**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**

# REBUTTAL TESTIMONY OF JAMES WINCHESTER

Intervenor Independent Petroleum Association of New Mexico submits the following rebuttal testimony of James Winchester:

**Q: Mr. Winchester, you submitted direct testimony in this rulemaking proceeding and introduced yourself in that testimony?**

**A:** I did.

**Q: What is the purpose of your rebuttal testimony?**

**A:** I seek to make various points in my rebuttal testimony. I have broken my testimony down into sections and each section is a discrete area of my rebuttal testimony.

## OCD Exhibit 17: OCD Master Orphan Spreadsheet

**Q: What is the first area you want to testify?**

**A:** I want to make some observations about OCD Exhibit 17 which is the OCD's Master Orphan Spreadsheet. That Exhibit lists 1,815 different wells which is a number that sometimes is used in this rulemaking as the number of orphan wells in New Mexico. In particular, I believe that there is information in that Exhibit which indicates that some of the wells should no longer be classified as orphan wells under any rational definition of that term and to observe that there are other wells listed that are not going to be affected

by this rulemaking and never would have been affected by State of New Mexico financial assurances requirements.

**Q: Let's start with the orphan well issue. What definition of orphan well are you using?**

**A:** A number of witnesses have testified that there is no standard definition of the term orphan well and there is none proposed in this rulemaking. I define an orphan well as a well that: (a) requires plugging, abandoning and/or legally required site reclamation work; (b) but the OCD approved operator of that well will not and/or cannot perform that work.

**Q: Applying that definition, what is your concern about Exhibit 17?**

**A:** In summary, Exhibit 17 includes wells for which all plugging, abandoning, and reclamation work has already been performed and approved by the Division. There are likely valid regulatory reasons why the OCD maintains an orphan well list that includes wells that have been plugged, abandoned, reclaimed, and released. However, as that list includes such wells, I think it is important to point out that while those wells were orphan wells, they are no longer orphan wells. Those wells now are in the category of wellbores in New Mexico that have been successfully plugged, abandoned, and the site reclaimed in accordance with regulations by the operator or the OCD and the OCD has satisfied itself that the work was properly performed. For that category of wells, there is no longer an operator, there is no bonding or financial assurance requirement, and this rulemaking, if adopted, would not impose any financial assurance requirements.

**Q: How do you determine that?**

**A:** The various columns in OCD Exhibit 17(which is a Microsoft Excel Spreadsheet) that have filters available in them. The relevant column to this part of my testimony is the

"Status" column (column C) that has various categories that include "Plugged, site released" and "Plugged, not released." I am not the author of this spreadsheet but considering those terms as they are commonly used, the phrase "Plugged, site released" signifies to me that all work to close the well has been performed and approved by the OCD. Spot checking a few well files confirmed this understanding.

**Q: Before we talk about the number of wells that fall in those categories, please explain how you counted items in OCD Exhibit 17?**

**A:** Each count was made by using the "sort" functionality for the "Status" column to check or select only category. Prior to making those selections, I made sure that under each column the "(Select all)" was checked under the column sort function. Prior to making any count, the spreadsheet contains 1,817 lines with the first two lines being part of the column headings so that there are 1,815 wells listed. I highlighted the well names in "Column 1" of the spreadsheet and used the count function in Microsoft Excel and when each well name was highlighted that function showed the same 1,815 number. I repeated the process of highlighting and counting in the "Status" column of Exhibit and again got the same 1,815 number. I did each count of Exhibit 17 content in the exact same manner except that I ceased using the "(Select All)" in the Status column and selected one of the status categories that I describe in my testimony below.

**Q: How many "Plugged, site released" wells are listed on OCD Exhibit 17?**

**A:** There are 317 of those wells listed on Exhibit 17 when the "Plugged, site released" is the only box checked in the Status column. As I stated earlier, I do not see any way that any of those 317 wells can be characterized as presently being an orphan well.

