



The New Mexico State Land Office and Setbacks

Water and Natural Resources Committee

Ruidoso

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State Land Office Legal Framework

- Fiduciary responsibility to manage state trust lands in a manner that protects trust assets (e.g., land) and keeps them productive and healthy for current and future generations.
- Commissioner maintains broad authority over state trust lands, subject to limitations prescribed in federal and state law.
- Leases include terms and conditions entities must follow as a matter of contract in addition to general regulatory requirements (OCD, NMED, etc.) and NMSLO rules.
- Enforcement tools – achieve compliance via collaboration or litigation (no general authority to issue fines).



Environmental and Health Setbacks

- Unlike other types of leases, the terms of O&G leases are set by statute.
- NMSLO lacks the authority to dictate where a well can (or can't) be drilled (OCD issues APDs) – i.e., no setback provision in lease.
- NMSLO's decision point is whether to generally lease or not lease a parcel (40 to 640 acres).
- New Mexico lacks existing legislative or regulatory setback requirements to protect the environment and human health.



Oil and gas facility in Counselor, NM with Lybrook Elementary School in the background. Photo by Becca Grady.

Public Health Buffer by Schools

- Commissioner Garcia Richard issued an Executive Order on June 1, 2023 (only state trust lands).
- Moratorium on new O&G leasing within one mile of schools, daycares and other educational facilities.
- Provides the governor, legislature and other interested stakeholders an opportunity to develop setback requirements, including for hospitals and residential areas.
- Recognizes that despite the state's methane rule authorized and unauthorized venting, flaring and leakage at O&G sites raise serious air quality concerns.
- Directed NMSLO staff to review existing sites to assess their compliance with applicable lease terms.



Land commissioner bans new oil, gas leases near NM schools

By Dan McKay / Journal Staff Writer Jun 1, 2023

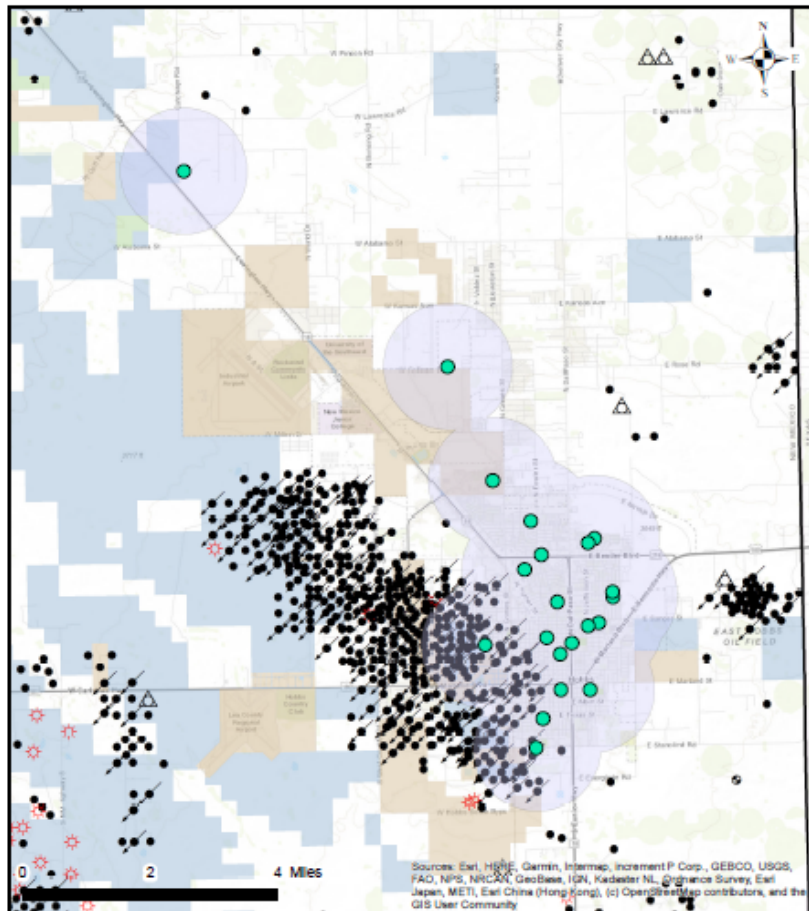


A Carlsbad Municipal Schools bus waits in traffic near flaring oil and gas wells along Laguna Road in Carlsbad in September 2019.

