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SENATE BILL 530

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO OIL AND GAS DRILLING; AMENDING SECTIONS OF THE
SURFACE OWNERS PROTECTION ACT; PROVIDING FOR PROPERTY TAX
OBLIGATIONS FOR PROPERTY THAT THE SURFACE LANDOWNER CANNOT USE
DURING THE PERIOD OF DRILLING OPERATIONS; PROVIDING FOR DAMAGES
FOR DEPRIVING A SURFACE OWNER FROM ACCESS TO PROPERTY
UNAFFECTED BY DRILLING OPERATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-12-4 NMSA 1978 (being Laws 2007,
Chapter 5, Section 4) is amended to read:

"70-12-4. COMPENSATION FOR OIL AND GAS OPERATIONS.--

A. An operator shall compensate the surface owner
for damages sustained by the surface owner, as applicable, for
loss of agricultural production and income, lost land value,
lost use of and lost access to the surface owner's land and

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1 lost value of improvements caused by oil and gas operations,
2 including annual property taxes for that portion of the
3 property and time period for which use the surface owner is
4 deprived by the oil and gas operations. The payments
5 contemplated by this section only cover land affected by oil
6 and gas operations, except that the operator shall also
7 compensate a surface owner twenty thousand dollars (\$20,000)
8 per day for each day that the surface owner is deprived of
9 access to the surface owner's property that is not affected by
10 the oil and gas operations.

11 B. An operator shall not be responsible for
12 allocating compensation between the surface owner and any
13 tenant, except that an operator shall compensate a tenant of
14 the surface owner for any leasehold improvements damaged as a
15 result of the operator's oil and gas operations if the
16 improvements are approved and authorized by the surface owner.
17 The compensation shall equal the cost of repairing or replacing
18 the improvements.

19 C. An operator shall reclaim all the surface
20 affected by the operator's oil and gas operations."

21 SECTION 2. Section 70-12-7 NMSA 1978 (being Laws 2007,
22 Chapter 5, Section 7) is amended to read:

23 "70-12-7. DAMAGES.--In an action brought pursuant to the
24 Surface Owners Protection Act, if the court finds that
25 compensation is owed under Section [~~3 of the Surface Owners~~

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1 ~~Protection Act]~~ 70-12-4 NMSA 1978, the court may also award the
2 prevailing party:

3 A. attorney fees and costs if:

4 (1) the operator conducted oil and gas
5 operations without providing notice as required by Subsection B
6 of Section [~~4 of the Surface Owners Protection Act]~~ 70-12-5
7 NMSA 1978;

8 (2) the operator conducted oil and gas
9 operations without a surface use and compensation agreement and
10 before depositing a bond or other surety as required by Section
11 [~~5 of the Surface Owners Protection Act]~~ 70-12-6 NMSA 1978;

12 (3) the operator conducted oil and gas
13 operations outside the scope of a surface use and compensation
14 agreement and, when entering into the agreement, knew or should
15 have known that oil and gas operations would be conducted
16 outside the scope of the agreement; or

17 (4) the surface owner failed to exercise good
18 faith in complying with the provisions of the Surface Owners
19 Protection Act or the terms of a surface use and compensation
20 agreement; or

21 B. attorney fees, costs and treble damages if the
22 court finds, by clear and convincing evidence, that:

23 (1) the operator willfully and knowingly
24 entered upon the premises for the purpose of commencing the
25 drilling of a well:

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(a) without giving notice of the entry as required by Subsection B of Section [~~4 of the Surface Owners Protection Act~~] 70-12-5 NMSA 1978; or

(b) without a surface use and compensation agreement with the surface owner and before depositing a bond or other surety pursuant to Section [~~5 of the Surface Owners Protection Act~~] 70-12-6 NMSA 1978; or

(2) either the surface owner or the operator willfully and knowingly violated the surface use and compensation agreement."

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