



Summary of Proposed West Virginia Surface Owners' Bill of Rights

Prepared by WV Surface Owners' Rights Organization

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West Virginia's current surface owner protection laws were first enacted 1983. These were few and ineffective. Surface owners were given only 15 days' notice before the drilling commences, with no options for input about what parts of their property will be taken by the operators.. The damage compensation law enacted that year also was limited. There have been no improvements in 25 years.

The tripling of well permits in recent years has brought to a head the need for changes to give surface owners more help enforcing the common law rights they have had but cannot enforce when a well is drilled on their land.

Changes needed to ensure good stewardship of the land & economic fairness in West Virginia's oil & gas fields include:

Earlier notice to surface owners that the driller is coming:

- Require notice before the driller or surveyor comes onto the surface owner's property.
- Require the surface owner be given a copy of the relevant statutes and rules.
- Require a face-to-face meeting between the "operator" (driller) and the landowner well before the permit application is filed to try to come to a pre-drilling "surface use and compensation agreement" – in writing.

These would be in addition to the current requirement that a surface owner get notice of the well permit application. That notice comes only after the well site and road have been surveyed and the soil erosion and sediment control plan is submitted. Moreover, the surface owner can only comment on how the road and site are built, not where on their land they are built.

Pre-permit "Surface Use and Compensation Agreement" process:

- If the driller and the surface owner cannot come to an agreement at the first meeting, the parties can request a mediation to try to reach an agreement before the drilling begins. (The current arbitration process happens only after the damage has been done, is not effective and is rarely used.) This new process can be limited by the operator to sixty days.
- Surface owner can determine the road location, unless valid reason not to use what he chooses. Surface owner picks type of road construction – big wide graveled or minimal disturbance. Surface owner gets choice of vegetation replacement type.

Fair & equitable damage compensation:

- Require the driller to post an individual well bond if no pre-drilling surface use and compensation agreement is reached between the driller and the surface owner, and make that bond guarantee the surface owner's compensation.
- Compensate the surface owner for not only the lost value of the land actually used, but also the lost value of adjacent lands caused by the driller's activities.
- Value the land at market value, not just the value of its current use.
- Require the driller to offer the surface owner residential gas service, at cost, from the wells on their land.

Property tax notification:

- Require a notice to the surface owner that the surface owner can have his land re-assessed after the drilling has been done.