

## HOUSE BILL NO. 573

INTRODUCED BY K. BALES, CLANCY, GROSFIELD, OLSON, SHEA, WOLERY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF OIL AND GAS CONSERVATION  
5 TO PERMIT CERTAIN COAL BED METHANE GAS WELLS; PROVIDING REQUIREMENTS FOR ~~THE~~  
6 ~~PERMITTING OF WELLS~~ COAL BED METHANE WELLS THAT INVOLVE PRODUCTION OF GROUND WATER;  
7 PROVIDING THAT CERTAIN MANAGEMENT PRACTICES FOR GROUND WATER PRODUCED IN  
8 ASSOCIATION WITH A COAL BED METHANE WELL MAY NOT BE CONSTRUED AS WASTE; AMENDING  
9 SECTION 85-2-505, MCA; AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED CONTINGENT EFFECTIVE DATE  
10 EFFECTIVE DATES."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. Section 1. Short title. [Sections 1 through ~~4~~ 3] may be known as the "Coal Bed  
15 Methane Production Offset Act".

16  
17 NEW SECTION. Section 2. Legislative findings -- purpose. (1) The legislature finds that ~~the policy~~  
18 ~~of Montana to require systematic, interdisciplinary, and deliberative decisionmaking regarding resource~~  
19 ~~development and the potential impacts that may result from that development~~ A DELAY IN THE DEVELOPMENT  
20 OF CERTAIN COAL BED METHANE WELLS may inadvertently result in the loss of coal bed methane resources.

21 (2) The legislature further finds that because of the nature of this subsurface mineral resource,  
22 it is highly susceptible to collateral extraction and use through development efforts on adjacent federal,  
23 tribal, or other states' lands to the economic detriment of Montana and its citizens.

24 ~~———— (3) The legislature affirms that Montana has a well-developed regulatory framework:~~

25 ~~———— (a) for the conservation and development of coal bed methane reserves;~~

26 ~~———— (b) that is sufficiently protective of the human environment;~~

27 ~~———— (c) that is protective of private property interests; and~~

28 ~~———— (d) that must be used in the implementation of [sections 1 through 4].~~

29 ~~(4)~~(3) The legislature FURTHER finds that there is a compelling state interest to authorize the board  
30 through this limited program to act in a timely and expeditious manner to permit coal bed methane wells

1 to offset the collateral permitting of wells by other entities on nonjurisdictional lands that are not subject  
2 to permitting by the board under 82-11-103 in order to:

- 3 (a) protect coal bed methane mineral reserves from collateral extraction by others;  
4 (b) provide economic benefits to the state;  
5 (c) protect the private property rights of the owners of the mineral reserves;  
6 (d) promote the balanced development of state lands and protect the mineral reserve interest held  
7 in trust for the benefit of state schools; and  
8 (e) assist in providing much needed energy resources to the region.

9

10 NEW SECTION. Section 3. Offset permitting -- geographic requirements. The board is authorized  
11 and directed to issue upon application and subject to the regulatory requirements of the program AND  
12 [SECTION 4] permits for coal bed methane production wells that will offset permitting by federal agencies,  
13 tribal agencies, or agencies of other states of coal bed methane wells that are located within 1 mile of the  
14 perimeter of lands that are under the jurisdiction of the board.

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16 NEW SECTION. Section 4. Coal bed methane wells -- requirements. (1) Coal bed methane  
17 production wells ~~authorized under [sections 1 through 4] AND COAL BED METHANE WELLS PERMITTED UNDER THIS~~  
18 ~~PART:~~

- 19 ~~—— (a) must be permitted in compliance with the requirements of this part; and ——~~  
20 ~~—— (b) may be located only within a controlled ground water area, as designated under 85-2-506,~~  
21 ~~THAT REQUIRES MITIGATION OF ADVERSE EFFECTS TO A WATER RIGHT OR PERMIT HELD BY ANOTHER APPROPRIATOR UNDER~~  
22 ~~TITLE 85, CHAPTER 2 THAT INVOLVE THE PRODUCTION OF GROUND WATER MUST COMPLY WITH THIS SECTION. GROUND~~  
23 ~~WATER WITHDRAWN IN ASSOCIATION WITH COAL BED METHANE PRODUCTION IS NOT A WASTE OF WATER UNDER TITLE~~  
24 ~~85.~~

25 (2) ~~The discharge of ground~~ GROUND water produced in association with ~~the development of~~ a coal  
26 bed methane well must be managed ~~in the following priority:~~ IN ANY OF THE FOLLOWING WAYS:

- 27 ~~—— (a) (A) FOR use as irrigation or stock water or other beneficial uses in compliance with Title 85,~~  
28 ~~chapter 2, part 3, if required; AND IF SAFE AND PRUDENT FOR THE PURPOSE.;~~  
29 ~~—— (3) IF THE USE OF DISCHARGED GROUND WATER AS PROVIDED IN SUBSECTION (2) IS NOT ECONOMICALLY~~  
30 ~~FEASIBLE, THEN GROUND WATER PRODUCED IN ASSOCIATION WITH THE DEVELOPMENT OF A COAL BED METHANE WELL~~

