

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Secretary

**Adrienne Sandoval**, Division Director  
**Oil Conservation Division**



October 13, 2022

**NOTICE OF MEMORANDUM OF AGREEMENT BETWEEN NEW MEXICO AND  
TEXAS RE: INTERSTATE OIL & GAS PRODUCTION WELLS**

Dear Operator,

The Oil Conservation Division of the New Mexico Energy, Minerals, and Natural Resources Department (“OCD”) and the Texas Railroad Commission (“RRC”) have entered into a Memorandum of Agreement (“MOA”) covering oil and gas wells with lateral components that cross the border between New Mexico and Texas and that have producing intervals in both states.

The MOA was developed to facilitate the collaboration between the OCD and RRC necessary to properly exercise their respective authority over the drilling, completion, and production from such cross-border wells. This is a landmark agreement between the two states holding the Permian Basin, America’s largest and most productive oil production basin. Because of the nature of the underlying resource, operators have approached both OCD and the RRC about developing resources that straddle the border in a manner that allows for more efficient extraction and would avoid waste.

The MOA provides New Mexico and Texas with a framework for the orderly administration of their respective regulatory authority over aspects of such cross-border wells within their respective jurisdictions. It also enables the states to share information necessary to ensure appropriate inspection, oversight, and regulation of such cross-border wells and any oil and gas they produce. The MOA, provides for allocation of production, reporting, and other permitting and operational requirements, such as financial assurance and insurance requirements for cross-border wells as summarized below.

- **Allocation of production** is determined on a proportional basis considering all relevant factors including, without limitation, the length of well bore and the mineral acreage assigned to each producing interval.
- **Reporting:** Operators are required to comply with each state’s reporting requirements, reporting the following information on both a gross and allocated basis:
  - production volumes;
  - volume of water produced;
  - any other required information for that portion of the wellbore located in each state; and,
  - any other information required under OCD or RRC rules or regulations concerning oil and gas within each agency’s jurisdiction.

**For purposes of OCD reporting and forms (e.g., C-115, C-115B and other similar reporting), any volumes required for such shall be on an allocated basis.**

- Operators of such cross-border wells shall submit, on a monthly basis, gross volumes for such wells that support the allocated volumes that are otherwise reported to OCD for regulatory purposes.
- **Surface Facilities:** Surface facilities, surface operations, well testing, plugging, monitoring and abandonment associated within any such cross-border wells are subject to the compliance rules in the state where the surface facilities are located.
- **Downhole Activities:** Downhole activities (e.g., drilling and completion) associated with any cross-border wells must satisfy the requirements of both states.
- **Application Process:** Regardless of the location of any associated facilities, an operator of such a cross-border well is required to submit an application in each state and obtain all necessary approvals from each state before commencing development or operation.
- **Other Provisions:**
  - The existence of this MOA does not relieve operators of their obligation to obtain any necessary approvals from the New Mexico State Land Office or the Bureau of Land Management for any such wells to the extent they cross state or federal lands or access state or federal minerals.
  - Cross-border well permits may contain additional conditions of approval as authorized by law.
  - Operators are required to maintain financial assurance in each state for any such well as if the well were located exclusively in one state or the other.

The MOA's effective date was September 2, 2022. Operators interested in developing such wells are encouraged to read the MOA as any such well will be subject to its requirements in addition to other applicable requirements of law.

Any questions regarding permitting, or other cross-border well questions, may be directed to: [OCD.Engineer@emnrd.nm.gov](mailto:OCD.Engineer@emnrd.nm.gov).

For the latest information about the OCD and TX agreement, visit the OCD's website: <https://www.emnrd.nm.gov/ocd/ocd-announcements-and-notifications/>.

