

SENATE BILL NO. 177

INTRODUCED BY M. MCNALLY

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE DRILLING OF AN OIL OR GAS WELLBORE WITHIN CERTAIN AREAS; AMENDING SECTIONS 82-11-111, 82-11-123, AND 82-11-136, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-111, MCA, is amended to read:

"82-11-111. (Temporary) Powers and duties of board. (1) The board shall make investigations that it considers proper to determine whether waste exists or is imminent or whether other facts exist that justify any action by the board under the authority granted by this chapter.

(2) Subject to the administrative control of the department under 2-15-121, the board shall:

(a) require measures to be taken to prevent contamination of or damage to surrounding land or underground strata caused by drilling operations and production, including but not limited to regulating the disposal or injection of water and disposal of oil field wastes and prohibiting the drilling of a wellbore within a 1,000-foot radius of surface water, a water well as defined in 75-5-103, or inhabitable real property as defined in 75-3-602;

(b) classify wells as oil or gas wells or class II injection wells for purposes material to the interpretation or enforcement of this chapter;

(c) adopt and enforce rules and orders to implement this chapter.

(3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of conservation.

(4) With respect to any pool from which gas was being produced by a gas well on or prior to April 1, 1953, this chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of gas from that pool by any existing well or a well drilled after that date and producing from that pool to less than the rate at which the well can be produced without adversely affecting the quantity of gas ultimately recoverable

1 by the well.

2 (5) The board has exclusive jurisdiction over all class II injection wells and all pits and ponds in relation
3 to those injection wells. The board may:

4 (a) issue, suspend, revoke, modify, or deny permits to operate class II injection wells consistent with
5 rules made by it;

6 (b) examine plans and other information needed to determine whether a permit should be issued or
7 require changes in plans as a condition to the issuance of a permit;

8 (c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids
9 to be injected and the operation of the well;

10 (d) authorize its staff to enter upon any public or private property at reasonable times to:

11 (i) investigate conditions relating to violations of permit conditions;

12 (ii) have access to and copy records required under this chapter;

13 (iii) inspect monitoring equipment or methods; and

14 (iv) sample fluids that the operator is required to sample; and

15 (e) adopt standards for the design, construction, testing, and operation of class II injection wells.

16 (6) The board shall determine, for the purposes of using the oil and gas production damage mitigation
17 account established in 82-11-161:

18 (a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located
19 or, if the person is identified or located, when the person does not have sufficient financial resources to properly
20 plug the well, sump, or hole; or

21 (b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems
22 and no responsible party can be identified or located or, if a responsible party can be identified and located, when
23 the person does not have sufficient financial resources to correct the problems.

24 (7) The board may take measures to demonstrate to the general public the importance of the state's oil
25 and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to
26 promote environmentally sound exploration and production methods and technologies, to develop the state's oil
27 and gas resources, and to support research and educational activities concerning the oil and natural gas
28 exploration and production industry. The board may:

29 (a) make grants or loans and provide other forms of financial assistance as necessary or appropriate
30 from available funds to qualified persons for research, development, marketing, educational projects, and

1 processes or activities directly related to the state's oil and gas exploration and production industry;

2 (b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the
3 authority to contract for the administration of an oil and gas research, development, marketing, and educational
4 program;

5 (c) cooperate with any private, local, state, or national commission, organization, agent, or group and
6 enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

7 (d) coordinate with the Montana university system, including Montana tech of the university of Montana
8 or any of its affiliated research programs;

9 (e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the
10 oil and gas education and research account established in 82-11-110;

11 (f) distribute funds from the oil and gas education and research account to carry out the provisions of
12 this subsection (7); and

13 (g) make orders and rules to implement the provisions of this subsection (7).

14 **82-11-111. (Effective on occurrence of contingency) Powers and duties of board.** (1) The board
15 shall investigate matters it considers proper to determine whether waste exists or is imminent or whether other
16 facts exist that justify any action by the board under the authority granted by this chapter.

