James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek
Suite 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW, PLLC
5600 Tennyson Parkway
Suite 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS,**
**FORT WORTH DIVISION**

| | | |
|---|---|---|
| **In re:** | § | **Chapter 11** |
| | § | |
| **VISTA PROPPANTS AND LOGISTICS, LLC, ET AL.,[1]** | § | **Case No. 20-42002-ELM-11** |
| | § | |
| | § | |
| **Debtors** | § | **Jointly Administered** |
| | § | |
| **MAALT, LP,** | § | |
| | § | |
| **Plaintiff,** | § | |
| | § | |
| **vs.** | § | **Adversary No. 20-04064-elm** |
| | § | |
| **SEQUITUR PERMIAN, LLC,** | § | **Removed from Cause No. CV19-003 in the 51st Judicial District Court, Irion County, Texas** |
| **Defendant.** | § | |
| | § | |

**RESPONSE TO DEFENDANT'S MOTION FOR LEAVE TO TAKE THE DEPOSITION OF BRIAN SEWARD AND SUPPORTING BRIEF**

[1]The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vista Proppants and Logistics, LLC (7817) ("Vista HoldCo"); VPROP Operating, LLC (0269) ("VPROP"); Lonestar Prospects Management, L.L.C. (8451) ("Lonestar Management"); MAALT Specialized Bulk, LLC (2001) ("Bulk"); Denetz Logistics, LLC (8177) ("Denetz"); Lonestar Prospects, Ltd. (4483) ("Lonestar Ltd."); and MAALT, LP (5198) ("MAALT"). The location of the Debtors' service address is 4413 Carey Street, Fort Worth, TX 76119-4219.

**TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:**

Plaintiff, Maalt, LP ("Maalt") and Third-Party Defendant, Vista Proppants and Logistics, LLC ("Vista") file this Response to Defendant's Motion for Leave to Take the Deposition of Brian Seward (Doc. 100), and in support shows the Court as follows:

**NO GOOD CAUSE HAS BEEN SHOWN TO EXTEND THE DISCOVERY DEADLINE FOR FACT DISCOVERY**

**(A) The history of the discovery process in this case demonstrates a lack of diligence by Sequitur in pursuing its desired new discovery.**

This case is now over two years old. It was filed in February 2019 and Defendant answered on March 8, 2019. The case continued unabated until the filing of the underlying Chapter 11 cases in June 2020. Three months later it was removed to this Court, and the parties have since had from September 4, 2020 to February 28, 2021 to complete their fact discovery. While the Covid-19 pandemic that began in March 2020 had certain impacts on pending court cases, by September 2020 litigants and courts had adopted to teleconferencing for depositions. Thus, but for a brief period of June through August 2020, the parties have had ample time to conduct fact depositions. Thus, Sequitur has had 21 months in which to take the depositions it desired.

The following demonstrates the relevant discovery landmarks that pertain to Sequitur's request to depose Brian Seward after the discovery period deadline:

- On January 16, 2020, Sequitur issued its Notice of Intent to Take Deposition by Written Questions to the Union Pacific Railroad ("UP") (Mr. Seward's employer);[2]
- On January 17, 2020, Maalt identified Brian Seward as a person who may have knowledge of relevant facts;[3]

[2] Maalt Appx 004.
[3] Maalt Appx 014. The disclosures that are a part of Sequitur's appendix are dated May 15, 2020, but that was not the first time Mr. Seward was identified as a person with potential knowledge of facts.

- On March 10, 2020, the written deposition of the UP was taken, and the transcript was returned with over 600 pages of documents – Mr. Seward's name appears on virtually every page of those records;[4]

***Three Months Elapse with no Effort to Depose Seward***

- On June 9, 2020, Maalt filed its Chapter 11 case;

- On September 4, 2020, Maalt filed its Notice of Removal of this case which ended the automatic stay (Doc. 1);

***Five Months Elapse with no Effort to Depose Seward***

- On February 12, *2021* and for apparently the first time, Sequitur's attorney contacted the UP to request a deposition of Mr. Seward for the first time;[5]

- On March 3, 2021 and for the first time, Sequitur's attorney requested availability for that deposition on either March 18 or 19, 2021.

As the foregoing shows, Sequitur's attorneys were fully aware of Mr. Seward's involvement in the discussions regarding crude-by-rail from the Permian Basin as early as March 10, 2020, a year ago. The foregoing also shows that Sequitur's attorneys did absolutely nothing to schedule the deposition of Mr. Seward until two weeks before the end of the discovery period.

**(B) Due diligence is required to justify extending the discovery period provided in the Court's Scheduling Order.**

> To assist in the speedy and efficient resolution of cases, Rule 16(b) requires the court to enter a scheduling order that limits the time litigants may file motions. Once set, the scheduling order may only be modified by leave of court upon a showing of good cause.

*Argo v. Woods*, 2010 WL 3522047 **2, 399 Fed.Appx. 1 (5th Cir. 2010). The same rule applies to discovery periods. *See Droblyn v. Rock-Tenn Services, Inc.*, 2014 WL 798381 *1 (N.D. Tex.

[4] Maalt Appx 038.
[5] Sequitur Appendix 27.

2014). "To meet the good cause standard, the Plaintiff must show that, despite [its] diligence, [it] could not reasonably have met the scheduling order's deadline." *Id*.

In *Droblyn*, the plaintiff filed a motion to compel the defendant to answer requests for admissions and interrogatories, and asked that the discovery deadline in the court's scheduling order be extended to accommodate her late served discovery. The court denied the motion and request to extend the discovery period, stating:

> Here, the Court finds that Plaintiff has not made this showing. Plaintiff's own factual recitations make clear that she could have—but did not—serve these additional discovery requests in time to be completed prior to the deadline set by the Court. That is, at the very latest, Plaintiff was aware of her alleged need to request additional discovery in mid-September 2013—over three months before the expiration of the Court's discovery deadline.
>
> * * *
>
> On this record, Plaintiff has not established that, despite her diligence, she could not reasonably have met the scheduling order's deadline to serve additional discovery requests in time to be completed by December 20, 2013. The Court will not exercise its discretion to extend the discovery cutoff in the Initial Scheduling Order, which has been in place since March 18, 2013.

*Id*. at *2.

Here, Defendant has not demonstrated that it was unable to take the deposition of Mr. Seward before the expiration of this Court's Scheduling Order. Sequitur gives no explanation of why it did not seek or schedule the deposition between January 17, 2020 (the date Seward was first disclosed) and June 2, 2020 (the date of Maalt's bankruptcy) or between September 4, 2020 (date of removal) and February 28, 2021 (end of fact discovery). The mere fact that its attorneys sent an email to the UP asking for dates Mr. Seward may be available just two weeks before the end of the discovery period does <u>*not*</u> demonstrate due diligence in seeking the deposition. The fact that it did not offer any explanation showing that it was unable to take the deposition in the 11

months available to it before that demonstrates Sequitur's lack of diligence. *Estate of Newton v. Grandstaff*, 2013 WL 1499354 *7 (N.D. Tex. 2013).

**(C) The winter storm excuse does not demonstrate diligence in seeking the deposition.**

Sequitur argues that due to the winter storm it was unable to respond to email from the UP because of a power outage. While wide-spread power outages occurred both in the DFW area and in Houston, there have been no reports of cellular service outages. In this day and age, everyone receives their email on their phone or can retrieve it from the email server via cellular phone. Sequitur has not offered any explanation of why it was not able to review or respond to email that can be retrieved from devices that are not necessarily rendered useless by a power outage. In fact, on February 15, 2020, the undersigned communicated via email with Sequitur's attorneys regarding a deposition scheduled for the next day despite his house being without power for well over 24 hours. But, even if the excuse is valid, it does not explain the lack of diligence in seeking the Seward deposition in the 10 months available to Sequitur before the freeze.

**(D) The fact that certain depositions are being completed after the end of the discovery period does not demonstrate diligence or excuse a lack of diligence.**

Sequitur is correct that there are two depositions that occurred or will occur after the fact discovery cutoff, but the circumstances surrounding the scheduling of those depositions is far different than the circumstances surrounding Sequitur's request to schedule the Seward deposition.

First, the request for a deposition of Maalt's "corporate representative" was first made before Maalt's bankruptcy filing in June 2020. Well before the fact discovery cutoff, Sequitur again requested that deposition. The deposition was ultimately scheduled for and taken on March 5, 2021 due to the parties' inability schedule it in February, 2021.

Second, the request for the deposition of Robert Wright was made well before the fact discovery cutoff as well. It was scheduled for February 16, 2021, and Sequitur issued its notice for that deposition on February 4, 2021. Due to various parties being without power early in the week of February 15, including the witness, his attorney, the court reporter, and the undersigned, the parties agreed to reschedule the deposition to March 11, the earliest time the witness and his lawyer could be available. On March 10, 2021, the undersigned learned that that deposition would again have to be rescheduled due to the witness experiencing a severe reaction to the Covid-19 vaccination.

By contrast, Sequitur did not initiate any effort to take Mr. Seward's deposition until two weeks prior to the fact discovery cutoff, and did not communicate with Maalt and Vista's attorneys about such a deposition until *after* the cutoff. Again, it could have, but did not, schedule the deposition well before the fact discovery cutoff.

**(E) The need for the deposition is not shown by Sequitur's motion.**

Sequitur's claimed need for the deposition is that Mr. Seward was identified as a potential fact witness and his testimony may somehow result in a "complete trial record." Nothing in the motion describes what his expected testimony will be or how that testimony will advance the issues in the case. Quite simply, Sequitur cannot supply that information as it seeks to use the deposition as a fishing expedition hoping to find something that might help it avoid a judgment.

Its argument that it needs to depose Mr. Seward because both parties identified him as a potential fact witness does not support its motion or reflect the reality of this case. Mr. Seward was one of 47 people identified in Maalt's January 2020 disclosures. Of the 10 people who have been deposed, 3 were employees of Sequitur and 4 were or are employees of Maalt. Of the 21

people who did not work for a party, only 4 have been scheduled for a deposition. Sequitur's argument does not demonstrate good cause for its motion.

If it was not evident before, it should be now – Sequitur's sole purpose in seeking this deposition at two minutes before midnight, filing its motion, and filing a motion for continuance is to continue its efforts to avoid a trial in this case.

**(F) Allowing additional fact witness depositions will prejudice Maalt and Vista.**

Sequitur's contention that no prejudice will occur to Maalt or Vista if the Seward deposition proceeds at this late date is simply wrong and unsupported. Its mere conclusory statement does not negate the prejudice Maalt and Vista could experience. The depositions of Sequitur's experts are scheduled for March 25 and 26, 2021, and were scheduled for a time when all fact discovery would be complete. Additional fact discovery could, and probably would, result in those experts revising their opinions which would require Maalt to redepose them and perhaps create the need for Maalt to retain rebuttal experts that are not currently needed. It could potentially lead to a party seeking to amend its prior motions for summary judgment or file new ones. Every new deposition has the potential to further extend the discovery in this case, the other deadlines already established by the Court, and require or result in further delays of the trial in this case.

