

SENATE BILL NO. 258

INTRODUCED BY TVEIT, E. SMITH, GILBERT, HOLLIDAY,  
POFF, SCHYE, ABRAMS

IN THE SENATE

January 26, 1985	Introduced and referred to Committee on Natural Resources.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.
February 25, 1985	Bill printed and placed on members' desks.  Second reading, do pass.
February 26, 1985	Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 49; Noes, 1.  Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Natural Resources.
March 26, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in.  Returned to Senate with amendments.

IN THE SENATE

April 1, 1985	Received from House.
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April 3, 1985

Second reading, amendments  
concurrent in.

April 5, 1985

Third reading, amendments  
concurrent in.

Ayes, 44; Noes, 1.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *258*  
 2 INTRODUCED BY *Trent E. Smith* *By Order* *Theresa*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW *relating*  
 5 RELATING TO COMPENSATION PAYABLE FOR SURFACE DAMAGE BY OIL  
 6 AND GAS DEVELOPMENT; PROVIDING A PENALTY FOR FAILURE TO GIVE  
 7 NOTICE OF PLANNED DRILLING OPERATIONS; PROVIDING TRIPLE  
 8 DAMAGES FOR FAILURE TO MAKE STIPULATED DAMAGE PAYMENTS;  
 9 AMENDING SECTIONS 82-10-502 AND 82-10-504, MCA."

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

12 Section 1. Section 82-10-502, MCA, is amended to read:  
13 "82-10-502. Definitions. As used in this part, the  
14 following definitions apply:

15 (1) "Agricultural production" means the production of  
16 any growing grass, crops, or trees attached to the surface  
17 of the land or farm animals with commercial value.

18 (2) "Oil and gas operations" means the seismic or  
19 other exploration for or drilling of an oil and gas well  
20 that requires entry upon the surface estate and is begun  
21 subsequent to June 1, 1981, and the production operations  
22 directly related to the seismic or other exploration or  
23 drilling.

24 (3) "Oil and gas developer or operator" means the  
25 person who acquires the oil and gas lease for the purpose of

1 extracting oil and gas.

2 (4) "Oil and gas estate" means an estate in or  
3 ownership of all or part of the oil and gas underlying a  
4 specified tract of land.

5 (5) "Surface owner" means the person who holds record  
6 title to or has a purchaser's interest in the surface of the  
7 land."

8 Section 2. Section 82-10-504, MCA, is amended to read:

9 "82-10-504. Surface damage and disruption payments.

10 (1) The oil and gas developer or operator shall pay the  
11 surface owner a sum of money or other compensation equal to  
12 the amount of damages sustained by the surface owner for  
13 loss of agricultural production and income, lost land value,  
14 and lost value of improvements caused by drilling  
15 operations.

16 (2) The amount of damages may be determined by any  
17 formula mutually agreeable between the surface owner and the  
18 oil and gas developer or operator. When determining damages,  
19 consideration shall be given to the period of time during  
20 which the loss occurs.

21 (3) The surface owner may elect to ~~be paid damages in~~  
22 receive annual installments damage payments over a period of  
23 time, except that the surface owner shall be compensated by  
24 a single sum payment for harm caused by exploration only.

25 (4) The payments contemplated by this section may only



1 cover land directly affected by drilling operations and  
2 production. Payments under this section are intended to  
3 compensate the surface owner for damage and disruption; no  
4 person may reserve or assign that compensation apart from  
5 the surface estate except to a tenant of the surface  
6 estate."

7 NEW SECTION. Section 3. Penalty -- triple damages.

8 (1) An oil and gas developer or operator who fails to  
9 provide notice as required by 82-10-503 is guilty of a  
10 misdemeanor and is punishable by a fine of not more than  
11 \$500.

12 (2) An oil and gas developer or operator who fails to  
13 make any annual damage payment as required by any damage  
14 agreement negotiated with a surface owner is liable for  
15 payment to the surface owner of three times the amount of  
16 such payment.

