

**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 COMPEL**

Goodnight Midstream Permian, LLC (“Goodnight Midstream”) respectfully files this motion to compel Empire New Mexico, LLC (“Empire”) to produce all documents, including electronic records, in its possession or control that relate to the status and construction of the Eunice Monument South Unit #462 well that it was required to produce following the hearing on September 15, 2022 or, in the alternative, to provide a sworn statement confirming that all such responsive documents and electronic records have been produced. In support of this motion Goodnight Midstream states:

1. On September 15, 2022, the New Mexico Oil Conservation Division (“Division”) Hearing Examiner gave Empire 15 days to produce documents relating to the EMSU #462 well construction and completion status. *See* Case No. 22626, Hrg. Tr. 273:11-17.

2. Empire did not produce documents by the deadline. Counsel for Goodnight Midstream inquired into the status of document production on October 6 and again on October 12. On October 14, counsel for Empire produced a 36-page PDF that contained a portion of the documents contained in the 56-page Division well file. *See Exhibit A* (excluding produced documents). The documents Empire produced did not contain documents or pages not already available in the Division’s public online well file.

3. Counsel for Goodnight Midstream sought to confirm with Empire on October 14 that the production included all responsive documents and electronic records in Empire's possession or control relating to the EMSU #462 well. Counsel for Empire did not respond.

4. In his testimony on September 15, 2022, Empire's witness Eugene Sweeney stated that Empire has "physical files out at location" and "some files . . . [it received] electronically," from XTO, its predecessor-in-interest, in addition to any files Empire may have created itself. *See* Case No. 22626, Hrg. Tr. 225:12-19. Mr. Sweeney testified that he would provide whatever documents it has relating to the EMSU #462 well. *Id.* Tr. 231:2-11.

5. When pressed on why he did not produce all documents responsive to a subpoena issued by the Division, including Empire's written plan for its appraisal of the San Andres formation within the EMSU, Mr. Sweeney testified that "I'm not sure that I would even want to share that and I – that I would have to." *Id.* Tr. 232:21-22.

6. Coupled with the fact that Empire's counsel did not confirm that all responsive documents had been produced relating to the EMSU #462 well, Mr. Sweeney's acknowledgment that Empire did not produce all documents responsive to the Division's subpoena and his statement that he does not think he has to share certain documents raises the question whether all documents reflecting the status of the EMSU #462 well have been produced, as required.

7. Without a sworn statement from Empire, Goodnight Midstream has no way of knowing whether Empire's obligation to provide all responsive documents has been fulfilled.

8. Information on the status of the EMSU #462 well is critical to the resolution of this case. *See id.* Tr. 273:2-10 (statement of Examiner Goetze).

9. Empire should be required to produce all responsive documents, including electronic records, relating to the status of the EMSU #462 well or confirm in a sworn statement submitted to the Division that it has produced all such records.

**CONCLUSION**

For the foregoing reasons, Goodnight Midstream respectfully requests this Motion be granted.

Respectfully submitted,

HOLLAND & HART LLP



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Michael H. Feldewert  
Adam G. Rankin  
Julia Broggi  
Paula M. Vance  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208  
(505) 988-4421  
(505) 983-6043 Facsimile  
mfeldewert@hollandhart.com  
agrarkin@hollandhart.com  
jbroggi@hollandhart.com  
pmvance@hollandhart.com

**ATTORNEYS FOR GOODNIGHT MIDSTREAM  
PERMIAN, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 3, 2022, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Ernest L. Padilla  
Padilla Law Firm, P.A.  
Post Office Box 2523  
Santa Fe, New Mexico 87504  
(505) 988-7577  
[padillalawnm@outlook.com](mailto:padillalawnm@outlook.com)

**Attorney for Empire New Mexico, LLC**



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Adam G. Rankin

# EXHIBIT A

## Adam Rankin

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**From:** Adam Rankin  
**Sent:** Friday, October 14, 2022 2:54 PM  
**To:** 'Ernest Padilla'  
**Subject:** RE: Goodnight Midstream - Case 22626 - Reminder to request documents from Empire on the EMSU #462 well  
**Attachments:** Well File\_EMSU 462.pdf

Ernie,

This file appears to be a partial copy of 36 of the 56 pages in the OCD's well file for this well. Are these the only well file records Empire has for this well? Is this 3MB document everything that Empire has in its possession and control relating to the construction status of this well, including electronic databases and files that it received from XTO? And there is nothing in their files after 05/01/2012? Thanks for confirming.