A continuance would not cure any prejudice to Maalt and Vista. In light of Sequitur's failure to explain the steps it took to depose Mr. Seward in the year prior to the bankruptcy filing and the additional 6 months available for discovery since the removal of this case, the motion should not be granted. *Baylor University Medical Center v. Epoch Group, L.C.*, 2005 WL 2124126 *9 (N.D. Tex. 2005). *See also, Philadelphia Indem. Ins. Co. v. Hallmark Claims Service, Inc.*, 2008 WL 5191910 *12 (N.D. Tex. 2008). As this Court well knows, in the volatile oil and gas industry justice delayed could very well be justice denied.

## Conclusion

Wherefore, Maalt prays that the Court deny Defendant's Motion for Leave in its entirety.

DATED: March 17, 2021

Respectfully submitted,

By: */s/ James Lanter*

James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek
Suite 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW, PLLC
5600 Tennyson Parkway
Suite 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com

ATTORNEYS FOR PLAINTIFF, MAALT, LP and THIRD-PARTY DEFENDANT VISTA PROPPANTS AND LOGISTICS, LLC

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record through the Court's electronic filing service on March 17, 2021.

/s/ *James Lanter*
James Lanter

James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek
Suite 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW, PLLC
5600 Tennyson Parkway
Suite 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS,**
**FORT WORTH DIVISION**

| | | |
|---|---|---|
| **In re:** | § | **Chapter 11** |
| | § | |
| **VISTA PROPPANTS AND LOGISTICS, LLC, ET AL.,[1]** | § | **Case No. 20-42002-ELM-11** |
| | § | |
| | § | |
| **Debtors** | § | **Jointly Administered** |
| | § | |
| **MAALT, LP,** | § | |
| | § | |
| **Plaintiff,** | § | |
| | § | |
| **vs.** | § | **Adversary No. 20-04064-elm** |
| | § | |
| **SEQUITUR PERMIAN, LLC,** | § | **Removed from Cause No. CV19-003 in the 51st Judicial District Court, Irion County, Texas** |
| **Defendant.** | § | |
| | § | |

**APPENDIX TO RESPONSE TO DEFENDANT'S MOTION FOR LEAVE TO TAKE THE DEPOSITION OF BRIAN SEWARD**

Plaintiff, Maalt, LP ("Maalt") and Third-Party Defendant, Vista Proppants and Logistics, LLC ("Vista"), submit this Appendix to their Response to Defendant's Motion for Leave to Take

[1]The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vista Proppants and Logistics, LLC (7817) ("Vista HoldCo"); VPROP Operating, LLC (0269) ("VPROP"); Lonestar Prospects Management, L.L.C. (8451) ("Lonestar Management"); MAALT Specialized Bulk, LLC (2001) ("Bulk"); Denetz Logistics, LLC (8177) ("Denetz"); Lonestar Prospects, Ltd. (4483) ("Lonestar Ltd."); and MAALT, LP (5198) ("MAALT"). The location of the Debtors' service address is 4413 Carey Street, Fort Worth, TX 76119-4219.

the Deposition of Brian Seward filed contemporaneously herewith. This Appendix contains copies of the exhibits to the motion.

| PAGE | DOCUMENT |
|---|---|
| Maalt Appx 004 | Notice of Intention to Take Deposition by Written Questions of the Union Pacific Railroad by Sequitur Permian, LLC dated January 16, 2020 |
| Maalt Appx 014 | Plaintiff's and Third Party Defendant's Combined Amended and Supplemental Response to Request for Disclosures dated January 17, 2020 |
| Maalt Appx 038 | Deposition on Written Questions of the Union Pacific Railroad dated March 10, 2020 (omitting produced documents) |
| Maalt Appx 050 | Email from Chris Kronzer to James Lanter and Paul Wickes dated March 3, 2021 requesting availability for a deposition of Brian Seward |

DATED: March 17, 2021

Respectfully submitted,

By: */s/ James Lanter*

James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek
Suite 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW, PLLC
5600 Tennyson Parkway
Suite 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com

ATTORNEYS FOR PLAINTIFF, MAALT, LP AND VISTA PROPPANTS AND LOGISTICS, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record through the Court's electronic filing service on March 17, 2021.

*/s/ James Lanter*
James Lanter

**CAUSE NO. CV19-003**

| | | |
|---|---|---|
| **MAALT LP** | § | **IN THE DISTRICT COURT** |
| **VS** | § | **IRION COUNTY, TEXAS** |
| **SEQUITUR PERMIAN, LLC** | § | **51ST JUDICIAL DISTRICT** |

## NOTICE OF INTENTION TO TAKE DEPOSITION BY WRITTEN QUESTIONS

You will please take notice that **(20)** days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the Custodian of Records for **UNION PACIFIC RAILROAD at the office of the summoned witness or at another agreed upon time and/or place before** a Notary Public; an Officer of the State of Texas; a notary agent of Lexitas, 325 North Saint Paul Street, Suite 1900, Dallas, TX 75201; or their designated agent.

Which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is here made as authorized under the Rule 200.2, Texas Rules of Civil Procedure, to the Officer authorized to issue a SUBPOENA DUCES TECUM and cause it to be served on the witness to produce:

ANY AND ALL RECORDS AS DESCRIBED IN THE ATTACHED EXHIBIT "A"

And turn all such records over to the Officer authorized to take this deposition for inspection and photocopying the same may be made by him and attached to said deposition.

**MATTHEW A. KORNHAUSER**
HOOVER SLOVACEK LLP
State Bar No. 11684500
Attorney For Defendant

5051 WESTHEIMER
SUITE 1200
HOUSTON, TX 77056
7139778686

/S/ MATTHEW A. KORNHAUSER

I certify that a true and exact copy of the foregoing Notice of Intention To Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant of Rule (21a), by certified mail, postage prepaid, hand delivered, or by telephonic document transfer.

**January 16th, 2020**

By: _____

Sworn to and subscribed before me on this the **16th** day of **January, 2020**.

JAMIE BURWELL
Notary Public, State of Texas
Comm. Expires 03-22-2021
Notary ID 8842997

_____
Notary Public in and for
The State of TX

**88599 - 1 - 685922**

**Definitions for Exhibit A**

As used herein, the following terms have the meaning and significance set forth below:

1. You or Your: "You" or "Your" shall mean the person or entity to whom these questions are directed, or any employees, representatives, agents, contractors, successors-in-interest, predecessors-in-interest, agents, assignors, assignees, person(s) or entity(ies) acting or purporting to act on behalf of said person or entity.

2. Document: "Document" means and includes all matters within the scope of Texas Rules of Civil Procedure, however and by whomever produced or reproduced, now or at any time in Your possession, custody or control, or to which You have access including, but not limited to, all letters, telegrams, telexes, cables, emails, text messages, telephone records and notations made in connection therewith, minutes, bulletins, instructions, advertisements, literature, reports, papers, books, accounts, memoranda, notes, notebooks, drafts, data sheets, worksheets, drawings, agreements, circulars, computer programs and data, studies, analyses, comparisons, surveys, memoranda of conversations, sound recordings, photographs, motion picture films, television tapes, magnetic tapes, diaries, and other written, electronic data, reported, recorded or graphic matter and records of information and communication, and further including copies or reproductions of all of the foregoing items upon which notations and writing appear which do not appear on the originals. Without limitation of the term "control" as used in the preceding sentence, a document is deemed to be in Your control if You have the right to secure the document or copy thereof from another person or public or private entity having actual physical possession thereof.

3. Communications: "Communication(s)" means and includes all letters, telegrams, telexes, cables, telephone conversations, records, e-mails, texts, notes, memoranda of conversations, sound recordings, magnetic tapes and other written, reported, recorded or graphic matter relating to any exchange of information between You and the Plaintiff named below, and further including any "document" described in Item (B) relating to such correspondence.

4. Plaintiff: "Maalt" means MAALT, LP, as well as any of its owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity, which includes, but is not limited to, Vista Proppants and Logistics, Inc., Vista Proppants and Logistics, LLC, Lonestar Prospects, Ltd., Maalt Specialized Bulk, LLC, Lonestar Prospects Holding Company, L.L.C., and First Reserve Management, L.P.

5. Defendant: "Sequitur" means SEQUITUR PERMIAN, LLC as well as any of its respective officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity.

6. Jupiter: JupiterMLP, LLC, Jupiter Marketing & Trading LLC, and any of their respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries,

affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity, which includes, but is not limited to, Jupiter Pipeline, LLC, Jupiter Transport, LLC, Jupiter Rail, LLC, Jupiter Crude Upgrading & Processing, LLC, Jupiter Marine Terminals, LLC, Jupiter Equipment Leasing, LLC, Jupiter Energy Group Holdings, LLC, Jupiter Energy Trading, LLC, and JEG Holdings, LLC.

7. As used herein, the term "TXPF" means Texas Pacifico Transportation, Ltd. as well as any of its respective officers, directors, representatives, agents, including without limitation, Stan Meador, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity.

8. As used herein, the term "UPRR" means Union Pacific Railroad Company and any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, including without limitation, Ashley McCall, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

9. As used herein, the term "Shell" means Shell Oil Company, as well as any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

10. As used herein, the term "BP" means Eni BB Petroleum Inc., A Delaware Corporation, and any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

11. Identify: "Identify," when used in reference to a person, means to state the person's full name, the person's last known business address and telephone number, and in the case of a natural person, also state his or her residence, address and telephone number.

12. Identify a document: "Identify a document" means to state the author's name, the addressee's name, the date, the type of document (e.g. letter, chart, memo, etc.), the present or last known custodian of that document and his present location, a brief summary of the document's contents, and all other characteristics by which that document might be distinguished from any other document.

13. Lawsuit: "Lawsuit" means any and all claims or causes of action presently filed in the above-captioned cause or known to You.

14. Describe, identify, explain and/or state: "Describe", "identify", "explain" or "state," when used herein, mean to detail fully and completely all the discoverable information pertaining to this cause which concerns or is relevant to the inquiry being made.

15. Person: "Person" means natural persons, corporations, partnerships, sole proprietorships, associations or any other kind or type of entity or its agents, servants and employees.

16. Occurrence: "Occurrence" shall mean the events or happenings as set forth in the Plaintiff's and Defendant's most recent pleadings which have given rise to this Lawsuit.

17. For purposes of interpreting or construing the scope of the requests propounded herein, the terms used shall be given their most expansive and inclusive interpretation, unless otherwise specifically limited to the request itself. This includes, without limitation, the following:

a. Construing "and" as well as "or" in the disjunctive or conjunctive as necessary to make the request more inclusive; and

b. Construing the term "relating to" to include any connection whatsoever, direct or indirect, with the requested information, without limitation, unless otherwise specified in the request.

18. TSA: "TSA" means the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018 under which Plaintiff's Terminal was to be made available to Defendant on an exclusive basis for use for the throughput and transloading of crude oil.

19. As used herein, the term the "Project" means the services, work, obligations, performance duties, operations, and business contemplated and discussed in the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018.

20. As used herein, the terms "Barnhart Facility" or "Terminal" shall mean terminal located in Barnhart, Texas which was owned by Maalt, LP and subject to the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018.

21. The term "lawsuit" means any and all claims or causes of action presently filed in the above-captioned cause or known to you, including Case No. CV19-003 pending before the 51st District Court in Irion County, Texas.

23. The term "CBR" shall mean Crude by Rail.

**EXHIBIT A**
**PRODUCTION REQUEST**

1. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Jupiter" (including but not limited to Travis Morris or any other employee or person affiliated with Jupiter) regarding moving "CBR" on the "UPRR" from Barnhart Facility during the time period of January 2018 through December 2019.

2. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "TXPF" (including but not limited to Stan Meador, Jorge Gonzalez or any other employee or person affiliated with TXPF) regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

3. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Sequitur" including any employee or person affiliated with Sequitur, regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

4. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Maalt/Vista" including Jon Ince and any other employee or person affiliated with Maalt/Vista regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

5. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any third party regarding requested rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

6. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Shell" regarding rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019. These documents should include any request for rates, rates quoted, hazmat and surcharges.

7. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "BP" regarding rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019. These documents should include any request for rates, rates quoted, hazmat and surcharges.

8. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any third party regarding Sequitur's desire to move CBR on the UPRR from Barnhart Facility.

9. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any common carrier regarding Sequitur's desire to move CBR from Barnhart Facility.

10. UPRR policies regarding run through agreements with short line railroad partners, such as TXPF, which were enacted in 2019.

11. A true and correct copy of the Union Pacific Railroad Equipment Run-Through Agreement with Short Line railroad partners utilizing UPRR locomotives, effective date of January 1, 2019, inclusive of term sheet.

12. A true and correct copy of any policy regarding the shipping of CBR on the UPRR from May 2018-2019.

13. Documents evidencing any shipment of CBR on the UPRR from Barnhart Texas and/or the Barnhart Facility in 2018 and 2019.

# THE STATE OF TEXAS
# DOCUMENT SUBPOENA
# PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 176.2(b)

CAUSE NO. CV19-003 IN THE 51ST JUDICIAL DISTRICT COURT OF IRION COUNTY, TEXAS

*Maalt, LP*
*v.*
*Sequitur Permian, LLC*

**TO: Any Sheriff or Constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Texas Rule of Civil Procedure 176.4 and 176.5.**

YOUR ARE HEREBY COMMANDED TO SUMMON

UNION PACIFIC RAILROAD COMPANY
c/o CT Corporation System, Registered Agent
1999 Bryan St., Suite 900
Dallas, Texas 75201-3136

TO PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED DOCUMENTS OR TANGIBLE THINGS IN THE POSSESSION, CUSTODY, OR CONTROL OF UNION PACIFIC RAILROAD COMPANY AS REQUESTED IN THE ATTACHED **EXHIBIT A** BY 9:00 A.M. ON MONDAY, FEBRUARY 10, 2020, AT THE OFFICE OF HOOVER SLOVACEK LLP, 5051 WESTHEIMER, SUITE 1200, HOUSTON, TEXAS 77056

**Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both. Texas Rule of Civil Procedure 176.8(a).

**DO NOT FAIL** to return this writ to said Court, with return thereon, showing the manner of execution.

By: */s/ Matthew A. Kornhauser*
Matthew A. Kornhauser
TBA No. 11684500

Issued at the request of Defendant, Sequitur Permian, LLC, whose attorneys of record are Matthew A. Kornhauser and Dylan B. Russell, Hoover Slovacek LLP, 5051 Westheimer, Suite 1200, Houston, Texas 77056, Telephone (713) 977-8686.

---

**RETURN OF SERVICE OF SUBPOENA**

---

I, _____, delivered a copy of this subpoena to _____ _____ in person at _____, in ___ _____ County, Texas, on _____, 2020, at ____ _____ o'clock _____.m., and tendered to the witness a fee of $_____ in cash.

I, _____, was unable to deliver a copy of this subpoena to __ _____ for the following reasons: _____ _____ _____ _____

By Deputy: _____
Sheriff/Constable _____
_____ County, Texas

**OR**

By: _____
Person who is not a party and is not less than 18 years of age

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS UNDER TEXAS RULE OF CIVIL PROCEDURE 176**

I, the undersigned witness named in the Subpoena acknowledge receipt of a copy thereof, and hereby accept service of the attached Subpoena, and will respond to the subpoena on said date and time directed in this subpoena.

_____
SIGNATURE OF WITNESS DATE

**********

Not executed as to the witness for the following reasons:

FEE FOR SERVICE OF SUBPOENA: $_____

**CAUSE NO. CV19-003**

| | | |
|---|---|---|
| **MAALT LP** | § | **IN THE DISTRICT COURT** |
| **VS** | § | **IRION COUNTY, TEXAS** |
| **SEQUITUR PERMIAN, LLC** | § | **51ST JUDICIAL DISTRICT** |

**DEPOSITION BY WRITTEN QUESTIONS PROPOUNDED TO THE WITNESS,**
**CUSTODIAN OF RECORDS FOR**
**UNION PACIFIC RAILROAD**

1. Please state your full name, business address, telephone number and occupation.

   ANSWER:_____

2. Did you receive a subpoena to appear and bring with you for inspection and photocopying:

   ANY AND ALL RECORDS AS DESCRIBED IN THE ATTACHED EXHIBIT "A"

   ANSWER:_____

3. Are you able to identify these records as the original or true and correct photostatic copies of the originals?

   ANSWER:_____

4. Were these records made and kept in the regular course of your business? (Business means any kind of regularly organized activity, whether conducted for profit or not?)

   ANSWER:_____

5. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information to make such records from sources who have such personal knowledge?

   ANSWER:_____

6. Are these records under your care, supervision, direction, custody or subject to your control?

   ANSWER:_____

7. Were these records made at or near the time of the act, event, opinion, condition or diagnosis recorded on these records or reasonably soon thereafter?

   ANSWER:_____

8. Were these records kept as described above?

   ANSWER:_____

**File: 88599-1-685922**

9. Please hand all of such records as outlined in the subpoena duces tecum to the Officer taking your deposition for inspection and photocopying. (This will be at no expense to you, and the Officer will return the original of your records to you after they have been both inspected and copied). Have you complied? If not, why not?

ANSWER:_____

_____

**WITNESS CUSTODIAN OF RECORDS**

I, _____, a Notary Public in and for the State of TX do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, _____

_____

Notary Public in and for
The State of TX

**File: 88599-1-685922**

**No. 19-003**

| | | |
|---|---|---|
| **MAALT, LP** | § | **IN THE DISTRICT COURT** |
| | § | |
| **Plaintiff,** | § | |
| | § | |
| **vs.** | § | **IRION COUNTY, TEXAS** |
| | § | |
| **SEQUITUR PERMIAN, LLC** | § | |
| | § | |
| **Defendant.** | § | **51ST JUDICIAL DISTRICT** |

**PLAINTIFF'S AND THIRD PARTY DEFENDANT'S COMBINED AMENDED AND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCLOSURES**

COMES NOW Maalt, LP, Plaintiff, ("Maalt") and Vista Proppants and Logistics, Inc. ("Vista"), and serves this Combined Amended and Supplemental Response to Request for Disclosure pursuant to Texas Rule of Civil Procedure 194.

Respectfully submitted,

By: */s/ James Lanter*

James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek, Ste. 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW PLLC
5600 Tennyson Parkway, Ste. 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com

Samuel S. Allen
State Bar No. 01057000
JACKSON WALKER LLP
135 W. Twohig Avenue
Suite C
San Angelo, Texas 76093
sallen@jw.com

**ATTORNEYS FOR PLAINTIFF**
**MAALT, LP**

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served through the Court's electronic filing service on January 17, 2020, upon:

HOOVER SLOVACEK LLP
Matthew A. Kornhauser
State Bar No. 11684500
Dylan B. Russell
State Bar No. 24041839
Galleria Tower II
5051 Westheimer, Suite 1200
Houston, Texas 77056
Telephone: 713-977-8686
Facsimile: 713-977-5395
kornhauser@hooverslovacek.com
russell@hooverslovacek.com

GOSSETT, HARRISON,
MILLICAN & STIPANOVIC, P.C.
Paul D. Stipanovic
State Bar No. 00795669
2 S. Koenigheim Street
San Angelo, Texas 76903
Telephone: 325-653-3291
Facsimile: 325-655-6838

*/s/ James Lanter*

## RESPONSE TO REQUEST FOR DISCLOSURE

**(a) The correct names of the parties to the lawsuit;**

The parties are correctly named.

**(b) The name, address, and telephone number of any potential parties;**

None.

**(c) The legal theories and, in general, the factual bases of your claims or defenses:**

Maalt is in the business of operating transloading facilities that transload materials used in the oil and gas industry in Texas. Its transloading activities typically involve transloading materials from rail cars to trucks for delivery to well sites and vice versa. Maalt operates a transloading facility in Barnhart, Texas (the "Barnhart Facility") that is provided rail service by Texas Pacifico Transportation, Ltd. ("TXPF"). TXPF has track that runs through the Permian Basin and interchanges (connects) to tracks owned by other railroads including the Union Pacific and Fort Worth and Western Railroad ("FWWR"). The FWWR in turn interchanges with track owned by BNSF and the Kansas City Southern Railway ("KCS"). Through those interchanges and railroads, goods can be shipped into and out of the Permian Basin area by rail. The Barnhart Facility can accept goods brought to it by truck or train from anywhere in the country, and then transloaded to either truck or train for delivery either within the Permian Basin or other areas throughout the country.

In approximately May, 2018, Sequitur contacted Maalt for the purpose of discussing arrangements through which Maalt would transload Sequitur's crude oil at Maalt's Barnhart Facility because that facility was adjacent to land on which Sequitur had producing oil wells. At the time, the pipelines leading from the Permian Basin to various oil markets were at capacity and oil was in a state of oversupply. Because of that situation, the price of crude oil at Midland was far less in early to mid-2018 than it was for crude oil at the Gulf Coast. Sequitur believed that the spread in the prices made the cost of transporting crude oil by rail attractive and created an opportunity to transport crude oil from the Permian Basin to the Gulf Coast by train. Sequitur wanted to take advantage of that opportunity which promised to provide it with significant returns.

Eventually, in August 2018, Maalt entered into a Terminal Services Agreement (the "Contract") with Sequitur to provide crude oil transloading services at the Barnhart Facility for Sequitur. Pursuant to the Contract, Sequitur was to provide and install the equipment needed to transload Sequitur's crude oil from trucks (and potentially a pipeline) to rail cars, and Maalt was to provide the labor required for the transloading process. The Contract granted Sequitur the exclusive right to have crude oil transloaded at the Barnhart Facility to the exclusion of any other transloading operations, whether crude oil, sand, or other goods. In exchange, Sequitur agreed to pay Maalt $1.50 per barrel of crude oil transloaded with a minimum daily volume obligation of 11,424 barrels

on a monthly basis (for example, 342,720 barrels in a 30-day month). If Sequitur failed to deliver the required volumes for transloading, it was obligated to pay Maalt a minimum fee equal to the price per barrel times the minimum daily volume requirement times the number of days in the month (for example, in the case of a 30 day month, $1.50 X 11,424 X 30 = $514,080.00).

Pursuant to the Contract, Sequitur constructed the Phase I Project improvements at the Barnhart Facility consisting of equipment necessary to transload crude oil brought to the Barnhart Facility by trucks onto railcars. While the completion of the improvements was targeted for early September, 2018, those improvements were delayed and ultimately completed and became operational on or about December 8, 2018 and no later than December 10, 2018. Under the terms of the Contract, Sequitur's obligations to pay Maalt the minimum payment began once the improvements were complete, in this case December 11, 2018 at the latest.