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

SENATE BILL NO. 258

INTRODUCED BY TVEIT, E. SMITH, GILBERT,

HOLLIDAY, POFF, SCHYE, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO COMPENSATION PAYABLE FOR SURFACE DAMAGE BY OIL AND GAS DEVELOPMENT; ~~PROVIDING A PENALTY FOR FAILURE TO GIVE NOTICE OF PLANNED DRILLING OPERATIONS;~~ PROVIDING TRIPLE DOUBLE DAMAGES FOR FAILURE TO MAKE STIPULATED DAMAGE PAYMENTS; REQUIRING AN OIL AND GAS DEVELOPER OR OPERATOR TO NOTIFY THE SURFACE OWNER OF HIS SPECIFIC INTENTIONS BEFORE COMMENCING DRILLING OPERATIONS; AMENDING SECTIONS ~~82-10-502~~ AND 82-10-504 AND ~~82-11-122~~, MCA."

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

~~Section 1. Section 82-10-502, MCA, is amended to read:~~

~~"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 operations" means the seismic or other exploration for or drilling of an oil and gas well that requires entry upon the surface estate and is begun subsequent to June 17, 1981, and the production operations~~

~~directly related to the seismic or other exploration or drilling.~~

~~{3} "Oil and gas developer or operator" means the person who acquires the oil and gas lease for the purpose of extracting oil and gas.~~

~~{4} "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.~~

~~{5} "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of the land."~~

Section 1. Section 82-10-504, MCA, is amended to read:

"82-10-504. Surface damage and disruption payments.

(1) 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.

(2) 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.

(3) The surface owner may elect to be paid damages in



1 receive annual installments damage payments over a period of  
 2 time, except that the surface owner shall be compensated by  
 3 a single sum payment for harm caused by exploration only.

4 (4) The payments contemplated by this section may only  
 5 cover land directly affected by drilling operations and  
 6 production. Payments under this section are intended to  
 7 compensate the surface owner for damage and disruption; no  
 8 person may reserve or assign that compensation apart from  
 9 the surface estate except to a tenant of the surface  
 10 estate."

11 NEW SECTION. Section 2. Penalty -- triple DOUBLE  
 12 damages. (1)-An-oil-and-gas-developer-or-operator-who--fails  
 13 to--provide--notice--as-required-by-82-10-503-is-guilty-of-a  
 14 misdemeanor-and-is-punishable-by-a-fine--of--not--more--than  
 15 \$500-

16 (2) An oil and gas developer or operator who fails to  
 17 make TIMELY PAY AN INSTALLMENT UNDER any annual damage  
 18 payment--as-required-by-any-damage agreement negotiated with  
 19 a surface owner is liable for payment to the surface owner  
 20 of three--times TWICE the amount of such-payment THE UNPAID  
 21 INSTALLMENT IF THE INSTALLMENT PAYMENT IS NOT PAID WITHIN 60  
 22 DAYS OF RECEIPT OF NOTICE OF FAILURE TO PAY FROM THE SURFACE  
 23 OWNER.

24 SECTION 3. SECTION 82-11-122, MCA, IS AMENDED TO READ:

25 "82-11-122. Notice of intention to drill or conduct

1 seismic operations -- notice to surface owner. It is  
 2 unlawful to commence the drilling of a well for oil or gas  
 3 without first filing with the board written notice of  
 4 intention to drill and obtaining a drilling permit as  
 5 provided in 82-11-134. After the permit is issued, an oil  
 6 and gas developer or operator as defined under 82-10-502  
 7 shall notify the surface owner of his specific intentions  
 8 before commencing drilling operations. It is unlawful to  
 9 conduct seismic explorations with explosives without first  
 10 giving the board a copy of the notice of intention to  
 11 explore filed with the county under 82-1-103."

12 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.  
 13 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF  
 14 TITLE 82, CHAPTER 10, PART 5, AND THE PROVISIONS OF TITLE  
 15 82, CHAPTER 10, PART 5, APPLY TO SECTION 2.

16 NEW SECTION. SECTION 5. EXTENSION OF AUTHORITY. ANY  
 17 EXISTING AUTHORITY OF THE BOARD OF OIL AND GAS CONSERVATION  
 18 TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT  
 19 IS EXTENDED TO THE PROVISIONS OF THIS ACT.