1 ~~MUST BE EITHER:~~

2 ~~—— (b) reinjection (A)(B) REINJECTED to an acceptable subsurface strata or aquifer pursuant to rules~~  
 3 ~~adopted under 82-11-111 APPLICABLE LAW; and~~

4 ~~—— (c) discharge (B)(C) DISCHARGED to the surface or surface waters subject to the permit requirements~~  
 5 ~~of 75-5-401 TITLE 75, CHAPTER 5; OR~~

6 ~~(c)(D) MANAGED THROUGH OTHER DISPOSAL METHODS AS PROVIDED ALLOWED BY LAW.~~

7 (3) (A) PRIOR TO THE DEVELOPMENT OF A COAL BED METHANE WELL THAT INVOLVES THE PRODUCTION OF  
 8 GROUND WATER FROM AN AQUIFER THAT IS A SOURCE OF SUPPLY FOR APPROPRIATION RIGHTS OR PERMITS TO  
 9 APPROPRIATE UNDER THIS CHAPTER, THE DEVELOPER OF THE COAL BED METHANE WELL SHALL NOTIFY AND OFFER A  
 10 REASONABLE MITIGATION AGREEMENT TO EACH APPROPRIATOR OF WATER WHO HOLDS AN APPROPRIATION RIGHT OR A  
 11 PERMIT TO APPROPRIATE UNDER THIS CHAPTER THAT IS FOR GROUND WATER AND FOR WHICH THE POINT OF DIVERSION  
 12 IS WITHIN:

13 (i) 1 MILE OF THE COAL BED METHANE WELL; OR

14 (ii) ONE-HALF MILE OF A WELL THAT IS ADVERSELY AFFECTED BY THE COAL BED METHANE WELL.

15 (B) THE MITIGATION AGREEMENT MUST ADDRESS THE REDUCTION OR LOSS OF WATER RESOURCES AND MUST  
 16 PROVIDE FOR PROMPT SUPPLEMENTATION OR REPLACEMENT OF WATER FROM ANY NATURAL SPRING OR WATER WELL  
 17 ADVERSELY AFFECTED BY THE COAL BED METHANE WELL. THE MITIGATION AGREEMENT IS NOT REQUIRED TO ADDRESS A  
 18 LOSS OF WATER WELL PRODUCTIVITY THAT DOES NOT RESULT FROM A REDUCTION IN THE AMOUNT OF AVAILABLE WATER  
 19 BECAUSE OF PRODUCTION OF GROUND WATER FROM THE COAL BED METHANE WELL.

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21 SECTION 5. SECTION 85-2-505, MCA, IS AMENDED TO READ:

22 **"85-2-505. Waste and contamination of ground water prohibited.** (1) No ground water may be  
 23 wasted. The department shall require all wells producing waters ~~which~~ that contaminate other waters to  
 24 be plugged or capped. It shall also require all flowing wells to be so capped or equipped with valves that  
 25 the flow of water can be stopped when the water is not being put to beneficial use. Likewise, both flowing  
 26 and nonflowing wells ~~shall~~ must be so constructed and maintained as to prevent the waste, contamination,  
 27 or pollution of ground water through leaky casings, pipes, fittings, valves, or pumps either above or below  
 28 the land surface, ~~provided, however.~~ However, in the following cases the withdrawal or use of ground  
 29 water ~~shall~~ may not be construed as waste under this part:

30 (a) the withdrawal of reasonable quantities of ground water in connection with the construction,

1 development, testing, or repair of a well or other means of withdrawal of ground water;

2 (b) the inadvertent loss of ground water owing to breakage of a pump, valve, pipe, or fitting, if  
3 reasonable diligence is shown by the person in effecting the necessary repair;

4 (c) the disposal of ground water without further beneficial use that must be withdrawn for the sole  
5 purpose of improving or preserving the utility of land by draining the same or that must be removed from  
6 a mine to permit mining operations or to preserve the mine in good condition;

7 (d) the disposal of ground water used in connection with producing, reducing, smelting, and milling  
8 metallic ores and industrial minerals or that displaced from an aquifer by the storage of other mineral  
9 resources-; and

10 (e) the management, discharge, or reinjection of ground water produced in association with a coal  
11 bed methane well in accordance with [section 4(2)(b) through (2)(d)].

12 (2) The department at any time may hold a hearing on its own motion or upon petition signed by  
13 a representative body of users of ground water in any area or subarea to determine whether the water  
14 supply within ~~such~~ that area or subarea is used in compliance with this part."

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16 NEW SECTION. Section 6. Notification to FEDERAL AND tribal governments. The secretary of state  
17 shall send a copy of [this act] to each tribal government located on the seven Montana reservations ~~and~~  
18 to the Little Shell band of Chippewa, AND TO THE U.S. SECRETARY OF THE INTERIOR.

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20 NEW SECTION. Section 7. Codification instruction. (1) [Sections 1 through 4 ~~3~~] are intended to  
21 be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11,  
22 part 1, apply to [sections 1 through 4 ~~3~~].

23 (2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 85, CHAPTER 2, PART 5, AND THE  
24 PROVISIONS OF TITLE 85, CHAPTER 2, PART 5, APPLY TO [SECTION 4].

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26 NEW SECTION. SECTION 8. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE  
27 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS  
28 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID  
29 APPLICATIONS.

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