

Moderates Stymie Overreach In New Mexico Legislature

By Del Torkelson

ROSWELL, N.M.—Times have changed, says Independent Petroleum Association of New Mexico President Alex Campbell. Campbell, who is vice president of Enduring Resources LLC in Denver, reports that state and federal regulatory standards occupy so much of his attention that, when they are combined with the company's environmental, social and governance efforts, he has little time for anything else.

"Candidly, regulatory and ESG work probably consumes 70% of my day," he estimates.

Campbell indicates that the burden is especially heavy for companies such as his that operate exclusively on public lands. Moreover, he says, his 43 years of experience in the oil and natural gas industry suggest that the regulatory ratchet generally moves in only one direction. "Two decades ago, regulatory tasks probably occupied 25% of my time. A decade ago, it was probably 40%-50%," Campbell relates. "The complex regulatory maze does not get any easier."

As IPANM prepares for its 2023 Annual Meeting, scheduled for July 19-20 in Albuquerque, N.M., Executive Director Jim Winchester says the group finds itself similarly immersed in regulatory and permitting matters. "IPANM is as focused as ever on those issues, because both state and federal authorities are throwing curveballs," he reports. "We are working with regulators, trying to make the process more consistent and efficient."

Regulation And Legislation

According to Winchester, the association had reason to be encouraged when the New Mexico Environment Department unveiled a draft ozone precursors rule in July 2020 that accommodated some key concerns conveyed by IPANM representatives on the state's Methane Advisory Panel. Unfortunately, NMED



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IPANM President

swerved in a different direction, releasing a rule in May 2021 that gutted the previous version's exemption for low-emissions wells.

"We were less than satisfied with the lack of consideration for small producers," Winchester recounts. "We hoped for better methane rules, which have been, and will be, our top priority for a while."

Toward that end, he continues, IPANM filed a lawsuit in August 2021 that is pending in the state Court of Appeals. Meanwhile, Winchester reports, "We have been encouraged that legislators are recognizing the disproportional impacts of that rule. During the legislative session, several bills that sought to assist smaller producers gained traction, received hearings, got through committee and prompted solid debate.

"None of them advanced to the governor," he grants. "But the traction they got demonstrates some understanding that the backbone of our production industry is with the companies who have been here for generations. Now, more than ever, they are worth considering."

That dynamic played out in more ways than one. With Democrats enjoying lopsided advantages of 45-25 in the New Mexico House of Representatives and 27-15 in the state Senate, IPANM fully expected the party's left flank to feel its oats, Winchester allows. "We were not surprised by

how extreme the environmental groups and progressives were," he recounts. "More and more, it is not about Ds versus Rs, but sane versus insane."

The 2023 New Mexico Legislature was the first session following the reelection of Governor Michelle Lujan Grisham, he notes, and IPANM partnered with numerous allies both in and outside the oil and gas industry to beat back a host of bills hostile to oil and gas and the broader business community.

"By the time the session adjourned on March 18, our coalition had managed to effectively kill or run out the clock on all the bills specifically targeting the oil and gas industry," Winchester describes. "That was a pleasant surprise for which we are very grateful."

Winchester offers the example of the House Energy, Environment and Natural Resources Committee. "In the past, that committee basically has rubberstamped a lot of the bad legislation that tends to appear right after a governor is re-elected," he assesses. "A couple new legislators took a more moderate approach and effectively killed some very bad bills in that committee."

According to Winchester, the session's anti-industry bills included:

- SB 520, the Clean Future Act, which among other problematic provisions, sought to impose a net-zero greenhouse

gas emissions program;

- SB 418, which contained onerous amendments to the state's Oil and Gas Act;
- HB 121, which complicated the effective date for water rights leases;
- SB 164, which aimed to increase royalty rates for production on state lands to 25%;
- SJR 6 and HJR 4, which proposed amending the state constitution by adding a section on environmental rights, dubbed "the Green Amendment;" and
- HB 276, which would have authorized the New Mexico Oil Conservation Division to require proof of insurance and fiscal solvency with applications for permits to drill.

