

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Carbon capture and sequestration.

Sponsored by: Joint Judiciary Interim Com

**PREPARED
FOR
COMMITTEE
DISCUSSION
PURPOSES**

A BILL

for

1 AN ACT relating to carbon capture and sequestration;
2 providing for regulation of carbon dioxide injection by oil
3 and gas conservation commission; and providing for an
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 30-9-101 through 30-9-105 and 30-9-

9 201 through 30-9-203 are created to read:

10

11

Chapter 9. Carbon capture and sequestration.

12

13

Article 1. Regulation of carbon capture and sequestration.

14

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***** STAFF COMMENTS *****

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The following definitions (except "O&G commission" and "sequestration") are from a conceptual framework statute prepared by the Interstate Oil and Gas Compact Commission. (That framework is not an IOGCC approved model

1 statute.) While many of the provisions of the
2 framework are used for this draft, many were not
3 and many were changed. Where the language was
4 drawn in whole or in part from that framework,
5 there is a references to IOGCC "part and
6 section".

7 The "CCGS operator" definition has been included
8 for this draft to give thought to the issue of
9 whether any person can apply to the commission to
10 store CO2, or whether that person should hold a
11 certificate to operate a CO2 pipeline.

12
13 **30-9-101 Definitions.**

14
15 (a) As used in this chapter:

16
17 (i) "CCGS operator" means any individual or legal
18 entity authorized to do business in this state and who
19 engages in the business of transporting, injecting,
20 storing, sequestering or distributing carbon dioxide by
21 means of pipelines into, within or through this state;

22
23 (ii) "Carbon dioxide" means carbon dioxide from an
24 anthropogenic source as a gas or as a supercritical fluid
25 with physical properties between a liquid and a gas at
26 pressures greater than one thousand seventy-three (1073)
27 pounds per square inch at eighty-seven and seven-tenths
28 degrees fahrenheit (87.7) F, or as a constituent in a
29 processed emission stream with commercial value;

30

1 (iii) "Commission" means the Wyoming oil and gas
2 conservation commission created by W.S. 30-5-103;

3

4 (iv) "Geologic sequestration facility" means
5 underground geologic formations, strata, reservoirs or
6 caverns into which carbon dioxide is injected for
7 sequestration;

8

9 (v) "Sequestration" means the injection of
10 carbon dioxide with the intended purpose of retention in
11 the place of injection and with no foreseeable immediate
12 use for any other purpose.

13

14 **30-9-102. Carbon dioxide sequestration; regulation by**
15 **oil and gas conservation commission; rulemaking authorized;**
16 **exemption.**

17

18 (a) The primary purpose of this article is to ensure
19 the safe and effective sequestration of carbon dioxide in
20 geologic sequestration facilities. It is a further purpose
21 of this article to maximize the use of geologic
22 sequestration facilities and to prevent waste of those
23 facilities and resources contained within those facilities.
24 The commission has jurisdiction and authority over all

1 persons and property necessary to effectuate the purposes
2 and intent of this article. The commission may make
3 investigations as necessary to effectuate its duties under
4 this article.

5 ***** STAFF COMMENTS *****

6 The purposes were stated as primary and secondary
7 - the intent being to let the commission know
8 which should control if there are conflicting
9 issues - e.g. a proposed facility is the best
10 place to ensure no migration/escape, but it might
11 result in more loss of other resources (gas, oil
12 or water) than a less secure facility.

13
14 (b) The commission shall make rules, regulations and
15 orders, and shall take other appropriate action, to
16 effectuate the purposes and intent of this article.

17
18 (c) The injection of carbon dioxide for purposes of
19 enhanced recovery of oil or other minerals shall not be
20 subject to the provisions of this chapter.

