

HOUSE BILL NO. 8

Introduced: 01/03/83

Referred to Committee on Natural Resources: 01/03/83

Hearing: 1/10/83

Report: 02/03/83, Do Pass, As Amended

2nd Reading: 02/05/83, Do Pass

3rd Reading: 02/08/83, Do Pass

Transmitted to Senate: 2/8/83

Referred to Committee on Natural Resources: 02/09/83

Hearing: 3/7/83

Minority Report, 03/10/83, Be Concurred In

Substitute Motion, 3/10/83, That the Bill Be Referred to  
Committee on Taxation, Motion Failed

On Motion, 3/10/83, That Bill Be Referred to the Committee  
on Natural Resources. Motion Passed Unanimously

Report: 3/10/83, Be Concurred In

Report: 3/15/83, Be Concurred In, As Amended

2nd Reading: 03/16/83, Be Concurred In, As Amended

2nd Reading 03/16/83, Be Indefinitely Postponed

On Motion, 3/17/83, That Pass Consideration of the Bill Be  
Given Until 3/18/83. Motion Passed Unanimously.

2nd Reading: 3/18/83, Be Concurred In

2nd Reading: 3/18/83, Pass Consideration

2nd Reading: 3/18/83, Be Indefinitely Postponed

Returned to House: 03/18/83

On Motion, 3/19/83, That the Senate Reconsider Their Action  
Taken the Previous Day.

Motion Failed

Bill Killed

1                    HOUSE      BILL NO. 8  
2    INTRODUCED BY RYAN  
3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
5    TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY  
6    PERSONS OTHER THAN THE SURFACE OWNER AND REVERSION OF  
7    OWNERSHIP TO THE SURFACE OWNER; AND ALLOWING THE  
8    PRESERVATION OF SEVERED MINERAL INTERESTS BY USE OR  
9    RERECORDATION."  
10  
11        WHEREAS, there exist in Montana many fractional  
12    interests in severed minerals such as coal, oil and gas, and  
13    other minerals; and  
14        WHEREAS, difficulty in locating the owners of  
15    fractional mineral rights may prevent or delay development  
16    of scarce natural resources and the proper payment of taxes;  
17    and  
18        WHEREAS, the United States Supreme Court, in the case  
19    of Texaco, Inc. v. Short, \_\_\_ US \_\_\_ (decided January 12,  
20    1982), recently upheld the constitutionality of the Indiana  
21    Dormant Minerals Interests Act, which provides for a lapse  
22    of severed mineral rights unless those rights are used or  
23    registered by the owners.  
24        THEREFORE, it is in the intent of the Legislature to  
25    enact a dormant minerals interests act nearly identical to

1    the provisions of the Indiana act, in order that the owners  
2    of fractionalized mineral interests may be determined and  
3    chances for development of those minerals increased.  
4  
5    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
6        Section 1. Definitions. As used in [this act], unless  
7    the context clearly indicates otherwise, the following  
8    definitions apply:  
9        (1) "Severed mineral interest" means the interest that  
10    is created by a transfer by grant, assignment, reservation,  
11    inheritance, operation of law, or otherwise, of an interest  
12    of any kind in coal, oil and gas, or other minerals to any  
13    person other than the surface owner of the land in which  
14    that interest lies.  
15        (2) "Person" means an individual or private  
16    corporation, association, partnership, joint venture, or  
17    other legal entity, but does not include the United States  
18    of America or the state of Montana or any political  
19    subdivision thereof.  
20        (3) "Unused severed mineral interest" means a severed  
21    mineral interest:  
22        (a) from which no minerals are being produced or upon  
23    which no operations are being conducted for injection,  
24    withdrawal, storage, or disposal of water, gas, or other  
25    fluid substances;

INTRODUCED BILL

1 (b) for which no rentals or royalties are being paid  
2 by the owner thereof for the purpose of delaying or enjoying  
3 the use or exercise of such rights;

4 (c) upon which none of the operations under subsection  
5 (a) or any of the payments under subsection (b) are being  
6 carried out or made upon any tract with which the severed  
7 mineral interest may be unitized or pooled for production  
8 purposes;

9 (d) from which, in the case of coal or other solid  
10 minerals, there is no production from a common vein or seam  
11 by the owner of the severed mineral interest;

12 (e) on which no taxes are being paid by the owner; and

13 (f) for which no statement of claim has been filed  
14 pursuant to [section 3].

