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September 10, 2026

The Honorable Joseph Cervantes
The Honorable Carrie Hamblen
The Honorable William P. Soules
The Honorable Jeff Steinborn
New Mexico State Senate
State Capitol
Santa Fe, New Mexico 87501

Dear Senators,

Thank you for your recent correspondence and for relaying the important questions from your constituents regarding the Project Jupiter data center under construction in Doña Ana County. We greatly appreciate your proactive efforts to host the joint Legislative Listening Session and ensure that the public's voice is heard as New Mexico navigates its growing tech infrastructure. Our agencies continue to navigate the administrative processes established by state law and administrative rules.

Attached to this letter, please find our responses to the specific inquiries directed at our respective agencies. We carefully reviewed each question to provide the community with clear, factual insights into the projected environmental impacts, mitigation strategies, and regulatory requirements associated with this project.

We look forward to continuing to work closely with you and your offices to strengthen data center oversight and implement safeguards that prioritize community input, diversify our economy, and protect our environment.

Respectfully,

Signed by:
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Major General Miguel Aguilar
Interim Cabinet Secretary
New Mexico Department of Homeland Security and Emergency Response

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Attachment

Questions Received from Sen. Hamblen

Question 1: What monitoring and public reporting will be required after the facility begins operating?

Answer: Under the Project Participation Agreement (PPA) between New Mexico Economic Development Department (NMEDD), Doña Ana County, and the Project (Red Chile LLCs A-D and Yucca Growth Infrastructure, LLC), the agreement requires ongoing quarterly job reporting. First, the Project reports to the New Mexico Department of Workforce Solutions (DWS) on new operational and support positions to verify that the agreed-upon minimum of 750 permanent, full-time positions (at least 32 hours per week) has been created by December 31, 2031. These job reports are due January 31, April 30, July 31, and October 31, covering the previous quarter, respectively. Additionally, the Project is required to complete an annual economic impact form for NMEDD, where the department performs an annual Economic Impact Analysis (EIA) on the Project. Further, the Project is required to submit monthly construction Gross Receipts Tax (GRT) returns to the New Mexico Taxation and Revenue Department. This reporting tracks the total construction-related GRT paid by the Project and the return of the Project's 50% GRT share, as under the terms of the PPA. Doña Ana County has additional quarterly and annual reporting requirements for construction/temporary and permanent full-time jobs through its Industrial Revenue Bond (IRB) Project Participation Agreement. NMEDD does not administer the reporting required by Doña Ana County. At this time, only summary reports were released publicly by Doña Ana County.

With regard to the air quality permit, the New Mexico Environment Department (NMED) lacks the authority to deny or delay an air quality permit simply because the source emits significant levels of greenhouse gas emissions. The New Mexico Legislature has failed to pass an economy-wide limit, cap, or condition for stationary source greenhouse gas emissions. That being said, based on the information in the air quality construction permit application submitted to the NMED for the portion of Project Jupiter managed by Yucca Growth Infrastructure, LLC (associated with the microgrid electricity generation to power the data center), the proposed air quality construction permit has specific limitations on the quantity of certain emissions allowed to be released during its operations. These certain emissions are: (1) ground-level ozone; (2) particulate matter; (3) fine particulate matter; (4) carbon monoxide; (5) nitrogen dioxide; (6) sulfur dioxide and (7) lead.

If the draft permit is approved as proposed, the provisions will require specific monitoring, reporting and record-keeping deliverables from Yucca Growth Infrastructure, LLC for those certain emissions that correspond to how the fuel cells will function. That information will all be public.

The NMED also periodically inventories emissions data and makes its data available through its public website, available here: https://eido.env.nm.gov/. Yucca Growth Infrastructure, LLC will be subject to these emissions inventories as well. In addition to the certain pollutants above, the Environment Department requires greenhouse gas reporting, which is also public.

More information about NMED's emissions inventories generally is available on its public website here: https://www.env.nm.gov/air-quality/emission-inventory/.

For water use, the pumping data for the wells from which Project Jupiter will be obtaining water will be reported monthly and available to the public through the Office of the State Engineer's (OSE) NMWRRS database: https://nmwrrs.ose.nm.gov/nmwrrs/index.

The New Mexico Regulation and Licensing Department (RLD) regulates 28 professional and occupational licensing boards and six business licensing and regulatory divisions, including the Construction Industries Division. Currently none of the professional and occupational or business licensing boards attached to RLD regulate, monitor or provide reporting or oversight of data centers after construction is completed and operation of the facility begins.