21 ***** STAFF COMMENTS *****

22 The above was taken in part from the commission's
23 duties under the oil and gas chapter. The IOGCC
24 act does not include provisions akin to the above
25 (it is supplemental to a model underground gas
26 storage act). Some general authority needed to
27 be included and it could not simply be inserted
28 in the oil and gas chapter which deals in great
29 part with conserving oil and gas resources by
30 requiring production in an efficient manner.
31 Here the goal is primarily to ensure safe and
32 effective sequestration of CO2. But there is
33 also overlap with production of remaining oil and
34 gas. The IOGCC act requires a finding of the
35 amount of oil and gas remaining but that finding
36 appears to be for eminent domain purposes,

1 (necessary or at least helpful for determination
2 of payment required). Without eminent domain
3 being authorized for CO2 sequestration, those
4 provisions were not needed for that purpose. But
5 they have been left in for this draft, not for
6 eminent domain purposes, but because placing this
7 program with the commission gives the commission
8 dual and, depending on the circumstances, maybe
9 conflicting roles

10
11 *** STAFF COMMENTS ***

12 The following section was taken from the IGOCC
13 act, part 1, section 4, but changed to eliminate
14 eminent domain references and redrafted to a
15 generic prohibition on storing without a
16 certificate. This is the heart of the regulatory
17 aspect of the bill. While not explicit, the
18 process of certificating a sequestration facility
19 has the effect of implementing a first in time,
20 first to develop scheme.

21
22 30-9-103. Carbon sequestration; application to
23 commission.

24
25 (a) No person shall sequester carbon dioxide in a
26 geologic sequestration facility in this state without a
27 certificate issued by the commission setting forth findings
28 of the commission that:

29
30 (i) The geologic sequestration facility sought to
31 be acquired is suitable for the sequestration of carbon
32 dioxide and that its use for this purpose is in the public
33 interest;

34

1 (ii) The amount of proven commercially producible
2 accumulations of oil or native gas, or both, if any,
3 remaining in the proposed geologic sequestration facility.
4

5 (b) The commission's finding under subsection (a)(i)
6 of this section that the geologic sequestration facility is
7 suitable for the sequestration of carbon dioxide shall
8 include specific findings, including:
9

10 (i) That the use of the geologic sequestration
11 facility for carbon dioxide sequestration will not
12 contaminate other formations containing fresh water or
13 containing oil, natural gas or other commercial mineral
14 deposits; and
15

16 (ii) The proposed geologic sequestration
17 facility will not materially impair the production of oil,
18 gas or other minerals;
19

20 (iii) That the proposed geologic sequestration
21 facility will not unduly endanger lives or property.
22

23 (c) The oil and gas conservation commission shall not
24 issue a certificate without reasonable notice to interested

1 parties and an opportunity for a hearing. The applicant
 2 shall be responsible for all costs of this proceeding.

3 ***** STAFF COMMENTS *****

4 The IGOCC act calls for "reasonable notice";
 5 which is not changed for this draft. It is
 6 assumed the term was intentionally selected with
 7 the "reasonableness" dependent upon the size,
 8 location, number of persons affected by the
 9 application, etc. The specifications for any
 10 notice and who are "interested parties" are
 11 issues for legislative debate.
 12

13 (d) Procedures for notice, hearing and judicial
 14 review for any action subject to this article shall be as
 15 provided by chapter 5 of this title.

16 ***** STAFF COMMENTS *****

17 Subsection (d) was added to eliminate any
 18 confusion that title 30 chapter 5 regarding the
 19 conduct of hearings, appeals to court, etc. for
 20 actions taken under this article would apply. As
 21 this is written, the commission can adopt rules
 22 to fashion procedural issues to fit this article,
 23 within the constraints of its general provisions
 24 in chapter 5.
 25

26 ***** STAFF COMMENTS *****

27 The following is from IGOCC part 1, section 6.
 28 This provision also goes to the issue of what
 29 regulatory authority will be applied. The IGOCC
 30 recommendations note that given the long term
 31 sequestration involved "innovative solutions"
 32 will be called for in the cases of orphaned sites
 33 and state that the current method used for O&G
 34 production (i.e., the state ultimately assuming
 35 the cleanup, using bonding etc., might be
 36 needed.)
 37

38
 39 The language in bold is contrary to the premise
 40 stated earlier (and not from the IGOCC act) that
 41 all sequestration facilities will be certificated
 42 by the commission.

