

SENATE BILL NO. 16
INTRODUCED BY SMITH

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Natural Resources.
February 6, 1981	Committee recommend bill do pass as amended. Report adopted.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading, do pass.
February 11, 1981	Correctly engrossed.
February 12, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 13, 1981	Introduced and referred to Committee on Natural Resources.
March 14, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Second reading, concurred in.
March 20, 1981	Third reading, concurred in. Ayes, 92; Noes, 1.

IN THE SENATE

March 21, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 SENATE BILL NO. 16
 2 INTRODUCED BY SMITH
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE MINERAL
 5 DEVELOPERS TO GIVE WRITTEN NOTICE TO SURFACE OWNERS OF
 6 INTENT TO BEGIN DRILLING OPERATIONS; TO REQUIRE MINERAL
 7 DEVELOPERS TO COMPENSATE SURFACE OWNERS FOR DAMAGES CAUSED
 8 BY DRILLING OPERATIONS; AND TO ALLOW SUCH COMPENSATION TO BE
 9 MADE IN ANNUAL INSTALLMENTS UNDER CERTAIN CONDITIONS."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Purpose — legislative findings. (1) The
 13 purpose of [this act] is to provide for the protection of
 14 surface owners of land underlain with oil and gas reserves
 15 while allowing for the necessary development of those
 16 reserves.

17 (2) To carry out the purpose described in subsection
 18 (1), the legislature finds that:

19 (a) it is necessary to exercise the power of the state
 20 to protect the public welfare of Montana, which is largely
 21 dependent on agriculture, and to protect the economic
 22 well-being of individuals engaged in agricultural
 23 production;

24 (b) exploration for and development of oil and gas
 25 reserves in this state, while necessary, interferes with the

1 use, agricultural or otherwise, of the surface of certain
 2 land; and

3 (c) owners of the surface estate and other persons
 4 should be justly compensated for injury to their persons or
 5 property and interference with the use of their property due
 6 to oil and gas development.

7 Section 2. Definitions. As used in [this act], the
 8 following definitions apply:

9 (1) "Agricultural production" means the production of
 10 any growing grass or crop attached to the surface of the
 11 land, whether or not the grass or crop is to be sold
 12 commercially, and the production of any farm animals,
 13 whether or not the animals are to be sold commercially.

14 (2) "Board" means the board of oil and gas conservation
 15 provided for in 2-15-3303.

16 (3) "Drilling operations" means the exploration for or
 17 drilling of an oil and gas well that requires entry upon the
 18 surface estate and is begun subsequent to [the effective
 19 date of this act] and the production operations directly
 20 related to the exploration or drilling.

21 (4) "Mineral developer" means the person who acquires
 22 the mineral estate or lease for the purpose of extracting or
 23 using the minerals for nonagricultural purposes.

24 (5) "Mineral estate" means an estate in or ownership of
 25 all or part of the minerals underlying a specified tract of

1 land.

2 (6) "Minerals" means oil and gas.

3 (7) "Surface estate" means an estate in or ownership of
4 the surface of a particular tract of land.

5 (8) "Surface owner" means the person who has possession
6 of the surface of the land either as an owner or as a
7 tenant.

8 Section 3. Notice of drilling operations. In addition
9 to the requirements for geophysical exploration activities
10 governed by Title 82, chapter 1, part 1, the mineral
11 developer shall give the surface owner written notice of the
12 drilling operations that he plans to undertake. This notice
13 shall be given to the record surface owner at his address as
14 shown by the records of the county clerk and recorder at the
15 time the notice is given. This notice shall sufficiently
16 disclose the plan of work and operations to enable the
17 surface owner to evaluate the effect of drilling operations
18 on the surface owner's use of the property. Included with
19 this notice shall be a form prepared by the board advising
20 the surface owner of his rights and options under [this
21 act].

22 Section 4. Surface damage and disruption payments. The
23 mineral developer shall pay the surface owner a sum of money
24 equal to the amount of damages sustained by the surface
25 owner for loss of agricultural production and income, lost

1 land value, and lost value of improvements caused by
2 drilling operations. The amount of damages may be determined
3 by any formula mutually agreeable between the surface owner
4 and the mineral developer. When determining damages,
5 consideration shall be given to the period of time during
6 which the loss occurs. The surface owner may elect to be
7 paid damages in annual installments over a period of time;
8 except that the surface owner shall be compensated by a
9 single sum payment for harm caused by exploration only. The
10 payments contemplated by this section may only cover land
11 directly affected by drilling operations. Payments under
12 this section are intended to compensate the surface owner
13 for damage and disruption; no person may reserve or assign
14 that compensation apart from the surface estate except to a
15 tenant of the surface estate.

