

1980 BILL 87

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 87

THE GROUND WATER DEVELOPMENT ACT

MR. STEWART

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE GROUND WATER DEVELOPMENT ACT
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Bill 87
Mr. Stewart

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THE GROUND WATER DEVELOPMENT ACT

(Assented to , 1980)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

1 In this Act,

- (a) "Director" means an employee of the Government under the administration of the Minister who is designated by the Minister as Director;
- (b) "driller" means a person who is engaged in or authorized under this Act to undertake any drilling operation at a well or any operation preparatory or incidental to the drilling of a well or abandonment of a well;
- (c) "drilling" means the drilling, boring, driving, jetting or reconditioning of a well;
- (d) "drilling machine" means a machine, together with attachments, that is designed to be used or is used to drill a well;
- (e) "ground water" means all water that exists beneath the land surface;
- (f) "licence" means a licence issued under section 5;
- (g) "licensee" means a person who is the holder of a licence;
- (h) "Minister" means the Minister of the Environment;
- (i) "owner" means
 - (i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,
 - (ii) a purchaser of land whose interest as a purchaser is shown

Explanatory Notes

1 Definitions.

on the certificate of title to that land, or

(iii) a tenant or other person who is in lawful possession or occupation of land;

(j) “reconditioning” means the flushing, cleaning, recasing, relining or rescreening of an existing well by means of a drilling machine for the purpose of improving water production or the quality of the water produced by the well;

(k) “well” means an orifice in the ground completed, being drilled or being used

(i) for the production of ground water for any purpose referred to in *The Water Resources Act*,

(ii) for the purpose of obtaining data on ground water, or

(iii) for recharging an underground formation from which ground water can be recovered,

but does not include a dugout.

2 In accordance with *The Public Service Act* there may be appointed any employees necessary for the administration of this Act.

3(1) The Director may authorize in writing an employee of the Government under the administration of the Minister to do any act or thing or perform any function that the Director may do or perform under this Act.

(2) A written authorization made under subsection (1) may be

(a) of general application or applicable to a particular case, and

(b) conditional or unconditional.

(3) A written authorization made under this section

(a) purporting to be signed by the Director, and

(b) stating that the person named therein is authorized to perform the duties or exercise the powers set forth in the written authorization,

or a copy thereof, shall be admitted in evidence as prima facie proof of that person’s authorization to perform those duties and exercise those powers without proof of the signature or official character of the person appearing to have signed the written authorization.

2 Staff.

3 Delegation of power.

4(1) No person shall drill a well unless he is the holder of a subsisting licence.

(2) Notwithstanding subsection (1), an individual without a licence may drill a well if

- (a) he is the owner of the land on which the well is to be located,
- (b) he drills the well with a drilling machine owned by him, and
- (c) the water from the well is to be used solely for that individual's domestic or agricultural purposes.

5(1) The Director may, pursuant to an application received from an applicant, issue a licence to the applicant to drill wells.

(2) A licence is valid for a term of 2 years or such longer term as may be prescribed by regulation.

(3) A licence is not transferable unless otherwise authorized by the Director.

(4) A licence is subject to those terms and conditions prescribed by the regulations.

6 The Director may enter on any land to do one or more of the following:

- (a) to inspect drilling operations;
- (b) to inspect the operation of a well;
- (c) to inspect the records of the operations;
- (d) to inspect any drilling machine, plant or equipment relating to the drilling of a well;
- (e) to take samples or carry out any test or examination that he considers necessary.

7(1) The Director, by an order directed to the owner or driller of a well,

- (a) may declare a well a "problem well", and
 - (b) may require that the well be abandoned and prescribe the method by which the well shall be abandoned.
- (2) An order under subsection (1) may be made applicable to a class

4 Prohibition of drilling without a licence.

5 Licence.

6 Inspections.

7 Problem wells.

or type of wells and be directed to the owners or drillers of those wells.

(3) If the owner or driller, as the case may be, of a well does not comply with an order made under subsection (1)(b) within 30 days of the order being served on him, the Director may carry out the work that is required to be done under the order.