1

2 **30-9-104. Bonds and guarantees; use of funds;**
3 **nonliability of the state.**

4

5 (a) The commission has the authority to require the
6 furnishing of a surety bond or other guaranty, conditioned
7 for or securing the performance of an injector's duties
8 under this article and potential liability of an owner of a
9 geologic sequestration facility for damages resulting from
10 injected carbon dioxide contaminating other formations
11 containing fresh water or containing oil, natural gas or
12 other commercial mineral deposits.

13

14 (b) The commission may seek recovery upon any such
15 bond or guaranty provided under this section and use
16 recovered funds to carry out the injector's duties and to
17 mitigate further damage if the commission is unable to
18 enforce its regulations and laws under this article.

19

20 (c) Nothing in this section shall be construed to
21 create any liability by the state for failure to comply
22 with this chapter or for actions taken in accordance with
23 this chapter.

24

***** STAFF COMMENTS *****

1 **The above was taken in part from bonding for oil**
2 **and gas well plugging. Much of it (including**
3 **subsection (c)) is created for this draft.**
4

5 **30-9-105. Notice of closure of geologic carbon**
6 **dioxide sequestration facility; disposition of property**
7 **rights.**

8
9 When the owner of a geologic sequestration facility
10 has ceased active injection operations of carbon dioxide and
11 closes the sequestration facility **and that facility was**
12 **certificated by the commission,** the owner shall file with
13 the commission a notice of cessation of injection. **If any**
14 **sequestration facility was certificated pursuant to federal**
15 **authority, the owner shall file a copy of any federal**
16 **closure authority with the commission.** Unless notice of
17 closure authority has been filed with the commission, there
18 shall be a presumption that the geologic sequestration
19 facility and all rights associated with it remain as
20 certificated. In either case the owner shall file an
21 instrument with the county clerk in the appropriate county
22 or counties, stating that injection has ceased and that the
23 ownership of all property acquired by the person authorized
24 to inject the carbon dioxide, both surface and subsurface,
25 remains with or will be transferred to a successor owner
26 with approval of the commission.

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***** STAFF COMMENTS *****

The following section is from IGOCC part 2, section 1. The authors suggest that it be included in the property statutes, which could be done, but it seemed to make as much sense to keep it in the same chapter, but not article as the sequestration regulation provisions. Decisions as to the commission's authority over tangential issues regarding CO2 sequestration, such as drilling for minerals or exercising surface rights would influence whether the following provisions would be better placed under this new article or property law provisions.

Article 2. Ownership and monitoring of carbon dioxide.

30-9-201. Ownership of injected carbon dioxide.

All carbon dioxide that has previously been reduced to possession, and which is subsequently injected into a geologic sequestration facility, shall at all times be the property of the injector, or the injector's heirs, successors or assigns, whether owned by the injector or stored under contract. Absent a final judgment of willful abandonment rendered by a court of competent jurisdiction, in no event shall this carbon dioxide be deemed the property of a surface owner or mineral owner, or the property of persons claiming by or under these owners, under whose lands the carbon dioxide is stored. Only the injector, or

1 the injector's heirs, successors and assigns, may produce,
2 take or reduce to possession this stored carbon dioxide.

3

4

***** STAFF COMMENTS *****

5

The following is from IGOCC part 2, section 2.

6

7

30-9-202. Effect on surface and mineral rights.

8

9 Nothing in this article shall be deemed to affect the
10 otherwise lawful right of a surface or mineral owner to
11 drill or bore through the geologic sequestration
12 facilities, if done in accordance with commission rules for
13 protecting the geologic sequestration facility against the
14 escape of carbon dioxide.

