

An Act

SENATE BILL 23-285

BY SENATOR(S) Priola and Hansen, Gonzales;
also REPRESENTATIVE(S) McCormick and Dickson, Amabile, Bird,
Boesenecker, Brown, Daugherty, deGruy Kennedy, Herod, Jodeh, Joseph,
Kipp, Lindsay, Michaelson Jenet, Sharbini, Snyder, Titone, Valdez, Vigil,
Woodrow.

CONCERNING ENERGY AND CARBON MANAGEMENT REGULATION IN
COLORADO, AND, IN CONNECTION THEREWITH, CHANGING THE NAME
OF THE OIL AND GAS CONSERVATION COMMISSION TO THE ENERGY
AND CARBON MANAGEMENT COMMISSION, BROADENING THE
COMMISSION'S REGULATORY AUTHORITY TO INCLUDE THE
REGULATION OF CERTAIN GEOTHERMAL RESOURCE OPERATIONS AND
INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES, AND
MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 34-60-104.3, **amend**
(1); and **add** (6) as follows:

**34-60-104.3. Energy and carbon management commission -
report - publication.** (1) There is created, in the department of natural

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes
through words or numbers indicate deletions from existing law and such material is not part of
the act.*

resources, the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission. The ~~oil and gas conservation~~ commission is a **type 1** entity, as defined in section 24-1-105.

(6) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL REFERENCES TO THE OIL AND GAS CONSERVATION COMMISSION THAT APPEAR IN THE COLORADO REVISED STATUTES TO THE ENERGY AND CARBON MANAGEMENT COMMISSION.

SECTION 2. In Colorado Revised Statutes, 34-60-122, **amend** (1) and (5)(a); and **add** (5)(d) as follows:

34-60-122. Expenses - energy and carbon management cash fund created. (1) (a) In addition to the filing and service fee required to be paid under section 34-60-106 (1)(f) and the fees authorized for other services provided by the commission by section 34-60-106 (16), there is imposed on the market value at the well of all oil and natural gas produced, saved, and sold or transported from the field where produced in this state a charge not to exceed one and seven-tenths mills on the dollar. The commission shall, by order, fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as, in its judgment, the expenses chargeable against the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund specified in subsection (5) of this section may require.

(b) On and after July 1, 2019, the commission shall ensure that the unobligated portion of the fund does not exceed fifty percent of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the fund to support the operations of the commission, ~~and~~ to address environmental response needs, AND TO FUND THE PURPOSES IDENTIFIED IN SECTION 34-60-124 (10).

(5) (a) The commission shall collect all charges and penalties under this article 60 and remit ~~them~~ THE CHARGES AND PENALTIES to the state treasurer for deposit in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund, which fund is hereby created in the state treasury.

(d) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL

REFERENCES TO THE OIL AND GAS CONSERVATION AND ENVIRONMENTAL RESPONSE FUND THAT APPEAR IN THE COLORADO REVISED STATUTES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND.

SECTION 3. In Colorado Revised Statutes, 34-60-106, **amend** (7)(a); and **add** (22) as follows:

34-60-106. Additional powers of commission - rules - definitions - repeal. (7) (a) The commission may establish, charge, and collect docket fees for the filing of applications, petitions, protests, responses, and other pleadings. All fees shall be deposited in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund ~~established by section 34-60-122~~ CREATED IN SECTION 34-60-122 (5) and are subject to appropriations by the general assembly for the purposes of this article 60.

(22) THE COMMISSION SHALL CREATE AND MAINTAIN A WEBSITE THAT SERVES AS THE STATE PORTAL FOR INFORMATION AND DATA REGARDING THE COMMISSION'S REGULATORY ACTIVITIES.

SECTION 4. In Colorado Revised Statutes, 37-90-137, **amend** (1) and (7)(a) as follows:

37-90-137. Permits to construct wells outside designated basins - fees - permit no groundwater right - evidence - time limitation - well permits - rules. (1) (a) On and after May 17, 1965, ~~no~~ A new ~~wells~~ WELL shall NOT be constructed outside the boundaries of a designated groundwater basin ~~nor~~ AND the supply of water from existing wells outside the boundaries of a designated groundwater basin SHALL NOT BE increased or extended unless the user makes an application in writing to the state engineer for a permit to construct a well, in a form ~~to be~~ prescribed by the state engineer.

(b) The applicant shall specify IN THE APPLICATION DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION:

(I) The particular aquifer from which the water is to be diverted;

(II) The PROPOSED beneficial use ~~to which it is proposed to apply~~ ~~such~~ FOR THE water;

(III) The location of the proposed well;

(IV) The name of the owner of the land on which ~~such~~ THE PROPOSED well will be located;

(V) The average annual amount of water applied for in acre-feet per year;

(VI) The proposed maximum pumping rate in gallons per minute; and

(VII) If the proposed use is agricultural irrigation, a description of the land to be irrigated, ~~and the name of the owner thereof, together with such~~ OF THE LAND, AND ANY other reasonable information as THAT the state engineer ~~may designate~~ DESIGNATES on the form prescribed.

(c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1) TO THE CONTRARY, THE REQUIREMENTS OF THIS SUBSECTION (1) DO NOT APPLY TO WELLS CONSTRUCTED PURSUANT TO AN OPERATIONS PERMIT ISSUED BY THE ENERGY AND CARBON MANAGEMENT COMMISSION PURSUANT TO SECTION 37-90.5-106 (1)(b).

(7) In the case of dewatering of geologic formations by withdrawing nontributary groundwater to facilitate or permit mining of minerals:

(a) (I) Except for coal bed methane wells, ~~no~~ A well permit is NOT required unless the nontributary groundwater being removed will be beneficially used.

(II) Except for coal bed methane wells, ~~no~~ A well permit is NOT required if the nontributary groundwater being removed to facilitate or permit the mining of minerals will be used only by operators within the geologic basin where the groundwater is removed to facilitate or permit the mining of minerals, including:

(A) Injection into a properly permitted disposal well;

(B) Evaporation or percolation in a properly permitted pit;

(C) Disposal at a properly permitted commercial facility;

(D) Roadspreading or reuse for enhanced recovery, drilling, well stimulation, well maintenance, pressure control, pump operations, dust control on-site or off-site, pipeline and equipment testing, equipment washing, or fire suppression;

(E) Discharge into state waters in accordance with the "Colorado Water Quality Control Act", article 8 of title 25, ~~C.R.S.~~; and the rules promulgated under that act; ~~or~~

(F) Evaporation at a properly permitted centralized exploration and production waste management facility; OR

(G) GENERATING ENERGY OR OTHERWISE USING HEAT FROM GROUNDWATER FOR THE MINING OF MINERALS.

SECTION 5. In Colorado Revised Statutes, 37-90.5-102, **amend** (1)(a) and (1)(b); and **repeal** (1)(c) as follows:

37-90.5-102. Legislative declaration. (1) The general assembly hereby declares that:

(a) The development of geothermal resources is in the public interest because it enhances local economies and provides an alternative to conventional fuel sources; AND

(b) The development of geothermal resources should be undertaken in such a manner as to safeguard life, health, property, public welfare, and the environment, ~~and to~~ INCLUDING WILDLIFE RESOURCES; encourage the maximum economic recovery of ~~the~~ EACH resource and prevent its waste; AND PROTECT ASSOCIATED CORRELATIVE RIGHTS.

(c) ~~While the doctrine of prior appropriation is, and always has been, expressly recognized with respect to geothermal resources, such doctrine should be modified to permit the full economic development of the resource:~~

SECTION 6. In Colorado Revised Statutes, **amend** 37-90.5-103 as follows:

37-90.5-103. Definitions. As used in this ~~article~~ ARTICLE 90.5,

unless the context otherwise requires:

~~(1) "Direct use" means the utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity.~~

(1) (a) "ALLOCATED GEOTHERMAL RESOURCE" MEANS ANY GEOTHERMAL RESOURCE THAT IS ASSOCIATED WITH NONTRIBUTARY GROUNDWATER.

(b) "ALLOCATED GEOTHERMAL RESOURCE" DOES NOT INCLUDE GROUNDWATER IN THE DENVER BASIN AQUIFERS.

(2) "COMMISSION" MEANS THE ENERGY AND CARBON MANAGEMENT COMMISSION CREATED IN SECTION 34-60-104.3 (1).

(3) (a) "DEEP GEOTHERMAL OPERATION" MEANS ANY EXPLORATION FOR OR PRODUCTION OF:

(I) ALLOCATED GEOTHERMAL RESOURCES; OR

(II) GEOTHERMAL RESOURCES THAT ARE DEEPER THAN TWO THOUSAND FIVE HUNDRED FEET BELOW THE SURFACE.

