

WORKING DRAFT

HOUSE BILL NO. _____

Surface owner damages.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to mines and minerals; providing
2 compensation and remedies to surface owners for loss due to
3 oil and gas development as specified; requiring a bond as
4 specified; providing definitions; specifying applicability
5 of the act; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 30-5-401 through 30-5-407 are created

10 to read:

11

ARTICLE 4

12

COORDINATION WITH SURFACE OWNERS

13

14

15 **30-5-401. Short title; application.**

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2 This act shall be known and may be cited as the "Surface
3 Owners Coordination Act". This act shall apply to all oil
4 and gas interests except those owned by the United States
5 or by federally recognized Indian tribes.

6

7 **30-5-402. Definitions.**

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9 (a) As used in this act:

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11 (i) "Oil and gas" means as defined in W.S. 30-5-
12 101(a)(vii);

13

14 (ii) "Oil and gas operator" means a person
15 engaged in the business of drilling and producing wells for
16 oil and gas;

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18 (iii) "Oil and gas operations" means the surface
19 disturbing activities directly associated with drilling,
20 producing and transporting oil and gas to the extent those
21 operations are conducted on the surface overlying a tract
22 of land subject to an oil and gas lease or containing
23 unleased fee oil and gas interests and associated pooled or
24 unitized lands;

1

2 (iv) "Reclamation" means the restoring of the
3 surface directly affected by oil and gas drilling
4 activities, as closely as reasonably practicable, to the
5 condition in which it existed prior to oil and gas drilling
6 activities, unless agreed to in writing by the oil and gas
7 operator and the surface owner or the surface owner's
8 designee;

9

10 (v) "Surface" means the actual area of land on
11 which oil and gas operations occur;

12

13 (vi) "Surface owner" means any person who holds
14 record title to the surface on which oil and gas operations
15 occur, as identified in the county records where the
16 surface is located;

17

18 (vii) "Tangible improvement" means any
19 structure, enclosure or any other man-made addition to the
20 surface;

21

22 (viii) "This act" means W.S. 30-5-401 through
23 30-5-407.

24

1 **30-5-403. Notice of drilling operations.**

2

3 (a) Before entering upon a site for oil and gas
4 drilling operations, the oil and gas operator shall give to
5 the surface owner a written notice of the drilling
6 activities. This notice shall be given to the record
7 surface owner at the address shown by the records of the
8 county where the surface is located at the time notice is
9 given.

10

11 (b) The notice shall be given at least fifteen (15)
12 days before commencement of the initial drilling
13 activities, unless waived by the surface owner.

14

15 **30-5-404. Surface damage negotiations; damage**
16 **payments.**

17

18 (a) The oil and gas operator and surface owner shall
19 enter into good faith negotiations to reach an agreement
20 regarding compensation to the surface owner for damages, if
21 any, that may be caused by the oil and gas operations and
22 for reclamation of drilling activity;

23

1 (b) Specific matters to be negotiated, terms and
2 conditions of payment, methods of enforcement and any other
3 terms material to the parties shall be left to the parties
4 to identify and negotiate to their mutual satisfaction.

5
6 **30-5-405. Evidence of notice; surety bond.**

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8 (a) Prior to approving an application for permit to
9 drill, the oil and gas operator shall certify to the
10 Wyoming oil and gas conservation commission that a notice
11 has been provided in accordance with W.S. 30-5-403 and
12 certification of one (1) of the following:

13
14 (i) An agreement between the surface owner and
15 the oil and gas operator pursuant to W.S. 30-5-404 has been
16 reached;

17
18 (ii) A waiver from the surface owner for access
19 to the surface while negotiations continue has been
20 received by the oil and gas operator;

21
22 (iii) A surety bond or other acceptable
23 financial assurance has been provided by the oil and gas
24 operator pursuant to subsection (b) of this section; or

1

2 (iv) A waiver from the surface owner has been
3 obtained by the oil and gas operator as provided by W.S.
4 30-5-407.

5

6 (b) If an agreement authorized under W.S. 30-5-404
7 has not been reached and the surface owner has not provided
8 a waiver, the oil and gas operator may provide a surety
9 bond or other acceptable financial assurance as provided in
10 rules of the Wyoming oil and gas conservation commission in
11 an amount equal to the last appraised value of the affected
12 surface for tax purposes, divided by the total appraised
13 acres, as identified in the records of the county assessor
14 in the county in which the surface is situated, and
15 multiplied by the number of acres of estimated disturbance
16 that may be caused by oil and gas operations. An adjustment
17 to the surety bond or other acceptable financial assurance
18 shall be made for the tangible improvements that are not
19 expected to be impacted if originally included in the
20 appraised value. The bond or other acceptable financial
21 assurance shall be posted separate from any other form of
22 financial surety required by law.

23

24 (c) The surety bond or other acceptable financial

1 assurance shall be released at the oil and gas operator's
2 request after:

3

4 (i) the oil and gas operator and surface owner
5 certify that an agreement has been signed pursuant to W.S.
6 30-5-404;

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8 (ii) The oil and gas operator certifies that oil
9 and gas drilling operations are concluded and the Wyoming
10 oil and gas conservation commission has confirmed
11 reclamation has occurred; or

12

13 (iii) The oil and gas operator provides a signed
14 statement from the surface owner that reclamation has been
15 satisfactorily completed.

16

17 (d) Upon compliance with the requirements of W.S. 30-
18 5-403 and one (1) or more of the provisions enumerated in
19 paragraphs (a)(i) through (iv) of this section, the oil and
20 gas operator shall be permitted entry upon the surface and
21 entitled to commence oil and gas operations in accordance
22 with the oil and gas operator's right to develop the
23 minerals.

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1 **30-5-406. Remedies cumulative.**

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3 The remedies provided by this act do not preclude any
4 person from seeking other remedies allowed by law, nor does
5 it diminish rights previously granted by law or contract.

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7 **30-5-407. Waiver.**

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9 A surface owner may waive any rights afforded under this
10 act by providing written notice to the oil and gas operator
11 of the waiver.

12

13 **Section 2.** The provisions of this act apply to oil
14 and gas operations commenced after the effective date of
15 this act for lands on which there is no prior surface
16 agreement or consent.

17

18 **Section 3.** This act is effective July 1, 2004.

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(END)