

CHAPTER NO. 19

HOUSE BILL NO. 130

INTRODUCED BY RAMIREZ, GERKE

IN THE HOUSE

January 12, 1979	Introduced and referred to Committee on Natural Resources.
January 17, 1979	Committee recommend bill do pass as amended and be placed on Consent Calendar. Report adopted.
January 18, 1979	Printed and placed on members' desks.
January 20, 1979	On motion rules suspended and bill placed on Third Reading this day.
January 22, 1979	Third Reading Consent Calendar passed. Transmitted to Second House.

IN THE SENATE

January 23, 1979	Introduced and referred to Committee on Natural Resources.
January 30, 1979	Committee recommend bill be concurred in. Report adopted.
February 1, 1979	Second Reading, concurred in. Statement of Intent adopted.
February 5, 1979	Third Reading, concurred in.

IN THE HOUSE

February 6, 1979	Returned from Second House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 ~~House~~ BILL NO. 130
2 INTRODUCED BY Ramirez, Gerke
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DESIGNATE THE BOARD
5 OF OIL AND GAS CONSERVATION AS THE MONTANA JURISDICTIONAL
6 AGENCY FOR PURPOSES OF THE NATURAL GAS POLICY ACT OF 1978
7 AND ANY SUCCESSOR OR SIMILAR LEGISLATION AND TO PROVIDE FOR
8 A PROCEDURE TO IMPLEMENT STATE AUTHORITY UNDER THE FEDERAL
9 LAW; AMENDING SECTIONS 82-11-101 AND 82-11-141, MCA; AND
10 PROVIDING AN EFFECTIVE DATE."

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

13 Section 1. Section 82-11-101, MCA, is amended to read:
14 "82-11-101. Definitions. As used in this chapter,
15 unless the context requires otherwise, the following
16 definitions apply:

17 (1) "Board" means the board of oil and gas
18 conservation provided for in 2-15-3303.

19 (2) "Department" means the department of natural
20 resources and conservation provided for in Title 2, chapter
21 15, part 33.

22 (3) "Determinations" means those decisions delegated
23 to the state by or under authority of the Natural Gas Policy
24 Act of 1978 or any successor or similar legislation relating
25 to oil and gas.

1 ~~(3)(4)~~ "Enhanced recovery" means the increased
2 recovery from a pool achieved by artificial means or by the
3 application of energy extrinsic to the pool; such artificial
4 means or application includes pressuring, cycling, pressure
5 maintenance, or injection into the pool of any substance or
6 form of energy as is contemplated in secondary recovery and
7 tertiary programs but does not include the injection in a
8 well of a substance or form of energy for the sole purpose
9 of aiding in the lifting of fluids in the well or
10 stimulating of the reservoir at or near the well by
11 mechanical, chemical, thermal, or explosive means.

12 ~~(4)(5)~~ "Field" means the general area underlaid by one
13 or more pools.

14 ~~(5)(6)~~ "Gas" means all natural gases and all other
15 fluid hydrocarbons as produced at the wellhead and not
16 defined as oil in subsection (6) of this section.

17 ~~(6)(7)~~ "Oil" means crude petroleum oil and other
18 hydrocarbons regardless of gravity which are produced at the
19 wellhead in liquid form by ordinary production methods and
20 which are not the result of condensation of gas before or
21 after it leaves the reservoir.

22 ~~(7)(8)~~ "Owner" means the person who has the right to
23 drill into and produce from a pool and to appropriate the
24 oil or gas he produces therefrom either for himself or
25 others or for himself and others, and the term includes all

1 persons holding such authority by or through him.

2 ~~(8)~~(9) "Person" means any natural person, corporation,

3 association, partnership, receiver, trustee, executor,

4 administrator, guardian, fiduciary, or other representative

5 of any kind and includes any agency or instrumentality of

6 the state or any governmental subdivision thereof.

7 ~~(9)~~(10) "Pool" means an underground reservoir containing

8 a common accumulation of oil or gas or both; each zone of a

9 structure which is completely separated from any other zone

10 in the same structure is a pool, as that term is used in

11 this chapter.

