

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

**IN THE MATTER OF:
THE APPLICATION OF YUCCA
GROWTH INFRASTRUCTURE'S,
LLC FOR AN AIR QUALITY PERMIT,
NO. NSR 10883**

AQB 26-57 (P)

AMENDED SCHEDULING ORDER

This matter comes before the Hearing of Officer pursuant to the Notice of Docketing, Appointment of Hearing Officer, and Delegation of Final Decision Authority filed on July 2, 2026. Following a July 27, 2026, conference requested by Applicant and attended by all parties, including the Applicant, Yucca Growth Infrastructure, LLC. (Applicant), represented by Jennifer L. Biever, Jennifer L. Bradfute, and David Kirmse; the New Mexico Environment Department (Department), represented by Christopher Vigil and Brian Yardman-Frank; Interested parties: Nicholas Maxwell; Bruce Wetherbee; Joe Cardillo; the Center for Biological Diversity, represented by Colin Cox and Gail Evans; New Energy Economy, represented by Mariel Nanasi and Christopher Dodd; as well as Vivian Fuller and Jose Saldaña Jr., both represented by Maslyn K. Locke and Eric D. Jantz of the New Mexico Environmental Law Center, and Youth United for Climate Crisis Action represented by Esperanza Chairez and Zephth Jaramillo, . The Hearing Officer orders as follows:

1. Procedural Rules, Hearing Date, Time and Location. The public hearing in this matter will be conducted pursuant to 20.1.4 NMAC and shall be held at the Sunland Park Multi-Generational Center located at 4700 McNutt Road, Sunland Park, New Mexico 88063. The public hearing will begin at 9:00 a.m. on Monday, September 14, 2026, and continue as necessary.

2. Technical Evidence, Notices of Intent (NOI), and Exhibits. Any person or organization intending to present technical evidence at the hearing shall pre-file full written technical testimony accompanied by appropriately marked exhibit(s) with the Hearing Clerk on or before August 24, 2026,

and serve an electronic copy on all other parties. NOIs to submit rebuttal testimony, if any, shall be pre-filed on or before September 3, 2026. Pursuant to 20.1.4.400(B) NMAC the Hearing Officer shall admit all relevant evidence that is not unduly prejudicial or repetitious, or otherwise unreliable or of little probative value. Technical evidence or testimony means scientific, engineering, economic or other specialized evidence or testimony and does not include legal argument, general comments, or statements of policy.

3. NOIs shall identify the person filing the statement; state whether the person supports or opposes issuance of the permit, identify each witness, including name, affiliation, education and work background; shall include a full written narrative of the testimony of each witness, including any opinion to be offered by each witness and an explanation of the basis for the opinion; include technical materials relied upon by each witness in forming opinions; estimate the length of each witness's presentation. Failure to file a timely and complete NOI will preclude a person from presenting that technical evidence or testimony. Exhibits must be marked clearly with exhibit number(s) and the name of the party on whose behalf the exhibit is submitted. Pages shall be sequentially numbered.

4. Non-Technical Comment. General comment may be submitted in writing while the evidentiary record is open through the Department's Public Participation webpage, and/or verbally at the public hearing. Individuals intending to provide general comment at the hearing shall notify the WebEx host by raising their "digital" hand or affix their names to the sign-in sheet at the physical location of the hearing. Individuals will be sworn-in and allowed to submit comments throughout the first day of the scheduled hearing on September 14, 2026 and at various times throughout the hearing. Public comment shall be limited to no more than three (3) minutes per individual, unless otherwise ordered by the Hearing Officer.

5. Technical Witness Summary Time Limit. When called to testify by a party, technical witnesses shall adopt their pre-filed full-written technical testimony (and any rebuttal testimony),

making any corrections then known under oath and provide a plain language summary of their testimony for the public. Summaries shall be limited to 30 minutes per witness, not including cross-examination.

