

1 HOUSE BILL NO. 498

2 INTRODUCED BY S. GUNDERSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PRIMACY OF THE MINERAL ESTATE;
5 CLARIFYING THE JURISDICTION OF THE BOARD OF OIL AND GAS CONSERVATION; AMENDING
6 SECTIONS 76-2-209 AND 82-11-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7

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

9

10 **Section 1.** Section 76-2-209, MCA, is amended to read:

11 **"76-2-209. Effect on natural resources.** (1) Except as provided in 82-4-431, 82-4-432, and
12 subsection (2) of this section, a resolution or rule adopted pursuant to the provisions of this part, except 76-2-
13 206, may not prevent the complete use, development, or recovery of any mineral by an operation that mines
14 sand and gravel, forest, or agricultural resources by the owner of any mineral recovered by a sand and gravel
15 operation, forest, or agricultural resource.

16 (2) The complete use, development, or recovery of a mineral by an operation that mines sand and
17 gravel or an operation that mixes concrete or batches asphalt may be reasonably conditioned or prohibited on a
18 site that is located within a geographic area zoned as residential, as defined by the board of county
19 commissioners.

20 (3) Zoning regulations adopted under this chapter may reasonably condition, but not prohibit, the
21 complete use, development, or recovery of a mineral by an operation that mines sand and gravel and may
22 condition an operation that mixes concrete or batches asphalt in all zones other than residential.

23 (4) (a) A provision of this part may not be construed to alter Montana law regarding the primacy of
24 the mineral estate, to limit access to the mineral estate, or to limit development of the mineral estate.

25 (b) A resolution or rule adopted pursuant to the provisions of this part may not prevent the complete
26 use, development, or recovery of any mineral that is under the jurisdiction of the board of oil and gas
27 conservation pursuant to Title 82, chapter 11, part 1."

28

1 **Section 2.** Section 82-11-112, MCA, is amended to read:

2 "**82-11-112. Intergovernmental cooperation.** ~~The~~ Subject to the provisions of 76-2-209, the board
3 may cooperate with any other state, interstate, or federal agency and other governmental agencies of the state
4 to effect the objects and purposes of this chapter and expend ~~such funds as may be~~ reasonably necessary in
5 ~~connection therewith.~~"

6

7 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

8

- END -