17 (2) Subject to the administrative control of the department under 2-15-121, the board shall:

18 (a) require measures to be taken to prevent contamination of or damage to surrounding land or
19 underground strata caused by drilling operations and production, including but not limited to regulating the
20 disposal or injection of water or carbon dioxide and disposal of oil field wastes and prohibiting the drilling of a
21 wellbore within a 1,000-foot radius of surface water, a water well as defined in 75-5-103, or inhabitable real
22 property as defined in 75-3-602;

23 (b) classify wells as oil or gas wells, carbon dioxide injection wells, or class II injection wells for purposes
24 material to the interpretation or enforcement of this chapter;

25 (c) adopt and enforce rules and orders to implement this chapter.

26 (3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and
27 which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells
28 and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of
29 conservation.

30 (4) With respect to any pool with gas being produced by a gas well on or prior to April 1, 1953, this

1 chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of gas from that
2 pool by any existing well or a well drilled after that date and producing from that pool to less than the rate at which
3 the well can be produced without adversely affecting the quantity of gas ultimately recoverable by the well.

4 (5) Subject to subsection (8), the board has exclusive jurisdiction over carbon dioxide injection wells,
5 geologic storage reservoirs, all class II injection wells, and all pits and ponds in relation to those injection wells.

6 The board may:

7 (a) issue, suspend, revoke, modify, or deny permits to operate carbon dioxide injection wells and class
8 II injection wells, consistent with rules made by it and pursuant to 82-11-123. If a permit for a carbon dioxide
9 injection well is revoked, an operator may not seek a refund of application or permitting fees or fees paid pursuant
10 to 82-11-181 or 82-11-184(2)(b).

11 (b) examine plans and other information needed to determine whether a permit should be issued or
12 require changes in plans as a condition to the issuance of a permit;

13 (c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids
14 to be injected and the operation of the well;

15 (d) authorize its staff to enter upon any public or private property at reasonable times to:

16 (i) investigate conditions relating to violations of permit conditions;

17 (ii) have access to and copy records required under this chapter;

18 (iii) inspect monitoring equipment or methods; and

19 (iv) sample fluids that the operator or geologic storage operator is required to sample; and

20 (e) adopt standards for the design, construction, testing, and operation of carbon dioxide injection wells
21 and class II injection wells.

22 (6) The board shall determine, for the purposes of using the oil and gas production damage mitigation
23 account established in 82-11-161 or the geologic storage reservoir program account established in 82-11-181:

24 (a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located
25 or, if the person is identified or located, when the person does not have sufficient financial resources to properly
26 plug the well, sump, or hole; or

27 (b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems
28 and a responsible party cannot be identified or located or, if a responsible party can be identified and located,
29 when the person does not have sufficient financial resources to correct the problems.

30 (7) The board may take measures to demonstrate to the general public the importance of the state's oil

1 and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to
 2 promote environmentally sound exploration and production methods and technologies, to develop the state's oil
 3 and gas resources, and to support research and educational activities concerning the oil and natural gas
 4 exploration and production industry. The board may:

5 (a) make grants or loans and provide other forms of financial assistance as necessary or appropriate
 6 from available funds to qualified persons for research, development, marketing, educational projects, and
 7 processes or activities directly related to the state's oil and gas exploration and production industry;

8 (b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the
 9 authority to contract for the administration of an oil and gas research, development, marketing, and educational
 10 program;

11 (c) cooperate with any private, local, state, or national commission, organization, agent, or group and
 12 enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

13 (d) coordinate with the Montana university system, including Montana tech of the university of Montana
 14 or any of its affiliated research programs;

15 (e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the
 16 oil and gas education and research account established in 82-11-110;

17 (f) distribute funds from the oil and gas education and research account to carry out the provisions of
 18 this subsection (7); and

19 (g) make orders and rules to implement the provisions of this subsection (7).

