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

AMENDED APPLICATION OF OIL CONSERVATION DIVISION TO ADOPT 19.15.41, 19.15.42, and 19.15.43 NMAC; STATEWIDE **CASE NO. 25875**

DIRECT TESTIMONY OF TIFFANY A. WALLACE

1. My name is Tiffany A. Wallace and I am employed by OXY USA Inc. ("Oxy"). I am officed in Santa Fe, New Mexico, and my current duties include managing policy and external affairs for Oxy in the lower 48 states, including New Mexico.

2. I am familiar with the application filed in this matter and Oxy's proposed modifications to the proposed rule.

BACKGROUND

3. I have previously testified before the New Mexico Oil Conservation Commission in my role with Oxy. My testimony addressed proposed changes to the financial assurance requirements under 19.15.8, 19.15.9, and 19.15.25.

4. I have previously testified before the New Mexico Oil Conservation Commission in my capacity as the Deputy Director of the New Mexico Oil Conservation Division ("NMOCD"). My testimony addressed the development, implementation and overview of the "Venting and Flaring Rules" enacted under 19.15.27 and 19.15.28.

5. I am a petroleum engineer and hold an M.S. in Petroleum Engineering from Texas A&M University. For more than 20 years, I held several engineering and leadership positions in the oil and gas industry before joining the NMOCD in 2020. Prior to joining the NMOCD, I was the Development Director for Marathon Oil Company overseeing oil and gas assets in the

Delaware Basin in New Mexico. My responsibilities in that role included managing over 100 employees, including subsurface geoscience, reservoir engineering, planning-type support groups, production engineering, operations, and regulatory groups.

6. From April 2020 through January 2023, I was the Deputy Director of the NMOCD. My duties included managing the NMOCD engineering and environmental staff, rulemaking, industry guidance, compliance, and budgets. During this time, the NMOCD enacted Venting and Flaring rules, updated the spill rules, converted to digital files, created and implemented induced seismicity operational protocols and undertook several process improvement efforts. As a result of my employment with the NMOCD, I am familiar with the NMOCD's statutory role of preventing waste and protecting correlative rights, interpreting and implementing the Oil and Gas Act and NMOCD regulations, and the process of enacting new regulations.

OXY USA, INC.

7. Oxy is an international energy company with assets primarily in the United States, the Middle East, and North Africa. Oxy is one of the largest oil and gas producers in the U.S., including a leading producer in the Permian Basin. Oxy's New Mexico oil and gas assets, which include conventional and enhanced oil recovery production methods, are concentrated in Eddy and Lea Counties. We actively support community organizations and first responders in the state and have a strong track record of collaborating with environmental groups and New Mexico's regulatory agencies. Headquartered in Houston, Oxy employs approximately 10,400 people globally.

8. Oxy is committed to using our global leadership in carbon management to advance a lower- carbon world. Our Oxy Low Carbon Ventures, 1PointFive, and Carbon Engineering business units are advancing leading-edge technologies and business solutions that economically

grow our business while reducing emissions. Oxy is pursuing Direct Air Capture technology alongside geologic sequestration hubs, leveraging Oxy's project engineering, geology, and delivery expertise.

9. Oxy is a recognized expert in carbon management applying our 50+ years of leadership in CO2 separation, transportation, use, recycling and storage for enhanced oil recovery ("EOR") to invest in and deploy leading edge technologies and promote collaboration with various industries, governments and NGOs. Oxy, at its Permian based operations, currently stores up to 20 million tonnes of carbon dioxide annually. Oxy's leadership in the field of carbon dioxide storage is exemplified by its success in working with EPA and state agencies to obtain US EPA approval of five monitoring, reporting, and verification plans for carbon dioxide ("CO2") injection, including the first two MRV plans ever issued by the agency. In addition, Oxy is the first company to receive UIC Class VI injection well permits and authorizations to inject issued by US EPA Region 6 and has engaged in multiple federal and state rulemakings concerning the regulation of UIC Class VI injection wells.

CLASS VI PRIMACY

10. Part C of the Safe Drinking Water Act ("SDWA") requires EPA to establish minimum requirements for state UIC programs in order to prevent underground injection that endangers underground sources of drinking water ("USDW"). Under this authority, EPA has promulgated a series of UIC regulations and in 2010, EPA promulgated a rule establishing a new class of injection wells, Class VI, and setting the standards for permitting and operation of Class VI wells. In order to implement the UIC program themselves, states must apply to EPA for primacy approval. To obtain primacy, states must adopt regulations that are at least as stringent as EPA's.

