

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Secretary

**Office of the Secretary**



February 9, 2021

Laura Daniel Davis  
Principal Deputy Assistant Secretary – Land and Minerals Management  
Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Ms. Daniel Davis:

The New Mexico Energy, Minerals and Natural Resources Department (EMNRD) commends President Joe Biden's swift actions to address climate change pollution. New Mexico, under the leadership of Governor Michelle Lujan Grisham, has made climate change mitigation a priority—including development of nation-leading methane waste rules—to protect the future of our state, our country, and our planet. I am writing today to ask for your partnership and help in clarifying field guidance under Department of the Interior (DOI) Secretarial Order 3395 (Order). Additional written guidance will help us provide regulatory certainty, which is necessary to New Mexico's efforts to reboot our economy and protect our environment as we recover from the global pandemic.

EMNRD's Oil Conservation Division (OCD) regulates New Mexico's oil and gas industry. While New Mexico is a diverse energy production state with a growing renewable energy industry, the long-established oil and gas industry funds approximately one-third of the state's operating budget. Much of New Mexico's oil and gas production occurs on federal land under the Bureau of Land Management's (BLM) jurisdiction. The OCD and the BLM have a long history of working together to manage and regulate New Mexico's oil and gas resources. We look forward to continuing and expanding our relationship with the DOI and New Mexico's BLM offices going forward.

The recent DOI Order achieves important operational goals that we support, but it has resulted in on-the-ground uncertainties that undermine our ability to safeguard New Mexico's economy and environment. Approximately 55% of oil and gas wells in New Mexico are drilled on federal lands, particularly in the Permian Basin. By contrast, the Texas side of the Permian Basin is largely private land and therefore unimpacted by the new federal actions. We have seen rigs depart New Mexico for Texas simply because of the uncertainty caused by the Order.

Additional written guidance to field offices is necessary to allow certain approvals associated with existing oil and gas operations to move forward. Clarifications on rights of way approvals within the Order are particularly important to New Mexico's environmental goals. Of particular concern, the Order places a 60-day pause on the administrative authority of BLM field office staff to approve items such as new permits to drill, leases, right of ways, etc. Section 3.g states that "this does not limit existing operations under valid leases" and "does not apply to authorizations necessary to (1) avoid conditions that might pose a threat to human health, welfare, or safety." However, there is confusion in the field regarding which approvals fall within these categories because additional approvals are often required even when operators have a valid lease and permit to drill. Operators have reported many examples of approvals not moving forward that appear to fall under these exceptions.

Specifically, right of way approvals are critical to ensure that new wells will have take-away capacity for their natural gas and not be forced to vent or flare. In addition, right of way approvals are needed for lay-flat pipelines which transport water to and from well sites during completions activity. These lay-flat pipelines facilitate the reuse of produced water in completions operations, which takes pressure off New Mexico's precious freshwater resources for use in oil and gas operations. We encourage the DOI to provide written guidance to provide BLM field offices and oil and gas operators with the clarity they need to move forward.

EMNRD looks forward to continuing our long history of working with the DOI and the BLM to judiciously supervise the conservation of New Mexico's oil and gas resources on federal lands. I respectfully request a call with DOI's key staff to discuss next steps. Ms. Lois Caroline Pedro ([LoisC.Pedro@state.nm.us](mailto:LoisC.Pedro@state.nm.us) or 505-476-3316) is the best point of contact in my office to schedule a mutually convenient time for us to talk.

Sincerely,



Sarah Cottrell Propst  
Cabinet Secretary

CC: DOI Secretary Designee Debra Haaland  
Acting New Mexico BLM State Director Steve Wells