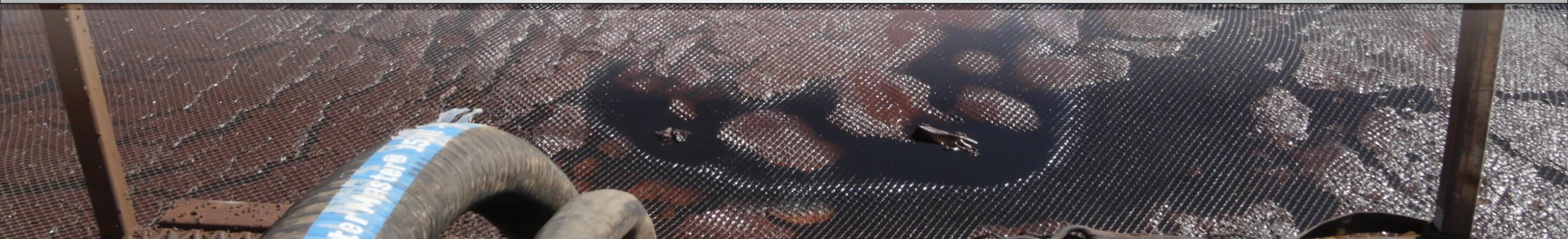




# PFAS in oil + gas

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Rulemaking to inform & protect our water & communities



# Citizens Caring for the Future

Citizens Caring for the Future (CCFF) is a small grassroots environmental advocacy group that was started in 2019. We bring together Southeastern New Mexico community members who support protecting our air, water and public health during the current oil and gas boom in the Permian.

We have been part of the statewide coalition supporting WildEarth Guardians' PFAS rulemaking, which includes the Permian Basin Climate Justice Coalition & the Greater Chaco Coalition. So far, over 40 organizations and more than 4,000 individuals have signed on to support the rulemaking I'm sharing with you today. This rulemaking aims to ban the use of PFAS in the oil and gas industry and require full disclosure of all chemicals.

# WHAT WE KNOW

- Between 2013 and 2022, oil and gas companies injected at least 261 New Mexico wells with 9,000 pounds of PFAS for use in fracking. Over the same period, oil and gas firms injected more than 8,200 wells with 243 million pounds of “trade secret” fracking chemicals that could be PFAS or other dangerous substances.
- New Mexico law allows oil and gas companies to use trade secret designations to withhold fracking chemical identities from the public and regulators.
- Under state law, oil and gas companies are not required to disclose any of the chemicals they inject into oil and gas wells during the drilling that precedes fracking or during other “downhole” operations aside from fracking.

## FRACKING WITH “FOREVER CHEMICALS” IN NEW MEXICO

Evidence Shows Oil  
and Gas Companies  
Have Used PFAS in New  
Mexico Wells; Water  
Risks Especially High  
for Groundwater-  
Dependent State

