



West Virginia Surface Owners' Rights Organization

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Landowners seek fair treatment from oil and gas drillers Group backs bill to give more notice, say to landowners

The WV Surface Owners' Rights Organization (WV SORO) is asking the legislature to ensure that the rights of West Virginia surface owners are recognized and respected by oil and gas well drillers. For the past two years the group has urged the legislature to pass what it called the 'Surface Owners' Bill of Rights,' which would give landowners more say in the location of wells and access roads and improve damage compensation procedures and awards. This year the group is pushing a more modest version of the Bill of Rights called the '[Surface Owners' Rights Recognition Act](#)' ([HB 4408](#) and [SB 529](#)).

"We feel strongly that the provisions in the Surface Owners' Bill of Rights were reasonable and our organization remains committed to working toward getting those into law. However, we were hearing from our supporters in the legislature that we were trying to accomplish too much at once," said Gary Zuckett, an organizer for the group and Executive Director of West Virginia Citizen Action Group (WV-CAG). "[The Surface Owners' Rights Recognition Act](#) is a compromise that we and our sponsors believe will help us overcome industry opposition and get some rights for surface owners this year."

The Surface Owners' Rights Recognition Act would:

- Require drillers to give 10 days notice to the surface owners before coming on to the land to start planning a well site and access road(s). This notice must include an offer to meet with the surface owner to discuss the drillers plans.
- Require the driller to negotiate a "surface use and compensation agreement" with the landowner before the driller applies for the well work permit. The agreement would set out the location of the well site and associated access road(s), impoundments, pits and pipelines, and how these will be built, maintained and reclaimed. The agreement would also specify proposed financial compensation for damages

"By common law, the drillers are only supposed to do what is 'fairly necessary' to the surface to get to and develop their minerals. Unfortunately, in practice many drillers do mostly as they please, and the surface owner had no way to enforce their common law rights without going to court," said Dave McMahon, a public interest lawyer and founder of WV SORO. "Very few surface owners can afford to hire a lawyer to go to court. Citizens need something to encourage negotiations on locations and damage compensation before drilling to help ensure landowners receive fair compensation for their losses and inconveniences."

McMahon said the incentive for drillers to come to a pre-drilling surface use and compensation agreement with landowners is that a written agreement between the two parties allows the permitting process to move forward more quickly. "If the driller and surface owner reach an agreement, drilling can begin almost immediately," said McMahon. "However, if they cannot agree the most delay caused by the bill is 30 days." If there is no agreement, the driller must post an individual bond for the well to ensure efforts are made to pay damages, rather than placing the well under a blanket bond with other wells it operates.

"Surface owners face huge disadvantages in their dealings with drillers," noted Gary Zuckett of WV-CAG. "The industry dismisses abuses as isolated incidents. They also claim our efforts would result in fewer permits being issued and would be detrimental to the industry. These allegations are simply not true. The Surface Owners' Rights Recognition Act is designed to encourage drillers to sit down with landowners before they survey for well sites and access roads. We've worked with our sponsors to come up with legislation that will ensure that the rights of surface owners are recognized and respected without placing an undue burden on the industry. We just want them to be good neighbors," said Zuckett.

Surface owners' rights legislation is also has the support of the WV AFL-CIO, the WV Council of Churches, the WV Environmental Council and the WV Farm Bureau.

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