Northeast Montana Land & Minerals Owners Association, Inc.

March 10, 2006

To: HB 790 Subcommittee of the Montana EQC

From: Board of Directors of Northeast Montana Land & Mineral Owners Association

Subject: Annual Damage Payments for surface damage and disruption

Please review those parts of Montana Code Annotated sec. 82-1-504 & 508 shown on page two.

Annual damage and disruption payments have been used for over 30 years and were passed into law in 1981. About 5 years ago, some of the companies in the oil and gas industry operating in Eastern Montana, decided they would not make these annual payments. The current law is quite clear, with one major problem and hence a loophole for the oil industry. If they refuse to pay, the surface owners have only one recourse, that is take the oil industry to court see Section 82-10-508. We as a land and mineral owners association have been told that this is very costly. Further we as an association feel surface owners should not have to bear the cost of enforcing this law.

We have two minor changes that we think would solve this problem in most cases:

1. Section 82-10-504, item c, should be changed to read: (c) The surface owner will receive annual damage payments until the well site is reclaimed, with a minimum rate of $1500/drilling site/year for non cultivated land (this rate applies for the larger oil sites such as in NE Montana). For gas and coal bed methane wells a different rate may apply. The surface owner shall also be compensated by a single sum payment for harm caused by exploration only.
2. A drilling permit will not be issued if Section 82-10-504 (c), as amended above, is not followed.

Please feel free to call me with any questions. Phone 406-798-3427

Thank you

Dennis Trudell Chairman,

HB 790 SUBCOMMITTEE
March 16, 2006
Exhibit 9

Directors: Kenny Simonsen, Dick Iversen, Butch Michels, Marlyn Vannatta, Roger Nelson, Allen Engelke

82-10-504. Surface damage and disruption payments -- 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 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 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; no person may reserve or assign that compensation apart from the surface estate except to a tenant of the surface estate.

(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.

History: En. Sec. 4, Ch. 199, L. 1981; amd. Sec. 2, Ch. 497, L. 1985; (2)En. Sec. 3, Ch. 497, L. 1985.

82-10-508. Rejection -- legal action. If the person seeking compensation receives a written rejection, rejects the offer of the oil and gas developer or operator, or receives no reply, that **person may bring an action for compensation in the district court of the county in which the damage was sustained**.

History: En. Sec. 8, Ch. 199, L. 1981.

Provided by Montana Legislative Services