

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

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

Case No. 22626

MOTION TO QUASH SUBPOENA

Empire New Mexico, LLC (“Empire”), through its undesignated counsel, hereby moves the Division for an order quashing the subpoena issued by the Division on May 16, 2022. As grounds for this motion Empire states:

1. **Background.** On May 16, 2022, the Division, at the request of Applicant, Goodnight Midstream Permian, LLC, issued the subpoena attached hereto as Exhibit A, directing Empire to produce a multitude of documents by June 1, 2022. The subpoena was never served on Empire or its counsel by either the Division or Goodnight.

2. **The subpoena is void.** The subpoena is void because it was not served on Empire or its counsel and the time within which the production of documents required by the subpoena has expired. It must be reissued.

3. **The subpoena seeks documents and information completely outside the scope of any potential relevance to this case.** The subpoena is so broad and burdensome in that it effectively calls all records held by Empire for the Eunice Monument South Unit (“Unit”). for:

All documents, communications, correspondence, emails, data, analyses, reports, and summaries, including but not limited to internal and external correspondence, memoranda, and assessments, that address, reflect on, or concern the existence or non-existence of hydrocarbons in the San Andres formation within the Eunice Monument South Unit.

First, the requested documents include all of the San Andres formation in the entire Unit, which is comprised now of approximately 17,000 acres and operates approximately 750 injector and producer wells. This request for documents is an overwhelming project and oppressive. Undoubtedly reserve estimates and financial analyses of present and future oil and gas production fall within the ambit of the subpoena, which Empire considers proprietary and privileged information.

NMRA 1-045 (3)(a)(b) serves as a guide and states that upon motion the court issuing a subpoena “shall quash or modify the subpoena” if it:

(i) fails to allow reasonable time for compliance;

.....

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(b) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information;

The subpoena violates all of the foregoing criteria. The fifteen days requirement to satisfy the requirement is clearly an inadequate amount of time to produce the documents.

4. ***Some or many of the documents requested by the subpoena are contained in the records of the Oil Conservation Division or the Bureau of Land Management.*** Well and log files are contained in the records of the OCD and the BLM. In this case there is a hearing transcript at the OCD and exhibits in Case No. 8397 resulting in Order No. R-7765 which authorized the Unit. The OCD records also have a compilation of production records. From these records,

Goodnight should be able to obtain its requested information. For example, the Unit agreement itself contains allocation of production information. Goodnight should be able to make its case from these records.

5. **Conclusion.** For the foregoing reasons the subpoena should be quashed and determined to be of no effect. The subpoena is unreasonable and unduly burdensome, and requires disclosure of protected information. The subpoena is nothing more than an unauthorized fishing expedition.

Respectfully submitted,

PADILLA LAW FIRM, P.A.
/s/ Ernest L. Padilla
ERNEST L. PADILLA
Post Office Box 2523
Santa Fe, New Mexico 87504
(505) 988-7577
padillalawnm@outlook.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 6th day of June, 2022, as follows:

Michael H. Feldewert	<u>mfeldewert@hollandhart.com</u>
Adam G. Rankin	<u>agrarkin@hollandhart.com</u>
Julia Broggi	<u>jbroggi@hollandhart.com</u>

/s/ Ernest L. Padilla
ERNEST L. PADILLA

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

CASE NO. 22626

SUBPOENA

To: Empire New Mexico, LLC
c/o Padilla Law Firm, P.A.
Attn: Ernest L. Padilla
Post Office Box 2523
Santa Fe, New Mexico 87504
(505) 988-7577 telephone
padillalawnm@outlook.com

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
LLC, 110 North Guadalupe, Santa Fe, New Mexico, 87501, on or before June 1, 2022:

1. All documents, communications, correspondence, emails, data, analyses, reports,
and summaries, including but not limited to internal and external correspondence, memoranda,
and assessments, that address, reflect on, or concern the existence or non-existence of
hydrocarbons in the San Andres formation within the Eunice Monument South Unit.

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

Dated this 16th day of May 2022.

NEW MEXICO OIL CONSERVATION DIVISION

BY: *AWL*

Date: May 16, 2022

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