "high likelihood" that it will suffer imminent future injury from Goodnight's Rocket SWD Well No. 1. *Id.* ¶ 29.

CONCLUSION

For the reasons stated, Empire lacks standing to object to Goodnight's application in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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EXHIBIT A

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Attn: Engineering Bureau

**Re: *Goodnight Midstream Permian, LLC,
Notice of Injection Permit Extension Request
Rocket SWD # 1, 565 FSL & 245 FWL, Section 28, T21S, R36E, Lea County,
NM***

Ladies & Gentlemen:

Please be advised that Empire New Mexico LLC objects to the referenced extension request of Goodnight Midstream Permian, LLC dated January 22, 2024. Empire New Mexico currently has an application before the Oil Conservation Division in Case No. 24021 to revoke disposal authority granted under OCD Order No. R-22506 to Goodnight Midstream for the Rocket SWD # 1.

Very truly yours,

Ernest L. Padilla

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EXHIBIT B

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

**APPLICATION OF EMPIRE NEW MEXICO LLC TO
REVOKE THE INJECTION AUTHORITY GRANTED
UNDER ORDER NO. R-22027 FOR THE ROCKET SWD
NO. 1 WELL OPERATED BY GOODNIGHT MIDSTREAM
PERMIAN LLC, LEA COUNTY, NEW MEXICO**

CASE NO. 24021

APPLICATION

Empire New Mexico LLC (“Empire”) respectfully applies for an order revoking the injection authority granted under Order No. R-22506 in Case No. 21527 (“Order”). In support, Empire states as follows:

1. Goodnight Midstream Permian, LLC (“Goodnight”) is the operator of record for the Rocket SWD Well No. 1, API# 30-025-pending (“Well”), a produced water disposal well to be located 565 feet from the South line and 245 feet from the West line (Unit M) of Section 28, Township 21 South, Range 36 East, NMPM, Lea County, New Mexico.

2. The Well is located approximately 4,715’ from the Unit and will dispose of water at the same depths as the unitized interval of the Eunice Monument South Unit (“Unit”), which is operated by Empire.

3. The unitized interval of the Unit extends from the top of the Grayburg formation to the bottom of the San Andres formation (“Unitized Interval”). The vertical limits of the Unitized Interval are the same as the vertical limits of the Eunice Monument Grayburg-San Andres Pool covering the Grayburg and San Andres formations.

4. The Well will dispose into the San Andres formation through an open-hole interval from 4330 feet to 5750 feet below surface, and disposed water has the potential to migrate into the Unitized Interval.

5. At the time of the application, Goodnight misrepresented that the San Andres is a non-productive zone known to be compatible with formation water from the Bone Spring, Delaware, and Wolfcamp formations ("Produced Water").

6. However, residual oil zones ("ROZ") are found within the San Andres, and Empire has the right to recover hydrocarbons therein.

7. Moreover, the salinity levels of Produced Water are substantially greater than the salinity levels of water in the Unitized Interval, including the San Andres formation.

8. Disposal in the Well will impair the ability of Empire to recover hydrocarbons within the Unitized Interval and thereby adversely affects the correlative rights of Empire and other interest owners in the Unit and results in waste.

9. Empire has requested that Goodnight voluntarily refrain from drilling the Well, but as of the date of filing this application, Goodnight has not indicated it will do so.

10. Revocation of the disposal authority granted by Order No. R-22506 will prevent the waste of recoverable hydrocarbons and will protect correlative rights.

WHEREFORE, Empire requests that this case be heard as a status conference on December 7, 2023 and, at that time, be set for a contested hearing on the same docket as Case No. 23775.

Respectfully submitted,

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Application of Empire New Mexico LLC to Revoke the Injection Authority Granted Under Order No. R-22506 for the Rocket SWD Well No. 1 Operated by Goodnight Midstream Permian LLC, Lea County, New Mexico. Applicant in the above-styled cause seeks an order revoking the injection authority granted by Order No. R-22506, issued in Case No. 21527 on March 2, 2023, to dispose of produced water in the Rocket SWD Well No. 1, API# 30-025-pending ("Well"), a produced water disposal well to be located 565 feet from the South line and 245 feet from the West line (Unit M) of Section 28, Township 21 South, Range 36 East, NMPM, Lea County, New Mexico. The approved injection zone is the San Andres formation, an interval which is potentially productive of hydrocarbons since the advent of horizontal drilling. The Well is located approximately 7 miles West of Eunice City, New Mexico.

EXHIBIT C

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

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-7765,
AS AMENDED TO EXCLUDE THE SAN ANDRES
FORMATION FROM THE UNITIZED INTERVAL
OF THE EUNICE MONUMENT SOUTH UNIT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24278

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-7767
TO EXCLUDE THE SAN ANDRES FORMATION
FROM THE EUNICE MONUMENT OIL POOL WITHIN
THE EUNICE MONUMENT SOUTH UNIT AREA,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24277

**APPLICATION OF GOODNIGHT PERMIAN
MIDSTREAM, LLC FOR APPROVAL OF A
SALTWATER DISPOSAL WELL,
LEA COUNTY, NEW MEXICO**

CASE NO. 24123

**APPLICATIONS OF GOODNIGHT MIDSTREAM
PERMIAN, LLC FOR APPROVAL OF
SALTWATER DISPOSAL WELLS
LEA COUNTY, NEW MEXICO**

CASE NOS. 23614-23617

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

CASE NOS. 24018-24027

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN LLC TO AMEND ORDER NO. R-22026/SWD-2403
TO INCREASE THE APPROVED INJECTION RATE
IN ITS ANDRE DAWSON SWD #1,
LEA COUNTY, NEW MEXICO.**

CASE NO. 23775

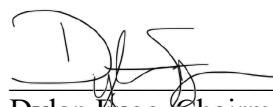
**JOINT ORDER ON GOODNIGHT MIDSTREAM PERMIAN L.L.C.'S
MOTION TO LIMIT SCOPE OF HEARING ON CASES
WITHIN THE EUNICE MONUMENT SOUTH UNIT AND THE OIL
CONSERVATION MOTION CONCERNING THE SCOPE OF THE EVIDENTIARY
HEARING SET FOR SEPTEMBER 23-27, 2024**

These matters, having come before the Oil Conservation Commission (“Commission”) on the motions by Goodnight Midstream Permian L.L.C. (“Goodnight”) and the Oil

Conservation Division (“OCD”), to limit the scope of the Commission’s hearing on the above captioned cases (“Motion”), and the Commission, being fully advised and having heard arguments of the parties’ counsel at a public meeting on June 20, 2024, hereby finds as follows:

1. The hearing on the above captioned matters, as amended by this or any other order by the Commission, shall be heard on September 23-27, 2024 by hearing examiner Rip Harwood, as per previous Commission order.
2. At said hearing, the parties shall submit all evidence, testimony, and legal argument on the issue of the existence, extent of and possible interference with a residual oil zone the Eunice Monument South Unit (“EMSU”) by produced water injection activities undertaken by Goodnight.
3. Such evidence, testimony, and legal argument shall be limited to applications and wells by Goodnight or by Empire New Mexico LLC within the EMSU and shall include the following cases:
 - a. Commission Case No. 24123;
 - b. Division Case No. – 23775;
 - c. Division Case Nos – 23614-23617;
 - d. Division Case Nos – 24018-24020, and 24025; and
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
 - b. Commission Case Nos – 24277 and 24278.

SO ORDERED.



Dylan Page, Chairman (Acting)
New Mexico Oil Conservation Commission

EXHIBIT D

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

OCC ORDER NO. R-24004

APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC FOR APPROVAL
OF A SALTWATER DISPOSAL WELL,
LEA COUNTY, NEW MEXICO

DE NOVO APPEAL OF DENIAL
OF PROPOSED NEW WELL
CASE NO. 24123 (PIAZZA)

APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC FOR APPROVAL
OF A SALTWATER DISPOSAL WELL,
LEA COUNTY, NEW MEXICO

PROPOSED NEW WELLS
CASE NO. 23614 (GOODEN)
CASE NO. 23615 (HERNANDEZ)
CASE NO. 23616 (HODGES)
CASE NO. 23617 (SEAVER)

APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC TO AMEND ORDER
NO. R-2206/SWD-2403
TO INCREASE THE APPROVED INJECTION RATE
IN ITS ANDRE DAWSON SWD #1
LEA COUNTY, NEW MEXICO

INCREASE EXISTING WELL
CASE NO. 23775 (DAWSON)

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

REVOKE EXISTING WELLS
CASE NO. 24018 (DAWSON)
CASE NO. 24019 (BANKS)
CASE NO. 24020 (SOSA)
CASE NO. 24025 (RYNO)