12 ~~(10)~~(11) "Producer" means the owner of a well or wells

13 capable of producing oil or gas or both.

14 ~~(11)~~(12) "Waste" means:

15 (a) physical waste, as that term is generally

16 understood in the oil and gas industry;

17 (b) the inefficient, excessive, or improper use of or

18 the unnecessary dissipation of reservoir energy;

19 (c) the location, spacing, drilling, equipping,

20 operating, or producing of any oil or gas well or wells in a

21 manner which causes or tends to cause reduction in the

22 quantity of oil or gas ultimately recoverable from a pool

23 under prudent and proper operations or which causes or tends

24 to cause unnecessary or excessive surface loss or

25 destruction of oil or gas; and

1 (d) the inefficient storing of oil or gas. (The

2 production of oil or gas from any pool or by any well to the

3 full extent that the well or pool can be produced in

4 accordance with methods designed to result in maximum

5 ultimate recovery, as determined by the board, is not waste

6 within the meaning of this definition.)"

7 NEW SECTION. Section 2. Role of board in

8 implementation of national gas policy. The board is

9 designated as the state jurisdictional agency for purposes

10 of the Natural Gas Policy Act of 1978 or any successor or

11 similar legislation relating to oil and gas.

12 NEW SECTION. Section 3. Appointment of examiners. The

13 board shall designate one or more examiners to make

14 determinations as defined in 82-11-101. To be appointed as

15 an examiner, an individual must possess a graduate degree in

16 petroleum engineering or geology.

17 NEW SECTION. Section 4. Procedure to make

18 determinations. (1) The board shall adopt rules to govern

19 the making of determinations. These rules shall be adopted

20 pursuant to the Montana Administrative Procedure Act, but

21 the procedure to be employed in making determinations is not

22 subject to the Montana Administrative Procedure Act. The

23 rules may provide that testimony may only be submitted in

24 writing and that no cross-examination is allowed.

25 (2) Any determination made by an examiner under this

1 section and [section 3] shall be reviewed by the board upon
 2 request of two members of the board. The review by the
 3 board is subject to the Montana Administrative Procedure
 4 Act. The request for review must be made within 20 days
 5 after an examiner makes a determination. If no request for a
 6 review is made during this 20-day period, the examiner's
 7 determination is considered to be the determination of the
 8 board and the determination, together with the accompanying
 9 record, shall be forwarded to the federal energy regulatory
 10 commission for review. If a review by the board is
 11 requested, the board shall forward the final determination
 12 to the federal energy regulatory commission.

13 NEW SECTION. Section 5. Public access. All
 14 applications for a determination and all determinations made
 15 pursuant to [sections 3 and 4] shall be made available for
 16 public inspection at the Billings and Helena offices of the
 17 board.

18 Section 6. Section 82-11-141, MCA, is amended to read:
 19 "82-11-141. Administrative procedure. (1) ~~The~~ Unless
 20 otherwise provided, the Montana Administrative Procedure Act
 21 applies to this chapter.

22 (2) An order or amendment thereof, except in an
 23 emergency, may not be made by the board without a public
 24 hearing upon at least 10 days' notice. The public hearing
 25 shall be held at such time and place as may be prescribed by

1 the board, and any interested person is entitled to be
 2 heard.

3 (3) When an emergency requiring immediate action is
 4 found to exist, the board may issue an emergency order
 5 without advance notice or hearing which shall be effective
 6 upon promulgation. An emergency order may not remain in
 7 effect more than 15 days.

8 (4) If notice is required by the chapter and the
 9 Montana Administrative Procedure Act does not apply, the
 10 notice shall be made by publication in one or more issues of
 11 a newspaper in general circulation in Helena and a newspaper
 12 of general circulation in the county where the land or some
 13 part thereon is situated, and the board may also cause
 14 publication to be made in a trade journal or bulletin of
 15 general circulation in the oil and gas industry in the
 16 state.

17 (5) Proof of service by publication under subsection
 18 (4) shall be made by the affidavit of the printer or
 19 publisher of the newspaper, trade journal, or bulletin in
 20 which the notice is published or by a foreman or principal
 21 clerk of the newspaper, bulletin, or trade journal.

