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## **Water Quality Control Commission adopts rule banning discharge of oil, gas wastewater to ground, surface waters**

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The New Mexico Water Quality Control Commission (WQCC) today adopted a rule that prohibits the discharge of “produced water” to New Mexico’s ground and surface waters. Produced water is a waste byproduct of oil and gas operations and contains hundreds of known and unknown chemicals, many of which are toxic to human health and the environment. After Amigos Bravos and the Sierra Club, represented by the Western Environmental Law Center, requested the WQCC to reconsider, it decided to close a loophole introduced in the last meeting that would have allowed “pilot projects” to discharge up to 84,000 gallons per day of treated produced water to groundwater, which was based on an incorrect representation of the record. The result of the WQCC reversal is a complete ban on produced water discharge to ground and surface waters until the rule sunsets in five years. The New Mexico Environment Department (NMED) petitioned the Commission in December 2023 to adopt a rule to prohibit all discharges of produced water to ground and surface waters. NMED based its petition on the best available science, which shows that produced water can contain hundreds of known and unknown chemicals, that many of the chemicals are potentially harmful to human health and the environment, and that technologies to effectively treat produced water so it is safe are not available at scale. NMED supported its petition with the expert testimony from five of its scientists with expertise in protecting the state’s ground and surface water.

Amigos Bravos and Sierra Club, represented by Western Environmental Law Center, supported the prohibition with expert testimony, demonstrating based on peer-reviewed literature that we don’t know all the chemicals in produced water, a mixture of fracking fluids and underground water for which there is no effective treatment. Moreover, the state of New Mexico

does not have surface water quality standards for at least 180 potentially toxic chemicals in produced water.

While the New Mexico Oil and Gas Association, New Mexico's most powerful industry lobbying behemoth, opposed the ban on discharge, one of its primary experts testified that discharge of treated produced water at scale is premature.

"We are proud, pleased, and relieved that the Water Quality Control Commission removed the exemption to allow discharge, as we requested, and adopted a rule that will protect clean water, the New Mexicans who depend on it, and the ecosystems that would be harmed by introducing this fracking waste," said Tannis Fox, senior attorney at the Western Environmental Law Center. "Once an aquifer is polluted, it is difficult, costly and sometimes impossible to clean up. The oil and gas industry will have to find another place to dump its toxic waste."

"We are pleased that the Commission adopted a ban on the discharge of oil and gas wastewater to New Mexico's ground and surface waters," said Rachel Conn, deputy director of Amigos Bravos. "Our groups and the New Mexico Environment Department prepared an extensive record on the harms and toxicity of this wastewater and we thank the Commission for protecting our clean water, of which we have so little. This decision could not be more prudent."

On behalf of the Sierra Club, Dale Doremus, a former state hydrogeologist, said: "For more than 50 years, the Commission has based its decisions on science to ensure we protect our ground and surface waters from contaminants that can harm humans as well as animal and plant life. At this time, a ban on the discharge of treated and untreated produced water is what the science supports. We applaud the Commission for making the right call with today's rule."

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