



WATER IS LIFE.
It's Our Duty to Protect It.

July 15, 2020

New Mexico Oil Conservation Commission
Att'n: Florene Davidson, Commission Clerk
3rd Floor, Wendell Chino Building
1220 South St. Francis Drive, Santa Fe, NM 87505

VIA EMAIL TO florene.davidson@state.nm.us

Re: Amigos Bravos comments to "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"

Members of the Commission:

Amigos Bravos is a non-profit organization based in Taos whose 32-year mission is to "protect and restore the waters of New Mexico." As such, we have been following with keen interest the issue of the use and disposition of produced water in New Mexico, particularly since the passage of HB 546 in the 2019 New Mexico legislature that provides authority and direction to both the Energy, Minerals and Natural Resources Department (EMNRD) and the Environment Department (NMED) to regulate such use.

Amigos Bravos has significant concerns about any eventual use of produced water outside of the industry, and we will be fully engaged in any such deliberations and rulemaking. That being said, we recognize this initial rulemaking by the Oil Conservation Commission relates to use and re-use of produced waters within the industry. Accordingly, these comments reflect our concern regarding public health and environmental protection for such uses and for this particular rulemaking.

- We are concerned that the statutory authority of protection of public health and the environment for any use of produced water is reduced to an aspirational "objective" in 19.15.34.6 of this rulemaking, rather than an absolute requirement as specified in HB546.
- With regard to definition of "potable water" and "non-potable water" in proposed 19.15.16.21A&B, we urge the commission to strike these definitions and simply specify an objective threshold standard of "water containing more than 1,000 mg/L of total dissolved solids. "Potable" implies a fitness for human consumption, there are many examples of waters containing less than 1,000 mg/L still not being "potable" due to the presence of other contaminants.

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- We view the data and information OCD is working with in both the development of this rulemaking and for day to day regulatory activity to be wholly inadequate. We urge OCC to specify improved data collection; furthermore, such data should be compiled in such a way and summarized in such a format that it is easily accessible to the public.
- The language in 19.15.34.8 (7) for “any discharge, handling, transport, storage, recycling or treatment of treated produced water, including disposition in road construction maintenance, roadway ice or dust control or other construction, or in the application of treated produced water to land, for activities unrelated to the exploration, drilling, production, treatment or refinement of oil or gas is subject to rules adopted by the Water Quality Control Commission.” As noted above, Amigos Bravos contends that any contemplated use of produced water outside of oilfield operations is premature, uneconomical, and unsafe for human health and the environment both now and for the foreseeable future.

Thank you for your consideration of these comments.

For the Rio,



Joe Zupan
Executive Director