22 (6) Except as provided otherwise in this chapter, the
 23 board may act upon its own motion or upon the petition of an
 24 interested person. On the filing of a petition concerning a
 25 matter within the jurisdiction of the board, the board shall

1 promptly fix a date for a hearing thereon and shall cause
2 notice of the hearing to be given. The hearing shall be held
3 without undue delay after the filing of the petition. The
4 board shall enter its order within 30 days after the
5 hearing."

6 Section 7. Codification. It is intended that sections
7 2 through 5 be codified as an integral part of Title 82,
8 chapter 11, part 1, and the provisions of Title 82, chapter
9 11, part 1, apply to sections 2 through 5.

10 Section 8. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, the part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

16 Section 9. Effective date. This act is effective upon
17 passage and approval.

-End-

Approved by Committee
on Natural Resources

HOUSE BILL NO. 130

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A BILL FOR AN ACT ENTITLED: "AN ACT TO DESIGNATE THE BOARD OF OIL AND GAS CONSERVATION AS THE MONTANA JURISDICTIONAL AGENCY FOR PURPOSES OF THE NATURAL GAS POLICY ACT OF 1978 AND ANY SUCCESSOR OR SIMILAR LEGISLATION AND TO PROVIDE FOR A PROCEDURE TO IMPLEMENT STATE AUTHORITY UNDER THE FEDERAL LAW; AMENDING SECTIONS 82-11-101 AND 82-11-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

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~~(3) "Determinations" means those decisions delegated to the state by or under authority of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.~~

~~(3)(4) "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool; such artificial means or application includes pressuring, cycling, pressure maintenance, or injection into the pool of any substance or form of energy as is contemplated in secondary recovery and tertiary programs but does not include the injection in a well of a substance or form of energy for the sole purpose of aiding in the lifting of fluids in the well or stimulating of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.~~

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~~(7)(8) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and the term includes all~~

1 persons holding such authority by or through him.

2 ~~†8†101~~ "Person" means any natural person, corporation,
3 association, partnership, receiver, trustee, executor,
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5 of any kind and includes any agency or instrumentality of
6 the state or any governmental subdivision thereof.

7 ~~†9†1101~~ "Pool" means an underground reservoir
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9 zone of a structure which is completely separated from any
10 other zone in the same structure is a pool, as that term is
11 used in this chapter.

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18 the unnecessary dissipation of reservoir energy;

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22 quantity of oil or gas ultimately recoverable from a pool
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11 similar legislation relating to oil and gas.

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 11 Montana Administrative Procedure Act does not apply, the
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 13 a newspaper in general circulation in Helena and a newspaper
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-End-

1 STATEMENT OF INTENT RE: HB 130
2
3

4 1. A statement of intent is required for this bill in
5 that it delegates authority to adopt rules in Section 4,
6 (1).

7 2. House Bill No. 130 is enacted in order to secure
8 state jurisdiction under terms of the Natural Gas Policy Act
9 of 1978. The rules adopted should go no further than
10 absolutely required by state or federal law.

11 First adopted by the SENATE COMMITTEE ON NATURAL
12 RESOURCES on February 1, 1979.

HB 130

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INTRODUCED BY RAMIREZ, GERKE

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 19 (c) the location, spacing, drilling, equipping,
 20 operating, or producing of any oil or gas well or wells in a
 21 manner which causes or tends to cause reduction in the
 22 quantity of oil or gas ultimately recoverable from a pool
 23 under prudent and proper operations or which causes or tends
 24 to cause unnecessary or excessive surface loss or
 25 destruction of oil or gas; and