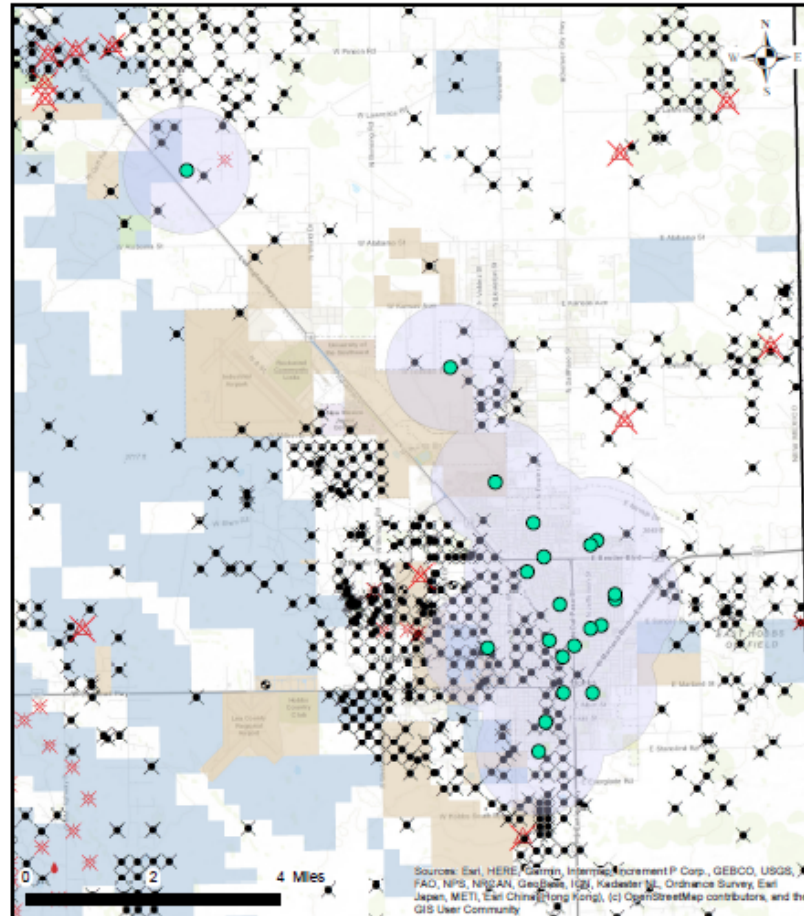
Eddie Moore

Hobbs: Wells Within One Mile of Schools

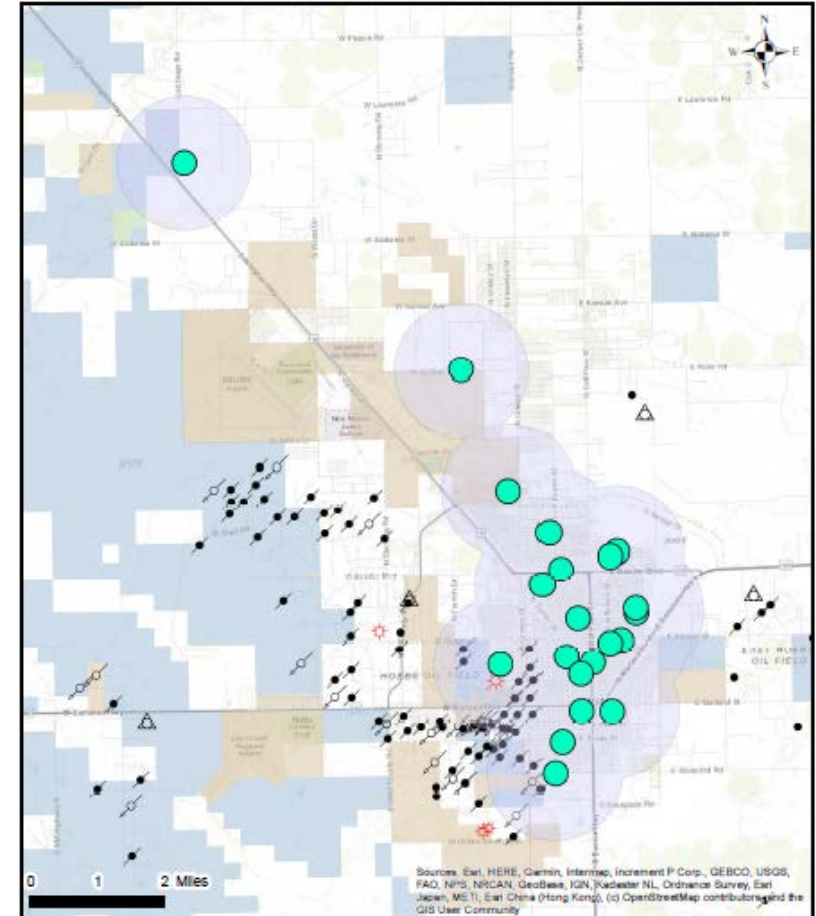
Hobbs Schools with 1 Mile Buffer and Active Wells
All Schools