Before and after the signing of the Contract, Sequitur looked for a company that already had logistical services in place to purchase its oil and serve as a joint venture partner to share in the arbitrage, rather than implement its own logistics to ship crude oil through the Barnhart Facility. That way, Sequitur would not have to invest the time or manpower necessary to learn the logistical requirements of transporting crude oil by rail. It could simply rely on others to do that while enjoying the arbitrage; that is, the economic value of selling its crude at the Gulf Coast for a higher price than it could command in the Permian Basin. Sequitur was unsuccessful in finding a joint venture partner that could procure rail transportation. Moreover, it did nothing to undertake the logistics itself or contract with a third party logistics provider to handle the logistics of shipping crude oil by rail. The result was that it never had crude oil transloaded at the Barnhart Facility. By December, 2018, Sequitur had not procured the logistics necessary to have railcars delivered to the Barnhart Facility for the purpose of carrying crude oil, nor had it arranged to have rail cars moved from the Barnhart Facility to any facility providing a market for crude oil. Despite the completion of the Phase 1 Project improvements, Sequitur did not begin transloading crude oil as required by the Contract. Instead, realizing that it did not have a joint venture partner who could provide the logistical services necessary to move its crude oil from the Permian Basin to the Gulf Coast by rail, and realizing that its obligation to pay the transloading minimum fees was about to start, Sequitur declared that a force majeure event occurred in order to avoid paying Maalt the minimum payments required by the Contract. It has since refused to pay Maalt the minimum transloading fees it is obligated to pay.

On December 7, 2018, three days before the date Sequitur's internal records show the Phase I Project improvements were complete and the Barnhart Facility was "operational", Sequitur sent Maalt a letter claiming that it was experiencing a force majeure event because of the "unavailability, interruption, delay, or curtailment of rail transportation services for the Product, despite continued efforts to procure such services. . .." At the time, there was no "interruption, delay, or curtailment of rail transportation services. Rather, Sequitur appears to contend that because it was unable to procure an oil company who would purchase its crude oil and be an acceptable joint

venture partner that could provide the necessary logistics services, or alternatively, rail transportation at a low enough cost, rail transportation services were "unavailable." Sequitur has persisted in that contention even though it made no effort to develop the logistical services "in-house", made no effort to investigate or retain a third party logistics provider, and made no effort to negotiate directly with the railroads or any supplier of rail cars to obtain the cars and services necessary to move its crude by rail. On the other hand, there was at least one company that was apparently willing and able to contract with Sequitur to move Sequitur's crude oil by rail to the Gulf Coast, but the cost would be prohibitive. Thus, although rail service was available, Sequitur was simply unable to get it in the form it desired or the cost it desired.

On February 8, 2019, Sequitur sent Maalt a letter claiming to terminate the Contract pursuant to the force majeure provisions of the Contract. However, in reality there was never a force majeure event as rail service to the Barnhart Facility was never unavailable, interrupted, delayed or curtailed. Rather, Sequitur was apparently asserting its force majeure claim as a pretext in an effort to terminate the Contract simply because it was unable to find an oil buyer who was able to move crude oil by rail while providing the arbitrage benefit to Sequitur, and because it did not want to invest resources into undertaking the logistics efforts itself.

Sequitur's conduct indicates that it absolutely and unconditionally refuses, and continues to refuse, to perform the Contract. It has therefore repudiated the Contract, and by doing so materially breached the Contract. Moreover, by sending its February 8, 2019 letter attempting to terminate the Contract, Sequitur has improperly attempted to terminate the Contract in order to avoid its contractual obligations.

Sequitur's repudiation of the Contract constitutes a material breach of the Contract. As a result and as of the time of trial, Maalt has sustained and will sustain damages in the approximate amount of $6.6 million, for which Maalt now sues. Sequitur's repudiation also constitutes a material breach occurring prior to any breach Sequitur alleges was committed by Maalt, thus excusing any such alleged breach by Maalt.

Maalt is entitled to a declaration pursuant to the Texas Declaratory Judgments Act, Texas Civil Practice & Remedies Code, Chapter 37, of the following:

a. The Termination Operations Commencement Date under the Contract occurred and the date of its occurrence;

b. The "force majeure event" alleged by Sequitur did not occur;

c. The date the payment obligations created by Article 3 of the Contract began;

d. Sequitur did not have a right to terminate the Contract;

e. Sequitur repudiated and breached the Contract by refusing to perform its obligations under the Contract.

All conditions precedent to Maalt's right of recovery have occurred or been waived.

Pursuant to Texas Civil Practice and Remedies Code Chapters 37 and 38 and the terms of the Contract, Maalt is entitled to recover its reasonable and necessary attorneys' fees and associated litigation and expert costs from Sequitur. Presentment of Maalt's claim was made within the time required by Texas Civil Practice and Remedies Code Chapter 38.

Maalt and Vista deny that either of them are liable to Sequitur for any claims asserted in Sequitur's amended counterclaims and third party claims. The contract between Maalt and Sequitur precludes any promissory estoppel claim by Sequitur. Sequitur's claims are also barred by the statute of frauds.

Vista is not a proper party and is not liable in the capacity sued in that Sequitur did not ever engage in any discussions, negotiations, or other communications with Sequitur, much less any that are tortious or actionable in any way. The people alleged to be employed by Vista are not so employed, do not act as Vista's agents, and are not officers or directors of Vista.

Sequitur's counterclaims and third party claims are further barred by the doctrines of contributory negligence as its own negligence was a proximate cause of the reliance and other damages sought by Sequitur.

Pursuant to Texas Civil Practice and Remedies Code Chapter 33, Maalt is entitled to findings of the proportional responsibility of the parties and any potential responsible third parties with respect to Sequitur's common law tort claims.

In the event that Maalt or Vista are found to have caused Sequitur damages, which Maalt and Vista deny, those damages should be reduced or disregarded due to Sequitur's failure to mitigate its damages.

**(d) The amount and any method of calculating economic damages;**

The calculation of Plaintiff's damages is stated in the Contract. The terminal was complete and operational no later than December 10, 2018. Accordingly, the defendant is obligated to pay $1.50 per barrel X 11,424 barrels minimum per day X 386 days (December 11, 2018 through December 31, 2018) for a total amount of $6,614,496.00 for the term of the Contract.

Maalt also seeks recovery of its reasonable and necessary attorneys' fees calculated as follows:

(A) an hourly rate equal to one-half of the usual hourly rates charged by James Lanter and Paul Wickes plus a contingency fee equal to 20% of all amounts

recovered from Defendant through the trial and any appeals of this case, plus

(B) an amount equal to the hourly rates charged by Jackson Walker, LLP for its services in this case.

Maalt also seeks recovery of court costs and litigation expenses, including costs and expenses of appeals.

**(e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;**

Chris Favors
Brian Hecht
Steve McCarley
Jon Ince
Ben Keith
Brandon McFall
Audra Massey
Marty Robertson
David Goodwin
Maalt, LP
4413 Carey Street
Fort Worth, Texas 76119
(817) 563-3500

The foregoing individuals have knowledge of the business dealings between Plaintiff and Defendant.

Kristin Smith
Patrick Washington
Maalt, LP
4413 Carey Street
Fort Worth, Texas 76119
(817) 563-3500

The foregoing individuals have knowledge of the corporate structure of Vista and whether it employs any employees.

Tony Wroten
Branden Merrill
Mike van den Bold
Russ Perry
Collin Johansen
Sammy Reed
Michael Ybarra

David Pharoah
Nicholas Eldridge
Rudy Ortiz
Derek Davis
Neil Wheat
Rocky Boggs
Alan Aronowitz
Sequitur Permian, LLC
2050 W. Sam Houston Parkway South
Suite 1850
Houston, TX 77042
(713) 395-3000

The foregoing individuals have knowledge of the business dealings between Plaintiff and Defendant, Defendant's efforts to comply with the terms of the Contract, and Defendant's attempts to terminate the Contract based on a purported force majeure.

Jonas Struthers
Address unknown
(647) 989-3552

Mr. Struthers has knowledge regarding the availability of rail cars suitable for the transportation of crude oil.

Stan Meador
Jorge Gonzalez
Denise Melling
Chad Walter
Texas-Pacifico Transportation, Ltd.
106 S. Chadbourne Street
San Angelo, Texas 76903
(325) 942-8164

The foregoing individuals may have knowledge regarding Texas-Pacifico Transporation, Ltd.'s ability to provide rail transportation services to the Barnhart Facility.

Benji Hubbard
Senior Director of Business Development
Fort Worth & Western Railroad
6300 Ridglea Place #200
Fort Worth, Texas 76116

Mr. Hubbard may have knowledge regarding the Fort Worth & Western Railroad's ability to provide rail transportation services to the rail on which the Barnhart Facility is located.

Josh Monroe
The Kansas City Southern Railway
427 West 12th Street
Kansas City, Missouri 64105
(816)983-1774

Mr. Monroe has knowledge of the availability of rail transportation services offered by The Kansas City Southern Railway to move crude oil from the Permian Basin area, including Barnhart, to the Gulf Coast.

Brian Seward
Short Line Development Manager
402-544-1409
Todd Thimjon
(402)544-5112
Mike Fernen
Sr. Director – Short Line & Interline
(402)544-3169
Union Pacific Railroad
1400 Douglas St., Stop 1350
Omaha, NE 68179
Ms. Stephanie S. Cortes
Marketing & Sales Senior Consultant
24125 Aldine Westfield Road
Spring, Texas 77373
(281)350-7643

Individuals have knowledge of the availability of rail transportation services offered by the Union Pacific Railroad to move crude oil from the Permian Basin area, including Barnhart, to the Gulf Coast.

Kirk Bryant
PO Box 2115
Cotuit, MA 02635
(508) 539-4272
(508) 847-3872

Mr. Bryant may have knowledge regarding the availability of rail transportation for crude oil.

Ben Thompson
Charles Daigle
Shell Trading (US) Company
1000 Main Street, Suite 1700
Houston, TX 77002
(713) 767-5300
https://www.shell.us/business-customers/trading/shell-trading-us-company.html

Les Werme
Thomas McConnell
Arm Energy
20329 State Highway 249
4th Floor
Houston, Texas 77070
(281) 655-3200

The foregoing individuals have knowledge of Defendant's discussions with Arm Energy regarding Defendant's involvement in the Barnhart Facility.

Dion K. Nicely
American Shipping & Trading, LLC
2009 Chenault Drive
Carrollton, Texas 75006
(808)371-8173

Mr. Nicely has knowledge of the rates he obtained from one or more railroads for the transportation of crude oil from the Barnhart Facility, and the availability of rail service for the purpose of transporting crude oil from the Barnhart Facility to one or more destinations in order to take advantage of the spread in crude prices that existed in 2018-2019.

Spencer Falls
Derek Jones
EnMark Services, Inc.
1700 Pacific Avenue
Suite 2660
Dallas, Texas 75201
(214) 965-9581

The foregoing individuals have knowledge of Defendant's negotiations with Shell and/or Jupiter MLP, LLC or its affiliates for the sale and transportation of crude oil.

Rob Wright
Murex, Ltd.
7160 N. Dallas Parkway
Suite 300
Plano, Texas 75024
(972) 735-3382

Mr. Wright has knowledge of his company's ability to supply rail cars and rail transportation services to Defendant for the transportation of crude oil.

