

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 remedy to surface owners for loss due to
3 oil and gas development as specified; providing
4 definitions; requiring a bond as specified; and providing
5 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 30-5-408 are created

10 to read:

11

ARTICLE 4

12

ACCOMMODATION OF SURFACE OWNERS

13

14

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

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2 This act shall be known and may be cited as the "Surface
3 Owners Accommodation Act."

4

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

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7 (a) As used in this act:

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

15

16 (ii) "Oil and gas" means as defined in W.S. 30-
17 5-101(a)(vii);

18

19 (iii) "Oil and gas developer" means the well
20 operator or working interest owner;

21

22 (iv) "Oil and gas development" means the full
23 range of activity, from exploration through production and
24 reclamation, associated with the location and extraction of

1 oil and gas which will cause physical damage to the
2 surface. The term includes processing and transportation of
3 oil and gas if those operations are conducted on the same
4 surface tract from which the underlying oil and gas is
5 extracted, or recovery of any oil and gas left in residue
6 from previous extraction or processing operations, or
7 roads, pipelines, power lines, compressor stations and any
8 other facilities and equipment;

9

10 (v) "Surface" means the exposed area of land and
11 water, improvements on the land, subjacent and lateral
12 support for land and structures, and any part of the
13 underground actually used by a surface owner as an adjunct
14 to surface use, such as root medium, groundwater and
15 construction footings;

16

17 (vi) "Surface owner" means any person who holds
18 record title to the surface of the land as an owner;

19

20 (vii) "Reclamation" means the restoring of the
21 surface of any land affected by oil and gas development, as
22 closely as practicable, to the condition in which it
23 existed prior to oil and gas development, or to a condition

1 that is satisfactory to both the surface owner and oil and
2 gas developer;

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4 (viii) "This act" means W.S. 30-5-401 through
5 30-5-408.

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7 **30-5-403. Notice of drilling operations.**

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9 (a) Before entering upon a site for oil and gas
10 development, the oil and gas developer shall give the
11 surface owner written notice of the drilling operations
12 that he plans to undertake. This notice shall be given to
13 the record surface owner at the address shown by the
14 records of the county clerk at the time notice is given.
15 This notice shall sufficiently disclose the plan of work
16 and operations to enable the surface owner to evaluate the
17 effect of drilling operations on the surface owner's use of
18 the property, including the proposed location of roads,
19 well pads, power lines, pipelines, compressor units, tanks,
20 pits, reservoirs and all other ancillary facilities, and
21 the approximate date that the oil and gas developer
22 proposes to commence drilling. A copy of this act shall be
23 included with the notice.

24

1 (b) The notice shall be given at least thirty (30)
2 days before commencement of any activity on the surface.

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4 **30-5-404. Surface damage and disruption payments;**
5 **penalty for late payments.**

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7 (a) The oil and gas developer shall pay the surface
8 owner a sum of money equal to the amount of damages
9 sustained by the surface owner or provide the surface owner
10 a surety bond pursuant to W.S. 30-5-405 for:

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12 (i) Loss of agricultural production and income;

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14 (ii) Lost land value;

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16 (iii) Lost use of and access to the surface;

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18 (iv) Lost value of improvements caused by oil
19 and gas development; and

20

21 (v) Restoration of surface, unless the oil and
22 gas developer agrees to perform reclamation;

23

1 (vi) Loss due to inability to implement planned
2 or reasonably foreseeable future uses.

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4 (b) The amount of damages, the method and time of
5 payment, shall be determined by mutual agreement between
6 the surface owner and the oil and gas developer. The
7 losses listed in subsection (a) of this section shall not
8 be used to render duplicative payment of damages sustained
9 by the surface owner.

10

11 (c) If an agreement cannot be reached, the parties
12 may engage in nonbinding mediation. Each party shall
13 appoint any person as their mediator. The two (2) mediators
14 shall then agree and appoint a third person as a mediator.
15 Mediation shall occur within ten (10) business days of
16 notice to either party that they have appointed their
17 mediator.

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19 (d) If no agreement is reached through good faith
20 negotiations, mediation or otherwise, the surface owner may
21 bring an action for damages specified in subsection (a) of
22 this section in the district court of the county in which
23 the damage was sustained. If the amount of compensation
24 awarded by the court is greater than that which had been

1 offered by the oil and gas developer, the court may award
2 the person seeking compensation attorneys fees, any costs
3 assessed by the court and interest on the amount of the
4 final compensation awarded by the court from the earlier of
5 the day surface damage occurs or drilling is commenced.

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7 **30-5-405. Surety bond.**

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9 If full payment of damages to the surface owner is not made
10 prior to the commencement of oil and gas development, the
11 oil and gas developer shall provide the surface owner a
12 surety bond in an amount equal to the damages agreed to or
13 the average of the amounts proposed by the oil and gas
14 developer and the surface owner. The surety bond shall be
15 executed by a responsible surety company licensed to do
16 business in this state. Payment to the surface owner from
17 the surety bond shall be conditioned upon a showing by the
18 surface owner of damages caused by the oil and gas
19 developer, and in the amount determined under the mutual
20 agreement provided in W.S. 30-5-404(b).

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22 **30-5-406. Violations of this act.**

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24 The district court of the county in which the surface is

1 located may enjoin any violation of this act.

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3 **30-5-407. Remedies cumulative.**

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5 The remedies provided by this act do not preclude any
6 person from seeking other remedies allowed by law.

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8 **30-5-408. Waiver.**

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10 A surface owner may waive any rights afforded under this
11 act by providing written notice to the oil and gas
12 developer prior to commencement of oil and gas development.

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14 **Section 2.** This act is effective July 1, 2004.

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(END)