

1 HOUSE BILL 546

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Nathan P. Small and Rod Montoya and Brian Egolf

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10 AN ACT

11 RELATING TO NATURAL RESOURCES; ENACTING THE FLUID OIL AND GAS
12 WASTE ACT; ESTABLISHING OWNERSHIP OF FLUID OIL AND GAS WASTE;
13 ALLOWING THE USE OF TREATED OR RECYCLED FLUID OIL AND GAS
14 WASTE; DECLARING CERTAIN CONTRACT PROVISIONS RELATING TO FLUID
15 OIL AND GAS WASTE VOID AGAINST PUBLIC POLICY; MAKING CONFORMING
16 TECHNICAL CHANGES.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. A new section of Chapter 70 NMSA 1978 is
20 enacted to read:

21 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this
22 act may be cited as the "Fluid Oil and Gas Waste Act".

23 SECTION 2. A new section of Chapter 70 NMSA 1978 is
24 enacted to read:

25 "[NEW MATERIAL] DEFINITIONS.--As used in the Fluid Oil and

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underscored material = new
[bracketed material] = delete

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[bracketed material] = delete

1 Gas Waste Act:

2 A. "fluid oil and gas waste" means a fluid that
3 arises out of or is incidental to the drilling for or
4 production of oil or gas, including a fluid containing salt or
5 other mineralized substances, brine, hydraulic fracturing
6 fluid, flowback water or produced water;

7 B. "operator" means a person authorized by the oil
8 conservation division of the energy, minerals and natural
9 resources department to engage in operations to drill or rework
10 an oil or gas well; and

11 C. "produced water" means water that is an
12 incidental byproduct from drilling for or the production of oil
13 and gas."

14 SECTION 3. A new section of Chapter 70 NMSA 1978 is
15 enacted to read:

16 "[NEW MATERIAL] EXCLUSION.--The provisions of the Mine
17 Dewatering Act shall not apply to fluid oil and gas waste."

18 SECTION 4. A new section of Chapter 70 NMSA 1978 is
19 enacted to read:

20 "[NEW MATERIAL] JURISDICTION.--It is the exclusive
21 jurisdiction of the oil conservation division of the energy,
22 minerals and natural resources department to regulate the
23 appropriation and disposition of fluid oil and gas waste,
24 including produced water."

25 SECTION 5. A new section of Chapter 70 NMSA 1978 is

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~~[bracketed material] = delete~~

1 enacted to read:

2 "[NEW MATERIAL] FLUID OIL AND GAS WASTE--OWNERSHIP--
3 TRANSFERRED FOR TREATMENT--SUBSEQUENT USE.--Unless otherwise
4 expressly provided by a contract, bill of sale or other legally
5 binding document:

6 A. upon production, all fluid oil and gas waste
7 that is produced from an oil or gas well is the personal
8 property of the operator of that oil or gas well. Pursuant to
9 Section 70-2-12.1 NMSA 1978, no permit or other approval from
10 the state engineer is required for the disposition of fluid oil
11 and gas waste;

12 B. when fluid oil and gas waste is transferred,
13 sold or conveyed to a person who transports or takes possession
14 of that waste for the purpose of recycling or treating the
15 waste for a subsequent use, the transferred fluid oil and gas
16 waste is considered to be the property of the person who takes
17 possession of it until that person transfers the waste to
18 another person for disposal or use; and

19 C. when a person who takes possession of fluid oil
20 and gas waste for the purpose of treating the waste for a
21 subsequent use transfers possession of the treated product or
22 any treatment byproduct to another person for the purpose of
23 subsequent disposal or use, the transferred product or
24 byproduct is considered to be the property of the person to
25 whom the product or byproduct is transferred."

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