By Dusty Howitt, J.D.  
and Barbara Gottlieb

Data Analysis by Gary Allison

April 12, 2023



# POTENTIAL HEALTH EFFECTS OF PFAS EXPOSURE

## HEALTH IMPACTS OF PFAS CHEMICALS

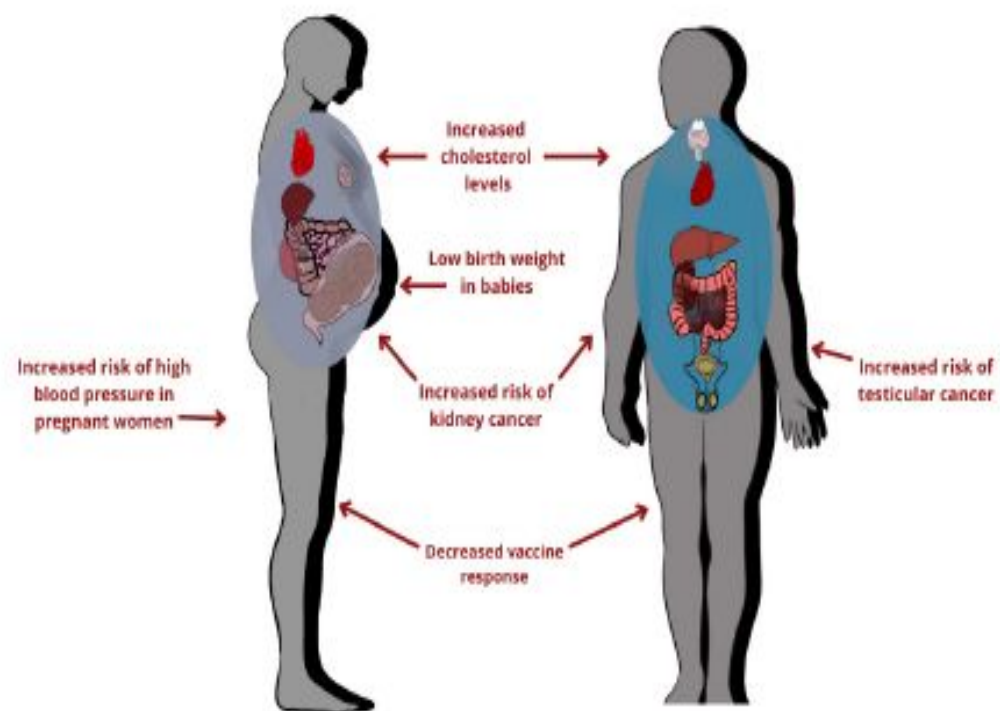
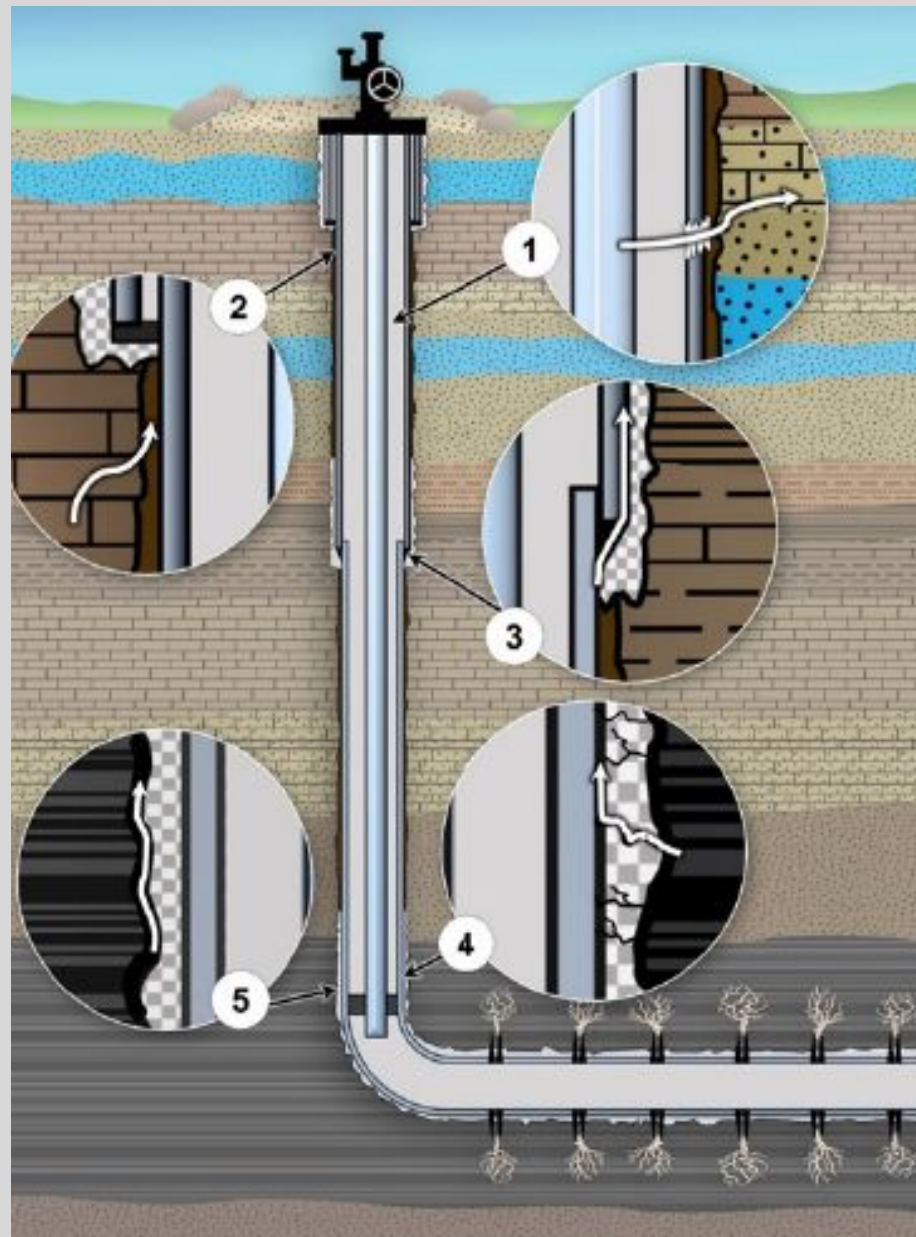