8 Notwithstanding section 7, if at any time a flow of water from a well is not controlled, the Director may enter upon the lands from which the water is flowing and carry out work that appears to him to be necessary or expedient in the public interest to control the flow of water.

9(1) The Director may recover the cost of work carried out under section 7(3) or 8, from

- (a) the person responsible for the flow of water, or
- (b) the person who was to carry out the abandonment of the well,

as the case may be, in a court of competent jurisdiction.

(2) Notwithstanding subsection (1), the Minister may pay all or part of the costs of or incidental to the carrying out of the operations.

10(1) If the Director is of the opinion that a licensee is failing or has failed to comply with any term or condition of his licence, or is contravening or has contravened this Act or the regulations, he may, by order in writing served on the licensee, suspend or cancel the licence.

(2) When a person's licence is cancelled or suspended, that person shall, at the request of the Director, give to the Director that licence and any other tags, decals, plates, documents or other devices that serve as evidence that a drilling machine is being operated under a licence.

11(1) A person

- (a) who has been refused a licence, or
- (b) whose licence has been cancelled or suspended,

may appeal the refusal, cancellation or suspension by serving the Minister with a notice of appeal within 30 days after being notified in writing of the refusal, cancellation or suspension.

(2) The Minister shall, within 30 days after being served with the

8 Control of water flow.

9 Costs of carrying out operations on wells.

10 Suspension or cancellation of licence.

11 Appeals.

notice of appeal, appoint an appeal board to hear the appeal.

(3) The Minister may set the time within which the appeal board is to hear an appeal and render a decision, and he may extend that time.

(4) An appeal board that hears an appeal under this section may by order

- (a) confirm the refusal, cancellation or suspension,
- (b) direct that a licence or renewal of a licence be issued,
- (c) reinstate the cancelled licence, or
- (d) remove or vary the suspension.

(5) An appeal board appointed under this section shall consist of 3 members, none of whom shall be employees of the Government of Alberta.

(6) The Minister shall designate one of the members of the appeal board as chairman.

(7) The Minister may pay those fees and reasonable living and travelling expenses that he considers proper to the members of an appeal board.

(8) The Director or the person whose appeal is heard by an appeal board may appeal the decision of the appeal board by filing an originating notice with the Court of Queen's Bench within 30 days of being served with the order made under subsection (4), and the Court may make any order that an appeal board may make under subsection (4).

12(1) A person

- (a) whose licence has been cancelled or suspended or whose licence has not been renewed, and
- (b) who has in respect of that cancellation, suspension or non-renewal commenced an appeal under section 11,

may apply to the Court of Queen's Bench by originating notice for an order reinstating the cancelled licence, removing the suspension or renewing the licence, as the case may be, pending the determination of the appeal.

(2) The Court of Queen's Bench may hear an application made under this section not less than 2 days after the originating notice has been served on the Director.

(3) On hearing an application made under this section, the Court

12 Reinstatement of licence pending appeal.

of Queen's Bench may, subject to those conditions that it considers proper, if any, reinstate the cancelled licence, remove the suspension or renew the licence, as the case may be, pending the determination of the appeal under section 11.

13(1) If a person interferes with the Director or other person in the carrying out of his duties or work under section 6, 7 or 8, the Director may, whether or not the person was prosecuted under this Act, apply to the Court of Queen's Bench for an order prohibiting that person from interfering in the carrying out of the duties or work.

(2) If a person does not construct or otherwise do work on a well in the manner prescribed by the regulations, the Director may, whether or not the person was prosecuted under this Act, apply to the Court of Queen's Bench for an order requiring that person to construct or perform work on the well in the manner prescribed by the regulations.

(3) If a person drills or is drilling a well contrary to this Act or the regulations, the Director may, whether or not that person was prosecuted under this Act, apply to the Court of Queen's Bench for an order prohibiting that person from continuing to drill the well or drilling any further wells until otherwise directed by the Court.

