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January 26, 2023

Governor Michelle Lujan Grisham
490 Old Santa Fe Trail
Room 400
Santa Fe, NM 87501

Re. A Call for Science-Based Climate Justice Legislation and Policy to Address the Needs of the Climate, the People, and the Environment

Dear Governor Lujan Grisham,

You begin your second term as governor at a critical time, in a position to bring about fundamental progress and positive change for the people, economy, and lands of New Mexico and for the world's climate. We write to urge you to promote strong science-based climate legislation during the 2023 Legislative Session that meets the needs of our climate, people, and environment. As you have said, climate change “creates new risks and exacerbates existing vulnerabilities” across communities in New Mexico, and “presents growing challenges for human health and safety, quality of life, and the rate of economic growth” in our state.¹ However, New Mexico's laws, regulations, and enforcement schemes fail to meet the urgency of the moment.

New Mexico law and policy must be guided by science. To succeed, climate mitigation efforts must include science-based goals and benchmarks that are sufficient to address the problem. The latest scientific assessments make clear that global CO₂ emissions must be more than halved by 2030 to maintain a chance of limiting warming to 1.5°C and avoiding cataclysmic climate

¹ Executive Order 2019-003. Executive Order on Addressing Climate Change and Energy Waste Prevention. January 29th, 2019. New Mexico. Governor Lujan Grisham. https://www.governor.state.nm.us/wp-content/uploads/2019/01/EO_2019-003.pdf

change damages.² Climate legislation must effectively target fossil fuels, which are by far the greatest cause of global warming. Eighty five percent of climate pollution comes from oil, gas, and coal.³ And climate legislation must avoid false solutions promoted by fossil fuel polluters, which pretend to offer emissions reductions but in reality will promote further fossil fuel combustion, worsening the crisis. False solutions include the pursuit of so-called “net-zero emissions” that will prop up industry scams like carbon markets, carbon capture, and hydrogen. These climate dead ends will worsen the climate crisis, exacerbate water shortages when we are already in a state of aridification, and continue the disproportionate harm our current energy system has on frontline communities.

To stay within a carbon budget required for a 50 percent chance of limiting planetary warming to 1.5°C compared to pre-industrial levels - the internationally agreed upon target set in the Paris Agreement – *there can be no new global fossil fuel production and infrastructure globally.*⁴ Not only must new investment and development be immediately halted, but production from already developed reserves must be phased out. As the world’s largest cumulative emitter and the world’s richest country, the United States should be leading the way in this phase-down, together with a rapid transition to clean renewable energy. The leading analysis of equity-based phase-down pathways concludes that U.S. oil and gas production should be cut by 74% by 2030 and completely phased out by 2034.⁵

² IPCC, 2018: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]; IPCC, 2018: Summary for Policymakers. In: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]; M. Allen, H. de Coninck, O. P. Dube, O. Hoegh-Guldberg, D. Jacob, K. Jiang, J. A. Revi, Rogelj, J. Roy, P. Tschakert, D. Shindell, W. Solecki, M. Taylor, H. Waisman, S. Abdul Halim, P. Antwi-Agyei, F. Aragón-Durand, M. Babiker, P. Bertoldi, M. Bindi, M. Buckeridge, S. Brown, I. Camilloni, A. Cartwright, W. Cramer, P. Dasgupta, A. Diedhiou, R. Djalante, W. Dong, K. Ebi, F. Engelbrecht, S. Fifita, J. Ford, P. Forster, S. Fuss, V. Ginzburg, J. Guiot, C. Handa, B. Hayward, Y. Hijioka, J.C. Hourcade, S. Humphreys, M. Kainuma, J. Kala, M. Kanninen, H. Kheshgi, S. Kobayashi, E. Kriegler, D. Ley, D. Liverman, N. Mahowald, R. Mechler, S. Mehrotra, L. Mundaca, Y. Mulugetta, P. Newman, C. Okereke, A. Payne, R. Perez, P. F. Pinho, A. Revokatova, K. Riahi, S. Schultz, R. Séférian, S. I. Seneviratne, L. Steg, A. G. Suarez Rodriguez, T. Sugiyama, A. Thomas, M. V. Vilariño, M. Wairiu, R. Warren, G. Zhou, K. Zickfeld, 2018, Technical Summary. In: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]

³ U.S. Global Change Research Program, Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Vol. II (2018), <https://nca2018.globalchange.gov/> at 60.

⁴ Calverley, D. and Anderson, K. (2022), Phaseout pathways for fossil fuel production within Paris-compliant carbon budgets. Tyndall Centre, University of Manchester.

⁵ Ibid.

