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HOUSE BILL 248

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO OIL AND GAS; AMENDING THE OIL AND GAS ACT TO ENSURE THAT OIL AND GAS RESOURCES ARE DEVELOPED IN A MANNER CONSISTENT WITH THE PROTECTION OF PUBLIC HEALTH, SAFETY AND WELFARE AND IN A MANNER THAT BALANCES DEVELOPMENT WITH WILDLIFE CONSERVATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 70-2-11 NMSA 1978 (being Laws 1935, Chapter 72, Section 9, as amended) is amended to read:

"70-2-11. [~~POWER~~] POWERS AND DUTIES OF COMMISSION AND DIVISION [~~TO PREVENT WASTE AND PROTECT CORRELATIVE RIGHTS~~].--

A. The oil conservation division is [~~hereby~~] empowered and it is its duty to:

(1) prevent waste prohibited by [~~this~~] the Oil and Gas Act; [~~and to~~]

(2) protect correlative rights as [~~in this act~~]

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[bracketed material] = delete

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1 ~~provided. To that end]~~ provided in the Oil and Gas Act;

2 (3) foster the responsible, balanced
3 development, production and utilization of oil and gas
4 resources in a manner consistent with the protection of public
5 health, safety and welfare, including the protection of the
6 environment and wildlife resources; and

7 (4) plan and manage oil and gas operations in
8 a manner that balances development with wildlife conservation
9 in recognition of the state's obligation to protect wildlife
10 resources and the hunting, fishing and recreation traditions
11 that they support.

12 B. In order to implement the provisions of
13 Subsection A of this section, the oil conservation division is
14 empowered to make and enforce rules [~~regulations~~] and orders
15 and to do whatever may be reasonably necessary to carry out the
16 purpose of [~~this~~] the Oil and Gas Act, whether or not indicated
17 or specified in any section [~~hereof~~] of that act.

18 [~~B.~~] C. The commission shall have concurrent
19 jurisdiction and authority with the oil conservation division
20 to the extent necessary for the commission to perform its
21 duties as required by law."

22 Section 2. Section 70-2-12 NMSA 1978 (being Laws 1978,
23 Chapter 71, Section 1, as amended) is amended to read:

24 "70-2-12. ENUMERATION OF POWERS.--

25 A. Included in the power given to the oil

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1 conservation division of the energy, minerals and natural
2 resources department is the authority to collect data; to make
3 investigations and inspections; to examine properties, leases,
4 papers, books and records; to examine, check, test and gauge
5 oil and gas wells, tanks, plants, refineries and all means and
6 modes of transportation and equipment; to hold hearings; to
7 provide for the keeping of records and the making of reports
8 and for the checking of the accuracy of the records and
9 reports; to limit and prorate production of crude petroleum oil
10 or natural gas or both as provided in the Oil and Gas Act; and
11 to require either generally or in particular areas certificates
12 of clearance or tenders in connection with the transportation
13 of crude petroleum oil or natural gas or any products of either
14 or both oil and products or both natural gas and products.

15 B. Apart from any authority, express or implied,
16 elsewhere given to or existing in the oil conservation division
17 by virtue of the Oil and Gas Act or the statutes of this state,
18 the division is authorized to make rules [~~regulations~~] and
19 orders for the purposes and with respect to the subject matter
20 stated in this subsection:

21 (1) to require dry or abandoned wells to be
22 plugged in a way to confine the crude petroleum oil, natural
23 gas or water in the strata in which it is found and to prevent
24 it from escaping into other strata; the division shall require
25 a cash or surety bond in a sum not to exceed fifty thousand

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1 dollars (\$50,000) conditioned for the performance of such
2 regulations;

3 (2) to prevent crude petroleum oil, natural
4 gas or water from escaping from strata in which it is found
5 into other strata;

6 (3) to require reports showing locations of
7 all oil or gas wells and for the filing of logs and drilling
8 records or reports;

9 (4) to prevent the drowning by water of any
10 stratum or part thereof capable of producing oil or gas or both
11 oil and gas in paying quantities and to prevent the premature
12 and irregular encroachment of water or any other kind of water
13 encroachment that reduces or tends to reduce the total ultimate
14 recovery of crude petroleum oil or gas or both oil and gas from
15 any pool;

16 (5) to prevent fires;

17 (6) to prevent "blow-ups" and "caving" in the
18 sense that the conditions indicated by such terms are generally
19 understood in the oil and gas business;

20 (7) to require wells to be drilled, operated
21 and produced in such manner as to prevent injury to neighboring
22 leases or properties;

