

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

**IN THE MATTER OF
PROPOSED AMENDMENTS TO
19.15.2, 19.15.5, 19.15.8, 19.15.9,
AND 19.15.25 NMAC**

CASE NO. 24683

**PRE-HEARING STATEMENT
NEW MEXICO OIL AND GAS ASSOCIATION**

This Pre-Hearing Statement is submitted on behalf of the New Mexico Oil and Gas Association (“NMOGA”), through its counsel of record, in accordance with 19.15.3.11.B NMAC and Pre-Hearing Order No. R-23861.

I. IDENTIFICATION OF PARTY AND COUNSEL

NMOGA has intervened in this matter and is represented by undersigned counsel.

II. STATEMENT OF THE CASE

NMOGA opposes the Western Environmental Law Center’s (“WELC”) Amended Application and, and as set forth in **Exhibit A**, hereto,¹ offers targeted modifications to WELC’s proposed rule changes. These modifications are designed to streamline WELC’s proposals and establish a clear, workable regulatory framework that is grounded in sound data, scientific analysis, and practical operational realities. They ensure that financial assurance, bonding, and asset transfer requirements are effective and enforceable, while providing clear, legally defensible definitions that can be implemented within the existing statutory authority.

¹ NMOGA reserves the right to comment on any proposals later filed in this rulemaking proceeding by the New Mexico Oil Conservation Division (“OCD”), or any other party or intervenor.

III. PROPOSED EVIDENCE

WITNESS:

1. Andrea Felix – Industry and Regulatory Expert

Ms. Felix currently serves as the Vice President of Regulatory Affairs for the New Mexico Oil and Gas Association. In this role, she is responsible for monitoring and interpreting state and federal regulatory developments, advising NMOGA's membership on potential regulatory risks, compliance obligations, and strategic opportunities, and leading the association's advocacy efforts before governmental and non-governmental stakeholders.

Ms. Felix brings over 20 years of experience in the oil and natural gas industry, with deep expertise in navigating the complex regulatory, political, and tribal landscape specific to New Mexico. Her background includes managing and directing environmental permitting, regulatory compliance, and policy advocacy initiatives on behalf of operators and industry groups.

In this proceeding, Ms. Felix offers testimony on the proposed amendments to the NMAC from the perspective of the regulated oil and natural gas industry. Drawing on feedback from NMOGA members and her own analysis, she is familiar with the proposed rule changes, including amendments to 19.15.2.7, 19.15.5.9, 19.15.8.9, 19.15.9.9, and 19.15.25 NMAC.

Ms. Felix's written direct testimony outlines NMOGA's opposition to several aspects of the Amended Application submitted by WELC and offers specific recommendations to modify the proposed rules. Additional details regarding her qualifications and experience are included in her written testimony. Ms. Felix is available for cross-examination following the submission of her direct testimony. NMOGA reserves the right to call Ms. Felix for rebuttal and surrebuttal testimony as necessary.

2. Dan Arthur, P.E. – Operational and Regulatory Expert

Mr. Dan Arthur is the founder, President, and Chief Engineer of ALL Consulting, which

he has led for 26 years. He has also served in executive roles with CSR Services, DynaVert Holdings, and Verdant Technologies, focusing on well plugging, engineering, and sustainability initiatives. Mr. Arthur is a licensed professional engineer in 36 states, a Certified Petroleum Geologist, a Professional Petroleum Engineer, a qualified Measurement Specialist, and a Certified Climate Management Leader. He holds a B.S. in Petroleum Engineering from the Missouri University of Science and Technology and has led projects in all major U.S. basins and in over 30 countries.

Prior to founding ALL Consulting, Mr. Arthur held technical and leadership roles at Halliburton, several independent operators, and a major international consulting firm. He has served as a national expert on EPA's Underground Injection Control Program. At ALL, he leads a multidisciplinary team conducting regulatory analyses, drafting and commenting on proposed rules, assessing regulatory impacts, and negotiating with agencies on conventional and unconventional oil and gas issues.

In this proceeding, Mr. Arthur will address two primary areas. First, he will evaluate definitional and compliance issues—especially those involving marginal wells, beneficial use, and temporarily abandoned wells—explaining how the proposed rule risks incentivizing premature well abandonment. Second, he will critique the proposed \$150,000 per-well financial assurance framework, highlighting its inflexibility, misalignment with actual plugging costs, and the disproportionate burden it places on small operators and asset transactions.