Yet despite these scientific imperatives, oil and gas production has spiked in the United States as well as other regions. As United Nations Secretary-General António Guterres put it during the launch of an Intergovernmental Panel on Climate Change report in 2022, “Investing in new fossil fuels infrastructure is moral and economic madness. Such investments will soon be stranded assets — a blot on the landscape and a blight on investment portfolios. But, it doesn’t have to be this way.”⁶ Most recently, Guterres criticized fossil fuel producers and their financial backers for “racing to expand production, knowing full well that their business model is *inconsistent with human survival*.”⁷

New Mexico has a critical role to play in national and global efforts to address the climate crisis. Compared to other U.S. states, New Mexico produces approximately 70% more greenhouse gas emissions than the national average.⁸ Our state is home to part of the Permian Basin, the largest oil-producing region in the country, and New Mexico is the second largest oil producing state in the country and the seventh top gas producing state.⁹ Greenhouse gas emissions from burning oil and gas expected to be produced from the Permian Basin by 2050 in the absence of new policies represent *nearly 10% of the entire global carbon budget for remaining under 1.5°C*¹⁰ The New Mexico Interagency Climate Change Taskforce estimates that greenhouse gas emissions from oil and gas production represent 53% of New Mexico's total emissions.¹¹ This figure does not account for the lifecycle emissions of oil and gas transportation and combustion, and therefore does not reflect New Mexico’s true global contribution to the climate crisis.

New Mexico must rein in fossil fuel emissions out of urgent self-interest and for the interest of the global climate. Each day of delay only worsens the devastating impacts of climate change, like last year's catastrophic wildfire season, which resulted with 904,422 acres of land burned as of December 2022.¹² We will face warmer temperatures and worsening droughts, all of which will have cascading effects on our state's wildfire season, public health, and agriculture. Over the next 50 years, 16-27% of run-off and groundwater recharge is expected to decline, resulting in more fire devastation and poor water and soil quality.¹³

⁶ United Nations Secretary General Press Release. 2022, April 4. “Secretary-General Warns of Climate Emergency, Calling Intergovernmental Panel’s Report ‘a File of Shame’, While Saying Leaders ‘Are Lying’, Fuelling Flames” Accessed January 20, 2023. <https://press.un.org/en/2022/sgsm21228.doc.htm>

⁷ Kottasová, Ivana. 2023, January 18. “‘Inconsistent with human survival’: UN chief slams fossil fuel industry expansion in Davos speech”. *CNN*. Accessed January 22, 2023. <https://www.cnn.com/2023/01/18/business/davos-climate-un-warning-fossil-fuels-intl/index.html> (emphasis added.)

⁸ New Mexico Interagency Climate Change Taskforce. 2019. “New Mexico Climate Strategy: Initial Recommendations and Status Update”. https://www.climateaction.nm.gov/wp-content/uploads/2021/07/NMClimateChange_2019.pdf

⁹ Moskowitz, Rachel. 2022. “A Profile of Oil and Natural Gas Workers in New Mexico”. *Labor Market Review*. February 2022. P 8-12. https://www.dws.state.nm.us/Portals/0/DM/LMI/Oil_NaturalGas_Workers_NM.pdf

¹⁰ Oil Change International, Earthworks, and Center for International Environmental Law. 2021. “Permian Climate Bomb”. Chapter 2. <https://www.permianclimatebomb.org/chapter-2>

¹¹ New Mexico Interagency Climate Taskforce. 2021. “Progress and Recommendations: New Mexico Interagency Climate Taskforce”. https://www.climateaction.nm.gov/wp-content/uploads/2022/05/NMClimateChange_2021_final.pdf

¹² FAMWeb Data Warehouse, Southwest Area.” (December 13, 2022). Retrieved from: https://gacc.nifc.gov/swcc/predictive/intelligence/daily/UPLOAD_Files_toSWCC/YTD_ICs-209_1_ByState.pdf

¹³ New Mexico Bureau of Geology and Mineral Resources, 2022, Climate change in New Mexico over the next 50 years: Impacts on water resources: New Mexico Bureau of Geology and Mineral Resources, Bulletin 164.

New Mexico's 2023 climate legislation must reduce direct emissions at the pace and scale that climate science clearly requires and must take concrete steps to prioritize communities on the frontlines of fossil fuel pollution.

The following components are essential for 2023 New Mexico climate legislation to meet the demands of science and justice.

Climate legislation must establish a “real zero” greenhouse gas emissions target for New Mexico and accelerate existing goals.

A proposed target of “net-zero” by 2050 is ineffective and harmful. The net-zero frame has been promoted and weaponized by polluters to promote false solutions from carbon capture to hydrogen energy production. New Mexico legislation must be based on an accurate and full accounting, which includes downstream emissions caused by the use of the oil and gas produced here, and focus on reducing emissions at the source. The State's current climate target, which only aims to reduce emissions by 45% by 2030 as compared to 2005 levels, must be accelerated, and the state must set a real, near zero target long before 2050.

Climate legislation must effectively address the climate, health and justice harms from fossil fuels.

As set forth above, science demonstrates that to have any chance of limiting global temperature rise to 1.5°C, the United States must immediately end all new investments in fossil fuel production and infrastructure and completely phase out existing oil and gas production by 2034.¹⁴ As the second largest oil producer in the country, New Mexico must enact legislation that effectively addresses the climate harms from its production. The leading analysis of equity-based pathways concludes that the United States as a whole should reduce its production by 50% by 2028, by 74% by 2030, and completely phase out production by 2034.¹⁵ New Mexico must immediately begin to align its regulatory system with this scientific imperative. The state must also act immediately to protect communities from the severe health harms of fossil fuel extraction by establishing a mandatory health buffer zone, i.e. a “setback,” of no less than 3,200 feet.¹⁶ This would prohibit all new fossil fuel infrastructure and all oil and gas operations within at least 3,200 feet from homes, schools, and other sensitive locations and phase out existing wells infrastructure already sited near communities. These actions must be accompanied by a rapid build out of a 100% clean, renewable and just energy system by 2030, powered entirely by proven, cost-effective solutions like community-based distributed renewable solar, wind energy, and battery storage. We also need huge investments in increased energy efficiency.