States must also demonstrate that they have the administrative, technical, and enforcement capacity to oversee the program.

11. On April 7, 2025, Governor Lujan Grisham signed House Bill 458, the Geologic Carbon Stewardship Act (the "Act"). Section 3 of the Act gives OCD the authority to regulate CO2 injection and to establish the necessary rules for its implementation. The passage and signing of House Bill 458 followed the failure of House Bill 457, incorporating key elements from the previous bill. This new legislation directs the development of a Class VI well program specifically tailored to New Mexico's unique geology, water resources, and energy landscape. By authorizing the OCD to pursue primacy for the Class VI program, lawmakers highlighted the importance of local oversight, streamlined permitting, and regulatory certainty for developers considering carbon capture and sequestration projects in the state.

12. On August 22, 2025, OCD published notice and sought public comment on the pre-publication draft rules. Oxy submitted public comment on the pre-publication draft rules.

OXY'S POSITION ON PROPOSED RULES

13. Oxy is generally supportive of New Mexico's proposed rules and supports OCD's efforts to obtain primacy from the EPA over Class VI permitting and operations. Oxy believes that EPA's delegation of primacy to OCD will assist in protective, thorough, and timely Class VI permitting in New Mexico. Oxy believes that the proposed rules can be improved with several modifications.

TWO-YEAR AUTOMATIC PERMIT TERMINATION (19.15.41.8.H NMAC)

14. The proposed rules in Subsection H of 19.15.41.8 NMAC provide for automatic permit termination if drilling operations have not commenced within two years from the date of permit issuance. To avoid automatic termination, a permittee would be required to submit a written

request for an extension at least 30 days prior to the expiration of the initial two-year period, demonstrating good cause for the delay, and providing an updated timeline for drilling, a detailed explanation of why more time is needed, and relevant documentation. This provision is a more stringent requirement than the corresponding federal rule; indeed, the federal rules contain no similar requirement. However, EPA commonly includes a permit provision requiring drilling to commence within a certain period, unless the operator is granted an extension.

15. Oxy is concerned that the two-year time frame is too brief and poses feasibility challenges. Allowing a period of only two years from the date of permit issuance may not allow for enough time to develop pipelines and other critical infrastructure associated with the project. Instead, Oxy believes that the Commission should revise the rule to provide operators up to five years to commence drilling operations from the date of issuance. To this end, Oxy proposes modifications to 19.15.41.8.H.(2) NMAC in Oxy Exhibit 1A.

APPEALS (19.15.41.8.K NMAC)

16. Oxy encourages the Commission to include appropriate provisions addressing the petition process for reviewing the Division's final permit decisions. The public and project proponents must be assured that a fair and equitable process is available that enables adversely affected persons to file a petition for review of the agency's final permit decisions. Oxy urges the Commission to include language that is consistent with the petition process available in other administrative contexts. *See* New Mexico Air Quality Control Act, N.M. Stat. Ann. § 74-2-7(H) ("A person who participated in a permitting action before the department or the local agency and who is adversely affected by such permitting action may file a petition for hearing before the environmental improvement board or the local board."); New Mexico Pollutant Discharge Elimination System Act, N.M. Stat. Ann. § 74-6C-8(A) ("An interested person who is affected by

a permitting action or compliance order may file a petition for review before the commission."). Oxy proposes to add Subsection K to 19.15.41.8 NMAC to address appeals. Oxy Exhibit 1A

MINOR MODIFICATION OF PERMITS (19.15.42.11.J NMAC)

17. The proposed rule at Subsection J of 19.15.42.11 NMAC provides a list of changes to a permit that are considered "minor modifications" and thus not subject to formal permit revision procedures. The proposed rule allows the Director, with consent of the permittee to make corrections or allowances for changes in only seven categories:

- Correct typographical errors;
- Require more frequent monitoring or reporting by the permittee;

18. Change an interim compliance date in a compliance schedule, provided that the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

- Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that the current and new permittee provide the Director with a written agreement that includes a specific date for the transfer of permit responsibility, coverage, and liability between the two;
- Change quantities or types of fluids that are within the capacity of the facility as permitted and would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification, all in the judgment of the Director;

- Change construction requirements approved by the Director under Subsection B of 19.15.42.12 NMAC that complies with this part and 19.15.43 NMAC;
- Amend a UIC Class VI injection well testing and monitoring plan, plugging plan, post-injection site care and closure plan, or emergency and remedial response plan where the Director determines that the modifications merely clarify or correct the plan.