(b) (I) "DEEP GEOTHERMAL OPERATION" INCLUDES THE FOLLOWING ACTIVITIES RELATED TO THE OPERATION OF A WELL:

(A) CONDUCTING GEOPHYSICAL OPERATIONS;

(B) DRILLING TEST BORES AND MONITORING WELLS;

(C) SITING;

(D) INSTALLING AND OPERATING FLOWLINES;

(E) DRILLING;

(F) DEEPENING;

(G) RECOMPLETING;

(H) REWORKING;

(I) REPURPOSING; AND

(J) ABANDONING.

(II) "DEEP GEOTHERMAL OPERATION" ALSO INCLUDES ANY CONSTRUCTING, SITE PREPARING, DISPOSING OF GEOTHERMAL WASTES, OR RECLAIMING ACTIVITIES ASSOCIATED WITH THE ACTIVITIES DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION.

(c) "DEEP GEOTHERMAL OPERATION" DOES NOT INCLUDE:

(I) ANY EXPLORATION OR PRODUCTION ACTIVITIES ASSOCIATED WITH THE GROUNDWATER IN THE DENVER BASIN AQUIFERS; OR

(II) THE USE OF ANY HEAT EXTRACTED WITH PRODUCED FLUIDS IN AN OIL AND GAS OPERATION IF THE HEAT IS ONLY UTILIZED TO REDUCE EMISSIONS FROM THE OPERATION IN THE SAME LOCATION AS THE WELL FROM WHICH IT WAS PRODUCED AND WOULD OTHERWISE NOT BE ECONOMICALLY FEASIBLE AS A STANDALONE GEOTHERMAL RESOURCE PROJECT.

(4) "DENVER BASIN AQUIFERS" MEANS THE DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, AS DESCRIBED IN THE RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO SECTION 37-90-137 (9)(a) AND (9)(b).

(5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(6) "DISTRIBUTED GEOTHERMAL RESOURCE" MEANS ANY GEOTHERMAL RESOURCE THAT IS NOT AN ALLOCATED GEOTHERMAL RESOURCE.

~~(1.5)~~ (7) "Geothermal by-products" means dissolved or entrained minerals and gases that may be obtained from the material medium, excluding hydrocarbon substances and carbon dioxide.

~~(2)~~ (8) "Geothermal fluid" means naturally occurring groundwater, brines, vapor, and steam associated with a geothermal resource.

~~(3)~~ (9) "Geothermal resource" means the natural heat of the earth and includes:

(a) The energy that may be extracted from that natural heat;

(b) The material medium used to extract the energy from a geothermal resource; and

(c) Geothermal by-products.

~~(4)~~ (10) "Hot dry rock" means a geothermal resource ~~which~~ THAT lacks sufficient geothermal fluid to transport commercial amounts of energy to the surface and ~~which~~ THAT is not ~~in association~~ ASSOCIATED with an economically useful groundwater resource.

(11) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

~~(5)~~ (12) "Material medium" means geothermal fluid as well as any other substance used to transfer energy from a geothermal resource.

(13) "NONCONSUMPTIVE GEOTHERMAL OPERATION" MEANS AN OPERATION USING GEOTHERMAL RESOURCES IN WHICH THE VOLUME OF GEOTHERMAL FLUID EXTRACTED FROM AN AQUIFER OR FORMATION IS NO MORE THAN THE VOLUME OF THE GEOTHERMAL FLUID REINJECTED IN THE SAME AQUIFER OR FORMATION OVER A REASONABLE TIME FRAME AND DISTANCE.

(14) "NONTRIBUTARY GROUNDWATER" HAS THE MEANING SET FORTH IN SECTION 37-90-103 (10.5).

(15) "SHALLOW GEOTHERMAL OPERATION" MEANS ANY GEOTHERMAL OPERATION THAT IS NOT A DEEP GEOTHERMAL OPERATION.

(16) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION 37-92-103 (12).

SECTION 7. In Colorado Revised Statutes, 37-90.5-104, **amend** (2) and (4); and **add** (5) as follows:

37-90.5-104. Ownership declaration. (2) The property right to a hot dry rock resource OR A GEOTHERMAL RESOURCE ASSOCIATED WITH NONTRIBUTARY GROUNDWATER is an incident of the ownership of the overlying surface, unless THE PROPERTY RIGHT IS severed, reserved, or transferred with the subsurface estate expressly.

(4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, nothing in this section: ~~shall be~~

(a) ~~deemed to derogate~~ DEROGATES the rights of a landowner to nontributary groundwater; OR

(b) AFFECTS ANY OWNERSHIP OR RIGHTS TO A GEOTHERMAL RESOURCE ASSOCIATED WITH NONTRIBUTARY GROUNDWATER, WHICH RESOURCE IS ACQUIRED BEFORE JULY 1, 2023.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, GEOTHERMAL RESOURCES ASSOCIATED WITH NONTRIBUTARY GROUNDWATER SHALL NOT BE TRANSFERRED SEPARATELY FROM THE NONTRIBUTARY GROUNDWATER.

SECTION 8. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 37-90.5-106 as follows:

37-90.5-106. Regulation of geothermal resource operations - reinjection - fees - rules. (1) (a) (I) THE STATE ENGINEER HAS THE EXCLUSIVE AUTHORITY TO REGULATE SHALLOW GEOTHERMAL OPERATIONS AND MAY ADOPT RULES THAT REGULATE SHALLOW GEOTHERMAL OPERATIONS.

(II) PRIOR TO CONSTRUCTING A TEST BORE, MONITORING WELL, OR PRODUCTION WELL OR REWORKING AN EXISTING WELL ASSOCIATED WITH SHALLOW GEOTHERMAL OPERATIONS, AN OPERATIONS PERMIT MUST BE OBTAINED FROM THE STATE ENGINEER.

(III) THE STATE ENGINEER MAY ADOPT RULES FOR THE ASSESSMENT OF REASONABLE FEES FOR THE PROCESSING AND ISSUANCE OF A PERMIT PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION.

(b) (I) THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO

REGULATE DEEP GEOTHERMAL OPERATIONS AND MAY ADOPT RULES THAT REGULATE DEEP GEOTHERMAL OPERATIONS.

(II) PRIOR TO CONSTRUCTING A WELL ASSOCIATED WITH DEEP GEOTHERMAL OPERATIONS, THE OWNER OR OPERATOR OF THE WELL SHALL OBTAIN AN OPERATIONS PERMIT FROM THE COMMISSION.

(III) IN ISSUING AN OPERATIONS PERMIT PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION, THE COMMISSION MAY ALLOW FOR THE USE OF GROUNDWATER AS PART OF NONCONSUMPTIVE GEOTHERMAL OPERATIONS AS A MATERIAL MEDIUM FOR ALLOCATED GEOTHERMAL RESOURCES THAT HAVE BEEN DETERMINED TO BE NONTRIBUTARY PURSUANT TO SECTION 37-90.5-107 (1)(b).

(IV) THE COMMISSION MAY ADOPT RULES FOR THE ASSESSMENT OF REASONABLE FEES FOR THE PROCESSING AND ISSUANCE OF A PERMIT PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION.

(2) (a) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE COMMISSION SHALL ADOPT RULES THAT:

(I) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING THE PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; AND

(II) AVOID, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES.

(b) (I) THE COMMISSION SHALL NOT ISSUE AN OPERATIONS PERMIT PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION UNLESS THE APPLICANT PROVIDES EVIDENCE TO THE COMMISSION THAT:

(A) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED DEEP GEOTHERMAL OPERATIONS, INCLUDING THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

(B) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED DEEP GEOTHERMAL OPERATIONS DOES NOT REGULATE THE SITING OF DEEP GEOTHERMAL OPERATIONS.

(II) UPON REQUEST BY A LOCAL GOVERNMENT, THE COMMISSION SHALL PROVIDE TECHNICAL SUPPORT TO THE LOCAL GOVERNMENT CONCERNING THE IMPLEMENTATION OF THE COMMISSION'S RULES PURSUANT TO THIS SECTION OR THE IMPLEMENTATION BY THE LOCAL GOVERNMENT OF THE COMMISSION'S RULES.

(3) WHERE THE MAINTENANCE OF UNDERGROUND PRESSURES, THE PREVENTION OF SUBSIDENCE, OR THE DISPOSAL OF BRINES IS NECESSARY, REINJECTION OF GEOTHERMAL FLUID MAY BE REQUIRED BY THE STATE ENGINEER OR THE COMMISSION.