**Order Denying Goodnight's Applications & Partially Granting/Partially Denying
Empire's Applications**

COMES NOW, the New Mexico Oil Conservation Commission ("Commission") and issues this ORDER in the adjudicatory hearing in the above-cited case numbers. Pursuant to NMSA 1978, Section 70-2-13 and 19.15.4 NMAC, the hearing occurred on approximately 18 days distributed between February 20, February 24-28, April 7-11, April 21-25, May 19-21, 2025. The hearing was presided over by Hearing Officer Rip Harwood, Esq. and attended by the Commissioners. Pursuant to 19.15.4.24 NMAC, the Commission upon reviewing the legal arguments, hearing testimony, exhibits, proposed Findings of Fact and Conclusions of Law, issues the following ORDER containing its statement of reasons:

I. Introduction: Parties & Wells at Issue:

1. PARTIES -Goodnight Midstream Permian, LLC is a midstream company that takes oil operation produced water (a/k/a salt water disposal) from operators from around the Permian Basin and injects it into salt water disposal (SWD) wells.
2. PARTIES -Empire New Mexico LLC is an oil production company that operates the Eunice Monument South Unit (EMSU).
3. INTERESTED PARTIES -Rice Operating Company is an operator of produced water injections wells in and around the EMSU. On 6/20/24, it filed an Entry of Appearance and Notice of Intervention.
4. INTERESTED PARTIES- Permian Line Service LLC is an operator of produced water injections wells in and around the EMSU. On 6/20/24, it filed an Entry of Appearance and Notice of Intervention.
5. INTERESTED PARTIES -Pilot Water Solutions SWD LLC is an operator of produced water injections wells within the EMSU. On 6/17/24, it filed an Entry of Appearance and Notice of Intervention.
6. PARTY THAT WITHDREW -The New Mexico Oil Conservation Division (Division) initially appeared but withdrew after Goodnight agreed to implement a monitoring program within and around the Capitan Reef Aquifer System that “satisfies the requirements upon [OCD] by the” U.S. EPA. Goodnight’s FOF #23 citing to the Division’s 5/15/25 Notice of Dismissal.
7. Goodnight Has Applied to Amend its Existing Permit with an Increased Disposal Rate Authorization for the Following SWD Well:

SWD Well Name	Date Applied for Expansion	Disposal Zone	Maximum Disposal rate	Case No.	Citations in the Record
Dawson	4/10/23	-4375 to -5,420 feet	Go from 25,000 Barrels of Water Per Day (bwpd) up to 40,000 bwpd	Case No. 23775	Goodnight Ex. A-9

8. Goodnight Has Applied for a Permit for a New Well (that was previously rejected by the Oil Conservation Division staff):

Name	Date Applied	Disposal Zone	Maximum Disposal rate	Case No.	Citations in the Record
Piazza	9/16/21. Date of Division hearing date: 9/15/22. Division Denied on: 11/29/23	-4,125 to -5,400 feet	40,000 bwpd	Case No. 24123	Goodnight Ex. A-2 Goodnight Ex. A-3 Goodnight Ex. A-8 Empire Ex. A-2

9. Goodnight Has Applied for a Permit for New Wells:

Name	Date Applied	Disposal Zone	Maximum Disposal rate	Case No.	Citations in the Record
Gooden	5/12/23	-4,200 to -4,900 feet	42,000 bwpd	Case No. 23614	Goodnight Ex. A-4, Empire Ex. A-2.
Hernandez	5/12/23	-4,200 to -5,300 feet	42,000 bwpd	Case No. 23615	Goodnight Ex. A-5, Empire Ex. A-2.
Hodges	5/12/23	-4,100 to -5,200 feet	42,000 bwpd	Case No. 23616	Goodnight Ex. A-6, Empire Ex. A-2.
Seaver	5/12/23	-4,200 to -5,300 feet	42,000 bwpd	Case No. 23617	Goodnight Ex. A-7, Empire Ex. A-2.

10. Empire has Applied to OCC to Revoke Goodnight's Injection Authority/Permit for Following SWD Wells:

SWD Well Name	Date of hearing granting approval	OCD date	Disposal Zone	Maximum Disposal rate	Case No.	Citations in the Record
Dawson	1/21/21		-4375 to -5,420 feet	25,000 (bwpd)	Case No. 24018	Alleman TR. 4/25/25 at 58:20-21

					Goodnight Ex. A-9 Goodnight Ex. B, para. 38
Banks	1/21/21	-4490 to -5420 feet	25,000 bwpd	Case No. 24019	Alleman TR. 4/25/25 at 68:16 Goodnight Ex. B, para. 38
Sosa	9/19/19	-4,592 to- 5,330 feet	29,477 bwpd	Case No. 24020	Alleman TR. 4/25/25 at 72:6-7 Goodnight Ex. B, para. 38
Ryno	None. It was administratively approved without a hearing. It started operations on 10/1/21.	-4,380 to- 5,560 feet.	16,441 bwpd	Case No. 24025	Alleman TR. 4/25/25 at 73:21 Empire Ex. A- 3 Goodnight Ex. B, para. 38

11. Empire presented expert witnesses including: (a) Jack Wheeler, (b) Dr. Robert Lindsay, (c) Laurence Melzer, (d) Dr. Robert Trentham, (e) Dr. James Buchwalter, (f) Galen Dillewyn, (g) Joseph McShane, (h) Frank Marek, (i) William West, (j) Stanley Birkhead and (k) Ryan Bailey.
12. Goodnight presented expert witnesses including: (a) Preston McGuire, (b) Tom Tomastik, (c) James Davidson, (d) Nathan Alleman, (e) William Knights, (f) John McBeath, (g) Dr. Larry Lake.
13. The Commission heard and weighed expert witnesses and exhibits on topics ranging from, including but not limited to, economics, engineering, geology, hydrology and petrophysics, but the items listed below constitute the evidence that was most compelling and to which the Commission assigned the greatest weight as substantial evidence.

II. Grounds for Denying Goodnight's Applications:

A. Based on the 1984 Commission Order, Empire has the exclusive rights to produce the ROZ in the EMSU.

14. In Township 20-21 (South), Range 36-37 (East) in Lea County, comprising about 14,000 acres, approximately 15 miles southwest from Hobbs, New Mexico, an oil "field was discovered in 1929, and within ten years, it had already produced over a million barrels of oil." Wheeler TR. 4/8/25 at 142: 12-13.
15. From that time forward, generally, various operators extracted oil in the upper underground region of the field (Grayburg formation) and various operators used the lower underground region of the field (San Andres formation) to extract water (i.e. for use in oil water flood operations) or to inject oil production waste water (i.e. produced water or salt water) into disposal wells.
16. In the early 1980s, Gulf Oil Corporation (Gulf) applied to the New Mexico Oil Conservation Commission to request an Order to get the field organized as a "Unit" pursuant to the New Mexico Statutory Unitization Act, NMSA 1978, Sections 70-7-1 to -21.
17. On June 22, 1984, Gulf finalized an Unit Agreement among "the parties [who] are the owners of working, royalty, or other oil and gas interests in the Unit Area...." Empire Ex. A-4. The State of New Mexico State Land Office and United States BLM own 58% and 20% of the minerals in the Unit Area, respectively, and were included in the agreement. Empire's FOF #1 citing to Wheeler TR. 4/8/25 at 142:21-25.
18. The Unit Agreement, in section 10, gave the authority to Gulf, as the Unit operator: "exclusive right, privilege and duty of exercising any and all rights of the parties hereto including surface rights which are necessary or convenient for prospecting for, producing, storing, allocating and distributing the Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator." Empire Ex. A-4.
19. The Agreement stated the San Andres was intended to be used initially for make-up water for water flooding operations for oil operations.
20. On November 7, 1984, the Commission held a public hearing on Gulf's request for the Commission to approve the Unit Agreement. Empire Ex. A-6.
21. On December 27, 1984, the Commission issued Order R-7765 approving the creation of the Eunice Monument South Unit Area ("EMSU"). Empire Ex. A-6
22. The Commission's Order established the vertical limits of the EMSU and put several formations into the EMSU. The top of the EMSU was set at: "100 feet below mean sea level or at the top of the Grayburg formation, whichever is higher." Empire Ex. A-6.
23. The bottom of the EMSU as "a lower limit at the base of the San Andres formation." Empire Ex. A-6.

24. On August 1, 2004, Gulf became part of Chevron USA. Chevron USA later sold its property status to ExxonMobil/XTO. Wheeler TR. 4/9/25 at 13:5-7.
25. On March 12, 2021, Empire purchased the EMSU from ExxonMobil/XTO. Empire's FOF #3 citing to Wheeler TR. 4/8/25 at 144:13-16. Empire also purchased the adjoining AGU and EMSU-B properties.
26. Empire purchased the EMSU to continue the current extraction of oil from the Grayburg formation but also to start a new project to extract oil from the San Andres formation via a CO2 flood as part of an Enhanced Oil Recovery (EOR) project.
27. Based on the 1984 Commission Order, Empire has the exclusive rights to decide how to best extract oil in the EMSU.