15 Section 2. Lapse of mineral interest — prevention.  
16 Unless a statement of claim is filed in accordance with  
17 [section 3], or [section 4] is fulfilled, a severed mineral  
18 interest in coal, oil and gas, or other minerals that is  
19 unused for a period of 20 continuous years is extinguished  
20 and ownership of the interest reverts to the surface owner  
21 of the land out of which the severed mineral interest was  
22 carved.

23 Section 3. Statement of claim — filing —  
24 requirements. (1) The statement of claim provided for in  
25 [section 2] must be filed by the owner of the severed

1 mineral interest prior to the end of the 20-year period set  
2 forth in [section 2] or within 2 years after [the effective  
3 date of this act], whichever is later, and must contain:

4 (a) the name and address of the owner of the interest;

5 (b) the nature of the interest;

6 (c) a description of the land on or under which such  
7 mineral interest is located; and

8 (d) a statement that the claimant intends to preserve  
9 and not abandon the severed mineral interest.

10 (2) The statement of claim must be filed in the office  
11 of the county clerk and recorder in the county in which the  
12 severed mineral interest is located. Upon the filing of the  
13 statement of claim within the time provided, the mineral  
14 interest is considered to be used on the date the statement  
15 of claim is filed.

16 Section 4. Exception to lapse of severed mineral  
17 interest. Failure to file a statement of claim within the  
18 time provided in [section 3] does not cause a severed  
19 mineral interest to be extinguished if the owner of that  
20 interest:

21 (1) was at the time of the expiration of the period  
22 provided in [section 3] the owner of 10 or more severed  
23 mineral interests in the same county in which the mineral  
24 interest in question is located;

25 (2) made a diligent effort to preserve all of such

interests as were not being used and, within a period of 10 years prior to the expiration of the period provided in [section 3], preserved other mineral interests in the same county by the filing of statements of claim as herein required;

(3) failed to preserve the interest in question through inadvertence; and

(4) filed the statement of claim required by [section 2] within 60 days after publication of notice as provided in [section 5] if such notice is published and, if no such notice is published, within 60 days after receiving actual knowledge that the mineral interest in question had lapsed.

Section 5. Successor in interest — notice requirements — prima facie evidence. (1) Any person who succeeds to the ownership of any severed mineral interest may, upon the lapse of that interest, give notice of the lapse of that interest:

(a) by publishing the same in a newspaper of general circulation in the county in which the mineral interest is located; and

(b) if the address of the mineral interest owner is shown of record or can be determined by reasonable inquiry, by mailing a copy of such notice to the owner of the mineral interest within 10 days after publication.

(2) The notice must state:

(a) the name of the owner of the mineral interest as shown of record;

(b) a description of the land;

(c) the nature of the interest; and

(d) the name of the person giving notice.

(3) If a copy of the notice, together with an affidavit of compliance with subsection (1), is filed in the office of the county clerk and recorder in the county in which the mineral interest is located, the record is prima facie evidence in any legal proceedings begun after that notice was given.

Section 6. Statement of claim — filing — duty of clerk and recorder. Upon the filing of the statement of claim provided for in [section 3] or the affidavit of compliance with [section 5(1)] in the clerk and recorder's office of the county in which the interest is located, the clerk shall record the same in a book to be kept for that purpose, which shall be known as the "Dormant Mineral Interest Record", and shall indicate by marginal notation, on the instrument creating the original mineral interest, the filing of the statement of claim or affidavit of publication and service of notice.

Section 7. Rerecording not to revive lost interests. Rerecording under [section 3] serves only to preserve a severed mineral interest from extinguishment under the

1 provisions of [section 2]. A lease or other terminable  
2 interest that has expired, lapsed, or otherwise been lost by  
3 its own terms or by operation of law is not revived by  
4 rerecording under [section 3].

5 Section 8. Waiver of [act] — time limit. The  
6 provisions of this [act] may not be waived at any time prior  
7 to the expiration of the 20-year period provided in [section  
8 2].

-End-

Approved by Committee  
on Natural Resources

HOUSE BILL NO. 8

INTRODUCED BY RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY  
PERSONS OTHER THAN THE SURFACE OWNER AND REVERSION OF  
OWNERSHIP TO THE SURFACE OWNER; PROVIDING FOR NOTICE AND A  
60-DAY REDEMPTION PERIOD; AND ALLOWING THE PRESERVATION OF  
SEVERED MINERAL INTERESTS BY USE OR RERECORDATION."

