

Dave Woodgerd - Proposed amendment to HB790 Bill Draft For Committee I

Section 3. Section 82-10-504 , MCA, is amended to read:

"82-10-504. Surface damage and disruption payments -- dispute resolution -- penalty for late payment. (1) (a) The oil and gas developer or operator shall pay the surface owner a sum of money or other compensation equal to the amount of damages sustained by the surface owner for loss of agricultural production and income, lost land value, and lost value of improvements caused by drilling operations.

(b) The amount of damages may be determined by any formula mutually agreeable between the surface owner and the oil and gas developer or operator. When determining damages, consideration ~~shall~~ must be given to the period of time during which the loss occurs.

(c) The surface owner may elect to receive annual damage payments over a period of time, except that the surface owner ~~shall~~ must be compensated by a single sum payment for harm caused by exploration only.

(d) The payments contemplated by this subsection (1) may only cover land directly affected by drilling operations and production. Payments under this subsection (1) are intended to compensate the surface owner for damage and disruption; ~~ne~~ A person may not reserve or assign ~~that~~ damage and disruption compensation apart from the surface estate except to a tenant of the surface estate.

(e) ~~PRIOR TO SURFACE DISTURBANCE, THE OIL AND GAS DEVELOPER OR OPERATOR AND THE SURFACE OWNER SHALL ATTEMPT GOOD FAITH~~
negotiate ¹⁰ ~~NEGOTIATIONS TO REACH AGREEMENT ON DAMAGES.~~ At any time during the negotiation, at the request of either party and upon mutual agreement, the surface owner and the oil and gas developer or operator may enter into a dispute resolution process, including mediation.

(f) If the parties cannot reach an agreement pursuant to (1)(b), the provisions of [section 7] apply.

(2) An oil and gas developer or operator who fails to timely pay an installment under any annual damage agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the unpaid installment if the installment payment is not paid within 60 days of receipt of notice of failure to pay from the surface owner."

{Internal References to 82-10-504: None.}