

**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

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

**CASE NO. 24123
ORDER NO. R-22869-A**

**GOODNIGHT'S REQUEST TO ISSUE SUBPOENAS FOR (1) DEPOSITION OF DR.
ROBERT LINDSAY AND (2) PRODUCTION OF DOCUMENTS**

Pursuant to NMSA 1978, §70-2-8 and 19.15.4.16.A NMAC, Rules 1-026 and 1-030(B) NMRA, Goodnight Midstream Permian, LLC ("Goodnight"), by and through undersigned counsel, hereby files this request that the New Mexico Oil Conservation Commission issue the attached subpoenas for (1) the deposition of Dr. Robert Lindsay and (2) production of documents.

INTRODUCTION

Commission Rule 19.15.4.16(A) NMAC directs the Commission to issue subpoenas for pre-hearing witness depositions “in extraordinary circumstances for good cause shown.” It provides, in relevant part, that “[t]he commission and director or the director’s authorized representative *shall* issue subpoenas for witness depositions in advance of the hearing only in extraordinary circumstances for good cause shown.” 19.15.4.16(A) NMAC (emphasis added). Thus, if the Commission determines that there are extraordinary circumstances and that Goodnight has shown good cause to depose Empire’s expert Dr. Lindsay, then the Commission should issue the deposition subpoena attached hereto as **Exhibit A**. As explained further below, good cause exists to issue the subpoena for deposition of Dr. Lindsay.

In addition, the Commission or its authorized representative “*shall*, upon a party’s request, issue a subpoena for production of books, papers, records, other tangible things or electronic data in advance of the hearing.” *Id.* (emphasis added). By this Motion, Goodnight requests that the Commission issue the subpoena attached hereto as **Exhibit B**.

ARGUMENT

This case involves unusually complex technical and geological issues that require substantial pre-hearing discovery. These issues include: (1) whether an economically viable residual oil zone exists in the portion of the San Andres formation that lies within the Eunice Monument South Unit (“EMSU”); 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.

Dr. Lindsay’s testimony and conclusions are the sole basis of certain assumptions made by Empire’s other witnesses who are testifying about these key issues. Specifically, Empire’s witnesses—William West, Dr. Buchwalter, Dr. Trentham, and Galen Dillewyn—all testified in

their depositions that they relied on information provided by Empire's witness, Dr. Lindsay, including among other things his determination of the oil-water-contact in the Eunice Monument South Unit, his fracture analysis purportedly establishing communication pathways between the San Andres and Grayburg formations, chemistry data, and other information. Until their depositions, it was impossible to determine from Empire's witness statements or the documents Empire produced under the prehearing order that these witnesses were relying on Dr. Lindsay for this information. For example, despite his extensive testimony, Mr. West produced only two documents that he reviewed or relied on to prepare his testimony, neither of which relate to Dr. Lindsay. Mr. West also never referenced Dr. Lindsay in his written testimony.

To prepare its rebuttal witnesses and exhibits, due February 6, 2025, and prepare for the evidentiary hearing, beginning with opening statements on February 20, 2025, Goodnight requests that the Commission promptly issue a subpoena for deposition of Dr. Lindsay, in the form attached hereto as **Exhibit A**, along with the subpoena for documents attached as **Exhibit B**.

CONCLUSION

For the reasons stated, Goodnight respectfully requests that the Commission issue the deposition subpoena attached as **Exhibit A** along with the subpoena for documents attached as **Exhibit B**.

DATED: January 3, 2025

Respectfully submitted,

HOLLAND & HART LLP

/s/ Adam G. Rankin

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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

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

CASE NOS. 23614-23617

**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

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

CASE NOS. 24018-24020, 24025

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

**DIVISION CASE NO. 24123
ORDER NO. R-22869-A**

NOTICE TO TAKE DEPOSITION DUCES TECUM OF DR. ROBERT LINDSAY

To: Dr. Robert Lindsay
c/o Padilla Law Firm, P.A.
Attn: Ernest L. Padilla
Post Office Box 2523
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cc: wmcginnis@montand.com

YOU ARE HEREBY COMMANDED pursuant to NMSA 1978, §70-2-8 and

Rule 19.15.4.16.A NMAC TO APPEAR as follows:

Place: By video deposition

Date: TBD by agreement of parties

Time: 9:00 a.m. mountain time

to testify at the taking of a deposition regarding the topics attributed to you in Empire New Mexico, LLC's July 8, 2024, Witness Disclosure (the "Empire Witness Disclosure"). The deposition will be recorded by a certified court reporter and videotaped. This deposition testimony may be used at hearing for any and all purposes permitted by the New Mexico Oil Conservation Commission, the New Mexico Rules of Civil Procedure, and the New Mexico Rules of Evidence.

