

**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**

**GOODNIGHT MIDSTREAM'S STIPULATION ON CONFIDENTIALITY**

Goodnight Midstream Permian, LLC ("Goodnight Midstream"), through undersigned counsel, respectfully submits this stipulation and agreement to treat as confidential and as trade or proprietary secrets certain information and documents produced by Empire in response to discovery in the above-captioned cases.

### **Introduction**

The Commission partly granted and partly denied Empire's motion seeking to quash the March 5, 2024, Subpoena, ruling, in part, that that "Goodnight shall sign a confidentiality and nondisclosure agreement that further mandates destruction after the resolution of these cases of all documents produced by Empire that it asserts constitute trade or proprietary secrets." *Order Partially Granting Empire New Mexico LLC's Objections to and Motion to Quash Goodnight Midstream Permian, LLC's Subpoena Duces Tecum*, filed June 4, 2024, attached as **Exhibit A** (the "Order").

### **Goodnight's Stipulated Agreement to Confidentiality Terms**

In satisfaction of the Order, Goodnight stipulates and agrees as follows:

**Scope.** Information and documents produced by Empire in response to discovery in these and related proceedings before the Commission that Empire asserts is confidential or constitutes trade or proprietary secrets shall be subject to this stipulation. This stipulation shall not apply to the use of any materials obtained through public records, that are subsequently made public, or that Empire does not assert is confidential or constitutes trade or proprietary secrets. *See* Order, referenced above.

1. **Confidential Information.**

A. Empire may designate a document, or certain information contained therein, as "Confidential Information" under this stipulation by placing or affixing the words "CONFIDENTIAL" on the document and on all copies in a manner that will not interfere with the legibility of the document or by otherwise designating the document CONFIDENTIAL. As used in this paragraph, "copies" include electronic images, duplicates, extracts, summaries, or descriptions that contain the Confidential Information. In the event Empire produces information electronically or in native format, this designation may be made by designating the delivery

device (thumb drive, CD, etc.) as “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEY’S EYES ONLY.”

B. In the case of a deposition, Empire may make confidentiality designations by communicating such designations in writing to Goodnight.

C. Should Empire, as a result of negligence or oversight, fail to designate materials as Confidential Information at the time of production, it may remedy that failure by providing a properly marked copy of such materials to Goodnight. Any materials produced in this manner constitute Confidential Information upon Goodnight’s receipt of corrected copies.

D. The restrictions governing Confidential Information do not apply to material or information obtained or acquired by Goodnight prior to these proceedings and related proceedings or from a source other than discovery in these proceedings or related proceedings, and do not preclude Goodnight from using its own Confidential Information as it deems appropriate or necessary.

2. Protection of Confidential Material.

A. General Protections. Confidential Information shall not be used or disclosed by Goodnight, or counsel for the receiving party, for any purpose other than in direct connection with these proceedings or related proceedings, including any appeal thereof.

B. Limited Third-Party Disclosures. Goodnight and its counsel will not disclose or permit the disclosure of any Confidential Information except as set forth in subparagraphs “i” through “ix” below. The following categories of persons may review or receive Confidential Information:

- i. Counsel. Counsel for the receiving party and employees of such counsel who have responsibility for the litigation;
- ii. Parties. Goodnight or members of Goodnight and employees of

a Goodnight to the extent counsel determines in good faith that the person's assistance regarding the information is reasonably necessary to the conduct of this litigation, and also Empire, its employees or counsel;

- iii. The Commission and its personnel including Division counsel and Division personnel;
- iv. Court Reporters and Recorders. Court reporters and recorders engaged for depositions;
- v. Consultants and Experts. Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation and trial of this action, but only to the extent necessary to perform their work on this case. Counsel providing any Confidential Information to a consultant, investigator, or expert shall ensure that such person is aware of the restrictions imposed by this stipulation;
- vi. Author or Recipient. The author or recipient of the document (not including a person who received the document in the course of these proceedings);
- vii. Mediators and their assistants. Any mediator and their staff jointly retained by the parties to assist in settlement facilitation; and
- viii. Others by Consent. Other persons only by written consent of the producing party or upon order of the Commission or a Court and on such conditions as may be agreed or ordered.
- ix. At the Hearing before the Commission. Goodnight can disclose, use, or display confidential information at the hearing, and to any of the foregoing authorized persons present at said hearing, in these proceedings in front of the Commission and/or any subsequent proceedings.

C. Goodnight and counsel will not disclose or permit the disclosure of any Confidential Information except as set forth above.

3. Control of Documents. Goodnight and counsel shall make all reasonable efforts to prevent unauthorized or inadvertent disclosure of Confidential Information.

4. Filing of Confidential Information. Should Goodnight wish to file with the

Commission or Court a document designated as Confidential Information or containing, describing, or referencing Confidential Information, Goodnight shall file such document under seal using an appropriately modified process as described in Rule 1-079(E) NMRA. Goodnight will file a redacted version to be publicly maintained in the Commission file, and then will serve an unredacted copy to the Commission, Division counsel, and Empire by email. The foregoing protocols in this Paragraph may be modified by the parties in writing should the parties agree that different treatment may appropriately govern the filing of or reference to certain materials. Nothing in this Paragraph shall be construed to limit or amend the rights afforded to any person by Rule 1-079 NMRA.

5. Challenges to a Designation as Confidential Information or the Disclosure Restrictions. The designation of any material or document as Confidential Information is subject to challenge by Goodnight. If Goodnight challenges the designation of Confidential Information or seeks to disclose Confidential Information in a manner not authorized by this stipulation, it must do so in good faith and must begin the process by conferring directly with Empire counsel. If the parties reach an agreement, they shall document that agreement and may proceed accordingly without Commission intervention or formal modification of this stipulation. If the parties are unable to agree, Goodnight will apply to the Commission or a Court for appropriate relief. Until the Commission or a Court rules on the challenge, all parties shall continue to treat the materials as Confidential Information under the terms of this stipulation.

6. Action by the Commission or a Court. Applications to the Commission or a Court for an order relating to materials or documents designated Confidential Information shall be by motion. Nothing in this stipulation or any action or agreement of Goodnight under this stipulation limits the Commission's or a Court's power to make orders concerning the disclosure

of documents produced in discovery or at a hearing in or on appeal from these proceedings.

7. Use of Confidential Documents or Information at Hearing. Nothing in this stipulation shall be construed to affect the use of any document, material, or information at the hearing of this matter. Treatment of Confidential Information at the hearing shall be addressed at the beginning of the evidentiary hearing.

8. Obligations at Conclusion of Litigation. Unless otherwise agreed or ordered, this stipulation shall remain in force after dismissal or entry of a final order, opinion, or judgment, not subject to further appeal. Following the conclusion of the litigation, Goodnight agrees to take all reasonable steps to destroy or return to the original owner the Confidential Information so as to prevent its disclosure or dissemination.

Respectfully submitted,

HOLLAND & HART LLP

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**ATTORNEYS FOR GOODNIGHT MIDSTREAM  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2024, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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