

Unofficial Draft Copy

As of: August 21, 2006 (3:32pm)

LC0090

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing common carrier status to pipelines moving carbon dioxide; extending the right of eminent domain to underground reservoirs suitable for storing carbon dioxide; amending sections 69-13-101, 69-13-102, and 70-30-102, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-13-101, MCA, is amended to read:

"69-13-101. Common carrier pipeline. (1) The following are hereby declared to be common carriers and subject to the provisions of this chapter: every person, firm, corporation, limited partnership, joint-stock association, or association of any kind whatever:

(a) owning, operating, or managing any pipeline or any part of any pipeline within the state for the transportation of crude petroleum, coal, ~~or~~ the products thereof, or the byproduct carbon dioxide to or for the public for hire or engaging in the business of transporting crude petroleum, coal, ~~or~~ the products thereof, or the byproduct carbon dioxide by pipelines;

(b) owning, operating, or managing any pipeline or any part of any pipeline for the transportation of crude petroleum, coal,

~~or~~ the products thereof, or the byproduct carbon dioxide to or for the public for hire, which pipeline is constructed or maintained upon, along, over, or under any public road or highway;

(c) owning, operating, or managing any pipeline or any part of any pipeline for transportation to or for the public for hire of crude petroleum, coal, ~~or~~ the products thereof, or the byproduct carbon dioxide, which pipeline is or may be constructed, operated, or maintained across, upon, along, over, or under the right-of-way of any railroad, corporation, or other common carrier required by law to transport crude petroleum, coal, ~~or~~ the products thereof, or the byproduct carbon dioxide as a common carrier;

(d) owning, operating, or managing or participating in ownership, operation, or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline or any part of any pipeline for the transportation from any oil field, coal mine or field, or place of production within the state to any distributing, refining, or marketing center or reshipping point thereof, within this state, of crude petroleum, coal, ~~or~~ the products thereof, or the byproduct carbon dioxide, bought of others; or

(e) made a common carrier by or under the terms of contract with or in pursuance of the law of the United States.

(2) The provisions of this chapter shall not apply to those pipelines which are limited in their use to the wells, stations,

plants, and refineries of the owner and which are not a part of the pipeline transportation system of any common carrier, as herein defined; nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipeline transportation system."

{*Internal References to 69-13-101: None.*}

Section 2. Section 69-13-102, MCA, is amended to read:

"69-13-102. Scope of chapter -- enforcement. (1) It is declared that the operation of these pipelines, to which this chapter applies, for the transportation of crude petroleum, coal, ~~or the products thereof,~~ or the byproduct carbon dioxide, in connection with the purchase or purchase and sale of such crude petroleum, coal, ~~or the products thereof,~~ or the byproduct carbon dioxide, is a business in mode of the conduct of which the public is interested and as such is subject to regulation by law. The business of purchasing or of purchasing and selling crude petroleum, coal, ~~or the products thereof,~~ or the byproduct carbon dioxide, using in connection with such business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, ~~or the products thereof,~~ or the byproduct carbon dioxide so bought or sold shall not be conducted unless such pipeline so used in connection with such business is a common carrier within the purview of this law and subject to the jurisdiction herein conferred upon the commission.

(2) It shall be the duty of the attorney general to enforce this provision by injunction or other adequate remedy."

{Internal References to 69-13-102: None.}

Section 3. Section 70-30-102, MCA, is amended to read:

"70-30-102. Public uses enumerated. Subject to the provisions of this chapter, the right of eminent domain may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of any county, city, town, or school district;
- (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;
- (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;
- (6) water and water supply systems as provided in Title 7, chapter 13, part 44;
- (7) roads, streets, alleys, controlled-access facilities, and all other public uses for the benefit of a county, city, or town or the inhabitants of a county, city, or town;
- (8) acquisition of road-building material as provided in 7-14-2123;
- (9) stock lanes as provided in 7-14-2621;

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- (10) parking areas as provided in 7-14-4501 and 7-14-4622;
- (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;
- (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43;
- (13) housing authority purposes as provided in Title 7, chapter 15, part 44;
- (14) county recreational and cultural purposes as provided in 7-16-2105;
- (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- (16) county cemetery purposes as provided in 7-35-2201, cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;
- (17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);
- (18) public assistance purposes as provided in 53-2-201;
- (19) highway purposes as provided in 60-4-103 and 60-4-104;
- (20) common carrier pipelines as provided in 69-13-104;
- (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided in 75-10-720;
- (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle wrecking

facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;

(25) water conservation and flood control projects as provided in 76-5-1108;

(26) acquisition of natural areas as provided in 76-12-108;

(27) acquisition of water rights for the natural flow of water as provided in 85-1-204;

(28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;

(29) conservancy district purposes as provided in 85-9-410;

(30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and railroads;

(31) canals, ditches, flumes, aqueducts, and pipes for:

(a) supplying mines, mills, and smelters for the reduction of ores;

(b) supplying farming neighborhoods with water and drainage;

(c) reclaiming lands; and

(d) floating logs and lumber on streams that are not navigable;

(32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;

(34) outlets, natural or otherwise, for the flow, deposit,

or conduct of tailings or refuse matter from mines, mills, and smelters for the reduction of ores;

(35) an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(36) private roads leading from highways to residences or farms;

(37) telephone or electrical energy lines;

(38) telegraph lines;

(39) sewerage of any:

(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;

(b) settlement consisting of not less than 10 families; or

(c) public buildings belonging to the state or to any college or university;

(40) tramway lines;

(41) logging railways;

(42) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.

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(43) underground reservoirs suitable for storage of natural gas or carbon dioxide;

(44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or upon the surface of property where the title to the surface vests in others. However, the use of the surface of property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not be exercised for this purpose.

(45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse affects of strip or underground mining on those lands."

{ *Internal References to 70-30-102:*
7-5-4106 70-30-103 77-2-101 }

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