

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**APPLICATION OF ENDURING RESOURCES, LLC
FOR APPROVAL OF THE BOBBY B UNIT,
RIO ARriba COUNTY, NEW MEXICO**

Case No. 26365

**ORDER ON ENDURING RESOURCES, LLC'S MOTION TO EXCLUDE
PREHEARING STATEMENT AND TESTIMONY OF EPIC ENERGY, LLC**

This matter came before the Hearing Examiner on Enduring Resources, LLC's ("Enduring") Motion to Exclude Prehearing Statement and Testimony of Epic Energy, LLC ("Epic"), filed September 11, 2026, and Epic's Response in Opposition filed September 15, 2026. Having reviewed the motion, the response, the Prehearing Statements of both parties, and the applicable law, the Hearing Examiner issues the following findings, conclusions, and order.

FINDINGS OF FACT

1. Enduring filed its application for approval of the Bobby B Unit in Case No. 26365. The contested hearing is set for September 15, 2026.
2. On September 11, 2026, Enduring filed a Motion to Exclude seeking to strike Epic's entire Prehearing Statement, the testimony of its sole witness Mark Thompson, and all related exhibits on the grounds that the evidence is immaterial to the unit-approval inquiry and repetitious of issues pending in Case Nos. 26450-62.
3. Epic timely filed a Response in Opposition on September 15, 2026.
4. Paragraph 6 of the Pre-Hearing Order permits evidentiary objections to be filed as late as two working days before hearing and to be addressed as preliminary matters. Enduring's motion was timely under that provision.
5. Order Nos. R-22081 (Greater Lybrook Unit) and R-24088 (Alamos Canyon Unit) were entered on unopposed, affidavit-only records. Neither order uses the term "framework," articulates a list of exclusive factors, or holds that evidence of an applicant's operational practices, notice compliance, or collision risk is categorically outside the scope of a unit-approval proceeding.
6. When the Division intends to adopt a multi-factor framework governing a category of proceedings, it does so expressly (see, e.g., Order No. R-24349, ¶ 12).

7. Epic operates approximately 30–40 producing vertical wells within the boundary of the proposed Bobby B Unit. The Unit Agreement applies only to new horizontal and multi-lateral wells and excludes existing wells.
8. Epic’s proposed evidence includes (a) anti-collision and separation-factor data for wells inside the Bobby B Unit Area, (b) notice-rule compliance history for Bobby B wells, and (c) evidence concerning an incident in the Ridge Unit (a different unit in a different county that is already the subject of pending revocation proceedings).

CONCLUSIONS OF LAW

1. Under 19.15.4.17(A) NMAC, the Hearing Examiner may admit relevant evidence unless it is immaterial, repetitious, or otherwise unreliable. Admission is the default; the party seeking exclusion bears the burden of establishing one of the three grounds.
2. Materiality in a unit-approval proceeding is governed by NMSA 1978 §§ 70-2-11(A) and 70-2-12(B)(7). Those statutes empower and obligate the Division to prevent waste, protect correlative rights, and require wells to be drilled, operated, and produced in such manner as to prevent injury to neighboring leases or properties. No Division rule or order narrows that statutory standard to “structural and geological adequacy” alone in a contested unit case.
3. Evidence that bears on whether approval of the Bobby B Unit under Enduring’s operatorship will prevent waste, protect correlative rights, or prevent injury to neighboring wells is material and admissible.
4. Anti-collision and separation-factor data for wells inside the proposed Bobby B Unit Area, and limited evidence of notice-rule compliance for those wells, are material under the statutory standard and are not repetitious within the meaning of 19.15.4.17(A) NMAC.
5. Evidence concerning the Ridge Unit incident is largely cumulative of issues already pending in Case Nos. 26450-62, involves a geographically and legally distinct unit, and is of limited probative value to the forward-looking unit-approval inquiry. It is therefore properly excluded or severely limited.
6. Wholesale exclusion of Epic’s Prehearing Statement, sole witness, and all exhibits is not warranted and would be inconsistent with the statutory standard and principles of due process.

ORDER

IT IS THEREFORE ORDERED that:

1. Enduring's Motion to Exclude is **DENIED** in substantial part.
2. Epic's anti-collision and separation-factor evidence relating to wells inside the Bobby B Unit Area is **ADMITTED**, subject to the ordinary requirements of foundation, relevance, and the Hearing Examiner's authority under 19.15.4.19 NMAC to control the presentation of evidence and prevent cumulative testimony.
3. Limited evidence of notice-rule compliance for Bobby B wells is **ADMITTED**, subject to the same controls.
4. Evidence concerning the Ridge Unit incident is **EXCLUDED**.
5. The Hearing Examiner will manage the hearing under 19.15.4.19 NMAC to ensure efficient and orderly presentation of evidence focused on the issues properly before the Division in this unit-approval proceeding.
6. This Order is effective immediately. The hearing shall proceed with Enduring's case-in-chief.

Gregory Chakalian
Hearing Examiner
Oil Conservation Division