



April 17, 2020

Stephanie Garcia Richard  
New Mexico State Land Commissioner  
New Mexico State Land Office  
310 Old Santa Fe Trail  
Santa Fe, NM 87501

**Re: Proposed Emergency Rulemaking, Need for Public Lands Office to Protect New Mexico's Economy and Environment**

Dear Commissioner Garcia Richard:

WildEarth Guardians supports the proposed emergency revision to 19.2.100.71 of the New Mexico Administrative Code ("NMAC"). The proposed rule would allow for the shutting in of wells where a cessation in production would lead to the lease expiring. For economic, as well as environmental and health reasons, the proposed rule makes sense.

However, we strongly encourage the State Land Office Commissioner to consider implementing additional measures to address the unprecedented health and economic crisis before us. In light of the severe decline in oil and gas prices, it is clear that current levels of oil and gas development and production are not economically sustainable and are very likely an economic liability for New Mexico. In other words, oil and gas development and production on New Mexico State Lands may actually be costing the state, not creating revenue.

In light of our crisis, we urge the Commissioner to closely assess whether oil and gas activity on State Lands is actually generating revenue and not currently costing the state and undermining the trust. As part of this assessment, we urge the Commissioner to analyze whether shut-in wells impose undue environmental reclamation liabilities upon the state, whether production from leases is actually generating royalties and whether royalties are sufficiently covering the cost of land and lease management, and whether additional steps should be taken to minimize the financial hit that New Mexico is taking in light of the current health and economic crisis.

On the latter issue, we strongly encourage the Commissioner to consider implementing, at a minimum, the following measures:

- Setting a cap on production from state leases that reduces overall production rates in order to help limit oversupply and contribute to price stabilization. Alternatively, the Commissioner could require more widespread shut-ins, rather than simply allowing voluntary shut-ins, and require plugging and abandoning of wells to limit production.
- Requiring plugging and abandoning of wells on state public lands, particularly wells that are shut-in longer than 30 days, which is the term of the proposed emergency rule. Although we support the concept of shutting in wells as an interim response to the health and economic crisis, if wells are shut in for extended periods of time, then these wells impose an economic burden upon the state. It makes sense to ensure that uneconomic wells aren't allowed to remain on state lands in a state of non-production.
- Reassessing financial assurances for all shut-in wells on state public lands. Shutting in wells raises concerns that companies may ultimately walk away from uneconomic wells, leaving the State Land Office to shoulder the burden of completing reclamation. The Commissioner must closely scrutinize financial assurances and ensure that as companies notify the State Land Office of shut-ins, they certify that they are adequately bonded.
- Move expeditiously to update and reform overall reclamation bonding regulations for oil and gas development on state public lands. We understand this is an issue of great concern for the Commissioner and that the State Land Office will be moving soon to begin the process of updating reclamation regulations. We urge the Commissioner to consider moving more quickly, or even on an emergency basis, to make changes to ensure companies operating on state lands are adequately bonded.

Overall, we urge the Commissioner to play a more active role in protecting New Mexico's trust resources, including the environmental integrity of state public lands, in the face of the declining oil and gas industry. In light of current price and revenue declines, it is a legitimate concern that oil and gas development is actually costing the state and worse, threatening to leave a legacy of costly reclamation and contamination to clean up.

We support the proposed revisions to 19.2.100.71 NMAC, but the Commissioner can and should go further to minimize the damage to New Mexico as a result of the oil and gas industry's collapse and help the state move toward reliance on more sustainable and prosperous forms of revenue. Thank you for the opportunity to comment.

Sincerely,



Jeremy Nichols

Climate and Energy Program Director  
WildEarth Guardians