

OCC Hearing Exhibit 31

From: [Davidson, Florene, EMNRD](#)
To: [Salvidrez, Marlene, EMNRD](#)
Subject: FW: [EXT] Please include as part of "Produced Water" record
Date: Wednesday, July 29, 2020 2:43:03 PM

Case 21281

From: Rebecca Sobel <rsobel@wildearthguardians.org>
Sent: Wednesday, July 29, 2020 1:00 PM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Subject: [EXT] Please include as part of "Produced Water" record

The press release below is related to the letter previously submitted, but also includes written statements from the 42 coalition members related to the upcoming "produced water" hearing.

Thank you for your consideration.

Best,
Rebecca

For Immediate Release
July 29, 2020

NM Oil Conservation Division to Create Rules Allowing Toxic Fracking Waste to Further Threaten Public Health, Environment, and Fresh Water Resources

40+ Groups Send Letter Urging Course Correction to Protect New Mexicans, Neighboring States, and the Climate

Santa Fe, NM—A coalition of 42 tribal government representatives, groups, and businesses representing Indigenous and minority voices across New Mexico, Texas, Colorado and Arizona, sent a [letter](#) today calling on New Mexico's Oil Conservation Division to put peoples' health first and put the brakes on plans to adopt new rules governing the use of toxic oil and gas waste, known as "produced water."

Facing rising costs, [the oil and gas industry has lobbied state officials to roll-back environmental and health safeguards and make it easier to dump their waste](#). In 2019, the New Mexico Legislature passed the "Produced Water Act," which directed state agencies to consider adopting new regulations governing the use of oil and gas waste.

“In the midst of a global health pandemic and crashing oil prices, rather than slow or even stop production, industry continues to call on the Trump Administration and the Michelle Lujan Grisham Administration to simply reclassify their waste as “not toxic,” the letter states. “The industry’s strategy is to re-label their waste so they can more cheaply dispose of it, dumping it into rivers, onto crops, and into drinking water supplies.”

The letter comes as the New Mexico Oil Conservation Division plans to hold a virtual hearing on July 30 on [proposed rules that would make it easier for the oil and gas industry to transport and use its toxic waste while drilling and fracking](#).

The first of its kind, the Oil Conservation Division has offered a de-regulatory approach with the assumption that “produced water” is a benign byproduct of oil and gas production, blatantly ignoring reports across the country that have found this “water” is [actually a toxic cocktail of radioactive materials, heavy metals, proprietary fracking chemicals, and other contaminants](#) that are a clear threat to public health, the environment, and fresh water resources.

In fact, the Oil Conservation Division has a mandate to “regulate” the use of produced water within the oil and gas fields “in a manner that protects public health, the environment and fresh water sources,” yet the [proposed rules actually endorse the dumping and discharge of this waste outside of oil and gas producing regions](#).

The groups, representing over 2 million members across the Southwest, sent today’s urgent letter pleading with the Oil Conservation Division to course correct, focusing on developing and implementing meaningful rules for oil and gas waste management, instead of sacrificing the state’s clean water, air, and climate to safeguard industry from its toxic waste liabilities.

“Overall, these rules would set a dangerous precedent,” the letter states. “Rather than help New Mexico transition away from reliance on oil and gas, they would further entrench and enshrine the industry, jeopardizing the state’s public health and financial well-being, our environment, and our ability to meet climate objectives.”

Absent thorough and independent scientific analysis proving “produced water” is safe, groups are urging the Administration to halt any rulemaking related to “produced water.” If the Administration chooses to leap before looking, groups urge the Oil Conservation Division to promulgate rules that prohibit the use of fresh water for fracking; expressly forbid the discharge or dumping of “produced water;” and require that as “produced water” is transported or used, it is regulated as a toxic and hazardous waste that is inherently dangerous and handled and disposed of accordingly.

A copy of the letter is available here: https://pdf.wildearthguardians.org/support_docs/2020-7-29%20letter_OCD%20Produced%20Water.pdf

Additional Statements:

“Our communities are already facing enormous public and environmental health challenges --

we cannot bear another. The state of New Mexico needs to hold industry accountable for its waste - not attempt to offload it on our communities. We demand a just transition from the harmful and wasteful process of fracking to a sustainable and equitable economy - your "produced water" has no place in the future we demand."

