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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

No. AQB 26-57 (P)

MAXWELL'S MOTION FOR LIMITED PRODUCTION OF IDENTIFIED TECHNICAL RECORDS, ACCESS TO OCTOBER 22 APPLICATION SUBMISSION, AND RELATED PROCEDURAL RELIEF

Nicholas R. Maxwell respectfully moves for limited production of existing technical records from Applicant Yucca Growth Infrastructure, LLC ("YGI" or "Applicant"), disclosure by the New Mexico Environment Department Air Quality Bureau ("NMED" or "Bureau") of Applicant's October 22, 2026 technical submission, and related procedural relief necessary to preserve meaningful participation in the forthcoming evidentiary hearing. Given the previously scheduled discovery hearing and the recently supplemented record, Maxwell requests expedited consideration and, to the extent necessary, modification of the ordinary response period under 20.1.4.200(D)(4) NMAC.

Maxwell requests consideration of this motion at the October 29, 2026 hearing on discovery.

I. SUMMARY

Maxwell served limited prehearing requests upon YGI and NMED counsel on October 20, 2026. Those requests subsequently appeared as Appendix B to Applicant's October 26 opposition to discovery, Dkt. No. 132.

Since service, Maxwell has conducted substantial further examination of the Administrative Record ("AR"), including subsequent supplements and electronic attachments embedded within previously filed correspondence. That examination has resolved portions of

the original requests and permitted Maxwell to narrow the remaining demands, as reflected in the accompanying marked Exhibit A.

Maxwell withdraws NMED Access Requests Nos. 1 and 2, limits NMED Access Request No. 3 to a specific October 22 submission, and reduces or clarifies portions of the requests directed to YGI.

The remaining relief concerns four matters:

1. Existing engineering specifications, operating procedures, and technical records supporting the Central Desulfurization System ("CDS") startup, shutdown, and maintenance ("SSM") emissions calculations and proposed Condition A107;
2. Existing records establishing the actual configuration and operating procedures for Applicant's proposed sealed-canister desulfurization alternative, which Applicant represents will produce no associated SSM emissions;
3. Specifically identified native emissions calculations and supporting modeling files not established as accessible through the existing Administrative Record or electronic production; and
4. Applicant's October 22, 2026 submission of a compiled UA2 Excel workbook, which NMED acknowledges receiving but which has not been separately identified in the Administrative Record Index or otherwise established as accessible to the parties.

These requests concern the technical foundation of Applicant's proposed permit. They seek existing records only, exclude duplicate production, and do not require creation of engineering studies, calculations, or modeling.

Maxwell further requests limited protection of the opportunity to present affirmative technical testimony where materially revised information becomes available after the existing November 17 deadline.

II. BACKGROUND

The Bureau's June technical review and July 29 Draft Permit preceded substantial changes to Applicant's proposed facility.

On October 14–16, 2026, Applicant submitted revisions to its generating configuration, proposed operating limitations, emissions calculations, and air-dispersion modeling. The revised application proposes approximately 2,462 MW of installed generating capacity subject to a 1,600 MW operating limitation. AR 011978–012184.

On October 20, Maxwell served his limited prehearing requests.

On October 23, NMED issued additional information requests concerning Applicant's desulfurization alternatives, SSM emissions, revised stack parameters, exhaust temperatures, operating scenarios, and supporting engineering calculations. AR 012227–012230.

Applicant furnished partial responses on October 26 while acknowledging that additional modeling responses remained in preparation. AR 012234–012241.

On October 28, NMED counsel informed Applicant that the Bureau had not received the outstanding information, which was preventing its modeling team from beginning its review and delaying preparation of the draft permit. AR 012292.

Consequently, the Department's technical evaluation of Applicant's substantially revised configuration remains incomplete immediately before the October 29 discovery hearing.

During the same period, NMED has supplemented the Administrative Record repeatedly. Maxwell's examination of those supplements, including earlier electronic attachments embedded within filed correspondence, has identified additional materials already available to the parties. The accompanying marked Exhibit A reflects the resulting narrowing of Maxwell's requests.

III. LEGAL BASIS

Section 20.2.72.203(A)(3) NMAC requires an applicant to provide information, calculations, and computations necessary to characterize the emissions of a proposed source, including potential emissions associated with malfunction, startup, and shutdown. Subsections (A)(5), (7), and (8) address operational plans, process-flow information, emission locations, and supporting descriptions and calculations concerning emission-control equipment.

Under 20.2.72.207(D) NMAC, the permit decision must rest upon the Department's administrative record, including the application, evidence submitted by Applicant, and evidence considered by the Department. Applicant bears the burden of demonstrating that the requested permit should be approved.

The Administrative Record is independently subject to public-review requirements. *See* 20.1.4.7(A)(2) and 20.1.4.200(A)(2) NMAC. Material maintained separately need not be physically reproduced if properly identified in the filed index, but the record must remain available for public review.

