
25-00054-UT- 2025.08.08- Staff- Report and Recommendation Pursuant to Initial Order

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 1 attachment (1 MB)

25-00054-UT - 2025.08.08 - Staff - Report and Recommendation Pursuant to Initial Order.pdf;

Good afternoon,

Attached is ***The Legal Division's Report and Recommendation Pursuant to the Commission's July 22, 2025, Initial Order Opening Investigation*** for Case No. 25-00054-UT, electronically filed today.

Thank you,

Elizabeth Ramirez
Paralegal

IN THE MATTER OF MELODY RANCH)
WATER COMPANY LLC'S WATER SYSTEM)
BREAKDOWN AND DISRUPTION OF SERVICE)
_____)

Case No. 25-00054-UT

The Legal Division of the New Mexico Public Regulation Commission (“Commission”, “NMPRC” or “PRC”) submits this Report and Recommendation Pursuant to the Commission’s July 22, 2025, Initial Order Opening Investigation (“Initial Order”), and would show the Commission as follows:

1. Following on the Petition to open this docket, and regarding the Melody Ranch situation, directives to the Legal Division per the Initial Order contemplated that:

- See* Initial Order at 3, decretal paragraphs A and B. The Legal Division and Utility Division Staff conducted a site visit on July 24, 2025, and have otherwise been following this state of affairs and engaging in communications and efforts to understand and perhaps realize an acceptable outcome to this unfortunate situation.

2. The information that has been reported and acquired to date, including from the July 24, 2025, site visit, indicates that Melody Ranch continues to be in a state of distress and

disfunction – meaning that the breakdown and disruption of water service to the community due to the degradation of Melody Ranch’s singular source of well water has not been resolved.

SITE VISIT

3. The site visit was conducted in the afternoon of July 24, 2025, and was attended by Melody Ranch personnel comprised of Tracy Padilla, Manager of Melody Ranch, Daniel Chavez, Water Operator, and Rich Phillips, Office Supervisor. The contingent from the NMPRC included John Bogatko, Acting Legal Division Director, Jackie Ortiz, Deputy Legal Division Director, and Jack Sidler, Engineering Bureau Chief.

4. Melody Ranch is located south of Interstate 40 and Old US 66 approximately 3.5 miles east of Edgewood, New Mexico and 4.0 miles west of Moriarty, New Mexico, and serves a relatively small neighborhood/service territory with 77 connections. *See Melody Ranch Water System Sketch Map, attached as Legal Division Report Exhibit 1.*¹

5. The infrastructure of Melody Ranch is basically made up of two wells, a pump house and storage tank, and a distribution system to get the water to the utility’s 77 connections – one of the wells (drilled to 400 ft.) is reported to be dead/dry/non-functioning, while the remaining well (drilled to 280 ft.) is apparently dying as indicated by recently diminished production levels (reported to currently be at 4 gallons per minute). The relative approximate locations of these infrastructure elements are depicted in the attached sketch map. *Id.*

6. Melody Ranch represented that it had been in communication with one or more well drillers regarding the rehabilitation of the existing 280 ft. well and/or the drilling of an entirely

¹ The sketch map boundaries (orange) and locations (red) denoted therein are only approximate based on observations made during the site visit and subsequent review of satellite and other publicly available mapping data.

new well. To that end, the Legal Division has informally requested copies of any estimates and communications that Melody Ranch has had with anyone regarding the drilling of a new well and/or rehabilitation or improvements to the existing well or wells and is awaiting a response to that request.

7. Melody Ranch indicated that it does not have enough capital to rectify the situation and is seeking financial assistance to pay for the drilling of a new well to replace the dying 280 ft. well and presumably to undertake and effectuate any other repairs or measures necessary to restore service in conformance with all applicable standards and legal requirements – to that end Melody Ranch represented that it had made an application to CoBank seeking financial assistance and that it would likely be seeking other sources of funding. The Legal Division has informally requested information and documentation regarding all applications and requests for financial assistance that have been made by Melody Ranch and is awaiting a response to that request.

8. Melody Ranch also represented that it had made an emergency application with the Office of the State Engineer (Albuquerque Office) to attain the appropriate permitting and/or authorizations necessary to drill a new well and that the filing with the State Engineer was pending assignment. The Legal Division has informally requested copies of the emergency application and all other documents and communications between Melody Ranch and the Office of the State Engineer and is awaiting a response to that request.

9. As of the date of the site visit, Melody Ranch indicated that its interim strategy for providing water to the community relied on water hauling via East Mountain Water Hauling out of Tijeras, New Mexico. Melody Ranch indicated that it is utilizing its billing revenues to pay East Mountain Water Hauling to bring water to the pump house where the East Mountain Water

Hauling tanker is connected to the system to fill the storage tank. The water hauling is reported to come in 16,000-gallon increments. With this approach, distribution from the storage tank to the community depends on gravity feed – the system is not being pressurized under this scenario. That means that service to the community depends on low pressure gravity flow with time limits for use set from 8:00 AM to 8:00 PM. The Legal Division has informally requested copies of invoices and proof of payment to East Mountain Water Hauling and/or any other entities Melody Ranch has retained to deal with the current situation and is awaiting a response to that request.

