MINING AND GAS AND OIL PRODUCTION

CHAPTER 310

HOUSE BILL NO. 1511

(Representatives S. Meyer, Drovdal, Keiser, Onstad)
(Senator Heitkamp)

OIL AND GAS WELL BONDING REQUIREMENTS

AN ACT to create and enact a new subdivision to subsection 1 of section 38-08-04 of the North Dakota Century Code, relating to bonding requirements for idle oil and gas wells.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. A new subdivision to subsection 1 of section 38-08-04 of the North Dakota Century Code is created and enacted as follows:

The placing of wells in abandoned-well status which have not produced oil or natural gas in paying quantities for one year. A well in abandoned-well status must be promptly returned to production in paying quantities, approved by the commission for temporarily abandoned status, or plugged and reclaimed within six months. If none of the three preceding conditions are met, the industrial commission may require the well to be placed immediately on a single-well bond in an amount equal to the cost of plugging the well and reclaiming the well site. In setting the bond amount, the commission shall use information from recent plugging and reclamation operations. After a well has been in abandoned-well status for one year, the well's equipment, all well-related equipment at the well site, and salable oil at the well site are subject to forfeiture by the commission. If the commission exercises this authority, section 38-08-04.9 applies. After a well has been in abandoned-well status for one year, the single-well bond referred to above, or any other bond covering the well if the single-well bond has not been obtained, is subject to forfeiture by the commission.

Approved March 29, 2007
Filed March 28, 2007

CHAPTER 311

HOUSE BILL NO. 1229

(Representatives Drovdal, Kempenich)
(Senators Bowman, Urlacher, Wardner)

OIL AND GAS WELL LOCATION RESTRICTIONS

AN ACT to amend and reenact section 38-08-05 of the North Dakota Century Code, relating to oil and gas well location restrictions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-05 of the North Dakota Century Code is amended and reenacted as follows:

38-08-05. Drilling permit required. It is unlawful to commence operations for the drilling of a well for oil or gas without first obtaining a permit from the industrial commission under such rules as may be prescribed by the commission and paying to the commission a fee for each such well in an amount to be prescribed by the commission. The applicant shall provide notice to the owner of any permanently occupied dwelling located within one-quarter mile [402.34 meters] of the proposed oil or gas well. Unless waived by the owner or if the commission determines that the well location is reasonably necessary to prevent waste or to protect correlative rights, the commission may not issue a drilling permit for an oil or gas well that will be located within five hundred feet [152.4 meters] of an occupied dwelling. If the commission issues a drilling permit for a location within five hundred feet [152.4 meters] of an occupied dwelling, the commission may impose such conditions on the permit as the commission determines reasonably necessary to minimize impact to the owner of the dwelling.

Approved April 9, 2007
Filed April 10, 2007

CHAPTER 312

HOUSE BILL NO. 1048

(Representatives Drovdal, Hatlestad, S. Meyer)
(Senators Tollefson, Urlacher)

UNLOCATABLE MINERAL INTEREST TRUSTS

AN ACT to create and enact chapter 38-13.1 of the North Dakota Century Code, relating to trusts for unlocatable mineral, leasehold, and royalty interest owners; and to repeal chapter 38-13 of the North Dakota Century Code, relating to execution of oil and gas instruments affecting interests owned by absent persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 38-13.1 of the North Dakota Century Code is created and enacted as follows:

38-13.1-01. Trusts for unlocatable mineral, leasehold, or royalty interest owners - Creation. A person that owns a mineral, leasehold, or royalty interest underlying a tract of land may petition the district court of the county in which the tract or a portion of the tract is located to declare a trust in favor of other persons also owning or claiming an interest in the mineral, leasehold, or royalty interest underlying the tract if the place of residence and present whereabouts of the other persons are unknown and cannot reasonably be ascertained. In requesting the appointment of a trustee, the petitioner must show that a diligent but unsuccessful effort to locate the absent owner or claimant has been made and that appointment of a trustee will be in the best interest of all owners of an interest in the mineral, leasehold, or royalty interest. After determining that these conditions have been met, the court shall appoint the county treasurer as trustee and shall authorize the county treasurer to execute and deliver an oil, gas, or other mineral lease, a ratification, a division order, or any other related document or instrument on the terms and the conditions as the court may approve. A trust in existence on the effective date of this Act may be transferred to the county treasurer of the county in which the mineral, leasehold, or royalty interest is located.

38-13.1-02. No further liability for petitioner. If a trust in favor of unlocatable owners or claimants of an interest the mineral, leasehold, or royalty interest has been created and all bonuses, rental payments, royalties, and other income due to the unlocatable owners being or have been paid to the trustee, the person petitioning for creation of the trust is not liable for further claims by unlocatable owners for bonuses, rental payments, royalties, and other income produced after the creation of the trust.

