

AN ACT

ENTITLED, An Act to revise the procedure for recovery of abandoned mineral interests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 43-30A-2 be amended to read as follows:

43-30A-2. A mineral interest is abandoned if it has not been used for a period of twenty-three years or more. Title to an abandoned mineral interest vests in the owner of the surface estate in the land in, or under, which the mineral interest is located on the date of abandonment.

Section 2. That § 43-30A-3 be amended to read as follows:

43-30A-3. A mineral interest is used if:

- (1) Minerals are produced by or with the express permission of the record owner of the mineral interest;
- (2) Operations are conducted for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances to produce or enhance the production of minerals by or with the express permission of the record holder of the mineral interest;
- (3) For solid minerals, there is production from a common vein or seam by or with the express permission of the record owner of the mineral interest;
- (4) Any valid conveyance, lease, mortgage, assignment, probate distribution, termination of joint tenancy interest affidavit, termination of life estate affidavit, transfer on death deed, or any judgment or decree that makes specific reference to the record owner's mineral interest is recorded within the last twenty-three years in the office of the register of deeds for the county in which the mineral interest is located;
- (5) The mineral interest is subject to an agreement to pool or unitize;
- (6) A statement of claim is recorded in compliance with § 43-30A-4; or
- (7) A proper instrument describing the mineral interest has been recorded prior to an affidavit

recorded under prior law pursuant to § 43-30-7, in the office of the register of deeds for the county in which the mineral interest is located.

Section 3. That § 43-30A-4 be amended to read:

43-30A-4. A statement of claim shall:

- (1) Be recorded for the record owner of the mineral interest prior to the end of the twenty-three-year period set forth in § 43-30A-2. A joint tenant, but not a tenant in common, may record a claim on behalf of himself and other joint tenants;
- (2) Contain the name and mailing address of the record owner of the mineral interest and a legal description of the land on or under which the mineral interest is located; and
- (3) Be recorded in the office of the register of deeds for the county in which the mineral interest is located.

A mineral interest is in use on the date of recording if the recording is made within the time provided by this section.

Section 4. That § 43-30A-5 be amended to read as follows:

43-30A-5. Failure to record the statement of claim within the time period provided in § 43-30A-4 does not cause a mineral interest to be abandoned if the record owner of the mineral interest records a statement of claim pursuant to § 43-30A-4 within sixty days after completion of the publication of the notice of lapse pursuant to § 43-30A-6.

Section 5. That § 43-30A-6 be amended to read as follows:

43-30A-6. In order to succeed to the ownership of an abandoned mineral interest, a surface owner shall give notice of the lapse of the mineral interest by publication. The publication shall be made once each week for three weeks in the official newspaper of the county in which the mineral interest is located. Notice shall also be given by mailing a copy of the notice by registered or certified mail to the record owner of the mineral interest at the record owner's address of record no later than ten

days after the last publication.

The surface owner may rely upon the record mineral owner's last address of record in the office of county register of deeds in which the mineral interest is located. It is the record mineral owner's obligation to maintain an address of record in the office of the register of deeds in the county in which their mineral interest is located. Failure to maintain an address of record is a waiver by the record mineral owner of the requirement to mail a copy of the notice of lapse to the record mineral owner.

The notice shall state the name of the record owner of the mineral interest, the legal description of the land on or under which the mineral interest involved is located, and the name of the person giving the notice.

Recording a copy of the notice and an affidavit of its publication and any mailing in the office of the register of deeds for the county in which the mineral interest is located, is prima facie evidence that the notice has been properly given.

Section 6. That § 43-30A-6.1 be repealed.

Section 7. That § 43-30A-11 be repealed.

Section 8. That § 43-30A-12 be repealed.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1058

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1058
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State