

**STATE OF 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

**APPLICANTS' AND OCD'S RESPONSE TO IPANM'S APPLICATION FOR
REHEARING**

Applicants and the New Mexico Oil Conservation Division (“OCD”) file this brief response to Independent Petroleum Association of New Mexico’s (“IPANM”) Application for Rehearing and Reopening the Record (“Application”):

1. IPANM’s Application boils down to two general claims—the striking claim that the Oil Conservation Commission (“Commission”) “abdicated its role” in independently weighing the evidence and issuing its Rule Making Order and Reasons for the Action Taken (“Rule Making Order”) in this rulemaking proceeding,¹ and the claim that the Commission’s legal conclusions in this proceeding, including those regarding waste, application of NMSA § 70-2-14, and whether to reopen the evidentiary record to accept testimony on House Bill 80 (“HB 80”), are erroneous.² Neither of these claims nor IPANM’s Application warrant rehearing.

2. IPANM’s first claim regarding the Commission’s consideration of the evidence and independence of its final decision is remarkable following a nearly three-week rulemaking hearing, in which the Commission raised thorough-going questions of nearly all the more than 30 witnesses presented by the Parties. Before issuing its Rule Making Order, the Commission deliberated over the testimony and evidence for four days.

3. Contrary to IPANM’s claim that the Commission “refused to consider” contrary evidence, party positions, and public comment, Commissioner Bloom explained in response to

¹ See IPANM’s Application for Rehearing and Reopening the Record at 4-5, 10-11.

² See *id.* at 6-10.

Industry's Joint Motion for Clarification (Jun. 4, 2026) that the Commission's use of Applicants' Closing Argument and Proposed Statement of Reasons was not indicative of the Commission's refusal to consider other evidence. Rather:

[COMMISSIONER BLOOM]: ...as commissioners, we read submitted documents, closing statements, and gave them due and serious consideration throughout and that a lot of this was homework...we used [the Joint Stipulation] as a reference, and we compared it to the alternatives offered by NMOGA and IPANM. You know, had NMOGA and IPANM prevailed and convinced us that there wasn't something we had to take action on or it wasn't the right course, I don't think we'd be referencing the applicant's closing arguments and what we've been provided there...

6/5/2026 Tr. 231:18-21, 232:17-24.

4. Moreover, the Commission was exceedingly clear that it understood the scope of agreement between the Parties in the Joint Stipulation.

[CHAIR]: We did discuss both IPANM and NMOGA's proposed alternative language, where they did provide proposed alternative language. And I'm happy to note for the record that I am aware that just because alternative language was not proposed does not necessarily mean that parties have agreed to the applicant's proposed language...And I understand that just because the industry parties didn't propose an alternative doesn't necessarily mean that they concur with the red underlined new text that's being proposed by the applicant.

Id. at 233:17-23, 234:8-12.

5. In addition, IPANM's suggestion that the Commission may not have exercised its own independent judgment in issuing its Rule Making Order because of the advice Commission Counsel offered during deliberations is not well founded.

Throughout this rulemaking proceeding, including in deliberations, Commission Counsel was explicit with the Commission that his role was provide options, not to steer the Commission toward a particular outcome, and Commission Counsel qualified his statements to the Commission accordingly. *See, e.g.*, 6/3/2026 Tr. 45:22 to 48:9, 49:2-22.

6. IPANM's second general claim, arguing that the Commission's legal

conclusions regarding waste, application of NMSA § 70-2-14, and HB 80 were erroneous, fails to marshal any compelling reasons for why the Commission's findings on these issues must be corrected.

7. Applicants' Closing Argument and Proposed Statement of Reasons thoroughly addressed the legal arguments IPANM raises in its Application. Apps' Closing Argument and Proposed Statement of Reasons at 3-11 (Apr. 3, 2026).

8. In regard to waste, IPANM points to the Commission's modifications to Applicants' proposed rule language at 19.15.8.9(F) NMAC in its Rule Making Order and suggests the rule the Commission adopts here conflicts with the conclusion that the rules adopted in the Commission's Rule Making Order prevent waste. However, IPANM's argument has no merit as it continues to be unable to cite to any record evidence of data, calculations, or estimates to support its generalized argument that the rules adopted will result in waste. *See id.* at 9-11.

9. In regard to the Commission's application of NMSA § 70-2-14, IPANM belabors the same argument made previously that temporarily abandoned ("TA") wells are afforded a "special status" under NMSA § 70-2-14 that precludes the Commission from adopting one well financial assurance for wells in TA. There is no language—express or implied—that limits one well FA to wells in TA more than two years. *Id.* at 7. Nor is there any statutory language that prohibits the Commission from establishing one well financial assurance for wells in TA less than two years. *Id.*

10. Finally, IPANM's argument that the Commission erred by declining to grant its Joint Motion to reopen the record to take additional testimony on the effect of HB 80 is wrong. The Commission reopened the record and took administrative notice of

the HB 80 legislation and legislative documents. Following that, the Commission engaged the Parties in a lengthy discussion of whether there was a prima facie case that HB 80 would affect well plugging costs, such that it necessitated the extraordinary remedy of reopening the record. *See* 5/13/2026 Tr. 127:16 to 162:12. The Commission offered Industry Parties ample opportunity to explain how proposed witness testimony would address HB 80's effect on well plugging costs. Neither Industry Party supplied a sufficient answer to the Commission, and IPANM specifically indicated its proposed witness would not address well plugging costs were the record to be reopened. *See id.* at 160:8-15.

11. Based on the foregoing, Applicants' respectfully request the Commission deny IPANM's Application for Rehearing and Reopening the Record.

Respectfully submitted,

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Certificate of Service

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