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July 28, 2020

New Mexico Oil Conservation Commission  
Wendell Chino Building  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

**Re: Amendments to NMAC 19.15.2; 19.15.16; and 19.15.34 (Case No. 21281)**

Dear Commission,

The New Mexico State Land Office ("SLO") respectfully submits this written comment for the proposed amendments to NMAC 19.15.2, 19.15.16, and 19.15.34 (collectively, "Produced Water Rules"). The SLO recognizes that the proposed amendments do not authorize the Oil Conservation Division to permit uses of produced water outside of the oil field. That authority is delegated by the Produced Water Act (2019 HB 546(5)) to the Environment Department and the Water Quality Control Commission. However, the SLO would like to take this opportunity to reiterate that any permit or rule in future rulemakings for any agency related to use produced water outside the oil field should incorporate the highest scientific and environmental standards to protect health, safety, and the environment. Significant additional scientific study of the safety of treatment of produced water is necessary before additional rulemaking occurs.

In future rulemakings, a chief issue from the SLO perspective will be ensuring adequate bonding for any type of activity associated with produced water, including transportation and disposal, to ensure that lands across the state are protected from the currently authorized use of produced water. This is part of the SLO's overarching review of deficiencies in statewide bonding for oil and gas activities.

The SLO has concerns about the classifications of water as defined for purposes of the Water Use Report *see* NMAC 19.15.16.21. For the purposes of the Water Use Report, the SLO requests that the water type be more precisely categorized based on TDS, rather than water type. The operator should indicate the category of water used in operations by stating whether the water is less than 1,000 TDS, between 1,000-3,000 TDS, or above 3,000 TDS. This reflects whether the operator has attempted to use less high quality brackish water in operations and is a useful metric to the SLO.

Finally, the SLO notes that public engagement on the Produced Water Rules was limited. Conversations with beneficiaries and interest groups have evinced a disconnect between what the

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SLO and those groups understand the Produced Water Rules to accomplish. The SLO urges continued engagement with the public to assist in addressing concerns on complex, technical issues like produced water.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Stephanie", with a long horizontal flourish extending to the right.

Stephanie Garcia Richard