Question 2: I was at the [Board of County Commissioners] meeting and I am more concerned now then ever (sic). 1. Oracle states that they will need a one time fill of non potable water, I do not have a science degree but, there has to be some evaporation happening even in a closed loop system. 2. Also if the majority of our water, brackish or not needs to be treated to become potable, where do we draw the line (sic). 3. I find it concerning that a Tech Company is trying to get us hiring data. Either they have incompetent Hiring systems or they are intentionally withholding that information (sic). 4. Also, Oracle keeps laying off staff to create more money for AI, and AI is expensive, how do we demand that all jobs be filled by NM staff?

Response: Related to the first point, during this meeting Oracle's Mahesh Thiagarajan stated that the recharging needed throughout an annual operational cycle in the first 15 years, taking into account maintenance needed in opening the closed loop system and including the power plant operation, would use less water than 9 average households over the same period of time or roughly 900,000 gallons/year.

Per the second point, the water to be used is non-potable, but it is not brackish. It is being supplied from wells previously used for sod farm irrigation but does require treatment prior to being introduced into the local drinking water supply. The OSE requires all pumping of water, whether potable or not, to come from existing rights. This will ensure that depletions from all sources remain capped, protecting the overall water supply.

Regarding the third point, the project has committed to hiring New Mexicans first. While this is not captured in the formal agreements with the project/companies, there is a benefit lost if they choose to hire outside of the state. The Job Training Incentive Program (JTIP) provides reimbursement for eligible training hours for New Mexico residents in newly created positions through either relocation or expansion of a company within the state. The project companies have been approved for their first eligible positions by the JTIP Board. There are 95 in total broken out below:

- Critical Operations Technicians - 80 positions
- Critical Operations Managers - 4 positions
- Assistant Critical Operations Managers - 11 positions
- Average wage: $47.83

Finally, in response to the fourth point, issues surrounding the perceptions of failure to report positions created to NMEDD were unfounded. The first quarterly reporting date was technically January 31 as per the PPA. However, this would cover the prior quarter, or the last three months of 2025. The PPA was not in effect during those months and there was no expectation of reporting on the part of the NMEDD. On the next successive reporting date, April 30, initial portal access was delayed and submission of the reports to NMEDD was not available. During that period NMEDD field staff were in regular communication with the project representatives and understood that no permanent, full-time positions had yet been created as these will come online as the project becomes operational. A "failure to report" was a mischaracterization at the time. The required reporting for the July 31st was timely submitted to both the NMEDD and Doña Ana County for their required reporting. The required reporting deadline was three days after the BOCC meeting referenced in the question.

Question 3: From a risk management perspective, what measures have you taken or are considering. There are significant risks associated with development and land use after abandonment. An internal audit should be conducted to make sure bribery was not part of the process. In agreeing to this project (sic). We need full transparency with our elected officials. Can we fine Oracle 180 M and turn that into productive businesses for our communities. Recreational areas for our children,! (sic) After school programs for working parents.

Response: Project Jupiter is not a public project where the state or county creates contractual completion bonds. This is a private project on private land that is privately owned and privately financed. The Project sponsors are responsible for compliance with all regulatory and environmental requirements of the state. If they are not able to meet those legal requirements under their current proposals, they will need to adjust their business models or make other business decisions as to how to proceed. The Project sponsors have demonstrated their willingness to adjust existing plans as was

demonstrated from the move away from gas-fired energy generation to fuel cells as part of their air quality permit application.

The Project sponsors have already invested over $1.25 billion in construction costs, with over 3,000 construction workers on site, so they have a strong incentive to ensure their proposals meet the regulatory and legal requirements of the state, but ultimately it is the Project sponsors' responsibility to propose a project that meets those requirements.

Question 4: What are the projected greenhouse gas emissions over the project's operating life?

Response: The projected greenhouse gas emissions are 8,820,970 tons per year carbon dioxide equivalent. The NMED does not have information about how long the Yucca Growth Infrastructure, LLC microgrid intends to operate or if the greenhouse gas emissions would increase, decrease or remain the same over time. While the NMED does not regulate greenhouse gas emissions from the facility, all air quality construction permit applicants must submit greenhouse gas emissions to the Department for reporting purposes only. Therefore, the NMED will track the greenhouse gas emission changes from the facility over time.