- Miguel Acosta, Co-Director, **Earth Care**, info@earthcarenm.org, (505) 983-6896

"The health of New Mexican's cannot be risked so that the oil industry can offload the hazardous material they create. The commodification of fracking waste will serve to prolong the racist and intergenerational violence of fracking. We demand a just transition and a moratorium on fracking within the state of New Mexico. We demand justice."

- Artemisio Romero y Carver, Steering Committee, **YUCCA Action**, yucca@earthcarenm.org, (505) 629-1181

"Oil and Gas Toxic waste is not water. There are key issues regarding the regulation of oil and gas waste and our organization is opposed to more whitewashing of the danger of this waste."

- Mario Atencio, Executive Director, **Torreón Community Alliance**, torreon.community.alliance@gmail.com

"It is a serious concern that waters that have been contaminated and camouflaged as "produced" water could possibly be allowed to enact harm to Peoples and ecosystems. There is no safe use of fracking water once our beloved waters have endured violence from oil and gas industries, other than trying to heal them and restore them to purity within standards that are protective of Indigenous pregnant families, elderly and infants. Ultimately, fracking must be eventually banned to protect this precious resource. The harms to health and our environment must be considered over any convenience to corporations who are insidiously framing their environmental violence of toxic exposure on our food and land systems, as a rational solution to their waste disposal needs."

- Beata Tsosie and Kathy Sanchez, Environmental Health and Justice Program, **Tewa Women United**, beata@tewawomenunited.org, (505) 747-3259

"BMWC supports all requests for the New Mexico Oil Conservation Division (OCD) to suspend any and all rulemaking related to "produced water" in order to fulfill the mandate of protecting public health, the environment, and clean water. We believe that Produced Water is Poison Wwater and needs to cease. Fracking and 'pProduced wWater' leaves our homelands contaminated and lIndigenous people have asked for years for the oil and gas industries to stop violating Ttribal sovereignty, and get free prior and informed consent from all impacted communities with a complete moratorium/Environmental limpact Sstatement to be shared with communitiesy - Stop exploiting our native people."

- Hope Alvarado, Native Movement Builder, **Black Mesa Water Coalition**, Movementbuilding@blackmesawatercoalition.org, (505) 557-8598

“The oil and gas industry enjoys exemptions from the Clean Water Act and the Safe Drinking Water Act. These exemptions allow the industry to empty this toxic produced water underground (injection wells) and above ground (condensation ponds, crops, roads) endlessly contaminating our environment with millions of gallons of this water wherever there is fracking. Keep New Mexico CLEAN and SAFE for our citizens!”

- Theresa Carmody, Director, **Wagon Mound Development Association**, tcarmody51@yahoo.com, (505) 241-9898

““Free, Prior and Informed Consent”, a United Nation's’ Declaration on the Rights of Indigenous Peoples doctrine. Enabling the use of "Produced Water" to contaminate our Sacred land, air and Sacred Water without adequate and just consultation of the Humans lives it will contaminate is a violation of the the UN Declaration on the Rights of Indigenous Peoples, but also a violation of the Human Right to Clean, Air, Land and Water. No to contaminating Mother Earth!”

- Terry Sloan, Director, **Southwest Native Cultures**, tas@sloancompany.net, (505) 301-4122

“Asian American Association of New Mexico urges the Oil Conservation Division to course correct and focus on developing and implementing meaningful rules for oil and gas waste management, including water conservation and watershed resilience strategies to protect communities and meet our state’s climate goals. Please put the brakes on your proposal to amend your regulations and instead put New Mexico's clean water, health, and environment first. Thank you.”

- Robert Nelson, Co-President, **Asian American Association of New Mexico**, info@aaanm.us, (505) 750-3631

“Produced water is a a vast issue in oil and gas production that needs considerable analysis before deciding on management criteria.”

- Mike Eisenfeld, Energy and Climate Program Manager, **San Juan Citizens Alliance**, mike@sanjuancitizens.org, (505) 360-8994

“The majority of New Mexicans we talk to are only vaguely aware of what "produced water" even is, let alone the very problematic lack of transparency to what it really is even amongst people who are familiar with the process as part of the fracking industry. It is wholly irresponsible to do anything other than completely restrict this highly toxic and volatile substance to the use of drilling IF it's going to be allowed in this state at all.”