B. The Commission finds that there was substantial evidence presented at the hearing to establish the existence of a ROZ in the Grayburg and San Andres, especially the core analysis evidence.

28. Empire's witness, Dr. Lindsay, provided slides of the coring of two wells in the EMSU (EMSU 679 well and RR Bell well) that show there is oil saturation that is visible to the naked eye. Empire's FOF #31 citing to Lindsay TR. 2/24/25 at 18:17-24, 37:4-7.
29. The coring started above the Grayburg and extended down into the San Andres. Empire's FOF #31.
30. One slide showed with pictures of core samples "EMS-679 San Andres core" which the slide states is "from 95 ft to 105ft beneath top of the San Andres." The oil saturation (SO) measurement on the samples has eight readings of 18.3%, 19.9%, 21%, 22.8%, 25.4%, 30.2% 30.7%, 32.4%, 33%, 38.4%. Empire Ex. B-7.
31. One slide showed pictures of core samples "EMSU R.R. Bell #4 core" which the slide describes as "fair to good oil saturation." Empire Ex. B-9.
32. Cores of the EMSU 679 and the RR Bell Number 4 wells show oil stain in the San Andres, including right at the base of both cores, which indicates that oil saturations exist deeper into the San Andres. Empire FOF #82a citing to Lindsay TR. 2/24/25 at 20:11-21:2, 22:25-23:4.
33. These were the only cores presented in this hearing.
34. The well logs for the EMSU 679 and EMSU R.R. Bell #4 corroborated the core data. Empire Ex. B-23, B-25, B-26.
35. Empire's witnesses testified that a ROZ exists. Empire's FOF #82s citing to Lindsay TR. 2/24/25 at 37:4-5, Bailey TR. 2/25/25 at 277:20-278:18, Birkhead TR. 2/25/25 at 458:23-459:3, Birkhead TR. 2/26/25 at 647:5-13, Trentham TR. 2/27/25 at 829:18-22, Melzer TR. 2/27/25 at 845:23-846:3, 858:18-20, 863:18-20, Marek TR. 4/7/25 at 122:6-10, 21-23.

36. Goodnight's witnesses, Dr. Davidson, Mr. Knights, Dr. Lake and Mr. Tomastik agreed that a ROZ exists. Empire's FOF #82t citing to Davidson TR. 4/21/25 at 232:8-18, Tomastik TR. 4/25/25 at 104:19-21, Knights TR. 4/22/25 at 28:3-5, Lake TR. 4/24/25 at 223:4-21.
37. Goodnight's witness, Dr. Davidson, confirmed that oil saturation exists throughout the San Andres stating: "there's some up to 30 to 40 percent in there. They show up periodically up and down the system. So yes, there's oil down in there...." Empire's Response to Rice, p.3 citing to Davidson TR. 4/21/25 at 242:17-243:14.
38. Since there was substantial evidence presented at the hearing to establish the existence of a ROZ in the Grayburg and San Andres, New Mexico law authorizes the Commission to allow companies to have an opportunity to pursue oil discoveries so the oil is not left wasted or untapped underground. NMSA 1978, Section 70-2-11.
39. Goodnight's application for proposed four new wells (Gooden, Hernandez, Hodges, Seaver) at 42,000 barrels a day each AND a fifth new well (Piazza) at 40,000 barrels a day AND an increase to an existing well (Dawson) up to 40,000 barrels a day will result in an addition of hundreds of thousands of barrels a day injected into the San Andres. Wheeler TR. 4/8/25 at 43:18-44:7.
40. Goodnight's six applications must be denied because the injection of hundreds of thousands of barrels a day conflicts with Empire's exclusive rights to extract oil in the EMSU because in order to perform a successful CO2 flood EOR project, the injection of CO2 and water must be monitored closely and adjustments made based upon design. Goodnight's SWD wells cannot dispose of water when Empire's active CO2 flood is being performed without adversely effecting economics. Empire's Ex. I. at 12.
41. Goodnight's six applications must be denied because the injection of hundreds of thousands of barrels a day conflicts with Empire's exclusive rights to extract oil in the EMSU because approval of the proposed new wells would contradict the responsibility of the Commission and Division to prevent the drowning by water of any stratum or part thereof capable of producing oil. Goodnight Ex. A-3, Conclusion of Law # 11.
42. This denial is consistent with the Division's conclusion in its order in the Piazza well application. Goodnight Ex. A-3.

III. Grounds for Partially Granting/Partially Denying Empire's Applications:

A. Empire DID adduce substantial evidence of the possibility of FUTURE impairment of correlative rights or waste in the EMSU.

43. Empire's witness, Dr. Lindsay, provided a map titled: "EMSU-679 Lower Grayburg Fracture Study" and described it as "A Chevron in-house fracture study was performed on EMSU-679 oriented core (120 ft). Fractures were measured in the Lower Grayburg reservoir and upper San Andres residual oil zone (ROZ)." Empire Ex. B-12.
44. The Chevron fracture study is titled: "Eunice Monument South Unit Expansion Area B (EMSUB), Eunice Monument South Unit (EMSU) and Arrowhead Grayburg Unit (AGU) Fracture Study." Empire Rebuttal Exhibit J, Appendix 1.
45. Empire's witness, Dr. Lindsay, is familiar with the study because he worked for Chevron USA at the EMSU location from 1988-2002. Empire Ex. B
46. In the fracture study of the upper 36 feet of the San Andres in EMSU 679, there were 129 vertical fractures. Empire's FOF #33 citing to Lindsay TR. 2/24/25 at 28:10-30:21, 37:8-20. This could lead to communication between the Grayburg and San Andres.
47. Empire's witness, Dr. Buchwalter, built a model and the model shows to a reasonable degree that water is moving from the San Andres into the Grayburg. Empire's Closing Brief p. 20 citing to Buchwalter TR. 2/27/25 at 766:11. This could lead to communication between the Grayburg and San Andres.
48. Dr. Buchwalter's model is titled: "Empire Eunice Monument Study Presentation." Empire, Ex. M-1 to M-20.
49. Goodnight did not prepare any subsurface modeling to support their argument that the water influx from the San Andres to the Grayburg will not occur in the future. Empire's FOF #88c citing to Buchwalter TR. 2/27/25 at 767:3-8.

B. Goodnight DID NOT adduce substantial evidence of the existence of a continuous barrier between the Grayburg and the San Andres and therefore DID NOT refute the potential for FUTURE impairment or waste in the EMSU.

50. Goodnight asserted that there is a containment barrier that is located above Goodnight's disposal zones. Goodnight's FOF #19 citing to Goodnight Ex. B, para. 38-43.
51. This led to some witnesses to use the term Grayburg (above barrier) and San Andres (below barrier). This led others witnesses to use the term Upper San Andres (above barrier) and Lower San Andres (below the barrier) when testifying about the containment barrier.
52. Mr. McGuire prepared Goodnight Exhibit B-9 to draw a containment barrier across the EMSU. Goodnight Ex. B, para. 50. Goodnight Exhibit B-9 was unable to map a containment barrier continuously across the EMSU. Empire FOF #85q.

- a. Exhibit B-9 shows the Ryno well, but it shows no barrier between Goodnight's injection zone and Empire's producing Grayburg zone. Empire's Closing Brief, p. 17 citing to McGuire TR. 5/19/25 at 266: 6-14.
 - b. The barriers shown in the Well EMSU 462 do not correlate with the barriers in the EMSU 460 Well. Empire's Closing Brief, p. 17.
 - c. The barriers shown in the Banks well do not correlate with the barriers in the EMSU 462 Well. Empire's Closing Brief, p. 17.
 - d. The barriers shown in the Banks well do not correlate with the barriers in the Ryno well. Empire's Closing Brief, p. 17.
 - e. The barriers shown in the Sosa well do not correlate with the barriers in the Ryno well. Empire's Closing Brief, p. 17.
 - f. There was no barrier that was radially/laterally mappable across these wells, let alone across the 14,000+ acres of the EMSU. Empire's Closing Brief, p. 17.
 - g. Even Goodnight's witness, Mr. Knights, testified there was not a continual containment barrier. Instead, it was "a number of those barriers in amalgamation." Rice's FOF #10 citing to Knights TR. 4/22/25 at 212:11-20.
53. Empire's witness, Dr. Lindsay, testified on the lack of continuous barrier: "And then, when the Grayburg -- when the EMSU anticline formed and you take this flat-line strata and you flex it and make the asymmetric anticline, because it's dolomitized, dolomite is a brittle mineral, you fracture that and you break it. So even if you do have something there that is acting like a seal, now it's fractured. And then you get Mother Nature's Waterflood sweeping through and solution enhancing those vertical fractures and making them wider. And so to have a continuous barrier there, yes, you kind of start out with one, but you don't end up with one. And it doesn't look laterally continuous on logs." Lindsay TR. 2/24/25 at 153:15-154:3.
- C. However, the Commission concluded it is premature at present to grant Empire's applications to permanently revoke the injection authority of the existing wells because the Commission found Empire DID NOT adduce substantial evidence that their correlative rights in the Grayburg are CURRENTLY impaired by Goodnight's injection into the San Andres.**
54. The EMSU currently produces about 800 barrels of oil per day from the Grayburg. Goodnight's FOF #87 citing to Empire's Ex. I at 2, Ex. I-18.
55. Empire has not identified production data from any particular well within EMSU that shows evidence of impacts from Goodnight's disposal operations in its production or operation. Goodnight's FOF #89 citing to Goodnight Ex. B, para. 9, Ex. F at 33.
56. "[T]he strongest evidence" for no communication between the San Andres and Grayburg "is material balance, which is volumes and pressure" and the limited

