

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Coalbed methane water management.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to water rights; providing for management
2 of water produced from coalbed methane natural gas
3 operations; authorizing construction to limit effects of
4 excess discharges of coalbed methane water; authorizing
5 assessment of damages related to construction; providing
6 definitions; providing a review process; providing
7 rulemaking authority; providing for enforcement; providing
8 for penalties; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 41-3-116 and 41-3-507 are created to
13 read:

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2 **41-3-116. Curtailment of excess discharges water**
3 **produced from coalbed natural gas operations; orders;**
4 **penalties.**

5

6 (a) It is unlawful for the quantity of water
7 discharged from individual or combined coalbed natural gas
8 operations to exceed the natural capacity of a channel with
9 intermittent or ephemeral natural flow into which the
10 discharge occurs.

11

12 (b) The state engineer may order curtailment of any
13 excess discharge upon a determination by the state engineer
14 that excess discharge is occurring.

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16 (c) In the event more than one (1) coalbed natural
17 gas operation is causing the excess discharge, the
18 curtailment of water discharge shall begin with the
19 operator with the most recently commenced discharge and
20 then proceed to the curtailment of any additional
21 discharges with increasingly older dates of discharge
22 commencement until the natural capacity of the channel is
23 no longer exceeded.

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2 (d) Natural flow shall not be included in a
3 measurement of flow when determining a violation under this
4 section.

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6 (e) Any violation of this section shall be punishable
7 pursuant to W.S. 41-3-616.

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9 **41-3-507. Management of water produced from coalbed**
10 **natural gas operations; definitions; rulemaking authority.**

11

12 (a) Discharge of produced water from a coal bed
13 natural gas well from any well subject to permitting from
14 the state engineer into a channel with an intermittent or
15 ephemeral natural flow shall be limited to the natural
16 capacity of the channel downstream of the discharge.

17

18 (b) A landowner who believes he has been or will be
19 affected by coalbed natural gas discharges and who has a
20 reach of interest, may file a written request to the state
21 engineer stating the nature and extent of the actual and
22 potential effects of coalbed natural gas water discharges
23 in the reach of interest and asking the state engineer to

1 review the actual or potential coalbed natural gas
2 discharges through the reach of interest.

3
4 (c) Upon receipt of the written request from the
5 landowner under subsection (b) of this section, the state
6 engineer shall proceed with an evaluation of the natural
7 capacity of the channel and shall complete this evaluation
8 within one hundred twenty (120) days.

9
10 (d) If the state engineer finds the capacity in the
11 reach of interest is less than the natural capacity of the
12 water course [Note: Needs some length and/or proximity
13 comparison, such as a certain length
14 immediately/adjacent/contiguous to upstream from the reach
15 of interest?], the state engineer or superintendent of the
16 water division in which the reach of interest exists shall
17 order the necessary construction of sufficient capacity in
18 the reach of interest. The order shall be in accordance
19 with the plan to accommodate the maximum flow contemplated
20 in any watershed permitting plan, or the natural capacity,
21 whichever is less. The order shall include landowner
22 compensation for damages incurred in the construction
23 process.

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2 (e) In the event more than one (1) coalbed natural
3 gas operator is causing the excessive discharge in the
4 reach of interest, the order under subsection (d) of this
5 section shall be issued to the operator with the most
6 recently commenced discharge and to any operator with
7 increasingly older dates of discharge commencement until
8 all operators who have caused such excessive discharge have
9 been included. The order shall be prorated to each
10 operator contributing to the excessive discharge.

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12 (f) All parties included in the order under
13 subsection (e) of this section shall provide a construction
14 plan to the landowner and the state engineer for review.

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16 (g) The landowner and the state engineer's office
17 shall review and approve the construction plan, which may
18 include reclamation requirements. The state engineer shall
19 establish a reasonable time for completion of the
20 construction work. **[Note: Should there be a time limit?**
21 **Such as the 120 days for review?]**

22

1 (h) If the landowner fails to approve the final
2 construction plans or fails to provide access for
3 construction, the construction order shall be revoked. The
4 state engineer is authorized to assess damages related to
5 construction against the discharging party or parties upon
6 receipt, review and approval of documentation submitted by
7 the landowner.

8
9 (j) If either the landowner or any discharging party
10 is aggrieved by any order of the state engineer under this
11 section, the order may be appealed to the board of control
12 pursuant to W.S. 41-3-517.

13
14 (k) The state engineer may adopt reasonable rules and
15 regulations necessary for the implementation and
16 administration of this section.

17
18 (m) Any violation of this section shall be punishable
19 pursuant to W.S. 41-3-616. Nothing in this section shall
20 in any way limit, delay or pre-empt the exercise or
21 assertion of any other civil or administrative claim or
22 remedy available to any landowner or any person or entity
23 discharging coalbed natural gas water.

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2 (n) As used in this section:

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4 (i) "Landowner" means the person or entity with
5 fee title to the land containing the reach of interest and
6 who is filing a request under this section;

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8 (ii) "Natural capacity" means the bank to bank
9 hydraulic carrying capacity, expressed in cubic feet of
10 water per second of time, of the primary naturally formed
11 channel through which runoff would typically flow, using
12 the predominant cross-sectional characteristics exhibited
13 by the channel in the vicinity of the reach of interest;

14

15 (iii) "Reach of interest" means that section of
16 a water course with intermittent or ephemeral flow that is
17 alleged to have insufficient hydraulic capacity to convey
18 water when compared to the natural capacity of a channel.

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20 **Section 2.** W.S. 35-11-302(a)(v) is amended to read:

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22 **35-11-302. Administrator's authority to recommend**
23 **standards, rules, regulations or permits.**

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2 (a) The administrator, after receiving public comment
3 and after consultation with the advisory board, shall
4 recommend to the director rules, regulations, standards and
5 permit systems to promote the purposes of this act. Such
6 rules, regulations, standards and permit systems shall
7 prescribe:

8

9 (v) Standards for the issuance of permits as
10 authorized pursuant to section 402(b) of the Federal Water
11 Pollution Control Act as amended in 1972, and as it may be
12 hereafter amended, including watershed general permits for
13 surface discharges related to coalbed methane production;

14

15 **Section 3.** This act is effective July 1, 2008.

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(END)