**Q: Why did you look at the "Plugged, not released" category?**

**A:** Again, as I am not the author of the spreadsheet and I did not see any explanatory testimony, I can only interpret this "status" as those words are commonly used in the industry. Based on that common usage, I understand that all these wells have been plugged. The terminology also suggests that the site on which the well is located has not been released by the OCD. I can see three reasons why there may not be such a release: (i) no reclamation work has been done on the site, (ii) reclamation work is in progress, and/or (iii) reclamation work has been completed but the OCD has not approved that work and released the site. Based on the "Plugged, site released" language discussed above, it seems to me that the third option is what this category, "Plugged, not released," encompasses. However, since there is not a status category that, at least in my reading, indicates that work is in progress, it may mean one or both the first two options. Thus, this designation indicates that at least the plugging work and perhaps all the work has been done on this site to move the well to "Plugged, site released" status once the Division inspects the well and finalizes the appropriate paperwork. Under my definition, these wells are close (and perhaps just lacking paperwork) to being former orphan wells.

**Q: How many "Plugged, not released" wells are listed on OCD Exhibit 17?**

**A:** After checking on the "Plugged, not released" box in the sort function of the Status column and the same counting methodology that I just described, there are 518 of these wells in Exhibit 17.

**Q: What is the purpose of your testimony concerning Exhibit 17?**

**A:** As I mentioned, I want it to be clear to the Commission that the entirety of Exhibit 17 does not identify the number of orphan wells that need to be addressed in New Mexico. That Exhibit includes at least 317 and perhaps as many as 835 wells where the work to

plug, abandon, and reclaim has been done and at least 317 that are basically in the same status as any well that was never on OCD's "Orphan Well List" for which the OCD has approved the former operator's work to plug, abandon, and reclaim a well.

**Q: What other observations do you have regarding OCD Exhibit No. 17?**

**A:** I believe that Exhibit 17 supports my Direct Testimony on page 6 in which I emphasized that a few companies that are well known to be out of compliance are the source of many of the issues which Applicants and the Division are expressing concern. As I testified, most operators are responsible and plug their uneconomic wells. Rounding to the nearest whole number, three-quarters of the wells listed on OCD Exhibit 17 are or were operated by ten operators as follows:

| OPERATOR | # of Wells on Ex.17 | % of Total |
|---|---|---|
| Cano Petro of New Mexico Inc. | 329 wells | 18.13% |
| Ridgeway Arizona Oil Corp | 299 wells | 16.47% |
| Canyon E&P Company | 235 wells | 12.95% |
| LLJ Ventures LLC DBA Marker Oil & Gas | 149 wells | 8.21% |
| Northern Pacific Oil and Gas Inc | 83 wells | 4.57% |
| Xeric Oil and Gas Corp | 69 wells | 3.8% |
| Marks and Garner Production Ltd Co | 64 wells | 3.53% |
| Remnant Oil Operating LLC | 52 wells | 2.87% |
| Energy Acumen LLC | 50 wells | 2.75% |
| Blue Sky NM Inc. | 41 wells | 2.26% |
| **TOTAL** | **1,371 wells** | **74.54%** |

## OCD EXHIBITS 21, 22, and 23

**Q: What other exhibits did you analyze?**

**A:** The OCD submitted three other lists of wells in Exhibits 21, 22 and 23 that for which there was little to no explanatory testimony from any of the OCD witnesses. I think it is obvious from the title of those Exhibits that Exhibit 21 is a list of wells that the OCD has classified as inactive as of August 8, 2025, but did not include wells that either were

classified as temporarily abandoned ("TA") or subject to an agreed compliance order ("ACOI"). Exhibit 22 adds the ACOI wells into the Exhibit 21 list and Exhibit 23 adds the TA wells to Exhibit 21 without including the ACOI wells. Many of the Exhibit 17 wells appear on each of the lists. As there is significant overlap between those three Exhibits, I will offer more detailed testimony about Exhibit 23 and, while the exact numbers of wells will vary somewhat between Exhibits 21 and 22, the observations in my testimony are the same except for relatively small variance in the exact numbers.

