

WRITTEN STATEMENT OF

Sarah Cottrell Propst

Cabinet Secretary

New Mexico Energy, Minerals and Natural Resources Department

Re: Field Hearing in New Mexico on

Public Health Impacts of Oil and Gas Development

Before the

Subcommittee on Energy and Mineral Resources

April 15, 2019

Good morning, Mr. Chairman and Members of the Committee. Thank you for inviting New Mexico Energy, Minerals and Natural Resources Department to testify today. I am Sarah Cottrell Propst, Cabinet Secretary of the New Mexico Energy, Minerals and Natural Resources Department.

Today I will speak about the boom in oil production in the Permian Basin and its consequences for our department and our regulatory responsibilities. I will focus on our department's regulatory oversight, actions we're taking to minimize methane emissions that contribute to global climate change, and the importance of our working relationship with federal agencies.

The Energy, Minerals and Natural Resources Department (EMNRD) includes the Oil Conservation Division (OCD), the Mining and Minerals Division, State Parks Division, State Forestry Division and the Energy Conservation and Management Division.

New Mexico has a long and distinguished oil and gas production history. Major oil and gas production began in the 1920s and has continued through today. The two major basins in New Mexico are the San Juan Basin, which is predominantly a natural gas-production region located in the northwest section of the state, and the Delaware Basin – which is part of the Permian Basin – which is predominantly an oil-production region located in the southeast portion of the state.

New Mexico has also had a long history of regulating the oil and gas industry. The state's 1935 Oil & Gas Act created the Oil Conservation Commission (OCC) and focused on the conservation of the oil and gas resources. The primary goals of the original Act, which remain today, are the prevention of waste and the protection of correlative rights. The Act has been expanded over the years to include the regulation of oil and gas facilities by the OCC and OCD to protect public health, the environment and fresh water supplies. Today, EMNRD's Oil Conservation Division oversees more than 64,000 wells and over 5,800 environmental cleanup cases. The OCD regulates the lifespan of an oil and gas project from the initial application to drill and to form a spacing and pooling unit to the operation of the well and related facilities and finally to the plugging and closure of the well. Along the way, the OCD requires financial assurance for the closure of the well and oversees any necessary cleanup of contamination at the facilities.

Today, the Permian Basin that stretches under southeastern New Mexico and into Texas is now the largest oil producing area in the United States. New Mexico oil production has increased by 400% in the past 10 years, making our state the 3rd-highest oil producing state behind Texas and North Dakota. The gross value of oil production in New Mexico now exceeds \$1.5 billion each month. These dramatic increases are largely the result of shale development through horizontal drilling and hydraulic fracturing.

Such a boom presents challenges for EMNRD's Oil Conservation Division. While the boom dramatically increased our workload, our budget was reduced by 44% between FY 2015 and FY 2018. We have 66 full-time positions for FY 2019. Because of the budget cuts and the unprecedented growth in the oil and gas industry in New Mexico, the OCD

must do more with less. Applications for permits to drill, or APDs, increased from 408 in FY 2015 to 1,821 in FY 2018. Administrative hearing cases for the approval of various types of wells and for compulsory pooling increased from 271 in FY 2013 to 1,502 in FY 2018. Due in large part to competition with the industry in recruiting and retaining staff, the OCD has over a 40% vacancy rate today. Compounding matters, the OCD operates under outdated technological services which slow permit application and order processing, data collection, data organization, and data sharing.

In the face of these challenges, we see opportunities. We are evaluating recruitment strategies and how we can reorganize staffing to be more efficient. We promoted, and the Governor signed, several important bills in the 2019 state legislative session:

- SB 553, “Oil Conservation Commission Fees,” was introduced at the Governor’s request to establish a fee schedule at the OCD and received widespread industry support. The law establishes a fees schedule that largely mirrors the fees schedule in Texas and creates a non-reverting Oil Conservation Division Systems and Hearings Fund that allows the OCD to initiate multi-year projects to modernize its technological and business systems. Specific projects could include updating OCD online to allow all applications to be submitted electronically, updating OCD’s public information server to allow greater transparency to industry and the public, and developing a case management system for administrative hearings.
- HB 546 which combined two pieces of legislation: one to establish an administrative enforcement process and the other to clarify the regulation of produced water, including the emerging efforts to recycle and treat produced water for potential reuse.
- EMNRD also received funding for several new positions in OCD to help manage the increased workload.

In January 2019, Governor Michelle Lujan Grisham issued Executive Order 2019-003 Addressing Climate Change and Energy Waste Prevention (“Executive Order”). The Executive Order notes that methane is a potent greenhouse gas, the oil and gas industry is the largest industrial source of methane emissions, and that venting and flaring volumes have increased significantly in recent years. The Governor directed EMNRD and the New Mexico Environment Department (NMED) to jointly develop a statewide, enforceable regulatory framework to secure reductions in oil and gas sector methane emissions and to prevent waste from new and existing sources and enact such rules as soon as practicable.

In response to the Executive Order, earlier this month EMNRD and NMED sent a letter to State Review of Oil and Natural Gas Environmental Regulations (STRONGER) requesting a review of our existing oil and natural gas regulations. STRONGER’s review process engages a diverse group of stakeholders that includes representatives from the federal government, state government, tribal nations, environmental organizations, and oil and gas operators. This group will review NMED’s and EMNRD’s oil and gas environmental regulatory program and develop a report by August 1, 2019 that identifies program strengths and regulatory gaps. The review team will also develop

recommendations for addressing any potential regulatory gaps and potential program improvements.

Oil and gas development in New Mexico occurs across a checkerboard pattern of federal, state, tribal, and privately owned lands and mineral rights. To effectively regulate the oil and gas activities and their impacts requires coordination among the various state, federal, and tribal government entities including both regulatory bodies and land management agencies. For our agency, a strong relationship with the U.S. Department of Interior's Bureau of Land Management (BLM) has been essential. While our conservation laws apply to federal, non-tribal land, the BLM oversees various aspects of oil and gas development on federal land from the leasing to drilling to plugging. We coordinate with the BLM to avoid overlap and duplication.

We also coordinate with the New Mexico State Land Office which oversees over 9 million surface acres and over 13 million mineral rights acres that are held in trust for various beneficiaries including the public school system and the public universities. The Land Office oversees the leasing of its lands and coordinates with our agency on compliance and plugging of wells.

Looking ahead, we will responsibly and effectively regulate oil and gas activities in New Mexico. We will maintain our strong relationship with the BLM, State Land Office, and tribal partners in this work to avoid overlap and duplication. And we will continue our efforts to reduce wasteful methane emissions.

Mr. Chairman and members of the Committee, thank you for this opportunity to share the New Mexico Energy, Minerals and Natural Resources Department's perspective on the impacts of oil and gas development in our state.