

**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**

**ORDER ON GOODNIGHT/EMPIRE MOTION
TO QUASH DEPOSITION SUBPOENAS**

This matter is before me on competing motions filed by Goodnight Permian Midstream, LLC (Goodnight), and Empire New Mexico, LLC (Empire), to quash Commission subpoenas issued to compel depositions of an Empire-designated Rule 1-030.B(6) witness and depositions

of five witnesses identified by Goodnight. Having reviewed both motions and the parties' respective responses, I find and order as follows:

1. The parties have been directed by Commission Order to present at the upcoming merits hearing "all evidence, testimony, and legal argument on the issue of the existence, extent of and possible interference with a residual oil zone the Eunice Monument South Unit ("EMSU") by produced water injection activities undertaken by Goodnight." OCC Order on hearing scope.

2. It is manifest from testimony presented to the Commission on June 20, 2024, that the issues involved in the foregoing scope of the upcoming merits hearing are complex. I conclude that hearings involving complex issues meet the extraordinary circumstances and good cause thresholds for issuance of deposition subpoenas under 19.15.4.16(A) NMAC. OCC interests in full development of factual and expert testimony to be presented at the merits hearing in this matter outweigh the interests of parties in avoiding allegedly undue burden and expense. I reject arguments that allowing these depositions to proceed unfairly prejudices either party or its ability to prepare for hearing. Both parties are ably represented by sophisticated teams of lawyers with more than adequate resources to multi-task and prepare for the upcoming hearing as well as participate in depositions.

3. I also reject Empire arguments that deposing a corporate representative is outside the scope of the Commission's permissible subpoena authority. Empire's designee will be a fact or expert witness and perhaps both, and the Commission has the authority to subpoena both such types of witness. Empire's business plan for tertiary recovery within the EMSU is a subject that appears reasonably calculated to lead to the discovery of admissible evidence.

4. The parties' respective motions to quash each other's subpoenas are denied.

The parties shall cooperate with each other in utmost good faith to expedite their respective depositions and shall utilize technology and resources in a way that enhances scheduling and witness appearance logistics, given the shortness of time. Empire is encouraged but not ordered to review the five Goodnight witnesses it has subpoenaed to see if it can eliminate the need to depose any of them.

IT IS SO ORDERED this 18th day of August, 2024.

/s/ Rip Harwood