- Lucas Herndon, Deputy Director, **ProgressNow New Mexico**, Lucas@progressnownm.org, (575) 342-1505

"Look before you leap: evaluate science before OCD promulgates rules in the field. Given this administration's shameful history of regulation and enforcement it is irresponsible in the extreme to allow the use of fracked waste on our fields and for our crops."

- Mariel Nanasi, **New Energy Economy**, mariel@seedsbeneaththesnow.com, (505) 469-4060

"'Produced water' is a dangerous threat to human health and the environment with no place in New Mexico's lands and rivers. This is yet another attempt by the fossil fuel industry to foist its toxic waste and costs onto the public, and it should be roundly rejected. We urge the Oil Conservation Division to protect New Mexicans by properly regulating 'produced water' as the hazardous substance it is."

- Collin Rees, Senior Analyst, **Oil Change International**, collin@priceofoil.org, (308) 293-3159

"Water is Life. Those of us represented here in SW NM, where extractive industry has compromised our water for generations, stand in solidarity with our brothers and sisters on "fracked" land. No living thing can thrive when its water-source is polluted and reduced. The industry should be denied the ability to re-label their dangerous water so that they can jeopardize the health of all living things in our region."

- Debraura James, **SEED (Securing Economic and Energy Democracy for SW NM)**, (505) 440-8308

"New Mexico's water and climate future simply can't afford endless oil and gas fracking. It's time to start managing the decline of oil and gas production while planning a just transition for New Mexico's communities."

- Taylor McKinnon, Senior Public Lands Campaigner, **Center for Biological Diversity**, tmckinnon@biologicaldiversity.org, (801) 300-2414

"There are no ways to manage, treat, or regulate fracking wastewater. These dangerous, chemical-laden concoctions are linked to a wide range of health and safety problems. The only way to stop these radioactive and chemical-laden wastes from threatening our communities and our clean water is by banning drilling and fracking everywhere."

- Margaret Wadsworth, Senior Organizer, **Food and Water Action**, mwadsworth@fwwatch.org, (505) 750-2980

"Produced water was rushed through the legislature with almost no debate, late in the session. Retake Our Democracy wrote about this issue in our blog:

<https://retakeourdemocracy.org/2020/07/21/produced-water-is-barreling-our-way-unchecked-trump-wants-to-cut-funds-for-testing/>"

- Paul Gibson, **Retake Our Democracy**

"As coordinator of two Climate Crisis Film Festivals in 2019 and planning coordinator for another Climate Crisis Film Festival in 2020, I strongly oppose the proposed changes to OCD's regulations for the handling and disposal of fracking fluids. This "produced water" is TOXIC! We cannot permit the oil and /gas industry to dispose of "produced water" by dumping it into rivers, onto crops, and into drinking water supplies. The oil and /gas industry must retain this "produced water" in its oil fields until it is regulated as a toxic and hazardous waste that is inherently dangerous and regulations exist to handle and dispose of these fracking fluids accordingly."

- Dr. Susan Selbin, Owner **Roadrunner LLC**, sselbin@hotmail.com, (505) 242-6058

"I am against any new or amended produced water regulation that would allow the Oil & Gas industry to use, transport or dump toxic, highly-chemicalized polluted water into our waters, on our crops or to further expose the people of New Mexico to dangerous health consequences of exposure to radioactive, carcinogenic, waste material."

- Joyce Bogosian, Eco-sustainable Development Consultant, **JB Consulting**, joycebogosian@gmail.com

"We have been identifying and exposing problems with produced water from hydraulic fracking for oil and gas, uranium, geothermal, and even drinking water, compounded by the misinformation and lies about the safety of these activities, since moving to Canjilon more than eight years ago. 239-Plutonium (from epithermal neutron well-logging of 238-Uranium) and 210-Polonium (from epithermal neutron well-logging of radioactive 209-Bismuth) remain radioactive and carcinogenic 10 half-lives or 241,100 and 3.79 years, respectively, but 210-Polonium is 250,000 times more toxic than either deadly hydrogen cyanide or deadly hydrogen sulfide. 238-Uranium in targeted fossil fuel deposits (if not made more carcinogenic, toxic and deadly by epithermal neutron well-logging) is radioactive for 45 billion years (10 half-lives), and consequently constantly produces radioactive 226-Radium, 222-Radon, and 210-Polonium as the 238-Uranium decays, producing a host of other radioactive, toxic, and carcinogenic decay products in the process. Fracking chemicals only add to this toxic and carcinogenic deadly soup, and we now know what is poisoned, and how in so doing this poisons our humoral immunity that fights everything from cancer to the current coronavirus pandemic. These produced water wastes cannot be simply and criminally dumped into our

