

NEW MEXICO STATE LAND OFFICE



Policy on Protection of the Ogallala Aquifer
Aubrey Dunn,
State Land Commissioner

State Land Office

The State Land Commissioner has a fiduciary responsibility to oversee the Trust and optimize revenue earned from State Trust Lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect, and maintain the highest level of management of these lands from both the income and conservation standpoint so that they may be a legacy for generations to come.



The State Land Office manages 9 million acres of surface estate and 13 million mineral acres held in trust for public schools, universities, hospitals, correctional facilities, water projects and public buildings.

State Land Office Oil, Gas & Minerals Division

Breakdown of Water Easements in the Ogallala Aquifer 2016

	# of Leases	ac/ft/an	BBLs	Gallons	\$ Royalty 2016	\$ Rental 2016
Agriculture	8	2,360.89	18,316,651.07	769,299,344.94	\$-	\$13,800.00
Industrial	16	12,359.00	95,885,209.28	4,027,178,790.00	\$-	\$32,300.00
Mining	5	10,755.00	83,441,131.07	3,504,527,505.00	\$-	\$15,000.00
Mixed	9	18,705.00	145,120,070.35	6,095,042,955.00	\$96,821.11	\$75,356.77
Municipal	4	20,252.00	157,122,248.85	6,599,134,452.00	\$-	\$49,593.15
O&G	40	28,601.46	261,908,221.03	11,000,145,283.38	\$35,620.46	\$94,390.00
Remediation/ Recovery	12	-	-	-	\$-	\$51,000.00
Totals	94	93,033.35	761,793,531.65	31,995,328,330.20	\$132,441.57	\$331,439.92





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**NEW MEXICO
 STATE LAND OFFICE
 WATER EASEMENT LOCATIONS**

Legend

- Cities and Towns
- ◉ County Seats
- ★ Water Easement Locations
- ▭ County Boundaries
- ▭ Interstate
- ▭ US Highway
- ▭ NM Highway
- ▭ Railroads
- ▭ High Plains/Ogallala Aquifer Boundary

State Trust Lands

- ▭ Subsurface Estate
- ▭ Surface Estate
- ▭ Both Estates

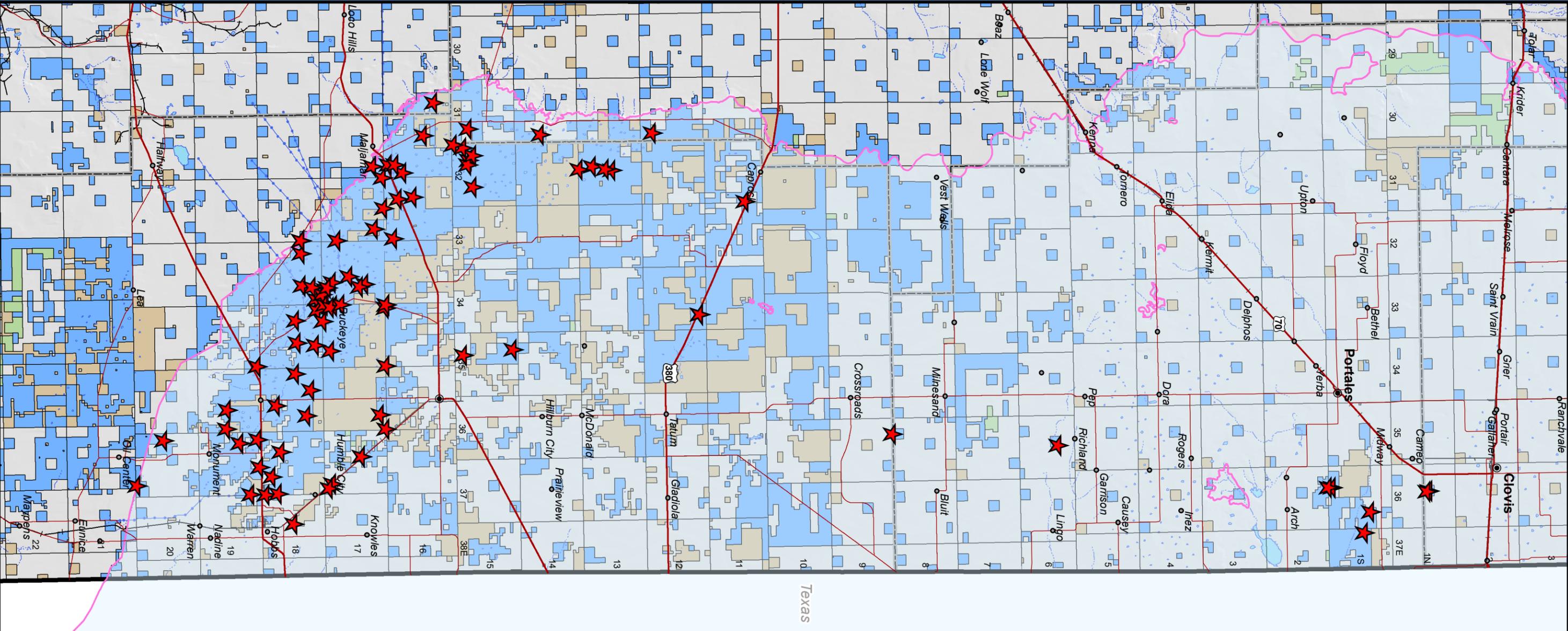
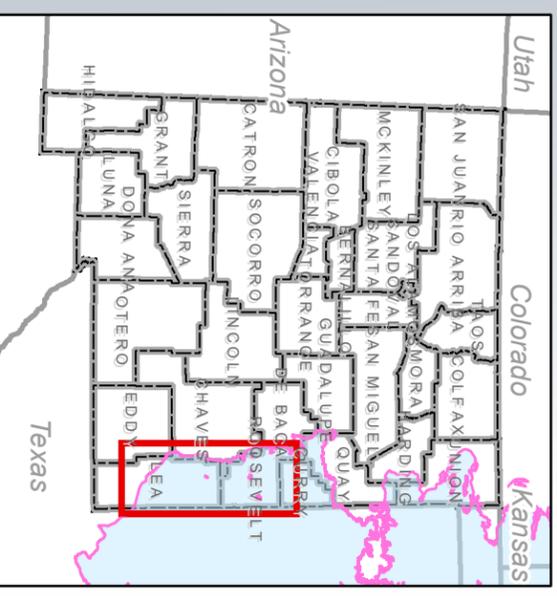
Drainage (NHD)