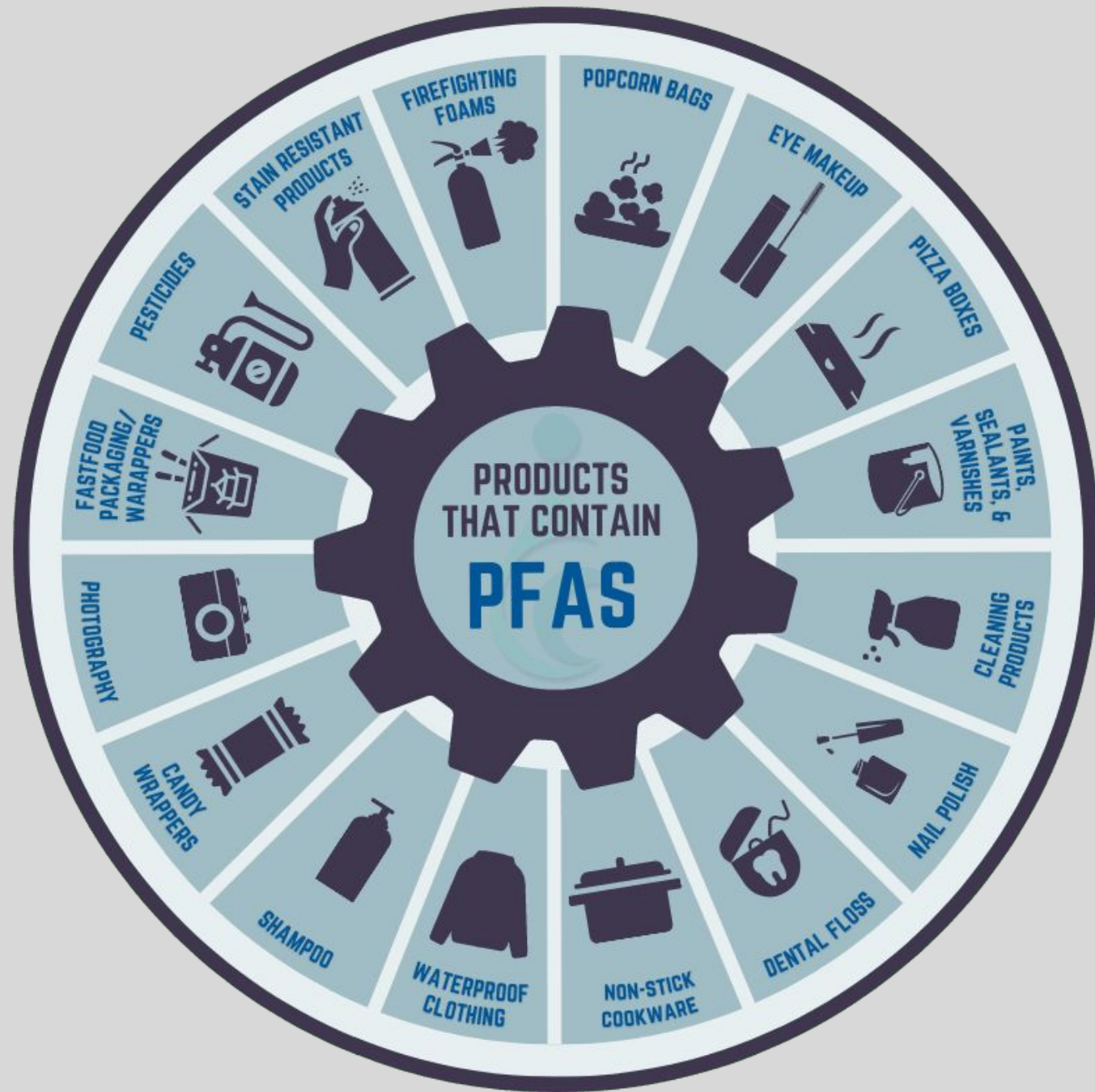


Photo credit: Elephant Butte, George Steinmetz for TIME



**Figure ES-6. Potential pathways for fluid movement in a cemented well.** These pathways (represented by the white arrows) include: (1) a casing and tubing leak into the surrounding rock, (2) an uncemented annulus (i.e., the space behind the casing), (3) microannuli between the casing and cement, (4) gaps in cement due to poor cement quality, and (5) microannuli between the cement and the surrounding rock. This figure is intended to provide a conceptual illustration of pathways that can be present in a well and is not to scale.