(4) An application under this section shall be by originating notice and may be

(a) heard not less than 3 days after the notice of the application and the supporting documents are served on the driller, owner of the well or other person, as the case may be, or

(b) made ex parte, when the Court of Queen's Bench considers it proper to do so.

14(1) A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$5000.

(2) A prosecution under this Act may be commenced at any time within 2 years from the commission of the offence.

15(1) The Lieutenant Governor in Council may make regulations

(a) prescribing the qualifications for drillers and for applicants for licences;

(b) prescribing the information to be included in an application for a licence;

(c) prescribing the procedure to be followed by applicants applying for licences;

13 Order of the Court of Queen's Bench.

14 Offences.

15 Regulations.

- (d) requiring licensees to deposit with the Provincial Treasurer money or other security that may be required to guarantee the proper drilling, controlling, completion, suspension or abandonment of wells and governing the return in whole or in part or the forfeiture of that money or other security;
- (e) providing for the issuing of tags, decals, plates, documents or other devices to a licensee with respect to a drilling machine to serve as evidence that the drilling machine is being operated under licence;
- (f) providing for the display or production of a tag, decal, plate, document or other device referred to in clause (e);
- (g) prohibiting the use of a drilling machine unless a tag, decal, plate, document or other device referred to in clause (e) has been issued in respect of that drilling machine;
- (h) requiring and governing the taking of samples, tests, analyses, surveys and logs and the submission of samples, test results, analyses, surveys, logs and other well data to the Director;
- (i) prescribing the records to be kept, the form of them, the person by whom and the place at which they are to be kept and the length of time they are to be kept;
- (j) requiring the submission of records to the Director or providing for their inspection by him;
- (k) prescribing the reports to be made, the person required to make them, the person to whom they are to be made, the time for making them and their contents;
- (l) specifying those records, reports and information submitted to or required by the Director under this Act or the regulations that are to be treated confidentially and the conditions under which their contents may be disclosed;
- (m) governing official well names and their registration;
- (n) requiring that written notification be sent to the Controller of Water Resources under *The Water Resources Act* before commencing the drilling of a well or a well that is within a particular class or type;
- (o) establishing fees for licences;
- (p) permitting the amount of a licence fee to vary due to the number of drilling machines operated under the licence;
- (q) establishing fees for
 - (i) applications made under this Act or the regulations,

- (ii) any maps, reports, documents or other records in the custody of the Director that may be made available by the Director, and
 - (iii) any other services provided by the Director;
 - (r) prohibiting drilling through water or oil, gas, coal or other minerals unless adequate measures are taken to confine the water, oil, gas or other mineral to its original stratum and to protect that stratum or any coal seam or other mineral deposit or any workings therein from infiltration, inundation, migration or injury;
 - (s) prescribing the nature and extent of the measures referred to in clause (r) that are to be taken;
 - (t) governing the abandonment of wells and the methods and requirements to be observed in abandonment operations;
 - (u) governing the control of flowing wells;
 - (v) defining the term “problem well” for the purposes of section 7;
 - (w) prescribing the term of a licence.
- (2) The Minister may make regulations
- (a) respecting the methods of drilling wells and of determining sources of ground water;
 - (b) prescribing the precautions and measures to be taken before a well is commenced and during the drilling and development of a well;
 - (c) prescribing the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of wells;
 - (d) prescribing forms to be used under this Act or regulations made under this Act;
 - (e) prescribing terms and conditions to which a licence is subject.
- (3) A regulation made under subsection (1)(d) or (2) may be of general application or applicable to a particular case.

16 The Crown is bound by this Act.

17 A licence issued under *The Ground Water Control Act* remains in force as though it were issued under this Act and expires one year from the date it was issued unless sooner cancelled under this Act.

16 Act binds the Crown.

17 Previous licence.

18 *The Ground Water Control Act is repealed.*

19 This Act comes into force on a date or dates to be fixed by Proclamation.

18 Repeals chapter 162 of the Revised Statutes of Alberta 1970.