(4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED FOR PERMITS ISSUED BY THE COMMISSION PURSUANT TO SUBSECTION (1)(b)(IV) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND CREATED IN SECTION 34-60-122 (5).

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP, ADMINISTRATION, OR DETERMINATION OF WATER RIGHTS OR RIGHTS TO NONTRIBUTARY GROUNDWATER.

(6) (a) ON AND AFTER JULY 1, 2023, EXCEPT AS SET FORTH IN SUBSECTION (6)(b)(II) OF THIS SECTION, THE COMMISSION IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING ANY PERMITS ISSUED BY THE STATE ENGINEER PURSUANT TO THIS SECTION THAT COVER DEEP GEOTHERMAL OPERATIONS.

(b) THE POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS CONCERNING PERMITS ISSUED BY THE STATE ENGINEER PURSUANT TO THIS SECTION THAT COVER DEEP GEOTHERMAL OPERATIONS ARE TRANSFERRED, EFFECTIVE JULY 1, 2023, TO THE COMMISSION. THE STATE ENGINEER RETAINS ANY POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS NECESSARY TO ISSUE, ADMINISTER, AND ENFORCE ANY PERMITS THAT COVER:

(I) SHALLOW GEOTHERMAL OPERATIONS; AND

(II) THE USE OF GEOTHERMAL FLUID IN DEEP GEOTHERMAL OPERATIONS PURSUANT TO SECTION 37-90.5-107, EXCEPT FOR NONCONSUMPTIVE GEOTHERMAL OPERATIONS.

(c) THE RULES OF THE STATE ENGINEER PERTAINING TO THE POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION CONTINUE IN EFFECT AND APPLY TO THE COMMISSION UNTIL THE RULES ARE REPLACED BY RULES ADOPTED BY THE COMMISSION PURSUANT TO SUBSECTION (1)(b)(I) OF THIS SECTION.

(d) THE COMMISSION AND THE STATE ENGINEER SHALL ENTER INTO MEMORANDA OF UNDERSTANDING, INTERAGENCY AGREEMENTS, OR BOTH, AS APPROPRIATE, TO PROVIDE FOR THE TIMELY TRANSFER OF THE POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION.

SECTION 9. In Colorado Revised Statutes, **amend 37-90.5-107** as follows:

37-90.5-107. Permits for the use of geothermal resources - rules.

(1) (a) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE ENGINEER SHALL ISSUE A USE PERMIT TO USE DISTRIBUTED GEOTHERMAL RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION 37-90-137.

(b) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE ENGINEER SHALL ISSUE A USE PERMIT TO USE ALLOCATED GEOTHERMAL RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION 37-90-137 AND AFTER A DETERMINATION THAT ANY ASSOCIATED GEOTHERMAL FLUID IS NONTRIBUTARY GROUNDWATER. FOR THE PURPOSES OF THIS SECTION, THIS DETERMINATION MUST RELY ON THE DEFINITION OF NONTRIBUTARY GROUNDWATER PURSUANT TO SECTION 37-90-103 (10.5) AS DETERMINED BY:

(I) A DECREE OF THE WATER COURT;

(II) A PERMIT TO CONSTRUCT A WELL TO WITHDRAW NONTRIBUTARY GROUNDWATER ISSUED BY THE STATE ENGINEER PURSUANT TO SECTION 37-90-137;

(III) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO SECTION 37-90-137 (7)(c) FOR PRODUCED WATER THAT APPLY TO USE PERMITS THAT ARE LIMITED TO THE USE OF WATER AS A MATERIAL MEDIUM

AS THE ONLY BENEFICIAL USE OF WATER; OR

(IV) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION.

~~(1) (2) The use of water as a material medium is recognized as a beneficial use. of such water. All applications to appropriate groundwater in order to utilize its geothermal energy shall be considered an application to appropriate geothermal fluid.~~

~~(2) (3) (a) Prior to the production of geothermal fluid from a well, other than for flow-testing purposes, a permit to appropriate shall be obtained from the state engineer. This requirement shall not apply to~~ Nondiversionary utilization methods DO NOT REQUIRE A USE PERMIT PURSUANT TO SUBSECTION (1) OF THIS SECTION BUT ARE SUBJECT TO THE RULES ADOPTED PURSUANT TO SECTION 37-90.5-106 (1)(a)(I) AND (1)(b)(I); however, ~~such exemption shall not prevent~~ NOTHING IN THIS SUBSECTION (3)(a) PREVENTS the developer of a geothermal resource from establishing a ~~property~~ WATER right based on ~~his~~ THE DEVELOPER'S actual utilization.

(b) THE REQUIREMENT TO ISSUE A USE PERMIT PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION DOES NOT APPLY TO OPERATIONS THAT ARE SOLELY NONCONSUMPTIVE GEOTHERMAL OPERATIONS USING ALLOCATED GEOTHERMAL RESOURCES.

~~(b) (c) The USE permit to appropriate required by this subsection (2)~~ ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may be waived by the state engineer for a diversionary utilization method ~~which is nonconsumptive and which will~~ THAT DOES not impair valid, prior water rights.

~~(c) (d) The USE permit to appropriate required by this subsection (2)~~ ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may allow for nonconsumptive secondary uses of geothermal fluid, including the recovery of geothermal by-products, and may allow for consumptive secondary uses of geothermal fluid, including sale, which ~~will~~ DO not impair valid, prior water rights.

(e) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (3) TO THE CONTRARY, A WATER RIGHT TO USE A DISTRIBUTED GEOTHERMAL

RESOURCE ASSOCIATED WITH TRIBUTARY GROUNDWATER MAY BE OBTAINED ONLY IN WATER COURT AND IS SUBJECT TO ARTICLE 92 OF THIS TITLE 37. THE BENEFICIAL USE OF ENERGY EXTRACTED FROM GEOTHERMAL FLUID ASSOCIATED WITH A DISTRIBUTED GEOTHERMAL RESOURCE IS THE BASIS, MEASURE, AND LIMIT OF THE WATER RIGHT, AND EFFICIENT APPLICATION METHODS MUST BE USED FOR THE USE OF ENERGY TO QUALIFY AS A BENEFICIAL USE.

~~(3) The state engineer shall grant a permit to appropriate geothermal fluids within one hundred eighty-two days after the filing of an application upon a finding that:~~

~~(a) The proposed appropriation will not materially injure a valid, prior water or geothermal right;~~

~~(b) The applicant has acquired or purchased an option to acquire adequate water rights to offset any material injury; or~~

~~(c) The applicant has obtained and offered to provide to any affected party an equivalent amount of replacement water of comparable quality.~~

~~(4) The appropriation of a geothermal fluid that is nontributary groundwater shall be in accordance with section 37-90-137 (4).~~

~~(5) The essence of the water right granted by a permit to appropriate geothermal fluid is the ability to extract geothermal energy from such fluid. The beneficial use of such energy is the basis, measure, and limit of the right and requires that efficient application methods be utilized.~~

(4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, SECTION 37-90-137 (4) APPLIES TO ANY CONSUMPTIVE USE OF ALLOCATED GEOTHERMAL RESOURCES.

~~(6) (5) The provisions of articles 90 and 92 of this title TITLE 37 relating to notice, hearings, appeals, and the administration of water rights shall govern APPLY TO all matters arising under this section PERMITTING ACTIONS BY THE STATE ENGINEER PURSUANT TO THIS SECTION.~~

~~(7) Any application to appropriate a geothermal fluid pending on June 10, 1983, shall be processed and evaluated under existing law prior to~~

June 10, 1983.

~~(8) For purposes of this section, "materially injure" and "material injury" include any diminution or alteration in the quantity, temperature, or quality of any valid, prior water or geothermal right, except that, with regard to a geothermal right, "materially injure" and "material injury" include a diminution or alteration in the temperature of water only if the diminution or alteration adversely affects the valid, prior geothermal right.~~

(6) (a) (I) THE STATE ENGINEER MAY ADOPT RULES FOR THE ADMINISTRATION OF THIS SECTION, INCLUDING RULES AND PROCEDURES FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION.

(II) THE STATE ENGINEER'S RULE-MAKING AUTHORITY PURSUANT TO SUBSECTION (6)(a)(I) OF THIS SECTION INCLUDES THE AUTHORITY TO ADOPT RULES:

(A) PURSUANT TO WHICH GEOTHERMAL FLUID, IN WHOLE OR IN PART, IS DETERMINED TO BE NONTRIBUTARY PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION; AND

(B) THAT PROVIDE RULE-MAKING AND ADJUDICATORY PROCEDURES FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION (6)(a)(II)(A) OF THIS SECTION THAT ARE MADE AFTER THE INITIAL RULE-MAKING CONDUCTED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION.

