

**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**

AQB 26-57

NO. 10883

REQUEST FOR HEARING OFFICER TO ORDER DISCOVERY

Pursuant to the July 16, 2026 Scheduling Order, at 3, ¶7, and the Hearing Officer’s reiteration at the prehearing conference on July 27, 2026 that discovery will be allowed in the case, New Energy Economy hereby requests the Hearing Officer order Applicants Yucca Growth Infrastructure, LLC (“YGI”) and Bloom Energy,¹ the party responsible for the new source, to respond to the attached Second Set of Interrogatories and Requests for Production of Documents.

On March 20, 2026, the New Mexico Commissioner of Public Lands denied Energy Transfer's applications for two rights-of-way and a business lease necessary to construct the proposed Green Chili Lateral natural gas pipeline and associated meter station that would supply natural gas to Project Jupiter. On July 14, 2026, after Energy Transfer sought reconsideration, the Commissioner again rejected the request and reaffirmed that the pipeline and associated facilities are not in the best interests of the State Land Trust, concluding that the project would impose substantial environmental costs while providing minimal public benefit.² The Commissioner expressly advised that the only remaining avenue for relief is an administrative appeal.

¹ The signatory of the in this case is at is [Marisa Blackshire](#), Vice President Environmental and Regulatory Law at Bloom Energy. YGI Application NSR permit application, April 2026, at 648 of 648.

² See Exhibit A, Attached letter of July 14, 2026, from the New Mexico Commissioner of Public Lands.

These developments also call into serious question whether the New Mexico Environment Department's preliminary determination that the permit application was administratively complete remains warranted or lawful. The Commissioner's repeated denial of the rights-of-way and business lease necessary to construct the Green Chili Lateral pipeline raises a fundamental issue concerning whether Project Jupiter can be constructed and placed into operation as proposed. Under 20.2.7.208(G) NMAC, the Department shall deny a permit if the proposed source cannot be produced in a timely fashion. If Applicants lack a legally viable means of supplying the approximately 400 million cubic feet of natural gas per day upon which the project depends, then the permit application may no longer satisfy the regulatory prerequisites for continued processing. Discovery is therefore necessary to determine whether Applicants possess any realistic, legally obtainable alternative fuel supply, whether they intend to challenge the Commissioner's decision, and whether the project can proceed at all in light of the denial of these essential pipeline approvals.

Respectfully submitted this 28th day of July, 2026,

NEW ENERGY ECONOMY

By: /s/ Mariel Nanasi

Mariel Nanasi

Christopher Dodd

Attorneys for New Energy Economy

422 Old Santa Fe Trail

Santa Fe, NM 87501

MNanasi@NewEnergyEconomy.org

chris@fayerbergdodd.com

505.469.4060.

**IN THE MATTER OF:
THE APPLICATION
OF YUCCA GROWTH INFRASTRUCTURE, LLC
FOR AN AIR QUALITY PERMIT**

AQB 26-57

NO. 10883

**NEW ENERGY ECONOMY'S SECOND REQUEST FOR PRODUCTION OF
DOCUMENTS AND SET OF INTERROGATORIES**

To: Yucca Growth Infrastructure, LLC
c/o Jennifer L. Bradfute
David Kirmse
P.O. Box 90233
Albuquerque, NM 87199
Telephone: (505) 264-8740
jennifer@bradfutelaw.com
Counsel for Applicant Yucca Growth Infrastructure, LLC

c/o Ms. Jennifer L. Biever
Williams Weese Pepple & Ferguson, P.C.
1801 California Street, Suite 3400
Denver, CO 80202
Telephone: (303) 861-2828
jbiever@williamsweese.com
Counsel for Applicant Yucca Growth Infrastructure, LLC

c/o Bloom Energy Corp
Amanda Marruffo
Director, EH&S
4353 North First Ave, San Jose, CA 95134
amanda.marruffo@bloomenergy.com

DEFINITIONS

1. "Document" is used in the broadest sense possible and means any written, typed, printed, recorded or graphic matter, including electronically stored information, however produced or reproduced, or any type or description, regardless of origin or location, including without limitation all correspondence, records, memoranda, notes, lists, calendars, telexes, telecopies,

messages (including, but not limited to, notes, reports, memoranda, or recordings of telephone conversations), electronic mail messages or transmissions, contracts, agreements, assignments, invoices, statements, acknowledgments, computer-generated or computer-stored documents or information, all other data compilations from which information can be obtained or translated, if necessary, reports and/or summaries of investigations, drafts and revisions of drafts of any documents, invoices, receipts and original preliminary notes. If a document has been prepared in several copies, or additional copies have been made, or copies are not identical, each non-identical copy is a separate document.