environment without extensive and safe processing to remove virtually all of these toxic, carcinogenic, and radioactive substances, if this even possible.”

- Galen Knight, President, **Vitale Therapeutics, Inc.**, galenvtp@highfiber.com, (575) 684-0148

“We consider the current proposed rules regarding the use and transport of “produced water” woefully inadequate. Until such time as NM OCD can provide regulations and protocols ensuring the protection of the public health of our communities, the environment and our fresh water sources, NastyWomenNM joins in urging NM OCD to pause any plan to adopt current proposals.”

- Wendy Parker-Wood, Steering Committee Member, **NastyWomenNM**, nastywomennm@gmail.com, (505) 980-8283

“We are an active grassroots organization with strong community support throughout the Chama Watershed and with similar supporters from Albuquerque, Santa Fe and Chama areas. Water contamination potential is a huge issue for us. The reuse of fracking produced water cannot be passed without requirements for testing, specified contaminant concentration limits and strong enforcement measures and budget. The Oil and Gas Commission has repeatedly shown they will not act against oil interests and appear to be completely legislatively opposed to public health protection. This whole proposal is deceptive and dangerous. RACC strongly opposes the current proposal.”

- Peggy Baker, Founder, **Rio Arriba Concerned Citizens**, leigh633@earthlink.com, (925) 890-2535

“New Mexico is still reeling from a budget shortfall caused by plummeting oil and gas revenue and it doesn't take a crystal ball to see how our state is already on track to bear the brunt of the costs of oilfield remediation and abandoned wells after the industry goes bankrupt. Methane (a climate "super-pollutant") emissions in the Permian are the highest in the world. Any oil and gas deregulation right now is, at best, irresponsible, and, at worst....criminal.”

- Mark LeClaire, Organizer, **We Are One River**, mescladero@hotmail.com

“Fracking wastewater has contaminated the streams, environments, and bodies of the people of Pennsylvania where it is happening. You cannot make it safe. Science and experience document the devastating impacts of this hazardous waste product from the fracking industry -- this regulatory process fails to consider the science and the facts.”

- Maya van Rossum, the Delaware Riverkeeper, **Delaware Riverkeeper Network**, keepermaya@delawareriverkeeper.org, (267) 274-2674

“Clean water is a human right! Protect All Water. It is not a cheap dumping ground for Oil & Gas.”

- Purly Rae Gates, **Clean Energy Now Texas**, purly@cleanenergynowtexas.org

“Allowing "produced" water to be flushed into surface water bodies including ephemerals at this point in time of the history of our planet will paint current NM politicians, including the Governor, as fools. Mining of oil and gas needs to be phased out not enabling the industry to continue poisoning our Earth.”

- Richard Mark Glover, **Big Bend Defense Coalition**, (432) 294-2977

“There are ethical issues with taking ‘produced water’ which you wouldn't drink yourself, calling it "non-toxic" and dumping it into rivers that are the water sources for cities and towns, particularly if there are radioactive or other substances in the wastewater which are not within the water purification system capabilities of the affected cities and towns. If the ‘produced water’ were distilled and the distillate is not potable water, then the idea must be abandoned because it is an egregious violation of the Golden Rule, “do not do unto others what you would not want others to do unto you.””

- Bill Berg, Associate Director, **Save RGV**, billberg42@gmail.com, (956) 371-8205

“This issue is important to Colorado. As the headwaters state we take great pride and responsibility in protecting clean water, as we also must contend with an enormous amount of oil and gas waste. We support our neighbors to the south in their fight to stop this toxic waste from further harming communities and people.”

- Ean Tafoya, Co-Chair, **Colorado Latino Forum**, eantafoya@greenlatinos.org, (720) 621-8985

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