Noah L. Carson
Travis Morris
Nathan Ford
Jupiter MLP, LLC
15851 Dallas Parkway
Suite 650
Addison, Texas 75001
440 Louisiana Street
Suite 700
Houston, Texas 77002
(409) 771-6697

The foregoing individuals have knowledge of Defendant's negotiations with Jupiter MLP, LLC or its affiliates for the sale and transportation of crude oil.

Plaintiff also incorporates Defendant's identification of persons who may have knowledge of relevant facts, as well as other individuals identified in the documents produced in discovery, as if set forth herein verbatim.

**(f) For any testifying expert:**

**(1) The expert's name, address, and telephone number;**
**(2) The subject matter on which the expert will testify;**
**(3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of The responding party, documents reflecting such information;**
**(4) If the expert is retained by, employed by, or otherwise subject to your control:**
**(A) All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and**
**(B) The expert's current resume and biography.**

**James Lanter**

(1) James Lanter
James Lanter, P.C.
560 N. Walnut Creek, Suite 120
Mansfield, Texas 76063
(817) 453-4800

(2) Mr. Lanter will testify to the reasonable and necessary attorney's fees incurred by the Plaintiff in prosecuting his claims in this case as well as any appellate fees for an appeal to the court of appeals and/or the Supreme Court of Texas.

(2) Mr. Lanter will testify as to the factors to be considered in establishing a reasonable fee for attorneys' services including those factors set out in Rule 1.04 of the Rules of Professional Conduct and discussed in *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469 (Tex. 2019). He will testify as to the fees incurred by the Plaintiff under its fee agreement with its lawyers, and compare the fees on a lodestar basis to those contracted for which include a reduced hourly rate coupled with a contingency fee. Mr. Lanter will testify to the legal services that were performed in this case by the members of his law firm and his co-counsel, the reasonable hourly rates charged by the various members of his firm that worked on this case and co-counsel, the additional contingency fee, the work that went into preparing this case for trial from the filing of the suit through the conclusion of the trial, and the work that goes into the presentation of a case at trial and the work that is necessary for post-trial matters. He will also testify that in his opinion, the services provided by the attorneys representing Plaintiff were reasonable and necessary, that the hourly and contingent charges for those services were reasonable and consistent with the usual and customary fees charged by attorneys in Texas, and that the various causes of action and defenses at issue in this suit are based on the same facts and circumstances and are so inextricably intertwined that it is not possible to segregate the services rendered in connection with any party or particular cause of action or defense. Mr. Lanter will testify that the fees reflected in the billing statements sent to Plaintiff throughout this case, together with the fees charged for the services performed after the last billing statement through trial (based on the number of hours at the hourly rates charged by the members of Mr. Lanter's firm), and the contingent part of the fee to be paid by Plaintiff constitute a reasonable attorneys' fee to be awarded to Plaintiff for the necessary services rendered in this case. Mr. Lanter will also testify as to a reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the court of appeals in this case, and as to an additional reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the

Supreme Court of Texas in this case. On a lodestar basis and at non-discounted hourly rates, a reasonable fee for the necessary services in pursuing or responding to (i) an appeal at the court of appeals, or response thereto, would be approximately $75,000.00 for briefing and oral argument, (ii) a motion for rehearing or response at the court of appeals would be approximately $20,000.00, (iii) a petition for review or response to the supreme court would be approximately $25,000.00, (iv) briefing on the merits and oral argument before the supreme court would be approximately $50,000.00, and (v) a motion for rehearing or response at the supreme court would be approximately $20,000.00. Mr. Lanter will also testify that during the course of exercising billing judgment, certain services may have been provided at no or a reduced charge and credits may have been issued reducing the amount owed by Plaintiff for such fees.

Mr. Lanter may further testify as to his opinions of the reasonableness and necessity of the services rendered and the fees charged by the attorneys representing Sequitur. No opinions can be formed at this time as no invoices or other documents reflecting those services and fees have been produced by Sequitur.

(4) Mr. Lanter will rely on all of the pleadings, discovery instruments, correspondence, depositions, attached documents, and other documents involved in this case to support his opinions to the extent that they show the services provided in this case to Plaintiff. Mr. Lanter's curriculum vitae is attached hereto as Exhibit "A." Mr. Lanter's fee invoices will be provided to Sequitur a reasonable amount of time before trial as the total amount of fees that will be the subject of his opinions are not currently known and are increasing as this lawsuit progresses.

**Paul O. Wickes**

(1) Paul O. Wickes
Wickes Law, PLLC
5600 Tennyson Parkway, Ste. 205
Plano, Texas 75024
(972) 473-6900

(2) Mr. Wickes will testify to the reasonable and necessary attorney's fees incurred by the Plaintiff in prosecuting his claims in this case as well as any appellate fees for an appeal to the court of appeals and/or the Supreme Court of Texas.

(2) Mr. Wickes will testify as to the factors to be considered in establishing a reasonable fee for attorneys' services including those factors set out in Rule 1.04 of the Rules of Professional Conduct and discussed in *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469 (Tex. 2019). He will testify as to the fees incurred by the Plaintiff under its fee agreement

with its lawyers, and compare the fees on a lodestar basis to those contracted for which include a reduced hourly rate coupled with a contingency fee. Mr. Wickes will testify to the legal services that were performed by his law firm and co-counsel, the reasonable hourly rates charged by his firm and co-counsel, the additional contingency fee, the work that went into preparing this case for trial from the filing of the suit through the conclusion of the trial, and the work that goes into the presentation of a case at trial and the work that is necessary for post-trial matters. He will also testify that in his opinion, the services provided by the attorneys representing Plaintiff were reasonable and necessary, that the hourly and contingent charges for those services were reasonable and consistent with the usual and customary fees charged by attorneys in Texas, and that the various causes of action and defenses at issue in this suit are based on the same facts and circumstances and are so inextricably intertwined that it is not possible to segregate the services rendered in connection with any party or particular cause of action or defense. Mr. Wickes will testify that the fees reflected in the billing statements sent to Plaintiff throughout this case, together with the fees charged for the services performed after the last billing statement through trial (based on the number of hours at the hourly rates charged by him), and the contingent part of the fee to be paid by Plaintiff constitute a reasonable attorneys' fee to be awarded to Plaintiff for the necessary services rendered in this case. Mr. Wickes will also testify as to a reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the court of appeals in this case, and as to an additional reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the Supreme Court of Texas in this case. On a lodestar basis and at non-discounted hourly rates, a reasonable fee for the necessary services in pursuing or responding to (i) an appeal at the court of appeals, or response thereto, would be approximately $75,000.00 for briefing and oral argument, (ii) a motion for rehearing or response at the court of appeals would be approximately $20,000.00, (iii) a petition for review or response to the supreme court would be approximately $25,000.00, (iv) briefing on the merits and oral argument before the supreme court would be approximately $50,000.00, and (v) a motion for rehearing or response at the supreme court would be approximately $20,000.00. Mr. Wickes will also testify that during the course of exercising billing judgment, certain services may have been provided at no or a reduced charge and credits may have been issued reducing the amount owed by Plaintiff for such fees.

Mr. Wickes may further testify as to his opinions of the reasonableness and necessity of the services rendered and the fees charged by the attorneys representing Sequitur. No opinions can be formed at this time as no invoices or other documents reflecting those services and fees have been produced by Sequitur.

(4) Mr. Wickes will rely on all of the pleadings, discovery instruments, correspondence, depositions, attached documents, and other documents involved in this case to support his opinions to the extent that they show the services provided in this case to Plaintiff. Mr. Wickes' curriculum vitae is attached hereto as Exhibit "B." Mr. Wicke's fee invoices will be provided to Sequitur a reasonable amount of time before trial as the total amount of fees that will be the subject of his opinions are not currently known and are increasing as this lawsuit progresses.

**Samuel S. Allen**

(1) Samuel S. Allen
JACKSON WALKER LLP
135 W. Twohig Avenue, Suite C
San Angelo, Texas 76093
(325) 481-2550

(2) Mr. Allen will testify to the reasonable and necessary attorney's fees incurred by the Plaintiff in prosecuting his claims in this case as well as any appellate fees for an appeal to the court of appeals and/or the Supreme Court of Texas.

(3) Mr. Allen will testify as to the factors to be considered in establishing a reasonable fee for attorneys' services including those factors set out in Rule 1.04 of the Rules of Professional Conduct and discussed in *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469 (Tex. 2019). He will testify as to the fees incurred by the Plaintiff under its fee agreement with its lawyers, and compare the fees on a lodestar basis to those contracted for which include a reduced hourly rate coupled with a contingency fee. Mr. Allen will testify to the legal services that were performed in this case by the members of his law firm and co-counsel, the reasonable hourly rates charged by the various members of his firm and co-counsel that worked on this case, the additional contingency fee, the work that went into preparing this case for trial from the filing of the suit through the conclusion of the trial, and the work that goes into the presentation of a case at trial and the work that is necessary for post-trial matters. In particular, Mr. Allen may provide testimony regarding the unique logistical challenges attendant to litigation and trial in rural counties and the additional time and expense incurred in conducting a trial in non-urban locales in central and West Texas. He will also testify that in his opinion, the services provided by the attorneys representing Plaintiff were reasonable and necessary, that the hourly and contingent charges for those services were reasonable and consistent with the usual and customary fees charged by attorneys in Texas, and that the various causes of action and defenses at issue in this suit are based on the same facts and circumstances and are so inextricably intertwined that it is not possible to segregate the services rendered in connection with any party or particular cause of action or

defense. Mr. Allen will testify that the fees reflected in the billing statements sent to Plaintiff throughout this case, together with the fees charged for the services performed after the last billing statement through trial (based on the number of hours at the hourly rates charged by the members of Mr. Allen's firm), and the contingent part of the fee to be paid by Plaintiff constitute a reasonable attorneys' fee to be awarded to Plaintiff for the necessary services rendered in this case. Mr. Allen will also testify as to a reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the court of appeals in this case, and as to an additional reasonable fee for the necessary services involved in perfecting and pursuing an appeal, or responding to an appeal, in the Supreme Court of Texas in this case. On a lodestar basis and at non-discounted hourly rates, a reasonable fee for the necessary services in pursuing or responding to (i) an appeal at the court of appeals, or response thereto, would be approximately $75,000.00 for briefing and oral argument, (ii) a motion for rehearing or response at the court of appeals would be approximately $20,000.00, (iii) a petition for review or response to the supreme court would be approximately $25,000.00, (iv) briefing on the merits and oral argument before the supreme court would be approximately $50,000.00, and (v) a motion for rehearing or response at the supreme court would be approximately $20,000.00. Mr. Allen will also testify that during the course of exercising billing judgment, certain services may have been provided at no or a reduced charge and credits may have been issued reducing the amount owed by Plaintiff for such fees.

Mr. Allen may further testify as to his opinions of the reasonableness and necessity of the services rendered and the fees charged by the attorneys representing Sequitur. No opinions can be formed at this time as no invoices or other documents reflecting those services and fees have been produced by Sequitur.