**Q: How many wells on the Master Orphan Well List, Exhibit 17, appear on the Inactive Well List, Exhibit 23?**

**A:** Converting the API numbers in OCD Exhibit 23 (which is a pdf) to text and running a comparison against the API numbers in Exhibit 17, there appear to be approximately 870 wells on both Exhibits. I say "approximately" because converting portions of a pdf document to text is not foolproof, so the exact number may differ somewhat. However, spot checking suggests that the 870 number is at least close.

**Q: Any other observations for the Commission regarding those Exhibits?**

**A:** Here are the ten operators with the most wells on OCD Exhibit 23 with a column calculating the extra bonding that would be required under this proposed rulemaking and another column ("Notes") with some information that is available regrading those operators from public sources including OCD Exhibit 17:

| OPERATOR | #Wells on Ex. 23 | Extra Bond | Notes |
|---|---|---|---|
| Ridgeway Arizona | 287 | $43,050,000 | Subject to ACOI--OCD will P&A 304 wells and Ridgeway pays $2/bbl. sold, $30,000/month |

| | | | |
|---|---|---|---|
| | | | minimum.[1] 299 Wells on OCD Ex. 17 ten. |
| Acacia Operating | 231 | $34,650,000 | One well on OCD Ex. 17 |
| LLJ Ventures (Marker) | 134 | $20,100,000 | 149 wells on OCD Ex. 17. |
| LH Operating | 131 | $19,650,000 | Acquired by EON Resources, Inc. 11/2023. Waterfloods planned.[2] |
| Dominion Production | 124 | $18,600,000 | Three Agreed Compliance Orders with two regarding financial assurances violations.[3] |
| Cano Petro | 118 | $17,700,000 | Filed bankruptcy in March 2012. Abandoned its NM wells. 329 wells on OCD Ex. 17. Order R-14795-A.[4] |
| Hilcorp Energy | 102 | $15,300,000 | Active plugging and reworking programs. Not on OCD Ex.17 |
| OLEUM Energy | 92 | $13,800,000 | At least 2 wells on OCD Ex. 17 |
| Empire NM LLC | 80 | $12,000,000 | Not on OCD Ex. 17; $1M blanket TA Bond in place 8/3/2022 on all 80 TA wells. |
| Maverick Permian | 76 | $11,400,000 | Not on OCD Ex.17; $1M blanket TA Bond in place 4/15/2024 on all 76 TA wells. ACOI-201959.[5] |
| Northern Pacific | 65 | $9,750,000 | 83 wells on OCD Ex. 17 |
| Total | 1440 | $216,000,000 | 39.41% of Exhibit 23 Wells |

I do not know all these companies. The publicly available information that I reviewed suggests that five of these ten operators (Ridgeway, LLJ, Dominion, Cano, and Northern) are unwilling or unable to plug, abandon, and reclaim those wells let alone post the extra bonding that Applicants seek. At the other end of the process, the Annual Reclamation Fund reports entered by the WELC Applicants as exhibits,[6] in addition to the recently

[1] IPANM Ex. 46.
[2] https://www.morningstar.com/news/accesswire/1056003msn/eon-resources-inc-announces-funding-design-for-the-settlement-of-the-seller-agreement-and-debt-payoff-and-the-grayburg-jackson-field-development
[3] ACOI-266 (IPANM Ex. 47); ACOI-285 (IPANM Ex. 48); and ACOI-2016-312 (IPANM Ex. 49).
[4] IPANM Ex. 53.
[5] IPANM Ex. 52.
[6] *See* WELC Exhibits 17-21 (2019-2023 Reclamation Fund Reports); *see also* IPANM Exhibit 43 (2024 Reclamation Fund Report).

issued 2024 Reclamation Fund report, show that even the posted bonds are unreachable. As reported on July 1, 2025, OCD has again recovered $0.00 from Bond Forfeitures, making it five years out of the last seven with zero dollars from financial assurance bonds. *Id.* I know that one of the remaining five companies (Hilcorp) is an active company with a history of plugging and abandoning wells. Both Hilcorp and Maverick do not appear in the "Past Owner" or "Current Owner" columns in OCD Exhibit 17. Please note that "Extra Bond" column in my table is the number of wells in the table multiplied by $150,000 and does not factor in that one or more of these operators may operate wells that are not on the list which the rulemaking would require bonding if, for instance, the operator has more that 15% of its wells producing at "marginal well" levels. I cannot testify to the financial condition of any of those operators. However, we know that neither Ridgeway nor Cano will be posting any additional financial assurances on the 405 wells they operate. As to five of the remaining eight operators, I think any reasonable person would recognize that the publicly available information that I note suggests that there is some material risk (the degree of which varies between those five) that each might not be able to comply with the proposed, elevated financial assurance levels.