WHEREAS, there exist in Montana many fractional  
interests in severed minerals such as coal, oil and gas, and  
other minerals; and

WHEREAS, difficulty in locating the owners of  
fractional mineral rights may prevent or delay development  
of scarce natural resources and the proper payment of taxes;  
and

WHEREAS, the United States Supreme Court, in the case  
of Iowa v. Tipton, 458 U.S. 999 (decided January 12,  
1982), recently upheld the constitutionality of the Indiana  
Dormant Minerals Interests Act, which provides for a lapse  
of severed mineral rights unless those rights are used or  
registered by the owners.

THEREFORE, it is in the intent of the Legislature to  
enact a dormant minerals interests act nearly identical

SUBSTANTIALLY SIMILAR to the provisions of the Indiana act,  
in order that the owners of fractionalized mineral interests  
may be determined and chances for development of those  
minerals increased.

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

Section 1. Definitions. As used in [this act], unless  
the context clearly indicates otherwise, the following  
definitions apply:

~~(1) "SEVERED MINERAL INTEREST" means the interest that  
is created by a transfer by grant, assignment, reservation,  
inheritance, operation of law or otherwise of an interest  
of any kind in coal, oil and gas or other minerals to any  
person other than the surface owner of the land in which  
that interest lies.~~

(1) "SEVERED MINERAL INTEREST" MEANS AN INTEREST IN  
MINERALS OWNED BY A PERSON OTHER THAN THE OWNER OF THE  
SURFACE OF THE LAND IN WHICH THE MINERAL LIES, EXCEPTING  
ROYALTY INTERESTS, LEASES, AND OTHER CONTRACTUAL RIGHTS FOR  
DEVELOPMENT.

(2) "MINERALS" MEANS ALL FORMS AND VARIETIES OF  
MATERIALS AND SUBSTANCES FORMED OR DEPOSITED IN THE CRUST OF  
THE EARTH BY NATURAL AGENCIES ALONE, WHICH HAVE VALUE WHEN  
SEPARATED FROM THE CRUST OF THE EARTH AND EXCLUDING ONLY  
WATER AND COMMON FORMS OF SAND AND GRAVEL.

(3) "ROYALTY INTERESTS" MEANS EXPENSE-FREE INTERESTS  
IN PRODUCTION OF MINERALS WHICH ARE NOT ENTITLED TO ANY  
SHARE OF BONUSES OR RENTALS UNDER LEASES OR OTHER TYPES OF  
DEVELOPMENT AGREEMENTS.

(2)(4) "Person" means an individual or private  
corporation, association, partnership, joint venture, TRUST,  
or other legal entity, but does not include the United  
States of America or the state of Montana or any political  
subdivision thereof.

(3)(5) "Unused severed mineral interest" means a  
severed mineral interest:

(a) --from--which--no--minerals--are--being--produced--or--upon  
which--no--operations--are--being--conducted--for--injection,  
withdrawal,--storage,--or--disposal--of--water,--gas,--or--other  
fluid--substances;

(b) --for--which--no--rents--or--royalties--are--being--paid  
by--the--owner--thereof--for--the--purpose--of--delaying--or--enjoying  
the--use--or--exercise--of--such--rights;

(c) --upon--which--none--of--the--operations--under--subsection  
(a) --or--any--of--the--payments--under--subsection--(b) are--being  
carried--out--or--made--upon--any--tract--with--which--the--severed  
mineral--interest--may--be--unitized--or--pooled--for--production  
purposes;

(d) --from--which,--in--the--case--of--coal--or--other--solid  
minerals,--there--is--no--production--from--a--common--vein--or--seam

by--the--owner--of--the--severed--mineral--interest;

(e) --on--which--no--taxes--are--being--paid--by--the--owner;--and

(f) --for--which--no--statement--of--claim--has--been--filed  
pursuant--to--[section--3] WHICH IS NOT USED. A MINERAL  
INTEREST SHALL BE DEEMED TO BE USED WHEN ANY OF THE  
FOLLOWING EXIST:

(A) MINERALS ARE PRODUCED THEREFROM OR FROM LANDS  
POOLED OR UNITIZED THEREWITH OR OPERATIONS ARE CONDUCTED  
THEREON, OR ON LANDS POOLED OR UNITIZED THEREWITH, IN  
FURTHERANCE OF DEVELOPMENT OF ANY MINERAL INTEREST INCLUDING  
INJECTION, WITHDRAWAL, STORAGE, OR DISPOSAL OF WATER, GAS,  
OR OTHER FLUID SUBSTANCES;

