

**STATE OF NEW MEXICO  
NEW MEXICO 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**

**COMMISSIONER OF PUBLIC LANDS' AND NEW MEXICO STATE LAND OFFICE'S  
RESPONSE IN OPPOSITION TO NEW MEXICO OIL AND GAS ASSOCIATION AND  
INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO'S  
EXPEDITED MOTION TO REOPEN EVIDENTIARY RECORD**

Stephanie Garcia Richard, Commissioner of Public Lands of the State of New Mexico, and the New Mexico State Land Office (“State Land Office”), through undersigned counsel, submits this response in opposition to the *Expedited Motion to Reopen Evidentiary Record* (“Motion”) filed by the New Mexico Oil and Gas Association and Independent Petroleum Association of New Mexico (collectively, “Industry Parties”). Industry Parties seek months of delay to the resolution of this already-protracted rulemaking proceeding on the pretext that a recently enacted funding bill and a recently filed civil lawsuit “eviscerate” the legal and factual basis for the proposed rule. Motion at 3. Despite spilling considerable ink (the Motion weighs in at nearly 90 pages, with a brief more than twice as long as permitted in district court, *see* LR1-201(A) NMRA), Industry Parties fail to identify any factual issues arising out of either the funding bill or the civil suit requiring further evidentiary development in this rulemaking. The Motion should be denied.

**I. Industry Parties Fail to Identify Any New Factual Evidence Pertinent to the Passage of HB 80 That Would Merit Reopening the Hearing Record.**

First, Industry Parties claim that the passage of HB 80 – a bill that provides additional revenue to the Oil and Gas Reclamation Fund for the plugging of truly orphaned wells – requires months of additional factual development (via unspecified witnesses) and briefing. In addition to wildly overstating the significance of HB 80 to this rulemaking proceeding, Industry Parties latch

onto the wrong procedural mechanism for taking account of the bill. Although the court in *Board of County Commissioners v. New Mexico Taxation and Revenue Department* used the phrase “reopen the record” to explain how a newly amended statute came to the administrative tribunal’s attention, all that happened was the administrative hearing officer took (quasi) judicial notice of the enactment of the new law. *Id.*, A-1-CA-36305, op. ¶¶ 10, 12 (N.M. Ct. App. May 24, 2019) (nonprecedential). There was no additional testimony or evidence introduced. That approach makes eminent sense, because a statute’s meaning is derived from a review of the statute itself, not from individuals providing testimony about the statute.

## **II. If the Hearing Record is Reopened, Additional Issues May Also Require Further Development.**

The State Land Office opposes reopening the record for the reasons set forth above. If the Hearing Officer and Commission do choose to reopen the factual record, however, the State Land Office may need to consider seeking testimony on additional bases that are no less than relevant to the rulemaking than the alleged “significant developments” (Motion at 1 n.3) cherry-picked by Industry Parties.

With the Trump Administration recently initiating war against Iran, oil prices have nearly doubled within the span of several weeks. *See N.Y. Times*, “Oil Prices Soar and Stocks Slide on Renewed Fears Over Energy Supplies,” Mar. 19, 2026, *available at* <<https://www.nytimes.com/2026/03/19/business/oil-prices-iran-war.html>>. With oil prices now providing much richer payouts to New Mexico oil and gas producers, companies’ financial ability to honor their legal obligations to (inter alia) plug inactive wells is more robust than ever. Testimony from the rulemaking hearing established the importance of taking decisive action now, while profits are high. *See Applicants’ Ex. 57 at 0860-62* (“There will never be a better time than now for New Mexico to strengthen its FA rules. The state is producing record amounts of oil and

gas....’It would be the paragon of irresponsibility to ignore the opportunity to secure legacy clean-up costs during this boom time.”); *id.* at 0860-69 (discussing historic and current New Mexico production, characteristics of wells to be plugged, and ability of operators to fund plugging); *see also* Applicants’ Ex. 59 (New Mexico oil production figures from 2010-24). Any new inquiry into HB 80-granted funding should also take account of oil and gas producers’ surging profits and concomitant ability to pay for a greater share of cleanup and to post levels of financial assurance that are more realistically associated with actual cleanup costs than current bonding levels.