Hobbs Schools with 1 Mile Buffer and Plugged Wells
All Schools

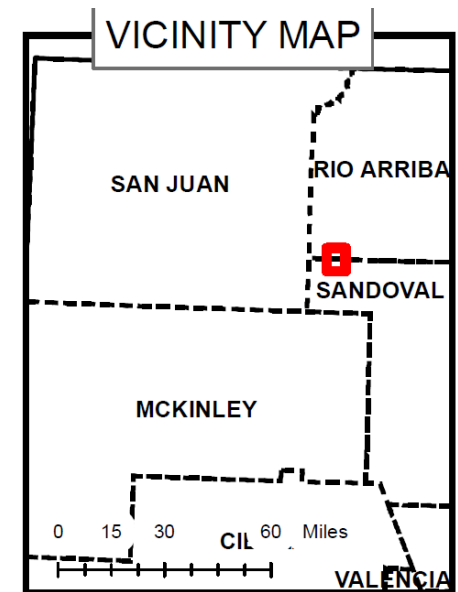
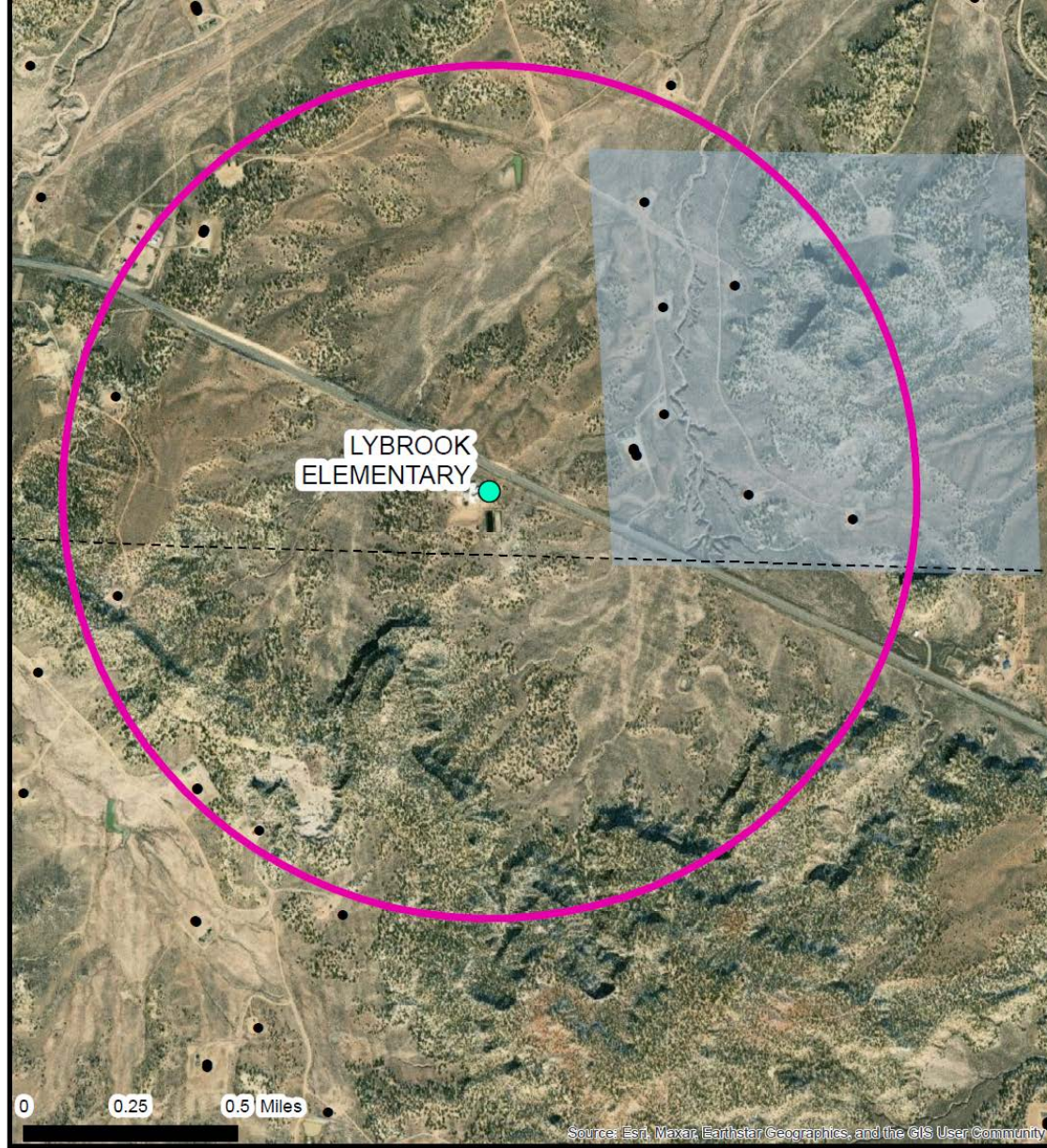