1 (d) the inefficient storing of oil or gas. (The
 2 production of oil or gas from any pool or by any well to the
 3 full extent that the well or pool can be produced in
 4 accordance with methods designed to result in maximum
 5 ultimate recovery, as determined by the board, is not waste
 6 within the meaning of this definition.)"
 7 NEW SECTION. Section 2. Role of board in
 8 implementation of national gas policy. The board is
 9 designated as the state jurisdictional agency for purposes
 10 of the Natural Gas Policy Act of 1978 or any successor or
 11 similar legislation relating to oil and gas.
 12 NEW SECTION. Section 3. Appointment of examiners. The
 13 board shall designate one or more examiners to make
 14 determinations as defined in 82-11-101. To be appointed as
 15 an examiner, an individual must possess a graduate degree in
 16 petroleum engineering or geology.
 17 NEW SECTION. Section 4. Procedure to make
 18 determinations. (1) The board shall adopt rules to govern
 19 the making of determinations. These rules shall be adopted
 20 pursuant to the Montana Administrative Procedure Act, but
 21 the procedure to be employed in making determinations is not
 22 subject to the Montana Administrative Procedure Act. The
 23 rules may provide that testimony may only be submitted in
 24 writing and that no cross-examination is allowed.
 25 (2) Any determination made by an examiner under this

1 section and [section 3] shall be reviewed by the board upon
 2 request of two members of the board. The review by the
 3 board is subject to the ~~NOTICE AND HEARING BUT NOT THE~~
 4 ~~APPEAL PROVISIONS OF THE CONTESTED CASE PROCEDURES OF THE~~
 5 Montana Administrative Procedure Act. The request for review
 6 must be made within 20 days after an examiner makes a
 7 determination. If no request for a review is made during
 8 this 20-day period, the examiner's determination is
 9 considered to be the determination of the board and the
 10 determination, together with the accompanying record, shall
 11 be forwarded to the federal energy regulatory commission for
 12 review. If a review by the board is requested, the board
 13 shall forward the final determination to the federal energy
 14 regulatory commission.

15 ~~NEW SECTION.~~ Section 5. Public access. All
 16 applications for a determination and all determinations made
 17 pursuant to [sections 3 and 4] shall be made available for
 18 public inspection at the Billings and Helena offices of the
 19 board.

20 Section 6. Section 82-11-141, MCA, is amended to read:
 21 "82-11-141. Administrative procedure. (1) ~~The~~ ~~Unless~~
 22 ~~otherwise provided, the~~ Montana Administrative Procedure Act
 23 applies to this chapter.

24 (2) An order or amendment thereof, except in an
 25 emergency, may not be made by the board without a public

1 hearing upon at least 10 days' notice. The public hearing
 2 shall be held at such time and place as may be prescribed by
 3 the board, and any interested person is entitled to be
 4 heard.

5 (3) When an emergency requiring immediate action is
 6 found to exist, the board may issue an emergency order
 7 without advance notice or hearing which shall be effective
 8 upon promulgation. An emergency order may not remain in
 9 effect more than 15 days.

10 (4) If notice is required by the chapter and the
 11 Montana Administrative Procedure Act does not apply, the
 12 notice shall be made by publication in one or more issues of
 13 a newspaper in general circulation in Helena and a newspaper
 14 of general circulation in the county where the land or some
 15 part thereon is situated, and the board may also cause
 16 publication to be made in a trade journal or bulletin of
 17 general circulation in the oil and gas industry in the
 18 state.

19 (5) Proof of service by publication under subsection
 20 (4) shall be made by the affidavit of the printer or
 21 publisher of the newspaper, trade journal, or bulletin in
 22 which the notice is published or by a foreman or principal
 23 clerk of the newspaper, bulletin, or trade journal.

24 (6) Except as provided otherwise in this chapter, the
 25 board may act upon its own motion or upon the petition of an

1 interested person. On the filing of a petition concerning a
2 matter within the jurisdiction of the board, the board shall
3 promptly fix a date for a hearing thereon and shall cause
4 notice of the hearing to be given. The hearing shall be held
5 without undue delay after the filing of the petition. The
6 board shall enter its order within 30 days after the
7 hearing.*

8 Section 7. Codification. It is intended that sections
9 2 through 5 be codified as an integral part of Title 82,
10 chapter 11, part 1, and the provisions of Title 82, chapter
11 11, part 1, apply to sections 2 through 5.

12 Section 8. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

18 Section 9. Effective date. This act is effective upon
19 passage and approval.

-End-