2. “Information” shall be construed expansively and shall include facts, data, opinions, knowledge, belief, images, impressions, concepts, and formulae.

Interrogatories

Interrogatory No. NEE 2-1

State whether YGI contends that Project Jupiter can be constructed and operated as proposed without the Green Chili Lateral natural gas pipeline.

If your answer is yes, explain in complete detail how Project Jupiter will obtain its required natural gas supply.

ANSWER:

Interrogatory No. NEE 2-2

Describe in complete detail every alternative method considered by YGI for supplying natural gas to Project Jupiter if the Green Chili Lateral is not constructed.

ANSWER:

Interrogatory No. NEE 2-3

Identify every permit, approval, easement, right-of-way, lease, or authorization that remains necessary for construction of the Green Chili Lateral pipeline.

For each authorization, state:

- a. whether it has been obtained;
- b. if not obtained, its current status;
- c. the anticipated date of issuance; and
- d. any known obstacles to obtaining the authorization.

Interrogatory No. NEE 2-4

State whether YGI contends that the denial by the New Mexico Commissioner of Public Lands of the requested rights-of-way and business lease has any impact upon the feasibility, timing, construction schedule, financing, or operation of Project Jupiter.

If your answer is no, explain in complete detail why not.

ANSWER:

Interrogatory No. NEE 2-5

State whether YGI, Energy Transfer, ET Gathering and Processing LLC, Transwestern Pipeline Company LLC, or any affiliate intends to seek administrative review or judicial review of the Commissioner's July 14, 2026 decision denying reconsideration of the requested rights-of-way and business lease.

If so, identify:

- a. the anticipated filing date;
- b. the tribunal;
- c. the legal grounds for appeal; and
- d. every person involved in making that decision.

ANSWER:

Interrogatory No. NEE 2-6

State whether YGI has evaluated the possibility that the Green Chili Lateral pipeline will never be approved.

If so, identify every study, memorandum, risk assessment, financial analysis, Board presentation, investor presentation, or other document evaluating that possibility.

ANSWER:

Interrogatory No. NEE 2-7

Explain how YGI contends that Project Jupiter satisfies the requirement of 20.2.7.208(G) NMAC that the proposed source can be constructed and placed into operation in a timely fashion given the Commissioner of State Lands' denial of the necessary pipeline rights-of-way and business lease.

ANSWER:

Interrogatory No. NEE 2-8

Project Jupiter's proposed fuel supply has been described as requiring approximately 400 million cubic feet of natural gas per day delivered through the proposed Green Chili Lateral pipeline.

If the Green Chili Lateral is not constructed, identify and describe in complete detail every alternative means by which YGI contends Project Jupiter will obtain the natural gas necessary to operate the proposed source.

For each alternative, identify:

- a. the source of the gas;
- b. the transportation method;
- c. all required infrastructure;
- d. all permits and approvals required;
- e. the anticipated construction schedule;
- f. the estimated cost; and
- g. whether YGI presently has legal authority to implement that alternative.

ANSWER:

Interrogatory No. NEE 2-9

State whether YGI contends that Project Jupiter can commence commercial operation without the Green Chili Lateral pipeline.

If so, explain in complete detail the factual and engineering basis for that contention.

ANSWER:

Interrogatory No. NEE 2-10

Identify every study, engineering analysis, feasibility study, fuel supply assessment, contingency plan, risk assessment, or internal memorandum evaluating alternatives to the Green Chili Lateral pipeline.

ANSWER:

Interrogatory No. 2-11

State whether YGI has entered into any agreements, negotiations, or discussions concerning an alternative natural gas pipeline or other method of supplying approximately 400 million cubic feet of natural gas per day.

If so, identify all participants and produce all related documents.

ANSWER:

Interrogatory No. 2-12

State whether YGI contends that the denial of the requested State Land Office rights-of-way and business lease has delayed, altered, impaired, or rendered infeasible any portion of Project Jupiter.

