

**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

RESPONSE TO MOTION IN LIMINE

For its response to Goodnight Midstream Permian LLC's ("Goodnight") Motion in Limine, Empire New Mexico, LLC ("Empire") states:

1. Goodnight seeks to exclude two documents (exhibits) that were not submitted by Empire in its response to the Subpoena requested by Goodnight and issued by the Division. These exhibits are listed as Exhibits C and D, attached to the Self Affirmed Statement of Eugene Sweeney, Empire's engineering expert, which is included with Empire's Motion for Leave to file Late Testimony and Exhibits.

2. Exhibit C is labeled "Well Card Details" which provides well information for the EMSU 200H well operated by Empire. It shows location, depth, and production history of the EMSU 200H well. This exhibit shows information that is contained in the well file and production reports contained in the record compilations of the Division. Information contained in this exhibit was specifically exempted from the scope of the Subpoena in the Division's Order on Motion to Quash Subpoena dated July 26, 2022. The Order states in part:

Empire is not required to produce any documents that are available on the Division's website.

3. Exhibit D is a paper having a 1998 copyright and titled "SPE 49201" by the Society of Petroleum Engineers. This paper does not contain any reference to the San Andres formation. The Subpoena calls for a broad request relating to "the existence of hydrocarbons in the San Andres formation within the Eunice Monument South Unit." The focus of the 1998 paper was the

Grayburg formation. See, description of “Lithology” on page 689 of the paper which deal only with the Grayburg formation. The analysis of that paper from a technical standpoint applies only to waterflood performance in the Grayburg. Some of the other exhibits that were provided by Empire in response to the Subpoena do cover Residual Oil Zones in the San Andres formation, which were covered by Empire’s response and therefore available to Goodnight.

4. Mr. Sweeney’s proposed testimony does not specifically rely on any of the proposed exhibits, but taken all together details emerging considerations for exploitation of San Andres oil and gas production in Residual Oil Zones.

5. Exclusion of Exhibits C and D would be inappropriate because data from Exhibit C is available from the Division’s website, and Exhibit D does not relate to the San Andres formation, both clearly outside of the purview of the Subpoena. Given the proposed commercial injection rates and pressures, the application will impair Empire’s correlative rights and clearly will cause waste which transcend all other considerations posed by the SWD application.

6. Goodnight had all of the information available on the production capabilities of the San Andres much earlier than Thursday, September 8, 2022, and together with Empires other pleading in this case understood the nature of the opposition to the application in this case.

WHEREFORE, for the foregoing reasons, Empire requests that Goodnight’s Motion in Limine be denied.

Respectfully submitted,

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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 13th day of September, 2022, as follows:

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