**Knowledge  
= Power  
That Informs  
Our Choices**



# Knowledge Gaps

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1. Trade Secrets
2. Hazardous Waste Exemptions
3. Radioactive Waste Loopholes



Oil and gas wastewater is dumped from a truck into one of a series of unlined pits at the R360 waste disposal facility outside Hobbs, New Mexico, 2019. Photo credit: Melissa A. Troutman.

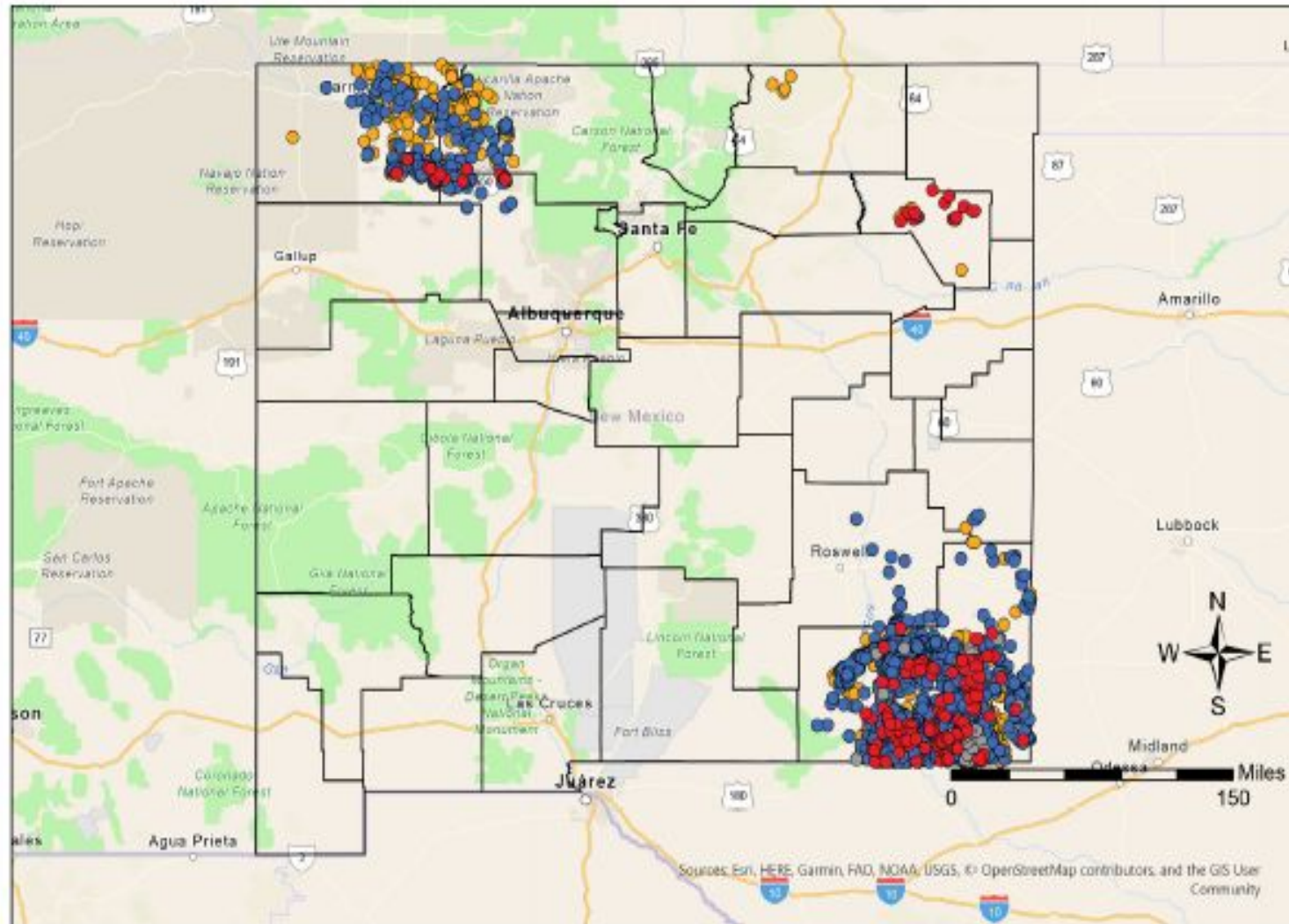


## NM's Hazardous Waste Exemption for Oil & Gas

Thanks to Gov. Lujan-Grisham's June 2021 petition to the U.S. Environmental Protection Agency (EPA), PFAS are now being considered for listing as hazardous substances under the Resource Conservation and Recovery Act (RCRA).

