

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

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-7765,
AS AMENDED TO EXCLUDE THE SAN ANDRES
FORMATION FROM THE UNITIZED INTERVAL
OF THE EUNICE MONUMENT SOUTH UNIT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 24278

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC TO AMEND ORDER NO. R-7767
TO EXCLUDE THE SAN ANDRES FORMATION
FROM THE EUNICE MONUMENT OIL POOL
WITHIN THE EUNICE MONUMENT SOUTH
UNIT AREA, LEA COUNTY, NEW MEXICO.**

CASE NO. 24277

**APPLICATIONS OF GOODNIGHT MIDSTREAM
PERMIAN, LLC FOR APPROVAL OF
SALTWATER DISPOSAL WELLS, LEA COUNTY,
NEW MEXICO**

CASE NOS. 23614-23617

**APPLICATIONS OF EMPIRE NEW MEXICO LLC
TO REVOKE INJECTION AUTHORITY,
LEA COUNTY, NEW MEXICO**

CASE NOS. 24018-24027

**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

**ORDER PARTIALLY GRANTING EMPIRE NEW MEXICO
LLC'S OBJECTIONS TO AND MOTION TO QUASH
GOODNIGHT MIDSTREAM PERMIAN, LLC'S SUBPOENA
DUCES TECUM**

This matter, having come before the Chairman of the Oil Conservation Commission ("OCC") pursuant to 19.15.4.16(A) NMAC on the objections to and motion to quash Goodnight Midstream

Permian L.L.C.'s subpoena duces tecum by Empire New Mexico L.L.C. ("the Motion"), and further upon the OCC's delegation of consideration of this motion to the Chairman, and the Chairman, having considered written arguments of the parties and being otherwise fully advised, partially grants the Motion as set forth below, and will issue a new subpoena consistent with this order upon presentation thereof by Goodnight. This order is also subject to modification to the extent that the Commission's pending ruling on Empire's Motion to Dismiss in Case Nos. 24278 and 24277 renders certain factual issues moot.

As a general ruling on all requests:

1. In light of Empire's reliance on orders dating back to 1984 in its pending motion to dismiss, the lack of temporal limitation in Goodnight's requests is not unreasonable.
2. To minimize the burden on responding to the subpoena, Empire may properly withhold any documents otherwise responsive to these requests that it determines in good faith are subject to attorney client or attorney work-product privilege without the necessity of creating a privilege log.
3. 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.
4. Any documents or other items responsive to requests in the subpoena that are not quashed by this order shall be produced within fourteen (14) days of the date of this order.

With respect to specific requests, the Chairman rules as follows:

Request Nos. 1-4: In light of the fact that the other information before the OCC on related matters reflect little or no dispute as to Empire's status as a working interest owner in the Eunice Monument South Unit ("EMSU"), and based on the limited issues before the OCC on the above captioned matters, these requests are unduly burdensome and overbroad. These requests should thus be limited to such agreements "that establish Empire's legal interest in the San Andres formation of

the EMSU” with the understanding that many such documents will not be specific to EMSU.

Request Nos. 5-6: These requests are unduly burdensome and overbroad with respect to documents that solely relate to the Grayburg formation and should be limited solely to the San Andres formation. To the extent that these requests are duplicative of prior requests, as asserted by Empire, the response can simply refer to past production.

Request Nos. 7-9: These requests do not appear reasonably calculated to provide relevant discovery on the technical issues in these cases, but on Empire’s financial considerations for acquiring its working interest in the EMSU. These requests are hereby quashed.

Request No. 10: This request is unduly burdensome with respect to any non-technical analysis that Empire relied upon in its plans for development as submitted to the New Mexico State Land Office. In light of Empire’s representation that it will produce all such plans, this request should be limited to any other documents that reflect technical analysis as relied upon by Empire in its development and submission of such plans.

Request No. 11: This request is unduly burdensome with respect to any non-technical analysis that Empire relied upon in its reports as submitted to the Division. In light of Empire’s representation that it will produce all such reports, this request should be limited to any other documents that reflect technical analysis as relied upon by Empire in its development and submission of such reports.

Request No. 12: As “the alleged EMSU well failures and alleged increased well costs referred to in footnote No. 2 of Empire New Mexico LLC’s Motion to Refer Cases to New Mexico Oil Conservation Commission, filed on January 3, 2024” arguably relate to the issues presented in the above cases, the Motion is denied with respect to this request, subject to the other provisions of this order.


Request No. 13: This request is unduly burdensome with respect to any documents that solely concern the Grayburg formation and should be amended to read “...or potential tertiary

recovery of residual oil from the San Andres formations within the EMSU.” The Motion is otherwise denied.

Request Nos. 14 -17: The motion is denied with respect to these requests. The Chairman notes that these requests seek purely technical information relevant to the issues, and notes that the scope of the issues before the Commission are currently broader than as characterized by Empire, specifically, as noted at page 7 of Goodnight’s response to Empire’s motion to dismiss in case nos. 24277 and 24278. Furthermore, Empire states that it has already provided documents responsive to request no. 14 “subject to this objection.” Thus, to the extent that Empire has withheld any documents responsive to these requests on the basis of its objections, it is directed to provide such documents as ordered above.

Request No. 18: Empire’s objections are well-taken with respect to this request, which appears duplicative of its other requests to the extent it seeks relevant information. The subpoena is quashed within respect to this request.

SO ORDERED.



Dylan Fuge, Chairman
New Mexico Oil Conservation Commission