¹⁴ Calverley, D. and Anderson, K. (2022), Phaseout pathways for fossil fuel production within Paris-compliant carbon budgets. Tyndall Centre, University of Manchester.

¹⁵ Ibid.

¹⁶ Memo from California Oil and Gas Public Health Rulemaking Scientific Advisory Panel to David Shabazian, Director, and Uduak-Joe Ntuk, California State Oil and Gas Supervisor, California Department of Conservation, RE: Response to CalGEM Questions for California Oil and Gas Public Health Rulemaking Scientific Advisory Panel (Oct. 1, 2021), available at: <https://www.gov.ca.gov/wp-content/uploads/2021/10/Public-Health-Panel-Memo.pdf>; In 2022, the California legislature passed a law establishing a 3,200-ft health and safety buffer between oil wells and sensitive receptors based on the recommendation of the expert California Oil and Gas Public Health Rulemaking Scientific Advisory Panel.

Fund enforcement to hold polluters accountable and protect communities.

NMED and EMNRD have repeatedly and publicly said that their current funding levels are not sufficient to allow the agencies to adequately enforce existing laws or promulgate new rules to meet emissions targets, leaving thousands of oil and gas violations unaddressed and thousands of wells uninspected every year, with thousands of unplugged leaking wells across the state. Recently passed rules to prohibit venting and flaring of gas, and rules to prohibit spills of toxic liquid waste created by fracking result in broken promises since they go unenforced, and venting, flaring and spills continue unabated. If it is to be more than a hollow promise, 2023 climate legislation must ensure that state agencies have the necessary funding and staffing to promulgate *and* enforce rules to protect the public health and environment, while prioritizing near term reductions driving towards real, near zero emissions long before 2050.

Reject false solutions that lock in pollution and promote environmental injustice.

Polluters are working to convince policy makers and the public that capturing carbon, producing hydrogen, and carbon trading schemes are necessary and important. In reality, these expensive and harmful schemes perpetuate reliance on fossil fuels, expand fossil fuel infrastructure, and will delay the transition to clean energy. False solutions enable oil and gas polluters to continue business-as-usual, exacerbating climate disaster and environmental injustice. Every dollar we waste on these industry scams are resources taken from communities and efforts to facilitate a real transition away from energy sources that are causing climate change intensified disasters like wildfires, flooding and droughts, while polluting our communities. Instead of investing in carbon markets, hydrogen hubs, and other false solutions, New Mexico is poised to invest in cost-effective and community-based renewables, while rapidly phasing out fossil fuels.

Ensure equity and environmental justice in the transition.

As New Mexico takes steps to tackle the climate crisis by phasing out fossil fuels and electrifying energy, transport, building, and other systems, we also have the opportunity to address injustices that have disproportionately harm frontline and communities of color, Indigenous Peoples, and low-income communities. Principles of equity, environmental justice, and energy democracy must guide New Mexico's climate action strategy moving forward. As with all policy decisions, New Mexico must meaningfully consult with Indigenous Peoples, Tribes, Pueblos, and Nations, and obtain their free, prior, and informed consent before adopting and implementing measures to achieve emissions reductions. The state must recognize that Traditional Ecological Knowledge (TEK) and Indigenous Knowledge Systems are critical forms of science that will enhance the on-going scientific, technical, social, and economic advancements to mitigate the climate crisis.¹⁷ And, as we develop an economy that is no longer reliant on oil and gas extraction, frontline communities and those who have depended on the fossil fuel industry for their livelihood must be engaged in the decision-making concerning economic diversification and support. Funding and research for a just transition must be a top

¹⁷ Lander, Eric and Brenda Mallory. 2021. "Memorandum for the Heads of Departments and Agencies: Indigenous Traditional Ecological Knowledge and Federal Decision Making". Office of Science and Technology Policy, Council on Environmental Quality. <https://www.whitehouse.gov/wp-content/uploads/2021/11/111521-OSTP-CEQ-ITEK-Memo.pdf>

Convention on Biological Diversity. 2022, December 22. "Final text of Kunming-Montreal Global Biodiversity Framework available in all languages". www.infra.cbd.int/sites/default/files/2022-12/221222-CBD-PressRelease-COP15-Final.pdf

priority for our State, as we quickly phase out our dependence on oil and gas and create a healthy, sustainable economy that is fair and just for all New Mexicans.

Moving forward with this bold agenda will show the country and the world that New Mexico is serious about meeting the challenge of the climate crisis. We are out of time for half measures — we need transformative action rooted in justice. We are looking to you for leadership and action.

Sincerely,

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The Honorable Peter Wirth
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