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HOUSE BILL 31

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Debra M. Sariñana and Tara L. Lujan

AN ACT

RELATING TO NATURAL RESOURCES; PROVIDING PENALTIES FOR THE
SPILL OR RELEASE OF OIL, PRODUCED WATER OR OTHER NONDOMESTIC
LIQUID WASTES; DIRECTING THE OIL CONSERVATION DIVISION OF THE
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO ADOPT
RULES RELATING TO FRESH WATER, PRODUCED WATER AND NONDOMESTIC
LIQUID WASTES THAT ARE PROTECTIVE OF PUBLIC HEALTH, WORKER
SAFETY AND NATURAL RESOURCES; REQUIRING TRACKING OF PRODUCED
WATER; ALPHABETIZING DEFINITIONS AND ADDING DEFINITIONS FOR
"FRESH WATER", "RECYCLED PRODUCED WATER", "TREATED PRODUCED
WATER" AND "WATER POLLUTION" TO THE OIL AND GAS ACT; MAKING AN
APPROPRIATION.

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

SECTION 1. A new section of the Oil and Gas Act is
enacted to read:

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underscored material = new
~~[bracketed material] = delete~~

1 "[NEW MATERIAL] SPILLS, LEAKS AND OTHER RELEASES--

2 PENALTY.--

3 A. A person shall not cause or contribute to a
4 spill, leak or other release into the environment of oil,
5 produced water or other nondomestic liquid wastes resulting
6 from the exploration, drilling, production, treatment or
7 refinement of oil or gas.

8 B. Notwithstanding the civil penalty limitations of
9 Subsection D of Section 70-2-31 NMSA 1978, a person found in
10 violation of this section in accordance with the procedures of
11 Section 70-2-31 NMSA 1978 shall be liable for a civil penalty
12 in the following amounts:

13 (1) two thousand dollars (\$2,000) for a
14 release of less than five barrels;

15 (2) ten thousand dollars (\$10,000) for a
16 release of five to twenty-five barrels; and

17 (3) twenty-five thousand dollars (\$25,000) for
18 a release of more than twenty-five barrels plus two thousand
19 dollars (\$2,000) per barrel for each additional barrel released
20 over twenty-five barrels."

21 SECTION 2. Section 70-2-33 NMSA 1978 (being Laws 1935,
22 Chapter 72, Section 24, as amended) is recompiled as Section
23 70-2-1.1 NMSA 1978 and is amended to read:

24 "70-2-1.1. DEFINITIONS.--As used in the Oil and Gas Act:

25 [A. ~~"person"~~ means:

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[bracketed material] = delete

1 ~~(1) any individual, estate, trust, receiver,~~
2 ~~cooperative association, club, corporation, company, firm,~~
3 ~~partnership, joint venture, syndicate or other entity; or~~

4 ~~(2) the United States or any agency or~~
5 ~~instrumentality thereof or the state or any political~~
6 ~~subdivision thereof;~~

7 ~~B. "pool" means an underground reservoir containing~~
8 ~~a common accumulation of crude petroleum oil or natural gas or~~
9 ~~both. Each zone of a general structure, which zone is~~
10 ~~completely separate from any other zone in the structure, is~~
11 ~~covered by the word "pool" as used in the Oil and Gas Act.~~

12 ~~"Pool" is synonymous with "common source of supply" and with~~
13 ~~"common reservoir";~~

14 ~~C. "field" means the general area that is underlaid~~
15 ~~or appears to be underlaid by at least one pool and also~~
16 ~~includes the underground reservoir or reservoirs containing the~~
17 ~~crude petroleum oil or natural gas or both. The words "field"~~
18 ~~and "pool" mean the same thing when only one underground~~
19 ~~reservoir is involved; however, "field", unlike "pool", may~~
20 ~~relate to two or more pools;~~

21 ~~D. "product" means any commodity or thing made or~~
22 ~~manufactured from crude petroleum oil or natural gas and all~~
23 ~~derivatives of crude petroleum oil or natural gas, including~~
24 ~~refined crude oil, crude tops, topped crude, processed crude~~
25 ~~petroleum, residue from crude petroleum, cracking stock,~~

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1 ~~uncracked fuel oil, treated crude oil, fuel oil, residuum, gas~~
2 ~~oil, naphtha, distillate, gasoline, kerosene, benzine, wash~~
3 ~~oil, waste oil, lubricating oil and blends or mixtures of crude~~
4 ~~petroleum oil or natural gas or any derivative thereof;~~

5 E. ~~"owner" means the person who has the right to~~
6 ~~drill into and to produce from any pool and to appropriate the~~
7 ~~production either for the person or for the person and another;~~

8 F. ~~"producer" means the owner of a well capable of~~
9 ~~producing oil or natural gas or both in paying quantities;~~