Related to greenhouse gas emissions, the New Mexico Legislature has failed to pass an economy-wide limit, cap, or condition for stationary source greenhouse gas emissions. This means that the NMED still lacks the authority to deny or delay an air quality permit simply because the source emits significant levels of greenhouse gas emissions. The NMED has supported multiple attempts to develop, negotiate, and testify in support of such bills, including the 2026 regular session Senate Bill 18 titled "Clear Horizons and Emissions Codification." Other such Governor, Agency, and Legislator greenhouse emissions reduction bills introduced over the past several years never made it out of both chambers.

Question 5: We're seeing Community Water Systems throughout the state of New Mexico implement emergency rates for conservation there are wells running dry throughout the state. Many counties do not have appropriate hazard mitigation plans much less offices of emergency management in place to ensure they can cover unincorporated communities within their counties that run out of water. The State of New Mexico is not prepared to respond in these emergency situations and this project isn't even complete yet. What is the state legislation going to do about this? We have communities running out of water while private interests' pockets are being lined. New Mexico residents should be given priority always. The Federal government is looking at every measure possible to dismantle oversight and review of these types of projects including NEPA. Our county government is letting us down, and our state government is following closely behind with giving priority to the oil and gas sector and data centers.

Response: State executive agencies — such as the OSE, NMED, and the Department of Homeland Security and Emergency Management (DHSEM) — are responsible for enforcing the laws and budgets passed by the State Legislature. We operate strictly within the legal authority granted to us.

Sweeping policy changes—such as legally prioritizing residential water over industrial use, halting data center development, or mandating that counties create Offices of Emergency Management—cannot be executed by an agency unilaterally. Those actions require the State Legislature to draft and pass new laws. Additionally, we must be careful to mandate legal requirements that local and county agencies are not resourced to meet. In reality, the bulk of the water shortages DHSEM and the NMED support are the result of long term deferred maintenance issues and water systems that are not resourced properly to maintain adequate levels to their consumers rather than the result of fire or flooding, though certainly those effects on water systems are not helpful.

The DHSEM provides grant funding and technical support to help counties develop Hazard Mitigation Plans. However, under state law, county governments operate independently and must choose to establish and staff their own local emergency management offices.

You also raised a critical point about the potential dismantling of federal environmental oversight, such as the National Environmental Policy Act (NEPA). State executive agencies enforce state-level environmental protections in accordance with their statutory authority. If federal backstops are removed, it is up to the State Legislature to pass robust state-level equivalents and fund executive agencies to ensure such industrial projects face rigorous environmental review.

Question 6: Why isn't the NM Environmental Review Act being applied to data centers including Project Jupiter? The New Mexico Environmental Department Air Quality Bureau has that opportunity to require such as well as the NM State Engineers Office.

Response: Although legislation known as the New Mexico Environmental Review Act has been introduced, the Legislature has never passed it. Thus, the New Mexico Environmental Review Act is not being applied by either the OSE nor the NMED, because it is not state law. Importantly executive administrative agencies, like the OSE and the NMED are charged with applying the law as written, and the applicable statutes (including the Water Code and Air Quality Control Act) identify the authorities by which an executive administrative agency can act on a permit. If the agencies act outside the authority granted to them by the New Mexico Legislature, the agencies' actions will be deemed unlawful.

Question 7: Bloom energy cells published purity requirements for the natural gas. Does our natural gas source meet those requirements? If not, has PJ stated how they will purify the gas and what will the do with the waste products?

Response: The NMED's draft air quality permit requires applicant Yucca Growth Infrastructure, LLC to ensure that all natural gas fuel used by the 260 kW and 325 kW units (1) contain no more than 0.75 grains of total sulfur per 100 dry standard cubic, which meets the specifications required by the manufacturer, and (2) process all natural gas used by the fuel cells with a central desulfurization system. Although outside the provisions of the air quality permit, Yucca Growth Infrastructure, LLC must manage all wastes generated in accordance with state laws and rules.

Questions Received from Sen. Soules

Question 1: Why wasn't the public informed before 17 data centers were approved in New Mexico?

Response: Information about these projects have always been publicly available long before their approval. State economic incentives like the Local Economic Development Act (LEDA), LEDA Local Gross Receipts Share (only available for projects that spend more than $350 million on construction) or Industrial Revenue Bonds require a local "fiscal agent" to support the project and administer the incentive. The local fiscal agent is either the city or county where the project is located. All of these incentives go through a required public process of public notice, public meetings including public comment and public votes by the local or county government. No project in the State of New Mexico can receive these economic incentives without the support of, and public vote by, the local or county government.

Besides Project Jupiter, the Meta data center in Los Lunas is the only other data center in New Mexico that has been constructed or approved for construction that would rise to the level of what is generally understood to be a hyperscale facility (~100 MW).

