23.0282.03000

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2317

Introduced by

Senator Magrum

A BILL for an Act to amend and reenact sections 38-25-05, 38-25-06, and 38-25-07 of the North Dakota Century Code, relating to the amalgamation of the underground storage of oil and gas; to repeal section 38-25-08 of the North Dakota Century Code, relating to amalgamating property interests; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-25-05 of the North Dakota Century Code is amended and reenacted as follows:

38-25-05. Permit requirements - Storage in oil and gas reservoir.

Before issuing a permit for storage in an oil and gas reservoir, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.
4. The storage operator has made a good-faith effort to get the consent of all persons that own the storage reservoir's pore space.
5. The storage operator has made a good-faith effort to obtain the consent of all persons that own oil and gas minerals and oil and gas leases.
6. The storage operator has obtained the consent of persons that own at least ~~fifty-five~~eighty-five percent of the storage reservoir's pore space ~~unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order required to pool the mineral interests prevails as to the percentage of pore space owners from~~

~~whom the storage operator must obtain consent~~. If a county elects to require written consent from more than eighty-five percent of the persons that own the storage reservoir's pore space, the storage operator has received written consent from the specified percentage of the owners required by the county.

7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the storage reservoir's oil and gas minerals and oil and gas leases unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order prevails.
8. Whether the storage reservoir contains any commercially valuable oil, gas, or other minerals and, if it does, a permit may be issued only if the commission is satisfied the interests of the mineral owners or mineral lessees will not be affected adversely or have been addressed in an arrangement entered by the mineral owners or mineral lessees and the storage operator.
9. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
10. The injected oil or gas will not escape from the storage reservoir.
11. The storage facility will not endanger health or unduly endanger the environment.
12. The storage facility is in the public interest.
13. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the storage facility.
14. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the storage facility.

15. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.
16. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
17. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.
18. All nonconsenting owners ~~are or will be compensated equitably~~have received just compensation under chapter 32-15 and section 16 of article I of the Constitution of North Dakota or the district court has authorized the plaintiff to take possession under section 32-15-29.

SECTION 2. AMENDMENT. Section 38-25-06 of the North Dakota Century Code is amended and reenacted as follows:

38-25-06. Permit requirements - Storage in saline reservoir or aquifer.

Before issuing a permit for storage in a saline reservoir or aquifer, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.
4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the storage reservoir's pore space.

5. The storage operator has obtained the consent of persons that own at least ~~sixty~~eighty-five percent of the storage reservoir's pore space. If a county elects to require written consent from more than eighty-five percent of the persons that own the storage reservoir's pore space, the storage operator has received written consent from the specified percentage of the owners required by the county.
6. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
7. The injected oil or gas will not escape from the storage reservoir.
8. The storage facility will not endanger health or unduly endanger the environment.
9. The storage facility is in the public interest.
10. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the storage facility.
11. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the storage facility.
12. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.
13. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
14. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of

the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

15. All nonconsenting pore space owners ~~are or will be compensated equitably~~have received just compensation under chapter 32-15 and section 16 of article I of the Constitution of North Dakota or the district court has authorized the plaintiff to take possession under section 32-15-29.

SECTION 3. AMENDMENT. Section 38-25-07 of the North Dakota Century Code is amended and reenacted as follows:

38-25-07. Permit requirements - Storage in salt cavern.

Before issuing a permit for storage in a salt cavern, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission, including all necessary permits to conduct solution mining, if applicable.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.
4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's pore space.
5. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's salt minerals and salt leases.
6. The storage operator has obtained the consent of persons that own at least ~~sixty~~eighty-five percent of the salt cavern's pore space. If a county elects to require written consent from more than eighty-five percent of the persons that own the salt cavern's pore space, the storage operator has received written consent from the specified percentage of the owners required by the county.
7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the salt cavern's salt minerals and salt leases.
8. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
9. The injected oil or gas will not escape from the salt cavern.

10. The storage facility will not endanger health or unduly endanger the environment.
11. The storage facility is in the public interest.
12. The horizontal and vertical boundaries of the salt cavern are defined to include a buffer zone from the outer walls of the cavern for the purpose of ensuring the safe operation of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of gas ~~therefrom~~from the storage facility.
13. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.
14. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
15. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.
16. ~~That all~~All nonconsenting owners ~~are or will be equitably compensated~~have received just compensation under chapter 32-15 and section 16 of article I of the Constitution of North Dakota or the district court has authorized the plaintiff to take possession under section 32-15-29.

SECTION 4. REPEAL. Section 38-25-08 of the North Dakota Century Code is repealed.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.