

**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)

**MOTION TO STRIKE IMPROPER FILING
BY APPLICANT YUCCA GROWTH INFRASTRUCTURE, LLC**

The Center for Biological Diversity, Jose Saldaña Jr. and Vivian Fuller (collectively, “Movants”) file this Motion to Strike Applicant Yucca Growth Infrastructure, LLC’s (“Applicant”) improper and unauthorized sur-reply regarding Movants’ and New Energy Economy’s discovery requests.¹ NMAC 20.1.4.200.D governs motions practice here. It allows a party to file a motion, the opposing party to file one response, and the moving party to file one reply. NMAC 20.1.4.200.D(4)-(5). That is where the briefing ends. Instead of following established hearing rules, Applicant, without the permission of the Hearing Officer, filed an additional sur-reply to Movants’ and New Energy Economy’s discovery requests. Movants ask the hearing officer to strike Applicant’s response for failing to comply with the rules that govern this proceeding. As grounds, Movants state:

On July 24, Movants served Applicant with a set of interrogatories and requests for production.

On July 27, New Energy Economy served Applicant with a set of interrogatories and requests for production.

¹ Movants sought party positions on this motion pursuant to NMAC 20.1.4.200.D(3). The Applicant opposes this motion.

On July 31, Applicant filed a consolidated response in opposition to discovery requests from Movants and New Energy Economy, titled Response to Requests for Hearing Officer to Order Discovery.

On August 3, New Energy Economy replied in support of its discovery request.

On August 5, Movants replied in support of their discovery request.

On August 7, Applicant filed an unauthorized sur-reply to Movants' and New Energy Economy's replies in support of their respective discovery requests, poorly concealed within its response to a separate discovery request from Mr. Nicholas Maxwell. This filing was titled Applicant's Consolidated Response in Opposition to Nicholas Maxwell, NEE and CBD's Requests for Discovery.

NMAC 20.1.4.200.D does not allow sur-replies. Applicant did not seek leave from the Hearing Officer to file its sur-reply. For these reasons, the Applicant's sur-reply violates NMAC 20.1.4.200.D. Movants request the Hearing Officer strike Applicant's improper and unauthorized August 7 sur-reply.

DATED: August 10, 2026

Respectfully submitted:

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Certificate of Service

I hereby certify that on August 10, 2026 a copy of the foregoing Motion to Strike Improper Filing by Applicant Yucca Growth Infrastructure was emailed to the persons listed below.

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