Moderating Influence

Seeing cooler heads prevail reassures Campbell that common sense is not extinct. "People are tired of intolerance," he assesses. "They recognize that oil and gas are necessary and will be here to stay for a long time to come, and I hope the ship is slowly turning."

One reason for that progress, Winchester suggests, lies with anti-oil-and-gas ideologues' inflexibility. "The ultra-progressive groups were their own worst enemies," he comments. "Unlike oil and gas representatives, the environmental progressives were unwilling to

negotiate on a lot of these unreasonable and unfeasible bills. They self-sabotaged their own bills, insisting there was no middle ground."

For the industry, Winchester and Campbell reflect, the session demonstrates that moderate Democrats know oil and gas fuel the state's economy and way of life, and are unwilling to hurt an industry that provides about 40% of a state budget that in 2023 enjoys a \$3.6 billion surplus. "They are finally starting to recognize our industry's dramatic impact on the people of New Mexico," Campbell says. "It benefits the citizens of New Mexico every day."

Press accounts indicate many in the party's progressive wing are grouching that the failure of measures such as SJR 6 and HJR 4, the proposed "green amendments" to the state constitution, only shows that the moderates are too beholden to the industry. Noting those reactions, Campbell says it is unlikely the extremists will reconsider their goals or tactics.

"They do not want to face the impracticality of what they put forward," he maintains. "The amendment was never going to work. There is no practical way to apply it and I think those with common sense recognize that the negative consequences of extremism outweigh any positive effects."

Seeking Cooperation

As for what the evidence reveals about the governor's stance toward the industry and her place on the ideological spectrum, Winchester suggests they are not fixed in place. "The governor has to balance her identity as an environmentalist with her knowledge that the bulk of the state's revenue comes from our industry," he reasons. "She knows how to speak to whichever audience is before her."

"We continue to be optimistic that she understands money and jobs and—while it may be unpalatable for her—she sees a need to work with us," Campbell relates. "We see it too. We try to go out of our way to work with the governor."

"We all strive to be the best stewards possible," he adds. "We live here and work very hard to do the best we can. We have 78 employees who get up every day proud to contribute to New Mexico and do the best they can."

A new obstacle to industry activity was established on March 27, when the U.S. Fish and Wildlife Service decided to add the lesser prairie chicken to the list of protected species under the federal Endangered Species Act. The bird's range covers parts of New Mexico, Colorado, Kansas, Oklahoma and Texas, with USFWS classifying the LPC as "threatened" in the northern part of its range and "endangered" in the southern part of its range (AOCR, April 2023, pg. 18).

Although the prevalence of federal lands in New Mexico's portion of the Permian Basin may make the listing particularly problematic for industry activity, Winchester assures that the association has not been caught flat-footed. Since the Biden administration announced its intent to list the bird late last year, IPANM urged its members to join conservation agreements before the late March deadline so they could continue development as long as they committed to specific measures for protecting the bird and its habitat.

"We certainly worked very hard in the last couple months to make sure our members got into conservation agreements if they weren't already," Winchester says. "We pushed really hard and saw an uptick in participation, which we see as a win/win."

Since such conservation agreements merely soften the listing's negative effects,

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Winchester promises that IPANM will keep pushing back against the listing in cooperation with other industry and business groups. "Going forward, we continue to monitor the situation and submit comments," he says. "We will continue to work with other groups to find a workable path."

San Juan Basin

Permian Basin activity and output attracts plenty of attention, but New Mexico's other producing province, the San Juan Basin, shows plenty of life, Campbell observes. The play experienced an uptick in activity after natural gas prices bounced back in 2021 and 2022. However, Campbell points out that the San Juan Basin, where Enduring Resources operates about 1,100 wells, offers significant oil targets as well.

