



## Myths and Facts About the Proposed West Virginia Surface Owners' Bill of Rights

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**IT'S A MYTH:** The bill contains extreme and harmful provisions.

**FACTS:**

- New Mexico passed legislation requiring a surface use and compensation agreement or single well bonding last year.
- Oklahoma has had similar legislation since 1982.
- At least 5 other states require compensation at market value for land used by the driller.

**IT'S A MYTH:** The bill will reduce the drilling of wells – affecting jobs and tax revenues.

**FACTS:**

- Nothing* in the bill prevents the drilling of a well – such a provision would be unconstitutional.

**IT'S A MYTH:** Provisions in the bill will make it so expensive to drill wells that fewer will be drilled.

**FACTS:**

- It costs from \$250,000.00 to \$3,000,000.00 or more to drill an oil or gas well.
- The new single well bond applies *only* if the driller and surface owner cannot agree, and it costs only \$100 to \$250 a year.
- Giving the surface owner a little time to negotiate for his *existing* “fairly necessary” rights with the driller will not cost a driller more – unless, that is, the driller was planning on short-cutting the surface owner’s existing fairly necessary rights.

**IT'S A MYTH:** Provisions in the bill will cause unbearable delays in drilling.

**FACTS:**

- If the driller and surface owner reach an agreement, drilling can begin almost immediately.
- Once drilled a gas well will be there for decades – or a century.
- 60 days is the most added delay that the bill could cause – if the driller does not choose to plan that much further ahead in the first place.

**IT'S A MYTH:** The surface owner has no incentive to sign an agreement with the driller.

**FACTS**

- Surface owners care deeply where roads and sites are located, and what kind of grass is used to reclaim, and whether there will be fences around well sites, and so on.
- Surface owners know that the only alternative to coming to an agreement is to hire a lawyer now, or maybe go to arbitration later – not a realistic alternative for them.
- Surface owners are so intimidated by the existing, post-drilling arbitration provisions that they are almost *never* used, and the road and site location cannot be changed then.

**IT'S A MYTH:** The bill will harm the interests mineral/royalty owners.

FACTS

- The bill does not stop or delay drilling.
- The bill adds no costs of drilling that are deducted from the royalty.
- Mineral/royalty owners' gripes are against *drillers* – who rush them into signing unfair leases and then do not pay the full 1/8 royalty, and who drill wells close to property lines to legally steal gas out from under neighboring mineral owners without paying for it.

**IT'S A MYTH:** Drillers cannot move well sites to accommodate surface owner interests.

FACTS:

- In West Virginia, most oil and gas is found in “stratigraphic” traps and not “structural” traps. So moving a well a few hundred feet will make very little difference in whether a well hits oil or gas.

**IT'S A MYTH:** Requiring the driller to offer the surface owner residential gas at costs makes the driller into a public utility.

FACTS:

- The Public Service Commission has rules for when it can declare a natural gas provider a public utility. The bill contains an exemption from the PSC rule requirement for these wells.

**IT'S A MYTH:** Having a residential user take gas from a well is too much trouble for the driller, and too much liability.

FACTS:

- The bill contains a liability waiver for the driller.
- The driller does so much that is inconvenient to the surface owner's land, and leaves behind a well and access road that will be there for decades. It is not too much to ask to let the surface owner pay for some gas.

**IT'S A MYTH:** All we need is enforcement of existing statutes.

FACTS:

- There are *no existing statutes* that encourage compliance with, let alone enforce, the surface owners “fairly necessary” rights – only the 15 day right of surface owners to comment on *how* the road and site are built *after* the driller has chosen the road and well site, and not on *where* the road and site will be located *before* the permit is filed.