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### Adam Rankin

Partner, Holland & Hart LLP  
 110 North Guadalupe Street, Suite 1 Santa Fe, NM 87501  
 E [agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
 T (505) 954-7294 M (505) 570-0377



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**From:** Ernest Padilla <[PadillaLawNM@outlook.com](mailto:PadillaLawNM@outlook.com)>  
**Sent:** Friday, October 14, 2022 1:51 PM  
**To:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>  
**Subject:** RE: Goodnight Midstream - Case 22626 - Reminder to request documents from Empire on the EMSU #462 well

**External Email**

Adam—attached are the well records for the EMSU 462 well.

Ernie

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**From:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>  
**Sent:** Wednesday, October 12, 2022 12:49 PM  
**To:** Ernest Padilla <[PadillaLawNM@outlook.com](mailto:PadillaLawNM@outlook.com)>  
**Cc:** Paula M. Vance <[PMVance@hollandhart.com](mailto:PMVance@hollandhart.com)>  
**Subject:** RE: Goodnight Midstream - Case 22626 - Reminder to request documents from Empire on the EMSU #462 well

Ernie,

Just following up to see if Empire has responded to your reminder last week to provide the well file for the EMSU #462, the current completion status of the well. From the well's production history, it is apparent that the work proposed in

2012 was actually done and the well was plugged back from the San Andres and converted from a water supply well to an oil well producing from the Grayburg.

I've posted a snippet of the well's production history below (link here: <https://wwwapps.emnrd.nm.gov/ocd/ocdpermitting/Data/WellDetails.aspx?api=30-025-29622>) and you can see that water production stops in 2003 and oil production commences in 2014 after the APD to recomplete was filed in 2012.

My strong preference is to work with Empire to obtain the documents without getting the OCD involved, but if Empire is not going to cooperate we won't have any choice but to seek some form of relief/remedy from the OCD.

2000	0	0	727,330	29	0	0	0
2001	0	0	0	0	0	0	0
2002	0	0	2,443,938	119	0	0	0
2003	0	0	608,594	37	0	0	0
2004	0	0	0	0	0	0	0
2014	3,661	1,707	261,663	319	0	0	0
2015	4,322	1,770	273,624	365	0	0	0
2016	3,256	1,751	248,207	362	0	0	0
2017	2,675	1,421	223,838	364	0	0	0

I am in Houston through Thursday but will be in the office on Friday – hopefully we will have the documents by then. Talk to you soon.

Best,  
Adam

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**Adam Rankin**  
 Partner, Holland & Hart LLP  
 110 North Guadalupe Street, Suite 1 Santa Fe, NM 87501  
 E [agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
 T (505) 954-7294 M (505) 570-0377



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**From:** Adam Rankin  
**Sent:** Thursday, October 6, 2022 5:48 PM  
**To:** Ernest Padilla <[PadillaLawNM@outlook.com](mailto:PadillaLawNM@outlook.com)>  
**Cc:** Paula M. Vance <[PMVance@hollandhart.com](mailto:PMVance@hollandhart.com)>  
**Subject:** Goodnight Midstream - Case 22626 - Reminder to request documents from Empire on the EMSU #462 well

Ernie,

Good to see you at NMOGA and to catch up this evening. As discussed, the Division Examiner had given Empire 15 days from the hearing date (which would have been September 30) to produce to Goodnight the documents and files it has relating to the EMSU #462 well and in particular its current completion status. I've attached Goodnight's Rebuttal Exhibit I which is the APD to plugback from the San Andres to the Grayburg to convert the well from water production in the San Andres to an oil producer in the Grayburg. September 30 has come and gone but we haven't received any documents from Empire.

Can you please remind the folks at Empire to produce its paper and electronic records that reflect the current completion status and configuration of the well?

I've included a link to a OneDrive folder below. Right now only you have access to it. I can give additional people access to the folder so they can upload files, etc. but need their email addresses to do so.

Separately, I will ask Nathan if he has an analysis of wells in the 1-mile area of review.

Thanks and have a great weekend in Durango.

 [EMSU #462 - Well File Records](#)

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## Adam G. Rankin

Partner, Holland & Hart LLP

110 N. Guadalupe, Suite 1, Santa Fe, NM 87501

Direct 505.954.7294 Cell 505.570-0377 Main 505.988.4421



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