



Why a Surface Owners' Bill of Rights is Needed...

When a gas well is going to be drilled, the only notice the surface owner is required by law to receive is:

- A copy of the driller's application to DEP for a drilling permit as it is being filed with DEP.
-By that time the driller has already selected and paid for a survey of the well site and access road(s).
- The surface owner has 15 days to comment on the permit application - *but can only comment on HOW the well site and access road(s) are built, not WHERE.*¹

By common law/case law, the driller is supposed to do ONLY what is "fairly necessary" to the surface.

- The surface owner has no way to enforce this without going to court.
-Very few surface owners can afford a lawyer to go to court.
-If they can afford a lawyer, they probably cannot afford an injunction bond.
-If they can afford an injunction bond, they do not have time to get to court.

The Surface Owners' Bill of Rights would:

- Require the driller offer to meet with the surface owner before coming onto the land.
- Require the driller give the surface owner copies of the applicable statutes and rules
- Require the driller show the surface owner their plans first, before filing the permit.
- Give the parties time to negotiate a "surface use and compensation agreement" on the location of the road and site, and the amount of compensation for damage to the land and lost timber.
- Allow either party to request a mediator if they cannot come to an agreement.
-There is already a damage compensation "arbitration" statute, but it kicks in AFTER the driller finishes drilling the well. By then, the damage has been done.
-Citizens need something to encourage negotiations on locations and damage compensation BEFORE the drilling.
- If the parties cannot come to an agreement, the driller posts a small bond to guarantee that real efforts are made to pay damages.
-The post-drilling arbitration process mentioned above is RARELY used. Most surface owners are either too intimidated by the process or for other reasons, do not do the arbitration and therefore do not receive any compensation.

Other provisions of the Surface Owners' Bill of Rights would:

- Give the surface owner the right to purchase gas from the well.
-Right now the surface owner cannot use gas from a well drilled on his land, even if they are willing to pay for it.
- Pay the surface owner damages for the land used by the driller based on its market value.
- Give the surface owner damages for the decrease in value of the land adjacent to the well site and access road(s).
- Allow the DEP to deny a drilling permit if the driller is in violation of a law or rule (current law), whether or not the DEP has previously cited him for it.

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¹ The surface owner can comment on whether the site and road(s) are designed to meet the standards of the DEP's Soil Erosion and Sediment Control Field Manual. The Manual addresses the number of water bars and the kind of grass to plant afterwards, but not whether the driller is using a future home site or wrecking a private driveway.