20 (8) (a) Before holding a hearing on a proposed permit for a carbon dioxide injection well, the board shall
 21 solicit, document, consider, and address comments from the department of environmental quality on the proposal.

22 (b) Notwithstanding the provisions of subsection (8)(a), the board makes the final decision on issuance
 23 of a permit.

24 (9) Solely for the purposes of administering carbon dioxide injection wells under this part, carbon dioxide
 25 within a geologic storage reservoir is not a pollutant, a nuisance, or a hazardous or deleterious substance."

26

27 **Section 2.** Section 82-11-123, MCA, is amended to read:

28 **"82-11-123. (Temporary) Requirements for oil and gas operations.** (1) Subject to the administrative
 29 control of the department under 2-15-121, the board shall require:

30 (+)(a) identification of ownership of oil or gas wells, producing properties, and tanks;

1 ~~(2)~~(b) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to
2 facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well locations,
3 and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core
4 analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period of 6 months following
5 completion of those wells;

6 ~~(3)~~(c) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that
7 prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata,
8 blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish
9 water;

10 ~~(4)~~(d) the restoration of surface lands to their previous grade and productive capability after a well is
11 plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological
12 effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its
13 representatives, to a different plan of restoration;

14 ~~(5)~~(e) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance
15 of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its entirety by the board
16 for failure to perform the duty to properly plug each dry or abandoned well and may not be canceled or absolved
17 if the well fails to produce oil or gas in commercial quantities, until:

18 ~~(a)~~(i) the board determines the well is properly plugged and abandoned as provided in the board's rules;
19 or

20 ~~(b)~~(ii) the requirements of 82-11-163 are met.

21 ~~(6)~~(f) proper gauging or other measuring of oil and gas produced and saved to determine the quantity
22 and quality of oil and gas;

23 ~~(7)~~(g) that every person who produces, transports, or stores oil or gas or injects or disposes of water in
24 this state shall make available within this state for a period of 5 years complete and accurate records of the
25 quantities. The records must be available for examination by the board or its employees at all reasonable times.
26 The person shall file with the board reports as it may prescribe with respect to quantities, transportations, and
27 storages of the oil, gas, or water.

28 ~~(8)~~(h) the installation, use, and maintenance of monitoring equipment or methods in the operation of
29 class II injection wells.

30 (2) Subject to the administrative control of the department under 2-15-121, the board shall prohibit the

1 drilling of a wellbore within a 1,000-foot radius of surface water, a water well as defined in 75-5-103, or inhabitable
2 real property as defined in 75-3-602.

3 **82-11-123. (Effective on occurrence of contingency) Requirements for oil and gas and carbon**
4 **dioxide injection operations.** (1) Subject to the administrative control of the department under 2-15-121, the
5 board shall require:

6 (a) identification of ownership of carbon dioxide injection wells, carbon dioxide, geologic storage
7 reservoirs, and oil or gas wells, producing properties, and tanks;

8 (b) the making and filing of acceptable well logs, including bottom-hole temperatures, in order to facilitate
9 the discovery of potential geothermal energy sources, the making and filing of reports on well locations, and the
10 filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if
11 made. However, logs of exploratory or wildcat wells need not be filed for a period of 6 months following
12 completion of those wells.

13 (c) the drilling, casing, producing, and plugging of wells, carbon dioxide injection wells, and class II
14 injection wells in a manner that prevents the escape of carbon dioxide, oil, or gas out of one stratum into another,
15 the intrusion of water into carbon dioxide, oil, or gas strata, blowouts, cave-ins, seepages, and fires and the
16 pollution of fresh water supplies by carbon dioxide, oil, gas, salt, or brackish water;

17 (d) the restoration of surface lands to their previous grade and productive capability after a well is
18 plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological
19 effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its
20 representatives, to a different plan of restoration;

21 (e) except as provided in subsection (1)(f), the furnishing of a reasonable bond with good and sufficient
22 surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond may be
23 forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and
24 may not be canceled or absolved if the well fails to produce oil or gas in commercial quantities, until:

25 (i) the board determines the well is properly plugged and abandoned as provided in the board's rules;
26 or

27 (ii) the requirements of 82-11-163 are met.