If not, explain in complete detail why not.

ANSWER:

Requests for Production

RFP No. NEE 2-1

Produce all contingency plans, engineering studies, fuel supply analyses, pipeline alternatives, feasibility studies, risk assessments, and financial analyses concerning Project Jupiter's ability to obtain natural gas if the Green Chili Lateral is not constructed.

RFP No. NEE 2-2

Produce all documents concerning any planned administrative appeal, judicial appeal, or other effort to overturn or modify the Commissioner of State Lands' denial of the requested rights-of-way and business lease.

RFP No. NEE 2-3

Produce all documents relied upon by YGI in concluding that Project Jupiter can be constructed and placed into operation in a timely manner despite the denial of the state land approvals necessary for the proposed natural gas pipeline.

ANSWER:

Respectfully submitted this 28th day of July, 2026,

NEW ENERGY ECONOMY

By: /s/ Mariel Nanasi

Mariel Nanasi

Christopher Dodd

Attorneys for New Energy Economy

422 Old Santa Fe Trail

Santa Fe, NM 87501

MNanasi@NewEnergyEconomy.org

chris@fayerbergdodd.com

505.469.4060.

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of July 2026, a copy of the foregoing was sent to the following parties or counsel of record via electronic mail:

Max Shepherd
max.shepherd@comcast.net
Hearing Officer

Christopher Vigil
Assistant General Counsel
Brian Yardman-Frank
Assistant General Counsel
New Mexico Environment Department
Office of General Counsel
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102
christopherj.vigil@env.nm.gov
brian.yardman-frank@env.nm.gov
Counsel for NMED

Jennifer L. Bradfute
David Kirmse
P.O. Box 90233
Albuquerque, NM 87199
Telephone: (505) 264-8740
jennifer@bradfutelaw.com
david@bradfutelaw.com
Counsel for Applicant Yucca Growth Infrastructure, LLC

Jennifer L. Bieber
Williams Weese Pepple & Ferguson, P.C.
1801 California Street, Suite 3400
Denver, CO 80202
jbieber@williamsweese.com
Counsel for Applicant Yucca Growth Infrastructure, LLC

Nicholas R. Maxwell
P.O. Box 1064
Hobbs, NM 88241
inspector@sunshineaudit.com
Pro Se Intervenor

Colin Cox
Gail Evans
The Center for Biological Diversity
1025 ½ Lomas NW
Albuquerque, New Mexico 87102
ccox@biologicaldiversity.org
gevans@biologicaldiversity.org
Counsel for Center for Biological Diversity

Maslyn Locke
Senior Staff Attorney
Eric Jantz
Legal Director
New Mexico Environmental
Law Center
Tel.: (505) 989-9022
mlocke@nmelc.org
ejantz@nmelc.org
Counsel for Vivian Fuller and Jose Saldaña Jr.

Bruce Wetherbee
60 Thoreau Street #103
Concord, MA 01742
editor@thecandlepublishing.com
Pro Se Intervenor

Joe Cardillo
344 4th Street SW
Albuquerque, NM 87102
joe@progressnownm.org
Pro Se Intervenor

Andre Makarski
United Association Local 412
510 San Pedro
Albuquerque, NM 87108
andre@ualocal412.org

Esperanza Chairez
Zephyr Jaramillo
esperanza@yuccanm.org
Youth United for Climate Crisis Action

Yiwei Chen
Economic Development New Mexico
P.O. Box 20003 Santa Fe, NM 87504-
5003 (505) 394-5481
yiwei.chen@edd.nm.gov

Isaiah Zemke
izemke@smwlu49.org Sheet Metal
Workers Local Union No. 49

Nathaniel Chakeres General Counsel
New Mexico Office of the State Engineer
P.O. Box 25102 Santa Fe, NM 87504-
5012 (505) 231-4459
nathaniel.chakeres@ose.nm.gov

Christine Dobbin
1 Cielo Azul Anthony, NM 88021
(915) 412-9148
dobbin.cc@gmail.com

By: /s/ Mariel Nanasi
NEW ENERGY ECONOMY

Mariel Nanasi
Christopher Dodd
Attorney for New Energy Economy
422 Old Santa Fe Trail
Santa Fe, NM 87501
MNanasi@NewEnergyEconomy.org
chris@fayerbergdodd.com
505.469.4060.



