

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF THE ENVIRONMENT**

**IN THE MATTER OF
THE APPLICATION OF
YUCCA GROWTH INFRASTRUCTURE,
LLC FOR AN AIR QUALITY PERMIT
No. NSR 10883**

AQB 26-57

OBJECTION TO SCHEDULING CONFERENCE

New Mexico Environmental Law Center (Maslyn K. Locke and Eric D. Jantz), on behalf of Vivian Fuller and Jose Saldaña Jr., (collectively “Community Members”), and Center for Biological Diversity (“CBD”) submit the following written objection to the New Mexico Environment Department’s (“NMED” or “the Department”) July 15, 2026 Scheduling Conference based on NMED’s failure to provide adequate notice to all interested participants of any scheduling or prehearing process relating to the issuance of NSR Permit No. 10883.

First, NMED has not provided any analysis for public review, which must be available for at least thirty (30) days, prior to the Department issuing a hearing determination in order to allow for additional public comment. 20.2.72.206(B) NMAC. Though Community Members and CBD agree with the Department’s ultimate decision to hold a public hearing on Permit No. NSR 10883 in Sunland Park, in the absence of any NMED analysis, the Department’s decision to hold a public hearing and attempt to schedule such a hearing is premature. Notably, the Department has sixty (60) days from the date the Secretary issued a hearing determination, in this case, July 2, 2026, to schedule the hearing, so there is certainly no need to rush this scheduling conference – especially when doing so will disadvantage parties who are not aware of the need to file an entry of appearance by some undisclosed time in order to participate.

Second, while Community Members and CBD appreciate NMED's attempt to coordinate parties on the hearing schedule, NMED has not provided notice of the scheduling conference to all interested parties,¹ nor has the Department provided notice of hearing determination to individuals who submitted written comments pursuant to 20.2.72.206(A)(6). NMED has failed to follow its normal practice of posting the notice of hearing determination on its Public Notice webpage, where all other public documents related to the application have been posted. NMED has similarly failed to provide any deadline by which parties must enter an appearance in order to ensure all interested groups and individuals are able to participate to the fullest extent in any hearing. 20.1.4.300(A)(1) NMAC. Indeed, any effort to coordinate parties, without ensuring all interested persons are given notice and an opportunity to participate, will result in the unlawful exclusion of interested persons from important parts of the hearing process. *E.g. Nesbit v. City of Albuquerque*, 1977-NMSC-107, ¶ 3, 91 N.M. 455 (notice provisions require substantial compliance). If the Department is to ensure all those interested in the outcome of any hearing have a say in the timing of the hearing, which Community Members and CBD support, NMED cannot hold a scheduling conference where participation is based exclusively on a party's luck in its timing of filing an entry of appearance or word of mouth.

For the foregoing reasons, Community Members and CBD strongly urge the Department to postpone the July 15, 2026 Scheduling Hearing until NMED provides an analysis of Yucca Growth Infrastructure, LLC's air pollution permit application and the public is provided thirty (30) days to comment on the analysis. In addition, once rescheduled, NMED must ensure all interested persons are given an opportunity to participate in the scheduling conference.

¹ The New Mexico Environmental Law Center, for example, has been identified by NMED as a stakeholder group in its Public Involvement Plan, at 3, but did not receive any notice from the Department regarding NMED's Wednesday, July 15, scheduling conference.

Submitted on this 14th day of July, 2026.

/s/ Maslyn Locke

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CERTIFICATE OF SERVICE

I certify on July 14, 2026, a true and correct copy of the foregoing Objection was served by email to:

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