16 Section 5. Damages for negligence and nuisance. The
17 mineral developer is responsible for all damages to person
18 or property, real or personal, resulting from the lack of
19 ordinary care by the mineral developer. The mineral
20 developer is also responsible for all damages to person or
21 property, real or personal, resulting from a nuisance caused
22 by drilling operations.

23 Section 6. Notification of injury. To receive
24 compensation under [this act], a person shall notify the
25 mineral developer of the damages sustained by the person

1 within 2 years after the injury occurs or would become
2 apparent to a reasonable man.

3 Section 7. Agreement -- offer of settlement. Unless
4 both parties provide otherwise by written agreement, within
5 60 days after the mineral developer receives notice of
6 damages pursuant to [section 6], he shall make a written
7 offer of settlement to the person seeking compensation for
8 the damages. The person seeking compensation may accept or
9 reject any offer.

10 Section 8. Rejection -- legal action -- fees and costs.
11 If the person seeking compensation receives a written
12 rejection, rejects the offer of the mineral developer, or
13 receives no reply, that person may bring an action for
14 compensation in the district court of the county in which
15 the damage was sustained. If the amount of compensation
16 awarded by the court is greater than that which had been
17 offered by the mineral developer, the court shall award the
18 person seeking compensation reasonable attorney fees and any
19 costs assessed by the court.

20 Section 9. Remedies cumulative. The remedies provided
21 by [this act] do not preclude any person from seeking other
22 remedies allowed by law.

23 Section 10. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

-End-

SB/6

Approved by Committee
on Natural Resources

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

Section 1. Purpose -- legislative findings. (1) The purpose of [this act] is to provide for the protection of surface owners of land underlain with oil and gas reserves while allowing for the necessary development of those reserves.

(2) To carry out the purpose described in subsection (1), the legislature finds that:

(a) it is necessary to ~~exercise the power of the state to protect the public welfare of Montana, which is largely dependent on agriculture, and to protect the economic well-being of individuals engaged in agricultural production;~~

(b) exploration for and development of oil and gas reserves in this state, while necessary, interferes with the use, agricultural or otherwise, of the surface of certain land; and

(c) owners of the surface estate ~~and other persons~~ should be justly compensated for ~~injury to their persons or~~ USE OF THEIR property and interference with the use of their property due to oil and gas development.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Agricultural production" means the production of any growing grass ~~or crop, CROPS, OR TREES~~ attached to the surface of the land; ~~whether or not the grass or crop is to be sold commercially and the production of any OR farm animals, whether or not the animals are to be sold commercially~~ WITH COMMERCIAL VALUE.

~~(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.~~

~~(3)(2)~~ "(3) "Drilling 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 [the effective date of this act] and the production operations directly related to the exploration or drilling.

~~(4)(3)~~ "(4) "Mineral OIL AND GAS developer OR OPERATOR"

1 means the person who acquires the ~~mineral-estate-or~~ OIL AND
 2 GAS lease for the purpose of extracting or ~~using-the~~
 3 ~~minerals-for-nonagricultural-purposes~~ OIL AND GAS.

4 (5)(4) "Mineral OIL AND GAS estate" means an estate in
 5 or ownership of all or part of the ~~minerals~~ OIL AND GAS
 6 underlying a specified tract of land.

7 (6) ~~"Minerals" means oil and gas.~~

8 (7) ~~"Surface estate" means an estate in or ownership~~
 9 ~~of the surface of a particular tract of land.~~

10 (8)(5) "Surface owner" means the person who has
 11 ~~possession-of~~ HOLDS RECORD TITLE TO OR HAS A PURCHASER'S
 12 INTEREST IN the surface of the land either ~~as an owner or as~~
 13 ~~a tenant.~~

14 Section 3. Notice of drilling operations. In addition
 15 to the requirements for geophysical exploration activities
 16 governed by Title 22, chapter 1, part 1, the ~~mineral~~ OIL AND
 17 GAS developer OR OPERATOR shall give the surface owner
 18 written notice of the drilling operations that he plans to
 19 undertake. This notice shall be given to the record surface
 20 owner at his address as shown by the records of the county
 21 clerk and recorder at the time the notice is given. This
 22 notice shall sufficiently disclose the plan of work and
 23 operations to enable the surface owner to evaluate the
 24 effect of drilling operations on the surface owner's use of
 25 the property. ~~Included-with-this-notice-shall-be-a-form~~