change in pressures in the San Andres for the volumes of water that were both extracted and injected “is just amazing” and “a unique situation[.]” Goodnight’s FOF #58 citing to Knights TR. 4/22/25 at 251:7-252:2.

D. In addition, the Commission concluded it is premature at present to grant Empire’s applications to permanently revoke the injection authority of the existing wells because the Commission found there was insufficient evidence presented at hearing to prove whether the ROZ is recoverable.

57. Empire pointed to other EOR recovery projects within the San Andres formation:

- a. Seminole field, which is 45 miles from EMSU, yielded 68 million barrels from a ROZ.
- b. Tall Cotton Field, which is also 45 miles from EMSU, yielded 2,000 bopd. Empire’s Closing Brief, p. 24 citing to Trentham TR. 2/27/25 at 802:9-804:19, Melzer TR. 848:20-849:9, 856:14-857:7.

58. Recovery, however, is site-specific and is based on the conditions at the EMSU.

59. Empire did not compare the oil-in-place calculations done to the oil-in-place calculations at the other ROZ sites it referenced throughout its testimony, including the Seminole Field, Tall Cotton or Goldsmith. Rice’s FOF #115.

60. Goodnight’s witness, Dr. Lake, testified that Empire relied on a dimensionless curve that projects 18% oil recovery after 4 hydrocarbon pore volumes of CO₂, which is two standard deviations about the mean for oil recovery for a CO₂ flood in a conventional reservoir. Goodnight’s FOF #162 citing to Lake TR. 4/24/25 at 175:10-17.

E. Therefore, it is premature at present to grant Empire’s applications to permanently revoke the injection authority of the existing wells. Instead, the Commission will suspend the injection authority to provide Empire with the opportunity to establish a pilot project.

61. The Commission will provide Empire with the opportunity to establish a CO₂ EOR pilot project within a period of 3 years to ascertain the recoverability of the ROZ.

62. To perform a successful CO₂ flood, the injection of CO₂ and water must be monitored closely and adjustments made based upon design. Goodnight’s SWD wells cannot dispose of water when an active CO₂ flood is being performed. Empire’s Ex. I. at 12.

63. Empire will then return to the Commission and present the further data/analysis.

64. The Commission’s rationale is grounded in the exchange between Commissioner Ampomah and Empire’s witness Mr. Wheeler. Wheeler TR. 4/9/25 at 52:7 to 53:2 (emphasis added).

Q. So if I flip that and then ask you -- and let's say if Empire will be willing to say that, okay, Commission should suspend, like you said, all the saltwater injection that is going on in the EMSU right now, give Empire time to prove that the oil, the ROZ, if it is there, is recoverable, will you be open to that?

A. That is the most fabulous suggestion I've heard this whole ten days of hearing.

Q. And how many years will Empire be open to that?

A. You know, you're getting me in more and more trouble with Mr. West. But I would think we could do it within a couple of years.

Q. So within that couple of years, Empire will have the opportunity to drill the other wells?

A. Yes, sir.

Q. And prove to see that if any of these claims -- you know, real evidence that the ROZ indeed exists and it's recoverable?

A. Yes, sir.

65. The Commission's rationale is also grounded in the exchange between Commissioner Lamkin and Empire's witness, Mr. Wheeler. Wheeler TR. 4/9/25 at 56:11-23 (emphasis added).

Q. I'm mainly speaking about if you -- if you guys had consent from the Commission to establish an EOR project and you had committed capital from your company, what do you think the timeline is in reference to Commissioner Ampomah's question about performing a pilot to verify that the ROZ is there and it's producible?

A. If you just do a small, small pilot project and the Commission requests it, I believe that we can get it and do it within that two-year period, where we're talking about drilling the wells and coring and then the analysis and everything of that to present to the Commission.

IV. Pending Motion:

Goodnight's Motion to Amend the 1984 Order to exclude a portion of the San Andres is premature.

66. On July 3, 2025, Goodnight filed "Renewed Motion for Judgment of Exclusion of San Andres Formation Within EMSU." The motion asked the Commission to exclude the San Andres from the EMSU.

67. Goodnight had previously filed requests to exclude the San Andres from the EMSU in Case Nos. 24277 and 24278 and following briefing by the parties, on July 2, 2024, the Commission issued an order staying those cases and excluding them from the scope

of this hearing. Empire's Response to Renewed Motion, p. 2 citing to the Commission's Joint Order on Goodnight's Motion to Limit Scope of Hearing on Cases within the EMSU and the Oil Conservation Division Motion Concerning the Scope of the Evidentiary Hearing Set for September 23-27, 2024 (July 2, 2024).

68. But even after the Commission stayed Goodnight's applications, Goodnight raised the same exclusion theory in a January 2025 Motion for Partial Summary Judgment. Empire's Response to Renewed Motion, p. 3 citing to Goodnight's Motion for Partial Summary Judgment (Jan. 23, 2025).
69. On February 14, 2025, the Commission denied the Motion and held that Goodnight's Motion was "precluded by issues of fact" and "otherwise not well-taken." Empire's Response to Renewed Motion, p. 4
70. On March 4, 2025, the Commission entered an Order regarding the scope of the hearing, but did not include anything about Goodnight's request to exclude the San Andres from the EMSU.
71. Any debate over the exclusion of the San Andres would require notice to, and likely participation from, multiple additional parties.
72. Unitization is "federally and state-approved contract that binds multiple entities and stakeholders, including Empire, the Bureau of Land Management and the New Mexico State Land Office." Empire's Response to Renewed Motion, p. 6.
73. Therefore, Goodnight's Motion request was previously stayed and denied and remains outside the scope of this proceeding and cannot be taken up at this time. The Motion is DENIED.

ORDER

The Commission finds that there was substantial evidence presented at the hearing to establish the existence of a ROZ in the Grayburg and San Andres, especially the core analysis evidence. Based on the 1984 Commission Order, Empire has the exclusive rights to produce the ROZ in the EMSU. However, there was insufficient evidence presented at the hearing to prove whether the ROZ is recoverable.

The Commission therefore will provide Empire the opportunity to establish a CO2 EOR pilot project within a period of 3 years to ascertain the recoverability of the ROZ and return to the Commission with further data/analysis.

Based on the above summaries the Commission:

1. Denies Goodnight's applications to drill new wells Case No. 23614 (Gooden), Case No. 23615 (Hernandez), Case No. 23616 (Hodges), Case No. 23617 (Seaver), Case No. 24123 (Piazza);
2. Denies Goodnight's application to request existing increase in Case No. 23775 (Dawson);

3. Suspends existing Goodnight's injection wells Case No. 24018 (Dawson), Case No. 24019 (Banks), Case No. 24020 (Sosa), Case No. 24025 (Ryno) in order to provide Empire with the opportunity to establish the CO2 EOR pilot project.

The vote for this Order was unanimous. The Division will implement this Order.