(4) Mr. Allen will rely on all of the pleadings, discovery instruments, correspondence, depositions, attached documents, and other documents involved in this case to support his opinions to the extent that they show the services provided in this case to Plaintiff. Mr. Allen will also rely on his years of practice in central and West Texas and his familiarity with the customary rates and fee arrangements for legal work in these regions of Texas. Mr. Allen's curriculum vitae is attached hereto as Exhibit "C." Mr. Allen's fee invoices will be provided to Sequitur a reasonable amount of time before trial as the total amount of fees that will be the subject of his opinions are not currently known and are increasing as this lawsuit progresses.

**Rob Wright**

(1) Rob Wright
Murex, Ltd.
7160 N. Dallas Parkway
Suite 300
Plano, Texas 75024
(972) 735-3382

(2) Mr. Wright is a fact witness who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding his company's ability to supply rail cars and rail transportation services to Defendant for the transportation of crude oil, and the logistics of moving crude oil by rail from the Permian Basin to the Gulf Coast. It is anticipated that he may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast and the means and methods by which that could be accomplished. Mr. Wright has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

(3) Mr. Wright's mental impressions and opinions are not currently known to Maalt or Vista; however, it is believed that he will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was available in 2018 to 2019, albeit at a cost that might not have been acceptable to Sequitur. Documents that may provide insight into his mental impressions and opinions are in the possession and control of Sequitur. The emails produced by Sequitur between it and Mr. Wright have been produced, and certain of those email documents are exhibits to the depositions taken in this case.

(4) Mr. Wright has not been retained by Maalt or Vista, and he is not employed by or subject to the control of Maalt or Vista.

**Travis Morris**
**Nathan Ford**

(1) Travis Morris
Nathan Ford
Jupiter MLP, LLC
15851 Dallas Parkway
Suite 650
Addison, Texas 75001
440 Louisiana Street
Suite 700
Houston, Texas 77002
(409) 771-6697

(2) Messrs. Morris and Ford are fact witnesses who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding their company's ability to supply rail cars and rail transportation services to Defendant for the transportation of crude oil, and the logistics of moving crude oil by rail from the Permian Basin to the Gulf Coast. It is anticipated that they may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast and the means and methods by which that could be accomplished. Neither Mr. Morris nor Mr. Ford have not been retained by Maalt or Vista, and are not employed by or subject to the control of Maalt or Vista.

(3) Messrs. Morris' and Ford's mental impressions and opinions are not currently known to Maalt or Vista; however, it is believed that they will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was available in 2018 to 2019. Documents that may provide insight into their mental impressions and opinions have been obtained by Sequitur through the Jupiter MLP, LLC bankruptcy case and further documents may be obtained by Sequitur through the subpoena issued to Mr. Morris in connection with his deposition.

(4) Messrs. Morris and Ford have not been retained by Maalt or Vista, and they are not employed by or subject to the control of Maalt or Vista.

**Stan Meador**
**Jorge Gonzalez**

(1) Stan Meador
Jorge Gonzalez
Texas-Pacifico Transportation, Ltd.
106 S. Chadbourne Street
San Angelo, Texas 76903
(325) 942-8164

(2) Messrs. Meador and Gonzalez are fact witnesses who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding the availability of rail transportation services to transport crude oil, and the logistics of moving crude oil by rail, from the Permian Basin to the Gulf Coast. It is anticipated that they may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast and the means and methods by which that could be accomplished. Neither Mr. Meador nor Mr. Gonzalez have not been retained by Maalt or Vista, and are not employed by or subject to the control of Maalt or Vista.

(3) It is believed that Messrs. Meador and Gonzalez will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was

available in 2018 to 2019 as their company was involved in the shipment of crude oil by rail from one or more facilities in the Barnhart area to the Gulf Coast. Documents that may provide insight into their mental impressions and opinions have been provided by Texas-Pacifico Transporation, Ltd. to the parties in this case, and Sequitur has a copy of those documents Bates labeled TXPF_000001-000112. It is expected that further documents may be obtained through the subpoena issued by Sequitur to Texas-Pacifico Transporation, Ltd.

(4) Messrs. Meador and Gonzelez have not been retained by Maalt or Vista, and they are not employed by or subject to the control of Maalt or Vista.

**Benji Hubbard**

(1) Benji Hubbard
Senior Director of Business Development
Fort Worth & Western Railroad
6300 Ridglea Place #200
Fort Worth, Texas 76116

(2) Mr. Hubbard is a fact witness who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding the availability of rail transportation services to transport crude oil, and the logistics of moving crude oil by rail, from the Permian Basin to the Gulf Coast through the Fort Worth & Western Railroad. It is anticipated that he may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast and the means and methods by which that could be accomplished. Mr. Hubbard has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

(3) It is believed that Mr. Hubbard will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was available in 2018 to 2019 as his company was involved in the shipment of crude oil by rail from one or more facilities in the Barnhart area to the Gulf Coast. Documents that may provide insight into his mental impressions and opinions have been produced in discovery in this case.

(4) Mr. Hubbard not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

**Josh Monroe**

(1) Josh Monroe
The Kansas City Southern Railway
427 West 12th Street
Kansas City, MO 64105
(800) 468-6527

(2) Mr. Monroe is a fact witness who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding the availability of rail transportation services to transport crude oil, and the logistics of moving crude oil by rail, from the Permian Basin to the Gulf Coast. It is anticipated that he may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast and the means and methods by which that could be accomplished. Mr. Monroe has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

(3) It is believed that Mr. Monroe will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was available in 2018 to 2019 as his company was involved in the shipment of crude oil by rail originating from one or more facilities in the Barnhart area to the Gulf Coast. Maalt and Vista are not aware of any documents in his possession, although it is anticipated that he may have some to support his opinions.

(4) Mr. Monroe has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

**Dion K. Nicely**

(1) Dion K. Nicely
American Shipping & Trading, LLC
2009 Chenault Drive
Carrollton, Texas 75006
(808)371-8173

(2) Mr. Nicely is a fact witness who may potentially be asked to testify about opinions and matters that rise to the level of expert testimony regarding the availability of rail transportation services to transport crude oil, and the logistics of moving crude oil by rail, from the Permian Basin to the Gulf Coast. It is anticipated that he may testify that rail transportation was available for the purpose of transporting crude oil in 2018 to 2019 from the Barnhart Facility to the Gulf Coast as well as other markets, and the means and methods by which that could be accomplished. Mr. Nicely has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista.

(3) It is believed that Mr. Nicely will testify and/or opine that rail transportation from the Barnhart Facility to the Gulf Coast was available in 2018 to 2019. Maalt and Vista are not aware of any documents in his possession other than email documents that have been produced in discovery, although it is anticipated that he may have some to support his opinions.

(4) Mr. Nicely has not been retained by Maalt or Vista, and is not employed by or subject to the control of Maalt or Vista

**(g) Any discoverable indemnity and insuring agreements:**

None.

**(h) Any discoverable settlement agreements:**

None.

**(i) Any discoverable witness statements:**

None.

**(j) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills:**

Not applicable.

**(k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party:**

Not applicable.

**(l) The name, address, and telephone number of any person who may be designated as a responsible party:**

None.

EXHIBIT A

**JAMES LANTER**
JAMES LANTER, P.C.
560 N. Walnut Creek, Suite 120
Mansfield, TX 76063
817.453.4800
817.453.4801 fax

**Practice:** Jim has been representing parties in commercial lawsuits, mediations and arbitrations for approximately 34 years. His experience in the courtroom includes many jury and non-jury trials in both federal and state courts. He has represented parties in federal courts in Texas and Tennessee, and state courts throughout Texas, Florida, Alabama, and Mississippi. He has handled cases involving commercial and residential construction disputes, secured and unsecured financing transactions, real estate transactions, banking and bank fraud, private lending, business fraud, employment law at the management and executive level, rail and truck transportation, and other areas of commercial law. Jim has vast experience representing his clients in the mediation of complex cases including those involving multiple parties. He was on the Roster of Neutrals serving as an arbitrator of construction arbitrations with the American Arbitration Association for a number of years.

**Bar Admissions:** Texas State Bar, 1984
United States District Court, Northern District of Texas, 1988
United States District Court, Western District of Texas, 1990
United States District Court, Southern District of Texas, 1990
United States District Court, Eastern District of Texas, 2011
United States Court of Appeals, Fifth Circuit, 1993

**Law School:** Southern Methodist University, J.D., 1984

**College:** Southern Illinois University, B.S., 1980

**Memberships:** State Bar of Texas
Tarrant County Bar Association
Texas Bar Foundation, Life Fellow
Tarrant County Bar Foundation, Sustaining Life Fellow
Arlington West Rotary Club (1994-2014, Past President and Paul Harris Fellow)
Rotary Club of Mansfield (2014 – present), President (2016-2017)

**Peer Rating:** Martindale-Hubbell AV rated

EXHIBIT B

## Paul O. Wickes

Paul has a trial practice, primarily conducted in the federal courts of the Northern and Eastern District of Texas and the Dallas courts. He has earned experience in all facets of trial from preliminary hearings through trial and appeal. He has tried fifteen cases to verdict and argued appeals before the Dallas Court of Appeals and Fifth Circuit Federal Court of Appeals.

Paul started his legal career with the law firm of Worsham, Forsysthe, Sampels & Wooldridge, L.L.P., a venerable Dallas firm started in the 1930s that focused on representation of railroads, utilities, and industrial clients. When Worsham Forsythe merged with Hunton & Williams, L.L.P. in 2002, a 100-year old Virginia-based firm, Paul joined as a litigation partner. Over the next seven years, Hunton & Williams grew to a firm with 1000 lawyers, 150 of which practiced in Dallas.

In 2009, Paul left the international firm of Hunton & Williams to start his own firm, Wickes Law, PLLC.

Education:

J. D., The University of Texas School of Law, with honors, 1993.
B.B.A., Finance, The University of Texas, 1990

Work Experience:

| | |
|---|---|
| 1993 – 2001: | Worsham, Forsythe & Wooldridge, L.L.P. |
| 2001 – 2009: | Hunton & Williams, L.L.P. (elected partner in first year of eligibility) |
| 2009 – Present: | Wickes Law, PLLC |

Memberships and Activities:

- National Association of Railroad Trial Counsel (since 1998)
- American Bar Association, Litigation Section (since 1993)
- State Bar of Texas (since 1993)
- Dallas Bar Association (since 1993)
- Bar Association for the Federal Eastern District of Texas
- Admitted to practice before the Fifth Circuit Court of Appeals, Eastern District of Texas, Northern District of Texas, Southern District of Texas, Western District of Texas, and all Texas state courts.
- 2005 – 2009 Counsel to The Samaritan Inn, Collin County's only homeless shelter.
- 2009 – 2013, Chancellor, Christ Church Plano

EXHIBIT C

# Samuel S. Allen

## Partner, San Angelo

325.481.2558 | sallen@jw.com



**Biography**

Sam Allen handles business and finance in West Texas.
Sam Allen represents parties in business and commercial litigation including bankruptcy and insolvency proceedings. He also handles probate cases. In addition, Sam helps clients negotiate, document, and close business transactions such as organizing, buying, and selling businesses or interests in business entities; loans and other financial transactions, and buying or selling real estate and other major assets. Sam also provides general legal advice and counsel to clients, with an emphasis in small business succession and estate planning. He's lawyered in this unique intersection of money and life for over three decades, almost all of it based in San Angelo, Texas.