- ▭ Canal/Ditch
- ▭ Aqueduct
- ▭ Siphon
- ▭ Intermittent Stream
- ▭ Perennial Stream

Water Bodies (NHD)

- ▭ Lake, river, or reservoir
- ▭ Marsh or swamp
- ▭ Wash
- ▭ Playa

Locator Map



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PROTECTION OF DOMESTIC QUALITY AQUIFERS UNDER STATE TRUST LANDS

ORGANIZATION AND ADMINISTRATION

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Policy Title	Protection of Domestic Quality Aquifers Under State Trust Lands
Policy Number	ADM-01-10
Revision Date	1/25/2017
Policy Replacement Number	N/A
Purpose	To establish guidelines for granting of new, amended, and renewal water easements and water exploration permits on state trust lands.
Statute Reference	NM Const. Art. XIII; §§19-1-1 et seq NMSA 1978.
Appendices Form(s) Link	N/A

PURPOSE

For purposes of issuing easements for drilling and operating water wells on State Trust Lands, the Commissioner has determined that use of domestic quality water from aquifers under State Trust Land for non-domestic purposes, including but not limited to commercial, industrial or resource extraction activities that substantially degrade the quality of the water is not generally in the best interests of the trust, when poorer quality water from a deeper or shallower aquifer is reasonably available. Such uses will reduce the availability of domestic quality water from a finite and declining resource, and will potentially limit the highest and best use of State Trust Land, which is not in the public interest nor to the benefit of State Land Office (SLO) beneficiaries.

AUTHORITY

NM Const. Art. XIII; §§19-1-1 et seq NMSA 1978; 19.2.12 NMAC.

DEFINITIONS

Domestic quality water means water that is 10,000 mg/l or less Total Dissolved Solids, and which is regulated and protected by the New Mexico Water Quality Act, §§74-6-1 et seq. NMSA 1978, and Water Quality Control Commission Regulations (see 20.6.2.3101.A NMAC).

OGMD means the Oil, Gas, and Minerals Division of the New Mexico State Land Office.

OSE means the New Mexico Office of the State Engineer.

POD means point of diversion.

APPLICABILITY

All water easements reviewed and processed by SLO after the date of this policy.

POLICY CONTENT AND GUIDELINES

A. All applicants for new or renewal of water easements, rights-of-entry¹ and permits shall provide a required description of the intended use and source of any water discovered or to be used. This means that the applicant shall provide the following information:

- a. any intended commercial; industrial; mining; exploration for, or production/extraction of a resource; agricultural or domestic uses;
- b. the expected location of use, distinguishing State Trust Land from federal, tribal and fee lands;
- c. whether any water produced will be sold and if so, the intended purchasers, uses and projected revenue stream;
- d. whether the water produced will be used for a commercial product or resource to be extracted, produced or sold, and whether any royalty on the product or resource will be paid to the State Land Office;

¹ Only Rights-of-Entry for water exploration are covered in this policy.