19. Oxy believes that as currently written, the rule creates inadvertent ambiguity as to what constitutes a major or minor modification and does not give the Director enough discretion to make that determination.

20. The permit review process can take more than two years to complete. In that time, it is likely that operating conditions and project plans will change that necessitate clarification to improve the enforceability of the permit. To illustrate, an owner or operator may finalize agreements with third-party contractors to perform quality assurance surveillance plans that result in slight changes to the plans without material change to the number of samples taken and the constituents analyzed.

21. Refining subsurface models and project plans as new data is obtained is standard practice in subsurface development activities. UIC Class VI is no different. EPA acknowledges this fact in guidance documents by stating site characterization is not a one-time exercise at UIC Class VI project sites and recommends owners or operators consider revising or adjusting portions of their project plans as additional data becomes available during the site characterization process, which ultimately serves to decrease risk to underground sources of drinking water. However, the Director may subject a Class VI permit to modification, revocation, and reopening of public

participation for "any amendments" to the various project plans. This can create significant uncertainty for project developers.

22. Owners or operators should be allowed to demonstrate to the Director that any amendment to the various UIC Class VI plans that is neither material nor a substantial alteration, and that does not increase risk to USDWs, should not be classified as a major modification and not require permit reopening, revocation, or a renewed public participation process.

23. Oxy proposes a catch-all category at Subsection J.(8) of 19.15.42.11 NMAC for "non-material, non-substantive permit modifications that do not increase risk to USDWs." Oxy Exhibit 1B. This would provide protection to USDWs while also improving permitting timelines.

AREA OF REVIEW REEVALUATIONS (19.15.43.9.E NMAC)

24. The proposed rule at Subsection E of 19.15.43.9 NMAC provides for the fixed frequency of the area of review reevaluations, including an initial reevaluation two years after injection begins and subsequent reevaluations not to exceed four years.

25. The federal rule, 40 C.F.R. § 146.84(b)(2)(i) provides a fixed frequency for the reevaluation of the area of review not to exceed five years.

26. New Mexico should match the reevaluation frequency to the federal rules. Once New Mexico is granted primacy, projects that were permitted by the EPA will retain the same reevaluation frequency. A five-year reevaluation period is also appropriate because the data collection and simulations needed to reevaluate an area of review are time intensive. For example, in the dynamic simulation model, updating a history match with new field data and building a new forecast for the area of review can take up to nine months. Similarly, collecting and processing seismic data to constrain the plume/pressure position can take up to a year. Additionally, collecting

data at this frequency would be prohibitively expensive and even more problematic at shorter intervals.

27. Varying interpretations of the UIC Class VI regulation between state offices and regional headquarters creates uncertainty. This can lead to significant delays, lack of efficiency, and cost increases. New Mexico and the regional offices should work together to establish common interpretations of the UIC Class VI regulations and ensure that they are applied uniformly. New Mexico should explore whether a coordination mechanism exists or needs to be created to facilitate such discussions.

28. Using the five-year fixed interval, which is the federal standard under which projects have already been developed, would allow those projects to continue without the timing challenges and increased costs associated with a shorter reevaluation interval.

29. The five-year fixed interval is more than adequate to provide the information that would be available under a four-year fixed interval, that is currently contemplated, without creating expenses that may make UIC Class VI Projects prohibitively expensive in New Mexico.

30. Oxy proposes two modifications to Subsection E of 19.15.43.9 NMAC for consistency with the federal requirements. Oxy Exhibit 1C. First, Oxy proposes to revise Subsection E.(2)(b)(i) of 19.15.43.9 NMAC to read "The minimum fixed frequency, not to exceed five years, at which the owner or operator proposes to reevaluate the area of review" consistent with the language in 40 C.F.R. § 146.84(b)(2)(i). Second, Oxy proposes to revise Subsection E.(5) of 19.15.43.9 NMAC to read "At the minimum fixed frequency, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, owners or operators must" consistent with the language in 40 C.F.R. § 146.84(e).