Exhibit A

State of New Mexico
Commissioner of Public Lands
Stephanie Garcia Richard

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

July 14, 2026

Via First Class Mail and Email (mark.vedral@energytransfer.com)

Mark Vedral
Senior Director – Land/Projects
Energy Transfer
1300 Main Street
Houston, TX 77002

Dear Mr. Vedral:

The New Mexico State Land Office (“NMSLO”) is in receipt of two letters from you dated April 2, 2026 on behalf of ET Gathering and Processing LLC and Transwestern Pipeline Company LLC, which we understand are both subsidiaries or affiliates of Energy Transfer (“Subsidiaries”). The letters (“Reconsideration Letters”) ask for reconsideration of NMSLO’s prior rejection of Energy Transfer Subsidiaries’ applications for two rights-of-way and a business lease on or across New Mexico state trust lands in connection with a massive planned data center project in Doña Ana County called “Project Jupiter.” The Reconsideration Letters are functionally identical. For the reasons described in this letter, Energy Transfer’s request for reconsideration of the agency’s prior determination is denied.

The office of Land Commissioner is established under the New Mexico Constitution and by statute. *See* N.M. Const., art. V, § 1; *id.*, art. XIII, § 2; NMSA 1978, § 19-1-1 (1912); *id.* § 19-1-2 (1953). The Commissioner is the chief executive officer of the NMSLO, and exercises authority over lands and mineral resources granted to the State of New Mexico by the federal government in trust to generate support for public schools and other state institutions, such as hospitals and universities, and is designated under New Mexico law to carry out the State’s trust duties under the New Mexico Enabling Act (Act of Congress of June 20, 1910, 36 Stat. 557, Ch. 310, § 10).

Through what appear to be separate project entities, Energy Transfer applied for two separate rights-of-way for the same project – a buried 24” natural gas pipeline called the “Green

Chili Lateral.” ET Gathering and Processing LLC was named as the applicant for around 2,000 feet of a southern segment of the pipeline (Township 29 South, Range 2 East, Section 2), while Transwestern Pipeline Company LLC was named as the applicant for about 3,200 feet of a northern segment of the pipeline (Township 25 South, Range 2 East, Section 32). The requested rights-of-way on state trust land represent a small part of the overall approximately 17-mile proposed project. NMSLO received the applications on February 6 and February 9, 2026, and assigned them for review purposes right-of-way number R4-3458 and R4-3459, respectively. Transwestern Pipeline Company LLC also applied for a state business lease for the “Green Chili Meter Station” to connect the proposed new Green Chili Lateral with an existing El Paso Natural Gas line; this application was assigned number BL-3339 for review purposes. By letters dated March 20, 2026, NMSLO notified the Subsidiaries that the right-of-way and business lease applications were canceled and would not be processed further. The Reconsideration Letters followed.

As a threshold matter, Energy Transfer and the Subsidiaries misunderstand the scope of the Commissioner’s authority with respect to the use and management of state trust lands. The Reconsideration Letters both state that the Subsidiaries “filed [the] Applications in full compliance with the NMSLO’s applicable regulations ... and paid all required filing fees To [the Subsidiaries’] knowledge, the Applications were complete and in proper form at the time of submission....”; and that “[t]he cancellation of the properly filed, fee-paid applications – without notice, without identification of any deficiency, and without any stated rationale – raises serious concerns...” Reconsideration Letters at 1.

Energy Transfer presupposes that it is entitled to issuance of the rights-of-way and business lease merely by virtue of filing applications and paying nominal application fees (\$100 for short-term business lease applications and \$250 for rights-of-way). The Commissioner, however, is under no obligation to issue any lease, right-of-way, or permit to any party, and properly does so only upon determining that a given lease, right-of-way, or other authorization is in the best interests of the state land trust which the Commissioner serves as a fiduciary. *See State ex rel. Otto v. Field*, 1925-NMSC-019, ¶ 85, 31 N.M. 120 (“[I]t may not be doubted that the Legislature ... in creating the state land office, intended that the commissioner should exercise the power ... to use his discretion in making deeds, contracts, and grants”); see also *Heimann v. Adee*, 1996-NMSC-053, ¶ 30, 122 N.M. 340, 924 P.2d 1352 (New Mexico law vests the Commissioner with “plenary authority over state lands.”).

