

Santa Fe County

2357780

Resolution No. 2003-34

A RESOLUTION IN SUPPORT OF "HOUSE BILL 114, 46TH LEGISLATURE- STATE OF NEW MEXICO- FIRST SESSION, 2003 INTRODUCED BY MIMI STEWART FOR THE WATER AND NATURAL RESOURCES COMMITTEE AN ACT RELATING TO WATER QUALITY; PROVIDING FOR RESIDENTIAL LANDSCAPE USE OF GRAY WATER; AMENDING SECTIONS OF THE WATER QUALITY ACT"

WHEREAS, New Mexico's water resources are limited and are especially stressed during this period of drought,

WHEREAS, current state law does not differentiate between reuse of gray water and black water which makes legal reuse of gray water prohibitively expensive,

WHEREAS, New Mexico House Bill 114 seeks to simplify state laws so that gray water can be used safely to irrigate landscaping,

WHEREAS, the County of Santa Fe supports efforts to conserve precious water resources wherever possible.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that:

The Board of County Commissioners supports House Bill 114 to allow the use of gray water to safely irrigate landscaping.

APPROVED, ADOPTED AND PASSED this 25th day of February, 2003.

Board of County Commission



Rebecca Bustamante, County Clerk



Jack Sullivan
Jack Sullivan, Chairperson 1252. 577

COUNTY OF SANTA FE
STATE OF NEW MEXICO } ss
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 5th DAY OF Mar. A.D.
20 03 AT 8:17 O'CLOCK 9th M
AND WAS DULY RECORDED IN BOOK 2357
PAGE 780-791 OF THE RECORDS OF
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.
Marcella Salas
DEPUTY

Approved as to form:

2357781



Steve Kopelman, County Attorney

HOUSE BILL 114

46th legislature – STATE OF NEW MEXICO – first session, 2003

INTRODUCED BY

Mimi Stewart

2357782

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER QUALITY; PROVIDING FOR RESIDENTIAL LANDSCAPE USE OF GRAY WATER; AMENDING SECTIONS OF THE WATER QUALITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-6-2 NMSA 1978 (being Laws 1967, Chapter 190, Section 2, as amended) is amended to read:

"74-6-2. DEFINITIONS.--As used in the Water Quality Act:

A. "gray water" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers;

~~[A.]~~ B. "water contaminant" means any substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the federal Atomic Energy Act of 1954;

~~[B.]~~ C. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property; **2357783**

~~[C.]~~ D. "wastes" means sewage, industrial wastes or any other liquid, gaseous or solid substance that may pollute any waters of the state;

~~[D.]~~ E. "sewer system" means pipelines, conduits, pumping stations, force mains or any other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

~~[E.]~~ F. "treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;

~~[F.]~~ G. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

~~[G.]~~ H. "water" means all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

~~[H.]~~ I. "person" means an individual or any other entity, including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

~~[I.]~~ J. "commission" means the water quality control commission;

~~[J.]~~ K. "constituent agency" means, as the context may require, any or all of the following agencies of the state:

(1) the department of environment;

(2) the state engineer and the interstate stream commission;

(3) the department of game and fish;

(4) the oil conservation commission;

(5) the state parks division of the energy, minerals and natural resources department;

(6) the New Mexico department of agriculture;

2357784

(7) the soil and water conservation commission; and

(8) the bureau of geology and mineral resources at the New Mexico institute of mining and technology;

~~[K.]~~ L. "new source" means:

(1) any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance applicable to the source; or

(2) any existing source when modified to treat substantial additional volumes or when there is a substantial change in the character of water contaminants treated;

~~[L.]~~ M. "source" means a building, structure, facility or installation from which there is or may be a discharge of water contaminants directly or indirectly into water;

~~[M.]~~ N. "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance or disposal purposes;

~~[N.]~~ O. "sludge" means solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility that is associated with the treatment of these wastes. "Sludge" does not mean treated effluent from a wastewater treatment plant;

~~[O.]~~ P. "substantial adverse environmental impact" means that an act or omission of the violator causes harm or damage:

(1) to human beings; or

2357785

(2) that amounts to more than ten thousand dollars (\$10,000) damage or mitigation costs to flora, including agriculture crops; fish or other aquatic life; waterfowl or other birds; livestock or wildlife or damage to their habitats; ground water or surface water; or the lands of the state;

~~[P.]~~ Q. "federal act" means the Federal Water Pollution Control Act, its subsequent amendment and successor provisions; and

~~[Q.]~~ R. "standards of performance" means any standard, effluent limitation or effluent standard adopted pursuant to the federal act or the Water Quality Act."

