



Reuniting with the Surface
The Ownership of Minerals Sold at Tax Sales.
HB and SB

What the opponents are saying –
and the surface owners' response.

What are the opponents NOT saying?

Below we will respond to the legitimate concerns raised by earlier versions of our bill, and the amendments we made to this year's bill in order to solve the problems and help other interested parties where it is possible. But it is important to understand what many of the opponents are not saying. What they are not saying is that many savvy, professional tax sale purchasers and some in the industry members like things just the way they are. These groups want no change in the law so that they can continue to take advantage of the uninformed citizens who own the surface -- so those groups do not have to share the wealth that results from developing the minerals with the citizens whose lands and lives bear all the burdens of oil and gas production.

What the opponents are saying:

1. If a partial interest (say a 1/4 interest) in the minerals is sold at the tax sale, and if a family member who owns the other 3/4 buys the 1/4 interest at the tax sale to try to keep it all in the family, previous bills would let the surface owner get the 1/4 interest.

Surface owners have changed this year's bill so that co-owners of the mineral interest they bought at the tax sale, and who are related by blood or marriage to the owner whose interest was sold at the tax sale, can keep the interest they purchased at the tax sale.

2. Not only do surface owners not get notice of the tax sale, separately taxed co-owners of the minerals also do not get notice of the tax sale. The only notice of the tax sale is the notice published in the paper. Last year's bill only helps surface owners.

The current process is unfair both to surface owners and to separately taxed mineral co-owners. Our bill helps surface owners. We would be willing to consider an amendment to also help mineral co-owners, but we cannot think of a way to do it. Our bill relies upon using the surface tax maps to point to addresses for the surface owners. Minerals generally are not mapped by the tax department, so we can't think of a way to help them without imposing a huge financial burden of title searches on the sheriff. Just because you cannot help both groups, does not mean you should not help one group!

3. If the surface owner gets a chance to reunite minerals sold at a tax sale with their surface, why shouldn't mineral owners get a chance to purchase surface interests sold at a tax sale to reunite with their minerals.

We are not opposed to this, but again, since mapping of the minerals is inadequate, we cannot think of a practical way to do it. And besides, it is our understanding that a lot more mineral interests are sold at tax sales than surface tracts. So our bill will help more people.

4. Some people who have gotten rich taking advantage of citizens whose property gets sold at tax sales complain that when the surface owner steps into the shoes of the tax sale purchaser, the tax sale purchaser should have a chance to outbid the surface owner.

The original tax sale was a public auction. Under our bill the surface owner has to match the purchaser's bid (plus pay their expenses) by paying twice the amount that would be required for redemption. To allow the purchaser to start the bidding over again will simply insure that most of the time the surface owner will get out-bid by the professional purchasers and well heeled drillers, and we will make no progress to reuniting the ownership of the surface and the minerals.

5. The opponents have tried to scare legislators with questions about reduced income from tax sales if surface owners can step into the shoes of the purchasers.

The surface owner does not get to redeem the property. The surface owner gets to step into the shoes of the purchaser, so the sheriff will get the same amount of money whether the tax sale purchaser gets a deed or the surface owner gets a deed. Purchasers may bid more at tax sales to discourage surface owners from later paying double the bid (plus expenses) up to an extra \$3000 to get the minerals.

6. The opponents say that there will be problems with large tracts because there could be many surface owners who will get into disputes about who gets to step into the shoes of the professional purchaser.

The bill solves this by saying that if the surface owners cannot agree on how to divide the property when they step into the shoes of the professional purchaser, then none of the surface owners get it.