**Practice Experience**

- Litigation in Texas state and federal courts.
- Negotiation and documentation of financial transactions including secured and unsecured loans and factoring agreements.
- Negotiation, documentation, and closing of purchases involving real estate, business assets, and business entities.
- Organization of business entities and business succession.

**Recognition & Accolades**

- Best Attorney, *San Angelo Standard Times*, 2014

**Community Involvement**

- San Angelo Chamber of Commerce – Transportation Committee, Chair
- Sierra Vista United Methodist Church, Music Ministries

**Practice Areas**

- Bankruptcy, Restructuring, & Recovery
- Corporate & Securities
- Wealth Planning, Probate, & Trust

**Experience**

- Advertising
- Agriculture
- Business Litigation
- Energy Bankruptcy
- Fashion
- Film
- Music
- Publishing
- Television
- Video Games
- Wealth Planning

**Education**

B.A., University of Texas at Austin
J.D., Texas Tech University School of Law

**Bar Admissions**

Texas, 1983

**Court Admissions**

United States Court of Appeals for the Fifth Circuit
United States District Court for the Northern, Southern, Eastern and Western Districts of Texas

# SUBPOENA DUCES TECUM
# THE STATE OF TEXAS

**COUNTY OF IRION**

Greetings, to the sheriff, constable, or any other person authorized to serve and execute subpoenas as provided in Rule 176.5, Texas Rules of Civil Procedure. You are hereby commanded to subpoena and summon the following witness:

**Custodian of Records for UNION PACIFIC RAILROAD**

to be and appear before a Notary Public with Lexitas, 325 North Saint Paul Street, Suite 1900, Dallas, TX 75201; or their designated agent on the forthwith day of instanter at the office of the summoned witness or other agreed upon time and/or place, to produce for inspection and photocopying:

**ANY AND ALL RECORDS AS DESCRIBED IN THE ATTACHED EXHIBIT "A"**

Then and there to give evidence, at the instance of the Defense in that certain Cause No. CV19-003 pending on the docket of the District Court of the 51ST JUDICIAL DISTRICT COURT of IRION, County, Texas, styled:

**MAALT LP** **VS** **SEQUITUR PERMIAN, LLC**

and there remain from day to day and time to time until discharged by me according to law. **Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed in contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.** This subpoena is issued in accordance to Rule 176.4(c), Texas Rules of Civil Procedure, and falls under exception to confidentiality, Rule 509(e).4 Texas Rules of Civil Evidence. This subpoena is sent for review or use in a judicial proceeding or claim process involving the named subject (45 CFR § 164.508(c)(1)(iv)).

WITNESS MY HAND, this the 16 day of JAN, 20 20

**MATTHEW A. KORNHAUSER**

State Bar No. 11684500
Attorney For Defendant

JAMIE BURWELL
Notary Public, State of Texas
Comm. Expires 03-22-2021
Notary ID 2842997

Notary in and for
The State of TX

---

**OFFICER'S RETURN**

CAME TO HAND JAN 22nd 2020, and executed by delivering same to the within named witness Terri T., and tendering all lawful fees on JAN 22nd 2020

**PROCESS SERVER**

88599 - 1 - 685922

TOM P. EATON
ID # 7437197
Notary Public, State of Texas
My Commission Expires
12/21/21

CAUSE NO. CV19-003

| | | |
|---|---|---|
| MAALT LP | § | IN THE DISTRICT COURT |
| VS | § | IRION COUNTY, TEXAS |
| SEQUITUR PERMIAN, LLC | § | 51ST JUDICIAL DISTRICT |

## NOTICE OF INTENTION TO TAKE DEPOSITION BY WRITTEN QUESTIONS

You will please take notice that **(20)** days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the Custodian of Records for **UNION PACIFIC RAILROAD at the office of the summoned witness or at another agreed upon time and/or place before** a Notary Public; an Officer of the State of Texas; a notary agent of Lexitas, 325 North Saint Paul Street, Suite 1900, Dallas, TX 75201; or their designated agent.

Which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is here made as authorized under the Rule 200.2, Texas Rules of Civil Procedure, to the Officer authorized to issue a SUBPOENA DUCES TECUM and cause it to be served on the witness to produce:

ANY AND ALL RECORDS AS DESCRIBED IN THE ATTACHED EXHIBIT "A"

And turn all such records over to the Officer authorized to take this deposition for inspection and photocopying the same may be made by him and attached to said deposition.

**MATTHEW A. KORNHAUSER**
HOOVER SLOVACEK LLP
State Bar No. 11684500
Attorney For Defendant

5051 WESTHEIMER
SUITE 1200
HOUSTON, TX 77056
7139778686

/S/ MATTHEW A. KORNHAUSER

I certify that a true and exact copy of the foregoing Notice of Intention To Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant of Rule (21a), by certified mail, postage prepaid, hand delivered, or by telephonic document transfer.

**January 16th, 2020**

By: _____

Sworn to and subscribed before me on this the **16th** day of **January, 2020**.

JAMIE BURWELL
Notary Public, State of Texas
Comm. Expires 03-22-2021
Notary ID 8842997

_____
Notary Public in and for
The State of TX

**88599 - 1 - 685922**

CAUSE NO. CV19-003

| | | |
|---|---|---|
| MAALT LP | § | IN THE DISTRICT COURT |
| VS | § | IRION COUNTY, TEXAS |
| SEQUITUR PERMIAN, LLC | § | 51ST JUDICIAL DISTRICT |

**DEPOSITION BY WRITTEN QUESTIONS PROPOUNDED TO THE WITNESS,
CUSTODIAN OF RECORDS FOR
UNION PACIFIC RAILROAD**

1. Please state your full name, business address, telephone number and occupation.

ANSWER: Betsy Gassaway, 1400 Douglas Street, Omaha, NE 68179, 402-544-6974, Dir Legal Support

2. Did you receive a subpoena to appear and bring with you for inspection and photocopying:

ANY AND ALL RECORDS AS DESCRIBED IN THE ATTACHED EXHIBIT "A"

ANSWER: yes

3. Are you able to identify these records as the original or true and correct photostatic copies of the originals?

ANSWER: yes

4. Were these records made and kept in the regular course of your business? (Business means any kind of regularly organized activity, whether conducted for profit or not?)

ANSWER: yes

5. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information to make such records from sources who have such personal knowledge?

ANSWER: yes

6. Are these records under your care, supervision, direction, custody or subject to your control?

ANSWER: yes

7. Were these records made at or near the time of the act, event, opinion, condition or diagnosis recorded on these records or reasonably soon thereafter?

ANSWER: yes

8. Were these records kept as described above?

ANSWER: yes

File: 88599-1-685922

9. Please hand all of such records as outlined in the subpoena duces tecum to the Officer taking your deposition for inspection and photocopying. (This will be at no expense to you, and the Officer will return the original of your records to you after they have been both inspected and copied). Have you complied? If not, why not?

ANSWER: UP 1-649

Betsy Cassaway
WITNESS CUSTODIAN OF RECORDS

I, Betsy Cassaway a Notary Public in and for the State of TX do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 10 day of March, 2020

SARAH J RIEF
GENERAL NOTARY
STATE OF NEBRASKA
My Commission Expires May 15, 2021

Notary Public in and for
The State of TX

File: 88599-1-685922

**Definitions for Exhibit A**

As used herein, the following terms have the meaning and significance set forth below:

1. You or Your: "You" or "Your" shall mean the person or entity to whom these questions are directed, or any employees, representatives, agents, contractors, successors-in-interest, predecessors-in-interest, agents, assignors, assignees, person(s) or entity(ies) acting or purporting to act on behalf of said person or entity.

2. Document: "Document" means and includes all matters within the scope of Texas Rules of Civil Procedure, however and by whomever produced or reproduced, now or at any time in Your possession, custody or control, or to which You have access including, but not limited to, all letters, telegrams, telexes, cables, emails, text messages, telephone records and notations made in connection therewith, minutes, bulletins, instructions, advertisements, literature, reports, papers, books, accounts, memoranda, notes, notebooks, drafts, data sheets, worksheets, drawings, agreements, circulars, computer programs and data, studies, analyses, comparisons, surveys, memoranda of conversations, sound recordings, photographs, motion picture films, television tapes, magnetic tapes, diaries, and other written, electronic data, reported, recorded or graphic matter and records of information and communication, and further including copies or reproductions of all of the foregoing items upon which notations and writing appear which do not appear on the originals. Without limitation of the term "control" as used in the preceding sentence, a document is deemed to be in Your control if You have the right to secure the document or copy thereof from another person or public or private entity having actual physical possession thereof.

3. Communications: "Communication(s)" means and includes all letters, telegrams, telexes, cables, telephone conversations, records, e-mails, texts, notes, memoranda of conversations, sound recordings, magnetic tapes and other written, reported, recorded or graphic matter relating to any exchange of information between You and the Plaintiff named below, and further including any "document" described in Item (B) relating to such correspondence.

4. Plaintiff: "Maalt" means MAALT, LP, as well as any of its owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity, which includes, but is not limited to, Vista Proppants and Logistics, Inc., Vista Proppants and Logistics, LLC, Lonestar Prospects, Ltd., Maalt Specialized Bulk, LLC, Lonestar Prospects Holding Company, L.L.C., and First Reserve Management, L.P.

5. Defendant: "Sequitur" means SEQUITUR PERMIAN, LLC as well as any of its respective officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity.

6. Jupiter: JupiterMLP, LLC, Jupiter Marketing & Trading LLC, and any of their respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries,

affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity, which includes, but is not limited to, Jupiter Pipeline, LLC, Jupiter Transport, LLC, Jupiter Rail, LLC, Jupiter Crude Upgrading & Processing, LLC, Jupiter Marine Terminals, LLC, Jupiter Equipment Leasing, LLC, Jupiter Energy Group Holdings, LLC, Jupiter Energy Trading, LLC, and JEG Holdings, LLC.

7. As used herein, the term "TXPF" means Texas Pacifico Transportation, Ltd. as well as any of its respective officers, directors, representatives, agents, including without limitation, Stan Meador, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of said entity.

8. As used herein, the term "UPRR" means Union Pacific Railroad Company and any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, including without limitation, Ashley McCall, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

9. As used herein, the term "Shell" means Shell Oil Company, as well as any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

10. As used herein, the term "BP" means Eni BB Petroleum Inc., A Delaware Corporation, and any of its respective owners, members, managers, general partners, limited partners, parent companies, subsidiaries, affiliates, officers, directors, representatives, agents, employees, contractors, successors, predecessors, assigns, or any other person(s) or entity(ies) acting or purporting to act on behalf of any said entity.

11. Identify: "Identify," when used in reference to a person, means to state the person's full name, the person's last known business address and telephone number, and in the case of a natural person, also state his or her residence, address and telephone number.

12. Identify a document: "Identify a document" means to state the author's name, the addressee's name, the date, the type of document (e.g. letter, chart, memo, etc.), the present or last known custodian of that document and his present location, a brief summary of the document's contents, and all other characteristics by which that document might be distinguished from any other document.

13. Lawsuit: "Lawsuit" means any and all claims or causes of action presently filed in the above-captioned cause or known to You.

14. Describe, identify, explain and/or state: "Describe", "identify", "explain" or "state," when used herein, mean to detail fully and completely all the discoverable information pertaining to this cause which concerns or is relevant to the inquiry being made.