**Q: How did you calculate the percentage at the end of the table you presented in the previous answer?**

**A:** At the top of OCD Exhibit 23, the Exhibit indicates that there are 3,654 wells on the list. I assumed that number to be correct and used that as the denominator and the total wells in the "#Wells on Ex. 23" column of the table as the numerator to create the percentage.

**Q: In that table, are you counting the wells the same way you did in Exhibit 17?**

**A:** No. OCD Exhibit 23 is a PDF, and the well counts in my testimony were manually derived. While someone with the ability to analyze the document in its native format might identify minor discrepancies in my numbers, I exercised care in preparing them. Any such variance, if it exists, would not be material to my overall point: to the extent Exhibit 23 reflects wells at greater risk of becoming orphaned, that risk is concentrated among a small subset of New Mexico operators.

**Q: Were there any other problem companies that you are thinking about in your Direct Testimony?**

**A:** Yes, and they each appear on OCD Exhibits 21, 22, and 23. These are companies for which IPANM members have been approached by either BLM or the New Mexico State Land Office to plug, abandon and reclaim wells operated by that operator as the operator is unreachable or uncooperative. *See*, *e.g.*, Direct Testimony of Loren Diede, OCD Ex. 4, 2:1-4 ("forced plugging"). It also includes members of the "top 10" on OCD Ex. 17 who I did not identify as "top 10" on Ex. 23. Those operators and the number of wells assigned to each as listed in Exhibit 23 are:

| Operator | # of Ex. 23 wells | Extra Bond | Notes |
|---|---|---|---|
| Northern Pacific | 65 wells | $9,750,000 | 83 wells on OCD Ex. 17 |
| Sellers & Fulton | 36 wells | $5,400,000 | 36 wells on OCD Ex. 17 |
| Canyon E&P Co. | 36 wells | $5,400,000 | 235 wells on OCD Ex. 17 |
| M&M Production | 34 wells | $5,100,000 | Owner plead guilty to federal fraud charges.[7] 9 wells on OCD Ex. 17. |
| CFM Oil | 25 wells | $3,750,000 | Two Stipulated Final Orders resolving no financial assurances: ACOI-344 |

[7] https://www.justice.gov/usao-nm/pr/us-attorneys-office-announces-sentencing-farmington-woman-oil-and-gas-fraud

| | | | |
|---|---|---|---|
| | | | 3/26/18; and ACOI-201946 1/27/22.[8] 2 wells on OCD Ex. 17. |
| Energy Acumen | 20 wells | $3,000,000 | 50 wells on OCD Ex. 17. |
| G&G Operating | 6 wells | $900,000 | Filed Ch. 7 Bankruptcy 8/6/25 in Bankr. D.N.M. Case No. 25-10975-j7 |
| Marks & Garner Prod. Ltd. Co. | 4 wells | $600,000 | 64 wells on OCD Ex. 17 |
| Blue Sky NM Inc. | 1 well | $150,000 | 41 wells on OCD. Ex. 17 |
| Total | 227 wells | $34,050,000 | 6.21% of wells on Ex. 23 |

I organized the table above in the same manner as the "top ten" table concerning OCD Exhibit 23 earlier in my rebuttal testimony. Again, I do not have personal knowledge regarding the financial circumstances of any of these operators, but the information noted together with the fact that other regulators have sought to have IPANM members plug and abandon wells for many of these operators suggests substantial risk that these operators would not be able to respond or comply with additional financial assurance requirements.

