

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

**APPLICATION OF CHEVRON U.S.A. INC.  
TO REOPEN CASE NO. 24185 (ORDER NO.  
R-23684 (E.G.L. RESOURCES, INC.) AND  
CASE NO. 24886 (ORDER NO. R-23685  
PBEX, LLC) TO REQUIRE SUBMISSION  
OF PROPER STATEMENTS OF WELL  
COSTS BY OPERATOR AND RECOGNIZE  
THE CONSENTING STATUS OF CHEVRON**

**CASE NO. 25878**

**CHEVRON U.S.A. INC.'S RESPONSE TO PBEX, LLC AND E.G.L.'S EXPEDITED  
MOTION TO LIMIT SCOPE OF HEARING OR, ALTERNATIVELY,  
VACATE AND RESET HEARING TO ALLOW ADDITIONAL  
DISCOVERY AND MOTIONS PRACTICE SUBPOENA FOR DOCUMENTS**

Chevron U.S.A. Inc. ("Chevron") by and through its counsel of record, hereby provides its Response to PBEX, LLC's and E.G.L. Resources, Inc.'s ("PBEX/EGL ") Expedited Motion To Limit Scope Of Hearing Or, Alternatively, Vacate And Reset Hearing To Allow Additional Discovery And Motions Practice Subpoena For Documents.

**I. INTRODUCTION**

PBEX/EGL's Motion is now its third attempt to upend decades of administrative practice regarding the conduct of hearings based upon a false claim that its due process rights are somehow violated because Chevron disclosed the general topics of its expert witnesses and likely exhibits they would offer to address issues that were: (1) specifically raised in its Application; (2) detailed in the briefing on PBEX/EGL's motion to dismiss for lack of standing; and (3) fully discussed in prior hearings. The motion mischaracterizes both the procedural history of this case and the scope of Chevron's claims and should be denied. PBEX/EGL's motion conflates two distinct concepts: the scope of the issues Chevron has raised and the procedural mechanisms available to litigate those issues before the Division. Chevron's claims have consistently raised PBEX/EGL's post-

order conduct, compliance with pooling orders, and industry custom and practice. The fact that the Division exercised its discretion to limit discovery based on its own assessment of those issues does not bar Chevron from presenting evidence directly responsive to them.

In any event, Chevron does not oppose postponing the hearing since it was revealed at the Division's April 16, 2026 status conference docket that the Division's May 13, 2026 docket is over subscribed. If the Division is concerned about the congestion of the May 13 docket, the hearing can be continued to a date convenient for the Division and the parties. However, the Division should not artificially narrow the issues or allow further discovery since nothing in PBEX/EGL's motion identifies a category of discovery that is necessary to respond to Chevron's claims as pleaded.

## **II. PBEX/EGL'S CLAIM THAT ITS DUE PROCESS RIGHTS HAVE BEEN VIOLATED IS SPECIOUS.**

### **A. Chevron's Application and Prior Briefing Provided Clear Notice of What Chevron Was Claiming and the Relief It Was Seeking.**

Although the Rules of Civil Procedure are not applicable, the standard in Rule 1-008(A)(2) for pleadings is clearly met by Chevron's Application. Rule 1-008 requires "a short and plain statement of the claim showing that the pleader is entitled to relief; and a demand for judgment for the relief to which the pleader claims to be entitled to receive. Chevron's Application alleged in detail the myriad of problems associated with the estimated statement of wells costs underlying this case and PBEX/EGL's bad faith. *See* Application ¶¶ 6-21. The Application then summarized the deficiencies as follows:

22. PBEX and EGL's failure to provided Chevron with a proposed joint operating agreement requested by Chevron, failure to issue a statement of Chevron's share of the estimated costs of drilling, completing and equipping any of the wells and failure to send a letter or any communication requesting that Chevron pay for its share of wells costs while negotiating for the purchase of Chevron's properties

was a violation of its duty of good faith under the compulsory pooling statute, Division precedent and oil and gas industry custom and practices.