(b) IN ANY RULE-MAKING PROCEEDING CONDUCTED PURSUANT TO THIS SECTION, ANY INTERESTED PERSON HAS THE RIGHT OF CROSS-EXAMINATION. JUDICIAL REVIEW OF ANY RULES ADOPTED PURSUANT TO THIS SECTION AND ANY NONTRIBUTARY GROUNDWATER DETERMINATIONS MADE PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION MUST BE IN ACCORDANCE WITH SECTION 24-4-106; EXCEPT THAT VENUE MUST BE EXCLUSIVELY IN THE WATER COURT FOR THE WATER DIVISION OR DIVISIONS WHERE THE GROUNDWATER THAT IS THE SUBJECT OF ANY APPLICABLE RULE OR DETERMINATION IS LOCATED.

(c) IN ANY JUDICIAL ACTION SEEKING TO CURTAIL OR DECLARE UNLAWFUL THE WITHDRAWAL, USE, OR DISPOSAL OF GROUNDWATER PURSUANT TO THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT ANY DETERMINATION MADE BY THE STATE ENGINEER PURSUANT TO

SUBSECTION (1)(b) OF THIS SECTION IS VALID.

(d) ANY RULES ADOPTED PURSUANT TO THIS SECTION MUST NOT CONFLICT WITH EXISTING LAWS AND DO NOT AFFECT THE VALIDITY OF GROUNDWATER WELL PERMITS EXISTING PRIOR TO THE ADOPTION OF THE RULES.

SECTION 10. In Colorado Revised Statutes, 37-90.5-108, **amend** (1) introductory portion, (1)(b), and (1)(c); and **add** (3) as follows:

37-90.5-108. Geothermal management districts. (1) The state engineer may adopt procedures ~~under which~~ THAT ESTABLISH geothermal management districts ~~may be established~~ APPLICABLE TO DISTRIBUTED GEOTHERMAL RESOURCES. In ~~such~~ GEOTHERMAL MANAGEMENT districts, the state engineer ~~has the authority to~~ MAY:

(b) Control the quantity of geothermal fluid extracted from DISTRIBUTED geothermal resources by ~~such~~ methods and procedures ~~as he~~ THAT THE STATE ENGINEER deems appropriate, including requirements to reinject; AND

(c) Adopt a comprehensive plan for the most efficient use of DISTRIBUTED geothermal resources, guided by the principles of equitable apportionment, maximum economic recovery, and prevention of waste.

(3) THE STATE ENGINEER SHALL NOTIFY THE COMMISSION OF ANY APPLICATION FOR A GEOTHERMAL MANAGEMENT DISTRICT THAT IS ANTICIPATED TO AFFECT DEEP GEOTHERMAL OPERATIONS.

SECTION 11. In Colorado Revised Statutes, **add** 37-90.5-109, 37-90.5-110, and 37-90.5-111 as follows:

37-90.5-109. Geothermal resource units - rules. (1) THE COMMISSION MAY ADOPT PROCEDURES BY RULE TO ESTABLISH GEOTHERMAL RESOURCE UNITS APPLICABLE TO ALLOCATED GEOTHERMAL RESOURCES. IN ITS REGULATION OF GEOTHERMAL RESOURCE UNITS, THE COMMISSION MAY:

(a) CONTROL WELL-SPACING AND PRODUCTION RATES;

(b) CONTROL THE QUANTITY OF GEOTHERMAL FLUID EXTRACTED

FROM ALLOCATED GEOTHERMAL RESOURCES BY METHODS AND PROCEDURES THAT THE COMMISSION DEEMS APPROPRIATE, INCLUDING REQUIREMENTS TO REINJECT;

(c) ADOPT A COMPREHENSIVE UNIT PLAN THAT ENCOURAGES SUSTAINABLE USE OF ALLOCATED GEOTHERMAL RESOURCES; AND

(d) REQUIRE EQUITABLE COMPENSATION TO ANY IMPACTED OWNER OF AN ALLOCATED GEOTHERMAL RESOURCE.

(2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP, ADMINISTRATION, AGGREGATION, OR DETERMINATION OF WATER RIGHTS.

37-90.5-110. Geothermal resource studies - report - repeal.

(1) (a) THE COMMISSION SHALL FUND A TECHNICAL STUDY OF THE STATE'S GEOTHERMAL RESOURCES THAT INCLUDES:

(I) A RESOURCE EVALUATION;

(II) A DESCRIPTION OF POTENTIAL APPLICATIONS OF EMERGING TECHNOLOGIES;

(III) AN EVALUATION OF POTENTIAL IMPACTS, INCLUDING ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS, AND A CONSIDERATION OF:

(A) POTENTIAL IMPACTS TO OZONE NONATTAINMENT AREAS FROM THE DEVELOPMENT OF GEOTHERMAL RESOURCES; AND

(B) POTENTIAL OZONE MITIGATION MEASURES;

(IV) AN ECONOMIC ANALYSIS; AND

(V) A DESCRIPTION OF ANY POTENTIAL OPPORTUNITIES TO UTILIZE EXISTING INFRASTRUCTURE.

(b) ON OR BEFORE JULY 1, 2024, THE COMMISSION SHALL POST THE RESULTS OF THE STUDY ON THE COMMISSION'S WEBSITE.

(2) (a) THE COMMISSION AND THE STATE ENGINEER SHALL

COLLABORATE ON A STUDY THAT EVALUATES THE STATE REGULATORY STRUCTURE FOR GEOTHERMAL RESOURCES IN THE STATE AND WHETHER ANY CHANGES TO STATE LAW OR RULES ARE NECESSARY.

(b) ON OR BEFORE DECEMBER 31, 2024, THE COMMISSION SHALL:

(I) DRAFT A REPORT DESCRIBING THE RESULTS OF THE STUDY AND POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

(II) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

(c) THE COMMISSION SHALL PRESENT THE REPORT DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION TO THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, DURING THE 2025 LEGISLATIVE SESSION.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

37-90.5-111. Coordination between the commission and the state engineer. (1) WHEN AN OPERATIONS PERMIT IS ISSUED BY THE COMMISSION PURSUANT TO SECTION 37-90.5-106 (1)(b)(II) AND A USE PERMIT IS ISSUED BY THE STATE ENGINEER PURSUANT TO SECTION 37-90.5-107 (1), THE COMMISSION AND THE STATE ENGINEER SHALL COORDINATE TO:

(a) ENSURE THAT ANY APPLICABLE REQUIREMENTS OF THE COMMISSION AND THE STATE ENGINEER ARE MET; AND

(b) DETERMINE WHETHER AN ACCOUNTING FOR THE USE AND REINJECTION OF GEOTHERMAL FLUID PURSUANT TO THE APPLICABLE PERMIT MAY BE SUBMITTED TO ONLY THE COMMISSION OR ONLY THE STATE ENGINEER.

SECTION 12. In Colorado Revised Statutes, 34-64-102, **amend** the introductory portion and (1); and **add** (1.3), (1.5), (3.5), and (3.7) as follows:

34-64-102. Definitions. As used in this ~~article~~ ARTICLE 64, unless the context otherwise requires:

(1) "Commission" means the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION 34-60-104.3 (1).

(1.3) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(1.5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(3.5) (a) "UNDERGROUND NATURAL GAS STORAGE FACILITY" MEANS A FACILITY THAT STORES NATURAL GAS IN AN UNDERGROUND FACILITY, INCLUDING A DEPLETED HYDROCARBON RESERVOIR, AN AQUIFER RESERVOIR, OR A SOLUTION-MINED SALT CAVERN RESERVOIR.

(b) "UNDERGROUND NATURAL GAS STORAGE FACILITY" INCLUDES ANY OF THE FOLLOWING EQUIPMENT ASSOCIATED WITH THE STORAGE OF NATURAL GAS IN AN UNDERGROUND FACILITY:

(I) INJECTION, WITHDRAWAL, MONITORING, AND OBSERVATION WELLS;

(II) WELLBORES AND DOWNHOLE COMPONENTS;

(III) WELLHEADS AND ASSOCIATED WELLHEAD PIPING;

(IV) WING-VALVE ASSEMBLIES THAT ISOLATE THE WELLHEAD FROM CONNECTED PIPING BEYOND THE WING-VALVE ASSEMBLIES; AND

(V) ANY OTHER EQUIPMENT, FACILITY, RIGHT-OF-WAY, OR BUILDING USED IN THE STORAGE OF NATURAL GAS IN AN UNDERGROUND FACILITY.