The Commissioner has determined that issuing the rights-of-way and business lease that Energy Transfer has requested through its Subsidiaries would not be in the best interests of the trust for several reasons. First, the rights-of-way and business lease would only generate minimal revenue for NMSLO. NMSLO rights-of-way are generally priced on a published fee schedule, and at those rates the rights-of-way would generate only one-time payments of \$11,282.20 and \$20,624.65 over a 35-year period. The business lease, meanwhile, based on acreage and intended use, would bring in only modest annual payments of \$43,406.00 over its five-year term.

There are also few, if any, collateral benefits that Project Jupiter and the ancillary infrastructure facilitating it, such as the Green Chili Lateral, would provide to NMSLO or the trust. The overall project is apparently intended to serve large technology companies like Oracle; the

Green Chile Project (of which the “Green Chili Lateral” for which Energy Transfer’s Subsidiaries sought NMSLO rights-of-way is apparently a component) is expected to transport 400 million cubic feet of gas per day to power the operation. *See Danielle Prokop, “BLM Fast-Tracks ‘Green Chile’ Pipeline Construction Review for NM Data Center Project Jupiter,” Source New Mexico, May 7, 2026.*¹ This undertaking undoubtedly will enrich Project Jupiter’s financial backers, developers, and tenants, and the developers of related infrastructure such as Energy Transfer, but neither Energy Transfer nor any other party has demonstrated how Project Jupiter will provide any significant benefit to NMSLO or its beneficiaries. The burden that the project will impose on New Mexico’s water and other natural resources, and on the surrounding community, is extreme. This includes the negative impact that greenhouse gas emissions play in driving climate change, which effects the health and productivity of state trust lands throughout New Mexico. Even with a proposed change from gas-fired power plants to a fuel-cell based power source, Project Jupiter is expected to emit more than 10 million tons of greenhouse gases per year, according to its own permit applications. *See Heath Haussamen, “Project Jupiter Unveils Less-Polluting Power Plan,” Haussamen.com, April 26, 2026.*² This is almost double the annual emissions of the entire city of Albuquerque, New Mexico’s largest metropolitan area. *See City of Albuquerque, 2025 Greenhouse Gas Inventory.*³ At a time when New Mexico needs to stop the out-of-control acceleration of climate change, literally doubling down on dangerous emissions is irresponsible and incompatible with NMSLO’s mission. Project Jupiter is also expected to consume nearly a million gallons of water a day in one of the most arid corners of our arid state. *See Alaina Mencinger, Project Jupiter Will Need Nearly 1 Million Gallons of Water a Day – Where Will it Come From?, Santa Fe New Mexican, Apr. 6, 2026.*⁴

NMSLO is proud to partner in clean, sustainable economic development. However, building pipelines and other gas infrastructure intended to serve Project Jupiter is a poor use of New Mexico state trust lands and staff resources, and based on available information appears that it will impose environmental costs on New Mexico greater than any resulting benefit to the trust, our people and our resources. Advancing the massive use of gas for a project of this scale is simply not in the best interest of the trust. For these reasons, I am upholding the agency’s determination not to issue the rights-of-way and business lease to Energy Transfer that are component parts of Project Jupiter. If you are aggrieved by this decision, you may file a petition for administrative

¹ Available at <https://sourcenm.com/2026/05/07/blm-fast-tracks-green-chile-pipeline-construction-review-for-new-mexico-data-center-project-jupiter/>

² Available at <https://haussamen.com/2026/04/27/project-jupiter-unveils-less-polluting-power-plan/>

³ Available at <https://www.cabq.gov/sustainability/documents/ghg-inventory-2025-booklet.pdf/@/download/file/ghg-inventory-2025-booklet.pdf>

⁴ Available at https://www.santafenewmexican.com/news/local_news/project-jupiter-will-need-nearly-1-million-gallons-of-water-a-day-where-will-it/article_9cf82fa5-9bf5-49c9-864d-a51f5ff5ab1d.html

Mark Vedral
Energy Transfer
July 14, 2026
Page 4

contest pursuant to State Land Office rules (*see* 19.2.15 NMAC) within 30 days of the date of this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephanie", with a long horizontal flourish extending to the right.

Stephanie Garcia Richard
Commissioner of Public Lands