15. Person: "Person" means natural persons, corporations, partnerships, sole proprietorships, associations or any other kind or type of entity or its agents, servants and employees.

16. Occurrence: "Occurrence" shall mean the events or happenings as set forth in the Plaintiff's and Defendant's most recent pleadings which have given rise to this Lawsuit.

17. For purposes of interpreting or construing the scope of the requests propounded herein, the terms used shall be given their most expansive and inclusive interpretation, unless otherwise specifically limited to the request itself. This includes, without limitation, the following:

a. Construing "and" as well as "or" in the disjunctive or conjunctive as necessary to make the request more inclusive; and

b. Construing the term "relating to" to include any connection whatsoever, direct or indirect, with the requested information, without limitation, unless otherwise specified in the request.

18. TSA: "TSA" means the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018 under which Plaintiff's Terminal was to be made available to Defendant on an exclusive basis for use for the throughput and transloading of crude oil.

19. As used herein, the term the "Project" means the services, work, obligations, performance duties, operations, and business contemplated and discussed in the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018.

20. As used herein, the terms "Barnhart Facility" or "Terminal" shall mean terminal located in Barnhart, Texas which was owned by Maalt, LP and subject to the Terminal Services Agreement entered into between Plaintiff and Defendant, effective on August 6, 2018.

21. The term "lawsuit" means any and all claims or causes of action presently filed in the above-captioned cause or known to you, including Case No. CV19-003 pending before the 51st District Court in Irion County, Texas.

23. The term "CBR" shall mean Crude by Rail.

**EXHIBIT A**
**PRODUCTION REQUEST**

1. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Jupiter" (including but not limited to Travis Morris or any other employee or person affiliated with Jupiter) regarding moving "CBR" on the "UPRR" from Barnhart Facility during the time period of January 2018 through December 2019.

2. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "TXPF" (including but not limited to Stan Meador, Jorge Gonzalez or any other employee or person affiliated with TXPF) regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

3. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Sequitur" including any employee or person affiliated with Sequitur, regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

4. Documents evidencing any and all communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Maalt/Vista" including Jon Ince and any other employee or person affiliated with Maalt/Vista regarding moving CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

5. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any third party regarding requested rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019.

6. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "Shell" regarding rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019. These documents should include any request for rates, rates quoted, hazmat and surcharges.

7. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and "BP" regarding rates to ship CBR on the UPRR from Barnhart Facility during the time period of January 2018 through December 2019. These documents should include any request for rates, rates quoted, hazmat and surcharges.

8. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any third party regarding Sequitur's desire to move CBR on the UPRR from Barnhart Facility.

9. Documents evidencing any communications between you (including without limitation Brian Seward, Short Line Development Manager and/or Ashley McCall), and any common carrier regarding Sequitur's desire to move CBR from Barnhart Facility.

10. UPRR policies regarding run through agreements with short line railroad partners, such as TXPF, which were enacted in 2019.

11. A true and correct copy of the Union Pacific Railroad Equipment Run-Through Agreement with Short Line railroad partners utilizing UPRR locomotives, effective date of January 1, 2019, inclusive of term sheet.

12. A true and correct copy of any policy regarding the shipping of CBR on the UPRR from May 2018-2019.

13. Documents evidencing any shipment of CBR on the UPRR from Barnhart Texas and/or the Barnhart Facility in 2018 and 2019.

# THE STATE OF TEXAS
# DOCUMENT SUBPOENA
# PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 176.2(b)

CAUSE NO. CV19-003 IN THE 51ST JUDICIAL DISTRICT COURT OF IRION COUNTY, TEXAS

*Maalt, LP*
*v.*
*Sequitur Permian, LLC*

**TO: Any Sheriff or Constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Texas Rule of Civil Procedure 176.4 and 176.5.**

YOUR ARE HEREBY COMMANDED TO SUMMON

UNION PACIFIC RAILROAD COMPANY
c/o CT Corporation System, Registered Agent
1999 Bryan St., Suite 900
Dallas, Texas 75201-3136

TO PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED DOCUMENTS OR TANGIBLE THINGS IN THE POSSESSION, CUSTODY, OR CONTROL OF UNION PACIFIC RAILROAD COMPANY AS REQUESTED IN THE ATTACHED **EXHIBIT A** BY 9:00 A.M. ON MONDAY, FEBRUARY 10, 2020, AT THE OFFICE OF HOOVER SLOVACEK LLP, 5051 WESTHEIMER, SUITE 1200, HOUSTON, TEXAS 77056

**Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both. Texas Rule of Civil Procedure 176.8(a).

**DO NOT FAIL** to return this writ to said Court, with return thereon, showing the manner of execution.

By: */s/ Matthew A. Kornhauser*
Matthew A. Kornhauser
TBA No. 11684500

CAUSE NO. CV19-003

| | | |
|---|---|---|
| MAALT LP | § | IN THE DISTRICT COURT |
| VS | § | IRION COUNTY, TEXAS |
| SEQUITUR PERMIAN, LLC | § | 51ST JUDICIAL DISTRICT |

**AFFIDAVIT**
**UNION PACIFIC RAILROAD**

Records Pertaining To: **BUSINESS RECORDS**

Before me, the undersigned authority, personally appeared, Betsy Gassaway, who, being by me duly sworn, deposed as follows:

I, the undersigned, am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of records for **UNION PACIFIC RAILROAD.**

Attached hereto are 653 pages of records from UNION PACIFIC RAILROAD. These said pages of records are kept in the regular course of business, and it was the regular course of business of UNION PACIFIC RAILROAD for an employee or representative of UNION PACIFIC RAILROAD with knowledge of the act, event, condition, opinion recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter.

The records attached hereto are the original or exact duplicates of the original.

Betsy Gassaway
AFFIANT

SWORN TO AND SUBSCRIBED before me on the 10th day of March, 2020.

SARAH J RIEF
GENERAL NOTARY
STATE OF NEBRASKA
My Commission Expires May 15, 2021

Sarah J Rief
Notary Public in and for
The State of TX

File: 88599-1-685922

LEXITAS
325 N. St. Paul Street
Suite 1900
Dallas, TX 75201
800-497-7618
800-311-8300 (fax)

CLERK OF THE 51ST JUDICIAL DISTRICT COURT
209 N. PARK VIEW ST.

MERTZON TX, 76941

| | CAUSE NO. CV19-003 | |
|---|---|---|
| MAALT LP | § | IN THE DISTRICT COURT |
| VS | § | IRION COUNTY, TEXAS |
| SEQUITUR PERMIAN, LLC | § | 51ST JUDICIAL DISTRICT |

**Regarding Deposition by Written Questions**
Directed to the Custodian of Records for: **UNION PACIFIC RAILROAD**
Pertaining to **BUSINESS RECORDS**

The witness was duly sworn and the transcript attached is a true record of the testimony given by the witness. The deposition was signed by the witness and returned on 03/10/2020. Changes made by the witness, if any, in the transcript are attached or incorporated hereto. The original deposition transcript, together with copies of all exhibits, were provided to the attorney or party who asked the first question appearing in the transcript for safekeeping and use at trial. The charges for the preparation of the completed deposition transcript and any copies of the exhibits are to be paid for by the attorney for the Defendant and total $511.03.

**Attorneys of Record follow:**

| | | | |
|---|---|---|---|
| MATTHEW KORNHAUSER | PAUL WICKES pwickes@wickeslaw.com | SAMUEL ALLEN sallen@jw.com | JAMES LANTER |

I certify that a true and correct copy of the foregoing instrument was mailed to the respective parties or attorneys of record, postage prepaid, was hand delivered, or transmitted by facsimile.

AFFIANT

CHERI COLLEEN BIBB
Notary Public, State of Texas
Comm. Expires 11-12-2020
Notary ID 12092416

SWORN TO AND SUBSCRIBED BEFORE ME ON 03/11/2020

Notary Public in and for
The State of Texas

**88599-1-685922**

**Jim Lanter**

**From:** Christopher J. Kronzer <kronzer@hooverslovacek.com>
**Sent:** Wednesday, March 3, 2021 9:30 AM
**To:** Jim.lanter@lanter-law.com; pwickes@wickeslaw.com
**Cc:** Matt A. Kornhauser
**Subject:** Maalt v. Sequitur - Deposition of Brian Seward (UP)

Gentlemen:

I was able to get dates from Union Pacific to make Brian Seward available for deposition on either March 18 or 19. Please let me know if you are available these dates for this depo.

Thanks,

Chris

**Christopher J. Kronzer**
**Partner**

HooverSlovacek LLP
Attorneys at Law

HooverSlovacek LLP
Galleria Office Tower 2
5051 Westheimer Rd., Suite 1200
Houston, TX 77056
Office: 713-977-8686
Fax: 713-977-5395
www.hooverslovacek.com




NOTICE OF CONFIDENTIALITY: This communication and any attachments to it are confidential and intended solely for the use of the person to whom it is addressed. The information contained in and transmitted with this email is subject to the attorney-client and attorney work product privilege. If you have received this email in error, please reply and notify the sender immediately. You are hereby notified that any disclosure, distribution, copying, or the taking of any action in reliance on the contents of this information is unauthorized and prohibited. Any email erroneously transmitted to you should be immediately destroyed. Nothing in this message may be construed as a digital or electronic signature of any employee of Hoover Slovacek LLP.

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS,**
**FORT WORTH DIVISION**

| | | |
|---|---|---|
| **In re:** | § | **Chapter 11** |
| | § | |
| **VISTA PROPPANTS AND LOGISTICS, LLC, ET AL.,** | § | **Case No. 20-42002-ELM-11** |
| | § | |
| | § | |
| **Debtors** | § | **Jointly Administered** |
| | § | |
| **MAALT, LP,** | § | |
| | § | |
| **Plaintiff,** | § | |
| | § | |
| **vs.** | § | **Adversary No. 20-04064-elm** |
| | § | |
| **SEQUITUR PERMIAN, LLC,** | § | **Removed from Cause No. CV19-003 in** |
| | § | **the 51st Judicial District Court, Irion** |
| **Defendant.** | § | **County, Texas** |

**ORDER ON SEQUITUR PERMIAN, LLC'S**
**MOTION FOR LEAVE TO TAKE THE DEPOSITION OF BRIAN SEWARD**

ON THIS DAY, the Court considered the Motion for Leave to Take the Deposition of Brian Seward filed by Sequitur Permian, LLC ("Sequitur") (Doc. 100), the response filed by Plaintiff, Maalt, LP and Vista Proppants and Logistics, LLC, and any reply. After giving consideration to the Motion and all related documents, the Court is of the opinion that the following orders should be entered.

IT IS THEREFORE ORDERED that Sequitur Permian, LLC's Motion for Leave to Take the Deposition of Brian Seward (Doc. 100) is denied.

# # # END OF ORDER # # #

Submitted by:

James Lanter
State Bar No. 11940700
JAMES LANTER, P.C.
560 N. Walnut Creek
Suite 120
Mansfield, Texas 76063
(817) 453-4800
(817) 453-4801 FAX
jim.lanter@lanter-law.com

Paul O. Wickes
State Bar No. 00788663
WICKES LAW, PLLC
5600 Tennyson Parkway
Suite 205
Plano, Texas 75024
(972) 473-6900
(972) 767-3225 FAX
pwickes@wickeslaw.com