

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

**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**

**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**

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

**CASE NOS. 23614-17**

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

**CASE NOS. 24018-27**

**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 GRANTING OIL CONSERVATION DIVISION'S MOTION  
TO COMPEL EXPERT WITNESS TESTIMONY OF ROBERT LINDSAY, Ph.D.**

This matter, having come before the Oil Conservation Commission (“Commission”) on the motion of the Oil Conservation Division (“the Division”) to compel expert witness testimony of Robert Lindsay, Ph.D. (“the Motion”), and the Commission,

being fully advised at its public meeting on February 3, 2025, as attended by all parties to the above-captioned case, and having consulted with Commission counsel, hereby finds as follows:

1. The Commission relies upon the New Mexico Rules of Civil Procedure as a guide regarding the adjudication of hearings before it.
2. Generally, pursuant to Rule 1-026(B)(6)(a) NMRA, “the substance of facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion” are subject to full disclosure, including through deposition questions pursuant to Rule 1-026(B)(6)(b). Such full disclosure is not curtailed if such facts and opinions are the result of communications with that party’s counsel or would otherwise be considered attorney work product or trial preparation materials pursuant to Rule 1-026(B)(5). In other words, Rule 1-026(B)(5) does not “trump” Rule 1-026(B)(6)(a).
3. At the time of the deposition of Dr. Lindsay on January 17, 2025, he had been previously noticed as a rebuttal expert on January 6, 2025 by Empire New Mexico (“Empire”). Moreover, Empire produced him with the likely implicit understanding between the parties that he had developed at least some such facts and opinions and was ready to be deposed. It thus appears more likely than not that Dr. Lindsay held some facts and opinions within the scope of Rule 1-026(B)(6)(a). To the extent that, at the time of the deposition, he held such discoverable facts and opinions, Empire should have qualified its objection pursuant to Rule 1-026(B)(7)(a) rather than issue a blanket objection through its counsel at the deposition.
4. Empire’s objection to the discovery of communications between its counsel and Dr. Lindsay on grounds of attorney client privilege – i.e., that Dr. Lindsay has personally

retained the Padilla Law firm as his lawyers in this case - were not argued or otherwise supported in Empire's briefing and are thus deemed as not meritorious.

5. The Division's motion is meritorious except as qualified herein.
6. Empire should immediately produce Dr. Lindsay for a deposition at the request of the Division prior to the hearing of this matter scheduled to begin on February 20, 2025.

SO ORDERED.



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Gerasimos Razatos, Acting Chairman  
New Mexico Oil Conservation Commission