FINANCIAL RESPONSIBILITY (19.15.43.9.F NMAC)

31. The proposed rule at Subsection F.(1)(f)(v) of 19.15.43.9 NMAC allows an owner or operator to use self-insurance to demonstrate financial responsibility for geologic sequestrations project.

- An owner or operator can satisfy the test by meeting the following criteria:
- A tangible net worth of an amount approved by the Director;
- Net working capital and a tangible net worth each at least six times the sum of the current well plugging, post injection site care and site closure cost;
- Have assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current well plugging, post injection site care and site closure cost; and
- A bond rating test of AAA, AA, A, or BBB, as issued by Standard & Poor's or Aaa, Aa, A, or Baa, as issued by Moody's; or
- Meet all five of the following financial ratio thresholds:
    - A ratio of total liabilities to net worth less than 2.0;
    - A ratio of current assets to current liabilities greater than 1.5;
    - A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1;
    - A ratio of current assets minus current liabilities to total assets greater than -0.1; and
    - A net profit greater than 0.

32. Oxy recommends that the Commission adopt the financial test set forth in U.S. EPA' hazardous waste regulations implementing the Resource Conservation and Recovery Act ("RCRA") found at 40 C.F.R. § 261.143(e)(1).

33. The RCRA financial fit test requires an owner or operator to demonstrate that it can pass one of two financial fit tests. Under the RCRA tests, an owner or operator's Chief Financial Officer must certify, and support with a copy of an independent certified public accountant's report on the examination of the owner or operator's financial statements for the latest completed fiscal year.

34. Under the first RCRA test, the owner or operator must show:

- (A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
- (B) Net working capital and tangible net worth each at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and
- (C) Tangible net worth of at least $10 million; and
- (D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

35. Under the second RCRA test, the owner or operator must show:

- (A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
- (B) Tangible net worth at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and
- (C) Tangible net worth of at least $10 million; and
- (D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

36. In my opinion, relying on a financial fit test consistent with RCRA, reflects the need for an owner or operator to demonstrate that they have the means to properly close operations while also accounting for the need for financially fit companies to actively deploy their working capital. Allowing companies to reduce the amount of working capital required allows them to reinvest and strengthen their long-term financial position, enhancing their ability to address future liabilities.

37. Companies avoid retaining net capital because it is inefficient and effectively requires companies to cash collateralize their liabilities. In general, companies try to minimize working capital (or create negative working capital) to free up cash for other uses; for example, acquisitions, shareholder returns, and debt reduction. Working capital is the day-to-day cash required to run a business and has never been intended to serve as a backstop for long-term corporate liabilities. Holding larger cash balances is inefficient, costly, and reduces opportunities for companies to grow, ultimately impacting the larger economy. High working capital promotes an inefficiently run business, rather than solvency or access to capital.

38. Requiring six times net working capital also may pose unnecessary risk to New Mexico, its residents, and its resources. For example, a highly rated company could fail to meet the six times net working capital test because the company is efficient in managing the cash required to run its day-to-day business and would then be required to provide a liquid financial assurance from a lower rated entity. In such circumstances, downgrading to a lower rated entity increases the risk of liabilities going unfunded.

39. Tangible net worth, rather than net working capital, is a better way to measure a company's ability to meet long-term liabilities. Specifically, it is a better measure of long-term solvency.

40. In my opinion, using tangible net worth makes more sense than using net working capital because net working capital creates a temporal mismatch that requires companies to use short-term cash to fund long-term liabilities.

41. Oxy proposes modifications to the draft rule in Subsection F of 19.15.43.9 NMAC to address these concerns. Oxy Exhibit 1C.

GROUNDWATER MONITORING (19.15.43.9.K NMAC)

42. The proposed rules at Subsection K.(4) of 19.15.43.9 NMAC requires quarterly monitoring of the ground water quality and geochemical changes above the confining zones(s) that may be the result of CO2 movement through the confining zone(s) or additional identified zones, as part of the testing and monitoring requirements for geologic sequestration projects. The federal rules require the same monitoring, but on a "periodic basis," rather than quarterly.

43. Quarterly monitoring is an excessive burden on owners and operators that does not provide additional protection to water quality and the environment generally. Oxy encourages OCD to consider an annual ground water monitoring requirement in lieu of a quarterly mandate.