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE NEW MEXICO ENERGY, MINERALS, & NATURAL RESOURCES  
DEPARTMENT, OIL CONSERVATION DIVISION  
AND THE  
OIL AND GAS DIVISION,  
RAILROAD COMMISSION OF TEXAS**

This MEMORANDUM OF AGREEMENT (“MOA”) is by and between the OIL CONSERVATION DIVISION of the STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT (hereinafter referred to as the “OCD”) and the OIL AND GAS DIVISION of the RAILROAD COMMISSION OF TEXAS (hereinafter referred to as the “RRC”) (collectively, the “Parties”).

THE PARTIES HERETO HAVE REACHED THE FOLLOWING AGREEMENT:

**ARTICLE I  
BACKGROUND**

1. The RRC through its offices and staff has jurisdiction and authority over the conservation, management, and development of natural resources, such as crude oil and natural gas, within the boundaries of the State of Texas (Texas Natural Resources Code, Sections 81.051, 86.011 and 86.041).
2. The OCD through its offices and staff has jurisdiction and authority over all:
  - a. matters relating to the conservation of oil and gas, and
  - b. persons, matters, or things necessary or proper to enforce the law of this state relating to the conservation of oil or gas and prevention of waste, within the boundaries of the State of New Mexico (NMSA 1978, Section 70-2-6).
3. The Parties have received applications from operators (hereinafter referred to as “Operators”) of proposed horizontal wells that cross the borders of each state and that have producing intervals or take points

within each state from the same well bore (a "Covered Well"). These applications are designed to avoid the waste of oil and gas resources and to facilitate the full and efficient production of oil and gas reservoirs that may exist under, across, and immediately adjacent to the borders between the states of Texas or New Mexico.

## **ARTICLE II PURPOSE**

1. This MOA's purpose is to facilitate the collaboration between the OCD and RRC in matters related to implementing OCD's and RRC's respective regulation of the drilling, completing and production from Covered Wells which have a well bore that crosses the border between New Mexico and Texas and open producing intervals or take points in New Mexico and in Texas.
2. The Parties agree each has the necessary authority to:
  - a. require the Operator of any Covered Well to adhere to the guidelines as set forth herein; and
  - b. impose, as a condition in any approval for a Covered Well, other reasonable requirements requested by the Parties in connection with their independent review and approval of such facility.

## **ARTICLE III TERM**

1. This MOA shall remain in effect from the Effective Date, which is defined as the date of final signature of the MOA and shall remain in effect unless and until terminated by either the OCD or the RRC upon 90 days' notice in writing.
2. Any activities authorized prior to the termination of this MOA shall remain subject to its requirements for the duration of any such activity regardless of the status of the MOA.

## **ARTICLE IV ALLOCATION OF PRODUCTION**

1. Allocation of all oil and gas production for any Covered Well under this MOA and its associated revenues, royalties, taxes, and any other related allocations shall be determined on a proportional basis considering all relevant factors including, without limitation, the length of well bore and the mineral acreage assigned to the Covered Well in each state. Allocation may also be otherwise determined by the OCD, RRC, and the Operator considering such other factors that are reasonable and appropriate.

## **ARTICLE V REPORTING**

- 1) The Operator shall report to each state's appropriate regulatory agencies:
  - a) the gross production volumes from the entire wellbore and the production volumes allocated to lands located within each state's borders, as applicable (the OCD and RRC shall provide guidance on how such reporting shall be accomplished within their respective reporting systems);
  - b) both the gross and allocated volume of water produced by a Covered Well as directed by the OCD and RRC within their respective reporting systems;
  - c) any required information for that portion of the wellbore located within each state's borders; and,
  - d) any other information required under either OCD or the RRC rules or regulations concerning oil and gas within their respective jurisdictions, including under rules relating to prevention of waste that exist or may be established by either Party. Such reporting shall be on an allocated basis, as applicable, and in the same manner as production. Gross information shall also be provided by Operators for reference as directed by the OCD or RRC, as applicable.

- 2) The Parties agree to include conditions of approval in any permit for an activity covered by this MOA that are necessary to facilitate the implementation of the commitments herein.