10 G. ~~"gas transportation facility" means a pipeline~~
11 ~~in operation serving gas wells for the transportation of~~
12 ~~natural gas or some other device or equipment in like operation~~
13 ~~whereby natural gas produced from gas wells connected therewith~~
14 ~~can be transported or used for consumption;~~

15 H. ~~"correlative rights" means the opportunity~~
16 ~~afforded, so far as it is practicable to do so, to the owner of~~
17 ~~each property in a pool to produce without waste the owner's~~
18 ~~just and equitable share of the oil or gas or both in the pool,~~
19 ~~being an amount, so far as can be practicably determined and so~~
20 ~~far as can be practicably obtained without waste, substantially~~
21 ~~in the proportion that the quantity of recoverable oil or gas~~
22 ~~or both under the property bears to the total recoverable oil~~
23 ~~or gas or both in the pool and, for such purpose, to use the~~
24 ~~owner's just and equitable share of the reservoir energy;~~

25 I. ~~"potash" means the naturally occurring bedded~~

1 ~~deposits of the salts of the element potassium;~~

2 ~~J. "casinghead gas" means any gas or vapor or both~~
3 ~~indigenous to an oil stratum and produced from such stratum~~
4 ~~with oil, including any residue gas remaining after the~~
5 ~~processing of casinghead gas to remove its liquid components;~~

6 ~~K. "produced water" means a fluid that is an~~
7 ~~incidental byproduct from drilling for or the production of oil~~
8 ~~and gas;~~

9 ~~L. "commission" means the oil conservation~~
10 ~~commission; and~~

11 ~~M. "division" means the oil conservation division~~
12 ~~of the energy, minerals and natural resources department]~~

13 A. "casinghead gas" means any gas or vapor or both
14 indigenous to an oil stratum and produced from such stratum
15 with oil, including any residue gas remaining after the
16 processing of casinghead gas to remove its liquid components;

17 B. "commission" means the oil conservation
18 commission;

19 C. "correlative rights" means the opportunity
20 afforded, so far as it is practicable to do so, to the owner of
21 each property in a pool to produce without waste the owner's
22 just and equitable share of the oil or gas or both in the pool,
23 being an amount, so far as can be practicably determined and so
24 far as can be practicably obtained without waste, substantially
25 in the proportion that the quantity of recoverable oil or gas

1 or both under the property bears to the total recoverable oil
2 or gas or both in the pool and, for such purpose, to use the
3 owner's just and equitable share of the reservoir energy;

4 D. "division" means the oil conservation division
5 of the energy, minerals and natural resources department;

6 E. "field" means the general area that is underlaid
7 or appears to be underlaid by at least one pool and also
8 includes the underground reservoir or reservoirs containing the
9 crude petroleum oil or natural gas or both. The words "field"
10 and "pool" mean the same thing when only one underground
11 reservoir is involved; however, "field", unlike "pool", may
12 relate to two or more pools;

13 F. "fresh water" means:

14 (1) water and underground water containing
15 less than ten thousand milligrams per liter of total dissolved
16 solids;

17 (2) water in lakes and playas, regardless of
18 quality, unless the water exceeds ten thousand milligrams per
19 liter of total dissolved solids and it can be shown that
20 degradation of the particular water body will not adversely
21 affect hydrologically connected fresh ground water; and

22 (3) the surface water of streams regardless of
23 the water quality within a given reach;

24 G. "gas transportation facility" means a pipeline
25 in operation serving gas wells for the transportation of

1 natural gas or some other device or equipment in like operation
2 whereby natural gas produced from gas wells connected therewith
3 can be transported or used for consumption;

4 H. "owner" means the person who has the right to
5 drill into and to produce from a pool and to appropriate the
6 production either for the person or for the person and another;

7 I. "person" means:

8 (1) an individual, estate, trust, receiver,
9 cooperative association, club, corporation, company, firm,
10 partnership, joint venture, syndicate or other entity; or

11 (2) the United States or any agency or
12 instrumentality thereof or the state or any political
13 subdivision thereof;

14 J. "pool" means an underground reservoir containing
15 a common accumulation of crude petroleum oil or natural gas or
16 both. Each zone of a general structure, which zone is
17 completely separate from any other zone in the structure, is
18 covered by the word "pool" as used in the Oil and Gas Act.

