

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5759

To amend the Mineral Leasing Act to require an operator to compensate a surface owner for damages resulting from the oil and gas operations of the operator on land affected by the operations.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2010

Mr. HEINRICH introduced the following bill; which was referred to the  
Committee on Natural Resources

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## A BILL

To amend the Mineral Leasing Act to require an operator to compensate a surface owner for damages resulting from the oil and gas operations of the operator on land affected by the operations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Protecting Rural  
5       Landscapes Act of 2010”.

1 **SEC. 2. SPLIT ESTATE.**

2 (a) IN GENERAL.—Section 17 of the Mineral Leasing  
3 Act (30 U.S.C. 226) is amended by adding at the end the  
4 following:

5 “(q) SPLIT ESTATES.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) COVERED LAND.—The term ‘covered  
8 land’ means land with respect to which—

9 “(i) title to oil and gas resources is  
10 held by the United States; but

11 “(ii) title to the surface estate is not  
12 held by the United States.

13 “(B) LEASE.—The term ‘lease’ means a  
14 lease issued by the Secretary under this Act  
15 that provides for the development of oil and gas  
16 resources (including coalbed methane) on cov-  
17 ered land.

18 “(C) LESSEE.—The term ‘lessee’ means  
19 the holder of a lease for the development of oil  
20 and gas resources on covered land.

21 “(D) OIL AND GAS OPERATIONS.—The  
22 term ‘oil and gas operations’ means all activi-  
23 ties affecting the interest of a surface owner in  
24 covered land that are associated with explo-  
25 ration, drilling, or production of oil and gas,

1 through final reclamation of the affected sur-  
2 face.

3 “(E) OPERATOR.—The term ‘operator’  
4 means a person with the legal right to conduct  
5 oil and gas operations on covered land.

6 “(F) SECRETARY.—The term ‘Secretary’  
7 means the Secretary of the Interior.

8 “(G) SURFACE OWNER.—The term ‘sur-  
9 face owner’ means a person who holds legal or  
10 equitable title, as demonstrated in the records  
11 of the applicable county clerk or other local gov-  
12 ernment official, to the surface of the covered  
13 land on which the operator has the right to con-  
14 duct oil and gas operations.

15 “(2) COMPENSATION AND RECLAMATION.—

16 “(A) IN GENERAL.—An operator shall  
17 compensate the surface owner for damages re-  
18 sulting from the oil and gas operations of the  
19 operator on land affected by the operations  
20 from—

21 “(i) loss of agricultural production  
22 and income;

23 “(ii) lost land value;

24 “(iii) lost use of and lost access to the  
25 land of the surface owner; and

1 “(iv) the lost value of improvements.

2 “(B) RECLAMATION.—An operator shall  
3 reclaim the surface affected by the oil and gas  
4 operations of the operator.

5 “(3) NOTICE OF OPERATIONS.—

6 “(A) PRIOR TO INITIAL ENTRY.—Prior to  
7 initial entry for activities that do not disturb  
8 the surface, the operator shall provide at least  
9 five days notice by certified mail or hand deliv-  
10 ery to the surface owner.

11 “(B) OPERATIONS.—Prior to commencing  
12 oil and gas operations, the operator shall pro-  
13 vide not less than 30 days notice by certified  
14 mail or hand delivery to the surface owner with  
15 sufficient disclosure of the planned operations  
16 to enable the surface owner to evaluate the ef-  
17 fect of the operations.

18 “(C) PLACE OF NOTICE DELIVERY.—The  
19 notices required by this section shall be given to  
20 the surface owner at the address shown by the  
21 records of the county clerk at the time the no-  
22 tice is given.

23 “(D) NOTICE DEEMED RECEIVED.—No-  
24 tices required by this section shall be deemed to  
25 have been received five days after mailing by

1 certified mail or immediately upon hand deliv-  
2 ery.

3 “(4) SURFACE USE AGREEMENT.—

4 “(A) SURFACE USE AGREEMENT.—At the  
5 time of providing notice of operations under  
6 paragraph (3)(B), the operator shall provide to  
7 the surface owner a proposed surface use agree-  
8 ment that—

9 “(i) to the extent known, specifies suf-  
10 ficient disclosure of the planned oil and gas  
11 operations to enable the surface owner to  
12 evaluate the effect of the operations on the  
13 property, including—

14 “(I) placement, specifications,  
15 maintenance and design of facilities,  
16 equipment and roads;

17 “(II) terms of ingress and egress;

18 “(III) water protection (quality  
19 and quantity);

20 “(IV) proposed reclamation; and

21 “(V) actions to minimize surface  
22 damages to the land including runoff  
23 and erosion; and

1           “(ii) includes an offer of compensation  
2           for damages to the surface affected by oil  
3           and gas operations.

4           “(B) PROCEDURE.—

5           “(i) IN GENERAL.—Not later than 30  
6           days after the date of receipt of the pro-  
7           posed surface use agreement, the surface  
8           owner may accept or reject the agreement.

9           “(ii) FAILURE TO ACCEPT.—Failure  
10          to accept the agreement during the 30-day  
11          period described in clause (i) may be con-  
12          sidered a rejection of the agreement.

13          “(C) NEGOTIATIONS.—The surface owner  
14          and operator may enter into negotiations re-  
15          garding the surface use agreement.

16          “(D) AGREEMENT.—The operator and the  
17          surface owner may enter into a mutually ac-  
18          ceptable agreement that specifies the rights and  
19          obligations of the parties with respect to the  
20          surface activities conducted by the operator.

21          “(5) ENTRY WITHOUT AGREEMENT; BOND.—

22          “(A) IN GENERAL.—In lieu of executing a  
23          surface use agreement under paragraph (4)(A),  
24          the operator may enter the property of the sur-

1 face owner and conduct oil and gas operations  
2 as provided in this section.

3 “(B) FINANCIAL ASSURANCE.—The oper-  
4 ator shall provide an appropriate financial as-  
5 surance for the benefit of the surface owner, as  
6 determined by the Secretary, prior to com-  
7 mencing operations under this paragraph.

8 “(C) RELEASE OF FINANCIAL ASSUR-  
9 ANCE.—The Secretary shall provide for the ap-  
10 propriate release of the financial assurance on  
11 a determination that—

12 “(i) the reclamation is complete; and

13 “(ii) the surface owner has been com-  
14 pensated for any damages.

15 “(6) NOTICE OF SECRETARIAL ACTION WITH  
16 RESPECT TO FEDERAL LEASES.—The Secretary  
17 shall make reasonable efforts to provide to each sur-  
18 face owner of affected covered land, and to each per-  
19 mittee or right-of-way holder with the right to use  
20 the surface of affected Federal land, written notice  
21 of—

22 “(A) any lease sale for an oil or gas lease  
23 under this Act by not later than 30 days before  
24 the date of the lease sale; and

1           “(B) the issuance of a drilling permit by  
2           not later than 5 days before the date of  
3           issuance.

4           “(7) RELATIONSHIP TO STATE LAW.—Nothing  
5           in this subsection preempts any applicable State  
6           law.”.

7           (b) REGULATIONS.—Not later than 180 days after  
8           the date of enactment of this Act, the Secretary of the  
9           Interior shall promulgate such regulations as are nec-  
10          essary to carry out the amendment made by subsection  
11          (a).

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