

Sixty-fourth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1358

Introduced by

Representatives D. Anderson, Hatlestad, J. Nelson, Porter, Weisz

Senators Bekkedahl, O'Connell

1 A BILL for an Act to create and enact a new section to chapter 38-08 and a new subsection to
2 section 38-08-26 of the North Dakota Century Code, relating to the operation of underground
3 gathering pipelines and the sharing of information by a surface owner; to amend and reenact
4 subsection 18 of section 38-08-02, subdivisions d and l of subsection 1 of section 38-08-04,
5 subsection 6 of section 38-08-04, and section 38-08-04.5 of the North Dakota Century Code,
6 relating to an exception to confidentiality of well data, to underground gathering ~~pipeline-~~
7 ~~bonds~~pipelines, to temporarily abandoned status, and the uses of the abandoned oil and gas
8 well plugging and site reclamation fund; to provide a report to the legislative management; to
9 provide a transfer; to provide an appropriation; and to declare an emergency.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1. AMENDMENT.** Subsection 18 of section 38-08-02 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 18. "Underground gathering pipeline" means an underground gas or liquid pipeline
14 ~~that~~with associated above ground equipment which is designed for or capable of
15 transporting crude oil, natural gas, carbon dioxide, or water produced in association
16 with oil and gas which is not subject to chapter 49-22. As used in this subsection,
17 "associated above ground equipment" means equipment and property located above
18 ground level, which is incidental to and necessary for or useful for transporting crude
19 oil, natural gas, carbon dioxide, or water produced in association with oil and gas from
20 a production facility. As used in this subsection, "equipment and property" includes a
21 pump, a compressor, storage, leak detection or monitoring equipment, and any other
22 facility or structure.

23 **SECTION 2.** A new section to chapter 38-08 of the North Dakota Century Code is created
24 and enacted as follows:

1 **Controls, inspections, and engineering design on crude oil and produced water**
2 **underground gathering pipelines.**

3 ~~The operator of an~~The application of this section is limited to an underground gathering
4 pipeline that is designed or intended to transfer oil or produced water from a production facility
5 for disposal, storage, or sale purposes and which was placed into service after August 1, 2015.
6 Within sixty days of an underground gathering pipeline being placed into service, the operator of
7 that pipeline shall file with the commission the underground gathering pipeline engineering final
8 construction design drawings and ~~a~~specifications, an independent inspector's certificate of
9 ~~inspection from a qualified third party~~hydrostatic or pneumatic testing of the underground
10 gathering pipeline, and a plan for leak detection and monitoring for the underground gathering
11 pipeline. ~~The commission shall require the operator of the pipeline to install flow meters and~~
12 ~~overpressure protection devices designated by the commission or the commission may require~~
13 ~~alternative leak detection and monitoring technologies be installed by the operator of these~~
14 ~~pipelines.~~

15 **SECTION 3. AMENDMENT.** Section 38-08-04.5 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Budget**
18 **section report.**

19 There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

- 20 1. Revenue to the fund must include:
- 21 a. Fees collected by the oil and gas division of the industrial commission for permits
 - 22 or other services.
 - 23 b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - 24 c. Moneys received from any federal agency for the purpose of this section.
 - 25 d. Moneys donated to the commission for the purposes of this section.
 - 26 e. Moneys received from the state's oil and gas impact fund.
 - 27 f. Moneys recovered under the provisions of section 38-08-04.8.
 - 28 g. Moneys recovered from the sale of equipment and oil confiscated under section
 - 29 38-08-04.9.
 - 30 h. Moneys transferred from the cash bond fund under section 38-08-04.11.

- 1 i. Such other moneys as may be deposited in the fund for use in carrying out the
2 purposes of plugging or replugging of wells or the restoration of well sites.
- 3 j. Civil penalties assessed under section 38-08-16.
- 4 2. Moneys in the fund may be used for the following purposes:
- 5 a. Contracting for the plugging of abandoned wells.
- 6 b. Contracting for the reclamation of abandoned drilling and production sites,
7 saltwater disposal pits, drilling fluid pits, and access roads.
- 8 c. To pay mineral owners their royalty share in confiscated oil.
- 9 d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and
10 gas-related pipelines and associated facilities.
- 11 e. Reclamation and restoration of land and water resources ~~adversely~~
12 ~~affected~~impacted by oil and gas development, including related pipelines and
13 facilities ~~which~~that were abandoned or were left in an inadequate reclamation
14 status before August 1, 1983, and for which there is not any continuing
15 reclamation responsibility under state law. Land and water degraded by any
16 willful act of the current or any former surface owner are not eligible for
17 reclamation or restoration. The commission may expend up to one million five
18 hundred thousand dollars per biennium from the fund in the following priority:
- 19 (1) For the restoration of eligible land and water that are degraded by the
20 adverse effects of oil and gas development including related pipelines and
21 facilities.
- 22 (2) For the development of publicly owned land adversely affected by oil and
23 gas development including related pipelines and facilities.
- 24 (3) For administrative expenses and cost in developing an abandoned site
25 reclamation plan and the program.
- 26 (4) Demonstration projects for the development of reclamation and water
27 quality control program methods and techniques for oil and gas
28 development, including related pipelines and facilities.
- 29 3. All moneys collected under this section must be deposited in the abandoned oil and
30 gas well plugging and site reclamation fund. This fund must be maintained as a
31 special fund and all moneys transferred into the fund are appropriated and must be

1 used and disbursed solely for the purpose of defraying the costs incurred in carrying
2 out the plugging or replugging of wells, the reclamation of well sites, and all other
3 related activities.

4 4. The commission shall report to the budget section of the legislative management on
5 the balance of the fund and expenditures from the fund each biennium.