19 "Pool" is synonymous with "common source of supply" and with
20 "common reservoir";

21 K. "potash" means the naturally occurring bedded
22 deposits of the salts of the element potassium;

23 L. "produced water" means a fluid that is an
24 incidental byproduct from drilling for or the production of oil
25 and gas;

underscored material = new
[bracketed material] = delete

1 M. "producer" means the owner of a well capable of
2 producing oil or natural gas or both in paying quantities;

3 N. "product" means any commodity or thing made or
4 manufactured from crude petroleum oil or natural gas and all
5 derivatives of crude petroleum oil or natural gas, including
6 refined crude oil, crude tops, topped crude, processed crude
7 petroleum, residue from crude petroleum, cracking stock,
8 uncracked fuel oil, treated crude oil, fuel oil, residuum, gas
9 oil, naphtha, distillate, gasoline, kerosene, benzine, wash
10 oil, waste oil, lubricating oil and blends or mixtures of crude
11 petroleum oil or natural gas or any derivative thereof;

12 O. "recycled produced water" means produced water
13 that is reconditioned by a recycling facility permitted by the
14 division;

15 P. "treated produced water" means produced water
16 that is reconditioned by mechanical or chemical processes into
17 a reusable form; and

18 Q. "water pollution" means the introduction into
19 water, either directly or indirectly, of any substance that
20 could alter the physical, chemical, biological or radiological
21 qualities of the water in such quantity and of such duration as
22 may with reasonable probability injure human health, animal or
23 plant life or property, or unreasonably interfere with the
24 public welfare or the use of property."

25 SECTION 3. Section 70-2-12 NMSA 1978 (being Laws 1978,

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underscored material = new
[bracketed material] = delete

1 Chapter 71, Section 1, as amended) is amended to read:

2 "70-2-12. ENUMERATION OF POWERS.--

3 A. The [~~oil conservation~~] division [~~of the energy,~~
4 ~~minerals and natural resources department~~] may:

5 (1) collect data;

6 (2) make investigations and inspections;

7 (3) examine properties, leases, papers, books
8 and records;

9 (4) examine, check, test and gauge oil and gas
10 wells, tanks, plants, refineries and all means and modes of
11 transportation and equipment;

12 (5) hold hearings;

13 (6) provide for the keeping of records and the
14 making of reports and for the checking of the accuracy of the
15 records and reports;

16 (7) limit and prorate production of crude
17 petroleum oil or natural gas or both as provided in the Oil and
18 Gas Act; and

19 (8) require either generally or in particular
20 areas certificates of clearance or tenders in connection with
21 the transportation of crude petroleum oil or natural gas or any
22 products of either or both oil and products or both natural gas
23 and products.

24 B. The [~~oil conservation~~] division [~~may~~] shall make
25 rules and orders for the purposes of and with respect to the

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underscoring material = new
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1 subject matter stated in this subsection:

2 (1) to require dry or abandoned wells to be
3 plugged in a way so as to confine the crude petroleum oil,
4 natural gas or water in the strata in which it is found and to
5 prevent it from escaping into other strata; pursuant to Section
6 70-2-14 NMSA 1978, the division shall require financial
7 assurance conditioned for the performance of the rules;

8 (2) to prevent crude petroleum oil, natural
9 gas or water from escaping from strata in which it is found
10 into other strata;

11 (3) to require reports showing locations of
12 all oil or gas wells and for the filing of logs and drilling
13 records or reports;

14 (4) to prevent the drowning by water of any
15 stratum or part thereof capable of producing oil or gas or both
16 oil and gas in paying quantities and to prevent the premature
17 and irregular encroachment of water or any other kind of water
18 encroachment that reduces or tends to reduce the total ultimate
19 recovery of crude petroleum oil or gas or both oil and gas from
20 any pool;

21 (5) to prevent fires;

22 (6) to prevent "blow-ups" and "caving" in the
23 sense that the conditions indicated by such terms are generally
24 understood in the oil and gas business;

25 (7) to require wells to be drilled, operated

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underscoring material = new
~~[bracketed material] = delete~~

1 and produced in such manner as to prevent injury to neighboring
2 leases or properties;

3 (8) to identify the ownership of oil or gas
4 producing leases, properties, wells, tanks, refineries,
5 pipelines, plants, structures and all transportation equipment
6 and facilities;

7 (9) to require the operation of wells with
8 efficient gas-oil ratios and to fix such ratios;

9 (10) to fix the spacing of wells;

10 (11) to determine whether a particular well or
11 pool is a gas or oil well or a gas or oil pool, as the case may
12 be, and from time to time to classify and reclassify wells and
13 pools accordingly;

14 (12) to determine the limits of any pool
15 producing crude petroleum oil or natural gas or both and from
16 time to time redetermine the limits;

17 (13) to regulate the methods and devices
18 employed for storage in this state of oil or natural gas or any
19 product of either, including subsurface storage;

20 (14) to permit the injection of natural gas or
21 of any other substance into any pool in this state for the
22 purpose of repressuring, cycling, pressure maintenance,
23 secondary or any other enhanced recovery operations;

24 ~~[(15) to regulate the disposition, handling,~~
25 ~~transport, storage, recycling, treatment and disposal of~~

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underscored material = new
~~[bracketed material]~~ = delete

1 ~~produced water during, or for reuse in, the exploration,~~
2 ~~drilling, production, treatment or refinement of oil or gas,~~
3 ~~including disposal by injection pursuant to authority delegated~~
4 ~~under the federal Safe Drinking Water Act, in a manner that~~
5 ~~protects public health, the environment and fresh water~~
6 ~~resources;~~

7 ~~(16)~~] (15) to determine the limits of any area
8 containing commercial potash deposits and from time to time
9 redetermine the limits;

10 [~~(17)~~] (16) to regulate and, where necessary,
11 prohibit drilling or producing operations for oil or gas within
12 any area containing commercial deposits of potash where the
13 operations would have the effect unduly to reduce the total
14 quantity of the commercial deposits of potash that may
15 reasonably be recovered in commercial quantities or where the
16 operations would interfere unduly with the orderly commercial
17 development of the potash deposits;

18 [~~(18)~~] (17) to spend the oil and gas
19 reclamation fund and do all acts necessary and proper to plug
20 dry and abandoned oil and gas wells and to restore and
21 remediate abandoned well sites and associated production
22 facilities in accordance with the provisions of the Oil and Gas
23 Act, the rules adopted under that act and the Procurement Code,
24 including disposing of salvageable equipment and material
25 removed from oil and gas wells being plugged by the state;

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[bracketed material] = delete

1 [~~(19)~~] (18) to make well price category
2 determinations pursuant to the provisions of the federal
3 Natural Gas Policy Act of 1978 or any successor act and, by
4 [~~regulation~~] rule, to adopt fees for such determinations, which
5 fees shall not exceed twenty-five dollars (\$25.00) per filing.
6 Such fees shall be credited to the account of the [~~oil~~
7 ~~conservation~~] division by the state treasurer and may be
8 expended as authorized by the legislature;

9 [~~(20)~~] (19) to regulate the construction and
10 operation of oil treating plants and to require the posting of
11 bonds for the reclamation of treating plant sites after
12 cessation of operations;

13 [~~(21)~~] (20) to regulate the disposition of
14 nondomestic wastes resulting from the exploration, development,
15 production or storage of crude oil or natural gas to protect
16 public health and the environment; and

17 [~~(22)~~] (21) to regulate the disposition of
18 nondomestic wastes resulting from the oil field service
19 industry, the transportation of crude oil or natural gas, the
20 treatment of natural gas or the refinement of crude oil to
21 protect public health and the environment, including
22 administering the Water Quality Act as provided in Subsection E
23 of Section 74-6-4 NMSA 1978.

24 C. The division shall make rules and orders that
25 protect public health, worker safety and the environment,

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underscoring material = new
[bracketed material] = delete

1 including fresh water resources, using the best available
2 science and technology, for the purposes of and with respect to
3 the subject matter stated in this subsection to:

4 (1) require the identification of the chemical
5 and radionuclide composition of produced water, recycled
6 produced water or treated produced water that is spilled,
7 leaked or released into the environment and to make such
8 information publicly available;

9 (2) regulate the management, disposition,
10 handling, transport, storage, recycling, treatment and disposal
11 of produced water during, or for reuse in, the exploration,
12 drilling, production, treatment or refinement of oil or gas,
13 including disposal by injection pursuant to authority delegated
14 in the federal Safe Drinking Water Act; provided that it is
15 prohibited to dispose, recycle or reuse produced water,
16 recycled produced water or treated produced water in a manner
17 that may result in water pollution;

18 (3) require tracking and reporting of the
19 movement, transportation and location of produced water,
20 recycled produced water and treated produced water throughout
21 their production, treatment, reuse and disposition in oil and
22 gas operations and to compile the reported tracking information
23 and make it publicly available; and

24 (4) require a person who causes or contributes
25 to a spill, leak or other release into the environment of oil,

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underscoring material = new
[bracketed material] = delete

1 produced water or other nondomestic liquid wastes resulting
2 from the exploration, drilling, production, treatment or
3 refinement of oil or gas to immediately provide emergency
4 notification of the release to:

5 (a) all persons occupying a structure
6 located within two miles of the point of release; and

7 (b) Indian nations, tribes and pueblos
8 with borders located within ten miles of the point of release."

9 SECTION 4. APPROPRIATION.--Seven hundred fifty thousand
10 dollars (\$750,000) is appropriated from the general fund to the
11 energy, minerals and natural resources department for
12 expenditure in fiscal year 2025 for the oil conservation
13 division to hire five full-time-equivalent employees to carry
14 out the provisions of the Oil and Gas Act. Any unexpended or
15 unencumbered balance remaining at the end of fiscal year 2025
16 shall revert to the general fund."