William Ampomah

William Ampomah, Ph.D.
On behalf of the Commission

September 12, 2025

Date

EXHIBIT E

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

**APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC TO AMEND
ORDER NO. R-7767 TO EXCLUDE THE SAN
ANDRES FORMATION FROM THE EUNICE
MONUMENT OIL POOL WITHIN THE
EUNICE MONUMENT SOUTH UNIT AREA,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24277

**APPLICATION OF GOODNIGHT
MIDSTREAM PERMIAN, LLC TO AMEND
ORDER NO. R-7765, AS AMENDED,
TO EXCLUDE THE SAN ANDRES FORMATION
FROM THE UNITIZED INTERVAL OF THE
EUNICE MONUMENT SOUTH UNIT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24278

**APPLICATIONS OF GOODNIGHT MIDSTREAM
PERMIAN, LLC FOR APPROVAL OF
SALTWATER DISPOSAL WELLS
LEA COUNTY, NEW MEXICO**

CASE NOS. 23614-23617

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

CASE NOS. 24018-24027

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN LLC TO AMEND ORDER NO. R-22026/SWD-2403
TO INCREASE THE APPROVED INJECTION RATE
IN ITS ANDRE DAWSON SWD #1,
LEA COUNTY, NEW MEXICO.**

CASE NO. 23775

**EMPIRE NEW MEXICO, LLC'S JOINT RESPONSE IN OPPOSITION TO MOTIONS
TO LIMIT SCOPE OF EVIDENTIARY HEARING**

Empire New Mexico, LLC, ("Empire"), by and through its undersigned counsel of record, hereby submits this joint response in opposition to the following motions: (1) Goodnight Midstream Permian, LLC's ("Goodnight") Motion to Limit the Scope of the Commission Hearing to Cases Within the Eunice Monument South Unit (the "Goodnight Scope Motion"); and (2) the New Mexico Oil Conservation Division's (the "Division") Motion Concerning the Scope of the Evidentiary Hearing Set for September 23-27, 2024 (the "Division Scope Motion," and together with the Goodnight Scope Motion, the "Scope Motions"). For the reasons that follow, both Scope Motions should be denied, and Case Nos. 23614-23617, 24018-24027, and 23775 should proceed to hearing.¹

INTRODUCTION

In its Scope Motion, Goodnight seeks to both expand the scope of this proceeding, and artificially reduce it. The sweeping relief sought in the Scope Motions includes:

- Consolidating this proceeding with at least three additional cases pending before the Division that involve wells inside the EMSU, each of which involves third-party operators who have not asked for consolidation or sought to intervene in this proceeding;²
- Severing and staying the six (6) cases in this proceeding that seek to revoke Goodnight's injection authority at saltwater disposal wells

¹ Empire has filed a motion to dismiss Goodnight's Case Nos. 24277 and 24278, which seek to contract the depth of the Eunice Monument South Unit ("EMSU") and amend the applicable pool.

² Case Nos. 24432, 24434, and 24436.

(“SWDs”) located *outside* of the Eunice Monument South Unit (“EMSU”), which cases are also the subject of Goodnight’s motion to dismiss;³ and

- Consolidating an additional five (5) cases pending before the Division that involve SWDs located outside of the EMSU and third-party operators who have not requested consolidation or intervention.⁴

To justify this unorthodox relief, Goodnight draws an artificial distinction between cases challenging an operator’s injection authority at SWDs located inside the EMSU, and those challenging injection authority outside the EMSU. This contrived grievance fails to support the relief sought in the Scope Motions, which should be denied.

First, despite Goodnight’s best efforts to inject myriad factual issues into this case, Goodnight concedes that “at bottom, the factual issues to be decided [at a hearing] are relatively narrow in scope.” *See* Goodnight Scope Motion at 13; *see also id.* at 1 (arguing that “the core issues” in this proceeding are limited). That is, the salient issues requiring an evidentiary hearing are straightforward. They include: (1) whether a residual oil zone (“ROZ”) exists in the San Andres formation; and (2) whether injection of produced water into that formation “will cause waste, impair correlative rights, or otherwise interfere with the operations in the EMSU.” *See id.* At hearing, Empire will present evidence that Goodnight’s injection inside and outside the EMSU is increasing pressure in the reservoir and causing water to migrate into the Grayburg formation. These dispositive issues are the same across all of the consolidated matters that involve Goodnight. They do not depend on the location of SWDs relative to the EMSU. Thus, it would not promote

³ Cases 24021-24027.

⁴ Cases 24433, 24435, 24437, 24438, and 24439.

administrative economy to sever some of the matters based on the superficial and ancillary factual distinctions set forth in the Scope Motions.

Second, Goodnight admits that *resolving* these two foundational issues “is likely to substantially resolve the disputed issues in all the cases...”. *Id.* at 13. For instance, if it turns out there is *not* a viable ROZ within the San Andres – notwithstanding the overwhelming evidence to the contrary – then resolving this question would impact all of the cases. On the other hand, the existence of an economic ROZ would have the same impact in all cases and uniformly frame the remaining issues moving forward. The same is true of the second issue – whether the injection of produced water is resulting in waste or impairing Empire’s correlative rights. Notably, litigating these two principal issues will involve the same or similar evidence in every case. Goodnight’s parade of horrors on secondary fact questions is overstated and can be hashed out at the hearing.

True enough, there are some differences between SWDs located within the EMSU and those located outside of the EMSU. But these differences do not justify the relief and delay sought in the Scope Motions. For one thing, the Scope Motions ask the Commission to consolidate into this proceeding Empire’s applications pending before the *Division* to revoke the injection authority of third-parties OWL SWD Operating, LLC (“OWL”), Rice Operating Company (“Rice”), and Permian Line Service (“Permian”), all of whom operate wells inside the EMSU. Aside from the fact that these applications are not before the Commission, OWL, Rice, and Permian themselves have not sought to intervene in this proceeding. All three companies are represented by experienced counsel and are more than capable of asserting their rights to intervene, if warranted. It is unclear why Goodnight believes it has the prerogative to forcibly join the OWL, Rice, and Permian matters to this hearing. In addition, that other operators may inject into approximately seven (7) SWDs in and near the EMSU does nothing to ameliorate Goodnight’s existing and

proposed injection of millions of barrels of water per day into sixteen (16) wells within and surrounding the unit.

Further, the outcome of this case will not unfairly impair or determine any of OWL, Rice, and Permian's substantive rights. These operators are not indispensable parties, and principles of offensive collateral estoppel do not mandate that the Commission consolidate the OWL, Rice, and Permian matters for hearing. If OWL, Rice, and Permian are not parties to this matter, then they cannot be collaterally estopped by any final decision in it. It does not matter that OWL, Rice, and Permian could be contributing to the produced water migrating into the EMSU. This proceeding concerns *Goodnight's* operations, which dwarf those of OWL, Rice, and Permian, and the resulting wastewater migration. Goodnight admits it has capacity to inject approximately 400,000 barrels of water *per day* into the San Andres formation.⁵ If Goodnight is contributing to any of the wastewater migration into Empire's unitized interval, then it is violating Empire's correlative rights. There is nothing unfair about Empire separately pursuing its allegations against Goodnight, as Goodnight is injecting far more water than any other operator in this area. OWL, Rice, and Permian do not need to be joined, or their matters consolidated.

Finally, it is of no moment that the SWDs in the EMSU are subject to the Statutory Unitization Act or a special pool, while SWDs outside the unit are not. As set forth above, the primary issue here is whether Goodnight's injection into its SWDs is impacting Empire's correlative rights. On this issue, there is no imaginary line between EMSU and non-EMSU SWDs – including one (Yaz) that is less than a half-mile away – beyond which wastewater cannot migrate. Thus, the distinction that Goodnight draws between the “legal framework” governing SWDs within and outside the EMSU is one without a difference. It certainly does not justify further

⁵ See Goodnight's Response to Empire's Motion to Dismiss Case Nos. 24277 and 24278 at 2-3 (filed April 4, 2024).

delaying adjudication of these matters, as the hearing date has already been delayed for nearly a year, during which Goodnight has continued to inject massive volumes of water into the San Andres formation within and surrounding the EMSU. For these reasons, and those set forth below, the Scope Motions should be denied.

ARGUMENT

1. The core factual issues in all the matters currently pending before the Commission are straightforward, substantially overlap, and are capable of case-wide resolution.

Preliminarily, it's not clear what procedural standards govern the Scope Motions, and Goodnight has not cited any. The Division cites Rule 1-042 of the New Mexico Rule of Civil Procedure, governing consolidation of cases in state district court,⁶ as well as the hearing officer's inherent powers under Rule 19.15.4.19 NMAC. But the Scope Motions ask the Commission to *sever* the majority of the cases pending before the Commission, not consolidate them. Further, as to the fifteen (15) cases that the Scope Motions seek to consolidate – *i.e.*, the so-called EMSU cases – three of them involve operators who are not even parties to this proceeding (Division Case Nos. 24432, 24434, and 24436). These third-parties have not requested consolidation or sought to intervene in the proceeding. Empire also has not asked to consolidate any of the third-party proceedings, despite Goodnight repeatedly referencing them as a basis for the Scope Motions.