The Application then requested the following relief:

23. EGL should be ordered to provide to Chevron a statement of estimated well costs showing its share of the cost to drill, complete and equip each of the wells committed to the HSU under the EGL Order and the PBEX Order to afford Chevron an opportunity to elect to participate in the wells.

WHEREFORE, Chevron requests this application be set for hearing before an Examiner of the Oil Conservation Division and after notice and hearing as required by law, the Division enter its order:

a. Re-opening Case No. 24185 and Case No. 24886 and declaring that EGL Resources, Inc., as the Operator designated by the Division under Order No. 23684 and Order No. 23685 for such cases, failed to comply with paragraphs 24 and 25 of such orders requiring that is submit a proper statement for Chevron's share of the estimated costs of drilling, completing and equipping the wells so that Chevron could render payment for such costs;

b. Requiring EGL to submit a proper statement of estimate of Chevron's share of the Estimated Well Costs for each well and allowing Chevron 30 days to render payment for such costs.

Application, pp. 6-7.

In its response to PBEX/EGL's motion to dismiss for lack of standing, Chevron explained in great detail the myriad of deficiencies regarding the statement of well costs. They were fully discussed at the March 10, 2026 hearing. PBEX/EGL cannot credibly claim any surprise by Chevron's witness disclosure after it responded to PBEX/EGL's subpoena.

PBEX/EGL has had ample time to prepare for the May 13 evidentiary hearing and through its subpoena obtained information regarding Chevron's witnesses and exhibits well in advance of the date required by Division rules, the Pre-Hearing Order and long-standing administrative practice. It cannot credibly claim its right to due process has been violated by Chevron's disclosures concerning its witnesses and exhibits more than a month required by the Division's rules in hundreds, if not thousands of cases heard before the Division over the last twenty years.

**B. There Can Be No Due Process Violation by Chevron's Early Disclosure of Its Witnesses and Exhibits.**

The Division's rules for adjudications, enacted in 2008, contain basic requirements for pre-hearing disclosure of witnesses and exhibits—the filing of a Pre-hearing Statement four business days before the hearing which includes:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the Hearing.

19.15.4.13(B) NMAC. Only in cases to be heard by the Commission does the Rule require each party to include copies of exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. 19.15.4.13(B)(2) NMAC.

Under the Division's rules and long-standing administrative practice, parties came to hearings without ever having seen the other party's exhibits and knowing only the names of witnesses and, for experts, their field of expertise. The Division's online database reflects that 6607 hearing orders have been entered in the last decade, although some involved cases with multiple hearing orders.

For cases the last 2-3 years the Division has entered prehearing orders requiring the exchange of exhibits and prepared direct witness testimony 4 days prior to hearing, similar to the Division's rules for hearings before the Oil Conservation Commission. *See* 19.15.4.13 NMAC ("The director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission."). A prehearing order was entered in this case augmenting the Division's pre-hearing disclosure requirements, stating:

Pre-hearing statements shall be filed no later than 9:00 a.m., 4 business days prior to the hearing and in addition to the requirements of 19.15.4.13.B(1) NMAC, shall include the following: a) All evidentiary exhibits, documents, affidavits, and full-written testimony of any witness a party offers at the hearing. Exhibits must be sequentially marked on every page.

Under the Pre-Hearing Order the parties were required to disclose their witnesses and exhibits on May 7, 2026 for the May 13, 2026 hearing. A full month before the hearing on April 13, 2026, Chevron disclosed its exhibits and all of its witnesses, their area of expertise, the subject of their testimony and basis for their opinions in responding to the PBEX/EGL subpoena. PBEX/EGL has yet to disclose all of its witnesses<sup>1</sup> or exhibits and has no credible claim that its due process rights have been violated.