Hobbs Schools with 1 Mile Buffer and Inactive, Temporary Abandonment, Expired Temporary Abandonment Wells







Jefferson Elementary School





Legend

-  1 Mile Buffer
-  Schools
-  Surface and Subsurface Estate
-  Oil, Active

LFC Study – Presented Tuesday, October 22, 2024

Setbacks Evaluated

For the purpose of this analysis, the setbacks analyzed were:

- 2,250 ft setbacks for new production infrastructure for most residential, educational, health or correctional institutions;
- 650 feet from regular or intermittent streams, lakes, ponds, wetlands, or irrigation infrastructure;
- and 300 feet from all other surface water.
- Other additional changes were proposed but separate from setbacks and are not estimated within this analysis.



LFC Study – Presented Tuesday, October 22, 2024

Fiscal Costs of Health Incidence

- National study¹ identified \$626.4 million - \$1.5 billion in annual health quality costs in New Mexico due to all oil and gas production, even outside of producing regions.
 - Only a portion mitigated by setbacks as Texas production, wind direction, traffic pollution, distant populations, and other variables are important determinants of impact.
 - Study includes the statistical value of a life and other costs of health impacts - direct fiscal costs to the state are less.
- Health data and significant study is needed from the Department of Health to accurately quantify state costs associated with proximity.



Follow-up Questions from LFC Study:

Cost:

- What would costs/lost revenue be for 1000 foot and 500 foot setbacks?
- With 3- and 4-mile long laterals, how much land is truly out of reach?
- How do costs change if we only have setbacks to structures and not from water?

Public Health:

- How many people live inside setbacks?
- How many more cancer cases and adverse health effects do these people experience?

O&G RISKS TO HUMAN HEALTH

- The risk to human health from oil and gas development is significant. And it's well-established in the scientific literature.
- Oil and gas operations are routinely linked to negative health impacts including asthma and other respiratory afflictions,¹ cardiac disease,² cancer,³ and pregnancy complications.⁴
- Health impacts on children are especially conspicuous. For instance, a study by the University of Pittsburgh for the Pennsylvania Department of Health found that **children living within a mile of a gas well are five to seven times more likely to develop lymphoma than children living far away from a gas well. This is unacceptable. Children's health is not negotiable.**
- Further, children diagnosed with four types of cancer (lymphoma, leukemia, brain tumors, and bone tumors) were four times more likely to live within a half-mile of a gas well.⁵
- Women living near oil and gas wells (within **THREE** miles of a large number of oil and gas wells) had an increased likelihood of premature birth, compared with women who did not live near oil and gas wells.⁶
- These are **PROFOUND** impacts on human health.

CITATIONS

¹ See Buonocore, Reka, Yang et al., *Air Pollution and Health Impacts of Oil & Gas Production in the United States*, ENVIRONMENTAL RESEARCH: HEALTH, 1 021006 (2023).

² See Concerned Health Professionals of New York- Physicians for Social Responsibility, *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking and Associated Oil and Gas Infrastructure* (8th ed. 2022), available at <https://psr.org/wp-content/uploads/2022/04/compendium-8.pdf>

³ See University of Pittsburgh/Pennsylvania Department of Health, *Final Report for Pennsylvania Department of Health, Bureau of Epidemiology Hydraulic Fracturing Epidemiology Research Studies: Childhood Cancer Case-Control Study*, August 3, 2023, available at https://paenv.pitt.edu/assets/Report_Cancer_outcomes_2023_August.pdf

⁴ See Cushing, Vayra-Musser, Khang Chau et al., *Flaring from Unconventional Oil and Gas Development and Birth Outcomes in the Eagle Ford Shale in South Texas*, 128 ENVIRONMENTAL HEALTH PERSPECTIVES 7 (2020).

⁵ University of Pittsburgh/Pennsylvania Department of Health, *Final Report for Pennsylvania Department of Health, Bureau of Epidemiology Hydraulic Fracturing Epidemiology Research Studies: Childhood Cancer Case-Control Study*, August 3, 2023, available at https://paenv.pitt.edu/assets/Report_Cancer_outcomes_2023_August.pdf

⁶ Cushing, Vayra-Musser, Khang Chau et al., *Flaring from Unconventional Oil and Gas Development and Birth Outcomes in the Eagle Ford Shale in South Texas*, 128 ENVIRONMENTAL HEALTH PERSPECTIVES 7 (2020).



Questions?

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