-End-

SENATE BILL NO. 258

INTRODUCED BY TVEIT, E. SMITH, GILBERT,

HOLLIDAY, POPP, SCHYE, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO COMPENSATION PAYABLE FOR SURFACE DAMAGE BY OIL AND GAS DEVELOPMENT; PROVIDING A PENALTY FOR FAILURE TO GIVE NOTICE OF PLANNED DRILLING OPERATIONS; PROVIDING TRIPLE DOUBLE DAMAGES FOR FAILURE TO MAKE STIPULATED DAMAGE PAYMENTS; REQUIRING AN OIL AND GAS DEVELOPER OR OPERATOR TO NOTIFY THE SURFACE OWNER OF HIS SPECIFIC INTENTIONS BEFORE COMMENCING DRILLING OPERATIONS; AMENDING SECTIONS 82-10-502 AND 82-10-504 AND 82-11-122, MCA."

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

Section 1. Section 82-10-502, MCA, is amended to read:

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 operations" means the seismic or other 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 seismic or other exploration or drilling.

(3) "Oil and gas developer or operator" means the person who acquires the oil and gas lease for the purpose of extracting oil and gas.

(4) "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.

(5) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of the land.

Section 1. Section 82-10-504, MCA, is amended to read:

82-10-504. Surface damage and disruption payments.

(1) 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.

(2) 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.

(3) The surface owner may elect to be paid damages in



1 receive annual installments damage payments over a period of  
 2 time, except that the surface owner shall be compensated by  
 3 a single sum payment for harm caused by exploration only.

4 (4) The payments contemplated by this section may only  
 5 cover land directly affected by drilling operations and  
 6 production. Payments under this section are intended to  
 7 compensate the surface owner for damage and disruption; no  
 8 person may reserve or assign that compensation apart from  
 9 the surface estate except to a tenant of the surface  
 10 estate."

11 NEW SECTION. Section 2. Penalty -- triple DOUBLE  
 12 damages. {1} An oil and gas developer or operator who fails  
 13 to provide notice as required by 82-10-503 is guilty of a  
 14 misdemeanor and is punishable by a fine of not more than  
 15 \$500.

16 {2} An oil and gas developer or operator who fails to  
 17 make TIMELY PAY AN INSTALLMENT UNDER any annual damage  
 18 payment as required by any damage agreement negotiated with  
 19 a surface owner is liable for payment to the surface owner  
 20 of three times TWICE the amount of such payment THE UNPAID  
 21 INSTALLMENT IF THE INSTALLMENT PAYMENT IS NOT PAID WITHIN 60  
 22 DAYS OF RECEIPT OF NOTICE OF FAILURE TO PAY FROM THE SURFACE  
 23 OWNER.

24 SECTION 3. SECTION 82-11-122, MCA, IS AMENDED TO READ:

25 "82-11-122. Notice of intention to drill or conduct

1 seismic operations -- notice to surface owner. It is  
 2 unlawful to commence the drilling of a well for oil or gas  
 3 without first filing with the board written notice of  
 4 intention to drill and obtaining a drilling permit as  
 5 provided in 82-11-134. After the permit is issued, an oil  
 6 and gas developer or operator as defined under 82-10-502  
 7 shall notify the surface owner of his specific intentions  
 8 before commencing drilling operations. It is unlawful to  
 9 conduct seismic explorations with explosives without first  
 10 giving the board a copy of the notice of intention to  
 11 explore filed with the county under 82-1-103."

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 13 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF  
 14 TITLE 82, CHAPTER 10, PART 5, AND THE PROVISIONS OF TITLE  
 15 82, CHAPTER 10, PART 5, APPLY TO SECTION 2.

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 17 EXISTING AUTHORITY OF THE BOARD OF OIL AND GAS CONSERVATION  
 18 TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT  
 19 IS EXTENDED TO THE PROVISIONS OF THIS ACT.

-End-



HOUSE

STANDING COMMITTEE REPORT

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March 25

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PAGE 2 OF 2

MARCH 25

19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL Bill No. 258

THIRD reading copy (BLUE color)

AN ACT REVISING THE LAW RELATING TO COMPENSATION PAYABLE FOR SURFACE DAMAGE BY OIL AND GAS DEVELOPMENT

Respectfully report as follows: That SENATE BILL 258 Bill No.

