

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**IN THE MATTER OF APPLICATION OF
THE OIL CONSERVATION DIVISION TO
ADOPT 19.15.41 NMAC, 19.15.42 NMAC,
AND 19.15.43 NMAC**

CASE NO. 25875

ENVIRONMENTAL PARTIES' MOTION TO POSTPONE HEARING

The Center for Biological Diversity, Diné C.A.R.E., Earthworks, San Juan Citizens Alliance, Sierra Club Rio Grande Chapter, Tó Nizhóní Ání, Western Environmental Law Center, and WildEarth Guardians move to postpone the pre-hearing statement deadlines and hearing dates in this matter. As grounds for this motion, Movants state:

1. During the Oil Conservation Commission's ("Commission") February 12, 2026 meeting, the Commission and the four parties before it at that time (the Oil Conservation Division ("Division"), OXY USA, Inc., Center for Biological Diversity, and Western Environmental Law Center) agreed upon a "tentative plan" for the hearing in this matter to be held the weeks of July 27 and August 3, 2026. OCC Tr. 2/12/26: 8:21 – 9:7. The Division also informed the Commission the parties agreed to file prehearing statements with direct testimony and exhibits eight weeks prior to hearing and with rebuttal testimony and exhibits four weeks prior to hearing. *Id.* 5:9-14.

2. Since then, the parties have informally agreed that prehearing statements for direct and rebuttal testimony and exhibits would be due on June 1 and June 29, 2026, respectively.

3. Two new parties have since entered appearances in this matter, the New Mexico Oil and Gas Association and WildEarth Guardians.

4. The Division informed the original four parties it will update the proposed rules to include a new NMAC part concerning New Mexico specific provisions along with other minor changes. That new part and those changes are not presently included in the filed application for rulemaking before the Commission and will require the Division to file an amended application.

5. A hearing officer has not yet been appointed for this rulemaking.

6. A prehearing procedural order setting the dates for filing prehearing statements, dispositive motions and responses, and for the hearing itself has not yet been issued. It is Movants' understanding that the Division will file this order imminently.

7. An amended application including all rules the Division proposes in this rulemaking has not yet been filed.

8. A public notice noticing the dates for filing prehearing statements, setting the dates for hearing, and making any amended application available has not yet been published in the New Mexico Register.

9. A Motion to Dismiss the application based on the Commission's lack of authority to adopt the rules proposed has been filed, along with a request for a stay pending its resolution. The timeline for briefing and resolution of that motion is unclear because a prehearing procedural order specifying response and reply deadlines has not been issued.

10. At this point in time, it is not possible to publish notice of the hearing or deadlines for substantive filings in the New Mexico Register prior to the informally-agreed upon deadline of June 1 for filing the initial prehearing statement. The next submission date for that publication is May 22 with a publication date of **June 10**. By that date, not only would the informal initial prehearing statement filing deadline have passed, but the notice would come out only two and one-half weeks before the next prehearing statement filing deadline for rebuttal testimony.

11. While the parties who have entered appearances in this matter may have information about the filing deadlines and forthcoming amended application, the general public does not have notice. It would be fundamentally unfair for the hearing in this matter to proceed if public notice is published **after** the first prehearing statement is due, without sufficient notice of the deadline for the second prehearing statement, and without the benefit of the amended application that includes parts of the rules that OCD proposes in this rulemaking. *See* NMSA 1978, § 70-2-23 (1977) (requiring “reasonable notice”); *see also Johnson v. New Mexico Oil Conservation Comm’n*, 1999-NMSC-021, ¶ 23, 127 N.M. 120, 125, 978 P.2d 327, 332 (finding that notice that complied with Division rules was nonetheless insufficient to constitute “reasonable notice” under the Oil and Gas Act).

12. Furthermore, at this point, with an initial prehearing statement filing deadline of June 1, even if the Division were to file an amended application today (and not taking account of the lack of public notice in the New Mexico Register), parties will have less than one month to develop direct testimony and exhibits based on the amended rule’s language.

For the foregoing reasons, Movants respectfully request that the prehearing statement deadlines and hearing dates be postponed until 1) a hearing officer has been appointed, 2) a prehearing procedural order has been issued, 3) the Division files its amended application, 4) the filing and hearing dates and amended application are published in the New Mexico Register giving the public adequate notice, and 5) the Motion to Dismiss has been resolved.

Respectfully submitted,

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Certificate of Service

I certify that on May 8, 2026, I served by a copy of this pleading to the following via email:

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