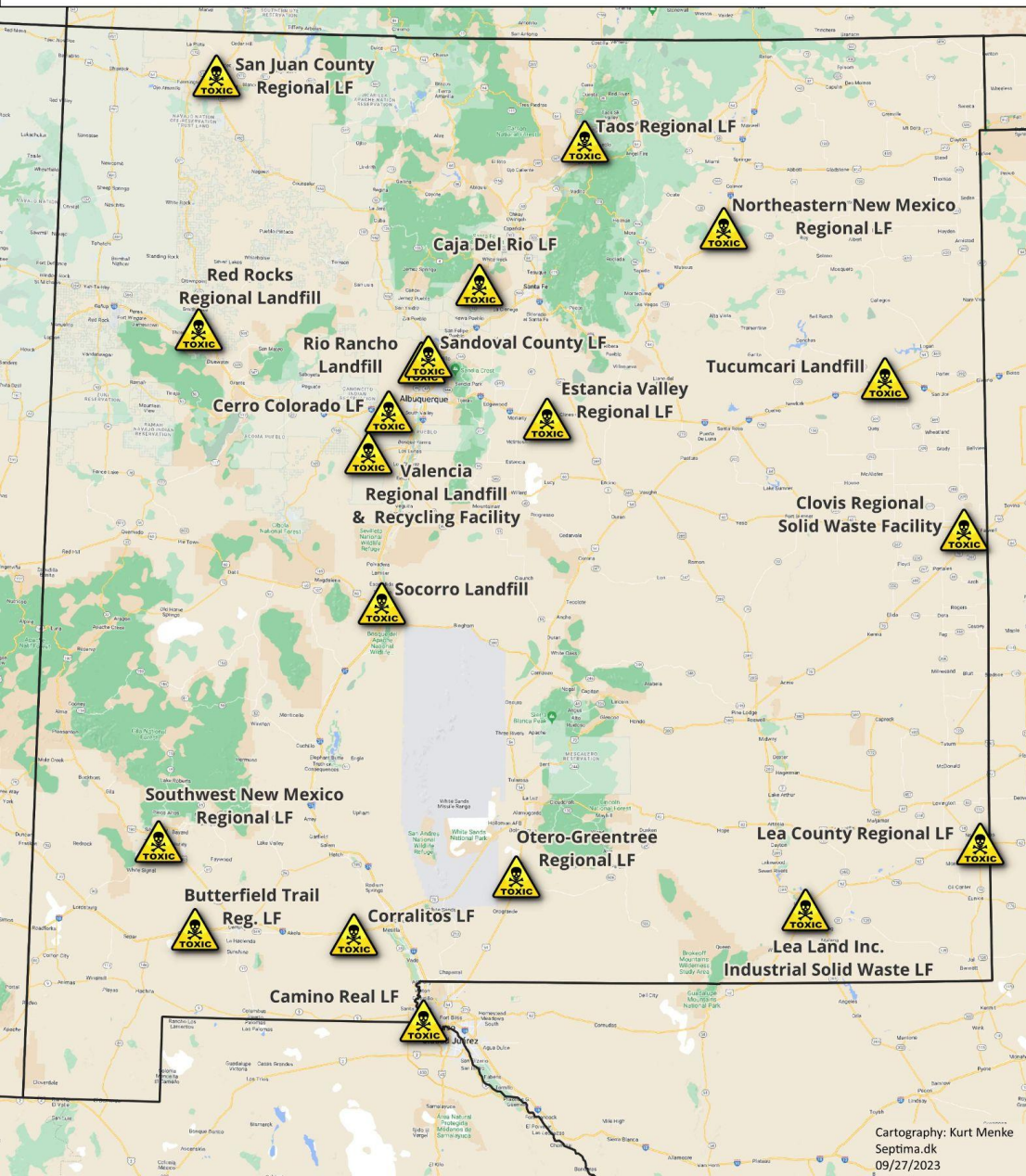
Unfortunately, because oil and gas industry wastes are exempt from federal and New Mexico state hazardous waste law, we are concerned that even when PFAS chemicals are regulated as hazardous, the state loophole will prevent PFAS from being uniformly characterized as hazardous in oil and gas industry, where it will remain undisclosed and improperly regulated.