10. During the site visit our attention was directed to the “Lands of Neal”, which appears to be a lot located somewhat to the north of the 280 ft. well and is not part of the Melody Ranch service territory. *See* Melody Ranch Water System Sketch Map, attached as Legal Division Report Exhibit 1. The touted significance of the “Lands of Neal” is that it has its own well to service whatever structure or mobile appurtenance might be situated on the lot (it is currently vacant/unoccupied). The “Lands of Neal” well is suffering a leak to the surface significant enough to maintain a relatively lush and green patch of vegetation in the spring and summer months and result in the creation of what was described as ice sculptures during the colder months. This surface leak appears to be significant. Melody Ranch indicated that the issue had been brought up to the owner of the “Lands of Neal” a few times but has never been resolved. The extent to which the wasteful and perpetual “Lands of Neal” well leak might be a contributing factor to the diminished performance of the 280 ft. Melody Ranch well has not been ascertained by Melody Ranch.

11. The site visit was valuable in gaining a better understanding of the on-the-ground Melody Ranch situation and what Melody Ranch and its personnel are facing, but it also confirmed

what was already being developed by other lines of inquiry and communication – without a drastic course correction and appropriate intervention Melody Ranch is on an assured trajectory of failure.

COMMUNICATIONS WITH MELODY RANCH CUSTOMERS

12. Communications with Melody Ranch customers regarding the situation have painted a dire and extremely frustrating picture. These customer conversations with the Legal Division have raised questions regarding a number of issues, including but not limited to, the efficacy and propriety of Melody Ranch's outreach (or lack thereof) to and communications/interactions with its customers, the effectiveness and actual utility of water hauling and low-pressure gravity flow with time-limited use (customers report unusable faucet trickles), the inconvenience, burden, and monetary costs and loss caused by the water system breakdown and disruption of service, and the impacts to and concerns over the effects of the water system breakdown and disruption of service upon the mental and physical health and well-being of the residents, including many who are elderly and/or experiencing medical issues that are potentially exacerbated by the situation. The overall picture painted via the customers appears to be consistent with the current infrastructural and performance posture of Melody Ranch.

POTENTIAL PATHWAYS TOWARDS CORRECTING THE SITUATION

EMWT

13. The Legal Division was informed that EMWT (Estancia, Moriarty, Willard, and Torrance County) Regional Water Association was interested in possibly becoming involved in developing a physical solution to the Melody Water crisis. By way of background, EMWT was incorporated on October 31, 2014, under the Water or Natural Gas Association Act, (NMSA 1978, Section 3-28-1 through 3-29-22) and the Joint Powers Agreements Act (NMSA 1978, Sections 11-

1-1 to 11-1-7) as an inter-community water supply association. See <https://www.emwtwater.com/>. EMWT has increasingly become involved in local water policy and the formulation of solutions to problems not dissimilar to the one currently presented by Melody Ranch.

14. The Legal Division and Utility Division Staff met with EMWT and others on August 4, 2025, to discuss EMWT's possible involvement in helping to identify approaches towards resolving the Melody Ranch crisis. One such approach would be for EMWT to acquire Melody Ranch and then work towards restoring water service to acceptable standards. In such an event, this would likely be achieved through the drilling of a new well and the associated evaluation and rehabilitation of the rest of Melody Ranch's infrastructure. The caveat to this prospective path forward is that it will take time and be dependent on governmental or other funding that might be procurable by an entity such as EMWT. If such a contingency were to materialize, an appropriate abandonment/transfer proceeding would have to take place here at the PRC.

15. On the day of this filing EMWT communicated to the Legal Division that EMWT had preliminarily discussed this potential path forward with Melody Ranch, and that the principals of Melody Ranch indicated amenability to transfer of the utility to EMWT. However, and if this possible path forward is to be realized, further details and commitments will necessarily have to be developed. The Legal Division will continue to monitor and/or participate as appropriate in regard to this developing possibility.

EPCOR

16. The Legal Division was informed that EPCOR Utilities might also figure in the formation of a physical solution to the Melody Ranch situation. The Legal Division and Utility

Division met with a representative from EPCOR on August 6, 2025, to discuss how such a potential solution might be structured and achievable. Rather than drilling a new well and operating the Melody Ranch system based on its current supply/distribution configuration, EPCOR sketched out a scenario where it would connect its existing Edgewood District (down the road and west of Melody Ranch) by way of a new pipeline that would run directly to the existing Melody Ranch pump house. While the logistics and economics of this proposed scenario would still need to be crystallized, including the preliminary terms as between EPCOR and Melody Ranch were Melody Ranch to head in that direction, the caveat to this prospective path forward is that it will take time. If such a contingency were to materialize, an appropriate abandonment/transfer proceeding would have to take place here at the PRC. The Legal Division will continue to monitor and/or participate as appropriate regarding this developing possibility.