We do not have information on the total number of data centers in the state, but the remainder of the data centers fall into Co-location (mid-scale @ 10 – 100 MW), Edge (small to midscale @ 1-10 MW) or Enterprise (small scale <1-5 MW) and they generally provide cloud computing and data storage services. These data centers support hospitals, communications infrastructure and other businesses and are not considered to be significantly impactful regarding direct job creation, energy needs or environmental impact.

Question 2: What are the biggest environmental risks associated with this project and how will they be monitored?

Response: From the NMED's perspective, the biggest environmental risk is the greenhouse gas emissions since the other air emissions are governed by federal and state rules and permitting. Regarding the greenhouse gas emissions, the NMED requires periodic reporting but not emission reductions given the New Mexico Legislature has failed to pass an economy-wide limit, cap, or condition for stationary source greenhouse

gas emissions. This means that the NMED lacks authority to deny or delay a permit simply because a source emits significant quantities of greenhouse gases.

For purposes of the certain air emissions that the NMED does regulate under its permitting rules, the quantity of proposed emissions from Yucca Growth Infrastructure, LLC relative to other electric generation facilities in the State of New Mexico provides important context. For example, permitted electric generation facility Valencia Power Plant in Valencia County is permitted for over 248 tons per year of carbon monoxide, 249 tons per year of nitrogen dioxide, and over 14 tons per year of volatile organic compounds (the latter of which is a ground-level ozone precursor). As another example, permitted electric generation facility Afton Generating Station in Doña Ana County is permitted for over 165 tons per year of carbon monoxide, 257 tons per year of nitrogen dioxide and 76 tons per year of volatile organic compounds. The Yucca Growth Infrastructure, LLC draft permit proposes emissions of approximately 161 tons per year of carbon monoxide and 124 tons per year of volatile organic compounds.

For the OSE, the principal risk is increased depletions on the regional aquifer. The way to mitigate this risk is to ensure that all pumping comes from existing water rights. This risk will be monitored by closely tracking well pumping data, which is reported monthly.

Question 3: Given the passage of the Industrial Revenue Bonds that supported the financing of Project Jupiter; which also means Dona Ana County is deeded the property; why isn't the Project being inspected by the Construction Industries Division? Because right now Dona Ana County is inspecting its own project.

Response: The New Mexico RLD's Construction Industries Division (CID) has regulatory authority over licensing and the permitting and inspection for construction projects for the entire state with limited exceptions. One exception to CID's regulatory powers relates to municipalities and counties who have established their own full-service building department pursuant to NMSA 1978, Sections 3-17-6(A)(3), NMSA 1978. Section 4-37-1 and NMSA 1978, Section 60-13-41. Municipalities and counties who maintain their own full-service building department have statutory authority to issue permits and perform inspections for construction projects located within their district in compliance with the Construction Industries Licensing Act.

One limitation to municipal and county authority over permitting and inspection concerns public building departments located within the municipal or county district. The permitting and inspection of public buildings remain under the jurisdiction of CID. NMSA 1978, Section 60-13-44(E) and 1974 Op. Att'y Gen. No. 74-10. Public buildings are defined as a building or other structure on publicly owned lands or used by the state, a municipality, other political subdivision of the state using state, municipal funds, bonds or other revenue. 14.5.1.7(EEE) NMAC. County Industrial Revenue bonds do not fund the construction of public buildings.

County Industries Revenue bonds are sold and issued to a private company engaged in an industrial project for the purpose of financially incentivizing private industry to relocate to the state or to expand its presence within the state. The legislative intent, when passing the County Industrial Revenue Bond Act, was not to delegate authority to the county to operate any manufacturing, industries or commercial enterprise. NMSA 1978, Section 4-59-4(C). No county shall have the power to operate any project as a business or in any manner except as lessor. NMSA 1978. Section 4-59-4(C). The county is prohibited from using general funds or otherwise contributing to any part of the costs of the building or acquiring the project and shall not have the power to use land already owned by the county for the project unless the county is fully reimbursed for the value of the land. NMSA 1978, Section 4-59-10. The county holds title to the land and any improvements until the bond is fully repaid. Once the bond matures and the company repays the principal with interest, the county typically releases the land and improvements to the project owner.

Because Project Jupiter was funded through a County Industrial Revenue Bond, the project does not fall under the definition of public building since it is not being built on public land or for public use, and therefore, the project is subject to the jurisdiction of the County's building department.