

**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

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

**CASE NOS. 24018-24020
24025**

**APPLICATION OF GOODNIGHT MIDSTREAM
PERMAN, 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

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

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

**EMPIRE NEW MEXICO, LLC'S MOTION IN LIMINE TO
EXCLUDE TESTIMONY OF GOODNIGHT PERMIAN MIDSTREAM'S
EXPERT WITNESS PRESTON McGUIRE**

COMES NOW Empire New Mexico, LLC, by and through its undersigned counsel of record and for its *Motion in Limine to Exclude Testimony of Goodnight Permian Midstream's Expert Witness Preston McGuire*, states as follows:

I. Introduction

Empire New Mexico, LLC, ("Empire") hereby moves in limine for an order preventing Goodnight Permian Midstream, LLC, ("Goodnight") from introducing certain improper evidence at hearing of the consolidated cases starting on February 20, 2025. Empire seeks an order that prevents Goodnight from introducing irrelevant evidence, making prejudicial statements, or

asking prejudicial questions about Empire's injection pressures in the Grayburg waterflood operations.

Specifically, Empire seeks an order that prevents testimony by Goodnight's purported expert witness, Preston McGuire, as to Empire's alleged excessive injection surface injection pressures regarding Empire's waterflood operations in the Grayburg formation. The relevant portion from Preston McGuire's Self-Affirmed Statement at pages 33 and 34 entitled "Empire Has Serious Injection Violations at the EMSU" is attached hereto as Exhibit A.

Whether or not Empire is exceeding pressure limitations in its waterflood operations has nothing to do the major issues in the consolidated cases going for hearing before the Commission. The major issues before the Commission are whether there is communication between the Grayburg and San Andres formations within the EMSU, and whether there is a Residual Oil Zone (ROZ) in the San Andres formation also within the EMSU. Collateral issues include oil saturation in the San Andres, impermeable barriers between the Grayburg and the San Andres formations, and fractures between the two formations.

II. The New Mexico Rules of Evidence disallow introduction of irrelevant evidence.

Under the New Mexico Rule of Evidence, NMRA 11-402 provides that "evidence which is not relevant is not admissible and "relevant evidence" means evidence having the tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. NMRA 11-401. Here, the Grayburg injection pressures or operation of the Grayburg waterflood are of no consequence to the determination of the relevant issues before the Commission. Operation of the EMSU Grayburg waterflood has not been nor is it an issue now before the Commission. Goodnight's only reason for its pressure allegations are to cast a shadow of misconduct upon Empire, or to

ask prejudicial questions about the character of Empire. Under the New Mexico Rules of Evidence, specific instances of misconduct may not be introduced by Goodnight unless the evidence is “pertinent” to the case. NMRA 11-404 (a) (1). Operation of the Grayburg waterflood is not pertinent to the issues to be heard by the Commission.

NMRA 11-403 provides for excluding relevant evidence if its probative value is outweighed by one or more of “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” First, the evidence in Exhibit A is not relevant, and has no probative value to the issues before the Commission. But, if the Commission comes to a determination that it is relevant, its probative value is outweighed because it would cause unfair prejudice and bring up issues that would be confusing in nature, and intended to mislead the Commission.

III. The Commission has already ruled on the issue of excessive pressures in the Grayburg waterflood.

Earlier in these proceedings, Goodnight filed its Motion for an Order Directing Empire to Cease EMSU Waterflood Injections Above Permitted Surface Injection Pressures and to Provide a Verified Accounting of Waterflood Injection Motion Regarding EMSU Waterflood Injection. Empire duly responded to the Goodnight’s stating, among other things, that Goodnight’s motion “once again demonstrates Goodnight’s strategy and pattern of utilizing the Oil Conservation Division (“OCD”), Oil Conservation Commission (“OCC”), and the current hearings process in an abusive and wasteful manner in order to unnecessarily complicate and drive up the costs of resolving the actual issues before the OCC.” The outcome of the motion and response was that Empire must file monthly injection reports in Case 8397, the statutory unitization case approving the EMSU. In response to the motion, Empire argued that Goodnight, having no working interest in the EMSU, had suffered no harm. In his deposition, Mr. Preston

admitted that none of Empire's wells had exceeded the parting pressure of the Grayburg formation. Preston McGuire Deposition, 92 [6-18], See, Exhibit B. Furthermore, Empire's petroleum engineer, in his Self-Affirmed Statement, was able to explain the reason for some of the pressure reading that showed high pressure readings. So, the argument of irrelevancy and presenting cumulative evidence effectively violates the NMRA 11-403. Empire is otherwise complying with the injection permits. Mr. McGuire's testimony as shown in Exhibit A is not helpful whatsoever in resolving the issues in the consolidated cases. Mr. McGuire's testimony is nothing but a red hearing designed to show Empire in a bad light.