15

16

***** STAFF COMMENTS *****

17

The following is from IGOCC part 2, section 3.

18

19

30-9-203. Identification of migrating carbon dioxide;

costs.

20

21

22 (a) If carbon dioxide that has been injected into
23 property or has migrated to adjoining property or to a
24 stratum, or portion thereof, which has not been acquired by
25 the owner of the carbon dioxide, such owner shall not lose
26 title to or possession of injected carbon dioxide if he can
27 prove by a preponderance of the evidence that the carbon

1 dioxide was originally injected into the geologic
2 sequestration facility.

3 ***** STAFF COMMENTS *****

4 **The deletion from the IGOC act's language of**
5 **acquisition by eminent domain or otherwise,**
6 **reveals that the IGOC act doesn't really specify**
7 **whether it is speaking to the owner of the CO2 or**
8 **the injector (which might always be one and the**
9 **same, or not, depending on the policy decision of**
10 **whether an injector is allowed to sell his**
11 **ownership of injected CO2). The draft uses**
12 **"owner of the carbon dioxide" since it appears**
13 **that under part 1, section 6 and part 2, section**
14 **1 of the IGOC act, that interest can be**
15 **conveyed. The issue again goes to bonding or**
16 **other requirements to ensure potential**
17 **liabilities can be addressed.**

18
19 (b) If carbon dioxide that has been injected into
20 property or has migrated to adjoining property or to a
21 stratum, or portion thereof, which has not been acquired by
22 the owner of the carbon dioxide, such owner at his sole
23 risk and expense, shall have the right to conduct
24 reasonable testing on any existing wells on adjoining
25 property including tests to determine ownership of the
26 carbon dioxide, and to determine the value of any lost
27 production of other than the injector's carbon dioxide.
28 **The owner of the carbon dioxide shall be considered an oil**
29 **and gas operator and subject to the provisions of W.S. 30-**
30 **5-401 through 30-5-409 in conducting testing pursuant to**
31 **this subsection.**

32

1 of the lands or real property of others as necessary for
2 the location, construction, maintenance and use of
3 reservoirs, drains, flumes, ditches including return flow
4 and wastewater ditches, underground water pipelines,
5 pumping stations and other necessary appurtenances, canals,
6 electric power transmission lines and distribution systems,
7 railroad trackage, sidings, spur tracks, tramways, roads or
8 mine truck haul roads required in the course of their
9 business for agricultural, mining, exploration drilling and
10 production of oil and gas, carbon capture, carbon
11 sequestration, milling, electric power transmission and
12 distribution, domestic, municipal or sanitary purposes, or
13 for the transportation of coal from any coal mine or
14 railroad line or for the transportation of oil and gas from
15 any well.

16 ***** STAFF COMMENTS *****

17 **Included specifically at the sponsor's request.**
18 **The current statute follows closely the**
19 **Constitutional restriction on private eminent**
20 **domain, which states:**

21
22 **Article 1, Section 32. Eminent domain.**

23
24 **Private property shall not be taken for private**
25 **use unless by consent of the owner, except for**
26 **private ways of necessity, and for reservoirs,**
27 **drains, flumes or ditches on or across the lands**
28 **of others for agricultural, mining, milling,**
29 **domestic or sanitary purposes, nor in any case**
30 **without due compensation.**

31

1 **Condemnation for ways of necessity is a separate**
2 **category from other condemnation actions for**
3 **reservoirs, etc., which must be tied to one of**
4 **the stated purposes. This language is meant to**
5 **limit condemnation only for ways of necessity**
6 **since it is included only in W.S. 1-26-815. The**
7 **IGOCC act allowing private condemnation for**
8 **sequestration rights are excluded from this**
9 **draft. All eminent domain references in part 1**
10 **of the IGOCC act were excluded in the above.**

11
12 **30-5-104. Oil and gas conservation commission; powers**
13 **and duties; investigations; rules and regulations.**

14

15 (a) The Wyoming oil and gas conservation commission,
16 herein called "the commission," has jurisdiction and
17 authority over all persons and property, public and
18 private, necessary to effectuate the purposes and intent of
19 this act, including the authority to set, assess and
20 collect reasonable fees as provided in this subsection. The
21 fees authorized under this subsection shall be set in
22 accordance with the following:

23

24 (iv) Fees may be imposed only for:

25

26 (F) Applications for carbon dioxide
27 sequestration under W.S. 30-9-102.