38-13.1-03. Administration of trust. The administration of the trust must comply with the appropriate provisions regulating trusts contained in title 59. Except as provided in this section, trustee or attorney's fees may not be paid from the trust proceeds. All bonuses, rental payments, royalties, and other income must be paid to the trustee until the trust is terminated and notice of its termination is given to all interested parties. The trustee shall distribute all moneys held in the trust to the person entitled to the money upon the order of the district court. A trust in favor of unlocatable owners must be kept in force until the unlocatable owners of the mineral interests in question have successfully claimed their share of the funds held in trust

and have filed the notice as provided in section 38-13.1-04. The creation of a trust in favor of unlocatable owners does not affect the right of a surface owner who succeeds to ownership of a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest from the date of succession. The trustee shall invest funds in a prudent manner. Upon receipt, fifty percent of the moneys paid to the trustee must be credited to the general fund of the county in which the mineral interest is located to defray the costs of administration. Funds held in trust are subject to the laws governing abandoned property as provided in chapter 47-30.1.

38-13.1-04. Filing of addresses - Fee. A person claiming an interest in the mineral, leasehold, or royalty interest underlying a tract of land that is the subject of a trust proceeding under section 38-13.1-01 may record with the recorder of each county in which the land is located a notice containing the person's address and a description of the person's mineral, leasehold, or royalty interest. Recording the notice creates a rebuttable presumption that the person owns the interest claimed.

SECTION 2. REPEAL. Chapter 38-13 of the North Dakota Century Code is repealed.

Approved March 2, 2007
Filed March 2, 2007

CHAPTER 313

HOUSE BILL NO. 1045

(Representatives Drovdal, Kempenich)
(Senators Bowman, Lyson)

ABANDONED MINERAL SUCCESSION STATEMENTS

AN ACT to create and enact a new subsection to section 11-18-03 and a new subsection to section 38-18.1-06 of the North Dakota Century Code, relating to filing of a statement of succession in interest to abandoned minerals; and to amend and reenact section 38-18.1-02 of the North Dakota Century Code, relating to filing of a statement of succession in interest to abandoned minerals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 11-18-03 of the North Dakota Century Code is created and enacted as follows:

A statement of succession in interest to minerals deemed to be abandoned under chapter 38-18.1.

SECTION 2. AMENDMENT. Section 38-18.1-02 of the North Dakota Century Code is amended and reenacted as follows:

38-18.1-02. Statement of claims - Recording - Reversion. Any mineral interest is, if unused for a period of twenty years immediately preceding the first publication of the notice required by section 38-18.1-06, deemed to be abandoned, unless a statement of claim is recorded in accordance with section 38-18.1-04. Title to the abandoned mineral interest vests in the owner or owners of the surface estate in the land in or under which the mineral interest is located on the date of abandonment. The owner of the surface estate in the land in or under which the mineral interest is located on the date of abandonment may record a statement of succession in interest indicating that the owner has succeeded to ownership of the minerals under this chapter.

SECTION 3. A new subsection to section 38-18.1-06 of the North Dakota Century Code is created and enacted as follows:

A person who succeeds to the ownership of a mineral interest upon its lapse under this chapter is entitled to record a statement of succession in interest indicating that that person has succeeded to the ownership of the mineral interest.

Approved March 2, 2007
Filed March 2, 2007

CHAPTER 314

HOUSE BILL NO. 1060

(Natural Resources Committee)
(At the request of the Industrial Commission)

MINERAL EXPLORATION AND GEOLOGIC DATA FUNDS

AN ACT to create and enact chapter 38-21 and a new section to chapter 54-17.4 of the North Dakota Century Code, relating to creation of the geophysical, geothermal, subsurface minerals, and coal exploration and geologic data preservation funds; to amend and reenact sections 38-08-04.4, 38-08-04.5, and 38-19-04 and subsection 5 of section 54-44.4-02 of the North Dakota Century Code, relating to oil well plugging contracts, the oil and gas well plugging and site reclamation fund, geothermal energy extraction permits, and exemptions from procurement practices; to provide a continuing appropriation; to provide for a report to the budget section; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.4. Commission authorized to enter into contracts. The commission is hereby authorized to enter into public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, and the reclamation of abandoned oil and gas or injection well sites if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, or cannot be legally required to plug or replug the well or to reclaim the well site.

2. There is no ~~surety~~ bond covering the well to be plugged or the site to be reclaimed or there is a ~~forfeited surety~~ bond but the cost of plugging or replugging the well or reclaiming the site exceeds the amount of the bond.

3. The well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

Reclamation work must be limited to abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads. Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at ~~an industrial commission meeting~~ the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission

may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to ~~plug or replug such wells under such rules as the commission may prescribe~~ mitigate the problem.