**Q: Any other comments regarding these OCD exhibits?**

**A:** Yes, OCD Exhibits 17, 21, 22 and 23 also contain a number of wells that are subject to Federal or tribal jurisdiction and, therefore, outside the scope of this rulemaking proceeding. In Exhibit 17, there are functions to sort by Federal or tribal minerals and/or surface to try to identify these wells. In Exhibits 21, 22 and 23, that task is much more difficult. Some Federal wells can be identified by a word "Federal" or the abbreviation "Fed" in that well name. However, that is not the entire universe as there are many "Unit" wells indicating that the well is part of a unit and it is not always possible to determine

[8] IPANM Exhibits 50 & 51.

which unit wells are subject to BLM jurisdiction versus subject to State imposed financial assurances requirements.

**Q: What is the purpose of you making this point?**

**A:** Again, there are certainly going to be valid reasons why the regulator will include Federal or tribal wells on such lists. I point it out because it would not be correct to assume that the population of those lists are all subject to this rulemaking proceeding.

## Lease Operating Expenses

**Q: What is the next area you would like to comment on for the Commission?**

**A:** Justin Wrinkle of the OCD offered testimony concerning a range of lease operating expenses. Breaking down his direct testimony visual aid, OCD Ex. 9, results in an estimate of $60,000 to $300,000 in projected monthly operating costs per marginal well. IPANM circulated that testimony and a summary of Mr. Wrinkle's costs to membership for comment and we received responses from seven different companies. All those responses indicate that, even if Mr. Wrinkle's testimony reflects his experience at Marathon, no member believed those costs were accurate for low producing wells. Please recall that various IPANM Members testified earlier about buying lower producing wells from big companies and being able to operate those wells more efficiently or at a lower cost right away.[9] Mr. Wrinkle's testimony does more to illuminate the big company cost structure than describe the costs incurred by smaller, lower cost operators.

**Q: What did IPANM Members say about Mr. Wrinkle's testimony?**

[9] Direct Testimony of Jeff Harvard at 2-9; Direct Testimony of Kyle Armstrong at 3:1 to 4:12; Direct Testimony of George Sharpe at 3.

**A:** On an overall basis, there were two common comments. First, as I noted, members thought that Mr. Wrinkle's testimony was not accurate as to costs of smaller operators but rather reflected his experience at a very large company that sells lower producing wells to more nimble and efficient small operators. Second, members completely rejected the notion that operating costs correlate with BOEs produced. On a specific cost items, members had a number of concerns.

**Q: What was Members' largest concern?**

**A:** The fact that while Mr. Wrinkle acknowledges some difference between capital expenditures ("CAPEX") and true lease operating expenditures ("OPEX"), he adds the two together as if they have some bearing on operating costs. OPEX and CAPEX are treated differently in the oil and gas industry in evaluating the economics of a producing well. While he states that certain costs "could be considered CAPEX," OCD Ex. 9, 4-5, and that "one-time costs can be categorized as Capital Expenditures," *See* Direct Testimony of Justin Wrinkle, OCD Ex. 7, 2:12-16, his testimony is not definitive, and he adds these costs as operating expenses on marginal wells.

**Q: What capital expenditures are you referring to?**

**A:** Our Members all reported that tanks, meters, piping, shut-off valves, SCADA and remote monitoring equipment, flare stacks, and infrastructure costs are all capital costs that are depreciated and rarely, if ever, show up in monthly joint interest billings for lease operating expenses. Instead, they are charged out in an authorization for expenditure which requires approval of a certain level of working interest owners and virtually always are expenses incurred at the beginning of the life of a well. Moreover, all our Membership's responses indicated that those costs are almost never incurred late in a

producing well's life so that it is extremely unlikely that any so-called "marginal well" would incur those categories of costs. These items are all installed at the time the well is being drilled, completed, and equipped. In instances, these items are installed or constructed after completion of a well and the determination that the well is productive so in a large company like Marathon may become the responsibility of the operating or production group and be overseen by lease operators like Mr. Wrinkle at the time. Members report that such CAPEX generally amortized over the first 5-years of production and segregated from ongoing, true operational expenses of the well. There might be some occasional repair that would need to occur, but none of those expenses identified by Mr. Wrinkle are recurring and almost never are incurred when a well is a low volume producer.