(B) THE MINERAL INTEREST IS SUBJECT TO A LEASE OR  
OTHER CONTRACT HAVING AS ITS OBJECT THE DEVELOPMENT OF SUCH  
INTEREST AND WHICH LEASE OR OTHER CONTRACT OR A MEMORANDUM  
THEREOF IS RECORDED IN THE OFFICE OF THE CLERK AND RECORDER  
OF EACH COUNTY WHEREIN THE INTEREST IS LOCATED;

(C) IN THE CASE OF COAL OR OTHER SOLID MATERIALS, WHEN  
THERE IS PRODUCTION FROM A COMMON VEIN OR SEAM BY THE OWNER  
OF THE SEVERED MINERAL INTEREST OR BY THE OWNER'S LESSEE OR  
PERMITEE;

(D) TAXES ARE BEING PAID BY THE OWNER; OR

(E) A STATEMENT OF CLAIM IS FILED PURSUANT TO [SECTION  
3].

Section 2. Lapse of mineral interest -- prevention.

Unless a statement of claim is filed RECORDED in accordance with [section 3], or [section 4] is fulfilled, a severed mineral interest in ~~coal, oil and gas or other~~ minerals that is CONTINUOUSLY unused for a period of 20 ~~continuous~~ years is extinguished SUBJECT TO THE RIGHT OF REDEMPTION PROVIDED FOR IN [SECTION 4], and ownership of the interest reverts to the surface owner of the land out of which the severed mineral interest was carved.

Section 3. Statement of claim -- filing RECORDING -- requirements. (1) The statement of claim provided for in [section 2] must be filed EXECUTED, ACKNOWLEDGED, AND RECORDED by the owner of the severed mineral interest prior to the end of the 20-year period set forth in [section 2] or within 2 years after [the effective date of this act], whichever is later, and must contain:

(a) the name and address of the owner of the interest;

(b) ~~the nature of the interest;~~

(c) (1) a description BY LEGAL SUBDIVISION, TOWNSHIP, AND RANGE of the land on or under which such mineral interest is located; and

(d) (1) a statement that the claimant intends to preserve and not abandon the WHATEVER severed mineral interest IS OWNED BY THE CLAIMANT.

(2) The statement of claim must be filed RECORDED in the office of the county clerk and recorder in the EACH

county in which the severed mineral interest is located. Upon the filing RECORDING of the statement of claim within the time provided, the mineral interest is considered to be used on the date the statement of claim is filed RECORDED.

~~Section 4. Exception -- to lapse of severed mineral interests -- Failure to file a statement of claim within the time provided in [section 3] does not cause a severed mineral interest to be extinguished if the owner of that interest:~~

~~(1) was at the time of the expiration of the period provided in [section 3] the owner of 10 or more severed mineral interests in the same county in which the mineral interest in question is located;~~

~~(2) made a diligent effort to preserve all of such interests as were not being used and within a period of 10 years prior to the expiration of the period provided in [section 3] preserved other mineral interests in the same county by the filing of statements of claim as herein required;~~

~~(3) failed to preserve the interest in question through inadvertence; and~~

~~(4) filed the statement of claim required by [section 2] within 60 days after publication of notice as provided in [section 5] if such notice is published and if no such notice is published within 60 days after receiving actual~~



1 knowledge--that-the-mineral-interest-in-question-had-lapsed.

2 Section 4. Successor in interest -- notice  
3 requirements -- prima--facte--evidence REDEMPTION. (1) Any  
4 person who succeeds to the ownership of any severed mineral  
5 interest may PURSUANT TO THIS PART SHALL, upon the lapse of  
6 SUCCEEDING TO that interest, give notice of the--lapse--of  
7 that-interest SAME:

8 (a) by publishing the same in a newspaper of general  
9 circulation in the county in which the mineral interest is  
10 located; and

11 (b) if the address of the mineral interest owner is  
12 shown of record or can be determined by reasonable inquiry,  
13 by mailing a copy of such notice to the owner of the mineral  
14 interest within 10 days after publication; AND

15 (C) BY RECORDING IN THE OFFICE OF THE COUNTY CLERK AND  
16 RECORDER IN EACH COUNTY IN WHICH THE MINERAL INTEREST IS  
17 LOCATED, A COPY OF THE NEWSPAPER NOTICE, TOGETHER WITH AN  
18 AFFIDAVIT OF COMPLIANCE WITH (SUBSECTION 1)(B)).