28 (f) the furnishing of reasonable bond or other surety for a carbon dioxide injection well, geologic storage
29 reservoir, and the carbon dioxide stored in the reservoir with good and sufficient surety for performance of the
30 duty to operate and manage a carbon dioxide injection well, geologic storage reservoir, and the carbon dioxide

1 stored in the reservoir and to properly plug and reclaim each carbon dioxide injection well. The bond or other
2 surety may be forfeited in its entirety by the board for failure to perform the duty to properly manage and operate
3 a well, reservoir, and stored carbon dioxide or to plug a well. Except as provided in 82-11-183(8), the bond or
4 other surety may not be canceled or absolved.

5 (g) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and
6 quality of oil and gas;

7 (h) that every person who produces, transports, or stores oil or gas or injects or disposes of water or
8 carbon dioxide in this state shall make available within this state for a period of 5 years complete and accurate
9 records of the quantities. The records must be available for examination by the board or its employees at all
10 reasonable times. The person shall file with the board reports as it may prescribe with respect to quantities,
11 transportations, and storages of the oil, gas, carbon dioxide, or water.

12 (i) the installation, use, and maintenance of monitoring equipment or methods in the operation of carbon
13 dioxide injection wells and class II injection wells.

14 (2) Subject to the administrative control of the department under 2-15-121, the board shall prohibit the
15 drilling of a wellbore within a 1,000-foot radius of surface water, a water well as defined in 75-5-103, or inhabitable
16 real property as defined in 75-3-602.

17 ~~(2)(3)~~ In addition to the requirements of ~~subsection (1)~~ and prohibitions of subsections (1) and (2), the
18 geologic carbon dioxide injection well permitting system must include:

19 (a) recordkeeping and reporting requirements sufficient to measure the effectiveness of carbon dioxide
20 injection wells and geologic storage reservoirs;

21 (b) characterization of the injection zone and aquifers above and below the injection zone that may be
22 affected, including applicable pressure and fluid chemistry data to describe the projected effects of injection
23 activities;

24 (c) verification and monitoring at geologic storage reservoirs;

25 (d) mitigation of leaks, including the ability to stop the leaking of carbon dioxide and to address impacts
26 of leaks;

27 (e) adequate baseline monitoring of drinking water wells within 1 mile of the perimeter of the geologic
28 storage reservoir; and

29 (f) at a minimum, requirements pursuant to applicable federal regulatory standards established by:

30 (i) the Energy Independence and Security Act of 2007, Public Law 110-140, and subsequent acts;

- 1 (ii) the Safe Drinking Water Act, 42 U.S.C. 300f, et seq.; and
- 2 (iii) the underground injection control program, 40 CFR, parts 144 through 147."

3

4 **Section 3.** Section 82-11-136, MCA, is amended to read:

5 **"82-11-136. (Temporary) Expenditure of funds from bonds for plugging wells.** The board may

6 accept and expend all funds received by it from bonds for properly plugging dry or abandoned wells as authorized

7 in ~~82-11-123(5)~~ 82-11-123(1)(e).

8 **82-11-136. (Effective on occurrence of contingency) Expenditure of funds from bonds for**

9 **plugging wells.** (1) The board may accept and expend all funds received by it from bonds for properly plugging

10 dry or abandoned wells as authorized in 82-11-123(1)(e).

11 (2) The board may accept and expend all funds received by it from bonds for properly plugging

12 abandoned carbon dioxide injection wells as authorized in 82-11-123(1)(f)."

13

14 NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a

15 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell

16 Chippewa tribe.

17

18 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured,

19 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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21 NEW SECTION. **Section 6. Applicability.** [This act] applies to operations initiated on or after [the

22 effective date of this act].

23 - END -