28

29 *** STAFF COMMENTS ***

1 While chapter 5 of title 30 deals with oil and
2 gas, since the commission will be overseeing
3 carbon sequestration, if feasible the general
4 provisions found in that chapter were amended,
5 rather than rewriting all regulatory provisions
6 in the new chapter 9. In addition to shortening
7 the legislation, that can help by using
8 precedents developed in the oil and gas context
9 for this new area; the downside is that a number
10 of provisions are specific to oil and gas.
11
12

13 *** STAFF COMMENTS ***

14 The following provisions were initially included
15 as the statutes were reviewed for related
16 provisions that might need to be amended. As of
17 this draft, they do not need to be, but that
18 might change with different policy decisions.
19 They've been retained for now for the Committee's
20 consideration.
21

22 **1-26-814. Right of eminent domain granted; petroleum**
23 **or other pipeline companies; purposes.**
24

25 Whenever any utility or any petroleum or other
26 pipeline company, authorized to do business in this state,
27 has not acquired by gift or purchase any land, real estate
28 or claim required for the construction, maintenance and
29 operation of their facilities and appurtenances or which
30 may be affected by any operation connected with the
31 construction or maintenance of the same, the utility or
32 company has the right of eminent domain and may condemn the
33 easement required by the utility or company.

34 *** STAFF COMMENTS ***

35 While "pipeline company" is not defined, this
36 would appear broad enough as written to include
37 CO2 pipelines.
38

39 **30-1-128. Construction or operation of railroads or**
40 **roads by mining companies.**
41

42 Any corporation or association of persons organized under
43 this article or under the laws of any other state and doing
44 business in this state, now or hereafter engaged in mining
45 gold or silver bearing quartz rock, coal, lead, iron,
46 copper or other materials, may construct or operate a
47 railroad, tramway road or wagon road from their said mine

1 or mines, to any point or points desired by them, and shall
2 have the exclusive right-of-way to the line of their road
3 over the unoccupied public domain for the space of not
4 exceeding one hundred (100) feet on either side thereof,
5 and also, the exclusive possession at the termini of their
6 said road, and at such intermediate points as may be
7 required, for depots, buildings, turntables, water tanks,
8 machine shops and other necessary appurtenances of a
9 railroad, and said corporation or association of persons
10 may file a survey or diagram of such line of road with the
11 lands claimed by them on either side thereof, and also the
12 land claimed at the termini aforesaid, with the secretary
13 of state, and it shall not be lawful for any person or
14 persons to construct any road or erect any buildings or
15 otherwise interfere with the possession of the land so
16 indicated in the survey or diagram as filed aforesaid, and
17 a certified copy of said survey under the seal of the state
18 shall be received in evidence in all courts of law or
19 equity within the state.
20

21 **30-1-129. Eminent domain for underground right-of-way**
22 **easements; right of condemnation generally.**
23

24 Every owner or operator of any mining claims or properties
25 having a common corner who find it necessary for the
26 practical or economical development thereof has the right
27 to condemn and to take, hold and appropriate a right-of-way
28 easement across the corner and under or through the lands
29 of another for underground passages or tunnels, including
30 mine access and ventilation entries. The right-of-way
31 easement shall in no instance exceed two hundred fifty
32 (250) feet in width and any mineral removed from under the
33 lands of another shall be accounted for by the person
34 exercising the rights herein granted to the owner thereof
35 at the gross value thereof on the surface.
36

37 **30-1-130. Eminent domain for underground right-of-way**
38 **easements; duty to show good faith and necessity.**
39

40 In order to exercise the right of eminent domain herein
41 granted the person claiming the benefit of such right shall
42 be required to show that the proceeding is in good faith
43 and that the right-of-way easement is necessary to continue
44 the practical and economical development of a commercially
45 feasible mining operation then being conducted.

