

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

157U0075

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1001** - 01/15/2013

Introduced by: Representatives Olson (Betty), Hawley, Hoffman, Magstadt, Rozum, Schrempp, and Solum and Senators Sutton, Maher, Rempelberg, Rhoden, and Tieszen at the request of the Interim Oil and Gas Study Committee

1 FOR AN ACT ENTITLED, An Act to require mineral developers to give notice to surface  
2 owners before entering the land.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 45-5A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A mineral developer shall provide the surface owner, and surface lessee, if any, with at least  
7 seven days notice by registered mail to the address shown by the records of the county treasurer  
8 at the time the notice is given or by hand delivery prior to entry on the land for mineral  
9 exploration activities that do not disturb the surface such as surveying and well staking. This  
10 notice shall include:

11 (1) The name, address, and telephone number of the mineral developer or the mineral  
12 developer's designee;

13 (2) An offer to discuss the proposed exploration plan with the surface owner, and surface  
14 lessee if any, before the exploration operations begin; and



1 (3) A diagram of the approximate location or the proposed drilling site.

2 The notice required by this section is deemed to be received by the surface owner and  
3 surface lessee immediately, if hand delivered, and seven days after mailing if sent by registered  
4 mail.

5 The notice required by this section is in addition to the notice required by § 45-5A-5.

6 Section 2. That chapter 45-5A be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The surface owner, and surface lessee, if any, may seek actual and punitive damages in the  
9 court of proper jurisdiction if the mineral developer fails to provide the notice required by  
10 section 1 of this Act.

11 Section 3. That chapter 45-5A be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The provisions of this Act do not apply if the mineral developer and surface owner or  
14 surface lessee have an existing use agreement or contract regarding the property at issue.

15 Section 4. That § 45-5A-5 be amended to read as follows:

16 45-5A-5. The mineral developer shall give the surface owner written notice of proposed  
17 surface disturbing mineral development, ~~other than exploration~~ activities; at least thirty days  
18 before the date operations are commenced. Surface disturbing activities include well site  
19 construction, road building, grading, excavation, demolition, and related activities. This notice  
20 shall be given to the record surface owner at the surface owner's address as shown by the records  
21 of the county register of deeds at the time the notice is given. This notice shall sufficiently  
22 disclose the plan of work and operations to enable the surface owner to evaluate the effect of  
23 drilling operations on the surface owner's use of the property. Included with this notice shall be  
24 a form prepared by the Department of Environment and Natural Resources advising the surface

1 owner of his or her rights and options under this chapter.