

SENATE BILL NO. 19
INTRODUCED BY SHOCKLEY, MCGEE
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING OIL AND GAS OPERATIONS; REQUIRING A SEISMIC ACTIVITY PERMITHOLDER TO FURNISH INFORMATION TO A SURFACE OWNER; REQUIRING AN OIL OR GAS DEVELOPER OR OPERATOR TO PROVIDE INFORMATION TO A SURFACE OWNER; REQUIRING THE SURFACE OWNER TO PROVIDE INFORMATION; INCREASING THE TIME PERIODS FOR NOTICE OF DRILLING OPERATIONS; CLARIFYING THAT A SURFACE OWNER AND OIL AND GAS DEVELOPER OR OPERATOR MAY USE DISPUTE RESOLUTION PROCESSES; CLARIFYING THE PENALTY FOR VIOLATING NOTICE REQUIREMENTS; AMENDING SECTIONS 82-1-107, 82-10-503, 82-10-504, AND 82-10-505, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-1-107, MCA, is amended to read:

"82-1-107. Permitholder to furnish information to surface ~~user~~ owner. (1) Before commencing seismic activity, the person, firm, or corporation shall notify the surface ~~user~~ owner, as defined in 82-10-502, as to the approximate time schedule of the planned activity, ~~and upon~~ and shall provide copies of Title 82, chapter 10, part 5, this part, and, if available, a current publication produced by the environmental quality council entitled "A Guide to Split Estates in Oil and Gas Development". Upon request, the following information ~~shall~~ must also be furnished:

- (a) the name and permanent address of the seismic exploration firm, along with the name and address of the firm's designated agent for the state if different from that of the firm;
- (b) evidence of a valid permit to engage in seismic exploration;
- (c) the name and address of the company insuring the seismic firm or, if self-insured, evidence of ~~such~~ the self-insurance;
- (d) the number of the bond required in 82-1-104;
- (e) a description of the planned seismic activity and where it will take place;
- (f) the anticipated need, if any, to obtain water from the surface ~~user~~ owner during planned seismic activity.

(2) The surface ~~user~~ owner is responsible for providing the permitholder with the name and permanent address of a responsible person with whom communication may be maintained.

(3) The surface owner is responsible for providing the name and address of the permitholder to any lessees, tenants, or other parties responsible for surface operations on the property."

Section 2. Section 82-10-503, MCA, is amended to read:

"82-10-503. Notice of drilling operations. (1) 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 ~~the~~ the oil and gas developer or operator plans to undertake. ~~This~~ The notice ~~shall~~ must 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. The notice must include a copy of this part and, if available, a current publication produced by the environmental quality council entitled "A Guide to Split Estates in Oil and Gas Development". ~~This~~ The notice ~~shall~~ must 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~~ must be given no more than ~~90~~ 180 days and no fewer than ~~40~~ 20 days before ~~commencement of any activity on~~ any activity that disturbs the land surface. The surface owner may waive the notice requirement.

(2) The surface owner is responsible for providing the name and address of the oil and gas developer or operator to any lessees, tenants, or other parties responsible for surface operations on the property.

(3) Prior to the oil and gas developer or operator providing the notice required in subsection (1), a person qualified under 70-16-111 may enter the land to investigate and use boundary evidence and perform boundary, well site location, and access road surveys if the notice requirements of 70-16-111 are met. However, the oil and gas developer or operator shall provide the notice required pursuant to subsection (1) prior to any activity that disturbs the land surface."

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 surface owner and the oil and gas developer or operator shall attempt to negotiate an agreement on damages. 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 oil and gas 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) 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.

~~(c)(d)~~ 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)(e)~~ The payments contemplated by this subsection (1) may ~~only~~ only cover only land directly affected by ~~drilling oil and gas~~ operations and production. Payments under this subsection (1) are intended to compensate the surface owner for damage and disruption; ~~no~~ 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.

(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."

Section 4. Section 82-10-505, MCA, is amended to read:

"82-10-505. Liability for damages to property. The oil and gas developer or operator is responsible for all damages to real or personal 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~~; property caused by drilling oil and gas operations and production."

NEW SECTION. **Section 5. Penalty for notice violation.** Failure to comply with the notice requirements of 82-10-503 subjects the oil and gas developer or operator to the provisions of 82-11-122 and 82-11-147 through 82-11-149.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 82, chapter 10, part 5, and the provisions of Title 82, chapter 10, part 5, apply to [section 5].

NEW SECTION. **Section 7. Applicability.** [This act] applies to proceedings begun on or after October

1, 2007.

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