**Q: Are there any other costs that your IPANM Membership identified as not occurring on low volume producing wells?**

**A:** Yes. The vapor recovery unit costs that Mr. Wrinkle testified about. Members all, again, agreed that a prudent operator simply does not incur those costs on a well producing less than 1,000 BOE per year. Additionally, Mr. Wrinkle asserts that a monthly expense of $600-$2400 would be required for hot oil treatments. OCD Ex. 9 at 4. IPANM Membership unanimously disputes the rate and frequency as applied to marginal wells, which, by definition, operate at lower-production levels and hot oiling is almost entirely inapplicable to gas wells. At the most, members report hot oiling tanks on marginal wells once a year. Regarding installation of flare stacks, described above as a capital expenditure, marginal wells rarely produce enough gas consistently to spark an auto-ignite flare, entirely negating the purpose of installation. Another category of expense that members identified as extremely well and field dependent that it could not be

"averaged" into a marginal well economics is that of H2S mitigation, which is wholly dependent on well type and location. But in wells where H2S mitigation is required, at marginal levels the cost and level required is nominal. Also, membership generally observed that late life wells and stripper oil wells typically have no compression costs, an expense Mr. Wrinkle assesses at $400-$1600 per month. Furthermore, SCADA equipment or other remote monitoring equipment is never installed on low volume producing well in the first instance and are only present on such wells if installed long before a well reaches "marginal" status. Finally, stripper wells and marginal wells vary widely across operators, type, location, and access and are highly independent of each other. One member who operates over 200 wells could not point to a single well and identify it as a serviceable average example of the other 199 wells. This aligns with the some of the other testimony offered by OCD witnesses regarding exactly why a "one-size-fits-all" approach does not address the realities of operating wells. *See*, *e.g.*, Direct Testimony of Loren Diede, OCD Ex.4, 3-4 (costs "very difficult to forecast" and can be "vastly different" even among same field, same operator, and same contractor).

**Q: Any other comments about costs as set forth by Mr. Wrinkle?**

**A:** One member comment that Mr. Wrinkle's "high" number for road costs was "insane" and other members agreed with exactly that word. I do not doubt Mr. Wrinkle experienced one such cost (for what length of time or how many wells that cost was spread over are both unclear) in his career, but IPANM's membership reports nothing remotely comparable as a cost for any usage of private roads. I do not see how that one figure is of any value to the Commission. Most members report no cost or only the cost

of blading a rancher's roads used by the operator once per year with the blading cost being spread over many wells.

**Q: Overall, how does the inclusion of capital expenses in OCD Exhibit 9 affect the analysis of marginal well economics?**

**A:** Even if you eliminate those one-time costs acknowledged by Mr. Wrinkle, his LOE estimates still sum from $46,000 to $293,000 per month. In comparison, our members looked at their late-life wells and report operating expenses ranging from $600 to $1300 per month. In fact, using Mr. Wrinkle's numbers but excluding capex, the analysis results in LOE of about $1925 per month, at which even a marginal well breaks even at $65/bbl WTI producing just 1.01 barrels of oil per day, which is well below the WELC Applicant's proposed 1000 BOE cutoff for marginal wells. Mr. Wrinkle testifies that his experience is that wells have Lease Operating Expenses of $500-$1500 per Barrel of Oil Equivalent produced. Wrinkle, OCD Ex. 7, 6:19-20. But in the above analysis using his own numbers, a marginal well producing 1.01 barrels per day has an average LOE of $63 per BOE.[10] I think it is worthwhile to review the financial realities of operating stripper and marginal wells because Mr. Wrinkle claims that production from marginal wells does not cover "everyday operating costs," Wrinkle, OCD Ex. 7, 2:19–20, and that marginal wells "never came close" to breaking even. *Id.*, 6:7. I do not dispute that may have been Mr. Wrinkle's experience. But as I have demonstrated above, this is obviously not the case for every marginal well and certainly not reflective of our membership's experience or operation of marginal wells.