The Scope Motions' muddled procedural underpinnings derail their substance. In arguing that a consolidated hearing involving all of the EMSU and non-EMSU cases would be "unwieldy," Goodnight lumps every single EMSU-related matter currently pending before the Commission or Division together. As already noted, Empire has not asked to consolidate any of these third-party cases. In these cases, Empire is focused on Goodnight's conduct because it is undisputedly

⁶ It is unclear whether this rule applies to Commission proceedings.

injecting far more produced water into the San Andres than any other operator, or even all of the other operators combined. The Commission need not consider these third-party cases for the purposes of determining whether to hear the existing cases in this matter together.

Additionally, as discussed above, the core issues in this proceeding are consistent across all of the cases that involve Goodnight. The Scope Motions identify few, if any, legitimate factual differences between the EMSU and non-EMSU cases that *do not also exist between the EMSU cases that Goodnight seeks to hear together*. For instance, it is not clear how fact questions related to the migration of wastewater – the principal, claimed basis for the Scope Motions – would meaningfully differ as to SWDs inside the EMSU, and SWDs situated outside the EMSU. Goodnight claims that the distances from the EMSU and other, unspecified “geologic and engineering factors” will “influence injection radius and areas of influence.” Goodnight Scope Motion at 7. But it is unclear how these “geologic and engineering factors” cease to exist when analyzing migration from SWDs inside the EMSU. Goodnight’s conclusory statement that the “facts and evidence” will substantially differ as between EMSU and non-EMSU SWDs does little to support the relief sought in the Scope Motions.

Goodnight then devotes an entire section of its Scope Motion to explaining why resolving the salient issues in the EMSU cases – *i.e.*, whether an economically viable ROZ remains in the San Andres, and whether wastewater from SWDs is impairing Empire’s correlative rights – would also resolve those issues in the non-EMSU cases. It is not clear, then, why these same issues are not capable of case-wide resolution. As noted above, determining whether an economically viable ROZ exists in the San Andres does not depend on whether the SWD in question is located inside or outside of the EMSU. Similarly, the Commission can determine whether wastewater from Goodnight’s SWDs is impairing Empire’s correlative rights without determining the origin of *all*

of the wastewater. Because the core factual issues in all the matters currently pending before the Commission are straightforward, substantially overlap, and are capable of case-wide resolution, the Scope Motions should be denied.

Goodnight contends that there would be “no benefit” to hearing the EMSU and non-EMSU cases against Goodnight together. But the benefits are obvious: limiting the evidentiary hearing to cases involving Goodnight is simpler and more efficient than bringing in additional cases involving OWL, Rice, and Permian. Further, hearing the Goodnight cases together conserves resources and avoids further delay. For these reasons, granting the Scope Motions would not streamline these proceedings or lead to any increased administrative efficiencies. The Scope Motions should be denied.

2. Nothing obligates Empire to join every single SWD operator to a proceeding against an individual SWD operator.

Goodnight’s suggestion that Empire must join every SWD operator in or around the EMSU in this proceeding is likewise fundamentally flawed. There is nothing unfair about Empire separately pursuing its allegations against Goodnight, as Goodnight is injecting far more water than any other operator in this area. And New Mexico law does not require a party to demonstrate that a respondent’s conduct is the *only* cause of an alleged injury to establish causation. Rather, an applicant need only establish that a respondent’s actions are *a* cause of an alleged injury. *See, e.g., Herrera v. Quality Pontiac*, 2003-NMSC-018, ¶ 34, 134 N.M. 43 (“A proximate cause of an injury need not be the only cause . . . It is sufficient if it occurs with some other cause acting at the same time, which in combination with it, causes the injury.”) (internal citation omitted). That other operators are also injecting produced water into the San Andres formation – albeit at far lower volumes than Goodnight – does not alleviate the fact that Goodnight’s injection is impairing correlative rights and causing waste.

Under New Mexico law, there is no requirement for Empire to include all SWD operators in its litigation against a single operator. The three-part test for determining the necessity of joining a party, as outlined in *Little v. Gill*, 2003-NMCA-103, ¶ 4, supports this position. The test considers: (1) whether the party is necessary to the litigation; (2) whether the necessary party can be joined; and (3) whether the litigation can proceed without the necessary party if they cannot be joined. In *La Madera Community Ditch Association v. Sandia Peak Ski Co.*, the plaintiff, La Madera, sought an injunction against Sandia Peak for trespassing on its water rights. 1995-NMCA-025, ¶ 4, 119 N.M. 591. The New Mexico Court of Appeals specifically rejected the contention that all claimants of the water needed to be joined. *Id.* ¶ 6.

Here, forcing OWL, Rice, and Permian to participate in this proceeding would not protect them in any future litigation or safeguard their rights. They are not necessary parties within the meaning of Rule 1-019(B) to the extent that provision could apply.⁷ Nor would the doctrine of collateral estoppel, which prevents the relitigation of issues already decided, apply to future litigation with OWL, Rice, or Permian. As established in *The Bank of New York v. Romero*, 2016-NMCA-091, ¶ 23, and *Ideal v. Burlington Res. Oil & Gas Co. LP*, 2010-NMSC-022, ¶ 9, for collateral estoppel to apply, the issue must have been necessarily determined in prior litigation involving the same parties. This is not the case here, as Rice, OWL, and Permian, if not joined to this proceeding, would not be bound by it in any future or collateral proceeding.

⁷ The factors a court should consider are the extent a judgment rendered in the person's absence might be prejudicial to him or current parties, the extent to which prejudice can be lessened or avoided by shaping the relief or other measures, whether a judgment rendered in the person's absence would be adequate, and whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder. NMRA, Rule 1-019(B); *Kaywal, Inc. v. Avangrid Renewables, LLC*, 2021-NMCA-037, ¶ 50.

In addition, certain of Empire's counsel, Hinkle Shanor, has a conflict with respect to Empire's applications that involve Rice and is not participating in those matters. Consolidating all of the matters for hearing would require Hinkle Shanor LLP to withdraw as counsel and thereby deprive Empire of its chosen counsel. For that reason, as well as the reasons discussed above, consolidation of the matters that involve Rice and OWL is inappropriate.

3. Any differences in the legal framework governing EMSU- and Non-EMSU SWDs do not impact the key factual issues for hearing.

Goodnight then engages in some meandering discursions on purported differences in the legal framework governing EMSU and non-EMSU SWDs. These arguments are unavailing and do not justify the drastic relief sought in the Scope Motions. For instance, Goodnight points to minor differences in the vertical limits governing EMSU SWDs, and to vague, unspecified impacts of the Statutory Unitization Act. These differences, however, do not affect the core factual issues, which are consistent across all cases: whether there is an economically viable residual oil zone (ROZ) within the San Andres formation and whether Goodnight's injection is impairing Empire's correlative rights.

Goodnight then attempts to relitigate the Commission's inclusion of the San Andres in the EMSU in Commission Order No. R-7765, and its creation of a special pool for the EMSU in Commission Order No. R-7767. Goodnight Scope Motion at 11. These issues go to the merits of Cases 24277 and 24278, which Empire seeks to dismiss due to Goodnight's lack of standing. They are not relevant to Goodnight's contention that differing legal frameworks govern EMSU and non-EMSU cases.

4. Goodnight fails to articulate any legal basis for a stay of the non-ESMU cases.

Finally, a stay of the non-EMSU cases would substantially prejudice Empire. In Case Nos. 23614-23617, in which Goodnight seeks approval of new SWDs, Empire previously filed

testimony and hearing exhibits that include extensive engineering and geological evidence that a ROZ exists in the San Andres that will be developed through tertiary recovery and that Goodnight's massive injection enterprise will impair production within the EMSU. Those exhibits include testimony that by 2028, Goodnight's cumulative disposal volume will be 1.08 billion barrels inside the EMSU and another .28 billion barrels outside the unit.⁸ Given the Commission's statutory obligation to prevent waste and protect correlative rights, these issues are highly concerning and must be expeditiously addressed. *See* NMSA 1978, § 70-2-11. Accordingly, granting a stay would substantially harm Empire and the public interest by delaying the resolution of critical issues.

CONCLUSION

For the foregoing reasons, Empire respectfully requests that the Commission deny the Scope Motions.

Respectfully submitted,

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⁸ *See* Case Nos. 23614-23617, Self-Affirmed Statement of William West (Exhibit G), at 3 (filed November 3, 2023).