(c) "UNDERGROUND NATURAL GAS STORAGE FACILITY" DOES NOT INCLUDE ANY PIPELINE FACILITIES OR EQUIPMENT SUBJECT TO REGULATION BY THE PUBLIC UTILITIES COMMISSION.

(3.7) "UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS" MEANS, FOR AN UNDERGROUND NATURAL GAS STORAGE FACILITY PROPOSED TO BE SITED IN AN AREA THAT WOULD AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY, THE EFFECT ON PUBLIC HEALTH AND THE

ENVIRONMENT, INCLUDING AIR, WATER, SOIL, AND THE CLIMATE, CAUSED BY THE INCREMENTAL IMPACTS THAT A PROPOSED NEW UNDERGROUND NATURAL GAS STORAGE FACILITY WOULD HAVE WHEN ADDED TO THE IMPACTS FROM DEVELOPMENT IN THE AFFECTED AREA.

SECTION 13. In Colorado Revised Statutes, **add 34-64-108** as follows:

34-64-108. Regulation of intrastate underground natural gas storage facilities - fees - rules. (1) (a) NOTWITHSTANDING SECTION 40-2-115, THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO REGULATE ALL INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES IN THE STATE. THE COMMISSION MAY ADOPT RULES FOR THE PERMITTING AND REGULATION OF INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES.

(b) THE COMMISSION MAY SUBMIT A CERTIFICATION TO, OR ENTER INTO AN AGREEMENT WITH, THE UNITED STATES SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. SECS. 60105 AND 60106, AS AMENDED, TO AUTHORIZE THE COMMISSION TO ENFORCE THE RULES OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION CONCERNING INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES PROMULGATED UNDER 49 U.S.C. SEC. 60101 ET SEQ., AS AMENDED.

(c) IF THE COMMISSION SUBMITS A CERTIFICATION TO THE UNITED STATES SECRETARY OF TRANSPORTATION OR ENTERS INTO AN AGREEMENT WITH THE UNITED STATES SECRETARY OF TRANSPORTATION PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, ANY RULES ADOPTED BY THE COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST BE AT LEAST AS STRINGENT AS THE APPLICABLE FEDERAL REQUIREMENTS.

(2) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COMMISSION:

(a) SHALL REGULATE INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES IN A MANNER THAT PROTECTS PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING THE PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES;

(b) MAY ASSESS AND COLLECT REGULATORY AND PERMITTING FEES

FROM THE OPERATORS OF INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES IN AN AMOUNT AND FREQUENCY DETERMINED BY THE COMMISSION BY RULE;

(c) SHALL, IF AN UNDERGROUND NATURAL GAS STORAGE FACILITY IS PROPOSED TO BE SITED IN AN AREA THAT WOULD AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY, EVALUATE AND ADDRESS ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS FROM THE PROPOSAL TO ENSURE THAT THE TERMS AND CONDITIONS OF ANY PERMIT ISSUED UNDER THIS SECTION ARE SUFFICIENT TO ENSURE THAT ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS ARE AVOIDED, MINIMIZED TO THE EXTENT PRACTICABLE, OR, TO THE EXTENT THAT ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS REMAIN, THE REMAINING UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS ARE MITIGATED; AND

(d) SHALL, IF ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS ARE EVALUATED AND ADDRESSED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, PROVIDE A PLAIN LANGUAGE SUMMARY OF HOW THE UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS ARE AVOIDED, MINIMIZED IF NOT AVOIDED, MITIGATED IF NOT MINIMIZED, AND ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS THAT CANNOT BE AVOIDED, MINIMIZED, OR MITIGATED.

(3) AN OPERATOR OF AN INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITY SHALL NOT CONSTRUCT A NEW FACILITY UNLESS THE OPERATOR PROVIDES EVIDENCE TO THE COMMISSION THAT:

(a) THE OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITY, INCLUDING THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

(b) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITY DOES NOT REGULATE THE SITING OF SUCH FACILITIES.

(4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND CREATED IN SECTION

34-60-122 (5).

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NOTHING IN THIS SECTION ESTABLISHES, ALTERS, IMPAIRS, OR NEGATES THE ABILITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE RELATED TO INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES.

SECTION 14. In Colorado Revised Statutes, 40-2-115, amend (1)(d)(II)(C) and (2)(b); and add (1)(f) and (2)(k) as follows:

40-2-115. Cooperation with other states and with the United States - rules - definitions. (1) (d) (II) The commission's gas pipeline safety rules must address, and may be more stringent than required by federal standards with regard to:

(C) Mapping of all pipelines within the commission's jurisdiction. For this purpose, the commission may incorporate information from any existing flowline maps or other maps prepared by the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1) and showing pipelines subject to the jurisdiction of that agency. The public utilities commission's mapping requirements for pipelines within its jurisdiction must incorporate the same standards for confidentiality, security, and public access and limitations on the scale of publicly available images as adopted by the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission in 2 CCR 404-1, rule 1101.e.

(f) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE COMMISSION SHALL NOT ADOPT ANY RULES THAT REGULATE UNDERGROUND NATURAL GAS STORAGE FACILITIES.

(2) As used in this section:

(b) "Transportation of gas" or "transporting gas" means the gathering, transmission, or distribution of gas by pipeline, as defined in 49 CFR 192.3. ~~or its storage.~~

(k) "UNDERGROUND NATURAL GAS STORAGE FACILITY" HAS THE MEANING SET FORTH IN SECTION 34-64-102 (3.5).

SECTION 15. In Colorado Revised Statutes, 25-15-101, **amend** the introductory portion and (6)(b)(IX); and **add** (6)(b)(X) as follows:

25-15-101. Definitions. As used in this ~~article~~ ARTICLE 15, unless the context otherwise requires:

(6) (b) "Hazardous waste" does not include:

(IX) Waste from oil and gas ~~activities~~ OPERATIONS, AS DEFINED IN SECTION 34-60-103 (6.5), OR FROM DEEP GEOTHERMAL OPERATIONS, AS DEFINED IN SECTION 37-90.5-103 (3), including, but not limited to, drilling fluids, produced water, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal ~~energy~~; ~~which~~ RESOURCES, THAT is disposed of in accordance with the requirements of the ~~oil and gas~~ ENERGY AND CARBON MANAGEMENT commission pursuant to ARTICLE 90.5 OF TITLE 37 AND article 60 of title 34, ~~C.R.S.~~ AS APPLICABLE; AND

(X) EXPLORATION AND PRODUCTION WASTE, AS DEFINED IN SECTION 34-60-103 (4.5).

SECTION 16. In Colorado Revised Statutes, 29-20-104, **amend** (1)(h) introductory portion, (1)(h)(II), and (1)(h)(VI) as follows:

29-20-104. Powers of local governments - definition. (1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(h) Regulating the surface impacts of oil and gas operations, AS DEFINED IN SECTION 34-60-103 (6.5), DEEP GEOTHERMAL OPERATIONS, AS DEFINED IN SECTION 37-90.5-103 (3), AND INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES, AS DEFINED IN SECTION 34-64-102 (3.5), in a reasonable manner to address matters specified in this subsection (1)(h) and to protect and minimize adverse impacts to public health, safety, and welfare and the environment. Nothing in this subsection (1)(h) is intended to alter, expand, or diminish the authority of local governments to regulate air quality under section 25-7-128. ~~For purposes of~~ AS USED IN this subsection (1)(h), "minimize adverse impacts" means, to the extent

necessary and reasonable, to protect public health, safety, and welfare and the environment by avoiding adverse impacts from oil and gas operations, AS DEFINED IN SECTION 34-60-103 (6.5), DEEP GEOTHERMAL OPERATIONS, AS DEFINED IN SECTION 37-90.5-103 (3), AND INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES, AS DEFINED IN SECTION 34-64-102 (3.5), and minimizing and mitigating the extent and severity of those impacts that cannot be avoided. The following matters are covered by this subsection (1)(h):

(II) The location and siting of oil and gas facilities and oil and gas locations, as those terms are defined in section 34-60-103 (6.2) and (6.4); DEEP GEOTHERMAL OPERATIONS, AS DEFINED IN SECTION 37-90.5-103 (3); AND INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES, AS DEFINED IN SECTION 34-64-102 (3.5);

(VI) All other nuisance-type effects of ~~oil and gas development~~ THE OPERATIONS DESCRIBED IN THIS SUBSECTION (1)(h); and

SECTION 17. In Colorado Revised Statutes, 34-60-103, **amend** (2) and (4.5) as follows:

34-60-103. Definitions. As used in this article 60, unless the context otherwise requires:

(2) "Commission" means the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1).

