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SENATE MEMORIAL 12

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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A MEMORIAL

REQUESTING THE DEPARTMENT OF ENVIRONMENT TO REPORT ON THE
EFFECTIVENESS OF THE DAIRY RULE IN PROTECTING NEW MEXICO'S
GROUND WATER RESOURCES.

WHEREAS, the New Mexico dairy industry is the largest
economic generator in the state's agricultural sector but
involves high risks to ground water quality by concentrating
and confining dairy herds; and

WHEREAS, in 2009, the New Mexico legislature passed Senate
Bill 206, sponsored by Senator Clinton D. Harden, Jr., which
amended the Water Quality Act to require the water quality
control commission to adopt new industry-specific discharge
permit rules for the dairy industry and "to specify in the
regulations the measures to be taken to prevent water pollution
and to monitor water quality"; and

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1 WHEREAS, on December 22, 2009, the department of
2 environment submitted a petition for regulatory change to the
3 water quality control commission to amend the Ground and
4 Surface Water Protection Regulations, 20.6.2 NMAC, to include
5 new rules for the dairy industry; and

6 WHEREAS, public hearings were held on the proposed
7 amendment on April 13 through 16, 2010 and June 8 through 17,
8 2010, where the participants included the department of
9 environment, the dairy industry group for a clean environment
10 and the New Mexico citizens dairy coalition, whose members
11 include amigos bravos, the Caballo concerned citizens group,
12 Rio Valle concerned citizens, food and water watch and the
13 sierra club Rio Grande chapter; and

14 WHEREAS, the dairy rulemaking process continued for five
15 years with stakeholder meetings, public hearings and an
16 advisory committee where the general public, the ground water
17 quality bureau of the department of environment, the dairy
18 industry group for a clean environment and the New Mexico
19 citizens dairy coalition met and crafted the language of the
20 dairy rule, reaching final agreement in 2015; and

21 WHEREAS, in 2015, the water quality control commission
22 adopted the amendments to the Water Quality Act agreed to by
23 the stakeholders and presented to them by the department of
24 environment; and

25 WHEREAS, the department of environment currently lacks a
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1 comprehensive reporting and analysis system for New Mexico's
2 approximately one hundred eighty dairies and therefore cannot
3 assess the overall impact of the dairy rule on New Mexico's
4 ground water that is supported by statistics; and

5 WHEREAS, under earlier administrations, the department of
6 environment developed and maintained a spreadsheet of all dairy
7 ground water discharge permits that could now be broadened and
8 updated to allow the necessary comparative overview; and

9 WHEREAS, five years of implementation by the regulating
10 agency and the industry is sufficient time to acquire
11 statistical evidence and compile a meaningful and comprehensive
12 review and report of the effectiveness of the dairy rule in
13 protecting New Mexico's ground water resources; and

14 WHEREAS, this statistical information is a critical tool
15 for the regulating agency, the New Mexico dairy industry, the
16 New Mexico legislature and the public to understand the impacts
17 of current dairy regulations on New Mexico's ground water
18 quality;

19 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
20 OF NEW MEXICO that the department of environment be requested
21 to compile a report with the following elements:

22 A. the name and location of each dairy in New
23 Mexico;

24 B. the compliance or noncompliance with New
25 Mexico's ground water quality standards for each contaminant

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1 listed in the dairy rule's quarterly ground water monitoring
2 report;

3 C. a statistically supported analysis of how many
4 plastic liners have been installed or inspected;

5 D. a statistically supported analysis of how many
6 meters have been installed;

7 E. a statistically supported analysis of how many
8 monitor well inspections have taken place;

9 F. the number and identity of dairies that have
10 expanded operations while executing a compliance action plan or
11 remediation effort; and

12 G. the number and identity of all abandoned or
13 inactive dairies in New Mexico; and

14 BE IT FURTHER RESOLVED that the findings and conclusions
15 of the report be reported to the appropriate interim
16 legislative committee by November 1, 2021; and

17 BE IT FURTHER RESOLVED that copies of this memorial be
18 transmitted to the secretary of environment, the president of
19 the dairy industry group for a clean environment and the
20 director of the New Mexico citizens dairy coalition.