19 (2) The notice must state:

20 (a) the name of the owner of the mineral interest as  
21 shown of record;

22 (b) a description of the land;

23 (c) the nature of the interest; and

24 (d) the name of the person giving notice; AND

25 (E) THE OWNER OF A LAPSED SEVERED MINERAL INTEREST MAY

1 REDEEM THAT INTEREST BY RECORDING A STATEMENT OF CLAIM AS  
2 PROVIDED FOR IN [SECTION 3] WITHIN 60 DAYS OF THE  
3 RECORDATION PURSUANT TO [SECTION 4(1)(C)].

4 (3)--if--a--copy--of--the--notice--together--with--an  
5 affidavit of compliance with subsection (1)--is--filed--in--the  
6 office--of--the--county--clerk--and--recorder--in--the--county--in  
7 which--the--mineral--interest--is--located--the--record--is--prima  
8 facte--evidence--in--any--legal--proceedings--begun--after--that  
9 notice--was--given.

10 Section 5. Statement--of--claim-----filing-----duty  
11 RECORDING DUTIES of clerk and recorder. Upon the filing  
12 RECEIPT of the statement of claim provided for in [section  
13 3], [SECTION 4(3)], or the affidavit of compliance with  
14 [section 5 4(1)] in the clerk and recorder's office--of--the  
15 county--in--which--the--interest--is--located, the clerk shall  
16 record the same in a book to be kept for that purpose, which  
17 shall be known as the "Dormant Mineral Interest Record", and  
18 shall indicate--by--marginal--notation--on--the--instrument  
19 creating--the--original--mineral--interest--the--filing--of--the  
20 statement--of--claim--or--affidavit--of--publication--and--service  
21 of--notice.

22 Section 6. Rerecording not to revive lost interests.  
23 Rerecording under [section 3] serves only to preserve a  
24 severed mineral interest from extinguishment under the  
25 provisions of [section 2]. A lease or other terminable

1 interest that has expired, lapsed, or otherwise been lost by  
2 its own terms or by operation of law is not revived by  
3 rerecording under [section 3].

4 Section 7. Waiver of [act] -- time limit. The  
5 provisions of this [act] may not be waived at any time prior  
6 to the expiration of the 20-year period provided in [section  
7 2].

8 THERE IS A NEW MCA SECTION THAT READS:

9 Section 8. County not required to conduct title  
10 search. Nothing in this part shall be construed to require  
11 any county official or employee to conduct a title search to  
12 locate any severed mineral interest.

-End-

HOUSE BILL NO. 8  
INTRODUCED BY RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY PERSONS OTHER THAN THE SURFACE OWNER AND REVERSION OF OWNERSHIP TO THE SURFACE OWNER; ~~PROVIDING FOR NOTICE AND A 60-DAY REDEMPTION PERIOD~~; AND ALLOWING THE PRESERVATION OF SEVERED MINERAL INTERESTS BY USE OR RERECORDATION."

WHEREAS, there exist in Montana many fractional interests in severed minerals such as coal, oil and gas, and other minerals; and

WHEREAS, difficulty in locating the owners of fractional mineral rights may prevent or delay development of scarce natural resources and the proper payment of taxes; and

WHEREAS, the United States Supreme Court, in the case of Texaco, Inc. v. Short, \_\_ US \_\_ (decided January 12, 1982), recently upheld the constitutionality of the Indiana Dormant Minerals Interests Act, which provides for a lapse of severed mineral rights unless those rights are used or registered by the owners.

THEREFORE, it is in the intent of the Legislature to enact a dormant minerals interests act nearly identical

~~SUBSTANTIALLY SIMILAR~~ to the provisions of the Indiana act, in order that the owners of fractionalized mineral interests may be determined and chances for development of those minerals increased.

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

Section 1. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

~~(1) "Severed mineral interest" means the interest that is created by a transfer by grant, assignment, reservation, inheritance, operation of law, or otherwise of an interest of any kind in coal, oil, and gas, or other minerals to any person other than the surface owner of the land in which that interest lies.~~

(1) "SEVERED MINERAL INTEREST" MEANS AN INTEREST IN MINERALS OWNED BY A PERSON OTHER THAN THE OWNER OF THE SURFACE OF THE LAND IN WHICH THE MINERAL LIES, EXCEPTING ROYALTY INTERESTS, LEASES, AND OTHER CONTRACTUAL RIGHTS FOR DEVELOPMENT.

(2) "MINERALS" MEANS ALL FORMS AND VARIETIES OF MATERIALS AND SUBSTANCES FORMED OR DEPOSITED IN THE CRUST OF THE EARTH BY NATURAL AGENCIES ALONE, WHICH HAVE VALUE WHEN SEPARATED FROM THE CRUST OF THE EARTH AND EXCLUDING ONLY WATER AND COMMON FORMS OF SAND AND GRAVEL.

