

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 67

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO LOW TEMPERATURE GEOTHERMAL RESOURCES; AMENDING SECTION 42-233,
2 IDAHO CODE, TO PROVIDE FOR THE EXEMPTION OF PROPOSED USES OF LOW TEMPER-
3 ATURE GEOTHERMAL RESOURCES PRIMARILY FOR REASONS OTHER THAN HEAT VALUE
4 BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AND TO MAKE A TECH-
5 NICAL CORRECTION.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 42-233, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 42-233. LOW TEMPERATURE GEOTHERMAL RESOURCE. (1) The right to the use
11 of low temperature geothermal resources of this state shall be acquired by
12 appropriation, except as provided in subsection (2) of this section. The ap-
13 propriation may be perfected by means of the application, permit and license
14 procedure as provided in this chapter for ground water, provided that low
15 temperature geothermal resources shall be utilized primarily for heat value
16 and secondarily for the value as water. Usage of a low temperature geother-
17 mal resource primarily for reasons other than heat value is not a beneficial
18 use of the resource, unless the director of the department of water resources
19 exempts the proposed use. The director may exempt a proposed use if the di-
20 rector ~~finds that the~~ concludes:

21 (a) The proposed use satisfies the following criteria: (i) there is no
22 feasible alternative use of the resource; (ii) will not detrimentally
23 affect existing water rights, including water rights for low tempera-
24 ture geothermal water;

25 (b) The proposed use will not diminish the temperature of or artesian
26 pressure of the low temperature geothermal aquifer; and

27 (c) There is no economically viable source of water having a bottom
28 hole temperature of eighty-five (85) degrees or less in a well avail-
29 able; and (iii) the exemption is in the public interest.

30 (2) The use of low temperature geothermal resources for the development
31 and operation of oil and gas wells permitted under section 47-316, Idaho
32 Code, shall not be subject to the provisions of this chapter. However, the
33 director of the department of water resources may initiate a contested case
34 in accordance with the provisions of chapter 52, title 67, Idaho Code, and
35 the rules of procedure promulgated by the department, if the department
36 has reason to believe that an oil and gas well will cause, is causing or has
37 caused, significant negative impacts to pressure, temperature, quality
38 necessary for beneficial use or quantity of water available to water rights
39 existing at the time of the development of the oil and gas well or to a wa-
40 ter resource that can be beneficially used. The evidence of causation must
41 come from the department or be credible information from a water right or a
42 geothermal resource permit holder existing at the time of the development

1 of the oil and gas well. It shall be the burden of the entity operating the
2 oil and gas well to establish that it will not cause, is not causing and has
3 not caused significant negative impacts to pressure, temperature, quality
4 necessary for beneficial use or quantity of water available to existing wa-
5 ter rights existing at the time of the development of the oil and gas well or
6 to a water resource that can be beneficially used. If the director deter-
7 mines that the well will cause, is causing or has caused significant negative
8 impacts to pressure, temperature, quality necessary for beneficial use or
9 quantity of water available to a water right existing at the time of the
10 development of the oil and gas well or to a water resource that can be benefi-
11 cially used, the director may order the operator to take measures to mitigate
12 those impacts.

13 (3) Any owner of a well who engages in the drilling, redrilling, mod-
14 ifying or deepening of any low temperature geothermal well shall file with
15 the director of the department of water resources a surety bond or cash bond
16 in the penal sum of not less than five thousand dollars (\$5,000) or more than
17 twenty thousand dollars (\$20,000) as determined by the director of the de-
18 partment of water resources based on the temperature, depth and pressure of
19 the resource, the size and depth of the well, and any other relevant factors.
20 The surety or cash bond shall be conditioned upon the proper compliance with
21 the provisions of this chapter and chapter 40, title 42, Idaho Code, and
22 rules and regulations promulgated pursuant thereto. The bond shall remain
23 in effect for one (1) year following completion of drilling, redrilling,
24 modifying or deepening of the well or until released in writing by the direc-
25 tor, whichever occurs first.

26 (4) All permits, licenses, decreed rights and valid claims to a right
27 to the use of ground water which would be classified as a low temperature
28 geothermal resource having a priority date prior to July 1, 1987, remain
29 valid and the bond provisions of subsection (3) of this section are not ap-
30 plicable unless the well from which the right diverts water is modified or
31 deepened. The provisions of this section shall not be applicable to all
32 permits, licenses and rights to the use of geothermal resources as defined in
33 chapter 40, title 42, Idaho Code, which would be classified as a low temper-
34 ature geothermal resource under this section, issued or proclaimed prior to
35 July 1, 1987, and the bond provisions of subsection (3) of this section are
36 not applicable to such wells.