1 prepared ~~by the board advising the surface owner of his~~
 2 ~~rights and options under [this act].~~

3 Section 4. Surface damage and disruption payments. The
 4 ~~mineral~~ OIL AND GAS developer OR OPERATOR shall pay the
 5 surface owner a sum of money OR OTHER COMPENSATION equal to
 6 the amount of damages sustained by the surface owner for
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 10 formula mutually agreeable between the surface owner and the
 11 ~~mineral~~ OIL AND GAS developer OR OPERATOR. When determining
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 13 during which the loss occurs. The surface owner may elect to
 14 be paid damages in annual installments over a period of
 15 time; except that the surface owner shall be compensated by
 16 a single sum payment for harm caused by exploration only.
 17 The payments contemplated by this section may only cover
 18 land directly affected by drilling operations AND
 19 PRODUCTION. Payments under this section are intended to
 20 compensate the surface owner for damage and disruption; no
 21 person may reserve or assign that compensation apart from
 22 the surface estate except to a tenant of the surface estate.
 23 Section 5. Damages for ~~negligence and nuisance~~. The
 24 ~~mineral~~ OIL AND GAS developer OR OPERATOR is responsible for
 25 all damages to person ~~or property, real or personal,~~

1 resulting from the lack of ordinary care by the minera† OIL
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 3 developer OR OPERATOR is also responsible for all damages to
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6 Section 6. Notification of injury TO PROPERTY. To
 7 receive compensation under [this act], a person SURFACE
 8 OWNER shall notify GIVE WRITTEN NOTICE TO the minera† OIL
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 10 the person SURFACE OWNER within 2 years after the injury
 11 occurs or would become apparent to a reasonable man.

12 Section 7. Agreement -- offer of settlement. Unless
 13 both parties provide otherwise by written agreement, within
 14 60 days after the minera† OIL AND GAS developer OR OPERATOR
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 20 costs. If the person seeking compensation receives a written
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 23 bring an action for compensation in the district court of
 24 the county in which the damage was sustained. if-the-amount
 25 of-compensation-awarded-by-the-court-is-greater-than-that

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4 Section 9. Remedies cumulative. The remedies provided
 5 by [this act] do not preclude any person from seeking other
 6 remedies allowed by law.

7 Section 10. Severability. If a part of this act is
 8 invalid, all valid parts that are severable from the invalid
 9 part remain in effect. If a part of this act is invalid in
 10 one or more of its applications, the part remains in effect
 11 in all valid applications that are severable from the
 12 invalid applications.

13 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
 14 JUNE 1, 1981.

-End-

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1 prepared--by--the--board--advising--the-surface-owner-of-his
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 8 OWNER shall notify GIVE WRITTEN NOTICE TO the mineral OIL
 9 AND GAS developer OR OPERATOR of the damages sustained by
 10 the person SURFACE OWNER within 2 years after the injury
 11 occurs or would become apparent to a reasonable man.

12 Section 7. Agreement -- offer of settlement. Unless
 13 both parties provide otherwise by written agreement, within
 14 60 days after the mineral OIL AND GAS developer OR OPERATOR
 15 receives notice of damages pursuant to [section 6], he shall
 16 make a written offer of settlement to the person seeking
 17 compensation for the damages. The person SURFACE OWNER
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 21 rejection, rejects the offer of the mineral OIL AND GAS
 22 developer OR OPERATOR, or receives no reply, that person may
 23 bring an action for compensation in the district court of
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 25 ~~of compensation awarded by the court is greater than that~~

1 ~~which--had--been--offered--by--the--mineral--developer--the--court~~
 2 ~~shall--award--the--person--seeking--compensation--reasonable~~
 3 ~~attorney--fees--and--any--costs--assessed--by--the--court~~

4 Section 9. Remedies cumulative. The remedies provided
 5 by [this act] do not preclude any person from seeking other
 6 remedies allowed by law.

7 Section 10. Severability. If a part of this act is
 8 invalid, all valid parts that are severable from the invalid
 9 part remain in effect. If a part of this act is invalid in
 10 one or more of its applications, the part remains in effect
 11 in all valid applications that are severable from the
 12 invalid applications.

13 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
 14 JUNE 1, 1981.

-End-