



STATE OF NEW MEXICO
HOUSE OF
REPRESENTATIVES
SANTA FE

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Public School Capital Outlay Oversight Task Force

July 30, 2020

Oil Conservation Commission Clerk Florene Davidson
3rd Floor, Wendell Chino Building
220 South St. Francis Drive
Santa Fe, New Mexico 87505
florene.davidson@state.nm.us
via electronic mail

RE: Case No. 21281: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND THE COMMISSION'S RULES FOR PRODUCED WATER IN 19.15.2, 19.15.16, AND 19.15.34 NMAC; STATEWIDE

Dear Commission Clerk Davidson:

Below, please find my comments on the proposed amendments to the Oil Conservation Commission's Rules for Produced Water.

As a sponsor of 2019 House Bill 546, I care deeply about the implementation of this legislation. HB 546 was developed to reduce oil and gas drilling operations' use of billions of gallons of freshwater by providing a structure of regulation and accountability for both fresh and reused produced water, to regulate the use of produced water, to promote transparency, and to ensure that public health and safety are paramount interests to be protected by any regulations and rules adopted pursuant to the Act.

I urge you to take care in the crafting of these regulations to ensure that none of the rules and regulations adopted pursuant to House Bill 546 inadvertently allow or purport to permit any use, application, or discharge of produced water outside of oil and gas operations. The people of New Mexico will be best served by the adoption of stringent regulations of produced water that put public health and safety first and clearly state that any use of produced water outside of oil and gas operations is prohibited.

HB 546 amended the Oil and Gas Act to establish the Oil Conservation Division's (OCD) authority over the use of produced water only within oil and gas operations. Before the passage of this legislation, OCD had statutory authority over the disposition and use of produced water in road construction and maintenance, electricity generation and industrial processes. This Act clearly removed that authority from OCD and established instead that the Water Quality Control Commission and the New Mexico Environment Department shall regulate all aspects of any off-oilfield use of produced water.

The legislation thereby clearly established that the use of produced water outside of the oilfield shall be the responsibility of those public bodies charged with the protection of New Mexico's water quality and environmental

security. The Water Quality Control Commission is also instructed specifically by statute to employ sound, credible scientific data and to protect public health and welfare.

I also urge that the OCD, when reviewing the types of water used by operators, conduct a full assessment of the risks of leaks and spills posed by reusing produced water for in-oilfield operations, and that the agency take steps as necessary to protect the public and the environment from any such hazards.

Currently, several universities are conducting research into the reuse of produced water and whether uses of produced water present health and safety risks to the public and our natural resources. The New Mexico Environment Department and the Water Quality Control Commission will be the agencies best equipped to evaluate any such research when it is complete. At this time, I am unaware of any safe, fully-researched application for produced water outside of oil and gas operations.

Respectfully submitted,

A handwritten signature in black ink that reads "Brian Egolf". The signature is written in a cursive style with a large, stylized "E" at the end.

Brian Egolf