

**The Strategic Water Supply Act (SWS) endangers our health and our clean water sources, and fails to provide a meaningful solution to the very real water scarcity problem that New Mexico faces.** The Governor's plan, updated in the latest version to provide \$75M in public funds each year to incentivize the creation of a treatment and reuse industry for the oil and gas industry's liquid fracking waste, is once again being marketed as a solution to a projected 25% water shortage expected in New Mexico by 2050. The real motivation for the Governor's proposal: the oil and gas industry generated over 2 billion barrels of oilfield wastewater in 2023,<sup>1</sup> and they are running out of low cost disposal options. **The plan is a publicly funded bailout for a private industry that already reaps billions in profits.**

## What does the Strategic Water Supply Act do?

1. **It creates a Strategic Water Supply program and fund, and appropriates \$75M annually** to the fund for FY 2026–2030 for the purpose of "reducing the state's reliance on freshwater resources" or "expanding water reuse opportunities." It also appropriates \$29 million in 2026 to 2028 to the New Mexico Institute of Mining and Technology to characterize fresh and brackish water aquifers, and \$4 million in 2026 -2028 to the University of New Mexico for SWS related projects.
2. **It levies a \$0.05 fee per barrel of produced water from oil or gas wells, except for water reused or permitted for specific uses**, to be deposited in the Strategic Water Supply Fund, which is projected to amount to \$68M per year. The Oil Conservation Division is tasked with promulgating rules to facilitate reporting and accounting of each barrel of produced water for the purpose of imposing the fee.
3. **It defines eligibility requirements for grants or contracts awarded from the SWS Fund, including compliance with "rules adopted by the water quality control commission" that have not yet been promulgated, financial assurances of an undefined amount for the life of the project, and a required community benefits and engagement plan that lacks specificity or standards.**

## What are the problems with the Governor's plan?

1. **It endangers our existing ground and surface water by incentivizing and subsidizing produced water and brackish water treatment projects before scientific research provides the necessary information to prevent likely contamination of New Mexico's ground and surface waters, land, and agriculture with excessive salt, radionuclides, and organic and inorganic toxins, including PFAS.** These risks are not speculative. They have been raised repeatedly by scientific experts and regulators, and borne out by disastrous outcomes in states where produced water reuse was authorized. Safe and effective treatment of produced water at the scale envisioned in this plan has not been proved feasible or safe, and water quality standards specific to such reuse projects have not been established because research necessary to support establishment of such standards has not yet been conducted.
2. **It ignores the substantial environmental risks that brackish water treatment can pose**, including land surface subsidence, saltwater intrusion into freshwater aquifers, decreased flow in rivers, contamination from residual waste after treatment, and the significant amount of energy necessary for brackish water treatment plants.<sup>2</sup> **Proponents envision a new gas power plant for each project.**<sup>3</sup> The plan further ignores that **brackish water aquifers are, by and large, a non-renewable resource.**<sup>4</sup>

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<sup>1</sup> NMED presentation, 11/26/2024, slide, 8.

<sup>2</sup> Strategic Water Supply Feasibility Study Final, New Mexico Environment Department & Eastern Research Group. Nov 22nd, 2024, pg 35.

<sup>3</sup> Comments of the NM Produced Water Research Consortium Director at the Consortium's annual public meeting, December 2024.

<sup>4</sup> Strategic Water Supply Feasibility Study Final, New Mexico Environment Department & Eastern Research Group. Nov 22nd, 2024, pg 38.

3. **It ignores the enormous and potentially extremely expensive issue of disposal necessary for the hazardous residual waste stream produced as an inevitable result of separating dissolved salts, hydrocarbons, heavy metals and/or toxic fracking fluids from brackish water and fracking waste during treatment.** The discussion draft of the Strategic Water Supply Act does not even mention this concentrated and hazardous waste, which is likely to equal at least 20% of the total treated volume.<sup>5</sup> The question of costs associated with transport, proper disposal, and the very important question of who will be liable for any environmental or public health impacts of likely spills and leaks goes unaddressed.
4. **It transfers significant liability for both environmental contamination and likely stranded assets from a private industry to the public.** While the bill does include a provision stating that financial assurances “may be” required, that requirement is toothless. It does not specify the amount or the type of assurance required, an egregious lack of accountability given that the oil and gas industry is already responsible for abandoning thousands of wells in New Mexico,<sup>6</sup> and the fact that many enormously expensive treatment plants in other states have been shuttered after proving ineffective and uneconomic.<sup>7</sup>
5. **The Strategic Water Supply Act is not a serious solution to the issue of water scarcity and if passed, will result in significant opportunity costs for New Mexico. The plan ignores real risks to public health and the environment, residual waste disposal issues, liability, and excessive energy consumption posed by both produced and brackish water reuse schemes that render any public investments into this plan wasteful.** Investment of public funds in this scheme detracts from the funding and attention necessary to properly implement the 2023 Water Security Planning Act, the 2019 Water Data Act, and the resources, staffing and modernization necessary to pursue the straightforward actions and investments that have already been identified as priorities to conserve water in New Mexico.

## **What parts of the proposed Strategic Water Supply Act do we agree with?**

**We agree that the oil and gas industry should pay a fee per barrel for all produced waste in New Mexico to fund the plugging of more than 2000 abandoned wells and remediation of land that continues to contaminate air, land and water, and to emit significant amounts of climate warming methane.** The oceans of hazardous waste produced by the oil and gas industry is already costing New Mexicans. Spills take place daily, with more than 16,000 reported between 2010 and 2024, of which at least 280 impacted ground or surface waters.<sup>8</sup> Injection of waste into disposal wells is inducing dangerous seismicity<sup>9</sup> and [gushing back up to the surface in the Permian](#), putting the health of area residents at risk, rendering affected properties worthless, and threatening clean water sources for surrounding communities.

**We further agree that New Mexico should invest in research funds necessary to fully characterize fresh and brackish water aquifers before drilling for brackish water treatment can be safely considered.**

**[Proposed changes to the Water Quality Act and other recommendations to protect NM’s Water Future are being sponsored by Sen. Harold Pope Jr. and others. More information about the 2025 Legislative session can be found at \[New Energy Economy.org\]\(#\) and \[DefendNMWater.org\]\(#\).](#)**

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<sup>5</sup> Strategic Water Supply Feasibility Study Final, New Mexico Environment Department & Eastern Research Group. Nov 22nd, 2024, pg 56.

<sup>6</sup> [https://www.edf.org/sites/default/files/2022-11/EDF\\_FactSheet\\_NM.pdf](https://www.edf.org/sites/default/files/2022-11/EDF_FactSheet_NM.pdf)

<sup>7</sup> See for example, the [Eureka plant in Pennsylvania](#), the [Aethon reverse osmosis plant](#) in Wyoming, and [the Fairmont plant](#) in West Virginia.

<sup>8</sup> Oil Conservation Division Incident Database

<sup>9</sup> On July 11, 2024, the Oil Conservation Division (“OCD”) cancelled 75 permits because the agency determined that any increase in injection volumes “would likely contribute directly to the observed induced seismicity.” *Notice Seismicity Response Protocol*, EMNRD.