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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/03/14  
**LAST UPDATED** 02/15/14    **HM** 33/HCPACS

**SPONSOR** HCPAC

**SHORT TITLE** Water Well Capping Model Ordinance    **SB** \_\_\_\_\_

**ANALYST** Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (NMML)  
 Department of Environment (NMED)  
 Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

The House Consumer and Public Affairs Committee substitute for House Memorial 33 requests the New Mexico Municipal League, the New Mexico Association of Counties (NMAC), the Office of the State Engineer and the Energy, Minerals and Natural Resources Department (EMNRD) to study the feasibility of establishing and strengthening requirements of capping abandoned wells on private and public property. The bill states that abandoned wells on private and public property create a potential safety risk.

The bill further requests the named entities to make a presentation to the appropriate interim legislative committee regarding findings from the study by November 1, 2014.

Copies of the memorial will be transmitted to the NMML, the NMAC, the OSE and EMNRD.

### FISCAL IMPLICATIONS

This memorial carries no appropriation. No fiscal impact was noted in analysis.

## **SIGNIFICANT ISSUES**

It is unknown how many abandoned water, oil and gas wells exist in the state or in the state's municipalities. It appears no entity is statutorily responsible for mapping and/or identification. NMED analysis states: "Existing rules are in place requiring proper capping and plugging and abandoning of water and oil and gas wells. However, many abandoned wells have not been identified."

The Oil Conservation Division (OCD) of EMNRD is the agency charged with permitting new wells, enforcing the state's oil and gas statutes, making certain abandoned wells are properly plugged and ensuring the land is properly restored. Within the OCD is the Environmental Bureau (EB) that develops and enforces all of the environmental regulations and programs in the oil and gas industry for the prevention of ground water contamination. Currently, the plugging and temporary abandonment of oil and gas wells is regulated by 19.15.25 NMAC. However, these rules do not address orphaned wells.

The cost of plugging and land reclamation associated each with abandoned oil and gas well is substantial. A December 24, 2013 report in the New York Times details estimated costs to the State of Wyoming for 1200 wells at \$8 million, attributing the problem to drilling companies that are under-bonded and unable to pay for the associated fees for plugging and land restoration. ([http://www.nytimes.com/2013/12/25/us/state-may-act-to-plug-abandoned-wyoming-wells-as-natural-gas-boom-ends.html?\\_r=1&](http://www.nytimes.com/2013/12/25/us/state-may-act-to-plug-abandoned-wyoming-wells-as-natural-gas-boom-ends.html?_r=1&) )

The OSE has regulations that govern how abandoned water wells must be dealt with. They may not simply be "capped." OSE analysis states: "If abandoned water wells were required to only be capped and not plugged, then there would be a risk to ground water. Abandoned water wells should be plugged as opposed to capped to prevent ground water from being contaminated and subsurface zones from communicating with each other. Individuals who plug an abandoned water well may have to comply with State Engineer regulation 19.27.4 NMAC which governs plugging of water wells."

NMML analysis states that:

"Municipalities in New Mexico have no detailed records of water wells that may exist within the boundaries of the municipality and would have no method of identifying such wells or enforcing a requirement that they be capped...The New Mexico Municipal League believes that this problem of abandoned water wells is a statewide issue in as much as such abandoned wells likely exist both inside and outside municipal boundaries. The New Mexico Municipal League further believes that this issue should best be addressed by the legislature through legislation requiring any property owner to cap an abandoned well on their property."

## **OTHER SUBSTANTIVE ISSUES**

It appears that issues related to decommissioned and abandoned water wells in other states generally fall under the purview of the state agency charged with protecting the environment.

Here are some examples:

The State of Michigan has an extensive Abandoned Well Management Program administered by the Michigan Department of Natural Resources and Environment that incorporates regulatory

activities with educational and cooperative initiatives. Details may be found here: [https://www.michigan.gov/deq/0,4561,7-135-3313\\_3675\\_3689-7951--,00.html](https://www.michigan.gov/deq/0,4561,7-135-3313_3675_3689-7951--,00.html). A cost share program assists landowners engaged in agriculture with the costs of plugging abandoned wells.

Michigan also has an “Orphan Well Program” in the Department of Environmental Quality, described here: [http://www.michigan.gov/deq/0,4561,7-135-3311\\_4111\\_4231-112026--,00.html](http://www.michigan.gov/deq/0,4561,7-135-3311_4111_4231-112026--,00.html). This program applies to abandoned oil and gas wells where the owner is unknown or insolvent. It was established in 1994 when the Orphan Well Fund was created to plug abandoned or improperly closed oil, gas or brine disposal wells, to conduct remedial response activities and to perform site restoration. Revenue for the Orphan Well Program comes from a severance tax on the oil and gas industry. Two percent of the severance tax revenue, but not less than \$ 1 million, is credited to the fund annually. Landowners who identify potential orphan wells notify the agency and if the well is determined to be qualified as an orphan well, it is placed on a prioritization list, based on several criteria. Wells are then plugged and the site restored at no cost to the landowner. The Orphan Well Fund is supported solely by industry.

In the State of Washington, the Department of Ecology on its website discusses the dangers of abandoned wells to humans, livestock and household pets. They estimate there may from 10,000 to 100,000 such wells in their state: <http://www.ecy.wa.gov/programs/wr/wells/abandoned-wells.html>

The Texas Commission on Environmental Quality publishes a Landowner’s Guide to Plugging Abandoned Water Wells here: <http://www.tceq.state.tx.us/publications/rg/rg-347.html> .

CAC/svb