1 (3) "ROYALTY INTERESTS" MEANS EXPENSE-FREE INTERESTS  
 2 IN PRODUCTION OF MINERALS WHICH ARE NOT ENTITLED TO ANY  
 3 SHARE OF BONUSES OR RENTALS UNDER LEASES OR OTHER TYPES OF  
 4 DEVELOPMENT AGREEMENTS.

5 (2)(4) "Person" means an individual or private  
 6 corporation, association, partnership, joint venture, TRUST,  
 7 or other legal entity, but does not include the United  
 8 States of America or the state of Montana or any political  
 9 subdivision thereof.

10 (3)(5) "Unused severed mineral interest" means a  
 11 severed mineral interest:

12 (a) --from--which--no--minerals--are--being--produced--or--upon  
 13 which--no--operations--are--being--conducted--for--injection,  
 14 withdrawal, storage, or disposal of water, gas, or other  
 15 fluid substances;

16 (b) --for--which--no--rentals--or--royalties--are--being--paid  
 17 by the owner thereof for the purpose of delaying or enjoying  
 18 the use or exercise of such rights;

19 (c) --upon--which--none--of--the--operations--under--subsection  
 20 (a) --or--any--of--the--payments--under--subsection--(b) --are--being  
 21 carried out or made upon any tract with which the severed  
 22 mineral interest may be unitized or pooled for production  
 23 purposes;

24 (d) --from--which, in the case of coal or other solid  
 25 minerals, there is no production from a common vein or seam

1 by the owner of the severed mineral interest  
 2 (e) --on--which--no--taxes--are--being--paid--by--the--owner--and  
 3 (f) --for--which--no--statement--of--claim--has--been--filed  
 4 pursuant to [section 3] WHICH IS NOT USED. A MINERAL  
 5 INTEREST SHALL BE DEEMED TO BE USED WHEN ANY OF THE  
 6 FOLLOWING EXIST:

7 (A) MINERALS ARE PRODUCED THEREFROM OR FROM LANDS  
 8 POOLED OR UNITIZED THEREWITH OR OPERATIONS ARE CONDUCTED  
 9 THEREON, OR ON LANDS POOLED OR UNITIZED THEREWITH, IN  
 10 FURTHERANCE OF DEVELOPMENT OF ANY MINERAL INTEREST INCLUDING  
 11 INJECTION, WITHDRAWAL, STORAGE, OR DISPOSAL OF WATER, GAS,  
 12 OR OTHER FLUID SUBSTANCES;

13 (B) THE MINERAL INTEREST IS SUBJECT TO A LEASE OR  
 14 OTHER CONTRACT HAVING AS ITS OBJECT THE DEVELOPMENT OF SUCH  
 15 INTEREST AND WHICH LEASE OR OTHER CONTRACT (OR A MEMORANDUM  
 16 THEREOF) IS RECORDED IN THE OFFICE OF THE CLERK AND RECORDER  
 17 OF EACH COUNTY WHEREIN THE INTEREST IS LOCATED;

18 (C) IN THE CASE OF COAL OR OTHER SOLID MATERIALS, WHEN  
 19 THERE IS PRODUCTION FROM A COMMON VEIN OR SEAM BY THE OWNER  
 20 OF THE SEVERED MINERAL INTEREST OR BY THE OWNER'S LESSEE OR  
 21 PERMITEE;

22 (D) TAXES ARE BEING PAID BY THE OWNER; OR

23 (E) A STATEMENT OF CLAIM IS FILED PURSUANT TO [SECTION  
 24 3].

25 Section 2. Lapse of mineral interest -- prevention.

1 Unless a statement of claim is filed RECORDED in accordance  
 2 with [section 3], or [section 4] is fulfilled, a severed  
 3 mineral interest in ~~coal, oil and gas or other~~ minerals  
 4 that is CONTINUOUSLY unused for a period of 20 continuous  
 5 years is extinguished SUBJECT TO THE RIGHT OF REDEMPTION  
 6 PROVIDED FOR IN [SECTION 4], and ownership of the interest  
 7 reverts to the surface owner of the land out of which the  
 8 severed mineral interest was carved.