- e. how much water is anticipated to be needed or how much will be requested/applied for at the OSE;
- f. in what basin any PODs are anticipated to be placed;
- g. if water will be supplied by an existing water right, what are the original source, POD, name of water right holder or applicant, quantity, location of use (and whether on STL or not), type of use, aquifer depth and quality, OSE water rights number, and OSE file number and data history;
- h. if a new water right will be needed, what the anticipated aquifer depth and quality, and name of producing formation are.

B. Where water will be used for commercial, industrial or resource extraction activities and other uses that substantially degrade the quality of the water, OGMD will require the applicant to explore the feasibility of using poorer quality water from a deeper or shallower aquifer, and to provide this information for the Commissioner's determination about approving or rejecting the application. When feasible, the Commissioner will require use of poorer quality water in order to protect domestic quality aquifers, such as the Ogallala, and may reject applications in order to protect domestic quality aquifers and the highest and best use of State Trust Land.

C. Anyone wanting to convert from domestic or agricultural use on State Trust Land agricultural leases to commercial, industrial or resource extraction activities or any other use that might substantially degrade the quality of the water, or to move the place of use off State Trust Land, must apply to OGMD for permission and provide the information requested above.

SUMMARY OF POLICIES AND PROCEDURES

OGMD has revised the application for water easement and exploration permit, water agreement and water easement documents to reflect this policy. OGMD will review water easement and permit applications, and will prepare a presentation to the Commissioner regarding proposed uses of the water and its effects on water quality, per the guidelines in this policy, to all the Commissioner to determine whether granting the water easement or permit is in the best interest of the trust.

APPROVED:


Aubrey Dunn
Commissioner of Public Lands


Date



State Land Office



State Land Commissioner Seeks to Protect Ogallala Aquifer from Depletion

SANTA FE, NM – In an effort to protect one of the country’s largest and most important sources of drinking water, State Land Commissioner Aubrey Dunn is taking action to curtail usage of fresh water from the Ogallala aquifer.

Effective July 1, 2017, the State Land Office, without first reviewing hydrologic information, will not approve new, or renew, land access to drill water wells on State Trust Lands that involve the use of fresh water from the Ogallala aquifer for oil and gas production and related activities.

The announcement follows Commissioner Dunn’s adoption of a policy in January of this year seeking to protect fresh water under State Trust Lands.

In June of 2016, Commissioner Dunn was sued on account of his efforts to require existing easement holders to drill their wells into deeper, non-potable sources where the water is to be sold for use in oil and gas production. An easement holder represented by attorney and Speaker of the House Brian Egolf sought and obtained a preliminary court injunction preventing the commissioner from imposing such a condition after the easement had been issued. That matter is still pending.

Under the new policy, individuals are not prohibited from applying for an easement that might involve the use of fresh water for oil and gas production, although additional documentation and hydrologic information are now required with all applications. After careful examination, Commissioner Dunn will determine whether granting land access for a water well is in the best interests of the State Land Office and whether an easement should require the grantee to draw water from deeper, non-potable sources. Currently, there are more than 100 State Land Office-issued well site easements, many dating back to the 1980s, authorizing the easement holder to drill water wells on State Trust Lands in locations where water is being drawn from the Ogallala aquifer.

“We are in crisis mode,” said Commissioner Dunn. “The rapid rate of depletion of the Ogallala aquifer and lack of alternative sources of fresh water is not only threatening drinking water within the Great Plains, but it is also devaluing State Trust Lands and negatively impacting Trust beneficiaries. Conversely, non-fresh water sources are available that can be used in oil and gas production.”

The Ogallala aquifer is a shallow water table aquifer located beneath the Great Plains with portions in eight states, including eastern New Mexico, and provides nearly all the fresh water for residential, industrial, and agricultural use.

The aquifer is being both depleted and polluted and little of it is replaced by recharge from rainwater and snowmelt from the Rocky Mountains. At the current rate of water use, the aquifer could be depleted in only a few decades. Some sources say, once pumped dry, the aquifer could take over 6,000 years to replenish naturally through rainfall.

As an alternative, Commissioner Dunn is suggesting industry drill into the Capitan Reef water aquifer for access to non-potable water. Due to its composition, that aquifer provides water that is highly mineralized, contains large quantities of saline, and is more suitable for oil and gas production.



Thank You!

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