

Water Bureau overview of Fresh Water easements and Salt Water Disposal Well easements

The Water Bureau may be reached at (505) 827-5849

Fresh Water Well Easements

When a water well is located on state trust land it will need an easement. There are three water **easement categories**;

- 1) A Production well produces water only for the benefit of the easement holder
- 2) A Commercial well produces water for sale to persons other than the easement holder
- 3) A Monitoring well produces no water and is often required for spill remediation plans by the New Mexico Oil Conservation Division. The recovery wells used in a remediation will be in a n easement also.
- 4.) A livestock well will be listed on a grazing lease as an improvement and does not require a separate easement.

A water easement consists of the right to use a small parcel of land for the placement and operation of a well. There is an annual rent for an easement, and in the case of a commercial well easement an additional rent per barrel for all water diverted from the well.

The SLO issues 5 types of **water easements**;

1. Production well, 'WO' prefix
2. Monitoring or Delineation well, 'WM' prefix
3. 30 to 60-day soil boring permit 'WE' prefix
4. Commercial well, 'WR' prefix
5. Temporary Easement for a one-time 90-day sale of water, "WT" prefix. For temporary sales from an agricultural livestock or irrigation well, and **only for agricultural or domestic purposes**. There are no water sales to be made for oil and gas production activities from agricultural wells.

Each easement must have a surface damage and contract **performance bond**.

Water Rights Agreement - the Agreement gives the right to place a well on State Trust Lands and identifies which parties own the water rights. This is **required** for all production and commercial well easements. In the case where water rights are moved from other locations on to Trust Lands a Water Rights Agreement for those water rights is not required.

Water Rights related issues are handled by the SLO Office of General Counsel (505) 827-5702, and the Office of the State Engineer, Water Rights Division: (505) 827-5789.

.....

Salt Water Disposal Well Easements

Salt water easements are issued for up to 2.50 acres for up to 5 years with a preference right of renewal. There is a \$250.00 non-refundable easement application fee.

Easements are required for all SWD wells placed on State Trust Lands with some exceptions. If the injection well is located within the boundary of an O&G Unit or Com on State Trust land an easement is not required.

An Easement is required if any off-unit produced water is injected.

SWD Annual Rent and Disposal charges

An annual Rent will be charged for each disposal well easement of \$10,000.00.

Additional Disposal rent is charged per barrel of Salt Water disposed of in the easement well, due annually by March 1 for the preceding year’s volumes. The disposal rent is based on whether operation of Salt Water Disposal wells is Applicant’s “Primary Business,” defined herein as transportation, movement and/or disposal of produced water For the purposes of this Easement, “primary business” means generating 50% or greater of Grantee’s annual gross revenues. Applicant represents and warrants that the following information is true and correct:

1. Tier One easement: Operation of Salt Water Disposal wells is not Applicant’s Primary Business.

\$10,000.00 per year per well rent + **\$0.05** for each barrel of disposed fluids

~~1.~~2. Tier Two easement: Operation of Salt Water Disposal wells is Applicant’s Primary Business

\$10,000.00 per year per well rent + **\$0.11** for each barrel of disposed fluids.

Bonds New applicants and existing easement holders must submit 2 bonds;

1. \$10,000.00 Single Easement Bond or other surety -For contract performance and surface damage.
2. \$250,000.00 Reclamation Bond or other surety- Each well must have this reclamation bond filed with and accepted by the NM Commissioner of Public Lands prior to commencing disposal.

.....
Commissioner’s Water Policy

Policy Title	ENCOURAGING REUSE/RECYCLING OF WATER FOR OIL AND GAS DEVELOPMENT
Policy Number	ADM-01-11
Revision Date	12/15/2020
Policy Replacement Number	N/A
Purpose	To encourage reuse and recycling of water within the oil and gas industry by ending the State Land Office’s practice of issuing fresh water easements or other instruments for commercial sale of fresh water for use in oil and gas development.
Statute Reference	NM Const. Art. XIII; §§19-1-1 et seq. NMSA 1978.
Appendices Form(s) Link	N/A

APPLICABILITY

All applications for fresh water easements, agricultural leases, business leases, or other instruments, including renewals/reissues of existing instruments, acted on by the Commissioner after the date of this policy.

POLICY CONTENT AND GUIDELINES

1. The Commissioner will not renew/reissue or issue new easements or other instruments that authorize access to state trust lands to withdraw fresh water for third-party commercial sales for oil and gas development.
2. Use or occupation of state trust land to withdraw fresh water for commercial sales will be deemed a trespass unless such activities are conducted pursuant to an unexpired easement or other instrument permitting commercial sales (see #5 below).
3. This policy does not prohibit the issuance of new or renewal/reissue easements or other instruments to access state trust land to withdraw fresh water for other purposes, such as agriculture or domestic use.

4. This policy does not prohibit the issuance of new or renewal/reissue easements or other instruments to access state trust land to withdraw deep non-fresh water for third-party commercial sales for oil and gas development.
5. This policy does not affect the status of unexpired easements or other instruments that grant access to state trust land to withdraw fresh water from wells or surface water for commercial sales for oil and gas development. Such easements or instruments will remain in effect, provided grantees otherwise remain in compliance with easement/instrument terms, until their stated expiration date.
6. All applications for new or renewal/reissued water easements, business leases, or other instruments involving the withdrawal of water from state trust land for purposes other than third-party commercial sales for oil and gas development shall provide a description of the intended use for any water that will be withdrawn and shall indicate:
 - a. any intended commercial, industrial, mining, secondary oil recovery, agricultural, domestic, or other uses;
 - b. the expected location of use, distinguishing state trust land from federal, tribal, and fee lands;
 - c. whether any water withdrawn will be sold and if so, the intended purchasers, uses, and projected revenue stream;
 - d. whether the water produced will be used for a commercial product or resource to be extracted, produced, or sold; and
 - e. the Office of the State Engineer file number and point of diversion numbers for any existing water rights that will be withdrawn.