



State of New Mexico Commissioner of Public Lands

## Executive Order No. 2023-001

# Moratorium on New Oil and Gas Leasing Within One Mile of Schools

**WHEREAS**, the Commissioner of Public Lands has broad constitutional authority and statutory jurisdiction over the direction, control, care and disposition of state trust lands, in accordance with the acts of Congress relating thereto and such regulations as may be provided by law (*see* NM Const., art. XIII, Sec. 2 and NMSA 1978, § 19-1-1); and

**WHEREAS**, state trust lands were granted by the federal government to the State of New Mexico primarily for the purpose of generating revenue to support public schools and other educational institutions; and

**WHEREAS**, the Commissioner is authorized to withhold any tracts of state trust lands from leasing for oil and gas or other purposes if in her opinion the best interests of the state land trust will be served by so doing (*see* NMSA 1978 §§ 19-8-33 and 19-10-19; 19.2.100.31 NMAC); and

**WHEREAS**, it is the responsibility of the State Land Office and other agencies charged with overseeing aspects of oil and gas operations to help ensure that communities are free from pollution and harmful effects of such activities; and

**WHEREAS**, while New Mexico's methane rule (19.15.27 NMAC) is intended to reduce natural gas releases, emissions from oil and gas operations, including both authorized and unauthorized venting and flaring, still have an adverse impact on air quality; and

**WHEREAS**, New Mexico state law does not currently provide for minimum health buffer setbacks for the siting of oil and gas wells to protect the environment and public health, safety and general welfare; and

**WHEREAS**, a moratorium on new oil and gas leasing near schools and other educational institutions, including day care centers, pre-schools and sports facilities used by students, will provide an opportunity to engage the Governor and the state agencies under her purview, State Legislature and other interested stakeholders regarding potential legislative and administrative options, including oil and gas infrastructure setbacks, to strengthen public health protections surrounding schools, hospitals and residential areas;

***NOW, THEREFORE***, I, Stephanie Garcia Richard, Commissioner of Public Lands, do hereby order and direct that the state trust lands located within one mile of a school or other educational institution shall not be leased for new oil and gas purposes until further order, effective immediately; and

***BE IT FURTHER ORDERED*** that the State Land Office Commercial Resources Division and Oil, Gas and Minerals Division shall identify all existing oil and gas mineral leases, business leases, and rights-of-way located within one mile of a school or other educational institution, and assess their compliance or non-compliance with applicable lease or easement terms, including the requirement to plug inactive wells, remediate spills, and adhere to relevant air quality standards; and

***BE IT FURTHER ORDERED*** the State Land Office shall immediately initiate a review of other protective measures that may help ensure that operations on state trust lands are conducted consistent with public health and safety, and environmental protection, and shall engage the Department of Environment and the Department of Energy, Minerals and Natural Resources regarding air quality and environmental compliance protections as they relate to state trust lands; and

***BE IT FURTHER ORDERED*** that nothing herein shall restrict the State Land Office from authorizing the placement of infrastructure or permitted uses for the purpose of ensuring that appropriate public health, safety or environmental standards are met.

SIGNED AT THE STATE LAND OFFICE  
THIS \_\_ DAY OF \_\_\_\_\_ 2023.

STEPHANIE GARCIA RICHARD  
COMMISSIONER OF PUBLIC LANDS

## **Frequently Asked Questions:**

### *Executive Order No. 2023-001 Moratorium on New Oil and Gas Leasing Within One Mile of Schools*

#### **Introduction**

On June 1, New Mexico Commissioner of Public Lands Stephanie Garcia Richard issued Executive Order No. 2023-001: Moratorium on New Oil and Gas Leasing Within One Mile of Schools. Below are frequently asked questions about the executive order and its impact on state trust lands.

#### **1. What does the executive order do?**

The executive order places a moratorium, or prohibition, on new oil and gas leasing on state trust lands within one mile of schools or other educational facilities.

#### **2. What does state law say about the authority of the Commissioner of Public Lands regarding the placement of oil and gas operations?**

Under state law, the Commissioner of Public Lands is authorized to lease state trust lands, or withhold any tracts from leasing for oil and gas or other purposes, if in her opinion the best interests of the state land trust will be served by so doing (*see* NMSA 1978 §§ 19-8-33 and 19-10-19; 19.2.100.31 NMAC).

If a decision is made by the State Land Office to lease a specific parcel of land, the actual location of where a well is placed is determined by the company as authorized by the EMNRD Oil and Conservation Division (OCD). The State Land Office's statutory oil and gas lease does not authorize the agency to require companies to place wells in specific locations.

#### **3. Does the State of New Mexico have a responsibility to provide environmental protection for its citizens?**

Yes. According to the New Mexico Constitution, the legislature "shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people (*see* NM Const., art. XX, Sec. 21).

#### **4. Does the moratorium apply to preexisting oil and gas operations within one mile of schools, or just to new operations?**

The moratorium will only apply to new oil and gas leases. However, the

moratorium instructs State Land Office staff to conduct a review of all schools and educational facilities within one mile of existing oil and gas mineral leases, business leases, and rights-of-way to assess their compliance with lease requirements and other applicable laws and regulations.

**5. Does the moratorium apply to oil and gas operations on federal, tribal, or private lands?**

No, the moratorium only applies to state trust lands.

**6. What are the impacts of oil and gas activity occurring in such close proximity to schools? How big of a problem is this in New Mexico?**

High air pollution can lead to long-term adverse health impacts for youth, including asthma and other respiratory problems. Recently, Eddy and San Juan Counties (which are both in high oil- and gas-producing regions) earned an “F” grade from the American Lung Association for an unacceptable amount of high ozone days.

**7. How many schools are located within one mile of oil and gas activity?**

While the total number of schools within one mile of oil and gas activity on state trust lands is currently unknown, estimates suggest that there could be as many 119 schools within one mile of oil and gas operations combined on federal, state, Tribal, and private lands.

**8. What does state law say about how close oil and gas operations can be to schools?**

State law does not currently specify a required minimum setback for oil and gas operations in relation to schools or other institutions. This moratorium would provide an administrative solution to the problem on state trust lands, providing more time for the state legislature to create a state law on oil and gas setbacks.

**9. When does the moratorium go into effect?**

The moratorium goes into effect immediately on the date of issuance, June 1, 2023.

**10. Does the moratorium have an end date?**

No, the moratorium is in effect until further notice.