## Mr. Purvis' Percentages

[10] $1925 LOE / [ ($65.00 WTI - $1.35 Marketing)*(30 days)] = 1.01 Bbl Oil per Day

**Q: Did you have any commentary about any other witnesses' testimony?**

**A:** Yes. That of Mr. Purvis.

**Q: What area of Mr. Purvis' testimony would you like to comment on?**

**A:** Mr. Purvis' testimony about small operators is condescending and insulting. He basically suggests that this Commission should consider a rulemaking to drive most, if not all, small operators out of business. IPANM has many operator members who are residents of the State of New Mexico, employ other New Mexicans on a full-time basis, use New Mexico service companies and are otherwise contributing to the State and local communities' wellbeing. I do, however, appreciate Mr. Purvis' candor that the aim of this rulemaking is, as my membership and I suspected, to drive small operators out of business more than to provide financial assurances to New Mexico taxpayer. Of course, of all of those companies that are going to be driven out of business as Mr. Purvis predicts, I cannot imagine that any of them will be posting $150,000.00 bonds on each marginal well as they are going out of business. In fact, human nature suggests that, if the financial assurances rulemaking is driving companies out of business, the last bill the company would consider paying would be to the state to secure those financial assurances.

**Q: What about the point that the production from these operators represents a small portion of New Mexico production overall?**

**A:** In recent years, the State of New Mexico has been very fortunate that vast quantities of oil have been produced from shale formations that generally were not productive historically. In the past 10-15 years, a combination of drilling and completion technologies were perfected, allowing horizontal drilling into a formation and the ability to produce significant volumes of oil and gas. New Mexico went from flat or declining

production over many decades to record setting production in almost every year for the past 10 years. IPANM Exhibit 40 is the United States Energy Information Administration's chart and data of New Mexico oil production from 1981 to 2025. It shows that from 1981 to 2011 New Mexico produced between 162,000 barrels of oil per day as a low (in 2007) to a high of 217,000 barrels per day (in 1984). Beginning in 2012, New Mexico exceeded the 1984 production figures and production volumes have increased each year since. In 2025, New Mexico is producing 2,023,000 barrels of oil per day—almost ten times the 1984 production. For the 25 year period ending in 2011, low producing wells and so called "marginal" wells were a significant economic driver for New Mexico tax revenues, especially the various forms of severance taxes imposed by the State of New Mexico, and royalites paid to the State government. Because of gains in technology and development, horizontal wells now contribute a much higher percentage of production but given the growth in production volumes by a figure of 10, stripper and marginal wells continue to contribute significant volumes and revenues, even at lower percentages.

**Change of Facility Operator Form**

**Q: What is your concern about the Chage of Facility Operator form promulgated by the Division?**

**A:** IPANM Exhibit 44 is the Change of Facility Operator form revised in August 2025 concerning which I have received member comments after my Direct Testimony had been filed on August 8. The concern relates to Paragraph No. 7 on the second page of that Form which provides that the new operator is to certify: "No person with an interest exceeding 25% in the undersigned company is, or was within the last five years, an officer, director, partner or person with a 25% or greater interest in another entity that is not

currently in compliance with subsection A of 19.15.5.9 NMAC." The OCD regulations currently provide for such certification only if an entity is registering to become an operator for the first time. That provision is in subsection B.3 of 19.15.9.8 NMAC. This form is only for a change of operator, there is no regulation requiring such a certification from one approved operator to another. However, that is a proposed requirement in Applicants' proposed amendments to 19.15.9.9 NMAC. I have had members inquire whether some sort of fix is in on this rulemaking and the Division has foreknowledge that the Commission will adopt at least certain portions of the rulemaking despite opposition. While I do not share that concern, I find it quite troubling that the Division is promulgating forms and requiring operator certification based on either the Division's extra-regulatory judgment or provisions on proposed rulemaking that this Commission has not adopted. As I appreciate the current rules, the Division does not have the authority to condition transfers of facilities between approved operators on this basis and am troubled that the Division would add this requirement a few months before the Commission decides whether to adopt this requirement in a rule.

JAMES WINCHESTER

I hereby affirm under the penalty of perjury of the laws of the State of New Mexico that the above statements are true and correct to the best of my knowledge, information, and belief.

DATE: September 19, 2025

JAMES WINCHESTER