Secretary James Kenney  
New Mexico Environment Department

Sarah Cottrell Propst  
Energy, Minerals, and Natural Resources Departments

Stephanie Garcia Richard  
New Mexico Commissioner of Public Lands

Bruce Baizel  
General Counsel  
New Mexico Environment Department

Michelle Miano, Director  
Environmental Protection Division  
New Mexico Environment Department

Dylan Fuge, General Counsel and Acting Director  
New Mexico Oil Conservation Division  
Energy, Minerals, and Natural Resources Department

March 29, 2023

Dear Secretary Kenney, Secretary Propst, Commissioner Garcia-Richards, Mr. Baizel, Director Miano, and Acting Director Fuge:

We are deeply concerned about the unhealthy air quality caused by about 20 oil and gas wells surrounding the Lybrook Elementary School in Counselor, New Mexico. These wells, so close to a school, should never have been permitted as they put the health of children at risk. Making it worse, now that you have permitted the wells near the school, you have failed to ensure that the operators are actually complying with air pollution rules. The self-reporting by the operators of these wells is highly suspect – as Enduring tends to report that it vented 11 MCF of methane annually and Epic Energy regularly reports that it re-uses 282 or 283 MCF of methane
annually. While these numbers are so similar as to be suspect, it appears that you have not done anything to inspect the wells yourself. These wells – most in operation and several inactive and unplugged -- continue to emit dangerous contaminants into the air that children breathe. More and more children in the area have asthma.

For years, citizens of the Eastern Agency of the Navajo Nation who are members of the Counselor, Torreon and Ojo Encino Chapters have raised their concerns with you about the unsafe air quality caused by oil and gas extraction that you permit. Air monitor readings in the Greater Chaco area are cause for concern. And, because the air monitors in the region are not close to the Counselor, Ojo Encino or Torreon Chapters, citizens of these chapters have conducted their own air monitoring and have reported to you many instances of dangerous air quality readings. They have shown you dozens of examples via film footage of methane discharging into the air. They have met with you to voice their concerns about air pollution in their chapters caused by oil and gas production that you have permitted. You have not addressed any of their concerns.

Instead, you continue to permit oil and gas development in the area, in close proximity to the Lybrook Elementary School, increasing the unhealthy air quality. And, you exacerbate the problem by failing to enforce the law and rules that are in place that are intended to make the oil and gas industry limit air pollution. This is unacceptable.

NMED is not fulfilling responsibility to enforce the Air Quality Control Act, which requires the prevention or abatement of air pollution and compliance with National Ambient Air Quality Standards (the “NAAQS”), along with the enforcement of NMED rules intended to improve air quality. See 20.2.50 et seq. NMAC. OCD is not fulfilling its responsibility under the Oil and Gas Act and implementing rules intended to prevent venting and flaring. See 19.15.27 et seq. NMAC.

We also remind you that New Mexico’s Constitution guarantees a beautiful and healthful environment and mandates the control of pollution. See Art. XX, Sec. 21, NM Constitution. As executive agencies, you are the statutory delegates of the legislature to carry out this duty.

In order to begin to comply with your constitutional and statutory duties:

1. Cease permitting new oil and gas development in the Counselor Chapter until you are able to enforce the rules and control pollution from existing development;
2. Immediately inspect the wells near the Lybrook Elementary School, along with any other wells that are near where people live, work, go to school or practice ceremony, and enforce compliance with your rules concerning air quality and venting and flaring;
3. Initiate a rulemaking to establish health-buffer zones (i.e. set-backs) to ensure that no new oil and gas development occurs within a distance of at least a mile of places frequented by people, and to put in place and enforce extra pollution control measures on existing infrastructure that already exist within the health-buffer zone.

We would like to meet with you at the Counselor Chapter House to discuss our concerns, show you the wells near the school, and begin work on our proposal. Please let us know if you are willing.

Thank you very much.

Sincerely,

/s/ gail evans
Gail Evans
Senior Attorney
Center for Biological Diversity

/s/ Soni Grant
Soni Grant
Campaigner
Center for Biological Diversity

CC:
New Mexico Department of Health Secretary Patrick Allen
New Mexico Indian Affairs Department Secretary James Mountain
Torreon Chapter Member Daniel Tso
Torreon Chapter Vice-President Mario Atencio
Counselor Chapter Community Services Coordinator Samuel Sage