



New Mexico Cattle Growers' Association

P.O. Box 850 * Moriarty, NM 87035

Telephone (505) 247-0584 * Fax (505) 842-1766

e-mail: nmcga20@gmail.com | website: www.nmagriculture.org

May 14, 2026

The Honorable Stephanie Garcia Richard
Commissioner of Public Lands
New Mexico State Land Office
310 Old Santa Fe Trail
Santa Fe, NM 87501

Re: Proposed Amendments to 19.2.100.23 NMAC – Protection of Agricultural Surface Lessees

Dear Commissioner Garcia Richard and Staff:

The New Mexico Cattle Growers' Association appreciates the opportunity to comment on the proposed amendments to 19.2.100.23 NMAC governing financial assurance requirements applicable to activities occurring on State Trust Lands.

NMCGA represents agricultural grazing lessees across New Mexico, including many families who have operated on State Trust Lands for generations. These lessees rely upon the continued functionality and protection of livestock watering systems, fences, corrals, roads, forage, crop lands, soils, and related surface improvements in order to maintain viable agricultural operations and fulfill their obligations under State Land Office grazing and agricultural leases.

Our members are concerned that the proposed amendments materially weaken protections currently afforded to agricultural surface lessees and create substantial risk of adverse and unintended consequences that do not exist under the current bonding framework.

In particular, the proposed rule appears to move away from the longstanding surface-damage orientation reflected in existing bond forms and procedures. The current framework appropriately recognizes that grazing and farming lessees often bear the direct operational and economic consequences of surface disturbance. By contrast, the proposed amendments appear to consolidate discretion within the agency while reducing procedural clarity, reducing direct accountability to affected surface lessees, and diminishing the practical ability of agricultural lessees to secure timely compensation for damages.

NMCGA respectfully requests that the proposed rule be revised to include the following protections and clarifications.

TOM PATERSON, President, Luna; **DAN ESTRADA**, President-Elect, Trementina; **MARSHAL WILSON**, Vice-President At Large, Mesilla Park;
DAVE KENNEKE, NE Vice-President, Cimarron; **JEFF DECKER**, SE Vice-President, Lovington; **TRACY DRUMMOND**, SW Vice-President, Reserve;
MARJORIE LANTANA, NW Vice-President, Crownpoint; **TAMARA HURT**, Secretary-Treasurer, Deming;
BRONSON CORN, Past President, Roswell; **LOREN PATTERSON**, Past President, Corona

First, the rule should expressly reaffirm that the primary purpose of financial assurance is protection and restoration of the surface estate and compensation for damages to agricultural operations and improvements. The rule should specifically identify covered impacts, including:

1. Damage to livestock watering systems and water distribution infrastructure;
2. Damage to fences, gates, corrals, and handling facilities;
3. Loss of forage or grazing capacity;
4. Damage to soils, crops, irrigation systems, and agricultural improvements;
5. Noxious weed introduction or spread;
6. Loss of access to leased premises;
7. Damage associated with erosion, sedimentation, or altered drainage;
8. Temporary and permanent operational disruptions to grazing and farming activities.

Second, the rule should preserve direct procedural rights for agricultural surface lessees. Under the current system, lessees possess meaningful leverage because the bond instrument and bond-release process are closely tied to resolution of surface damages. The proposed amendments should expressly provide that:

1. Agricultural surface lessees receive written notice before any bond reduction or release;
2. Surface lessees have standing to file written objections;
3. No final release may occur until documented surface damages are resolved or adequately secured;
4. The State Land Office must issue written findings addressing unresolved lessee objections.

Third, the proposed rule should establish a clear and time-certain claims process allowing agricultural lessees to directly initiate review of damages and seek payment from the financial assurance instrument. At minimum, the rule should include:

1. A formal process for submission of damage claims by affected lessees;
2. Mandatory inspection timelines;
3. Deadlines for agency response and determination;
4. Authority for direct payment to affected agricultural lessees where damages are verified;
5. Interim emergency relief procedures where damage threatens livestock watering capability, fencing integrity, crop production, or operational continuity.

Without such procedures, agricultural lessees may be left in the untenable position of suffering immediate operational losses while disputes remain unresolved for extended periods.

Fourth, the rule should expressly require that financial assurance amounts remain sufficient to fully cover reclamation and agricultural surface damages under realistic field conditions. Financial assurance should account not only for physical reclamation costs, but also for loss of agricultural productivity, replacement of improvements, inflation, contractor mobilization costs in rural areas, and restoration of water systems and fencing infrastructure.

Fifth, NMCGA strongly recommends that the final rule preserve or incorporate detailed bond-form language specifically tailored to agricultural and grazing impacts. The current bond structure benefits from clarity because it directly addresses the realities of livestock and farming operations. Eliminating or weakening that specificity risks increasing disputes, delaying remediation, and creating uncertainty for both lessees and operators.

Finally, NMCGA respectfully urges the State Land Office to recognize that agricultural lessees are not merely incidental stakeholders. Grazing and farming lessees are long-term stewards of State Trust Lands whose operational viability depends upon prompt remediation and meaningful enforceability of surface protections.

Any revised bonding framework should strengthen — not dilute — the practical ability of those lessees to protect their operations and recover damages when disturbances occur.

NMCGA appreciates the opportunity to comment and would welcome continued dialogue regarding revisions that protect both responsible development and the continued viability of agricultural operations on State Trust Lands.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom Paterson". The signature is fluid and cursive, with the first name "Tom" and last name "Paterson" clearly distinguishable.

Tom Paterson, President
New Mexico Cattle Growers' Association

Attachment: redline changes to proposed amendments