YOU ARE ALSO COMMANDED pursuant to Section 70-2-8 and Rule 19.15.4.16.A

NMAC to bring with you the following document(s) or object(s):

1. Any documents you reviewed or relied upon to develop your opinions on the subject matter set forth in the Empire Witness Disclosure or with regard to the subject matter set forth in your written direct testimony filed on August 26, 2024; and
2. Any reports or analyses prepared by you, or at your direction, regarding your opinions on the subject matter set forth in the Empire Witness Disclosure or with regard to the subject matter set forth in your written direct testimony filed on August 26, 2024;

to produce the following documents at the offices of Holland & Hart LLP, 110 North Guadalupe, Santa Fe, New Mexico, 87501, contemporaneous with the taking of the deposition of Empire New Mexico, LLC, to the extent any such document has not already been timely produced by Empire under the December 5, 2024, Amended Pre-Hearing Order issued in this matter.

This subpoena is issued on application of Goodnight Midstream Permian, LLC through its attorney, Adam G. Rankin of Holland & Hart LLP.

DATED: January 3, 2025

NEW MEXICO OIL CONSERVATION COMMISSION

BY: _____

Date: _____

Respectfully submitted,

HOLLAND & HART LLP

/s/ Adam G. Rankin

By: _____

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**ATTORNEYS FOR GOODNIGHT MIDSTREAM
PERMIAN, LLC**

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I hereby certify that on January 3, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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**STATE OF NEW MEXICO
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OIL CONSERVATION DIVISION**

**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

**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

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

CASE NOS. 24018-24027

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

**DIVISION CASE NO. 22626
ORDER NO. R-22869-A
COMMISSION CASE NO. 24123**

SUBPOENA

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YOU ARE HEREBY COMMANDED pursuant to NMSA 1978, §70-2-8 and

Rule 19.15.4.16.A NMAC to produce the following documents at the offices of Holland & Hart
LLP, 110 North Guadalupe, Santa Fe, New Mexico, 87501, within fifteen (15) days of service of
this subpoena:

1. All documents and data relating to corrosion encountered in each of Empire's EMSU wells that Empire contends is caused in whole or in part by Goodnight's saltwater disposal. If already produced, cite to the documents by bates.

2. All documents and data relating to premature and irregular encroachment of water or any other kind of water encroachment that Empire contends reduces or will tend to reduce the total ultimate recovery of crude petroleum oil or gas or both from the Grayburg or San Andres formations that Empire contends is caused in whole or in part by Goodnight's saltwater disposal. If already produced, cite to the documents by bates.
3. All water analyses performed for the EMSU from 2020 to the present, including but not limited to (1) produced water from Grayburg producers; (2) water injected into Grayburg waterflood injectors; (3) water injected into the EMSU SWD #1; and (4) water produced from any of the EMSU water supply wells. If already produced, cite to the documents by bates for each forgoing category.
4. Updated daily water injection volumes and wellhead pressures for Empire's EMSU waterflood injection wells.
5. All documents and data, including communications or correspondence of any kind, relating to skim oil produced or collected from any of the EMSU water supply wells.
6. Empire's EMSU evaluation file, including but not limited to all documents and communications relating to Empire's due diligence leading up to the purchase of the EMSU and all documents provided to Empire by XTO.
7. All documents and data, including draft or final authorizations for expenditure, and communications or correspondence of any kind, including to/from EMSU working interest owners, relating to proposed new wells targeting the San Andres formation within the EMSU.

This subpoena is issued on application of Goodnight Midstream Permian, LLC through its attorney, Adam G. Rankin of Holland & Hart LLP.

DATED: January 3, 2025

NEW MEXICO OIL CONSERVATION DIVISION

BY: _____

Date: _____