In addition, in the intervening months since the hearing in this proceeding concluded, the State Land Office has identified new or additional compliance violations by individual members of Industry Parties, which have a direct bearing both on Industry Parties’ self-portrayal in these proceedings as consistently diligent and responsible, and on the scope of the liabilities that the State of New Mexico now faces as it addresses the ongoing problem of inactive wells, spills, and other environmental harms.

For the foregoing reasons, the State Land Office respectfully requests that the Motion be denied in its entirety.

Respectfully submitted,

/s/ Ari Biernoff

Ari Biernoff  
General Counsel  
New Mexico State Land Office  
P.O. Box 1148  
Santa Fe, NM 87504-1148  
(505) 699-1519  
[abiernoff@nmslo.gov](mailto:abiernoff@nmslo.gov)

*Attorney for Commissioner of Public Lands  
Stephanie Garcia Richard and  
New Mexico State Land Office*

Certificate of Service

I certify that on March 19, 2026, I served a copy of the foregoing to the following via email:

Tannis Fox  
Morgan O'Grady  
Western Environmental Law Center  
409 East Palace Avenue, #2  
Santa Fe, NM 87501  
fox@westernlaw.org  
ogrady@westernlaw.org

*Attorneys for 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, Sierra Club, and WildEarth Guardians*

Jesse Tremaine  
Chris Moander  
Michael Hall  
Assistant General Counsels  
New Mexico Energy, Minerals, and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
jessek.tremaine@emnrd.nm.gov  
chris.moander@emnrd.nm.gov  
michael.hall@emnrd.nm.gov

*Attorneys for Oil Conservation Division*

Michael H. Feldewert  
Adam G. Rankin  
Paula M. Vance  
Holland & Hart, LLP  
P.O. Box 2208  
Santa Fe, NM 87504  
mfeldewert@hollandhart.com  
agrarkin@hollandhart.com  
pmvance@hollandhart.com

Aaron B. Tucker  
Holland & Hart, LLP

555 17th Street, Suite 3200,  
Denver, CO 80202  
abtucker@hollandhart.com

*Attorneys for OXY USA Inc.*

Andrew J. Cloutier  
Ann Cox Tripp  
Hinkle Shanor LLP  
P.O. Box 10  
Roswell, NM 88202-0010  
acloutier@hinklelawfirm.com  
atripp@hinklelawfirm.com

*Attorneys for Independent Petroleum Association of New Mexico*

Miguel A. Suazo  
James Martin  
James Parrot  
Jacob L. Everhart  
Beatty and Wozniak, P.C.  
500 Don Gaspar Avenue  
Santa Fe, NM 87505  
msuazo@bwenergyllaw.com  
jmartin@bwenergyllaw.com  
jparrot@bwenergyllaw.com  
jeverhart@bwenergyllaw.com

*Attorneys for New Mexico Oil and Gas Association*

Jennifer L. Bradfute  
Matthias Sayer  
Bradfute Sayer P.C.  
P.O. Box 90233  
Albuquerque, NM 87199  
jennifer@bradfutelaw.com  
matthias@bradfutelaw.com

Jordan L. Kessler  
EOG Resources, Inc.

125 Lincoln Avenue, Suite 213  
Santa Fe, NM 87501  
Jordan\_kessler@eogresources.com

*Oil Conservation Commission Clerk*

*Attorneys for EOG Resources, Inc.*

/s/ Ari Biernoff

Mariel Nanasi  
422 Old Santa Fe Trail  
Santa Fe, NM 87501  
mnanasi@newenergyeconomy.org  
*Attorney for New Energy Economy*

Nicholas R. Maxwell  
P.O. Box 1064  
Hobbs, NM 88241  
inspector@sunshineaudit.com

Felicia Orth

Hearing Officer  
New Mexico Energy, Minerals, and  
Natural Resources Department  
Wendell Chino Building  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
Felicia.l.orth@gmail.com

*Oil Conservation Commission Hearing  
Officer*

Zachary A. Shandler  
Assistant Attorney General  
New Mexico Department of Justice  
P.O. Box 1508  
Santa Fe, New Mexico 87504  
zshandler@nmdoj.gov

*Oil Conservation Commission Counsel*

Sheila Apodaca  
New Mexico Energy, Minerals, and  
Natural Resources Department  
Wendell Chino Building  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
occ.hearings@emnrd.nm.gov

