

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

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

Case No. 22626

ORDER ON MOTIONS

This Order follows two Motions (“Motion”) filed by Goodnight Midstream Permian, LLC (“Goodnight”). The Oil Conservation Division (“Division”) Hearing Examiner (“Examiner”) enters the following findings and order.

FINDINGS

1. On March 4, 2022, Goodnight Midstream Permian, LLC (“Goodnight”) filed an application (“Application”) for approval of a produced water disposal well located in Section 9, T21S, R36E, Lea County (“Proposed Well”). The Application proposed disposal into the San Andres formation.
2. Empire New Mexico, LLC (“Empire”) entered an appearance into the case and objected to the case being heard by affidavit.
3. A hearing was held on June 16, 2022, to address a motion to dismiss filed by Empire. The motion was denied and an evidentiary hearing was scheduled for September 15, 2022.
4. Since the hearing on September 15, 2022, Goodnight has filed two motions: A Motion to Compel filed by Goodnight on November 3, 2022, and a Motion to Withhold Empire’s Allowable for its EMSU #462 (“Motion to Withhold”) filed by Goodnight on January 10, 2023.
5. Motion to Compel. At the conclusion of a hearing on September 15, 2022, the Examiner required Empire to produce the information Empire possesses on the Eunice Monument South Unit #462 Well (API # 30-025-29622; “462 Well”). (9/15/22 Tr. 273-4). In its Motion to Compel, Goodnight states that the documents produced by Empire consisted of a portion of the well file held by the Division.
6. In the Motion to Compel, counsel for Goodnight stated that he sought to confirm with Empire that the document production included all responsive documents in Empire’s possession. Empire had not responded to Goodnight’s counsel by the filing of the Motion to Compel. In the later Motion to Withhold, Goodnight stated that counsel for Empire did respond and agreed to send a sworn statement stating that

Empire did not have any additional responsive records. Goodnight stated that it has not received any such statement.

7. In the Motion to Compel, Goodnight requests that “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.”
8. Empire has not responded to the Motion to Compel.
9. Motion to Withhold. Goodnight alleges that Empire has failed to file a required Form C-105 for the 462 Well when the Well was supposedly plugged back and converted from a water supply well to an oil producing well. A production summary report attached to the Motion shows oil and gas production from the 462 Well.
10. Division Rules require an operator to file a Form C-105 within 45 days following the completion or recompletion of a well. If the Division does not receive the Form C-105, the Division shall withhold the allowable or suspend injection authority. 19.15.7.16(A) NMAC.
11. Goodnight is seeking an order in this case to withhold Empire’s allowable for the 462 Well.
12. This case is an application to approve a produced water disposal well. The Motion to Compel would expand the case to also become an enforcement proceeding. The Motion to Compel is therefore outside the scope of this proceeding. The Oil and Gas Act does authorize private parties to bring suit in district court if the Division has not acted against a violation. (“In the event the division should fail to bring suit to enjoin any actual or threatened violation of any statute of this state with respect to the conservation of oil and gas, or of any provision of this act, or of any rule, regulation or order made thereunder, then any person or party in interest adversely affected by such violation, and who has notified the division in writing of such violation or threat thereof and has requested the division to sue, may, to prevent any or further violation, bring suit for that purpose in the district court of any county in which the division could have brought suit.”). NMSA 1978, §70-2-29.

ORDER

It is hereby **ORDERED** that:

1. The Motion to Compel is granted. Within 15 days of the date of this Order, Empire shall either produce all responsive documents, including electronic records, relating to the status of the Eunice Monument South Unit #462 well or confirm in a sworn statement submitted to the Division and Goodnight that Empire has produced all such records.

2. The Motion to Withhold is denied.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

William R. Brancard
WILLIAM R. BRANCARD
HEARING EXAMINER

Date: January 23, 2023