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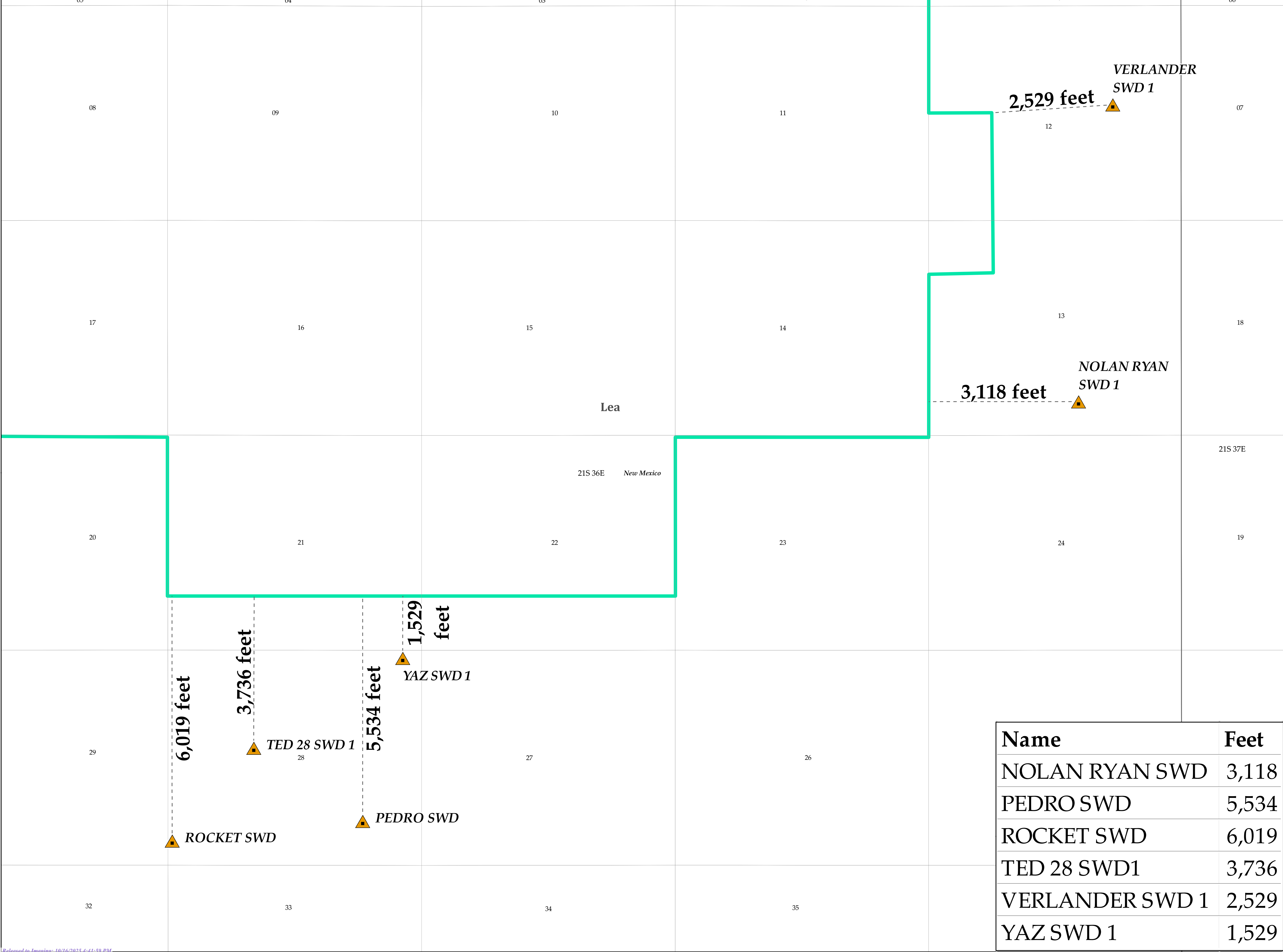
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to the following counsel of record by electronic mail this 6th day of June, 2024:

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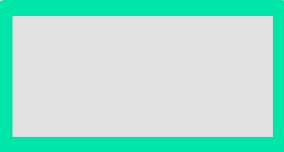
/s/ Dana S. Hardy

EXHIBIT F



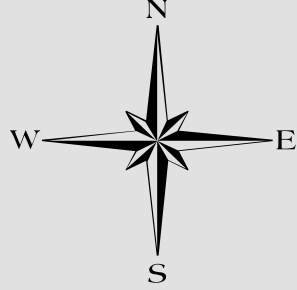
EMSU + GNM Wells

 Injection Wells

 EMSU Outline

Printed Date: May 16, 2024





Miles
1 in = 0 miles
1 inch = 1,000 feet

Coordinate System: GCS WGS 1984
Datum: WGS 1984
Units: Degree

Information depicted on this map is the sole property of Goodnight Midstream. Electronic reproduction of any portion of this map is strictly prohibited absent the written consent of Goodnight Midstream. This information is to be used for reference purpose only. Goodnight Midstream does not guarantee the accuracy of this material and is not responsible for any

Name	Feet
NOLAN RYAN SWD	3,118
PEDRO SWD	5,534
ROCKET SWD	6,019
TED 28 SWD1	3,736
VERLANDER SWD 1	2,529
YAZ SWD 1	1,529



GOODNIGHT MIDSTREAM

5910 N. CENTRAL EXPWY SUITE 800 | DALLAS, TX 75206

EXHIBIT G

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 13962
ORDER NO. R-12811**

**APPLICATION OF GANDY CORPORATION FOR AUTHORIZATION TO
INJECT INTO THE JULIA CULP WELL NO 2, LEA COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came before the Oil Conservation Division at 8:15 a.m. on July 26, 2007, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 24th day of September, 2007, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

(2) The applicant, Gandy Corporation ("Gandy"), seeks authority to re-enter the plugged and abandoned Julia Culp Well No. 2 (API No. 30-025-30879) located 2310 feet from the North line and 660 feet from the East line (Unit H) of Section 34, Township 15 South, Range 35 East, NMPM, Lea County, New Mexico, and to utilize this well for commercial disposal of oil field waste waters into the Devonian formation at perforated and open hole depths of 13,865 to 14,500 feet.

(3) Gandy filed on February 1, 2007 an administrative application to re-enter and inject into this well. On February 12, after reviewing the application, the Division sent an email requesting clarification of certain items in Gandy's submittal. Gandy's consultant, Mr. Terry Duffey, replied to the data request on February 14. As part of the Division's requirements, notice was sent to approximately 93 affected parties. Prior to the 15-day suspense period, the Division received protest letters and deferred the application until such time as settlement could be reached between Gandy and the protesting parties. Protests or letters of concern were received from P. Kay Stokes and D.B. Wharton of Arkansas, Jerry and Jan Carlisle of Lovington ("J&J Service, Inc"),

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Edgar J. Huffman ("VISA Industries of Arizona") and Energen Resources Corporation ("Energen").

(4) On June 13, 2007, after reaching a tentative agreement with Energen, Gandy submitted a letter to the Division requesting this matter be heard before an Examiner and on July 19 submitted its pre-hearing statement.

(5) Energen entered an appearance in this case and submitted a pre-hearing statement. At the July 26 hearing, Energen stated through counsel it no longer protested the application.

(6) At the hearing, Mr. Jerry Carlisle of J&J Service, Inc. appeared to make a statement in opposition to the proposed injection well. J&J Service, Inc. did not file an entry of appearance or pre-hearing statement for this hearing. Mr. Carlisle presented a letter from Visa Industries of Arizona ("VISA") protesting Gandy's proposed injection well. Mr. Carlisle further stated that P. Kay Stokes and her uncle, Mr. Wharton, had called him prior to the hearing and stated they had already objected to Gandy's application.

(7) VISA also did not file an official entry of appearance or pre-hearing statement for this hearing and did not appear at the hearing. The letter dated July 24th from VISA authorized Jerry Carlisle to represent VISA's interests at the hearing. The letter expressed concerns of VISA's that (i) its remaining interest in the lease would be lost if this injection is approved, (ii) Gandy's injection in this area may have caused or could cause corrosion to wellbores in, or damage to production from, its Strawn wells in the West Lovington Strawn Unit.

(8) Mr. Carlisle made a statement that his company, J&J Service, Inc., helped pay for the drilling of the subject well, and now owns an interest in the Wolfcamp formation within this well, and wished to retain the well for possible production from the Wolfcamp formation. Further, Mr. Carlisle does not understand how Gandy could assume ownership of the well without dealing with all existing owners of record.

(9) DKD, LLC entered an appearance in this case by fax to the Division on July 22nd and entered a pre-hearing statement by fax on July 23rd as an "interested party who may present testimony based on the applicants presentation". By fax on July 23rd, DKD, LLC filed a "notice of intervention" as a competitor of the applicant who has concerns about the application. The reason given for late filing was (i) intervenor's usual attorney was conflicted out and (ii) DKD, LLC called its new attorney on time, but attorney was moving his office and did not get filings done until Sunday.

(10) On July 25th, applicant's attorney filed a motion with the Division to determine DKD as a non-party and to prohibit DKD's participation in the upcoming hearing. Reasons given, included; (i) DKD was not a person to whom Division rules require notice of the original administrative application or of the Division hearing; (ii) DKD is simply a competitor to Gandy in this area; and (iii) DKD did not timely file entry

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of appearance or pre-hearing statement. Gandy asked therefore that DKD be limited at the discretion of the Examiner in the hearing to "making a relevant statement, and being subject to cross-examination."

