

HOUSE BILL NO. 431

INTRODUCED BY KNUDSEN, DOANE, HALVORSON, LANG, RANDALL, ROSENDALE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NEGOTIATION REQUIREMENTS FOR SURFACE OWNER DAMAGE AND DISRUPTION COMPENSATION FROM OIL AND GAS DEVELOPERS OR OPERATORS; AND AMENDING SECTIONS 82-10-502 AND 82-10-504, 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) "Lost land value" means the value of the highest and best reasonably available use, ~~including the proposed use~~ OF THE LAND DIRECTLY UTILIZED BY OIL AND GAS OPERATIONS AND PRODUCTION, OTHER THAN USES APPURTENANT TO THE MINERAL ESTATE.

~~(2)~~(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.

~~(3)~~(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.

~~(4)~~(5) "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 June 1, 1981, and the production operations directly related to the exploration or drilling.

(6) "REASONABLY AVAILABLE USE" MEANS THE PRESENT USE OR A FUTURE USE FOR WHICH A PERMIT, IF NECESSARY, HAS BEEN ISSUED UNDER APPLICABLE LAW.

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

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

"82-10-504. Surface damage and disruption payments -- dispute resolution -- penalty for late



1 **payment.** (1) (a) The surface owner and the oil and gas developer or operator shall attempt ~~in good faith~~ to
2 negotiate IN GOOD FAITH an agreement on damages. The oil and gas developer or operator shall pay the surface
3 owner a sum of money or other compensation equal to the amount of damages sustained by the surface owner
4 for loss of agricultural production and income, lost land value, and lost value of improvements caused by oil and
5 gas operations.

6 (b) The amount of damages may be determined by any formula mutually agreeable between the surface
7 owner and the oil and gas developer or operator. When determining damages, consideration must be given to
8 the period of time during which the loss occurs.

9 (c) At any time during the negotiation, at the request of either party and upon mutual agreement, the
10 surface owner and the oil and gas developer or operator may enter into a dispute resolution process, including
11 mediation.

12 (d) The surface owner may elect to receive annual damage payments over a period of time, except that
13 the surface owner must be compensated by a single sum payment for harm caused by exploration only.

14 (e) The payments ~~contemplated by~~ under this subsection (1) may cover only land directly affected by
15 oil and gas operations and production. Payments under this subsection (1) are intended to compensate the
16 surface owner for damage and disruption. A person may not reserve or assign damage and disruption
17 compensation apart from the surface estate except to a tenant of the surface estate.

18 (2) An oil and gas developer or operator who fails to timely pay an installment under any annual damage
19 agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the
20 unpaid installment if the installment payment is not paid within 60 days of receipt of notice of failure to pay from
21 the surface owner."

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