

OIL, GAS, AND MINING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott H. Chew

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the duties of an owner or operator in regard to a surface land owner.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ states that an owner or operator may use surface land, consistent with allowing the surface land owner the greatest possible use of the surface land owner's property;
- ▶ states that an owner or operator shall compensate a surface land owner for loss of crops, loss of value, and permanent damage to the surface land;
- ▶ states that an owner or operator shall, to the extent that is reasonable:
 - obtain location or spacing exceptions from the division or board; and
 - utilize directional or horizontal drilling techniques that are technologically feasible, economically practicable, and reasonably available;
- ▶ modifies conditions under which mediation may be requested; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 40-6-2, as last amended by Laws of Utah 2017, Chapter 220

30 40-6-20, as enacted by Laws of Utah 2012, Chapter 342

31 40-6-21, as enacted by Laws of Utah 2012, Chapter 342



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section 40-6-2 is amended to read:

35 **40-6-2. Definitions.**

36 For the purpose of this chapter:

37 (1) "Board" means the Board of Oil, Gas, and Mining.

38 (2) "Correlative rights" means the opportunity of each owner in a pool to produce his
39 just and equitable share of the oil and gas in the pool without waste.

40 (3) "Condensate" means hydrocarbons, regardless of gravity, that:

41 (a) occur naturally in the gaseous phase in the reservoir; and

42 (b) are separated from the natural gas as liquids through the process of condensation
43 either in the reservoir, in the wellbore, or at the surface in field separators.

44 (4) "Consenting owner" means an owner who, in the manner and within the time frame
45 established by the board in rule, consents to the drilling and operation of a well and agrees to
46 bear the owner's proportionate share of the costs of the drilling and operation of the well.

47 (5) "Crude oil" means hydrocarbons, regardless of gravity, that:

48 (a) occur naturally in the liquid phase in the reservoir; and

49 (b) are produced and recovered at the wellhead in liquid form.

50 (6) (a) "Gas" means natural gas, as defined in Subsection (9), natural gas liquids, as
51 defined in Subsection (10), other gas, as defined in Subsection (16), or any mixture of them.

52 (b) "Gas" does not include any gaseous or liquid substance processed from coal, oil
53 shale, or tar sands.

54 (7) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well
55 within the state in violation of this chapter or any rule or order of the board.

56 (8) "Illegal product" means any product derived in whole or in part from illegal oil or
57 illegal gas.

58 (9) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in

59 the reservoir and are produced and recovered at the wellhead in gaseous form, except natural
60 gas liquids as defined in Subsection (10) and condensate as defined in Subsection (3).

61 (b) "Natural gas" includes coalbed methane gas.

62 (10) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated
63 from natural gas as liquids in gas processing plants through the process of condensation,
64 absorption, adsorption, or other methods.

65 (11) "Nonconsenting owner" means an owner who does not, after written notice and in
66 the manner and within the time frame established by the board in rule, consent to the drilling
67 and operation of a well or agree to bear the owner's proportionate share of the costs.

68 (12) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in
69 Subsection (3), or any mixture of them.

70 (b) "Oil" does not include any gaseous or liquid substance processed from coal, oil
71 shale, or tar sands.

72 (13) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

73 (14) (a) "Oil and gas proceeds" means any payment that:

74 (i) derives from oil and gas production from any well located in the state;

75 (ii) is expressed as a right to a specified interest in the:

76 (A) cash proceeds received from the sale of the oil and gas; or

77 (B) the cash value of the oil and gas; and

78 (iii) is subject to any tax withheld from the payment pursuant to law.

79 (b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest,
80 production payment interest, or working interest.

81 (c) "Oil and gas proceeds" does not include a net profits interest or other interest the
82 extent of which cannot be determined with reference to a specified share of:

83 (i) the cash proceeds received from the sale of the oil and gas; or

84 (ii) the cash value of the oil and gas.

85 (15) "Operator" means a person who has been designated by the owners or the board to
86 operate a well or unit.

87 (16) (a) "Other gas" means nonhydrocarbon gases that:

88 (i) occur naturally in the gaseous phase in the reservoir; or

89 (ii) are injected into the reservoir in connection with pressure maintenance, gas cycling,

90 or other secondary or enhanced recovery projects.

91 (b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

92 (17) "Owner" means a person who has the right:

93 (a) to drill into and produce from a reservoir; and

94 (b) appropriate the oil and gas produced for [~~himself~~] the person or for [~~himself~~] the
95 person and others.

96 (18) "Payor" means the person who undertakes to distribute oil and gas proceeds to the
97 persons entitled to [~~them~~] the proceeds, whether as the first purchaser of that production, as
98 operator of the well from which the production was obtained, or as lessee under the lease on
99 which royalty is due.

100 (19) (a) "Pool" means an underground reservoir containing a common accumulation of
101 oil or gas or both. Each zone of a general structure that is completely separated from any other
102 zone in the structure is a separate pool.

103 (b) "Common source of supply" and "reservoir" are synonymous with "pool."

104 (20) "Pooling" means the bringing together of separately owned interests for the
105 common development and operation of a drilling unit.

106 (21) "Producer" means the owner or operator of a well capable of producing oil and
107 gas.