6 **SECTION 4. AMENDMENT.** Subdivision d of subsection 1 of section 38-08-04 of the North
7 Dakota Century Code is amended and reenacted as follows:

8 d. The furnishing of a reasonable bond with good and sufficient surety, conditioned
9 upon the full compliance with this chapter, and the rules and orders of the
10 industrial commission, including without limitation a bond covering the operation
11 of any underground gathering pipeline ~~intended to transfer~~transferring oil or
12 produced water from a production facility for disposal, storage, or sale purposes.
13 except that if the commission requires a bond to be furnished, the person
14 required to furnish the bond may elect to deposit under such terms and
15 conditions as the industrial commission may prescribe a collateral bond,
16 self-bond, cash, or any alternative form of security approved by the commission,
17 or combination thereof, by which an operator assures faithful performance of all
18 requirements of this chapter and the rules and orders of the industrial
19 commission.

20 **SECTION 5. AMENDMENT.** Subdivision l of subsection 1 of section 38-08-04 of the North
21 Dakota Century Code is amended and reenacted as follows:

22 l. The placing of wells in abandoned-well status which have not produced oil or
23 natural gas in paying quantities for one year. A well in abandoned-well status
24 must be promptly returned to production in paying quantities, approved by the
25 commission for temporarily abandoned status, or plugged and reclaimed within
26 six months. ~~A surface owner may request a review of the temporarily abandoned~~
27 ~~status of a well that has been on temporarily abandoned status for at least seven~~
28 ~~years. The commission shall require notice and hearing to review the temporarily~~
29 ~~abandoned status. After notice and hearing, the surface owner may request a~~
30 ~~review of the temporarily abandoned status every two years.~~ If none of the three
31 preceding conditions are met, the industrial commission may require the well to

1 be placed immediately on a single-well bond in an amount equal to the cost of
2 plugging the well and reclaiming the well site. In setting the bond amount, the
3 commission shall use information from recent plugging and reclamation
4 operations. After a well has been in abandoned-well status for one year, the well's
5 equipment, all well-related equipment at the well site, and salable oil at the well
6 site are subject to forfeiture by the commission. If the commission exercises this
7 authority, section 38-08-04.9 applies. After a well has been in abandoned-well
8 status for one year, the single-well bond referred to above, or any other bond
9 covering the well if the single-well bond has not been obtained, is subject to
10 forfeiture by the commission. A surface owner may request a review of the
11 temporarily abandoned status of a well that has been on temporarily abandoned
12 status for at least seven years. The commission shall require notice and hearing
13 to review the temporarily abandoned status. After notice and hearing, the surface
14 owner may request a review of the temporarily abandoned status every two
15 years.

16 **SECTION 6. AMENDMENT.** Subsection 6 of section 38-08-04 of the North Dakota Century
17 Code is amended and reenacted as follows:

- 18 6. To provide for the confidentiality of well data reported to the commission if requested in
19 writing by those reporting the data for a period not to exceed six months. However, the
20 commission shall~~may~~ release:
- 21 a. Volumes injected ~~from~~into a saltwater injection well.
 - 22 b. Information from the spill report on a well on a site at which more than ten barrels
23 of fluid, not contained on the well site, was released for which an oilfield
24 environmental incident report is required by law.

25 **SECTION 7.** A new subsection to section 38-08-26 of the North Dakota Century Code is
26 created and enacted as follows:

27 The surface owner may share information contained in the geographic information
28 system database.

29 **SECTION 8. TRANSFER - ABANDONED OIL AND GAS WELL PLUGGING AND SITE**
30 **RECLAMATION FUND TO OIL AND GAS RESEARCH FUND - PRODUCED WATER**

31 **PIPELINE STUDY - REPORT TO LEGISLATIVE MANAGEMENT.** The director of the office of

1 management and budget shall transfer the sum of \$1,500,000 from the abandoned oil and gas
2 well plugging and site reclamation fund to the oil and gas research fund for the purpose of
3 funding a special project through the energy and environmental research center at the
4 university of North Dakota during the biennium beginning July 1, 2015, and ending June 30,
5 2017. The special project must focus on conducting an analysis of crude oil and produced water
6 pipelines including the construction standards, depths, pressures, monitoring systems,
7 maintenance, types of materials used in the pipeline including backfill, and an analysis of the
8 ratio of spills and leaks occurring in this state in comparison to other large oil and gas-producing
9 states with substantial volumes of produced water. The industrial commission shall contract with
10 the energy and environmental research center to compile the information and the center shall
11 work with the department of mineral resources to analyze the existing regulations on
12 construction and monitoring of crude oil and produced water pipelines, determine the feasibility
13 and cost effectiveness of requiring leak detection and monitoring technology on expansion of
14 existing pipeline systems, and provide a report with recommendations to the industrial
15 commission and the energy development and transmission committee by December 1, 2015.
16 The industrial commission shall adopt the necessary administrative rules necessary to improve
17 produced water pipeline safety and integrity. In addition, the industrial commission shall contract
18 for a pilot project ~~on pipeline flow monitoring~~ to evaluate a working pipeline leak detection and
19 monitoring system.

20 **SECTION 9. APPROPRIATION.** Notwithstanding section 38-08-04.5, there is appropriated
21 out of any moneys in the abandoned oil and gas well plugging and site reclamation fund in the
22 state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may
23 be necessary, to the industrial commission for the purpose of conducting a pilot program
24 involving the oil and gas research council in conjunction with research facilities in this state to
25 determine the best techniques for ~~removing~~remediating salt and any other contamination from
26 the soil surrounding waste pits reclaimed by trenching between 1951 and 1984 in the north
27 central portion of this state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

28 **SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.