The company consistently has emphasized a balance between the two commodities, he says, and the San Juan Basin complements that strategy. "We are in the top tier of producers, with a blend of 60% oil, 40% gas," he estimates. "We

have a meaningful impact in the San Juan Basin."

Moreover, he notes, although the national story on natural gas has in recent months focused on falling prices, the regional story is different. The U.S. Energy Information Administration's March 31 natural gas storage report shows that the country's cumulative storage levels are almost 20% above the five-year average, but Pacific region gas storage trails the five-year average by more than 56%.

"We are in a resource play in the Mancos formation that continues to be favorable to investing," he says.

According to Campbell, Mancos Shale production in the southern San Juan Basin is oily and transitions to prolific dry gas to the north. "We have a couple of large, older units in the Mancos dry gas window," he reports. "We tested a couple of wells late last year that looked strong. We will add another four-six wells in the coming years, depending on permitting, and then move into Colorado and develop that asset as well."

Public Lands Challenges

Of course, permitting delays and other regulatory considerations can be particularly chronic on public lands. However, Campbell offers Enduring Resources as a testimony that companies still can do business in areas owned by the state and federal governments.

"We deal with every federal jurisdiction and acronym, including the BLM, BIA, USFWS, EPA and more, as well as all New Mexico's state agencies," he chuckles. "I have a large regulatory and HSE staff that works very hard to keep the ship moving forward."

Nevertheless, he acknowledges, not even Enduring's stellar staff can shoulder the entire load itself. Moreover, smaller companies often cannot afford to devote as many resources to such matters. "They can crush some companies," he reflects. "That is where the benefits of IPANM come in. It is an investment that really helps."

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encourage them to be as proactive as possible with regulators,” Winchester confirms. “We also urge them to dedicate resources to building relationships with every permitting office they deal with. More of them are seeing the value of that, because that is the only way they can survive.”

As he ponders the most needful public policy reforms affecting the industry, Winchester indicates that the lack of leasing soon may come home to roost. “The public lands leasing crunch has not yet caught up with us, but it is going to, and that is a major concern,” he warns. “We either need a change in political leadership, or a better understanding from the existing leadership about our industry’s benefits.

“We also continue to focus on educating our state and federal legislators. We are working to bring more of them out to well sites who are unfamiliar with our operations,” he adds. “That allows them to see everything up close so they can understand what we are doing. It opens a

lot of eyes, especially about all the environmental protections in place.”

Annual Convention

As the association nears its 2023 annual meeting, July 19-20 at the Sandia Resort in Albuquerque, Winchester reports that IPANM membership is growing.

Noting that his presidency will conclude at the event, Campbell says holding the group’s top office has reinforced his admiration for Winchester and the IPANM team. “Jim and this group have a tremendous impact on our state policies,” he reflects. “It sounds corny, but it strengthens my appreciation for independents’ tenacity. It is an honor to work alongside so many dedicated and honest people who sincerely want what is best for the state. They are exceptional.”

Winchester praises members’ spirit, noting that IPANM’s Board of Directors and past presidents as examples of the group’s deep reservoir of institutional knowledge. “It is invaluable,” he describes.

Regarding the conference, Campbell

says he most looks forward to opportunities for networking and fellowship. “We get focused on and hunker down on the day-to-day,” he muses. “It is nice to look up and see what you have accomplished. And it is important to enjoy the camaraderie of the folks we work with.”

Winchester affirms that the annual meeting offers many business-to-business opportunities, whether they surface during receptions, on the golf course, in the hallway or during follow-up reactions to presentations.

“We look forward to a fantastic annual meeting,” he concludes. “Albuquerque is the center point between both basins, so the event attracts operators and service companies from all over New Mexico and the surrounding states. We continue to build momentum as an association in terms of both our membership numbers and attendance at these meetings, which offer a nice mix of great speakers with good information, as well as good networking and fun.” □

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