9 Section 3. Statement of claim -- filing RECORDING --  
 10 requirements. (1) The statement of claim provided for in  
 11 [section 2] must be filed EXECUTED, ACKNOWLEDGED, AND  
 12 RECORDED by the owner of the severed mineral interest prior  
 13 to the end of the 20-year period set forth in [section 2] or  
 14 within 2 years after [the effective date of this act],  
 15 whichever is later, and must contain:

16 (a) the name and address of the owner of the interest;

17 (b) ~~the nature of the interest;~~

18 (c) (1) a description BY LEGAL SUBDIVISION, TOWNSHIP,  
 19 AND RANGE of the land on or under which such mineral  
 20 interest is located; and

21 (d) (1) a statement that the claimant intends to  
 22 preserve and not abandon the WHATEVER severed mineral  
 23 interest IS OWNED BY THE CLAIMANT.

24 (2) The statement of claim must be filed RECORDED in  
 25 the office of the county clerk and recorder in the EACH

1 county in which the severed mineral interest is located.  
 2 Upon the filing RECORDING of the statement of claim within  
 3 the time provided, the mineral interest is considered to be  
 4 used on the date the statement of claim is filed RECORDED.

5 ~~Section 4. Exception -- to -- lapse -- of -- severed -- mineral~~  
 6 ~~interests -- Failure to file a statement of claim within the~~  
 7 ~~time provided in [section 3] does not cause a severed~~  
 8 ~~mineral interest to be extinguished if the owner of that~~  
 9 ~~interests~~

10 (1) ~~was at the time of the expiration of the period~~  
 11 ~~provided in [section 3] the owner of 10 or more severed~~  
 12 ~~mineral interests in the same county in which the mineral~~  
 13 ~~interest in question is located;~~

14 (2) ~~made a diligent effort to preserve all of such~~  
 15 ~~interests as were not being used and within a period of 10~~  
 16 ~~years prior to the expiration of the period provided in~~  
 17 ~~[section 3] preserved other mineral interests in the same~~  
 18 ~~county by the filing of statements of claim as herein~~  
 19 ~~required;~~

20 (3) ~~failed to preserve the interest in question~~  
 21 ~~through inadvertence and~~

22 (4) ~~filed the statement of claim required by [section~~  
 23 ~~2] within 60 days after publication of notice as provided in~~  
 24 ~~[section 5] if such notice is published and if no such~~  
 25 ~~notice is published within 60 days after receiving actual~~

1 knowledge--that-the-mineral-interest-in-question-had-lapsed

2 Section 4. Successor in interest -- notice  
3 requirements -- prime--facte--evidence REDEMPTION. (1) Any  
4 person who succeeds to the ownership of any severed mineral  
5 interest may PURSUANT TO THIS PART SHALL, upon the lapse of  
6 SUCCEEDING TO that interest, give notice of the--lapse--of  
7 that-interest SAME:

8 (a) by publishing the same in a newspaper of general  
9 circulation in the county in which the mineral interest is  
10 located; and

11 (b) if the address of the mineral interest owner is  
12 shown of record or can be determined by reasonable inquiry,  
13 by mailing a copy of such notice to the owner of the mineral  
14 interest within 10 days after publication; AND

15 (C) BY RECORDING IN THE OFFICE OF THE COUNTY CLERK AND  
16 RECORDER IN EACH COUNTY IN WHICH THE MINERAL INTEREST IS  
17 LOCATED, A COPY OF THE NEWSPAPER NOTICE, TOGETHER WITH AN  
18 AFFIDAVIT OF COMPLIANCE WITH [SUBSECTION (1)(B)].

19 (2) The notice must state:

20 (a) the name of the owner of the mineral interest as  
21 shown of record;

22 (b) a description of the land;

23 (c) the nature of the interest; and

24 (d) the name of the person giving notice; AND

25 (E) THE OWNER OF A Lapsed SEVERED MINERAL INTEREST MAY

1 REDEEM THAT INTEREST BY RECORDING A STATEMENT OF CLAIM AS  
2 PROVIDED FOR IN [SECTION 3] WITHIN 60 DAYS OF THE  
3 RECORDATION PURSUANT TO [SECTION 4(1)(C)].

4 (3)--if-a-copy-of-the-notice--together-with--an  
5 affidavit-of-compliance-with-subsection-(1)--is-filed-in-the  
6 office-of-the-county-clerk-and-recorder-in-the-county-in  
7 which-the-mineral-interest-is-located, the record-is-prime  
8 facte--evidence--in--any--legal-proceedings-begun-after-that  
9 notice-was-given

10 Section 5. Statement--of--claim-----filing-----duty  
11 RECORDING DUTIES of clerk and recorder. Upon the filing  
12 RECEIPT of the statement of claim provided for in [section  
13 3], [SECTION 4(3)], or the affidavit of compliance with  
14 [section 5 4(1)] in-the-clerk-and-recorder's-office-of--the  
15 county--in--which--the--interest-is-located, the clerk shall  
16 record the same in a book to be kept for that purpose, which  
17 shall be known as the "Dormant Mineral Interest Record", and  
18 shall indicate--by--marginal--notation,--on--the--instrument  
19 creating--the--original--mineral-interest, the-filing-of-the  
20 statement-of-claim-or-affidavit-of-publication--and--service  
21 of-notice.