IV. Conclusion.

Preston McGuire's testimony is prejudicial and will not assist the Commission on the principal issues before the Commission. The testimony is not relevant, is confusing and misleading. Furthermore, the issue of injection pressures in the Grayburg waterflood has already been dealt with by the Commission.

For the foregoing reasons, Mr. McGuire's testimony as shown on Exhibit A and any planned follow-up discussion at the hearing should be excluded.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record by electronic mail this 13th day of February, 2025, as follows:

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STATE OF NEW MEXICO
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APPLICATIONS OF GOODNIGHT MIDSTREAM
PERMIAN, LLC FOR APPROVAL OF
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CASE NOS. 23614-23617

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CASE NO. 23775

APPLICATIONS OF EMPIRE NEW MEXICO LLC
TO REVOKE INJECTION AUTHORITY,
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CASE NOS. 24018-24020, 24025

APPLICATION OF GOODNIGHT MIDSTREAM
PERMIAN, LLC FOR APPROVAL OF A
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NEW MEXICO.

DIVISION CASE NO. 22626
ORDER NO. R-22869-A
COMMISSION CASE NO. 24123

SELF-AFFIRMED STATEMENT OF PRESTON MCGUIRE

1. My name is Preston McGuire. I work for Goodnight Midstream Permian, LLC ("Goodnight Midstream") as the Geology and Reservoir Engineering Manager.
2. I am familiar with the applications and motions filed by Goodnight Midstream and Empire in these cases, and I am familiar with the status of the lands and geology in the subject area. I have conducted a study and review of the reservoirs and geology in the area of the proposed



1

BEFORE THE OIL CONSERVATION COMMISSION

Santa Fe, New Mexico

Exhibit No. B

Submitted by: Goodnight Midstream Permian, LLC

Hearing Date: September 23, 2024

Case Nos. 23614-23617, 23775,

24018 – 24020, 24025, 24123

88. Goodnight has been unable to submit C-115s through the OCD's e-permitting portal for these wells because the OCD has not yet approved pending completion reports (C-104s/C-105s) that were submitted by Goodnight following completion of these wells. Goodnight has been in regular communication with the Division on this issue for more than a year in an effort to upload its C-115 reports to the Division. Goodnight has, however, submitted its C-115s to the Division by email.

89. Goodnight is not aware of any deficiencies or issues with its completion reports for either the Andre Dawson SWD or the Ernie Banks SWD.

Empire Has Serious Injection Permit Violations at the EMSU

90. While reviewing Empire's operation of the EMSU EOR injection wells, Goodnight became aware that Empire itself has serious injection permit violations that are far more alarming than exceeding an arbitrary injection rate. **It appears that Empire has exceeded the maximum permitted pressure allowed in 37 of their EOR injection wells within the EMSU for a total of 272 instances when the authorized maximum surface injection pressure was exceeded, as shown by their average injection pressures Empire provided on its C-115 reports.**

91. Some of the exceedances are minor, but many are not. **Goodnight Exhibit B-14** shows a table of the API, well name, C-115 reporting month, C-115 reported volume injected, C-115 reported average injection pressure, top perforation, permitted max injection PSI, requested permit PSI increase pressure (where applicable), the applicable order and pressure basis, the calculated PSI over the maximum authorized levels, and the calculated injection gradient (PSI/ft) for each exceedance. This analysis is from 2022 forward during the time Empire was operator of the EMSU. **Sixty-two of the instances are 50 PSI or more over the maximum permitted pressure and reach as high as 133 PSI over the permitted limit.**

92. Empire has claimed concern over Goodnight's permit infractions, stating that SWD injection could impair the Grayburg reservoir due to over-pressurization. Empire's counsel has gone as far to allege to the Commission that Goodnight's injection rates are "almost criminal," during an argument seeking to suspend Goodnight's injection authority. **In fact, Empire's own operations are posing more of a risk of damage to the EMSU as they are putting much more stress on the Grayburg reservoir through their own injection operations. The Grayburg is already an above-normal-pressure reservoir as a result of waterflood operations. Empire—and the Commission—should be more concerned with Empire's violation of its injection pressure limits than Goodnight's injection rates.**

Top of San Andres Aquifer

93. When Goodnight did its original investigation of the EMSU it discovered that the reported tops for the San Andres were very inconsistent and inaccurate. It appeared that the previous operators of the EMSU were not focused on picking an accurate or precise San Andres top in the EMSU. This is likely due to the fact the San Andres aquifer is well below the oil-water contact at the EMSU, was never prospective for hydrocarbons, and not included in the EMSU waterflood operations. It appears that previous operators did not take the time to properly map the San Andres aquifer as it was not the focus for operations and provided little to no value to the companies. The San Andres was so far below the oil producing zone (and the oil-water contact) that operators knew they were not going to be drilling that deep, so picking an accurate and precise San Andres aquifer top did not matter. They just needed to know generally where the top of the San Andres was located to avoid drilling and completing their Grayburg producing wells or the waterflood injection wells into it. The times the San Andres tops did matter was when the EMSU operators drilled the six water supply wells into the San Andres. Not surprisingly, the operator

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22 LEA COUNTY, NEW MEXICO. DIV. CASE NOS.