1

2 **30-1-131. Provisions for indemnity in certain**
3 **contracts; invalidity.**

4

5 (a) All agreements, covenants or promises contained
6 in, collateral to or affecting any agreement pertaining to
7 any well for oil, gas or water, or mine for any mineral,
8 which purport to indemnify the indemnitee against loss or
9 liability for damages for:

10

11 (i) Death or bodily injury to persons;

12

13 (ii) Injury to property; or

14

15 (iii) Any other loss, damage, or expense arising
16 under either (i) or (ii) from:

17

18 (A) The sole or concurrent negligence of
19 the indemnitee or the agents or employees of the indemnitee
20 or any independent contractor who is directly responsible
21 to such indemnitee; or

22

23 (B) From any accident which occurs in
24 operations carried on at the direction or under the
25 supervision of the indemnitee or an employee or
26 representative of the indemnitee or in accordance with
27 methods and means specified by the indemnitee or employees
28 or representatives of the indemnitee, are against public
29 policy and are void and unenforceable to the extent that
30 such contract of indemnity by its terms purports to relieve
31 the indemnitee from loss or liability for his own
32 negligence. This provision shall not affect the validity of
33 any insurance contract or any benefit conferred by the
34 Worker's Compensation Law [§§ 27-14-101 through 27-14-805]
35 of this state.

36

37 **30-1-132. Provisions for indemnity in certain**
38 **contracts; definition.**

39

40 The term "agreement pertaining to any well for oil,
41 gas, or water, or mine for any mineral" as used in section
42 1 hereof [§ 30-1-131], means any agreement or
43 understanding, written or oral, concerning any operations
44 related to drilling, deepening, reworking, repairing,
45 improving, testing, treating, perforating, acidizing,

1 logging, conditioning, altering, plugging, or otherwise
2 rendering services in or in connection with any well
3 drilled for the purpose of producing or disposing of oil,
4 gas or other minerals, or water, and designing, excavating,
5 constructing, improving, or otherwise rendering services in
6 or in connection with any mine shaft, drift, or other
7 structure intended for use in the exploration for or
8 production of any mineral, or an agreement to perform any
9 portion of any such work or services or any act collateral
10 thereto, including the furnishing or rental of equipment,
11 incidental transportation, and other goods and services
12 furnished in connection with any such service or operation.
13

14 **30-1-133. Provisions for indemnity in certain**
15 **contracts; exemption.**
16

17 Provided that nothing in this act [§§ 30-1-131 through
18 30-1-133] shall be construed to deprive an owner of the
19 surface estate of the right to secure an indemnity from any
20 lessee, operator, contractor or other person conducting
21 operations for the exploration or production of minerals on
22 such owner's land.
23

24 **30-5-122. Sale of natural gas for wasteful purposes**
25 **prohibited.**
26

27 No person, firm or corporation, having the possession
28 or control of any natural gas well or wells, except as
29 herein provided, or borings from which natural gas is
30 produced, whether as a contractor, owner, lessee, agent or
31 manager, shall use, sell, or otherwise dispose of natural
32 gas, the product of any such well or wells, or borings for
33 the purpose of manufacturing or producing carbon or other
34 resultant products from the burning or consumption of such
35 natural gas, without the heat therein contained being fully
36 and actually applied and utilized for other manufacturing
37 purposes or domestic purposes.
38

39 **30-5-104. Oil and gas conservation commission; powers**
40 **and duties; investigations; rules and regulations.**
41

42 (a) The Wyoming oil and gas conservation commission,
43 herein called "the commission," has jurisdiction and
44 authority over all persons and property, public and