(4.5) "Exploration and production waste" means those wastes that are generated during the drilling of and production from oil and gas wells, DURING THE DRILLING OF AND PRODUCTION FROM WELLS FOR DEEP GEOTHERMAL OPERATIONS, AS DEFINED IN SECTION 37-90.5-103 (3), REGULATED BY THE COMMISSION PURSUANT TO ARTICLE 90.5 OF TITLE 37, or during primary field operations and that are exempt from regulation as hazardous wastes under subtitle c of the federal "Resource Conservation and Recovery Act of 1976", 42 U.S.C. ~~sec.~~ SECS. 6901 to 6934, as amended.

SECTION 18. In Colorado Revised Statutes, 34-60-124, **amend** (1) introductory portion, (1)(f), (2), (3), (4) introductory portion, (4)(a) introductory portion, (4)(b), (5), (8), and (10); and **add** (1)(g), (4)(e), and (4)(f) as follows:

34-60-124. Energy and carbon management cash fund - definitions - repeal. (1) ~~The following moneys shall be credited~~ STATE TREASURER SHALL CREDIT THE FOLLOWING MONEY to the ~~oil and gas conservation and environmental response~~ fund:

(f) ~~Moneys~~ MONEY recovered from the sale of salvaged equipment, as provided for in ~~paragraph (c) of subsection (6)~~ SUBSECTION (6)(c) of this section; AND

(g) MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS 34-64-108 (4) AND 37-90.5-106 (4).

(2) ~~The moneys~~ MONEY in the ~~oil and gas conservation and environmental response~~ fund shall DOES not revert to the general fund at the end of any fiscal year.

(3) ~~The moneys~~ MONEY in the ~~oil and gas conservation and environmental response~~ fund shall be IS subject to annual appropriation by the general assembly; except that ~~moneys~~ MONEY deposited in the fund constituting forfeited security or other financial assurance provided by operators in accordance with section 34-60-106 (3.5) and (13) shall be IS continuously appropriated to the commission for the purpose of fulfilling obligations under this ~~article~~ ARTICLE 60 upon which an operator has defaulted.

(4) ~~The oil and gas conservation and environmental response~~ fund may be expended:

(a) By the commission, or by the director at the commission's direction, prior to, during, or after the conduct of ~~oil and gas~~ ANY operations SUBJECT TO THE AUTHORITY OF THE COMMISSION to:

(b) For purposes authorized by section 23-41-114 (4); ~~C.R.S.~~

(e) (I) TO CONDUCT THE STUDIES DESCRIBED IN SECTIONS 34-60-137, 34-60-138, AND 37-90.5-110;

(II) THIS SUBSECTION (4)(d) IS REPEALED, EFFECTIVE JULY 1, 2025.

(f) TO CREATE AND MAINTAIN THE WEBSITE DESCRIBED IN SECTION

34-60-106 (22).

(5) The director of the ~~oil and gas conservation~~ commission shall prepare an annual report for the executive director of the department of natural resources and the governor regarding the operations of and disbursements from the fund.

(8) ~~(a) For purposes of AS USED IN this section:~~

(a) "FUND" MEANS THE ENERGY AND CARBON MANAGEMENT CASH FUND CREATED IN SECTION 34-60-122 (5).

(b) (I) "Responsible party" means any person who conducts an oil and gas operation in a manner ~~which is in contravention of~~ THAT VIOLATES any then-applicable provision of this ~~article~~ ARTICLE 60, or of any rule ~~regulation~~, or order of the commission, or of any permit that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource. "Responsible party" includes any person who disposes of any ~~other~~ waste by mixing it with exploration and production waste that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource.

~~(b) (II) Except as otherwise provided in paragraph (a) of this subsection (8)~~ (II) SUBSECTION (8)(b)(I) OF THIS SECTION, "responsible party" does not include any landowner, whether of the surface estate, mineral estate, or both, who does not engage in, or assume responsibility for, the conduct of oil and gas operations.

(10) ~~The fund shall be expended by the commission or by the director~~ COMMISSION OR THE DIRECTOR OF THE COMMISSION SHALL EXPEND THE MONEY IN THE FUND for the purposes of administering the provisions of this ~~article~~ ARTICLE 60 AND SECTIONS 34-64-108 AND 37-90.5-106 (1)(b), including staffing, overhead, enforcement, and the payment of environmental responses costs, and for paying expenses in connection with the interstate oil and gas compact commission.

SECTION 19. In Colorado Revised Statutes, **add** 34-60-137 and 34-60-138 as follows:

34-60-137. Hydrogen study - report - repeal. (1) THE

COMMISSION SHALL CONDUCT A STUDY AND DEVELOP RECOMMENDATIONS CONCERNING THE REGULATION AND PERMITTING OF THE UNDERGROUND STORAGE OF HYDROGEN, THE TRANSPORTATION OF HYDROGEN THROUGH PIPELINES, AND ANY OTHER UNDERGROUND HYDROGEN OPERATIONS RELATED TO OR INTERCONNECTED WITH THE COMMISSION'S DIRECTIVE AND REGULATORY AUTHORITY IN THE STATE. THE COMMISSION SHALL DEVELOP RECOMMENDATIONS THAT:

(a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES;

(b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II); AND

(c) CONSIDER ANY POTENTIAL CUMULATIVE IMPACTS, INCLUDING IMPACTS ON AIR, WATER, SOIL, AND THE CLIMATE, ASSOCIATED WITH THE DEVELOPMENT OF THE STATE'S HYDROGEN RESOURCES.

(2) IN CONDUCTING THE STUDY, THE COMMISSION SHALL CONSULT WITH OTHER STATE AGENCIES, LOCAL GOVERNMENTS, ENVIRONMENTAL JUSTICE ORGANIZATIONS, AND OTHER RELEVANT STAKEHOLDERS.

(3) NO LATER THAN JULY 1, 2024, THE COMMISSION SHALL:

(a) PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY, INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION;

(b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

(c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

(4) THE COMMISSION SHALL PRESENT THE REPORT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION TO THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, DURING THE 2025 LEGISLATIVE SESSION.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

34-60-138. Pipeline study - report - repeal. (1) THE COMMISSION SHALL COORDINATE WITH THE PUBLIC UTILITIES COMMISSION TO CONDUCT A STUDY EXAMINING THE EXISTING ADMINISTRATIVE STRUCTURE FOR INTRASTATE PIPELINE SITING AND SAFETY REGULATION IN THE STATE, INCLUDING IDENTIFYING ANY EXISTING JURISDICTIONAL GAPS, ANALYZING EXISTING SAFETY RULES, REVIEWING JURISDICTIONAL STRATEGIES FOR THE STATE, AND EVALUATING RESOURCE NEEDS FOR SAFE AND PROTECTIVE REGULATION. BASED ON THE FINDINGS OF THE STUDY, THE COMMISSION SHALL DEVELOP RECOMMENDATIONS THAT:

(a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES;

(b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II); AND

(c) CONSIDER ANY POTENTIAL CUMULATIVE IMPACTS ARISING OUT OF THE USE AND SITING OF PIPELINES FOR CURRENT AND EMERGING TECHNOLOGIES.

(2) IN CONDUCTING THE STUDY, THE COMMISSION AND THE PUBLIC UTILITIES COMMISSION SHALL CONSULT WITH OTHER STATE AGENCIES, LOCAL GOVERNMENTS, ENVIRONMENTAL JUSTICE ORGANIZATIONS, AND OTHER RELEVANT STAKEHOLDERS.

(3) NO LATER THAN DECEMBER 1, 2024, THE COMMISSION SHALL:

(a) COORDINATE WITH THE PUBLIC UTILITIES COMMISSION TO PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY, INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION;

(b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

(c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

(4) THE COMMISSION SHALL PRESENT THE REPORT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION TO THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, DURING THE 2025 LEGISLATIVE SESSION.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 20. In Colorado Revised Statutes, 2-3-128, **amend** (1)(a) as follows:

2-3-128. Oil and gas - performance audit - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Commission" means the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission created in section 34-60-104.3 (1).

SECTION 21. In Colorado Revised Statutes, 23-41-114, **amend** (4)(b)(I)(B), (4)(b)(II)(B), (4)(b)(II)(C), (4)(b)(III)(B), (4)(b)(III)(C), (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(V)(B), (4)(b)(VI)(B), and (4)(b)(VI)(C) as follows:

23-41-114. Colorado energy research institute - creation. (4) The institute shall conduct:

(b) The following specific research and educational programs designed to meet the information needs of the department of natural resources, other agencies of the state's executive branch, the legislature, and the public:

(I) (B) For the purposes authorized by this ~~subparagraph (I)~~ SUBSECTION (4)(b)(I), up to five hundred thousand dollars of the unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(II) (B) For the purpose authorized by this ~~subparagraph (H)~~ SUBSECTION (4)(b)(II), up to one million dollars of the unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(C) Of the amount specified in ~~sub-subparagraph (B) of this subparagraph (H)~~ SUBSECTION (4)(b)(II)(B) OF THIS SECTION: Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal

year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds two and one-half million dollars.