The Secretary and Hearing Officer also possess procedural responsibilities under Part 4. Section 20.1.4.100(E)(1) NMAC authorizes the Secretary to specify additional or different procedures to expedite proceedings or avoid obvious injustice, provided those procedures do not conflict with applicable law or prejudice the rights of a party. Section 20.1.4.100(E)(2) requires the Hearing Officer to conduct a fair and impartial proceeding, assure that relevant facts are fully elicited, and issue appropriate orders. Section 20.1.4.300(A)(3) authorizes prehearing orders and special procedures for managing difficult or complex proceedings.

Part 4 also requires liberal construction to facilitate public participation, including participation by persons appearing without counsel. 20.1.4.100(B) NMAC.

Maxwell does not contend that the express discovery provision for Solid Waste Act hearings, 20.1.4.200(E) NMAC, independently establishes an unrestricted right to discovery in this proceeding. Nor does Maxwell contend that the Rules of Civil Procedure apply of their own force.

Rather, the question is whether the applicable statutes and procedural regulations categorically prohibit the limited measures sought here, including the identification and production of existing technical records necessary to test Applicant's required showing.

IV. ARGUMENT

A. The Air Quality Control Act does not categorically foreclose limited prehearing discovery.

Applicant and NMED contend that discovery is unavailable because the Solid Waste Act expressly requires discovery procedures, while the Air Quality Control Act ("AQCA") expressly authorizes discovery in enforcement proceedings under NMSA 1978, § 74-2-12(H). See Applicant's Opposition, Dkt. No. 132, at 6–10; NMED's October 28 Consolidated Response at 5–7.

Their argument relies substantially upon the absence of an express discovery provision governing state air-permit hearings.

That reasoning does not fully address the procedural framework recognized in *Southwest Organizing Project v. Albuquerque-Bernalillo County Air Quality Control Board*, 2021-NMCA-005, ¶¶ 25–28, 482 P.3d 1273 ("*SWOP*").

In *SWOP*, the Court of Appeals upheld the application of a limited discovery order in an AQCA permit adjudication. The proceeding was governed by 20.11.81.14(J) NMAC, which authorizes hearing-officer-controlled discovery when the requested information is relevant, not

otherwise reasonably obtainable, and its production would not impose unreasonable burden, expense, or delay.

The significance extends beyond the existence of that local regulation.

The Albuquerque-Bernalillo County Air Quality Control Board adopted its adjudicatory procedures pursuant to the AQCA, specifically NMSA 1978, §§ 74-2-5 and 74-2-7. 20.11.81.3 NMAC. Moreover, the local adjudicatory procedures expressly exclude administrative enforcement actions under § 74-2-12. 20.11.81.2(B)(1) NMAC.

Thus, an air-quality board acting under the AQCA's general rulemaking and permitting framework adopted discovery procedures applicable to non-enforcement permit adjudications, and the Court of Appeals subsequently applied those procedures.

Applicant and NMED correctly observe that the local board's rule does not govern this proceeding. *SWOP* also did not separately adjudicate the validity of the local board's underlying statutory authority to promulgate that rule. Maxwell does not suggest otherwise.

Nevertheless, the local rule and *SWOP* expose an important gap in the opposing parties' broader argument. If the AQCA's express reference to discovery in enforcement proceedings were intended to foreclose discovery authority in every other air-quality proceeding, the adoption and application of a discovery rule governing local permit adjudications would require further explanation.

The relevant distinction is between the absence of an express discovery entitlement in a particular procedural rule and an affirmative prohibition against any limited discovery under the governing statute. The former does not necessarily establish the latter.

The Department's rules must therefore be examined independently.

Although 20.1.4.200(E) NMAC establishes special discovery procedures for Solid Waste Act hearings, it does not expressly declare that all other limited prehearing production is

prohibited. Sections 20.1.4.100(E)(1)–(2) and 20.1.4.300(A)(3) separately prescribe procedural powers intended to assure orderly, fair, and effective hearings.

Those provisions cannot be used to enlarge statutory jurisdiction or disregard an applicable prohibition. They do, however, warrant consideration of whether narrowly tailored production of existing technical materials is an appropriate procedural measure in this unusually complex proceeding. To the extent additional procedures require action by the Secretary under 20.1.4.100(E)(1), Maxwell requests such action in the alternative.

SWOP also addresses Applicant's contention that prefiled technical testimony and cross-examination necessarily eliminate the need for prehearing discovery. The Court rejected the proposition that advance technical testimony invariably renders discovery unnecessary, recognizing that discovery may serve to fill informational gaps and resolve underlying issues. 2021-NMCA-005, ¶ 27.

That reasoning is directly pertinent here. The missing materials concern Applicant's engineering assumptions and computational inputs, while NMED has expressly acknowledged that its own review of the revised modeling remains incomplete.

Nor does *Archuleta v. Santa Fe Police Department*, 2005-NMSC-006, ¶ 31, establish an absolute constitutional prohibition. Although the Supreme Court recognized the general absence of a constitutional right to prehearing discovery in administrative proceedings, it also acknowledged that due process may require additional procedures in particular circumstances. Maxwell does not claim an automatic constitutional entitlement; he invokes the principle that procedural protections must be evaluated in the circumstances presented.

Finally, the prior discovery ruling, Dkt. No. 72, preceded Applicant's substantial October revisions and the subsequently identified technical submissions. The present motion is also substantially narrower than the requests previously considered. Maxwell respectfully submits

that the changed factual circumstances and specific relief now requested warrant independent consideration, rather than automatic disposition by reference to the earlier ruling.

B. NMED should disclose the specifically identified October 22 application submission.

The second Administrative Record supplement establishes that Applicant submitted additional technical materials to NMED on October 22, 2026.

In its October 23 information request, NMED expressly acknowledged receiving additional calculations and a correction on October 22. AR 012227.

Applicant's October 26 response identifies the submission as a compiled UA2 workbook in Excel format, explaining that a correction changed the display format of the safety factor on the Fuel Cells worksheet without changing calculated values. AR 012234. Applicant further identifies an SSM calculation tab within the workbook. AR 012235.

Neither the October 22 transmittal nor the corresponding workbook is separately identified in the Administrative Record Index through October 28.

The Index generally states that electronically submitted Excel spreadsheets are available upon request from NMED. That statement does not identify the particular October 22 workbook, establish the location of the corrected version, or establish that an available copy is identical to the submission actually received.

Maxwell has not located the October 22 transmittal, its native workbook, or a corresponding PDF rendering in the accessible supplements.

This is not a speculative request. Applicant and NMED acknowledge the existence and receipt of the submission. The workbook concerns emissions calculations and SSM assumptions material to the proposed permit.

Applicant's representation that the correction did not alter calculated values may be accurate. Nevertheless, meaningful access requires an opportunity to inspect the actual version submitted, including its native formulas, rather than reliance solely upon Applicant's description.

Section 20.2.72.207(D) NMAC includes evidence submitted by Applicant within the administrative record supporting the permit decision. Section 20.1.4.200(A)(2) NMAC separately requires that the Administrative Record remain available for public review and permits material maintained separately to be identified through the index.

NMED's acknowledgment that its Administrative Record compilation is continuing does not dispense with those requirements.

Accordingly, Maxwell requests that NMED produce the complete October 22 submission, including its accompanying transmittal and native UA2 workbook, or identify the precise accessible electronic location of those records and confirm the identity of the workbook version.

This relief is independent of compulsory discovery against Applicant. Maxwell has withdrawn his other demands against NMED and seeks only access to an existing, acknowledged application submission.

C. The remaining CDS engineering records are material to the proposed SSM emissions limitations.

Applicant's SSM worksheet employs approximately ninety-five CDS units, a 1,370-cubic-foot vessel input, specified startup and maintenance purge cycles, and an assumption that startup and maintenance cannot occur within the same rolling twelve-month period. AR 001343.

The application identifies approximately 11,700 liters of sulfur-removal media per vessel. AR 001319. Trinity's June 30 correspondence generally describes maintenance purges associated with clearing the vessel, replacing media, and returning equipment to service. AR 002069–002075.

These materials establish Applicant's stated assumptions, but do not provide the actual vessel engineering specifications, gas-accessible volume, operating pressures, purge procedures, or underlying basis for converting physical equipment volumes into standard gas quantities.

The annual accounting assumption is particularly consequential.

Applicant reports approximately 0.34 tons per year of VOC by selecting the greater of its startup and maintenance emission scenarios. The disclosed arithmetic would produce approximately 0.56 tons if both modeled categories occurred within the same rolling twelve-month period.

Maxwell does not contend that both necessarily occur together. Rather, the calculation demonstrates why the technical or enforceable basis for excluding their concurrence must be established.

During the October 27 meet-and-confer, Maxwell expressly identified this issue as his third priority request, asking what factual, technical, operational, or enforceable basis supports the worksheet's assertion that startup and maintenance cannot occur within the same rolling twelve-month period. This request directly corresponds to YGI Request No. 3, subparts 3 and 4, served October 20, and is a clarification of that request rather than a new demand. Because the emissions calculation is facility-wide, the asserted non-overlap must be supported across the proposed CDS configuration, not merely assumed for an individual vessel.

The Bureau's July 29 Statement of Basis expressly acknowledged that AQB could not verify the technical information concerning maintenance and operational requirements needed to substantiate the SSM limitations. AR 001620.

Applicant nevertheless retained the original SSM estimates in its October revisions. AR 012235–012236.

The outstanding materials are limited to existing CDS specifications, actual operating procedures, and technical records supporting these assumptions and proposed Condition A107, as identified in YGI Requests Nos. 1–3.

Applicant asserts in Dkt. No. 132, at 29 n.14, that it possesses no responsive documents for Maxwell Requests Nos. 2 and 3. If that remains Applicant's position following reasonable inquiry, Maxwell requests an express response confirming that fact.

Such a response would narrow the production dispute while preserving the separate question of whether Applicant's existing evidence adequately supports its proposed emissions limitations.

D. Applicant's sealed-canister alternative requires an identifiable operational foundation.

Applicant's revised materials contemplate CDS units, sealed desulfurization canisters, or a combination. Applicant represents that sealed canisters will produce no associated SSM emissions. AR 012134–012135; AR 012235–012236.

That representation raises a specific operational question: what happens to natural gas contained within the treatment equipment and connected piping during isolation, depressurization, disconnection, removal, replacement, and recommissioning?

The fact that a canister may be removed for offsite handling does not independently establish that no gas is released during onsite operations.

During the October 27 meet-and-confer, Applicant's counsel compared the proposed removal process to disconnecting a refrigerator and indicated that the vendor would be consulted concerning Maxwell's questions.

Maxwell does not assert that emissions necessarily occur. He seeks the existing manufacturer procedures, equipment diagrams, and operating records that identify the actual process and support Applicant's representation.

YGI Request No. 4 is limited to the proposed onsite fuel-treatment configuration and does not seek unrelated manufacturing information or offsite disposal records.

E. Applicant's revised modeling identifies specific existing computational files whose availability remains unresolved.

The October modeling archive contains numerous AERMOD inputs and reconstructed output reports. Nevertheless, its supplied inputs expressly reference meteorological files SunlandParkDesertView_2020-2024.SFC and .PFL, together with an AERMAP terrain raster identified as terrain.tif, which are absent from the distributed archive.

The AERMOD inputs also prescribe separate PLOTFILE outputs, while the reconstructed reports refer to separate plot or postprocessing products as authoritative.

The existence of separately available meteorological data or processed terrain elevations does not, without appropriate identification, establish that the parties possess the actual inputs used by Applicant's consultant.

Maxwell does not request new modeling, reconstructed files that were never retained, or additional engineering calculations. He seeks existing referenced computational materials, confirmation that independently accessible files are identical to those used, or an appropriate explanation of unavailable files.

YGI Request No. 5, as narrowed, also preserves existing engineering support for modeled stack and exhaust parameters, source-identification and provenance records concerning Texas cumulative-impact sources, and records necessary to associate retained segmented modeling runs with reconstructed outputs where those relationships are not apparent from the supplied files.

The request excludes duplicative modeled coordinates and parameters, general run associations already apparent from the existing directory structure, and materials otherwise accessible through the Administrative Record or overlapping production.

The acknowledged October 22 UA2 workbook also falls within Request No. 5. Production or precise identification of the identical workbook by either YGI or NMED would satisfy that overlapping demand.

F. The narrow relief requested is warranted by the developing technical record and approaching testimony deadline.

The pending requests are substantially reduced from those served October 20.

The requested production concerns existing materials, permits compliance through identification of already accessible records, and allows an appropriate statement when responsive materials do not exist.

Moreover, the October 22 workbook first became specifically identifiable to the parties through the October 27 Administrative Record supplement, after Maxwell served his original requests. The expedited presentation of that particular issue follows directly from the timing of its disclosure.

Under the Second Amended Scheduling Order, Dkt. No. 109, affirmative technical testimony and supporting exhibits are due November 17, rebuttal testimony is due November 30, and the merits hearing begins December 7.

Yet as of October 28, NMED reports that outstanding technical information is preventing its modeling team from beginning review of Applicant's revised modeling. AR 012292.

Section 20.1.4.300(B)(1)(a)(vi) NMAC requires witnesses presenting technical testimony to identify or make available the technical materials upon which they rely. That requirement facilitates examination of the eventual testimony, but does not necessarily provide an adequate opportunity to prepare affirmative evidence concerning material technical conclusions developed after the affirmative-testimony deadline.

Maxwell does not seek to vacate the December 7 hearing through this motion. He requests that the Hearing Officer preserve the opportunity for targeted supplemental affirmative testimony and corresponding responsive evidence should materially revised technical information become available after November 17, with any additional scheduling adjustments considered as necessary.

V. REQUEST FOR RELIEF

WHEREFORE, Maxwell respectfully requests that the Hearing Officer:

1. Order YGI to produce or specifically identify existing responsive technical records within YGI Requests Nos. 1–5, as narrowed in the accompanying marked Exhibit A, concerning CDS engineering and SSM emissions assumptions, sealed-canister configuration and operating procedures, and identified native calculations and modeling files. With respect to YGI Request No. 3, this expressly includes existing records supporting the asserted non-overlap of startup and maintenance within the same rolling twelve-month period, as clarified during the October 27 meet-and-confer.
2. Direct NMED to disclose Applicant's October 22, 2026 technical submission, including the actual compiled UA2 Excel workbook and accompanying transmittal, or identify the precise accessible electronic location of those records and confirm that the available workbook is identical to the version received.
3. Permit compliance through specific Bates citations, native filenames, or accessible electronic locations without duplicate production. Where no additional responsive record exists or is within the responding party's possession, custody, or control, require an express response to that effect following reasonable inquiry. No new engineering study, drawing, calculation, or model run shall be required.

4. Direct prompt production or identification of the October 22 submission, preferably within two business days, and expedited rolling production of other readily available responsive records, preferably within five business days, to permit meaningful review before November 17.
5. Preserve the opportunity for targeted supplemental affirmative technical testimony and corresponding responsive evidence if materially revised application materials, Department findings, or proposed permit conditions become available after November 17, with further scheduling relief considered upon an appropriate showing.
6. Alternatively, to the extent the Hearing Officer determines that any requested procedure requires authorization by the Secretary under 20.1.4.100(E)(1) NMAC, refer that limited procedural issue to the Secretary for prompt determination rather than deny all relief solely for lack of hearing-officer authority.
7. Grant such other and further relief as necessary to preserve a fair and orderly proceeding.

VI. CONCURRENCE

Maxwell conferred with Applicant's counsel on October 27 concerning the narrowing and prioritization of his requests. Further communications occurred October 28, but the parties did not reach agreement. Applicant's opposition is reflected in Dkt. No. 132.

Bruce Wetherbee expressly supported Maxwell's discovery requests in his October 28 filing.

NMED has opposed compulsory discovery generally. Maxwell has withdrawn his broader requests against NMED and limited the remaining demand to access to Applicant's acknowledged October 22 submission. NMED's position on that particular narrowed relief has not been established.

Given the October 27 disclosure of the submission, the subsequent review of the Administrative Record, and the October 29 hearing schedule, additional concurrence could not reasonably be obtained before filing. Maxwell requests consideration of this opposed motion within the existing hearing schedule or such expedited procedure as the Hearing Officer deems appropriate.

Respectfully submitted,

By *-s- Nicholas Maxwell*
Mr. Nicholas R. Maxwell
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CERTIFICATE OF SERVICE

I certify that on October 29, 2026, I served a copy of the foregoing Motion, including the accompanying marked Exhibit A, upon the Hearing Clerk and all parties of record in AQB 26-57(P) by electronic mail, with a hard copy mailed upon request.

-s- Nicholas Maxwell
Mr. Nicholas R. Maxwell

EXHIBIT A

LIMITED PREHEARING REQUESTS AND, IN THE ALTERNATIVE, DISCOVERY

MARKED EXHIBIT A | RED STRIKE = WITHDRAWN | RED UNDERLINE = NARROWED OR SPECIFIED

I. DEFINITIONS AND GENERAL INSTRUCTIONS.

1. **"Applicant"** means Yucca Growth Infrastructure, LLC, the applicant for NSR Permit No. 10883.
2. **"NMED"** means the New Mexico Environment Department, including its Air Quality Bureau, as applicable to these requests.
3. **"Application"** means Air Quality Permit Application No. NSR 10883, including revisions and supporting materials submitted for the YGI Microgrid.
4. **"Administrative Record"** means the records and materials considered by NMED in evaluating the Application within the meaning of 20.1.4.7(A)(2) NMAC, whether or not indexed, Bates-numbered, or included in the materials forwarded to the Hearing Clerk.
5. **"CDS"** means the Central Desulfurization System described in the Application materials preceding the October 16, 2026 revision, including, where applicable, its two-vessel lead/lag configuration and associated sulfur-removal media, piping, valves, bypasses, pressure regulators, purge and blowdown connections, vents, relief devices, sampling points, and breakthrough-detection equipment. The term applies to that configuration whether or not it is retained in the revised Application.
6. **"CDS Activity"** means initial commissioning, startup, shutdown, isolation, lead-and-lag role change, depressurization, blowdown, purging, CDS Vessel Media replacement, breakthrough response, recommissioning, or return to service.
7. "**CDS Vessel Media"** means the sulfur-removal adsorbent or other sulfur-removal material contained inside either vessel of a CDS.
8. **"Energy Server"** means one Bloom Energy fuel-cell power-generation unit proposed for the YGI Microgrid, and **"Energy Servers"** means two or more such units.
9. **"Fuel-Treatment Component"** means any item of equipment located at the proposed facility, between the facility natural-gas inlet and the point of final fuel use within an Energy Server, that filters the gas; separates liquids; heats it; regulates its pressure; removes sulfur or other constituents; provides guard, polishing, or other supplemental treatment after another onsite treatment stage; or otherwise conditions the gas for delivery to an Energy Server. The term includes such onsite equipment whether located upstream or downstream of a disclosed CDS. It excludes (a) pipeline or gas-treatment equipment located outside the proposed facility and (b) equipment used to manufacture or assemble Energy Servers, CDS units, or other project components, whether that manufacturing or assembly equipment is located onsite or offsite.
10. **"Responsive Record"** means existing recorded information, including electronically stored information, within the responding party's possession, custody, or control.
11. **"SSM Worksheet"** means the one-page worksheet included as page 1 of Applicant's May 2026 revisions to the Application and titled "Startup, Shutdown, and Maintenance Emissions (SSM) - Exempt Pursuant 20.2.72.202.B(5) NMAC," which displays the CDS startup and maintenance calculations using ninety-five CDS units and a 1,370-ft^3 vessel input. The term refers to that publicly filed worksheet; it does not include any native, predecessor, revised, corrected, or supporting file unless a request expressly seeks such material.
12. Unless a request states otherwise, these requests are limited to Responsive Records concerning the current Application, the proposed facility design, or NMED's review of Permit No. NSR 10883. They include responsive materials created, submitted, received, relied upon, or used through

completion of the response and any ordered rolling production, regardless of date, if they bear on the Application, Draft Permit, Statement of Basis, modeling, emissions inventory, or any calculation at issue.

13. A request for a calculation includes the native spreadsheet, workbook, model, or electronic file with formulas intact, together with existing inputs, assumptions, notes, supporting data, and versions sufficient to understand the calculation and any change in its result.
14. A responding party may incorporate a complete prior response or production by identifying the exact response, Responsive Record, Bates range, Administrative Record Bates reference or document identifier, native filename, folder or file identifier, or electronic location sufficient to permit prompt access. This instruction does not require disclosure of an internal network path.
15. A responding party need not reproduce a Responsive Record already available to all parties if it is specifically identified and remains accessible. A responsive record produced pursuant to the discovery requests by other parties may satisfy an overlapping request if the record is specifically identified and accessible.
16. If no Responsive Record exists after a reasonable search, the response shall state that fact. These requests do not require creation of a new record, drawing, engineering study, test, or calculation.
17. These requests do not seek privileged attorney-client communications, attorney work product, internal legal advice, or internal communications that contain no responsive technical facts.
18. These requests do not seek information concerning water rights or use, pipeline rights-of-way or appeals, raw-material supply, manufacturing capacity, project financing, corporate backlog, or offsite waste disposal.
19. Production may occur on a rolling basis. Immediately available responsive material should not be withheld until every response is complete. ~~For NMED, rolling access includes prompt access to additional records considered in evaluating the Application as they become available, without awaiting completion of a final index or transmission set.~~
20. A responding party may redact unrelated confidential business, physical security, or cybersecurity information, provided the responsive process configuration, equipment relationships, valves, vents, bypasses, purge paths, treatment stages, gas distribution paths, and monitoring points remain understandable. Each redaction or withholding shall identify its general nature and basis. A party asserting confidentiality may promptly seek protective relief.
21. For each request for production, the responding party shall state its response or objection separately. An objection shall state whether responsive information is being withheld and the particular basis for withholding it.
22. An editable courtesy copy may be used for responses. In the event of any discrepancy, the filed PDF version of Exhibit A controls.

II. REQUESTS FOR PRODUCTION TO YGI

YGI Request No. 1 — Existing CDS vessel and media specifications.

Produce the existing manufacturer datasheet, engineering specification, or design calculation supporting the CDS vessel-volume information used in the SSM Worksheet, including existing specifications addressing vessel dimensions, gross internal volume, gas-accessible volume, operating pressure, temperature, CDS Vessel Media occupancy, and connected piping, to the extent reflected in the responsive records.

Also produce the existing manufacturer specification, datasheet, or other technical record identifying the CDS Vessel Media, including its type or product designation, ~~quantity or~~ mass

loaded per vessel, volume occupied within the vessel, and existing specifications or design information concerning sulfur-removal capacity and breakthrough or replacement criteria.

Include the existing engineering basis used to determine the gas volume associated with the purge events represented in the SSM Worksheet. Include any existing record identifying whether the 1,370-ft³ figure used in the SSM Worksheet represents actual vessel volume or standard cubic feet (scf), the standard temperature and pressure conditions used, and the method and assumptions used to determine the standard gas volume associated with each purge event. This request is limited to existing records and does not require a new engineering calculation.

RESPONSE, ACCESS LOCATION, OR OBJECTION:

YGI Request No. 2 — Existing CDS operating and maintenance procedures.

Produce the existing site-specific or manufacturer procedures relied upon for each CDS Activity.

Include existing records identifying the disposition of gas released during each CDS Activity and any stated event duration or flow conditions. Include the existing procedure or technical record identifying the circumstances requiring CDS Vessel Media replacement, to the extent not already produced in response to Request No. 1.

RESPONSE, ACCESS LOCATION, OR OBJECTION:

YGI Request No. 3 — Existing technical records supporting proposed Condition A107.

Produce existing technical analyses, calculations, revised permit-condition language, or other supporting records specifically addressing the calculation basis and operating assumptions used for proposed Condition A107, including:

1. The relationship between the facility-wide SSM quantities and the per-CDS quantities stated in A107.D;
2. The basis for any hourly emission rate calculated from an SSM event;
3. The basis for the proposed VOC limitation and annual purge allowances; and
4. Any existing operating restriction or commissioning schedule relied upon in calculating annual SSM emissions.

The original materials provided by NMED on August 6, 2026, in response to NMED Production Request No. 2 in Exhibit A to Maxwell's August 3, 2026 motion need not be produced again. This request is limited to additional existing technical records, revisions, or supporting materials not included in that production. Applicant's redlined draft permit and annotated Statement of Basis returned in July 2026, together with the July 29 Draft Permit and Statement of Basis, are likewise excluded from duplicate production.

RESPONSE, ACCESS LOCATION, OR OBJECTION:

YGI Request No. 4 — Current proposed fuel-treatment configuration.

Produce the latest existing site-specific process-flow diagram, equipment schedule, or engineering drawing identifying the Fuel-Treatment Components proposed in the October 16,

2026 revised Application, from the facility natural-gas inlet through the point of final fuel use within an Energy Server. The existing records should identify the sequence of treatment stages and whether the proposed configuration uses CDS units, sealed canisters, or a combination, together with any other onsite fuel-conditioning equipment reflected in those records. Include any existing diagrams or technical records identifying relevant bypasses, purge or blowdown connections, vents, relief devices, and sampling points. This request seeks existing records only and does not require creation of a new diagram or schedule.

For the sealed-canister alternative, produce the existing technical record or manufacturer procedure relied upon for the Application's statement concerning associated startup, shutdown, and maintenance emissions.

RESPONSE, ACCESS LOCATION, OR OBJECTION:

YGI Request No. 5 — Subsequent native emissions calculations and supporting modeling files.

Produce any existing revised native emissions-calculation workbook or other native electronic calculation file prepared or materially changed after the original calculation materials produced by NMED on August 6, 2026, and relied upon in preparing the October 14–16, 2026 Application revisions.

This request is limited to existing calculations supporting the revised operating limitation, equipment configuration, source-specific emissions rates, or revised SSM assumptions. If the responsive materials have already been made accessible, identification of their exact filenames and accessible locations will suffice. This includes the compiled UA2 Excel workbook Applicant identifies as submitted to NMED on October 22, 2026. Production by either YGI or NMED, or identification of an identical accessible copy, satisfies this overlapping demand.

To the extent not already included in the modeling-file submittal received October 15, 2026, produced in response to Joint Movants' RFP No. 19, or otherwise made accessible, produce the following existing files and records used to prepare, run, or interpret the AERMOD/AERMAP modeling associated with the revised Application:

a. The meteorological surface and profile data files referenced in the AERMOD input decks: "SunlandParkDesertView_2020-2024.SFC" and "SunlandParkDesertView_2020-2024.PFL."

b. The terrain raster referenced in the AERMAP input ("terrain.tif"), or the corresponding existing terrain data used to generate the supplied elevations. If that file was not retained, identify the terrain dataset and version used, to the extent known from existing records.

c. The existing AERMOD plot-output files specified by the submitted input decks' PLOTFILE directives, including the applicable FIRST, SECOND, SIXTH, EIGHTH, and ANNUAL plot files, and any associated POSTFILE or intermediate output files actually generated and retained for those runs.

d. Existing project-specific drawings, equipment schedules, or source-parameter records relied upon to establish the current modeled cluster and stack configuration, ~~stack locations and heights,~~ the existing engineering basis for modeled stack placement and height and building-downwash geometry, exhaust configuration, and fan or exhaust parameters, but only to the extent those matters are not apparent from the supplied input decks and have not been produced in response to Joint Movants' RFP Nos. 17 or 19.

e. For the cumulative-impact-analysis (CIA) runs, ~~existing source-inventory or supporting records identifying the sources located in Texas represented in the model, including source identifiers, locations, pollutants, emission rates, and the existing source data relied upon for those values~~ existing records establishing the identities of the Texas facilities represented in the CIA modeling and the sources and supporting basis for their modeled emission rates, including TCEQ inventory data relied upon by Applicant or its consultant, to the extent that information is not apparent from the supplied input decks and has not otherwise been produced.

~~f. Any existing run configuration or documentation necessary to associate the responsive files with the corresponding 1600 MW and Full Load scenarios and CIA or significant-impact-level (SIL) runs, but only where that association is not apparent from the files already provided.~~

f. Existing records necessary to associate retained segmented or intermediate modeling runs with the reconstructed final outputs, but only where that association cannot be determined from the files already supplied.

This request seeks existing files and records only. It does not require YGI to rerun a model, create new outputs, prepare new calculations, or reproduce files already included in the modeling-file submittal or produced in response to the Joint Movants' requests. If a specifically identified file was not retained or is not within YGI's possession, custody, or control, YGI may state that fact and, if known, identify whether it was maintained by its modeling consultant.

RESPONSE, ACCESS LOCATION, OR OBJECTION:

III. LIMITED PREHEARING ACCESS REQUESTS TO NMED (NARROWED TO OCTOBER 22 SUBMISSION)

NMED Access Requests Nos. 1 and 2 are withdrawn. Request No. 3 is limited to the October 22, 2026 UA2 submission identified below.

~~**NMED Access Request No. 1 — Outstanding July 13–16 permit-review attachments.**~~

~~Produce or identify the accessible electronic location of the existing attachments to NMED's July 13–14, 2026 communications to Applicant and Applicant's July 16, 2026 response, to the extent those attachments have not already been made accessible to Maxwell, including:~~

a. ~~The draft permit Parts A, B, and C transmitted July 13, 2026, to the extent those versions differ from the July 29 Draft Permit included in the Administrative Record;~~

b. ~~The draft Statement of Basis transmitted July 14, 2026, to the extent that version differs from the July 29 Draft Statement of Basis included in the Administrative Record;~~

c. ~~The Applicant's July 15 permit redline identified in the July 16 correspondence;~~

d. ~~The Applicant's annotated Statement of Basis comments identified in that correspondence;~~

e. ~~Any July 15, 2026 baseline version identified in the filename of the Applicant's redline, if distinct from the July 13 draft and not already accessible.~~

~~The July 13–16 correspondence is already included at AR Bates 002082–002088, and the July 29 Draft Permit and Draft Statement of Basis are included at Bates 001609–001654. Those existing records are not requested again. This request concerns only the identified earlier versions and attachments not already accessible.~~

~~RESPONSE, ACCESS LOCATION, OR OBJECTION:~~

~~**NMED Access Request No. 2 — Outstanding technical records concerning Conditions A107 and A110.**~~

~~Produce or identify existing, nonprivileged technical calculations, reviewer analyses, proposed permit redlines, or written technical comment-resolution records used or considered by NMED in evaluating proposed Conditions A107 and A110, to the extent those records are not already accessible in the Administrative Record or through prior production.~~

~~This request includes existing records specifically addressing any modification or continued application of Conditions A107 and A110 in light of the Applicant's revised desulfurization alternatives and associated emissions representations.~~

~~The request does not seek duplicate production of the original calculations provided in response to NMED Production Request No. 2 in Exhibit A to Maxwell's August 3, 2026 motion, the existing Statement of Basis, Draft Permit, ERG technical memorandum, or other records already accessible. Nor does it seek privileged legal advice, unrestricted agency communications, or the creation of new technical analyses.~~

~~If no additional responsive records exist or are held by NMED, the Department may state that fact.~~

~~RESPONSE, ACCESS LOCATION, OR OBJECTION:~~

~~**NMED Access Request No. 3 — Subsequent technical submissions and Administrative Record access.**~~

NMED Access Request No. 3 — October 22 UA2 submission and transmittal.

~~Identify the Bates ranges, native filenames, or accessible electronic locations of the Applicant's technical submissions received by NMED after October 9, 2026, including the revised application forms, emissions calculations, technical responses, and dispersion-modeling materials submitted October 14–17, 2026.~~

~~Identify any such responsive material received by NMED that is not yet accessible through the Administrative Record or another existing electronic production, and provide or identify access to that material.~~

~~This request also includes any subsequent existing draft revisions to Conditions A107 or A110 prepared or received by NMED through October 20, 2026, to the extent those revisions are not already accessible.~~

~~No duplicate production of previously accessible materials is requested. NMED need not create a new index, technical analysis, or other record.~~

Produce or identify the precise accessible electronic location of the complete October 22, 2026 submission that NMED acknowledged receiving in its October 23 information request (AR 012227) and that Applicant identified in its October 26 response (AR 012234–012235), including the transmittal correspondence and the compiled UA2 Excel workbook as actually received, with its native worksheets and formulas intact.

An identical workbook already available to all parties may be identified by precise filename, electronic location, and confirmation that it is the version received October 22. This request requires neither a new index nor a new calculation or duplicate production.

RESPONSE, ACCESS LOCATION, OR OBJECTION: