

**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

INTERVENOR IPANM'S PREHEARING STATEMENT

COMES NOW Intervenor Independent Petroleum Association of New Mexico (IPANM) by and through its counsel of record, Hinkle Shanor LLP (Andrew J. Cloutier and Ann Cox Tripp) and pursuant to NMAC 19.15.3.11.B and the Prehearing Order dated June 12, 2025, amended July 17, 2025, hereby submits its Prehearing Statement in the Rulemaking proceeding brought by Applicants Western Environmental Law Center, Citizens Caring for the Future, Conservation Voters New Mexico Education Fund, Diné C.A.R.E., Earthworks, Naeva, New Mexico Interfaith Power and Light, San Juan Citizens Alliance, and Sierra Club (collectively "WELC Applicants").

I. INTRODUCTION

Established in 1978, IPANM is a non-profit trade association representing independent oil and natural gas producers and mineral and royalty owners in New Mexico and currently has over 300 members. IPANM's members support thousands of New Mexico residents and contributes substantially to the state's oil production. IPANM promotes responsible and sustainable discovery, development, production, and conservation of oil and natural gas resources in the state. IPANM membership range from third-generation family-run upstream producers to midstream pipeline and transportation employees to downstream independent marketers, consultants and bankers, but all are

dedicated to the responsible growth and continued contributions of the oil and gas industry to New Mexico. Now spanning over a century of extraction in New Mexico's primary basins, independent operators make up the backbone of the natural resources industry in the state and are proud to have been a part of that history from day one. IPANM members look forward to serving the state as stewards of New Mexico's resources through the next century. WELC Applicants' proposed rulemaking, however, appears hellbent on eradicating small and mid-size operators from any part of New Mexico's energy landscape.

The WELC Applicants seek to amend, if not overhaul, five sets of regulations previously adopted by the Commission under the authority of the New Mexico Oil and Gas Act, NMSA 1978, § 70-2-11(A), to make and enforce rules, regulations, and orders to prevent waste and protect correlative rights. WELC Applicants' Revised Proposal, submitted April 25, 2025:

- (1) adds defined terms under NMAC 19.15.2;
- (2) alters what it means to be in compliance pursuant to NMAC 19.15.5;
- (3) increases required financial assurance by NMAC 19.15.8, untethered from actual well characteristics or plugging costs;
- (4) introduces burdensome and illogical operator registration and well transfer requirements under NMAC 19.15.9; and
- (5) reduces plugging and abandonment and temporary abandonment timelines and complicates those procedures, to include changes to well integrity testing, pursuant to NMAC 19.15.25.

The WELC Applicants' Revised Proposal also incorporates the Oil Conservation Division's ("Division") proposed changes, to include a rebuttable administrative presumption against beneficial use upon certain performance and production levels, irrespective of individual well economic viability or conversion potential. See WELC Revised Application at Exhibit 1-E (proposed NMAC 19.15.25.9).

II. RESPONSE TO WELC REVISED APPLICATION

The WELC Applicants assert that the Commission's current rules, revised only upon the express direction of the Legislature in 2008 and again in 2018, fail to provide adequate financial assurance for "at risk" wells and that the costs of plugging are thus "borne by the State of New Mexico, taxpayers, and communities." Rev. App., 2. IPANM disagrees and opposes each proposed change in the WELC Applicants' Revised Application, with the exception of the following:

A. Revised Application Exhibit 1-A, NMAC 19.15.2.7 Definitions: the WELC Applicants propose that the Commission adopt a definition of "Barrel of oil equivalent," which "is determined by converting the volume of gas the well produced to barrels of oil by using a ratio of 6,000 cubic feet one barrel of oil." IPANM does not oppose adoption of this definition.

B. Revised Application Exhibit 1-D, NMAC 19.15.9.8(C)(4) & 19.15.9.8(C)(5): the WELC Applicants propose combining the existing NMAC 19.15.9.8(B)(4) and (5) into a single statement to read: "the applicant is a corporation, limited liability company, or limited partnership and is not registered or in not in good standing with the New Mexico secretary of state to do business in New Mexico." IPANM does not oppose this amendment of existing regulatory language in NMAC 19.15.9.8.(B)(4) & (5).

III. IPANM WITNESSES AND EXHIBITS FOR RULEMAKING HEARING

As required by NMAC 19.15.3.11(B)(2) and Paragraph 2 of the Amended Prehearing Order, Intervenor IPANM intends to present technical testimony at the Rulemaking Hearing, and has submitted the full, direct testimony of Robert Arscott, T. Calder Ezzell, Jr., Trevor Gilstrap, Jim Winchester, Mark Murphy, and Kyle Armstrong. A summary of the witnesses' testimony, qualifications, and the anticipated time needed for testimony during the hearing follows.

A. Robert Arscott

1. *Summary of testimony:* Mr. Arscott will testify regarding the economic reasons for bonding below anticipated bonding costs and various adverse economic effects that the proposed rulemaking, if adopted, would have.
2. *Summary of qualifications:* Mr. Arscott holds four degrees: A Phd in Finance and Master of Science in Business Administration from University of Rochester; a Master of Science in Business Administration from the University of Oxford; and a Bachelor of Business Administration from Concordia University Texas. He taught courses in corporate finance and real estate as an Associate Professor at Syracuse University and conducted research in the areas of corporate finance including market efficiency and risk management.
3. *Time needed to present testimony:* two hours.