# New Mexico Oil & Gas Wells Fracked with PFAS and Possible PFAS, Including Trade Secret Chemicals, 2013-2022



- Wells Fracked with Fluoroalkyl Alcohol Substituted Polyethylene Glycol (a PFAG), Fluorosurfactants (possibly PFAS)
- Wells Fracked with PTFE/Teflon (a PFAS)
- Wells Fracked with Trade Secret Surfactants (possibly PFAS)
- Wells Fracked with Trade Secret Chemicals (possibly PFAS)
- Counties

# NM Landfills Accepting Chemical-laced Oil & Gas Waste



Oil and gas waste travels outside the oil fields as well.

These are regional, municipal landfills that take several types of oil and gas waste, including

- sludge
- spill of chemical product
- petroleum contaminated soils
- formerly characteristic hazardous waste and others

These wastes can contain any additives used in operations, including PFAS and trade secret chemicals.

## Spills on State Land at oil & gas operations (2018-2022)

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- 1,973 liquid spills
- 1,005 spills were produced water
- How many of these spills contained PFAS, and how many spills went unreported?



Photo by Melissa A. Troutman: An active spill of smelly, discolored liquid from a produced water pipe snaking across Eddy County in February 2023.

# PSR's Recommendations:

- Halt PFAS use in oil and gas extraction
- Expand public disclosure
- Increase testing and tracking
- Require funding and cleanup
- Remove New Mexico's oil and gas hazardous waste exemption
- Reform New Mexico's regulations for oil and gas production wells and underground injection disposal wells
- Transition to renewable energy, better regulation

STATE OF NEW MEXICO  
ENERGY MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

IN THE MATTER OF PROPOSED  
AMENDMENT TO THE COMMISSION'S  
RULES TO ADDRESS PERFLUOROALKYL  
AND POLYFLUOROALKYL SUBSTANCES AND  
THEIR USE IN OIL AND GAS EXTRACTION,  
19.15.2, 19.15.16, 19.15.31, AND 19.15.32 NMAC

CASE NO. \_\_\_\_\_

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APPLICATION FOR RULEMAKING

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Pursuant to 19.15.38(A) NMAC, Petitioner WildEarth Guardians (“Guardians”), a nonprofit corporation dedicated to protecting and restoring the health of New Mexico and the western United States, hereby petitions the New Mexico Oil Conservation Commission (“Commission”) to amend its rules to address the matter of perfluoroalkyl and polyfluoroalkyl substance (“PFAS”) use in the drilling, development, and production of oil and gas in New Mexico. Guardians specifically requests the Commission amend 19.15.2 and 19.15.16 NMAC and add 19.15.31 and 19.15.32 NMAC to its regulations.

PFAS are an exceptionally toxic group of chemicals that present myriad, long-term, and persistent public health and environmental hazards. Although New Mexico has petitioned the U.S. Environmental Protection Agency to restrict the use of PFAS under federal hazardous waste law, oil and gas industry exploration and production waste is exempt from federal hazardous waste law. There is an urgent need to address this gap and ensure that, just as other industrial sectors in New Mexico face restrictions on the use of PFAS, the oil and gas industry is also held accountable to protecting public health, welfare, and safety.

Guardians’ proposal consists of two primary requests: 1) That the Commission adopt a rule prohibiting the use of PFAS in oil and gas drilling, development, and production and 2) That the Commission adopt new chemical disclosure and reporting rules to ensure reasonable transparency around substances used by the oil and gas industry and to ensure industry compliance with the prohibition on PFAS. To facilitate the incorporation of these new rules, Guardians also proposes amendments to the Commission’s general provisions and to rules related to drilling and production.

In support of its rulemaking application, Guardians states the following:

On May 25th, WildEarth Guardians petitioned the Oil Conservation Commission to amend the NM Administrative Code to:

- Remove trade secret exemptions
- Require prior disclosure of all downhole chemicals
- Require community notification
- Prohibit PFAS chemicals

# How legislators can help

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- *Support WildEarth Guardians' rulemaking*
- *Send letter of support for our rulemaking to the Oil Conservation Commission (see us for sample letter)*
- *Attend & testify at Oil Conservation Commission rulemaking hearings from February 26 - March 1, 2024 (hybrid)*

*Please reach out anytime:*

**Melissa Troutman (she/her)**

Climate & Energy Advocate

WildEarth Guardians

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