(III) (B) For the purpose authorized by this ~~subparagraph (III)~~ SUBSECTION (4)(b)(III), up to three hundred seventy-five thousand dollars of the unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(C) Of the amount specified in ~~sub-subparagraph (B) of this subparagraph (III)~~ SUBSECTION (4)(b)(III)(B) OF THIS SECTION: One hundred seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and two hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds two and one-half million dollars.

(IV) (B) For the purpose authorized by this ~~subparagraph (IV)~~ SUBSECTION (4)(b)(IV), up to one million dollars of the unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(C) Of the amount specified in ~~sub-subparagraph (B) of this subparagraph (IV)~~ SUBSECTION (4)(b)(IV)(B) OF THIS SECTION: Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds two and one-half million dollars.

(V) (B) For the purpose authorized by this ~~subparagraph (V)~~ SUBSECTION (4)(b)(V)(B), up to fifty-six thousand dollars of the

unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(VI) (B) For the purpose authorized by this ~~subparagraph (VI)~~ SUBSECTION (4)(b)(VI), up to one hundred twenty-five thousand dollars of the unencumbered balance available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

(C) Of the amount specified in ~~sub-subparagraph (B) of this subparagraph (VI)~~ SUBSECTION (4)(b)(VI)(B) OF THIS SECTION: Seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and fifty thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds two and one-half million dollars.

SECTION 22. In Colorado Revised Statutes, 24-1-124, **amend** (3)(f) as follows:

24-1-124. Department of natural resources - creation - divisions.

(3) The department of natural resources consists of the following divisions:

(f) The ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION 34-60-104.3 (1) and the office of the director ~~thereof~~ OF THE COMMISSION, created in article 60 of title 34. The ~~oil and gas conservation~~ commission ~~of the state of Colorado~~ and the office of the director are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of natural resources as a division ~~thereof~~ OF THE DEPARTMENT.

SECTION 23. In Colorado Revised Statutes, 24-33-104, **amend** (1)(f) as follows:

24-33-104. Composition of the department. (1) The department of natural resources consists of the following commissions, divisions,

boards, offices, and councils:

(f) The ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION 34-60-104.3 (1);

SECTION 24. In Colorado Revised Statutes, 24-35-115, **amend** (3) as follows:

24-35-115. Mineral audit program. (3) The cost of each of the following audits shall be paid by an appropriation from the general fund: Severance tax revenues, revenues accruing to leases managed by the state board of land commissioners authorized in section 36-1-113, ~~C.R.S.~~; and revenues accruing to the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5). ~~C.R.S.~~ At the end of each fiscal year, beginning with the fiscal year starting July 1, 1986, the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission and the state board of land commissioners shall each repay, from the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created by section 34-60-122 (5) ~~C.R.S.~~; and the state land board TRUST administration fund created by section 36-1-145 (2)(a), ~~C.R.S.~~, to the general fund the cost of such audits performed on their respective fund, which reimbursement shall not exceed the dollar amount of the collections received by each agency from such audits.

SECTION 25. In Colorado Revised Statutes, 24-65.5-102, **amend** the introductory portion and (2.5) as follows:

24-65.5-102. Definitions - legislative declaration. As used in this ~~article~~ ARTICLE 65.5, unless the context otherwise requires:

(2.5) "Commission" means the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission created in ~~section 34-60-104, C.R.S.~~ SECTION 34-60-104.3 (1).

SECTION 26. In Colorado Revised Statutes, 24-75-402, **amend** (5)(ii) as follows:

24-75-402. Cash funds - limit on uncommitted reserves -

reduction in the amount of fees - exclusions - definitions.
(5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(ii) ~~The oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in section 34-60-122 (5); ~~C.R.S.~~;

SECTION 27. In Colorado Revised Statutes, 25-7-109, **amend** (10)(c) as follows:

25-7-109. Commission to promulgate emission control regulation. (10) (c) Notwithstanding the grant of authority to the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission in article 60 of title 34, including specifically section 34-60-105 (1), the commission may regulate air pollution from oil and gas facilities listed in subsection (10)(a) of this section, including during preproduction activities, drilling, and completion.

SECTION 28. In Colorado Revised Statutes, 25-7-133, **amend** (7)(d)(III) as follows:

25-7-133. Legislative review and approval of state implementation plans and rules - legislative declaration - definition. (7) (d) (III) The regulated entity shall deliver the notice required pursuant to ~~subparagraph (H) of this paragraph (d)~~ SUBSECTION (7)(d)(II) OF THIS SECTION to the local government designee, if any, registered with the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1) for receipt of information relating to oil and gas operations within a local jurisdiction and shall include a phone number for a contact person. If the local jurisdiction does not have a local government designee, the REGULATED ENTITY SHALL DELIVER THE notice ~~shall be provided~~ to the municipal clerk.

SECTION 29. In Colorado Revised Statutes, 25-8-202, **amend** (7) introductory portion as follows:

25-8-202. Duties of commission - rules. (7) The commission and the division shall recognize water quality responsibilities of the following

state agencies, referred to in this subsection (7) as the "implementing agencies": The office of mined land reclamation; the state engineer; the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1); and the state agency responsible for activities related to the federal "Resource Conservation and Recovery Act of 1976", 42 U.S.C. SEC. 6901 ET SEQ., as amended, and related state programs. Activities subject to the jurisdiction of the implementing agencies that result in discharge to state waters shall be regulated as follows:

SECTION 30. In Colorado Revised Statutes, 25-8-205, **amend** (4) as follows:

25-8-205. Control regulations. (4) The commission shall coordinate and cooperate with the state engineer, the Colorado water conservation board, the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1), the state board of health, and other state agencies having regulatory powers in order to avoid adopting control regulations that would be either redundant or unnecessary.

SECTION 31. In Colorado Revised Statutes, 29-20-104, **amend** (3)(a) as follows:

29-20-104. Powers of local governments - definition. (3) (a) To provide a local government with technical expertise regarding whether a preliminary or final determination of the location of an oil and gas facility or oil and gas location within its respective jurisdiction could affect oil and gas resource recovery:

(I) Once an operator, as defined in section 34-60-103 (6.8), files an application for the location and siting of an oil and gas facility or oil and gas location and the local government has made either a preliminary or final determination regarding the application, the local government having land use jurisdiction may ask the director of the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission pursuant to section 34-60-104.5 (3) to appoint a technical review board to conduct a technical review of the preliminary or final determination and issue a report that contains the board's conclusions.

(II) Once a local government has made a final determination

regarding an application specified in subsection (3)(a)(I) of this section or if the local government has not made a final determination on an application within two hundred ten days after filing by the operator, the operator may ask the director of the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission pursuant to section 34-60-104.5 (3) to appoint a technical review board to conduct a technical review of the final determination and issue a report that contains the board's conclusions.

SECTION 32. In Colorado Revised Statutes, 30-20-109, **amend** (1.5)(d)(I) as follows:

30-20-109. Commission to promulgate rules - definitions. (1.5) (d) The department shall:

(I) Coordinate with the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission created in ~~section 34-60-104~~; ~~C.R.S.~~ SECTION 34-60-104.3 (1), governing bodies having jurisdiction, and the federal bureau of land management to identify potential EP waste disposal sites that are located reasonably close to oil and gas operation areas on either federal or nonfederal land and that meet the set-back requirements of this subsection (1.5); and

SECTION 33. In Colorado Revised Statutes, 30-20-120, **amend** (5) as follows:

30-20-120. Imminent and substantial endangerment from solid waste - definitions. (5) The provisions of this section ~~shall~~ DO not apply to sites regulated by the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission created by ~~section 34-60-104~~, ~~C.R.S.~~, IN SECTION 34-60-104.3 (1) or BY the oil inspection section of the department of labor and employment pursuant to article 20 of title 8. ~~C.R.S.~~

SECTION 34. In Colorado Revised Statutes, 34-60-102, **amend** (2) as follows:

34-60-102. Legislative declaration. (2) It is further declared to be in the public interest to assure that producers and consumers of natural gas are afforded the protection and benefits of those laws and regulations of the United States ~~which~~ THAT affect the price and allocation of natural gas and crude oil, including the federal "Natural Gas Policy Act of 1978", 15 U.S.C.

sec. 3301 ET SEQ., AS AMENDED, and particularly that the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission established by ~~section 34-60-104~~, CREATED IN SECTION 34-60-104.3 (1) be empowered to exercise such powers and authorities as may be delegated to it by the laws or regulations of the United States, including said "Natural Gas Policy Act of 1978", and, in the exercise of such powers and authorities, to make such rules ~~and regulations~~ and to execute such agreements and waivers as are reasonably required to implement such power and authority.

