

1 ALTERATION OR OPERATION OF AN OIL OR GAS WELL MAY SO NOTIFY THE DEPART-
2 MENT AND REQUEST THAT AN INVESTIGATION BE CONDUCTED. WITHIN TEN DAYS OF
3 SUCH NOTIFICATION, THE DEPARTMENT SHALL INVESTIGATE ANY SUCH CLAIM AND
4 SHALL, WITHIN FORTY-FIVE DAYS FOLLOWING NOTIFICATION, MAKE A DETERMI-
5 NATION. IF THE DEPARTMENT FINDS THAT THE POLLUTION OR DIMINUTION WAS
6 CAUSED BY THE DRILLING, TREATMENT, ALTERATION OR OPERATION ACTIVITIES,
7 OR IF IT PRESUMES THE OWNER, DRILLER OR PRODUCER RESPONSIBLE FOR
8 POLLUTION OR DIMINUTION PURSUANT TO SUBDIVISION 4 OF THIS SECTION THEN
9 IT SHALL ISSUE SUCH ORDERS TO THE OWNER, DRILLER OR PRODUCER AS ARE
10 NECESSARY TO ASSURE COMPLIANCE WITH SUBDIVISION ONE OF THIS SECTION.
11 SUCH ORDERS MAY INCLUDE ORDERS REQUIRING THE TEMPORARY REPLACEMENT OF
12 WATER SUPPLY WHERE IT IS DETERMINED THAT THE POLLUTION OR DIMINUTION MAY
13 BE OF LIMITED DURATION.

14 4. UNLESS REBUTTED BY ONE OF THE FIVE DEFENSES ESTABLISHED IN SUBDIVI-
15 SION 5 OF THIS SECTION, IT SHALL BE PRESUMED THAT AN OWNER, DRILLER OR
16 PRODUCER IS RESPONSIBLE FOR THE POLLUTION OR DIMINUTION OF VOLUME OF A
17 WATER SUPPLY THAT IS WITHIN ONE THOUSAND FEET OF THE DRILLING, ALTER-
18 ATION OR OPERATION ACTIVITIES, WHERE THE POLLUTION OCCURRED WITHIN SIX
19 MONTHS OR THE DIMINUTION OF VOLUME OCCURRED WITHIN FORTY-EIGHT HOURS
20 AFTER THE COMPLETION OF DRILLING, TREATMENT OR ALTERATION OF SUCH WELL.

21 5. IN ORDER TO REBUT THE PRESUMPTION OF LIABILITY ESTABLISHED IN
22 SUBDIVISION 4 OF THIS SECTION, THE OWNER, DRILLER OR PRODUCER MUST
23 AFFIRMATIVELY PROVE ONE OF THE FOLLOWING FIVE DEFENSES:

24 A. THE POLLUTION EXISTED PRIOR TO THE DRILLING, OPERATION, TREATMENT
25 OR ALTERATION ACTIVITY AS DETERMINED BY A PREDRILLING, PRETREATMENT OR
26 PREALTERATION SURVEY.

27 B. THE LANDOWNER OR WATER PURVEYOR REFUSED TO ALLOW THE OWNER, DRILLER
28 OR PRODUCER ACCESS TO CONDUCT A PREDRILLING OR PREALTERATION SURVEY OF
29 AN ACTIVE WATER SUPPLY. IF A LANDOWNER OR WATER PURVEYOR FAILS TO
30 RESPOND WITHIN THIRTY DAYS TO A NOTIFICATION SENT BY CERTIFIED OR REGIS-
31 TERED MAIL, ADDRESSED TO THE OWNER OF RECORD AS RECORDED IN THE OFFICE
32 OF THE COUNTY CLERK, MADE BY THE OWNER, OPERATOR OR DRILLER DECLARING
33 THE INTENTION OF THE OWNER, OPERATOR OR DRILLER TO CONDUCT A PREDRILL-
34 ING, PRETREATMENT OR PREALTERATION SURVEY, IT SHALL BE PRESUMED THAT THE
35 LANDOWNER HAS REFUSED TO ALLOW THE OWNER, PRODUCER OR DRILLER TO CONDUCT
36 A PREDRILLING OR PREALTERATION SURVEY OF AN ACTIVE WATER SUPPLY.

37 C. THE WATER SUPPLY IS NOT WITHIN ONE THOUSAND FEET OF THE DRILLING,
38 ALTERATION OR OPERATION ACTIVITIES.

39 D. THE POLLUTION OCCURRED MORE THAN SIX MONTHS AFTER COMPLETION OF
40 DRILLING, TREATMENT OR ALTERATION ACTIVITIES.

41 E. THE POLLUTION OCCURRED AS THE RESULT OF SOME CAUSE OTHER THAN THE
42 DRILLING, TREATMENT, OPERATION OR ALTERATION ACTIVITY.

43 6. ANY OWNER, DRILLER OR PRODUCER ELECTING TO PRESERVE ITS DEFENSES
44 UNDER PARAGRAPH A OR B OF SUBDIVISION 5 OF THIS SECTION SHALL RETAIN THE
45 SERVICES OF AN INDEPENDENT CERTIFIED LABORATORY TO CONDUCT THE PREDRILL-
46 ING OR PREALTERATION SURVEY OF WATER SUPPLIES. A COPY OF THE RESULTS OF
47 ANY SUCH SURVEY SHALL BE SUBMITTED TO THE DEPARTMENT AND THE LANDOWNER,
48 WATER PURVEYOR OR OTHER PERSON IN MANNER PRESCRIBED BY THE DEPARTMENT.

49 7. NOTHING IN THIS SECTION SHALL PREVENT ANY LANDOWNER, WATER PURVEYOR
50 OR OTHER PERSON WHO CLAIMS POLLUTION OR DIMINUTION OF A WATER SUPPLY
51 FROM SEEKING ANY OTHER REMEDY THAT MAY BE PROVIDED AT LAW OR IN EQUITY.

52 S 2. This act shall take effect on the one hundred twentieth day after
53 it shall have become a law.