State of New Mexico
Commissioner of Public Lands
Stephanie Garcia Richard

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Via First Class Mail and Email (mark.vedral@energytransfer.com)

Mark Vedral
Senior Director – Land/Projects
Energy Transfer
1300 Main Street
Houston, TX 77002

Dear Mr. Vedral:

The New Mexico State Land Office ("NMSLO") is in receipt of two letters from you dated April 2, 2026 on behalf of ET Gathering and Processing LLC and Transwestern Pipeline Company LLC, which we understand are both subsidiaries or affiliates of Energy Transfer ("Subsidiaries"). The letters ("Reconsideration Letters") ask for reconsideration of NMSLO's prior rejection of Energy Transfer Subsidiaries' applications for two rights-of-way and a business lease on or across New Mexico state trust lands in connection with a massive planned data center project in Doña Ana County called "Project Jupiter." The Reconsideration Letters are functionally identical. For the reasons described in this letter, Energy Transfer's request for reconsideration of the agency's prior determination is denied.

The office of Land Commissioner is established under the New Mexico Constitution and by statute. *See* N.M. Const., art. V, § 1; *id.*, art. XIII, § 2; NMSA 1978, § 19-1-1 (1912); *id.* § 19-1-2 (1953). The Commissioner is the chief executive officer of the NMSLO, and exercises authority over lands and mineral resources granted to the State of New Mexico by the federal government in trust to generate support for public schools and other state institutions, such as hospitals and universities, and is designated under New Mexico law to carry out the State's trust duties under the New Mexico Enabling Act (Act of Congress of June 20, 1910, 36 Stat. 557, Ch. 310, § 10).

Through what appear to be separate project entities, Energy Transfer applied for two separate rights-of-way for the same project – a buried 24" natural gas pipeline called the "Green

Chili Lateral." ET Gathering and Processing LLC was named as the applicant for around 2,000 feet of a southern segment of the pipeline (Township 29 South, Range 2 East, Section 2), while Transwestern Pipeline Company LLC was named as the applicant for about 3,200 feet of a northern segment of the pipeline (Township 25 South, Range 2 East, Section 32). The requested rights-of-way on state trust land represent a small part of the overall approximately 17-mile proposed project. NMSLO received the applications on February 6 and February 9, 2026, and assigned them for review purposes right-of-way number R4-3458 and R4-3459, respectively. Transwestern Pipeline Company LLC also applied for a state business lease for the "Green Chili Meter Station" to connect the proposed new Green Chili Lateral with an existing El Paso Natural Gas line; this application was assigned number BL-3339 for review purposes. By letters dated March 20, 2026, NMSLO notified the Subsidiaries that the right-of-way and business lease applications were canceled and would not be processed further. The Reconsideration Letters followed.

As a threshold matter, Energy Transfer and the Subsidiaries misunderstand the scope of the Commissioner's authority with respect to the use and management of state trust lands. The Reconsideration Letters both state that the Subsidiaries "filed [the] Applications in full compliance with the NMSLO's applicable regulations … and paid all required filing fees …. To [the Subsidiaries'] knowledge, the Applications were complete and in proper form at the time of submission…."; and that "[t]he cancellation of the properly filed, fee-paid applications – without notice, without identification of any deficiency, and without any stated rationale – raises serious concerns…" Reconsideration Letters at 1.

Energy Transfer presupposes that it is entitled to issuance of the rights-of-way and business lease merely by virtue of filing applications and paying nominal application fees ($100 for short-term business lease applications and $250 for rights-of-way). The Commissioner, however, is under no obligation to issue any lease, right-of-way, or permit to <u>any</u> party, and properly does so only upon determining that a given lease, right-of-way, or other authorization is in the best interests of the state land trust which the Commissioner serves as a fiduciary. *See State ex rel. Otto v. Field*, 1925-NMSC-019, ¶ 85, 31 N.M. 120 ("[I]t may not be doubted that the Legislature … in creating the state land office, intended that the commissioner should exercise the power … to use his discretion in making deeds, contracts, and grants"); see also *Heimann v. Adee*, 1996-NMSC-053, ¶ 30, 122 N.M. 340, 924 P.2d 1352 (New Mexico law vests the Commissioner with "plenary authority over state lands.").

