

Issue: In Title 82, chapter 10 part 5 and chapter 11, part 1, there are several uses of the term "drilling operations" as it relates to the Surface Owner Damage and Disruption Compensation law. The term "drilling operations" is not defined. In practice, drilling operations under 82-10-503 have been taken to include staking. However, if that definition is carried over to 82-11-122, it means a mineral developer should have a drilling permit before staking, which isn't feasible.

To avoid confusion, it is best to use defined terms. The term defined is "oil and gas operations." That term encompasses exploration for or drilling of an oil well.

82-10-502. Definitions. As used in this part, the following definitions apply:

- (1) "Agricultural production" means the production of any growing grass, crops, or trees attached to the surface of the land or farm animals with commercial value.
- (2) "Oil and gas developer or operator" means the person who acquires the oil and gas lease for the purpose of extracting oil and gas.
- (3) "Oil and gas estate" means an estate in or ownership of all or part of the oil and gas underlying a specified tract of land.
- (4) "**Oil and gas operations**" means the exploration for or drilling of an oil and gas well that requires entry upon the surface estate and is begun subsequent to June 1, 1981, and the production operations directly related to the exploration or drilling.
- (5) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of the land.

82-10-503 Notice of **drilling operations**. In addition to the requirements for geophysical exploration activities governed by Title 82, chapter 1, part 1, the oil and gas developer or operator shall give the surface owner and any purchaser under contract for deed written notice of the **drilling operations** that he plans to undertake. This notice shall be given to the record surface owner and any purchaser under contract for deed at their addresses as shown by the records of the county clerk and recorder at the time the notice is given. This notice shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of **drilling operations** on the surface owner's use of the property. The notice shall be given no more than 90 days and no fewer than 10 days before commencement of any activity on the land surface.

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.

82-10-505. Liability for damages to property. The oil and gas developer or operator is responsible for all damages to property, real or personal, resulting from the lack of ordinary care by the oil and gas developer or operator. The oil and gas developer or operator is responsible for damages to property, real or personal, caused by **drilling operations** and production.

82-11-122. Notice of intention to drill or conduct seismic operations -- notice to surface owner. It is unlawful to commence the drilling of a well for oil or gas without first filing with the board written notice of intention to drill and obtaining a drilling permit as provided in 82-11-134. After the permit is issued, an oil and gas developer or operator as defined under 82-10-502 shall comply with the notice requirements of 82-10-503 before commencing **drilling operations**. It is unlawful to conduct seismic explorations without first giving the board a copy of the notice of intention to explore filed with the county under 82-1-103.