22 Section 6. Rerecording not to revive lost interests.  
23 Rerecording under [section 3] serves only to preserve a  
24 severed mineral interest from extinguishment under the  
25 provisions of [section 2]. A lease or other terminable

1 interest that has expired, lapsed, or otherwise been lost by  
2 its own terms or by operation of law is not revived by  
3 rerecording under [section 3].

4 Section 7. Waiver of [act] -- time limit. The  
5 provisions of this [act] may not be waived at any time prior  
6 to the expiration of the 20-year period provided in [section  
7 2].

8 THERE IS A NEW MCA SECTION THAT READS:

9 Section 8. County not required to conduct title  
10 search. Nothing in this part shall be construed to require  
11 any county official or employee to conduct a title search to  
12 locate any severed mineral interest.

-End-

March 15, 1983

SENATE STANDING COMMITTEE REPORT  
(Natural Resources)

That House Bill No. 8 be amended as follows:

1. Title, line 8.

Strike: "60-DAY"

Insert: "ONE YEAR"

2. Title, line 8.

Following: "PERIOD;"

Insert: "PROVIDING FOR CIVIL ACTIONS TO SET ASIDE THE REVERSION  
OF OWNERSHIP"

3. Page 4, line 5.

Strike: "DEEMED"

Insert: "considered"

4. Page 5, line 6.

Following: "[SECTION 4]"

Insert: "and the right to bring a civil action provided for in  
[section 5]"

5. Page 5, line 11.

Strike: "EXECUTED, ACKNOWLEDGED, AND"

6. Page 7, lines 3 and 4.

Strike: "Any person"

Insert: "A surface owner"

7. Page 7, line 23.

Following: " ; "

Insert: "and"

8. Page 7, line 24.

Strike: "AND"

Insert: " . "

9. Page 7, line 25.

Strike: "(E)"

Insert: " (3) "

10. Page 8, line 2.

Strike: "60 DAYS"

Insert: "one year"



11. Page 8.

Following: line 9

Insert: "NEW SECTION. Section 5. There is a new MCA section that reads:

"Section 5. Action challenging defective notice of reversion.

(1) Within one year of receipt of notice in fact of the reversion pursuant to this part of any mineral interest owned by him, a mineral owner qualifying under this subsection may petition the district court of the county in which any of that interest is located to set aside the reversion of the interest. The petition may be filed by the owner of a mineral interest who

(a) is not a resident of this state;

(b) has received no other prior notice in fact of the reversion; and

(c) has not received a copy of a notice pursuant to [section 4 (1) (b)] of the reversion of that interest.

(2) Upon the filing of a petition alleging the matters set forth in subsection (1) and alleging that the address of the petitioner was shown as of record or could have been reasonably ascertained under [section 4 (1) (b)], the burden is on the surface owner to whom the interest has reverted to disprove those allegations. The ability of the surface owner to determine the address of the mineral interest owner by reasonable inquiry may be disproved only by proof that the surface owner employed a competent petroleum landman who after a diligent search was unable to locate the mineral interest owner. If the surface owner fails to disprove the allegations of the mineral owner, the court shall set aside the reversion of the interest.

(3) A court setting aside the reversion of an interest pursuant to this section shall

(a) determine the amount or value of any payment made or owned to such surface owner as a result of the reversion and order the same paid to the petitioner if the surface owner to whom an interest has reverted under this part has:

(i) sold his interest to another; or

(ii) received payment or a right to payment in money or product upon the production and marketing of any minerals from the property in which the interest lies.

(b) award the petitioning mineral interest owner the costs of bringing the petition, including his reasonable attorney fees, and interest thereon.

(4) The remedy provided in this section may be exercised only once by an owner of a mineral interest."

Renumber: subsequent sections

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Page 3

12. Page 9, line 4.

Strike: "[act]"

Insert: "provisions"

Strike: "limit."

Insert: "limits. (1)"

13. Page 9, line 5.

Strike: "this [act]"

Insert: "[sections 1 through 4 and 6 through 8]"

14. Page 9.

Following: line 7

Insert: "(2) The provisions of [section 5] may not be waived."