

PROGRAM DESCRIPTION
Exhibit 13

During the process of EPA review of the Division's submittal of New Mexico's Draft UIC Primary Application, questions were raised relative to the reference to the State Engineer, his designation of fresh water supplies to be protected, and what constitutes reasonable protection thereof. These questions all relate to Section 70-2-12 B.15 NMSA 1978 Compilation referenced in the Statement of Legal Authority.

It is believed that the following brief historical review will resolve these questions.

HISTORY

In the distant past the Oil Conservation Division's duties were limited primarily to the prevention of waste of oil and gas and the protection of correlative rights. Responsibility for protection of the State's surface and subsurface waters was assigned to the State Engineer (now the Water Resources Division of The Natural Resources Department). For many years the Division and the State Engineer cooperated and coordinated their separate programs to achieve the goal of water protection. During the 1960s the Legislature assigned the responsibility for water protection related to oil and gas operations clearly to the OCD while recognizing the historic expertise of the State Engineer by providing for his direction in establishing parameters for waters to be protected. An April 13, 1967, letter, copy attached, shows that 10,000 parts per million TDS was picked as the figure for underground waters to be protected. This figure is consistent with that contained in the Administrator's regulations and the regulations of the New Mexico Water Quality Control Commission which succeeded the State Engineer in the setting of water standards.

Historically the term "reasonable protection" and the non-designation of waters where "there is no present or reasonably foreseeable beneficial use" have set a standard for the OCD higher than that required by the Administrator in protecting USDWs. This occurs because the designation is not limited to current or prospective public water supplies but includes waters suitable for domestic use, stock watering, and irrigation. The Division has historically used considerations equivalent to those spelled out in the Administrator's aquifer exemption rules in making determinations relative to protection of New Mexico's water resources.



STATE OF NEW MEXICO

STATE ENGINEER OFFICE

SANTA FE

S. E. REYNOLDS
STATE ENGINEER

April 13, 1967

ADDRESS CORRESPONDENCE TO:
STATE CAPITOL
SANTA FE, NEW MEXICO 87501

Mr. A. L. Porter, Jr.
Secretary-Director
Oil Conservation Commission
Santa Fe, New Mexico

Dear Mr. Porter:

All underground water in the State of New Mexico containing 10,000 parts per million or less of dissolved solids is hereby designated by the State Engineer pursuant to Section 65-3-11. (15) N.M.S.A., 1953 Compilation; except that this designation shall not include any water for which there is no present or reasonably foreseeable beneficial use that would be impaired by contamination. This designation supercedes all previous designations pertaining to underground water.

For your information I am attaching a memorandum dated April 10, 1967 and the map mentioned therein which shows the areas and formations in which water of 10,000 parts per million or less commonly occurs.

The surface water designation previously made remains unchanged.

FEI/ma
encl.

Yours truly,

S. E. Reynolds
State Engineer

By: *Frank E. Irby*
Frank E. Irby
Chief
Water Rights Div.