6. Prehearing Motions (including all dispositive motions and motions to exclude evidence).

Unless otherwise ordered by the Hearing Officer, for good cause shown by the movant, all prehearing motions shall be filed on or before August 24, 2026. Responses shall be filled by September 3, 2026.

7. Discovery. As provided in 20.1.4.200(E) NMAC, formal discovery will be allowed only upon order of the Hearing Officer.

8. Official Record. The hearing will be recorded via WebEx, and the link will be posted on the Department's YouTube channel within 24 hours of the hearing. If the Permit Applicant contracts with a court reporter, the verbatim transcript shall be the official record.

9. Notice. The Department and the Hearing Clerk shall prepare and publish the necessary public notice for the hearing in English and in Spanish no later than 30-days prior to the hearing pursuant to NMSA 1978, § 74-9-22, and 20.1.4.200 NMAC.

10. Accommodations. The Department shall provide a method for those public members who have a limited English proficiency to participate in the hearing.

11. Post-Hearing Submissions. As provided in 20.1.4.500 NMAC, unless otherwise ordered by the Hearing Officer, post-hearing submissions shall be timely filed within thirty (20) calendar days after the notice of transcript is filed. The parties shall file their comments and exceptions to the Hearing Officer's report and recommended decision within fifteen (15) calendar days of its filing. The Hearing Officer reserves the right to amend the report after consideration of the comments.

12. Administrative Record. The Department shall forward the Administrative Record to the Hearing Clerk no later than the date prior to the hearing.

By: /s/ Max Shepherd
Max Shepherd, Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July 2026, a copy of the foregoing was sent to the following parties or counsel of record via electronic mail:

Zachary Ogaz
General Counsel
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
zachary.ogaz@env.nm.gov
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
Carlos Romo
Williams Weese Pepple & Ferguson, P.C.
1801 California Street, Suite 3400
Denver, CO 80202
jbieber@williamsweese.com
cromo@williamsweese.com
Counsel for Applicant Yucca Growth Infrastructure, LLC

Colin Cox
Gail Evans
Center for Biological Diversity
P.O. Box 31417
Santa Fe, NM 87594
ccox@biologicaldiversity.org
gevans@biologicaldiversity.org
Counsel for the Center for Biological Diversity

Mariel Nanasi
Christopher Dodd
New Energy Economy
422 Old Santa Fe Trail
Santa Fe, NM 87501
mnanasi@newenergyeconomy.org
chris@fayerbergdodd.com
Counsel for New Energy Economy

Maslyn Locke
Senior Staff Attorney
Eric Jantz
Legal Director
New Mexico Environmental
Law Center
mlocke@nmelc.org
ejantz@nmelc.org
Counsel for Viviana Fuller and Jose Saldaña Jr.

Esperanza Chairez
Zephyr Jaramillo
YUCCA Policy Campaign Manager
esperanza@yuccanm.org
info@yuccanm.org
Youth United for Climate Crisis Action

Yiwei Chen
Economic Development New Mexico
P.O. Box 20003
Santa Fe, NM 87504-5003
yiwei.chen@edd.nm.gov
*Counsel for the New Mexico Economic
Development Department*

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

Isaiah Zemke
2300 Buena Vista SE, Suite 110
Albuquerque, NM 87106
izemke@smwlu49.org
*Counsel for Sheet Metal Workers
Local Union No. 49*

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

Courtenay Eichhorst
411 Arizona St.
Albuquerque, NM 87108
courtenaye@ualocal412.org
*Counsel for New Mexico Building
and Construction Trades Council*

Christine Dobbin
1 Cielo Azul
Anthony, NM 88021
dobbin.cc@gmail.com
Pro Se Intervenor

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

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

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

Max Shepherd
max.shepherd@comcast.net
Hearing Officer

By: /s/ Luis Lopez
Luis Lopez, Hearing Clerk
Office of Public Facilitation
New Mexico Environment Department
Direct: 505-490-0186
luis.lopez@env.nm.gov