108 (22) "Product" means any commodity made from oil and gas.

109 (23) "Surface land" means privately owned land:

110 (a) overlying privately owned oil and gas resources;

111 (b) upon which oil and gas operations are conducted; and

112 (c) owned by a surface land owner.

113 (24) (a) "Surface land owner" means a person who owns, in fee simple absolute, all or
114 part of the surface land as shown by the records of the county where the surface land is located.

115 (b) "Surface land owner" does not include the surface land owner's lessee, renter,
116 tenant, or other contractually related person.

117 (25) "Surface land owner's property" means a surface land owner's:

118 (a) surface land;

119 (b) crops on the surface land; and

120 (c) existing improvements on the surface land.

121 (26) "Surface use agreement" means an agreement between an owner or operator and a
122 surface land owner addressing:

123 (a) the use and reclamation of surface land owned by the surface land owner; and
124 (b) compensation for damage to the surface land caused by oil and gas operations that

125 result in:

126 (i) loss of the surface land owner's crops on the surface land;
127 (ii) loss of value of existing improvements owned by the surface land owner on the
128 surface land; and

129 (iii) permanent damage to the surface land.

130 (27) "Waste" means:

131 (a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or
132 gas or reservoir energy;

133 (b) the inefficient storing of oil or gas;

134 (c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a
135 manner that causes:

136 (i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir
137 under prudent and economical operations;

138 (ii) unnecessary wells to be drilled; or

139 (iii) the loss or destruction of oil or gas either at the surface or subsurface; or

140 (d) the production of oil or gas in excess of:

141 (i) transportation or storage facilities; or

142 (ii) the amount reasonably required to be produced as a result of the proper drilling,
143 completing, testing, or operating of a well or otherwise utilized on the lease from which it is
144 produced.

145 Section 2. Section **40-6-20** is amended to read:

146 **40-6-20. Use of surface land by owner or operator.**

147 (1) An owner or operator may:

148 (a) enter onto surface land under which the owner or operator holds rights to conduct
149 oil and gas operations; and

150 (b) use the surface land:

151 (i) to the extent reasonably necessary to conduct oil and gas operations; and

152 (ii) consistent with allowing the surface land owner the greatest possible use of the
153 surface land owner's property [~~to the extent that the surface land owner's use does not interfere~~
154 ~~with the owner's or operator's oil and gas operations~~].

155 (2) Subject to Subsection (3), except as is reasonably necessary to conduct oil and gas
156 operations, an owner or operator shall:

157 (a) mitigate the effects of accessing the surface land owner's surface land;

158 (b) minimize interference with the surface land owner's use of the surface land owner's
159 property; and

160 (c) compensate a surface land owner for [~~unreasonable~~]:

161 (i) loss of a surface land owner's crops on the surface land;

162 (ii) loss of value to existing improvements owned by a surface land owner on the
163 surface land; and

164 (iii) permanent damage to the surface land.

165 (3) An owner or operator [~~is not required to~~] shall, to the extent that is reasonable:

166 (a) obtain location or spacing exceptions from the division or board; [~~or~~] and

167 (b) utilize directional or horizontal drilling techniques that are [~~not~~]:

168 (i) technologically feasible;

169 (ii) economically practicable; [~~or~~] and

170 (iii) reasonably available.

171 (4) The requirements of Subsection (2) do not apply to the extent that they conflict
172 with or impair a contractual provision relevant to an owner's or operator's use of surface land
173 for oil and gas operations.

174 (5) (a) The provisions of this section do not prevent:

175 (i) a person from seeking a remedy allowed by law; or

176 (ii) an owner or operator and a surface land owner from addressing the use of surface
177 land for oil and gas operations through:

178 (A) a lease;

179 (B) a surface use agreement; or

180 (C) another written contract.

181 (b) An agreement described in Subsection (5)(a)(ii) shall control:

182 (i) the use of surface land for oil and gas operations; and

183 (ii) compensation for damage to the surface land caused by oil and gas operations.

184 Section 3. Section **40-6-21** is amended to read:

185 **40-6-21. Mediation.**

186 (1) A surface land owner and an owner or operator may request non-binding mediation
187 by providing written notice to the other party, if:

188 (a) they are unable to agree on the amount of damages for [unreasonable]:

189 (i) crop loss on the surface land;

190 (ii) loss of value to existing improvements owned by the surface land owner on the
191 surface land; or

192 (iii) permanent damage to the surface land; and

193 (b) the dispute over damages described in Subsection (1)(a) relates to an application for
194 a permit to drill submitted by the owner or operator to the division on or after July 1, 2012.

195 (2) The division and the Utah Department of Agriculture and Food shall agree on, and
196 maintain a list of, mediators qualified to mediate disputes between an owner or operator and a
197 surface land owner.

198 (3) An owner or operator and a surface land owner may mutually select a mediator
199 from:

200 (a) the list maintained under Subsection (2); or

201 (b) any other source.

202 (4) The surface land owner and the owner or operator shall equally share the cost of the
203 mediator's services.

204 (5) The provisions of this section do not prevent or delay an owner or operator from
205 conducting oil and gas operations in accordance with applicable law.