Mr. Arthur's written direct testimony opposes key aspects of the Amended Application proposed by WELC and offers recommended modifications. His qualifications and relevant experience are further detailed in his testimony. Mr. Arthur is available for cross-examination and may be called for rebuttal testimony as needed.

3. Harold McGowen, P.E. – Operational and Plugging and Abandonment (P&A) Expert

Mr. McGowen is the founder, President, and Chief Executive Officer of Navidad Energy Advisors (NEA). Mr. McGowen has served in this capacity for 12 years. He holds a Bachelor of Science Degree in Mechanical Engineering from Texas A&M University and is a licensed Professional Engineer. Mr. McGowen has previously served as the President and CEO of various exploration and production companies, including Navidad Resources, Inc., where his roles included the execution of full-cycle acquisition, development, divestiture, and decommissioning programs, including plugging and abandonment, and surface restoration activities. These roles include the plugging of numerous wells, re-entering wells that had been previously plugged by other operators, and directing U.S. Securities and Exchange Commission (SEC) compliant reserve audits that included economic modeling of P&A obligations. While running multiple oil and gas companies, Mr. McGowen manages a multidisciplinary technical advisory team consisting of reservoir, drilling, production, geology, data engineer, and data analyst experts to provide engineering due diligence, reserves evaluations, economic analysis, and forensic investigations.

Mr. McGowen's testimony will address five core areas of concern with the proposed rule changes, each of which raises significant operational, economic, and regulatory challenges. First, he will present evidence by analyzing the overly narrow definitions of "Beneficial Use," which risk triggering premature well abandonment based on arbitrary thresholds. Next, Mr. McGowen will assess the proposed revisions to the temporary abandonment program and casing integrity requirements, which disregard existing safeguards and penalize regulatory compliance. Third, he will discuss how the proposed plugging and abandonment timelines threaten to undercut resource conservation by forcing the closure of wells that could otherwise be repaired or repurposed. Fourth, he will also address the sharp rise in financial assurance requirements for marginal and idle wells,

which could deter investment and increase, rather than reduce, the number of orphan wells. Finally, he will examine how redefining marginal wells and imposing stricter transfer and bonding rules could destabilize the responsible transition of assets and deter capital from entering the New Mexico oil and gas sector.

Mr. McGowen provides his written direct testimony in opposition to several aspects of the Amended Application as proposed by WELC and recommends several modifications to the proposed rule. Additional, relevant background and experience information for Mr. McGowen is also reflected in his filed testimony. Mr. McGowen is available for cross-examination after adoption of his written testimony. NMOGA reserves the right to call Mr. McGowen as necessary for the purpose of rebuttal testimony and surrebuttal testimony.

4. Douglas R. Emerick – Surety Expert

Mr. Emerick serves as the Director of Operations for Insurance Expert Network and is also the owner of Emerick Consulting. Mr. Emerick obtained his bachelor's degree in business administration and marketing from Gannon University. In addition to his duties as Director, Mr. Emerick serves as an expert in insurance specialties, including fidelity, surety, director and officer for insurance products, and errors and omissions insurance.

Mr. Emerick possesses extensive experience in fidelity and surety product lines and operating groups. Additionally, Mr. Emerick has developed and implemented new underwriting tools for public and private companies. Having worked as an underwriter for all sizes of fidelity and surety accounts in several states, Mr. Emerick is familiar with the proposals put forth by each party. Additionally, Mr. Emerick is familiar with surety markets nationwide and understands the special concern of oil and natural gas companies regarding plugging bonds in several states.

Mr. Emerick's testimony will focus on explaining the process for obtaining surety bonds

or other forms of financial assurance, the substantial costs typically associated with securing such bonds, and the specific difficulties small and mid-sized operators are likely to face in obtaining bonding at reasonable rates under the Applicants' proposed amendments.

He submits his written direct testimony in opposition to several aspects of the Amended Application advanced by WELC and offers targeted modifications to the proposed rule. His qualifications and relevant industry experience are detailed in the written testimony. Mr. Emerick will be available for cross-examination following adoption of his written testimony, and NMOGA reserves the right to call him for rebuttal and surrebuttal testimony, if necessary.

5. Clayton Sporich, J.D. – Operational and Legal Expert

Mr. Sporich most recently served as the Executive Vice President of Land and Legal for Tap Rock Resources. During his time at Tap Rock Resources, Mr. Sporich lead the land, legal, regulatory, and administration departments in all aspects of the business of oil and natural gas exploration, production, and development. Previously, Mr. Sporich was employed as legal counsel for Matador Resources and Headington Energy Partners. Mr. Sporich obtained a Bachelor of Business Administration from the University of Mississippi in real estate and a Juris Doctorate from South Texas College of Law.

Mr. Sporich will testify in opposition to several proposed amendments advanced by WELC, focusing on changes to 19.15.2.7, 19.15.5.9, 19.15.8.9, 19.15.9, and 19.15.25 NMAC. Where appropriate, he will offer alternative language and approaches. His testimony will emphasize that many of the proposed changes likely exceed the regulatory authority granted under the New Mexico Oil and Gas Act, NMSA 1978, § 70-2-1 et seq., and improperly extend into areas governed by well-established corporate, administrative, and other legal principles. Mr. Sporich will also highlight the significant burdens these amendments would impose on operators, including

heightened compliance costs, procedural delays, and expanded regulatory obligations untethered to statutory authority.

Mr. Sporich provides his written direct testimony in opposition of several aspects of the Amended Application as proposed by WELC and proposes several modifications to the proposed rule. Additional relevant background and experience information for Mr. Sporich is also reflected in his testimony provided. Mr. Sporich is available for cross-examination after adoption of his written testimony. NMOGA reserves the right to call Mr. Sporich as necessary for the purpose of rebuttal testimony and surrebuttal testimony.

NMOGA-PROPOSED MODIFICATIONS, STATEMENT OF REASONS, AND

PROPOSED EVIDENCE

NMOGA proposes various revisions to WELC's proposed amendments to 19.15.2, 19.15.5, 19.15.8, 19.15.9, and 19.15.25 NMAC. **Exhibit A** to this Pre-Hearing Statement contains NMOGA's proposed revisions in redline/strikeout format. In further support of these necessary revisions in **Exhibit A**, NMOGA intends to allot the following time to the following witnesses:

Witness:

Estimated Time:

Harold McGowen	3 Hours
Dan Arthur, P.E.	3 Hours
Clayton Sporich, J.D.	3 Hours
Douglas R. Emerick	2.5 Hours
Andrea Felix	2.5 Hours

Since each witness has pre-filed their direct testimony, each witness will adopt their testimony under oath at the hearing and then be made available for cross-examination. NMOGA reserves the right to call additional witnesses to testify and offer exhibits regarding modifications proposed by other parties; to present rebuttal testimony and surrebuttal testimony and exhibits; and to present exhibits for cross-examination.

NMOGA requests the opportunity to make an opening (10-20 min.) and closing (20-30 min.) statement pursuant to 19.15.3.12.(A)(2)(b) and (e) NMAC.

NMOGA HEARING EXHIBITS

NMOGA anticipates entering into evidence **NMOGA Exhibits A through F**, which contain numbered pages and have been provided with this Pre-Hearing Statement.

Exhibit A contains NMOGA's proposed amendments to the Commission's rules responding to the proposed amendments by WELC as originally filed in June 2024, revised in April 2025, and as amended via a Notice of Errata in June 2025. NMOGA responds to those most recent amendments WELC made through the errata filing but preserves its position objecting to the substantive nature of the edits made through that Notice, to which NMOGA timely objected.

Exhibit B is the Direct Testimony of NMOGA's industry expert, Andrea Felix, with her resume attached as **Appendix A** thereto.

Exhibit C is the Direct Testimony of NMOGA's operational and regulatory expert, Dan Arthur, with his resume attached as **Appendix A** thereto.

Exhibit D is the Direct Testimony of NMOGA's oil and gas operational and well plugging and abandonment expert, Harold McGowen, with his resume attached as **Appendix A** thereto.

Exhibit E is the Direct Testimony of NMOGA's legal expert, Clayton Sporich, with his resume attached as **Appendix A** thereto.


Exhibit F is the Direct Testimony of NMOGA's surety expert Douglas Emerick, with his resume attached as **Appendix A** thereto.

CONCLUSION

For the foregoing reasons, and based on the testimony and exhibits to be presented at the hearing, NMOGA respectfully urges the Commission to reject the rule amendments proposed by WELC. NMOGA cannot support WELC's amendments as submitted. Nevertheless, NMOGA has provided targeted revisions to WELC's proposals to assist the Commission in addressing its substantive shortcomings and crafting workable, legally sound regulations. NMOGA appreciates the opportunity to participate in this proceeding.

Respectfully submitted,

DATED: August 8, 2025.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 8th day of August 2025, as follows:

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