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SENATE BILL 192

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Carroll H. Leavell

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; PROVIDING FOR OWNERSHIP AND REGULATION OF
PRODUCED WATER FROM OIL AND GAS WELLS.

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

Section 1. [NEW MATERIAL] PRODUCED WATER FROM OIL AND
GAS WELLS.--Water produced from underground sources three
thousand feet or more in depth as a result of the drilling
for or the production of oil or gas or both and that is not
declared to be public waters pursuant to Section 72-12-1 NMSA
1978 belongs to the producer.

Section 2. Section 70-2-12 NMSA 1978 (being Laws 1978,
Chapter 71, Section 1, as amended) is amended to read:

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

A. Included in the power given to the oil
conservation division of the energy, minerals and natural
resources department is the authority to collect data; to

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1 make investigations and inspections; to examine properties,
2 leases, papers, books and records; to examine, check, test
3 and gauge oil and gas wells, tanks, plants, refineries and
4 all means and modes of transportation and equipment; to hold
5 hearings; to provide for the keeping of records and the
6 making of reports and for the checking of the accuracy of the
7 records and reports; to limit and prorate production of crude
8 petroleum oil or natural gas or both as provided in the Oil
9 and Gas Act; to require either generally or in particular
10 areas certificates of clearance or tenders in connection with
11 the transportation of crude petroleum oil or natural gas or
12 any products of either or both oil and products or both
13 natural gas and products.

14 B. Apart from any authority, express or implied,
15 elsewhere given to or existing in the oil conservation
16 division by virtue of the Oil and Gas Act or the statutes of
17 this state, the division is authorized to make rules,
18 regulations and orders for the purposes and with respect to
19 the subject matter stated in this subsection:

20 (1) to require dry or abandoned wells to be
21 plugged in a way to confine the crude petroleum oil, natural
22 gas or water in the strata in which it is found and to
23 prevent it from escaping into other strata; the division
24 shall require a cash or surety bond in a sum not to exceed
25 fifty thousand dollars (\$50,000) conditioned for the
performance of such regulations;

(2) to prevent crude petroleum oil, natural

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1 gas or water from escaping from strata in which it is found
2 into other strata;

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

6 (4) to prevent the drowning by water of any
7 stratum or part thereof capable of producing oil or gas or
8 both oil and gas in paying quantities and to prevent the
9 premature and irregular encroachment of water or any other
10 kind of water encroachment that reduces or tends to reduce
11 the total ultimate recovery of crude petroleum oil or gas or
12 both oil and gas from any pool;

13 (5) to prevent fires;

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

17 (7) to require wells to be drilled, operated
18 and produced in such manner as to prevent injury to
19 neighboring leases or properties;

20 (8) to identify the ownership of oil or gas
21 producing leases, properties, wells, tanks, refineries,
22 pipelines, plants, structures and all transportation
23 equipment and facilities;

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

(10) to fix the spacing of wells;

(11) to determine whether a particular well

1 or pool is a gas or oil well or a gas or oil pool, as the
2 case may be, and from time to time to classify and reclassify
3 wells and pools accordingly;

4 (12) to determine the limits of any pool
5 producing crude petroleum oil or natural gas or both and from
6 time to time redetermine the limits;

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

10 (14) to permit the injection of natural gas
11 or of any other substance into any pool in this state for the
12 purpose of repressuring, cycling, pressure maintenance,
13 secondary or any other enhanced recovery operations;

14 (15) to regulate the disposition of water
15 produced or used in connection with the drilling for or
16 producing of oil or gas or both and to direct surface or
17 subsurface disposal of the water in a manner that will afford
18 reasonable protection against contamination of fresh water
19 supplies designated by the state engineer;

20 (16) to determine the limits of any area
21 containing commercial potash deposits and from time to time
22 redetermine the limits;

23 (17) to regulate and, where necessary,
24 prohibit drilling or producing operations for oil or gas
25 within any area containing commercial deposits of potash
where the operations would have the effect unduly to reduce
the total quantity of the commercial deposits of potash which

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1 may reasonably be recovered in commercial quantities or where
2 the operations would interfere unduly with the orderly
3 commercial development of the potash deposits;

4 (18) to spend the oil and gas reclamation
5 fund and do all acts necessary and proper to plug dry and
6 abandoned oil and gas wells and to restore and remediate
7 abandoned well sites and associated production facilities in
8 accordance with the provisions of the Oil and Gas Act, the
9 rules and regulations adopted under that act and the
10 Procurement Code, including disposing of salvageable
11 equipment and material removed from oil and gas wells being
12 plugged by the state;

13 (19) to make well price category
14 determinations pursuant to the provisions of the Natural Gas
15 Policy Act of 1978 or any successor act and, by regulation,
16 to adopt fees for such determinations, which fees shall not
17 exceed twenty-five dollars (\$25.00) per filing. Such fees
18 shall be credited to the account of the oil conservation
19 division by the state treasurer and may be expended as
20 authorized by the legislature;

21 (20) to regulate the construction and
22 operation of oil treating plants and to require the posting
23 of bonds for the reclamation of treating plant sites after
24 cessation of operations;

25 (21) to regulate the disposition of
nondomestic wastes resulting from the exploration,
development, production or storage of crude oil or natural

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1 gas to protect public health and the environment; and
2 (22) to regulate water produced from
3 underground sources three thousand feet or more in depth, the
4 disposition of nondomestic wastes resulting from the oil
5 field service industry, the transportation of crude oil or
6 natural gas, the treatment of natural gas or the refinement
7 of crude oil to protect public health and the environment,
8 including administering the Water Quality Act as provided in
9 Subsection E of Section 74-6-4 NMSA 1978."

10 Section 3. Section 72-12-1 NMSA 1978 (being Laws 1931,
11 Chapter 131, Section 1, as amended) is amended to read:

12 "72-12-1. UNDERGROUND WATERS DECLARED TO BE PUBLIC--
13 APPLICATIONS FOR USE TO STATE ENGINEER--HEARINGS.--The water
14 of underground streams, channels, artesian basins, reservoirs
15 or lakes, having reasonably ascertainable boundaries and that
16 are not waters produced from underground sources three
17 thousand feet or more in depth as a result of the drilling
18 for or the production of oil or gas or both, are declared to
19 be public waters and to belong to the public and to be
20 subject to appropriation for beneficial use. By reason of
21 the varying amounts and time such water is used and the
22 relatively small amounts of water consumed in the watering of
23 livestock; in irrigation of not to exceed one acre of
24 noncommercial trees, lawn or garden; in household or other
25 domestic use; and in prospecting, mining or construction of
public works, highways and roads or drilling operations
designed to discover or develop the natural resources of the

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1 state, application for any such use shall be governed by the
2 following provisions:

3 A. ~~any~~ a person, firm or corporation desiring to
4 use ~~any~~ public waters described in this section for
5 watering livestock; for irrigation of not to exceed one acre
6 of noncommercial trees, lawn or garden; or for household or
7 other domestic use shall make application to the state
8 engineer on a form to be prescribed by him. Upon the filing
9 of each application describing the use applied for, the state
10 engineer shall issue a permit to the applicant to so use the
11 waters applied for; provided that as part of an application
12 for livestock watering use on state or federal land, the
13 applicant shall submit proof that he:

14 (1) is legally entitled to place his
15 livestock on the state or federal land where the water is to
16 be used; and

17 (2) has been granted access to the drilling
18 site and has permission to occupy the portion of the state or
19 federal land as is necessary to drill and operate the well;
20 and

21 B. whenever ~~any~~ a person, firm or corporation
22 or the state desires to use not to exceed three acre-feet
23 of public water described in this section for a definite
24 period of not to exceed one year in prospecting, mining or
25 construction of public works, highways and roads or
drilling operations designed to discover or develop the
natural mineral resources of the state, only the

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1 application referred to in Section 72-12-3 NMSA 1978 shall
2 be required. Separate application shall be made for each
3 proposed use, whether in the same or in different basins.
4 Upon the filing of [~~such applications~~] an application, the
5 state engineer shall make an examination of the facts and,
6 if he finds that the proposed use will not permanently
7 impair any existing rights of others, he shall grant the
8 application. If he finds that the proposed use sought will
9 permanently impair such rights, then there shall be
10 advertisement and hearing as provided in the case of
11 applications made under Section 72-12-3 NMSA 1978."

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