23 (8) to identify the ownership of oil or gas
24 producing leases, properties, wells, tanks, refineries,
25 pipelines, plants, structures and all transportation equipment

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1 and facilities;

2 (9) to require the operation of wells with
3 efficient gas-oil ratios and to fix such ratios;

4 (10) to fix the spacing of wells;

5 (11) to determine whether a particular well or
6 pool is a gas or oil well or a gas or oil pool, as the case may
7 be, and from time to time to classify and reclassify wells and
8 pools accordingly;

9 (12) to determine the limits of any pool
10 producing crude petroleum oil or natural gas or both and from
11 time to time redetermine the limits;

12 (13) to regulate the methods and devices
13 employed for storage in this state of oil or natural gas or any
14 product of either, including subsurface storage;

15 (14) to permit the injection of natural gas or
16 of any other substance into any pool in this state for the
17 purpose of repressuring, cycling, pressure maintenance,
18 secondary or any other enhanced recovery operations;

19 (15) to regulate the disposition of water
20 produced or used in connection with the drilling for or
21 producing of oil or gas or both and to direct surface or
22 subsurface disposal of the water, including disposition by use
23 in drilling for or production of oil or gas, in road
24 construction or maintenance or other construction, in the
25 generation of electricity or in other industrial processes, in

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1 a manner that will afford reasonable protection against
2 contamination of fresh water supplies designated by the state
3 engineer;

4 (16) to the extent necessary to protect public
5 health, safety and welfare, including the protection of the
6 environment and wildlife resources and taking into
7 consideration cost-effectiveness and technical feasibility, to
8 regulate oil and gas operations so as to prevent and mitigate
9 significant adverse environmental impacts on air, water, soil
10 or biological resources;

11 (17) to ensure that oil and gas operations are
12 otherwise conducted in a manner that will protect the health,
13 safety and welfare of the general public;

14 [~~(16)~~] (18) to determine the limits of any
15 area containing commercial potash deposits and from time to
16 time redetermine the limits;

17 [~~(17)~~] (19) to regulate and, where necessary,
18 prohibit drilling or producing operations for oil or gas within
19 any area containing commercial deposits of potash where the
20 operations would have the effect unduly to reduce the total
21 quantity of the commercial deposits of potash that may
22 reasonably be recovered in commercial quantities or where the
23 operations would interfere unduly with the orderly commercial
24 development of the potash deposits;

25 [~~(18)~~] (20) to spend the oil and gas

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1 reclamation fund and do all acts necessary and proper to plug
2 dry and abandoned oil and gas wells and to restore and
3 remediate abandoned well sites and associated production
4 facilities in accordance with the provisions of the Oil and Gas
5 Act, the rules [~~and regulations~~] adopted under that act and the
6 Procurement Code, including disposing of salvageable equipment
7 and material removed from oil and gas wells being plugged by
8 the state;

9 [~~(19)~~] (21) to make well price category
10 determinations pursuant to the provisions of the federal
11 Natural Gas Policy Act of 1978 or any successor act and, by
12 regulation, to adopt fees for such determinations, which fees
13 shall not exceed twenty-five dollars (\$25.00) per filing. Such
14 fees shall be credited to the account of the oil conservation
15 division by the state treasurer and may be expended as
16 authorized by the legislature;

17 [~~(20)~~] (22) to regulate the construction and
18 operation of oil treating plants and to require the posting of
19 bonds for the reclamation of treating plant sites after
20 cessation of operations;

21 [~~(21)~~] (23) to regulate the disposition of
22 nondomestic wastes resulting from the exploration, development,
23 production or storage of crude oil or natural gas to protect
24 public health and the environment; [~~and~~

25 ~~(22)~~] (24) to regulate the disposition of

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1 nondomestic wastes resulting from the oil field service
2 industry, the transportation of crude oil or natural gas, the
3 treatment of natural gas or the refinement of crude oil to
4 protect public health and the environment, including
5 administering the Water Quality Act as provided in Subsection E
6 of Section 74-6-4 NMSA 1978; and

7 (25) to minimize adverse impacts of oil and
8 gas operations on wildlife resources by:

9 (a) establishing a timely and efficient
10 procedure for consultation with the state game commission on
11 decision-making that affects wildlife resources;

12 (b) implementing, whenever reasonably
13 practicable, best management practices and other reasonable
14 measures to conserve wildlife resources; and

15 (c) in consultation with the state game
16 commission, establishing standards for minimizing the adverse
17 impacts on and ensuring the proper reclamation of wildlife
18 habitat during and following the oil and gas operations."

19 Section 3. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2008.