## **ARTICLE VI PERMITTING AND OPERATIONS**

- 1) Compliance related to surface activities, any surface operations, well testing, monitoring, and plugging and abandonment shall be subject to the rules and regulations applicable to the surface location of any Covered Well under this MOA.
- 2) Environmental compliance issues, such as releases, shall also be subject to the rules and regulations applicable to the location of the area affected by any such release or environmental compliance issue.
- 3) Compliance related to certain downhole activities – i.e., drilling, completion, and any subsequent down-hole actions – shall conform to the rules and regulations of each state.
- 4) Any Covered Well subject to this MOA to be drilled on or through:
  - a) New Mexico state trust lands requires the Operator to obtain separate approval from the Commissioner of Public Lands prior to the drilling or development of any such well; or
  - b) Texas state lands requires the Operator to obtain separate approval from the Commissioner of the Texas General Land Office.

## **ARTICLE VII FINANCIAL ASSURANCES AND INSURANCE**

- 1) The Operator shall separately maintain and file the appropriate financial assurance independently required by the applicable rules of both the State of New Mexico and the State of Texas.
- 2) Such financial assurance requirements shall be determined under each state's rule as if the facility in question was exclusively in one state or the other.

## **ARTICLE VIII NOTICE**

- 1) Any notice, request or other communications under this MOA shall be in writing and shall be deemed to have been duly given or made when it has been delivered by hand, mail, or electronic mail to each of:

For the OCD: Oil Conservation Division  
Energy, Minerals and Natural Resources  
Department  
Attn: Director  
1220 South St. Francis Dr.  
Santa Fe, NM 87505  
Email: [OCD.Engineer@state.nm.us](mailto:OCD.Engineer@state.nm.us)

For the RRC: Director of the Oil and Gas Division  
Railroad Commission of Texas  
PO Box 12967  
Austin, Texas 78711-2967  
Email: [danny.sorrells@rrc.texas.gov](mailto:danny.sorrells@rrc.texas.gov)

- 2) This MOA shall not be altered, changed, or amended except by instrument in writing agreed to and executed by both the OCD and RRC.
- 3) For purposes where an Operator is required to provide notice to both states, the OCD and the RRC agree to accept and honor forms and documents from the other Party to the maximum extent practicable.
- 4) The OCD and RRC shall notify the public of this MOA in each Party's normal fashion of providing such notice.

## **ARTICLE IX MISCELLANEOUS**

- 1) The OCD and the RRC agree to share information related to any Covered Wells or other activities under this MOA, including any inspection reports, and to mutually support any compliance actions deemed necessary by either state to the maximum extent permitted by law.

- a) With respect to inspections, the Parties agree to coordinate and provide access to inspectors from the other state to a Covered Well's facilities as necessary to implement this agreement:
  - i) For OCD, such access shall be coordinated through the OCD's Engineering Bureau Chief; and
  - ii) For RRC, such access shall be coordinated through applicable District Offices.
- 2) The OCD or the RRC shall maintain their independent ability to take any action deemed appropriate by said party and nothing herein shall be construed as a waiver of any rights which either party may have.
- 3) Should either Party propose rules affecting the subject matter of this MOA, the other Party shall be provided Notice and the proposal preamble for any such rule shall include a link to this MOA.



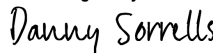
**IN WITNESS WHEREOF**, the OCD and the RRC, each acting through its representatives duly authorized thereunto, have executed this Memorandum of Understanding and it shall be effective as of the Effective Date.

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Date 9/2/2022

State of New Mexico  
Energy, Minerals and Natural Resources Department  
Oil Conservation Division

Title: Cabinet Secretary or Designee

DocuSigned by:  
  
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Date 9/1/2022

Railroad Commission of Texas  
Oil and Gas Division

Title: Director, Oil and Gas Division