BE AMENDED AS FOLLOWS:

- 1) Title, line 13. Following: "AND" Insert: "82-10-503," Following: "82-10-504" Insert: ", "

CONTINUED ON FOLLOWING PAGE

- 2) Page 2. Following: line 11 Insert: "Section 1. Section 82-10-503, MCA, is amended to read:

"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."

Renumber: subsequent sections

- 3) Page 4, line 7. Strike: "notify the surface owner of his specific intentions" Insert: "comply with the notice requirements of 82-10-503"
4) Page 4, line 13. Strike: "2" Insert: "3"
5) Page 4, line 15. Strike: "2" Insert: "3"

BE PASSED

Rep. DENNIS IVERSON Chairman

AND AS AMENDED, BE CONCURRED IN

Rep. DENNIS IVERSON Chairman

## 1 SENATE BILL NO. 258

2 INTRODUCED BY TVEIT, E. SMITH, GILBERT,

3 HOLLIDAY, POFF, SCHYE, ABRAMS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW  
6 RELATING TO COMPENSATION PAYABLE FOR SURFACE DAMAGE BY OIL  
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8 NOTICE OF PLANNED DRILLING OPERATIONS; PROVIDING TRIPLE  
9 DOUBLE DAMAGES FOR FAILURE TO MAKE STIPULATED DAMAGE  
10 PAYMENTS; REQUIRING AN OIL AND GAS DEVELOPER OR OPERATOR TO  
11 NOTIFY THE SURFACE OWNER OF HIS SPECIFIC INTENTIONS BEFORE  
12 COMMENCING DRILLING OPERATIONS; AMENDING SECTIONS 82-10-502  
13 AND 82-10-503, 82-10-504, AND 82-11-122, MCA."

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24 that requires entry upon the surface estate and is begun  
25 subsequent to June 17, 1981, and the production operations1 directly related to the seismic or other exploration or  
2 drilling.3 (3) "Oil and gas developer or operator" means the  
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REFERENCE BILL

SB 258

1 more than 90 days and no fewer than 10 days before  
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 12 formula mutually agreeable between the surface owner and the  
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 18 time, except that the surface owner shall be compensated by  
 19 a single sum payment for harm caused by exploration only.

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 23 compensate the surface owner for damage and disruption; no  
 24 person may reserve or assign that compensation apart from  
 25 the surface estate except to a tenant of the surface

1 estate."

2 NEW SECTION. Section 3. Penalty -- triple DOUBLE  
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 13 DAYS OF RECEIPT OF NOTICE OF FAILURE TO PAY FROM THE SURFACE  
 14 OWNER.

15 SECTION 4. SECTION 82-11-122, MCA, IS AMENDED TO READ:

16 "82-11-122. Notice of intention to drill or conduct  
 17 seismic operations -- notice to surface owner. It is  
 18 unlawful to commence the drilling of a well for oil or gas  
 19 without first filing with the board written notice of  
 20 intention to drill and obtaining a drilling permit as  
 21 provided in 82-11-134. After the permit is issued, an oil  
 22 and gas developer or operator as defined under 82-10-502  
 23 shall notify-the-surface-owner-of-his-specific-intentions  
 24 COMPLY WITH THE NOTICE REQUIREMENTS OF 82-10-503 before  
 25 commencing drilling operations. It is unlawful to conduct

1 seismic explorations with explosives without first giving  
2 the board a copy of the notice of intention to explore filed  
3 with the county under 82-1-103."

4 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION.  
5 SECTION 2 3 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART  
6 OF TITLE 82, CHAPTER 10, PART 5, AND THE PROVISIONS OF TITLE  
7 82, CHAPTER 10, PART 5, APPLY TO SECTION 2 3.

8 NEW SECTION. SECTION 6. EXTENSION OF AUTHORITY. ANY  
9 EXISTING AUTHORITY OF THE BOARD OF OIL AND GAS CONSERVATION  
10 TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT  
11 IS EXTENDED TO THE PROVISIONS OF THIS ACT.

-End-