

AN ACT

ENTITLED, An Act to require mineral developers to give notice to surface owners before entering the land.

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

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

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

- (1) The name, address, and telephone number of the mineral developer or the mineral developer's designee;
- (2) An offer to discuss the proposed exploration plan with the surface owner, and surface lessee if any, before the exploration operations begin; and
- (3) A diagram of the approximate location or the proposed drilling site.

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

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

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

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

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

follows:

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

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

45-5A-5. The mineral developer shall give the surface owner written notice of proposed surface disturbing mineral development activities at least thirty days before the date operations are commenced. Surface disturbing activities include well site construction, road building, grading, excavation, demolition, and related activities. This notice shall be given to the record surface owner at the surface owner's address as shown by the records of the county register of deeds at the time the notice is given. This notice shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property. Included with this notice shall be a form prepared by the Department of Environment and Natural Resources advising the surface owner of his or her rights and options under this chapter.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1001

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1001
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State