

HOUSE BILL NO. 380
INTRODUCED BY M. LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR MANAGEMENT OF GROUND WATER PRODUCED IN ASSOCIATION WITH A COAL BED METHANE WELL; CLARIFYING THAT A DISCHARGE OF UNALTERED GROUND WATER PRODUCED IN ASSOCIATION WITH A COAL BED METHANE WELL IS A DISCHARGE THAT REQUIRES A WATER QUALITY PERMIT; PROHIBITING DISCHARGE OF COAL BED METHANE PRODUCT WATER INTO STATE WATERS UNLESS NUMERIC STANDARDS FOR ELECTRICAL CONDUCTIVITY AND SODIUM ADSORPTION RATIO ARE ADOPTED BY THE BOARD OF ENVIRONMENTAL REVIEW; AND AMENDING SECTIONS 75-5-401 AND 85-2-521, MCA."

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

Section 1. Section 75-5-401, MCA, is amended to read:

"75-5-401. Board rules for permits -- ground water exclusions. (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. ~~Discharge~~ Except for a discharge of ground water from a coal bed methane well, discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

(i) the discharge does not contain industrial waste, sewage, or other wastes;

(ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and

(iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. These rules must allow an owner or operator to notify the department of the intent to be

covered under the general permit. This notice of intent must include a signed pollution prevention plan that requires the applicant to implement best management practices in accordance with the general permit. The rules must authorize the owner or operator to discharge under the general permit on receipt of the notice and plan by the department.

(2) The rules must allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that the rules may allow the issuance of a temporary permit under which pollution may result if the department ensures that the permit contains a compliance schedule designed to meet all applicable effluent standards and water quality standards in the shortest reasonable period of time.

(3) The rules must provide that the department may revoke a permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible.

(4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation of permitted activities for which a bond is voluntarily filed by a permittee pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release of the bond or other surety and release of portions of a bond or other surety.

(5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the following activities or operations are not subject to the ground water permit requirements adopted under subsections (1) through (4):

- (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and production regulated under the federal underground injection control program;
- (b) disposal by solid waste management systems licensed pursuant to 75-10-221;
- (c) individuals disposing of their own normal household wastes on their own property;
- (d) hazardous waste management facilities permitted pursuant to 75-10-406;
- (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations and approved pursuant to Title 82, chapter 11;
- (f) agricultural irrigation facilities;
- (g) storm water disposal or storm water detention facilities;
- (h) subsurface disposal systems for sanitary wastes serving individual residences;
- (i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;

(j) mining operations subject to operating permits or exploration licenses in compliance with The Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation laws, Title 82, chapter 4, part 3; or

(k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20.

(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c).

(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the department determines may be causing or is likely to cause violations of ground water quality standards may be required to submit monitoring information pursuant to 75-5-602.

(8) (a) Except as provided in subsection (8)(b), a discharge of ground water produced in association with a coal bed methane well into state waters may be permitted only if the board has adopted numeric standards for electrical conductivity and sodium adsorption ratio for the water body receiving the discharge.

(b) With the consent of the surface owner of the land where the ground water is impounded, ground water produced in association with a coal bed methane well may be impounded for a beneficial use in compliance with Title 85, chapter 2, part 3, the requirements of this chapter, and rules adopted pursuant to this chapter, whether or not the board has adopted numeric standards as provided in subsection (8)(a).

~~(8)(9)~~ The board may adopt rules identifying other activities or operations from which a discharge of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water permit requirements adopted under subsections (1) through (4)."

Section 2. Section 85-2-521, MCA, is amended to read:

"85-2-521. Coal bed methane wells -- requirements. (1) Coal bed methane production wells that involve the production of ground water must comply with this section.

(2) Ground water produced in association with a coal bed methane well must be managed in any of the following ways:

(a) with the consent of the surface owner of the land where the ground water is impounded, used as irrigation or stock water or for other beneficial uses in compliance with Title 85, chapter 2, part 3;

(b) reinjected to an acceptable subsurface strata or aquifer pursuant to applicable law;

(c) discharged to ~~the surface or surface~~ state waters subject to the permit requirements of Title 75, chapter 5; or

(d) ~~managed through other methods allowed by law~~ treated prior to discharge to state waters as provided in subsection (2)(c).

(3) (a) Prior to the development of a coal bed methane well that involves the production of ground water from an aquifer that is a source of supply for appropriation rights or permits to appropriate under this chapter, the developer of the coal bed methane well shall notify and offer a reasonable mitigation agreement to each appropriator of water who holds an appropriation right or a permit to appropriate under this chapter that is for ground water and for which the point of diversion is within:

- (i) 1 mile of the coal bed methane well; or
- (ii) one-half mile of a well that is adversely affected by the coal bed methane well.

(b) The mitigation agreement must address the reduction or loss of water resources and must provide for prompt supplementation or replacement of water from any natural spring or water well adversely affected by the coal bed methane well. The mitigation agreement is not required to address a loss of water well productivity that does not result from a reduction in the amount of available water because of production of ground water from the coal bed methane well."

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