The contracts for the plugging or replugging of wells or the reclamation of well sites must be on terms and conditions as prescribed by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

SECTION 2. AMENDMENT. Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund. There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:

   a. Fees collected by the oil and gas division of the industrial commission for permits or other services.

   b. Moneys received from the forfeiture of drilling and reclamation bonds.

   c. Moneys received from any federal agency for the purpose of this section.

   d. Moneys donated to the commission for the purposes of this section.

   e. Moneys received from the state's oil and gas impact fund.

   f. Moneys recovered under the provisions of section 38-08-04.8.

   g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.

   h. Moneys transferred from the cash bond fund under section 38-08-04.11.

   i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.

2. Moneys in the fund may be used for the following purposes:

   a. Contracting for the plugging of abandoned wells.

   b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.

   c. To pay mineral owners their royalty share in confiscated oil.

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. ~~However, when the fees accumulated in the fund exceed two hundred fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission must be deposited in the general fund.~~

SECTION 3. AMENDMENT. Section 38-19-04 of the North Dakota Century Code is amended and reenacted as follows:

38-19-04. Permit ~~or~~ and report required. It is unlawful to commence any operations for the drilling, boring, excavating, or construction of a geothermal energy extraction facility~~, which is used for other than private residential heating and cooling purposes,~~ without first securing a permit from the director of mineral resources, under such rules as may be adopted by the commission and after paying to the commission a fee for each such facility in an amount to be prescribed by the commission by rule. The fee set must be related to the cost ~~or~~ of regulation and inspection under this chapter.

A report is required upon completion of any geothermal energy extraction facility ~~used solely for private residential heating or cooling purposes~~. The report must be prepared by the geothermal energy extraction facility installer on a form provided by the state geologist and must be furnished to the state geologist within thirty days after the completion of the facility. The report must contain relevant information the state geologist requires relating to the environmental safety of the facility, including the facility owner and location, a log of formations penetrated~~, if any~~ or total depth, system specifications and design, and fluids used in the facility.

All construction of geothermal energy extraction facilities must comply with rules adopted under this chapter.

SECTION 4. Chapter 38-21 of the North Dakota Century Code is created and enacted as follows:

38-21-01. Geophysical, geothermal, subsurface minerals, and coal exploration fund. There is created a geophysical, geothermal, subsurface minerals, and coal exploration fund. The following must be deposited into the fund:

1. Fees collected under sections 38-08.1-04, 38-12-03, 38-12.1-05, and 38-19-04.

2. Money received from the forfeiture of bonds or other security required by section 38-08.1-03.1, 38-12-02, 38-12.1-04, or 38-19-03.

3. Money received by the industrial commission from any federal or state agency, or any other source, to satisfy the purposes for which the fund is established.

4. Money received for penalties imposed under section 38-08.1-07, 38-12-05, 38-12.1-08, or 38-19-07.

5. Money recovered from any person to recoup costs and expenses incurred by the industrial commission to satisfy any duty imposed by chapter 38-08.1, 38-12, 38-12.1, or 38-19.

38-21-02. Fund uses. Money in the fund may be used to pay costs and expenses incurred by the industrial commission to satisfy unfulfilled obligations imposed on persons regulated under chapters 38-08.1, 38-12, 38-12.1, and 38-19. To cure such obligations, the commission may enter contracts consistent with the requirements of section 38-08-04.4.

38-21-03. Continuing appropriation - Cap. All money collected under section 38-21-01 must be deposited in the fund established by that section. The fund must be maintained as a special fund and all money transferred into the fund is appropriated and must be used and disbursed solely for the purposes described in section 38-21-02. If, however, the fund reaches five hundred thousand dollars, any additional money collected under section 38-21-01 must be deposited in the general fund, provided there are no outstanding obligations to be paid by the fund.

SECTION 5. A new section to chapter 54-17.4 of the North Dakota Century Code is created and enacted as follows:

Geologic data preservation fund - Continuing appropriation. The geologic data preservation fund may be used to defray the expenses of preserving geologic data compiled by the commission and disseminating the data to county, state, and federal departments and agencies and members of the general public. All moneys collected for dissemination of geologic data under this section must be deposited in the geologic data preservation fund. This fund must be maintained as a special fund in the state treasury and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of paying the current cost of providing information as determined by the commission based on actual costs.

[165] **SECTION 6. AMENDMENT.** Subsection 5 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Procurements through a contract or other instrument executed by the industrial commission under chapter 54-17.5 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.

SECTION 7. BUDGET SECTION REPORT. The industrial commission shall report to the budget section during the 2007-08 interim on revenues and expenditures of the abandoned oil and gas well plugging and site reclamation fund; geophysical, geothermal, subsurface minerals, and coal exploration fund; and the geologic data preservation fund for the biennium beginning July 1, 2007, and ending June 30, 2009.

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[165] Section 54-44.4-02 was also amended by section 6 of House Bill No. 1127, chapter 413, section 3 of House Bill No. 1128, chapter 464, and section 7 of Senate Bill No. 2019, chapter 45.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2007
Filed April 13, 2007