

IN THE SENATE

SENATE BILL NO. 1087

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1
2 RELATING TO ARTESIAN WELLS; AMENDING SECTION 42-1607, IDAHO CODE, TO PROVIDE
3 THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES MAY PROMULGATE
4 CERTAIN RULES AND TO PROVIDE LIMITATIONS ON COST-SHARING BY THE DEPART-
5 MENT OF WATER RESOURCES ASSISTING OWNERS OF WELLS THAT NEED TO BE RE-
6 PAIRED OR PLUGGED.

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

8 SECTION 1. That Section 42-1607, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 42-1607. INVENTORY OF ARTESIAN WELLS -- PLUGGING WELLS. (1) The direc-
11 tor of the department of water resources shall initiate a program to inven-
12 tory and locate artesian wells throughout the state.

13 (2) The director of the department of water resources shall plug
14 abandoned artesian wells or artesian wells where the owner cannot be ascer-
15 tained.

16 (3) For artesian wells which are not in compliance with Idaho minimum
17 well construction standards, the owner shall be required to have the well re-
18 paired in compliance with Idaho minimum well construction standards promul-
19 gated pursuant to section 42-238, Idaho Code, so as to preclude the wasting
20 or commingling of water. The repairs shall be paid for by the owner of the
21 well, and, if repairs are not made within a maximum of one (1) year follow-
22 ing notification, the director of the department of water resources may or-
23 der the owner to plug the well. The director upon good cause shown may grant
24 an additional time period not in excess of two (2) years for the owner to make
25 repairs of the well. If the well is not plugged within thirty (30) days of the
26 order, or other longer time period as provided in the order, the director may
27 plug or cause the well to be plugged at the owner's expense.

28 ~~(4) For the period of July 1, 1987, to June 30, 1992, the~~ director of
29 the department of water resources shall promulgate rules to may implement
30 a cost-sharing program to assist owners of wells which have been ordered
31 repaired or plugged pursuant to ~~this subsection (3) of this section.~~ The
32 rules shall provide that up to fifty percent (50%) of the cost of the re-
33 pairs or plugging shall be paid by the department of water resources based
34 on an applicant's ability to pay and moneys available for this purpose Any
35 cost-share provided by the department shall be limited to fifty percent
36 (50%) of the total cost to repair or plug the well to bring it into compliance
37 with Idaho minimum well construction standards. Cost-share shall be based
38 on an applicant's ability to pay or ability to obtain other funding and the
39 amount of money available for this purpose.

40 (45) Any person owning or controlling an artesian well which has been
41 ordered repaired or plugged by the director of the department of water re-
42 sources pursuant to subsection (3) of this section shall be liable for the

1 costs of the repair or plugging if it was undertaken by the department of wa-
2 ter resources. All moneys owed under the provisions of this section shall be
3 paid to the director. The director shall charge interest on the amount owed
4 in an amount no greater than twelve percent (12%) per annum. The director
5 shall deposit all moneys collected into the water administration account.
6 Moneys owed pursuant to the provisions of this section shall be collected in
7 a civil action brought in the district court in accordance with subsection
8 (~~56~~) of this section.

9 (~~56~~) Any person aggrieved by a final order of the director entered
10 pursuant to the provisions of this section may appeal to the district court
11 within twenty-eight (28) days of the issuance of the order. The appeal shall
12 be heard and determined in accordance with chapter 52, title 67, Idaho Code.
13 The director through the attorney general may petition the district court
14 for injunctive relief or a temporary restraining order to prevent irrepara-
15 ble damage pending the outcome of proceedings before the director pursuant
16 to the provisions of this section. The director through the attorney general
17 may commence a civil action in the district court to enforce the provisions
18 of any final order of the director issued pursuant to the provisions of this
19 section.