The Commissioner has determined that issuing the rights-of-way and business lease that Energy Transfer has requested through its Subsidiaries would not be in the best interests of the trust for several reasons. First, the rights-of-way and business lease would only generate minimal revenue for NMSLO. NMSLO rights-of-way are generally priced on a published fee schedule, and at those rates the rights-of-way would generate only one-time payments of $11,282.20 and $20,624.65 over a 35-year period. The business lease, meanwhile, based on acreage and intended use, would bring in only modest annual payments of $43,406.00 over its five-year term.

There are also few, if any, collateral benefits that Project Jupiter and the ancillary infrastructure facilitating it, such as the Green Chili Lateral, would provide to NMSLO or the trust. The overall project is apparently intended to serve large technology companies like Oracle; the

Green Chile Project (of which the "Green Chili Lateral" for which Energy Transfer's Subsidiaries sought NMSLO rights-of-way is apparently a component) is expected to transport 400 million cubic feet of gas per day to power the operation. *See Danielle Prokop*, "BLM Fast-Tracks 'Green Chile' Pipeline Construction Review for NM Data Center Project Jupiter," *Source New Mexico*, May 7, 2026.[1] This undertaking undoubtedly will enrich Project Jupiter's financial backers, developers, and tenants, and the developers of related infrastructure such as Energy Transfer, but neither Energy Transfer nor any other party has demonstrated how Project Jupiter will provide any significant benefit to NMSLO or its beneficiaries. The burden that the project will impose on New Mexico's water and other natural resources, and on the surrounding community, is extreme. This includes the negative impact that greenhouse gas emissions play in driving climate change, which effects the health and productivity of state trust lands throughout New Mexico. Even with a proposed change from gas-fired power plants to a fuel-cell based power source, Project Jupiter is expected to emit more than 10 million tons of greenhouse gases per year, according to its own permit applications. *See* Heath Haussamen, "Project Jupiter Unveils Less-Polluting Power Plan," *Haussamen.com*, April 26, 2026.[2] This is almost double the annual emissions of the entire city of Albuquerque, New Mexico's largest metropolitan area. *See* City of Albuquerque, 2025 Greenhouse Gas Inventory.[3] At a time when New Mexico needs to stop the out-of-control acceleration of climate change, literally doubling down on dangerous emissions is irresponsible and incompatible with NMSLO's mission. Project Jupiter is also expected to consume nearly a million gallons of water a day in one of the most arid corners of our arid state. *See* Alaina Mencinger, Project Jupiter Will Need Nearly 1 Million Gallons of Water a Day – Where Will it Come From?, *Santa Fe New Mexican*, Apr. 6, 2026.[4]

NMSLO is proud to partner in clean, sustainable economic development. However, building pipelines and other gas infrastructure intended to serve Project Jupiter is a poor use of New Mexico state trust lands and staff resources, and based on available information appears that it will impose environmental costs on New Mexico greater than any resulting benefit to the trust, our people and our resources. Advancing the massive use of gas for a project of this scale is simply not in the best interest of the trust. For these reasons, I am upholding the agency's determination not to issue the rights-of-way and business lease to Energy Transfer that are component parts of Project Jupiter. If you are aggrieved by this decision, you may file a petition for administrative

[1] Available at https://sourcenm.com/2026/05/07/blm-fast-tracks-green-chile-pipeline-construction-review-for-new-mexico-data-center-project-jupiter/

[2] Available at https://haussamen.com/2026/04/27/project-jupiter-unveils-less-polluting-power-plan/

[3] Available at https://www.cabq.gov/sustainability/documents/ghg-inventory-2025-booklet.pdf/@@download/file/ghg-inventory-2025-booklet.pdf

[4] Available at https://www.santafenewmexican.com/news/local_news/project-jupiter-will-need-nearly-1-million-gallons-of-water-a-day-where-will-it/article_9cf82fa5-9bf5-49c9-864d-a51f5ff5ab1d.html

contest pursuant to State Land Office rules (*see* 19.2.15 NMAC) within 30 days of the date of this letter.

Sincerely,

Stephanie Garcia Richard
Commissioner of Public Lands