LEGAL DIVISION RECOMMENDATIONS

17. In the meantime, and notwithstanding the somewhat encouraging possibilities touched on above, it remains that Melody Ranch is not meeting its obligations as a utility. Concurrently and simultaneous to any efforts to structure a physical resolution to this crisis, the Commission can and should consider moving forward with administrative proceedings regarding Melody Ranch's incontrovertible non-adherence to and non-conformance with the regulatory compact.

Order to Show Cause

18. In view of the foregoing, and pursuant to its authority under the Public Utility Act, Section 62-3-1, *et seq.*, NMSA 1978, Section 62-19-9, NMSA 1978, and 1.2.2.22(A) NMAC, it is recommended that the Commission should issue an Order to Show Cause requiring Melody Ranch

to file a detailed and verified response ("Order to Show Cause Response"), within 10 days from the date any Order is issued pursuant to this recommendation, regarding:

- a. How and when Melody Ranch will restore water service to the community in conformance with 17.12.750.11 NMAC and all other applicable statutes, rules, regulations, and requirements of the PRC, the New Mexico Environment Department, and the New Mexico Office of the State Engineer. Melody Ranch's presentation in this regard must include specific identification and detailed discussion of and information regarding when it first encountered issues with the well (including a timeline and sequence of events), the steps taken to address the issues with the well, and any alleged obstacles to accomplishing restoration of water service expeditiously, including but not limited to, the steps that have been taken or are proposed to be taken towards overcoming any such obstacles;
- b. Why Melody Ranch should not be found to have violated the requirement of 17.12.750.11 NMAC to "... furnish and maintain sufficient facilities to provide a continuous and adequate supply of water. . . [etc.]."; and
- c. Why Melody Ranch should not be assessed an administrative penalty of up to \$100,000 for such violation and, if a continuing violation, for each day of any such violations since onset of the water system breakdown and complete disruption of water service to its community, pursuant to Sections 62-12-4, 62-12-5 and 62-12-6, NMSA 1978.

Associated Inquiries and Process

18. Additionally, it is requested for the Commission to appoint a Hearing Examiner to preside over this matter; to allow the Legal Division and the Utility Division Staff to conduct discovery regarding and for the scope of the proceeding to address the specified Order to Show Cause issues, the complete disruption of water service to the community, the cause or causes of and contributing factors relating to the disruption and/or any other related issues, including but not limited to, Melody Ranch's ownership, procurement practices, conduct, operations, maintenance, capitalization, history, financial status and means, rates, billing, collections, relations with the community, steps taken to address the "Lands of Neal" issue, and compliance with all applicable statutes, rules, regulations and regulatory principles; to schedule a full evidentiary proceeding and public hearing on this matter; and for the Commission to otherwise expand and/or tailor the scope of this proceeding as it may deem necessary and in furtherance of the public interest.

Receivership

19. In furtherance of the aims and purposes of the recommendations set forth above, the Commission should also consider pursuing a receivership action regarding Melody Ranch pursuant to NMSA 1978, Section 62-13-15. The Legal Division submits that the record developed pursuant to action on the recommendations stated above will also serve as the evidentiary predicate and foundation for a subsequent receivership action in Torrance County District Court. The receivership statute provides as follows:

Whenever the commission determines, after notice and hearing, that a public utility is unable or unwilling to adequately service its customers or has been actually or effectively abandoned by its owners or operator, or consistently violates the rules or orders of the commission, the commission may commence an action in the district court of the county where the utility has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon terms and conditions in accordance with the provisions of the Public Utility Act [Chapter 62, Articles 1 to 6 and 8 to 13 NMSA 1978],

commission rules and orders of the court. Upon the order of the court, the receiver may issue receiver's certificates to provide funds to operate, repair, improve or enlarge the public utility. Unless otherwise provided in the court order, payment of the receiver's certificates is a first lien on the real and personal property of the public utility. The court shall prescribe the certificate's form, term and rate of interest. Receiver's certificates are exempt from the operation of any law that regulates the issuance or sale of securities of public utilities.

NMSA 1978, Section 62-13-15.

20. The Legal Division has reason to believe that the information and testimony that will be brought to the fore in proceedings before the Commission will also support the necessary finding for institution of a receivership action in district court, *i.e.*, the information informally developed to date and which will be more fully and forensically developed going forward will more than adequately establish that Melody Ranch is a prime candidate for receivership as per Section 62-13-15. Therefore, the scope of proceedings in accord with the above-stated recommendations for an Order to Show Cause and Associated Inquiries and Process should be structured to inform the Commission's determination required to go forward with a receivership action pursuant to Section 62-13-15.

Dated this 8th day of August 2025.

Respectfully submitted,

/s/ John Bogatko

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Melody Ranch Water System Sketch Map

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF MELODY RANCH WATER)
COMPANY LLC'S WATER SYSTEM BREADOWN) Docket No. 25-00054-UT
AND DISRUPTION OF SERVICE)
)

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing *The Legal Division's Report and Recommendation Pursuant to the Commission's July 22, 2025, Initial Order Opening Investigation*.

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DATED this 8th day of August, 2025.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Elizabeth Ramirez electronically signed
Elizabeth Ramirez, Paralegal