

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/28/13

A Bill

HOUSE BILL 2001

5 By: Representatives *Leding, Lenderman, D. Douglas, J. Edwards, Gillam, D. Meeks, Sabin, Wren, Wright*
6 By: Senators *Rapert, Irvin, Caldwell, D. Wyatt, Elliott*
7

For An Act To Be Entitled

8 AN ACT TO CREATE THE LANDOWNER NOTIFICATION ACT; AND
9 FOR OTHER PURPOSES.
10

Subtitle

11 THE LANDOWNER NOTIFICATION ACT.
12

13
14
15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. DO NOT CODIFY. Title.*

20 *This act shall be known and may be cited as the "Landowner Notification*
21 *Act".*
22

23 *SECTION 2. Arkansas Code § 15-72-201 is amended to read as follows:*
24 *15-72-201. Definitions.*

25 *As used in this act, ~~unless the context otherwise requires~~ subchapter:*

26 *(1)(A) "Operations" means drilling activities relating to the*
27 *production of brine, oil, gas, and other petroleum hydrocarbons if entry upon*
28 *the surface estate is required and the drilling activities are conducted on*
29 *or after the effective date of this act.*

30 *(B) "Operations" does not include:*

31 *(i) The periodic inspection, maintenance, or repair*
32 *of completion activities;*

33 *(ii) Preparatory activities such as inspection,*
34 *surveying, or staking; or*

35 *(iii) Drilling additional wells, re-drilling, or*
36 *recompletion operations on an existing drilling pad if the operator does not*



1 expand the existing pad;

2 ~~(1)(2)~~ “Operator” means the a person or the person’s agent who
 3 that has the right to enter upon the lands property of another person for the
 4 purpose of exploring, drilling, and developing for the production of brine,
 5 oil, gas, and all other petroleum hydrocarbons conducting operations;

6 ~~(2)(3)~~ “Person” means any natural person an individual or
 7 entity, including without limitation a corporation, association, partnership,
 8 trustee, guardian, executor, administrator, fiduciary, or representative of
 9 any kind; and

10 ~~(3)(4)~~ “Surface owner” means the owner or owners of record of
 11 the surface of the property on which the drilling operation is operations are
 12 to occur or are occurring.

13
 14 SECTION 3. Arkansas Code § 15-72-203 is amended to read as follows:

15 15-72-203. Prerequisite to ~~exploring or drilling~~ conducting operations
 16 – Notice to surface owner.

17 ~~(a) Before entering upon a site for the purpose of exploration or for~~
 18 ~~oil or gas drilling, except in instances where there are nonresident surface~~
 19 ~~owners, nonresident surface tenants, unknown heirs, imperfect titles, or~~
 20 ~~surface owners or surface tenants whose whereabouts cannot be ascertained~~
 21 ~~with reasonable diligence, the operator shall give to the surface owner~~
 22 ~~written notice of his or her intent of exploration or undertaking drilling~~
 23 ~~operations on premises owned by the surface owner. The notice shall contain~~
 24 ~~the proposed location and the approximate date that the operator proposes to~~
 25 ~~commence exploration or drilling operations.~~

26 ~~(b) The notice shall be given in writing by certified United States~~
 27 ~~mail, or personally, to the surface owner at the address of the surface owner~~
 28 ~~as is reflected in the records of the tax collector of the county in which~~
 29 ~~the lands are located.~~

30 (a)(1) Except as provided in subdivision (a)(2) of this section, before
 31 entering upon a surface owner’s property for the first time to conduct
 32 operations on the surface owner’s property, written notice of the operator’s
 33 intent to begin operations shall be given to the surface owner under:

34 (A) Subdivision (a)(3) of this section; or

35 (B) Subsection (b) of this section.

36 (2) An operator is not required to give the written notice

1 prescribed under this section to:

2 (A) A nonresident surface owner;

3 (B) A nonresident surface tenant;

4 (C) An unknown heir of a surface owner;

5 (D) A surface owner or surface tenant with imperfect title
6 or whose whereabouts cannot be ascertained with reasonable diligence; or

7 (E) A surface owner with whom the operator has a
8 contractual relationship that specifies when or how the operator shall give
9 notice regarding the beginning of operations.

10 (3) Except as provided by subsection (b) of this section, the
11 written notice shall:

12 (A) Contain the proposed drilling location and the
13 approximate date that the operator proposes to commence operations;

14 (B) Contain the name, address, telephone number, fax
15 number, and electronic mailing address of the operator or the operator's
16 agent; and

17 (C) Be sent by certified United States mail or delivered
18 personally to the surface owner at the address of the surface owner reflected
19 in the public records of the county collector of the county in which the
20 surface owner's property is located.

21 (b)(1) The Arkansas Oil and Gas Commission shall promulgate rules,
22 regulations, and orders consistent with this section to require an operator
23 to provide a single enhanced written notice as described in subdivision
24 (b)(2) of this section in lieu of the written notice required by subdivision
25 (a)(3) of this section if the surface owner's property on which the operator
26 proposes to conduct operations is located in an area of the state:

27 (A) Where operations are conducted in an unconventional
28 shale gas formation in a county listed in Arkansas Oil and Gas Commission
29 Rule B-43(c) or (d); or

30 (B) That is designated for enhanced notice by rule of the
31 commission.

32 (2) The rules, regulations, and orders of the commission shall
33 require the enhanced written notice to:

34 (A) Describe:

35 (i) The proposed operations; and

36 (ii) The location of the proposed well and the pad

1 location, including the section, township, range, and plat of the pad
2 location, if available;

3 (B) Be given to the surface owner at least fourteen (14)
4 days before the operator proposes to begin operations on the surface owner's
5 property;

6 (C) Contain a statement that the operator has a pending or
7 approved drilling permit for the proposed operations on the surface owner's
8 property and that the permit shall be available for inspection by the surface
9 owner on request by the surface owner;

10 (D) Contain the name, address, telephone number, fax
11 number, and electronic mailing address of the operator or the operator's
12 agent; and

13 (E) Be sent by certified United States mail or delivered
14 personally to the surface owner at the address of the surface owner stated in
15 the public records of the county collector of the county in which the surface
16 owner's property is located.

17 (c) After written notice of the operator's intent to begin operations
18 is given under subdivision (a)(3) or subsection (b) of this section, an
19 operator is not required to give any other notice to begin, conduct, or
20 complete operations on the surface owner's property.

21 (d) Written notice under subdivision (a)(3) or subsection (b) of this
22 section is:

23 (1) Presumed delivered five (5) days after mailing by certified
24 mail;

25 (2) Effective immediately upon hand delivery; and

26 (3) Not required for emergency situations in which the
27 operations are required to protect the public health and safety or the
28 environment.

29 (e) After receipt of a written notice of the operator's intent to begin
30 operations under subdivision (a)(3) or subsection (b) of this section, the
31 surface owner shall not make alterations to a proposed drilling location to
32 interfere with the operations for which the surface owner received the
33 notice.

34 (f) This section does not supersede, modify, or supplant the notice
35 provisions of Rule B-42 of the commission.

36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/Leding