(11) At the hearing, DKD presented argument and reasoning for status as a party with "standing." DKD's owner, Mr. Danny Watson, stated that:

(a) DKD operates a commercial disposal in this area, the Watson "6" Well No. 1, and therefore is a competitor to Gandy's proposed commercial operations;

(b) DKD is also concerned about possible corroded casing and poor cement in Gandy's proposed injection well over the equivalent interval that DKD is using for injection; and

(c) Injection or casing leaks in this area have been shown in previous Division cases to affect wells located more than ½ mile away.

(12) After listening to arguments, the Examiner decided to not allow DKD to have standing in this case for the following reasons:

(a) This matter was first considered by the Division in February at which time newspaper notice within Lea County was provided. Gandy finally made application for a hearing in June, and the hearing date was in late July. Despite this extended time period, DKD did not timely file an objection to the application.

(b) DKD's nearest injection well is located over a mile from Gandy's proposed well and therefore much further than the ½ mile cutoff required for consideration of "affected" parties as per Division Rule 701B(2).

(c) Gandy's proposed injection well would inject into the Devonian while DKD's nearest injection well uses a shallower interval for injection.

(d) Within Gandy's well or any other proposed injection wells, the Division would not allow injection without adequate casing and cement and would require periodic internal Mechanical Integrity Testing ("MIT") to ensure injection is confined to the permitted injection interval.

(e) Enforcement cases related to any future alleged rule or permit violations by the operator of the proposed injection well can be proposed by offset operators [such as DKD] and the merits would be considered at a Division hearing.

(13) Gandy produced two witnesses at this hearing who testified as follows:

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(a) Gandy has a need for additional disposal in this area and chose the Devonian as an injection horizon because it may take water on a vacuum and would not pressure up as other injection formations have done, restricting injection or causing problems with offset wells. Also, it is below the deepest producing horizon in this general area which is the Strawn.

(b) The proposed well was drilled in 1990 and therefore is a relatively new wellbore compared to other Devonian wells. The well is not near any Devonian production and is in fact located in a structural trough. The well is wet in the Devonian and likely has adequate permeability as shown by the drill stem test done by the driller from 13,865 to 13,900 feet. Due to interest in the Mississippian at 13,391 to 13,522 feet, casing was run on this well to 13,950 feet.

(c) Gandy proposes to re-enter this plugged well, tie in new 5-1/2 inch casing, squeeze off perforations in the depleted gas interval in the Mississippian and in the unproductive Atoka formation, squeeze cement to cover the corrosion prone interval in the upper Glorieta and lower San Andres formations, test the wellbore for mechanical integrity, test the Devonian injection capability and, if necessary, drill out of the casing to a maximum open hole depth of 14,500 feet to add additional injection capacity.

(d) There is only one well within 1/2 mile of this well that penetrated the Devonian. The Daisy Chambers Well No. 1 is located approximately 1/2 mile from the proposed injection well. It was drilled in 1955, produced from the Permo Penn formations at approximately 10,500 feet, and was plugged and abandoned in 1992.

(e) Gandy will run a water pipeline to this well from its existing injection facility and will obtain a permit for this pipeline separately from this application.

(f) Gandy provided notice and received no protest from the surface owner of the wellsite, Mr. Dan Fields. Gandy also worked out agreement with Energen Resources and provided notice to approximately 90 other affected parties within the 1/2 mile Area of Review. The parties who lodged a protest were primarily concerned about use of the wellbore – especially in the Permo Penn formations.

(g) Gandy did a study of possible productivity of the Permo Penn (Wolfcamp) formation in the vicinity of the proposed injection well and concluded that attempting to perforate and produce this interval would be risky. Wolfcamp production would be poor at best and probably already drained by previous nearby production.

(h) Many types of oil field waste waters will be injected into this well. The Devonian waters are relatively compatible with those waste waters. The

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Devonian water quality is very saline and is not protectable under the federal Safe Drinking Water Act or the New Mexico Water Quality Act.

(i) All fresh water intervals will be protected with casing and cement in the proposed injection well.

(14) Gandy did not provide testimony from a Landman, but did state in the hearing through counsel that its position is that the landowner now owns this wellbore, and Gandy has reached agreement with the landowner. In addition, and in case the landowner does not own this wellbore, Gandy has also reached an agreement with Energen as the operator of a lease which has production holding this wellbore. Thus Gandy demonstrated a good faith claim of ownership. In any case, ownership disputes are not within the jurisdiction of the Oil Conservation Division.

(15) The Division concludes that Gandy's proposed injection well should be approved and the proposed injection operation can be conducted in a safe and responsible manner, without causing waste, impairing correlative rights or endangering fresh water, public health or the environment.

IT IS THEREFORE ORDERED THAT:

(1) Gandy Corporation ("Gandy" or "operator") OGRID 8426, is hereby authorized to inject for disposal purposes into its Julia Culp Well No. 2 (API No. 30-025-30879) which will be re-entered at a location 2310 feet from the North line and 660 feet from the East line (Unit H) of Section 34, Township 15 South, Range 35 East, NMPM, in Lea County, New Mexico. Within this well, oil field waste waters are permitted for disposal into the Devonian formation through perforations from approximately 13,865 feet to 13,885 feet and through an open-hole interval from 13,950 feet to 14,500 feet, through plastic coated tubing set in a packer located within 100 feet of the top injection perforation or interval being used for injection.

(2) Prior to injecting into this well, the plugged wellbore shall be re-entered, new casing installed as deep as is practical, the existing cement top at 9280 feet raised with squeeze cementing operations to tie-in to the intermediate casing so as to cover all potential corrosive intervals, existing perforations in the Mississippian and the Atoka squeezed off, and the wellbore tested for mechanical integrity. If additional injection capacity is needed after perforating and testing the upper Devonian, the well shall be deepened to a maximum of 14,500 feet.

(3) After perforating the Devonian or while deepening the well, Gandy shall monitor the well for hydrocarbon shows and shall report any shows or swab test results to the Hobbs district office on sundry forms.

(4) After equipping the well with plastic coated tubing and packer, the casing-tubing annulus shall be loaded with an inert, corrosion resistant fluid as specified by the

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Hobbs district office and equipped with a leak detection device capable of determining any leakage in the casing, tubing, or packer.

(5) Mechanical integrity testing is required after installation of the injection tubing and prior to commencing injection operations and thereafter as required by Division rules.

(6) The operator shall notify the Hobbs district office of the time of the setting of the tubing and packer and of any mechanical integrity test ("MIT") so that such operations can be witnessed.

(7) The tubing shall have a gauge and pressure limiting device installed in order to control and to record injection pressures. The surface injection pressure shall be continuously regulated such that it never exceeds 2,773-psi. The Director may administratively authorize an increase in this injection pressure if the operator shows that a higher pressure will not result in formation fracturing or migration of injected fluids from the permitted injection formation. As justification, the operator must submit results of an injection test such as a Step-Rate-Test.

(8) The operator of the well (Gandy or any successor operator) shall take all steps necessary to insure that injected fluids enter the proposed injection interval and do not escape to other formations or onto the surface.

(9) Without limitation on the duties of the operator as provided in Division Rules 19 and 116, or otherwise, the operator shall immediately notify the Hobbs district office of any failure of the tubing, casing or packer in the well, or of any leakage or release of water, oil or gas from or around any produced or plugged and abandoned well in the area, and shall take such measures as may be timely and necessary to correct such failure or leakage.

(10) The operator shall submit monthly reports of injection volumes of waste water on Form C-115, in accordance with Division Rules 706 and 1115.

(11) The injection authority granted herein shall terminate one year after the effective date of this order if the operator has not commenced injection operations pursuant hereto; provided however, the Division Director, upon written request of the operator received by the Division prior to the end of one year, may extend this time for good cause.

(12) Compliance with this order does not relieve the operator of the obligation to comply with other applicable federal, state or local laws or rules, or to exercise due care for the protection of fresh water, public health, and the environment.

(13) At the discretion of the Division Director and after proper notice is provided, any proposed amendments or changes to this order may be done administratively; provided however, proposed amendments to raise the depth of the

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injection interval or change the target injection formation shall be done only after notice and hearing.

(14) Jurisdiction is retained by the Division for the entry of further orders as may be necessary for the prevention of waste and/or protection of correlative rights or upon failure of the operator to conduct operations (i) to protect fresh water or (ii) consistent with the requirements in this order, whereupon the Division may, after notice and hearing, terminate the injection authority granted herein.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


for MARK E. FESMIRE, P.E.
DIRECTOR