

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

APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN LLC FOR APPROVAL OF A
SALTWATER DISPOSAL WELL, LEA COUNTY,
NEW MEXICO.

**COMM. CASE NO. 24123
ORDER No. R-22869-A**

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.

DIV CASE NO. 23775

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

CASE NOS. 24018-24020, 24025

**EMPIRE NEW MEXICO, LLC'S REQUEST FOR SUBPOENAS FOR
(1) DEPOSITION OF PRESTON MCGUIRE AND (2) PRODUCTION OF DOCUMENTS**

Pursuant to NMSA 1978, §70-2-8 and 19.15.4.16.A NMAC, Rules 1-026 and 1-030(B) NMRA, Empire New Mexico, LLC ("Empire") submits this motion requesting that the New Mexico Oil Conservation Commission ("Commission") issue the attached subpoenas for (1) deposition of Goodnight Midstream Permian, LLC's ("Goodnight") witness Preston McGuire and (2) production of documents.

LEGAL STANDARD

Commission Rule 19.15.4.16(A) NMAC directs the Commission to issue subpoenas for pre-hearing witness depositions “in extraordinary circumstances for good cause shown.” It provides, in relevant part, that “[t]he commission and director or the director’s authorized representative *shall* issue subpoenas for witness depositions in advance of the hearing only in extraordinary circumstances for good cause shown.” 19.15.4.16(A) NMAC (emphasis added). Thus, if the Commission determines that there are extraordinary circumstances and that Empire has shown good cause to depose Goodnight’s expert Mr. McGuire, then the Commission should issue the deposition subpoena attached hereto as Exhibit A. As explained further below, good cause exists to issue the subpoena for deposition of Mr. McGuire

In addition, the Commission or its authorized representative “*shall*, upon a party’s request, issue a subpoena for production of books, papers, records, other tangible things or electronic data in advance of the hearing.” *Id.* (emphasis added). By this Motion, Empire requests that the Commission issue the subpoena attached hereto as Exhibit B.

ARGUMENT

Over the past 45 days, the parties have conducted nine depositions of their respective witnesses. In pertinent part, Empire conducted depositions of four Goodnight witnesses, three of whom claim to rely on information provided or testimony offered by Goodnight witness Preston McGuire. *See, e.g.*, Davidson Tr. at 35:17-25 (11/22/24); McBeath Tr. at 32:20-23 (11/25/24); Lake Tr. at 26:22-27:1 (11/12/24). However, none of the written testimony filed by Goodnight expressly stated that any of these experts was relying on information or testimony provided by Mr. McGuire. In short, until recently, Empire had no knowledge that any of Goodnight’s other experts were relying on Mr. McGuire and thus was unable to discern prior to the recent depositions that Mr. McGuire would need to be deposed.

As explained in Empire's previous motion seeking subpoenas for deposition, filed in July 2024, this case involves unusually complex technical and geological issues that require substantial pre-hearing discovery. These issues include: (1) whether an economically viable ROZ exists in the portion of the San Andres formation that lies within the EMSU; and (2) whether injection of produced water into that formation will cause waste, impair correlative rights, or otherwise interfere with the operations in the EMSU. Mr. McGuire's testimony is the basis of certain assumptions made by Goodnight's other witnesses who are testifying about the key issues. In order to prepare its rebuttal witnesses and exhibits, due February 6, 2025, and prepare for the evidentiary hearing, beginning with opening statements of February 20, 2025, Empire requests that the Commission promptly issue a subpoena for deposition of Mr. McGuire, in the form attached hereto as Exhibit A, along with the subpoena for documents attached as Exhibit B.

WHEREFORE, Empire requests that the Commission issue the subpoenas attached hereto.

Respectfully submitted,

By: /s/ Sharon T. Shaheen

Sharon T. Shaheen

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following by electronic mail on December 20, 2024.

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CASE NOS. 24018-24020, 24025

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SUBPOENA FOR DEPOSITION DUCES TECUM

YOU ARE HEREBY COMMANDED pursuant to NMSA 1978, §70-2-8 and Rule
19.15.4.16.A NMAC to appear as follows:

Place: By video deposition
Date: TBD by agreement of the parties

EXHIBIT A

to testify at the taking of a deposition regarding the topics of your testimony filed with the Oil Conservation Commission on August 26, 2024 as Exhibit B ("Exhibit B"). The deposition will be recorded by a certified court reporter and may be videotaped. This deposition testimony may be used at hearing for any and all purposes permitted by the New Mexico Oil Conservation Commission.

YOU ARE ALSO COMMANDED pursuant to Section 70-2-8 and Rule 19.15.4.16.A to provide contemporaneously with the deposition the following document(s) or object(s):

1. Any documents or data you reviewed or relied upon to develop your opinions on the subject matter set forth in Exhibit B that have not yet been produced; and
2. Any additional reports or analyses prepared by you, or at your direction, regarding your opinions on the subject matter set forth in Exhibit B.

This subpoena is issued on application of Empire New Mexico, LLC, through its attorneys of record.

Dated this _____ day of _____, _____.

NEW MEXICO OIL CONSERVATION COMMISSION

By: _____

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TO: Goodnight Midstream Permian, LLC
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YOU ARE HEREBY COMMANDED pursuant to NMSA 1978, §70-2-8 and Rule
19.15.4.16.A NMAC to produce the following documents, including communications, within
thirty (30) days of the service of this subpoena to all counsel of record in this matter:

1. All documents and data, including accounting data, that relates to mechanical integrity testing at each of Goodnight's SWD wells
2. All documents and data relating to corrosion encountered in each of Goodnight's saltwater disposal wells.

EXHIBIT B

3. All injection profile logs which were run to determine the rate of water injection into each set of perforations.
4. All openhole or cased hole pressure measurements to determine pressure along Grayburg and San Andres intervals.
5. All disposal water analyses during 2024.
6. Latest daily water injection and wellhead pressure for Goodnight's SWD wells inside the EMSU.

This subpoena is issued on application of Empire New Mexico, LLC through its counsel of record.

Dated this _____ day of _____, _____.

NEW MEXICO OIL CONSERVATION COMMISSION

BY: _____