



## The Voice of the Permian Basin

June 19, 2024

Secretary James C. Kenney  
New Mexico Environment Department  
1190 St. Frances Drive, Suite N4050  
Santa Fe, New Mexico 87505

RE: EIB 24-12 (R) - AQB Permit and Construction Fees

Secretary Kenney,

Thank you for allowing our members the opportunity to comment publicly on the proposed revisions by the Air Quality Bureau within the Environmental Protection Division of the New Mexico Environment Department, pursuant to 20.1.1 NMAC – Rulemaking Procedures, petitions the EIB in the matter of the proposed repeal and replacement of 20.2.71 NMAC – Operating Permit Emissions Fees and 20.2.75 NMAC – Construction Permit Fees.

As you know the Permian Basin Petroleum Association (PBPA) is the largest regional trade organization in the United States and we represent oil and gas operators in the Permian Basin as well as the communities they call home. We advocate on behalf of these operators, large and small, to ensure the safe and responsible development of natural resources can thrive in the Permian Basin. While we appreciate the opportunity to better understand the need for the proposed fee increases, we would like to share the feedback we have received from our members.

Primarily, our members would like to better understand the financial accounting and assumptions that lead the agency to represent that the new fee structure would increase funds from the current revenue of \$8.8 million to the estimated \$35.8 million. Specifically, our members would like to better understand what methodology the agency employed to model the growth. If the agency could share more information about these assumptions, that transparency would better inform our membership about agency needs. For instance, are there a certain number of full-time equivalent positions (FTEs) the agency is looking to support with this additional funding and if so, what would be the primary job responsibilities of these FTEs?

Our members are supportive of ensuring that the agency has adequate funding to process and permit vital oil and gas facilities and understand that the rapid growth of the agency, as reflected in the 2,235% growth in permitted facilities from 2012 to 2023, necessitates additional resources. With the specific increase in fees, it could be presumed by the regulated community that a plan has been developed

regarding how to utilize those additional funds to improve the permitting process. It is in all our interests for the agency to have the appropriate personnel and processes, including technology that modernizes core payment functions.

After review, our members have expressed concern that the structure being employed under the proposed point system under “General Construction Permits” (GCP’s) are significant departures from current practice. We would appreciate clarity on the factors that led to this change. We would like to understand the factors the agency has considered, including but not limited to specific analysis of new FTEs, additional hours required to process these permits, or any other factors that have led to this sizeable increase.

A proposal that our membership would like the agency to consider is a tiered structure that incrementally steps up toward the proposed fee cap. This would provide that more complex permits, for example those with multiple engines, tanks, or vapor recovery units, would be assessed a higher fee than those with less. A structure similar to this would account for the added scrutiny that may be required to properly review and process the permit application.

Incidentally, in permitting schemes like this that exist in other states, the fees are additive, thereby increasing fees for additional equipment, best reflecting the challenge in permit processing. Another suggestion would be to have an intermediate step where facilities without certain equipment (e.g., facilities without tanks, etc.) require the standard number of points. This would incentivize operators to continue emission reduction efforts in their facility designs.

Operators and the state have benefited from the use of the GCP’s and maintaining flexibility continuities to afford these benefits to all parties moving forward.

Our members would also appreciate further clarity and guidance in understanding the practical impact to changes to existing permits in the manner of minor updates (e.g., engine swap outs, etc.) . Given that there are ongoing federal regulatory changes, we may see additional requirements and additions to existing permits and would like to know how the agency is considering addressing those issues as they arise.

We greatly appreciate the opportunity to provide our feedback as well as your sincere consideration of these changes. PBPA looks forward to working with you through this comment period and beyond to ensure that we can continue to safely and responsibly develop natural resources in the Permian Basin for generations to come.

Regards,

A handwritten signature in blue ink that reads "Ben Shepperd". The signature is written in a cursive, flowing style.

Ben Shepperd, President  
Permian Basin Petroleum Association