23 PRESTON MCGUIRE
24 January 21, 2025
25 9:05 a.m. MST
VideotapedZoom Deposition
Albuquerque, New Mexico

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: ERNEST L. PADILLA
Attorney for Empire New Mexico
REPORTED BY: Shawnie Archuleta, CRR, NM CCR #298
Veritext Legal Solutions
VIDEOGRAPHER: Albert Torres
Veritext Legal Solutions

Page 1

EXHIBIT

B

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1 or that -- that's the most accurate way to measure 2 those pressures. 3 Q. If the well was shut in for some reason, do you 4 know whether that pressure would have been recorded 5 before you get to the shutoff valve? 6 A. It depends on where the pressure is being 7 measured at. 8 Q. So you don't know, of these 37 wells, whether 9 or not those wells -- some of those wells were shut 10 in. 11 A. If some of the wells were shut -- well, I think 12 they reported volumes, so they were active at least 13 for some portions of the month. 14 Q. If the well was shut in, what would have been 15 the pressure at the wellhead? 16 A. It would be lower than the injection pressure. 17 Q. It would be zero, wouldn't it? 18 A. Not necessarily. 19 Q. Why not? 20 A. Because if the pressure -- if the formation is 21 above a normal pressure gradient, then it can 22 hold -- it can hold pressure at the surface while 23 shut in. 24 Q. So it would be natural pressure formation 25 pressure; is -- is that right?	1 A. If it's above the fracture parting pressure of 2 that reservoir, then yes. 3 Q. Well, are we -- is -- is Empire operating above 4 the fracture gradient? 5 A. They are very close. 6 Q. Are they exceeding the fracture gradient in any 7 wells that you have here, that you're talking about 8 here? 9 A. I'd have to remind myself and look at the 10 analysis. But from my recollection, they were -- 11 they were getting close to the fracture parting 12 pressure. 13 Q. Well, the question is more yes or no. Are any 14 of the wells exceeding the Grayburg gradient 15 pressure -- fracture gradient? 16 A. The number that I got for the fracture parting 17 pressure gradient of the Grayburg, I -- I don't 18 think that they went above that. 19 Q. You don't think or you know that they didn't go 20 past that pressure? 21 A. I'd have to look at the analysis again. 22 Q. Well, you're the ones making this assertion 23 here. 24 A. I didn't make the assertion that they were over 25 the fracture parting pressure in this statement
Page 90 1 A. It would not be formation pressure, it would be 2 the surface pressure measured at the wellhead. 3 Q. And that pressure, if that's the case, would be 4 an erroneous pressure -- pressure reading if the 5 well was shut in. 6 A. No. 7 Q. Why not? 8 A. Because if the pressure is -- if you're 9 measuring the tubing, that would be an accurate 10 pressure of what inside the tubing is. 11 Q. But it's not an injection pressure, is it? 12 A. If the well is shut in? 13 Q. Yes. 14 A. No, that would not be an injection pressure, 15 no. 16 Q. Paragraph 92 in bold you have: In fact, 17 Empire's own operations are posing more of a risk of 18 damage to the EMSU as they are putting much more 19 stress on the Grayburg reservoir through their own 20 injection operations. 21 Are you talking about the Grayburg or the 22 San Andres here? 23 A. I state "Grayburg reservoir" right there. 24 Q. You're saying that the waterflood, itself, is 25 harming the Grayburg reservoir? Page 91	Page 92 1 here. 2 Q. Do you know if you -- you don't have any 3 correlative rights that would be affected by 4 increased pressures, correct? 5 A. No. 6 Q. You're saying in the last sentence here that 7 Grayburg is already an above-normal-pressure 8 reservoir as a result of waterflood operations. 9 Empire and the Commission should be more concerned 10 with Empire's violation of its injection pressure 11 limits than Goodnight's injection rates. 12 What support do you have for that assertion? 13 A. Which assertion? 14 Q. That -- that the Grayburg is already an 15 above-normal-pressure reservoir as a result of 16 waterflood operations. 17 A. The injection and shut-in pressures of the 18 Grayburg waterflood injection wells. 19 Q. I have a hard time understanding why you even 20 bring this thing up if you have no interest in the 21 Grayburg formation. 22 Do you have an answer to that? 23 A. I don't -- I don't believe it was a question. 24 Q. Well, I'm asking you now. I mean, I made a 25 statement. But do you have an answer for that, as Page 93

24 (Pages 90 - 93)