SECTION 35. In Colorado Revised Statutes, 34-60-118.5, **amend** (5) introductory portion, (5.5), (6), and (8)(a) as follows:

34-60-118.5. Payment of proceeds - definitions. (5) Absent a bona fide dispute over the interpretation of a contract for payment, the ~~oil and gas conservation~~ commission ~~shall have~~ HAS jurisdiction to determine the following:

(5.5) Before hearing the merits of any proceeding regarding payment of proceeds pursuant to this section, the ~~oil and gas conservation~~ commission shall determine whether a bona fide dispute exists regarding the interpretation of a contract defining the rights and obligations of the payer and payee. If the commission finds that such a dispute exists, the commission shall decline jurisdiction over the dispute and the parties may seek resolution of the matter in district court.

(6) The commission may assign to the parties the costs of any administrative proceeding pursuant to this section in such proportions as it deems appropriate and may award reasonable attorney fees and costs to the prevailing party. The ~~moneys~~ MONEY received by the commission to cover the costs of such administrative proceedings shall be transmitted to the state treasurer, who shall credit ~~such moneys~~ THE MONEY to the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION 34-60-122 (5).

(8) (a) Nothing in this section shall be construed to alter existing substantive rights or obligations nor to impose upon the ~~oil and gas conservation~~ commission any duty to interpret a contract from which the obligation to pay proceeds arises.

SECTION 36. In Colorado Revised Statutes, 34-60-121, **amend** (1)(d) as follows:

34-60-121. Violations - penalties - rules - legislative declaration.
(1) (d) An operator subject to a penalty order shall pay the amount due within thirty days after its imposition unless the operator files a judicial appeal. The commission may recover penalties owed under this section in a civil action brought by the attorney general at the request of the commission in the second judicial district. ~~Moneys~~ MONEY collected through the imposition of penalties shall be credited first to any legal costs and attorney fees incurred by the attorney general in the recovery action and then to the environmental response account in the ~~oil and gas conservation and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION 34-60-122 (5).

SECTION 37. In Colorado Revised Statutes, **amend** 34-61-101 as follows:

34-61-101. Boreholes penetrating coal seams. It is the duty of the owner, or person in charge of any borehole ~~which~~ THAT penetrates any workable coal seam or any accessible or inaccessible coal mine excavation, to notify the ~~state oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1) of the location of ~~such~~ THE borehole by designating the particular five-acre subdivision of the land section on which ~~such~~ THE borehole is situated, and the depth and thickness of every workable coal seam or accessible or inaccessible coal mine excavation penetrated by ~~such~~ THE borehole. On receipt of such notification, the ~~state oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission shall at once notify the ~~chief inspector of coal mines~~ COAL MINING REGULATORY AUTHORITY.

SECTION 38. In Colorado Revised Statutes, 37-90-103, **amend** the introductory portion and (10.9) as follows:

37-90-103. Definitions - repeal. As used in this ~~article~~ ARTICLE 90, unless the context otherwise requires:

(10.9) "Oil and gas well" means a well permitted by the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1) or a well authorized by a federal or

tribal entity for the primary purpose of mining, including exploration or production, of petroleum products.

SECTION 39. In Colorado Revised Statutes, 37-91-102, **amend** the introductory portion and (16)(b)(I) as follows:

37-91-102. Definitions. As used in this ~~article~~ ARTICLE 91, unless the context otherwise requires:

(16) (b) (I) "Well" does not include:

(A) Certain types of monitoring and observation wells, dewatering wells, and test holes that the board specifies in rules ~~and regulations~~ in order to allow for their construction, utilization, and abandonment by other than a well construction contractor; ~~nor does such term include~~

(B) An excavation made for the purpose of obtaining or prospecting for minerals or those wells subject to the jurisdiction of the ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission, as provided in article 60 of title 34; ~~C.R.S.~~; or

(C) ~~those~~ Wells subject to the jurisdiction of the office of mined land reclamation, as provided in article 33 of title 34. ~~C.R.S.~~

SECTION 40. In Colorado Revised Statutes, 37-92-103, **amend** (5.5) as follows:

37-92-103. Definitions. As used in this article 92, unless the context otherwise requires:

(5.5) "Coal bed methane well" means a well permitted by the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1) or a well authorized by a federal or tribal entity and constructed for the primary purpose of producing methane gas from a coal bed.

SECTION 41. In Colorado Revised Statutes, 38-35.7-108, **amend** (1)(a) as follows:

38-35.7-108. Disclosure of oil and gas activity - rules. (1) (a) By

January 1, 2016, the real estate commission created in section 12-10-206 shall promulgate a rule requiring each contract of sale or seller's property disclosure for residential real property that is subject to the commission's jurisdiction to disclose the following or substantially similar information:

THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE.

THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE ~~COLORADO OIL AND GAS CONSERVATION~~ ENERGY AND CARBON MANAGEMENT COMMISSION.

SECTION 42. In Colorado Revised Statutes, 39-29-109.3, amend (1)(a) as follows:

39-29-109.3. Severance tax operational fund - core reserve - grant program reserve - definitions - repeal. (1) The executive director

of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the severance tax operational fund created in section 39-29-109 (2)(b), referred to in this section as the "operational fund". The general assembly may appropriate money from the total money available in the operational fund to fund recommended programs as follows:

(a) (I) For programs or projects within the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1), up to thirty-five percent of the ~~moneys~~ MONEY in the operational fund for fiscal years commencing on or after July 1, 2009.

(II) ~~Moneys~~ MONEY appropriated for programs or projects pursuant to ~~subparagraph (I) of this paragraph~~ (a) SUBSECTION (1)(a)(I) OF THIS SECTION shall be used by the ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission for plugging and abandonment projects, for well-site location reclamation projects, or for regulatory and environmental programs or projects as specifically appropriated by the general assembly for use on such programs or projects; except that, if the commission determines that an emergency exists, the commission may expend any ~~moneys~~ MONEY received for the emergency without any further appropriation. In determining the uses of ~~these moneys~~ THIS MONEY, the commission shall give priority to uses that reduce industry fees and mill levies.

SECTION 43. Appropriation. (1) For the 2023-24 state fiscal year, \$1,200,480 is appropriated to the department of natural resources. This appropriation is from the energy and carbon management cash fund created in section 34-60-122 (5)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$1,108,857 for use by the energy and carbon management commission for program costs, which amount is based on an assumption that the commission will require an additional 7.0 FTE;

(b) \$7,031 for use by the division of water resources for water administration related to division operations; and

(c) \$84,592 for the purchase of legal services.

(2) For the 2023-24 state fiscal year, \$7,031 is appropriated to the department of natural resources for use by the division of water resources. This appropriation is from reappropriated funds received from the department of natural resources under subsection (1)(b) of this section. To implement this act, the division may use this appropriation for water administration related to division operations.

(3) For the 2023-24 state fiscal year, \$84,592 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of natural resources under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.4 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of natural resources.

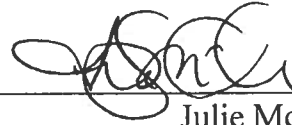
SECTION 44. Effective date. This act takes effect July 1, 2023.

SECTION 45. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



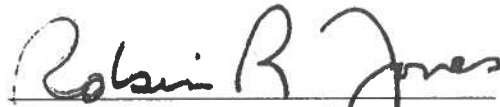
Steve Fenberg
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

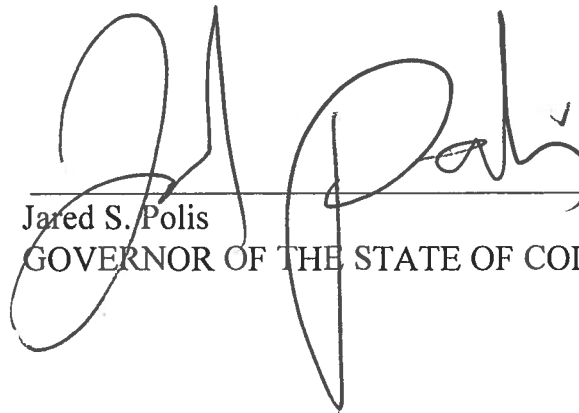


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED Monday, May 22nd, 2023 at 9:30am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO