

**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**

IN THE MATTER OF THE APPEALS
OF THE AIR QUALITY PERMIT
NO. 7482-M1 ISSUED TO 3 BEAR
DELAWARE OPERATING – NM LLC

EIB No. 20-21(A)

AND

REGISTRATION NOS. 8720, 8730, AND 8733
UNDER GENERAL CONSTRUCTION PERMIT
FOR OIL AND GAS FACILITIES

EIB No. 20-33(A)

WildEarth Guardians,
Petitioner.

PROCEDURAL ORDER

In conducting the above-referenced consolidated hearing, the Hearing Officer shall follow the Environmental Improvement Board's adjudicatory procedures at 20.1.2 NMAC. Pursuant to 20.1.2.109.A NMAC, the additional requirements described in this Procedural Order shall also apply. This Procedural Order should be read with the Scheduling Order attached hereto as Exhibit A.

I. Filing and Service of Documents

In lieu of the filing requirements of 20.1.2.112 NMAC, the Board administrator shall accept the filing of any document by electronic means. In accordance with 20.1.2.112 NMAC, the Hearing Officer, Board legal counsel, Petitioner WildEarth Guardians, Respondent New Mexico Environment Department, Applicant 3 Bear Delaware Operating – NM LLC, Applicant XTO Energy Inc., and Applicant Spur Energy Partners LLC have agreed to accept service of any document by electronic means.

II. Technical Testimony

Full written direct and rebuttal technical testimony, consistent with the provisions of 20.1.2.206 NMAC, shall be submitted prior to the hearing. As set forth in the Scheduling Order, all parties shall submit their statement of intent to present technical testimony, any written direct technical testimony, and all supporting technical exhibits by August 3, 2020. All parties shall submit any written rebuttal technical testimony and rebuttal exhibits by September 2, 2020. Participation by interested non-party participants shall be governed by 20.1.2.207 NMAC.

III. Limitations on Scope of Testimony

The Petition in EIB 20-21(A) “objects to issuing the entire Permit” and the Parties have agreed that the specific emission limits, emission limit calculations, and permit conditions of NSR Permit Number 7482-M1 are not at issue in this appeal. Therefore, testimony will not be accepted challenging the specific emission limits, emission limit calculations, and permit conditions for the emission units identified in NSR Permit Number 7482-M1.

The Petition in EIB 20-33(A) “objects to NMED’s approval of the [GCP-Oil and Gas Registration Numbers 8729, 8730, and 8733 (“the Registrations”)] in their entirety” and contends that, irrespective of the formal attainment designation, the greater Carlsbad region where the facilities at issue are located is in a state of actual non-attainment with the National Ambient Air Quality Standard (NAAQS) for ozone, as defined by the applicable regulations... Accordingly, Petitioner contends that the Department was required to deny the Registrations under A100 of the GCP-Oil & Gas. The Parties have agreed that the specific emission limits and emission limit calculations of the GCP-Oil and Gas and the Registrations are not at issue in this appeal, and therefore testimony will not be accepted challenging those emission limits or emission limit calculations.

IV. Exhibits

Any person offering an exhibit at the hearing other than a document filed and served before the hearing shall provide at least an original and 8 copies for the board, and a sufficient number of copies for every other party. Hard copies need not be provided for any exhibits filed and served prior to the hearing in accordance with Sections I and II above.

So ordered,


Chair John Volkerding

Hearing Officer

Exhibit A
Scheduling Order (Subject to change by Hearing Officer)

Date	Event
August 3, 2020	Deadline for all parties to file Statement of Intent to Present Technical Testimony, including written direct testimony, and supporting exhibits
September 2, 2020	Deadline for all parties to file written rebuttal technical testimony, and supporting exhibits
August 24, 2020	Publish/mail Notice of Hearing pursuant to 20.1.2.204 NMAC
September 11, 2020	Telephonic Pre-Hearing Conference
September 23, 2020	Date of Hearing*; 9 AM
30 days after transcript is available	Deadline for filing Post-Hearing submittals, including closing argument and proposed findings and conclusions
30 days after Post-Hearing submittals	If the Board so elects per 20.1.2.402 NMAC, Hearing Officer files recommended decision and serves copies on all parties
TBD	Board deliberations

*If necessary, the Hearing shall continue on September 24, 2020.

Certificate of Service

Pursuant to 20.1.2.112 NMAC, I hereby certify that a copy of the above

PROCEDURAL ORDER was filed and served via electronic mail delivery to the persons listed below on July __, 2020.

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