Section 2. Section 74-6-4 NMSA 1978 (being Laws 1967, Chapter 190, Section 4, as amended by Laws 2001, Chapter 240, Section 1 and by Laws 2001, Chapter 281, Section 1) is amended to read:

"74-6-4. DUTIES AND POWERS OF COMMISSION.--The commission:

A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;

B. shall adopt a comprehensive water quality management program and develop a continuing planning process;

C. shall adopt water quality standards for surface and ground waters of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes;

2357786

D. shall adopt, promulgate and publish regulations to prevent or abate water pollution in the state or in any specific geographic area, aquifer or watershed of the state or in any part thereof, or for any class of waters, and to govern the disposal of septage and sludge and the use of sludge for various beneficial purposes. The regulations governing the disposal of septage and sludge may include the use of tracking and permitting systems or other reasonable means necessary to assure that septage and sludge are designated for disposal in, and arrive at, disposal facilities, other than facilities on the premises where the septage and sludge is generated, for which a permit or other authorization has been issued pursuant to the federal act or the Water Quality Act. Regulations shall not specify the method to be used to prevent or abate water pollution but may specify a standard of performance for new sources that reflects the greatest reduction in the concentration of water contaminants that the commission determines to be achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including where practicable a standard permitting no discharge of pollutants. In making regulations, the commission shall give weight it deems appropriate to all relevant facts and circumstances, including:

- (1) character and degree of injury to or interference with health, welfare, environment and property;
- (2) the public interest, including the social and economic value of the sources of water contaminants;
- (3) technical practicability and economic reasonableness of reducing or eliminating water contaminants from the sources involved and previous experience with equipment and methods available to control the water contaminants involved;
- (4) successive uses, including but not limited to domestic, commercial, industrial, pastoral, agricultural, wildlife and recreational uses;
- (5) feasibility of a user or a subsequent user treating the water before a subsequent use;
- (6) property rights and accustomed uses; and
- (7) federal water quality requirements;

2357787

E. shall assign responsibility for administering its regulations to constituent agencies so as to assure adequate coverage and prevent duplication of effort. To this end, the commission may make such classification of waters and sources of water contaminants as will facilitate the assignment of administrative responsibilities to constituent agencies. The commission shall also hear and decide disputes between constituent agencies as to jurisdiction concerning any matters within the purpose of the Water Quality Act. In assigning responsibilities to constituent agencies, the commission shall give priority to the primary interests of the constituent agencies. The department of environment shall provide technical services, including certification of permits pursuant to the federal act, and shall maintain a repository of the scientific data required by this act;

F. may enter into or authorize constituent agencies to enter into agreements with the federal government or other state governments for purposes consistent with the Water Quality Act and receive and allocate to constituent agencies funds made available to the commission;

G. may grant an individual variance from any regulation of the commission whenever it is found that compliance with the regulation will impose an unreasonable burden upon any lawful business, occupation or activity. The commission may only grant a variance conditioned upon a person effecting a particular abatement of water pollution within a reasonable period of time. Any variance shall be granted for the period of time specified by the commission. The commission shall adopt regulations specifying the procedure under which variances may be sought, which regulations shall provide for the holding of a public hearing before any variance may be granted;

H. may adopt regulations to require the filing with it or a constituent agency of proposed plans and specifications for the construction and operation of new sewer systems, treatment works or sewerage systems or extensions, modifications of or additions to new or existing sewer systems, treatment works or sewerage systems. Filing with and approval by the federal housing administration of plans for an extension to an existing or construction of a new sewerage system intended to serve a subdivision solely residential in nature shall be deemed compliance with all provisions of this subsection;

I. may adopt regulations requiring notice to it or a constituent agency of

intent to introduce or allow the introduction of water contaminants into waters of the state; 2357788

J. may adopt regulations establishing pretreatment standards that prohibit or control the introduction into publicly owned sewerage systems of water contaminants that are not susceptible to treatment by the treatment works or that would interfere with the operation of the treatment works;

K. shall not require a permit respecting the use of water in irrigated agriculture, except in the case of the employment of a specific practice in connection with such irrigation that documentation or actual case history has shown to be hazardous to public health or the environment; ~~and~~

L. shall not require a permit for applying less than two hundred fifty gallons per day of private residential gray water originating from a residence for the resident's household gardening, composting or landscape irrigation if:

(1) a constructed gray water distribution system provides for overflow into the sewage collection or on-site wastewater treatment and disposal system;

(2) a gray water storage tank is covered to restrict access and to eliminate habitat for mosquitos or other vectors;

(3) a gray water system is sited outside of a floodway;

(4) gray water is vertically separated at least five feet above the ground water table;

(5) gray water pressure piping is clearly identified as a nonpotable water conduit;

(6) gray water is used on the site where it is generated and does not run off the property lines;

(7) ponding is prohibited, application of gray water is managed to minimize standing water on the surface and standing water does not remain for more than twenty-four hours;

(8) gray water is not sprayed; and

(9) gray water use within municipalities or counties complies with all

applicable municipal or county ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978; and

[~~L.~~] M. shall coordinate application procedures and funding cycles for loans and grants from the federal government and from other sources, public or private, with the local government division of the department of finance and administration pursuant to the New Mexico Community Assistance Act."

2357789

BILL SUMMARY:

For the benefit of all New Mexicans, please support

House Bill 114

"FACILITATING GRAY WATER USE IN NM LANDSCAPES"

What would HB114 do?

2357790

HB114 simplifies state code so that gray water can be used safely in the landscape. Currently state code does not differentiate between black and gray water (defined below). This makes gray water re-use prohibitively expensive. By making the necessary distinction and creating safe guidelines, we will take an essential step in conserving New Mexico's most valuable resource for future generations. With essentially no expense to the state, the positive effect of HB114 would be immediate (see back).

HB114 would NOT undermine any local ordinances, because it allows for towns, cities and counties to be more restrictive when it comes to gray water re-use.

What is Gray Water?

Technically, gray water is untreated household wastewater that has not come in contact with toilet waste (black water). Primarily, gray water includes waste water from bathtubs, showers, bathroom sinks and clothes washing machines. HB114 also stipulates that wastewater from kitchen sinks, dishwashers and the washing of material soiled with human excrement to be "black water".

Is Gray Water Safe?

Yes. When handled properly, gray water is safe. HB114 includes best management practices developed to protect public health and water quality. Arizona and Texas already have gray water regulations similar to HB114. Many of the rules in Arizona are based on an extensive study conducted in Tuscon, which can be found at www.ag.arizona.edu/AZWATER (listed under Research).

What does HB114 require?

1) Every gray water distribution system must provide for overflow into the

sewer;

- 2) Gray water storage tanks must be covered;
- 3) Systems must not be sited in floodways;
- 4) Gray water must be stored at least five feet above the ground water table;
- 5) Pipes must be clearly identified;
- 6) Gray water must not run out of a homeowner's property;
- 7) Contact with people or domestic pets must be minimized;
- 8) Ponding of gray water is prohibited;
- 9) Spraying of gray water is prohibited;
- 10) Gray water must not be discharged to a watercourse;
- 11) Use of gray water must comply with local ordinances ; and
- 12) No more than 250 gallons of gray water can be used in a given day.

2357791

PLEASE SUPPORT HB114

Some of the benefits of this new Gray Water Re-use Legislation:

Conserves Water

Beautifies Communities

Saves money on water bills

Supports water efficient homes

Saves water for future generations

● **Reduces demand on water systems**

Creates plumbing and landscaping jobs