1 private, necessary to effectuate the purposes and intent of
2 this act, including the authority to set, assess and
3 collect reasonable fees as provided in this subsection. The
4 fees authorized under this subsection shall be set in
5 accordance with the following:

6
7 (d) The commission has authority:

8
9 (i) To require:

10
11 (C) The drilling, casing, and plugging of
12 wells in such manner as to prevent the escape of oil or gas
13 out of one (1) stratum into another, the intrusion of water
14 into an oil and gas stratum, the pollution of fresh water
15 supplies by oil, gas, or salt water, and to prevent
16 blowouts, cavings, seepages, and fires;

17
18 (ii) To regulate, for conservation
19 purposes:

20
21 (A) The drilling, producing, and plugging
22 of wells;

23
24 (B) The shooting and chemical treatment of
25 wells;

26
27 (C) The spacing of wells;

28
29 (D) Disposal of salt water, nonpotable
30 water, drilling fluids and other oil-field wastes which are
31 uniquely associated with exploration and production
32 operations;

33
34 (E) The contamination or waste of
35 underground water;

36
37 (v) To adopt rules and regulations to:

38
39 (A) Regulate the plugging, sealing or
40 capping of seismic shot holes, and to require, and fix the
41 amount of, a surety bond or other guaranty to ensure
42 compliance with regulations governing all geophysical
43 operations;

44
45 (B) Require an applicant to certify that
46 all underground electrical conductors outside of its

1 facilities, fenced enclosures or posted areas comply with
2 the national electric code; and

3
4 (C) Require an operator to install and
5 maintain all electrical equipment located in and around an
6 oil and gas well to comply with the national electrical
7 code.

8
9 (vi) To regulate, excluding discharges permitted
10 under the national pollutant discharge elimination system,
11 the:

12
13 (A) Location, construction, operation and
14 reclamation of all noncommercial reserve pits and produced
15 water retention and emergency overflow pits used solely for
16 the sequestration, treatment and disposal of drilling
17 fluids, produced waters, emergency overflow wastes or other
18 oil field wastes associated with the maintenance and
19 operation of oil and gas exploration and production wells
20 on a lease, unit or communitized area in such a manner as
21 to prevent the contamination of the waters of the state;

22
23 (B) The noncommercial underground disposal
24 into Class two [2] injection wells as defined under the
25 federal Safe Drinking Water Act of salt water, nonpotable
26 water and oil field wastes related to oil and gas
27 production in such a manner as to prevent contamination of
28 the waters of the state.

29
30 **30-1-119. Protection of surface proprietors.**

31
32 Where a mining right exists in any case and is
33 separate from the ownership or right of occupancy to the
34 surface, such owner or rightful occupant of the said
35 surface may demand satisfactory security from the miner or
36 miners, and if such security is refused, such owner or
37 occupant of the surface may enjoin the miner or miners from
38 working such mine until such security is given. The order
39 for such injunction shall fix the amount of the bond
40 therefor.

41
42 **34-1-202. Creation; conveyance; acceptance and**
43 **duration.**

44
45 (e) This act shall not alter the law of Wyoming
46 regarding the primacy of the mineral estate and any

1 easement created hereunder shall not limit the right of a
2 mineral owner or his lessee to reasonable use of the
3 surface for the purpose of mineral exploration and
4 production unless the owners and lessees of the entire
5 mineral estate are a party to the conservation easement or
6 consent to the conservation easement.

7 ***** STAFF COMMENTS *****

8 **The subsection above is within the conservation**
9 **easement provisions. As written it does not**
10 **appear to apply to the severance of the right to**
11 **the "void" (i.e., it does not appear that right**
12 **is a mineral right) - the question then is**
13 **whether the same statement should be made**
14 **regarding development of a CO2 sequestration**
15 **right when it conflicts with a surface**
16 **conservation easement.**

17
18
19 **Section 4.** This act is effective July 1, 2008.
20

21 (END)