B. T. Calder Ezzell, Jr.

1. *Summary of testimony:* Mr. Ezzell will offer testimony regarding the legal and practical implications of the proposed rulemaking including: the likely inability of an operator of an oil and gas to pass on the cost of single well bonds to other owners of a well; conflicts with and/or likely disruption of existing statutory and common law governing the oil industry; and, impairment of the owners of oil and gas leases to produce the maximum amount of hydrocarbons that could be produced

economically but for the rulemaking. In sum, Mr. Ezzell will explain ways in which the proposed rulemaking, if adopted, will create waste and impair correlative rights.

2. *Summary of qualifications:* Mr. Ezzell is a graduate of Washington & Lee University (BA 1974, JD 1977); has been licensed to practice law in New Mexico for almost 50 years; has actively practiced law since 1977 focusing his practice on representing the upstream portion of the oil and gas industry; and, for approximately 45 years, has actively participated in the oil and gas industry as an owner of cost bearing interests and, for a period of time, an operator.
3. *Time needed to present testimony:* two hours.

C. Trevor Gilstrap

1. *Summary of testimony:* Mr. Gilstrap will testify about the surety/insurance market, the costs that will be imposed on operators if the proposed rulemaking is adopted, and the (non)availability of surety products for small and medium sized operators.
2. *Summary of qualifications:* Mr. Gilstrap has over a decade of experience assisting upstream and midstream energy clients procure surety and insurance products. He holds an Energy Risk & Insurance Specialist designation from the International Risk Management Institute.
3. Time needed to present testimony: one hour.

D. Jim Winchester

1. *Summary of testimony:* Mr. Winchester will testify regarding the administrative and operational difficulties that arise if the rulemaking is adopted and the undesirable vagueness of certain portions of the proposed rulemaking.
2. *Summary of qualifications:* Mr. Winchester is the executive director of IPANM and a former employee of EMNRD.
3. *Time needed to present testimony:* 45 minutes.

E. Mark Murphy

1. *Summary of testimony:* Mr. Murphy will testify regarding the negative effects that the proposed rulemaking will have on small and medium sized independent producers and policy concerns and history regarding financial assurances.
2. *Summary of qualifications:* Mr. Murphy has been active in the upstream portion of the industry for 40 years and has owned and run a small independent operating company for over 30 years. He also has been active in public policy and statutory and regulatory aspects of the industry in New Mexico and at the federal level for all of his career.
3. *Time needed to present testimony:* one hour.

F. Kyle Armstrong

1. *Summary of testimony:* Mr. Armstrong will testify regarding the negative effects that the proposed rulemaking on small and medium sized independent producers and the waste that will be created by the proposed rulemaking if adopted.
2. *Summary of qualifications:* Mr. Armstrong is the President of a company that is a small, independent operator based in New Mexico.
3. *Time needed to present testimony:* 30 minutes

Additionally, IPANM submits the following fact witness testimony, in full, in opposition to the WELC Applicant's proposed rule changes:

G. Jerry McHugh

H. Jeff Harvard

I. David Mitchell

J. Sam Bradley

K. George Sharpe

L. Vern Andrews

In addition to the written testimony of the twelve (12) witnesses listed above, IPANM submits the following exhibits in support of its technical and fact witness testimony and in opposition to the WELC Applicants' Revised Application:

<u>IPANM EXHIBIT</u>	<u>DESCRIPTION</u>
1	Graphical Illustration of Net Inflows and Fixed Outflows of a Hypothetical Well Over Time
2	Graphical Illustration of the Timing of Plugging and Abandonment
3	Summary of Current Status of Wells and Their Production Measured in Barrels of Oil Equivalent between July 2017 thru November 2024
4	Graph Depicting the Production History of the San Juan 30 6 Unit #407 Well
5	Graph Depicting the Production of Another Exemplar Well - the Federal G #001 Well
6	Graph Depicting the Production History for the North Hobbs G_SA Unit #241 Well
7	Production Profile of the Scott #2A Well
8	Summary of Bonding Analysis
9	Chart Depicting the Magnitude of the Bonding Cost Increases Under Proposed Rules for Average Single-Well Operator
10	OCD's Oil and Gas Reclamation Fund 2020 Report
11	OCD's Oil and Gas Reclamation Fund 2021 Report
12	OCD's Oil and Gas Reclamation Fund 2022 Report
13	OCD's Oil and Gas Reclamation Fund 2023 Report

- 14** AAPL 1956 Form JOA
- 15** AAPL 1977 Form JOA
- 16** AAPL 1982 Form JOA
- 17** AAPL 1989 Form JOA
- 18** APPL 2015 Form JOA
- 19** APPL 2015 Form JOA (Horizontal)
- 20** 1962 COPAS Form – 1966 Interpretation
- 21** 1974 COPAS Form
- 22** 1984 COPAS Form
- 23** 1995 COPAS Form
- 24** 2005 COPAS Form
- 25** 2022 COPAS Form
- 26** Oil and Gas on Form 342P
- 27** LFC Policy Spotlight Report dated June 24, 2025
- 28** 2025-08-07 Verification of Sonya Mares and attached LFC Meeting Testimony Transcript

IPANM reserves the right to submit rebuttal testimony, rebuttal exhibits, and surrebuttal testimony in accordance with the July 17, 2025 Amended Prehearing Procedural Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2025, I served a copy of the foregoing to the following via electronic mail:

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