An annual monitoring requirement is sufficient to protect USDWs while also reducing the regulatory burden on owners and operators.

44. Oxy proposes to revise the frequency of groundwater monitoring in Subsection K.(4) of 19.15.43.9 NMAC for consistency with the federal requirements. Oxy Exhibit 1C.

LOGGING, SAMPLING, AND TESTING (19.15.43.9.H NMAC)

45. The proposed rules at Subsection H of 19.15.43.9 NMAC requires an owner or operator to run appropriate logs, surveys and tests to determine or verify the depth, thickness, porosity, permeability, and lithology of, and the salinity of any formation fluids in all relevant geologic formations to ensure conformance with the injection well construction requirements under Subsection G of 19.15.43.9 NMAC and to establish accurate baseline data against which future baseline measurements may be compared. Before injection commences, the owner or operator must submit the appropriate forms, attachments, and a descriptive report that interprets the results of the logs and tests.

46. This section of the proposed rules is nearly identical to the federal rules. However, Subsection H.(2)(a)(i) includes an additional logging method and gamma ray testing that must be run before and upon installation of the surface casing. Oxy supports the addition of gamma ray testing. However, Oxy encourages OCD to remove spontaneous potential as a logging method, as it provides redundant information and can increase the risks to well integrity. Oxy Exhibit 1C. Spontaneous potential was one of the first wireline logs to be utilized and industry now recognizes that gamma ray provides more robust and relevant information. Gamma ray logging also reduces the time needed for well logging and, as a result, reduces the likelihood that drill bits or logging tools stick to the formation and result in loss of the well. Requiring logs that are redundant or

unnecessary leads to more time in the well, particularly in the shallow sections, which unnecessarily increases well integrity risk.

47. Additionally, Oxy recommends amending the last sentence of Subsection H.(1) to read: "Such logs and tests may include," and replacing "and" with "or" in Subsections H.2.(a)(i) and H.(2)(c)(iv). Oxy Exhibit 1C. As currently written, this section prescriptively mandates the tests owners or operators must utilize. Some of the listed test methods are outdated and/or provide redundant information. These tests may also increase well integrity risk, while providing no corresponding benefit.

48. Instead, Class VI rules should be performance based, rather than prescriptive, to enable owners and operators to use fit-for-purpose, site-specific testing and logging methods that will be reflective of best management practices. Oxy also believes the rules should allow for the infusion of new technologies.

49. These changes are in line with the federal rules, which allow for an owner or operator to submit "[a]ny alternative methods that provide equivalent or better information and that are required by and/or approved of by the Director." 40 C.F.R. § 146.87(a)(5). Additionally, allowing an owner or operator more flexibility to use logging methods that are reflective of best management practices and specific to a site does not affect the stringency of the regulation, so long as Subsection H.(1) is still being met. Owners and operators would still be required to "run appropriate logs, surveys and tests" that provide the data and information listed.

EMERGENCY AND REMEDIAL RESPONSE (19.15.43.9.O. NMAC)

50. The proposed rule at Subsection O of 19.15.43.9 NMAC contains requirements for developing "an emergency and remedial response plan that describes the actions the owner or operator must take to address movement of the injection or formation fluids that may cause an

endangerment to a USDW during construction, operation, and post-injection site care periods." Subsection O.(5) requires that the plan be reviewed and updated, if appropriate, at least every three years.

51. The federal regulations, found at 40 C.F.R. § 146.94, similarly require an owner or operator to develop and submit an emergency and remedial response plan. However, the federal regulations require that the plan be reviewed and amended, if appropriate, at least every five years. 40 C.F.R. § 146.94(d). Oxy proposes that the Commission adopt a five-year period in Subsection O.(5) 19.15.43.9 NMAC consistent with federal the requirements. Oxy Exhibit 1C.

52. Additionally, Oxy encourages OCD to alter the language of Subsection O.(3) to specify that in the case evidence shows that the injected CO2 stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must immediately cease injection *in the impacted well*. Oxy Exhibit 1C. This change will clarify that operators of multiple wells need not cease injection in all wells, only the impacted well.

CONCLUSION

53. I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct. I understand that this self-affirmed statement will be used as written testimony in this case. This statement is made on the date next to my signature below.

/s/ Tiffany A. Wallace June 29, 2026

Tiffany A. Wallace Date