Given the Division's rules, and long-standing administrative practice, PBEX/EGL's claim that its due process rights are somehow being violated because Chevron disclosed its expert witnesses, described the general topics of their testimony and the exhibits it intended to use *a full month* before the hearing is nonsense. Chevron's Application provided ample notice that Chevron has been claiming that the statement of wells costs violated PBEX/EGL's "duty of good faith under the compulsory pooling statute, Division precedent and oil and gas industry custom and practices."

Counsel for PBEX/EGL's falsely claims that "Chevron has repeatedly misrepresented the scope of the case and the nature of its claims to the Division." At the March 10, 2026 scheduling conference, Chevron provided its good-faith estimate of anticipated witnesses based on the issues as then framed. As the discussion developed and PBEX/EGL articulated a broader defense, Chevron acknowledged that additional witnesses and a longer hearing might be required. Nothing in that exchange reflects a representation that Chevron would limit the scope of its claims or forgo evidence concerning industry custom, post-order conduct, or regulatory compliance.

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<sup>1</sup> In moving for a continuance PBEX/EGL disclosed the identify of an engineering witness who was unavailable for the original hearing date.

When asked by the hearing examiner at the March 10, 2026 hearing “how many witnesses do you anticipate?” counsel for Chevron gave its best estimate at the time:

12	THE HEARING EXAMINER: That's fine.
13	I'm just trying to get the broader picture here so we
14	understand about discovery and how we're going to
15	proceed. How many witnesses do you anticipate?
16	MR. DEBRINE: I believe we will have
17	probably two and possibly three.
18	THE HEARING EXAMINER: Okay. And what
19	fields of expertise will they be?
20	MR. DEBRINE: With regard to land
21	matters and with regard to business practices.

March 10, 2026 Hearing Transcript (“Tr.”) 18:12-21.

When asked the same question, counsel for PBEX/EGL filibustered, engendering discussion of all the issues that were involved in the case. After 16 pages of discussion among counsel and the hearing officer, counsel for PBEX/EGL still didn’t offer any forecast regarding their witnesses but suggested that they would call multiple witnesses and that their witnesses would address industry standards:



their motion for continuance to address the contention that the “bait and switch” that occurred when PBEX/EGL, *inter alia*, dropped the 4 proximity tract wells listed in the Orders and added 3 new wells (2 of which were being drilled into a completely different horizon and functioned as proximity tract wells) was simply a name change. When asked at hearing to explain the change in the wells listed in the August 7, 2025 from those authorized by the Orders, after a 5 minute recess and discussion with in-house counsel who was present, PBEX/EGL’s counsel stated:

As I mentioned the well numbers changed, but the wells are the same proximity wells are being drilled. It’s just that the numbers changed which is nonsubstantive.

See AI Transcript of February 10, 2026 hearing, p. 16. The baseless accusation that Chevron misrepresented the scope of this case and nature of its claims stands in stark contrast to this statement by PBEX/EGL.

### CONCLUSION

The Division has already exercised its discretion to structure this proceeding in a manner consistent with long-standing administrative practice, and nothing in PBEX/EGL’s motion justifies revisiting the Division’s determinations or restricting Chevron’s ability to present evidence which is squarely within claims Chevron has asserted from the beginning. Chevron is the only party in this case that has been placed at a disadvantage by having to disclose its witnesses, the general nature of their testimony and exhibits a month before PBEX/EGL are required to do so under the Pre-Hearing Order. PBEX/EGL was fully informed of what the issues were in this case by Chevron’s Application, the briefing on its motion to dismiss and has had ample time to retain experts to speak to Chevron’s claims and PBEX/EGL’s defenses. There is no basis for limiting the issues for hearing or allowing new open-ended discovery. However, Chevron does not object to the hearing being continued, provided there is correlative disclosure regarding the

expert witnesses all parties intend to call, the area of the expertise and testimony and the basis for their opinions.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

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**CERTIFICATE OF SERVICE**

We hereby certify that a true and correct copy of the forgoing pleading was served by electronic transmission to the following counsel this 22<sup>nd</sup> day of April, 2026:

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