

AMENDED IN SENATE JUNE 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1966

Introduced by Assembly Member Ma

February 23, 2012

An act to *amend Section 848 of the Civil Code, and to add Section 3205.7 to the Public Resources Code, relating to natural resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1966, as amended, Ma. Natural resources: oil and gas: drilling.

Existing

(1) Existing law requires the owner of mineral rights in real property to give written notice to the owner or representative of the real property who is listed as the assessee on the current local assessment roll or as a lessee, and to any public utility that has a recorded interest in the real property if there is to be excavation of the utility interest, prior to the first entry upon the real property to prospect for, mine, or extract any mineral.

This bill would require the owner of mineral rights or its agent to provide a minimum of 5 days' notice specifying, among other information, the date of entry, the estimated length of time, and the general nature of the work when that owner or agent intends to enter the real property to undertake non-surface-disrupting activities, including surveying, water and mineral testing, and removal of debris and equipment.

The bill would also require the owner of mineral rights, or its agent, to provide a minimum of 60 days' notice in writing, specifying the extent and location of the prospecting, mining, or extracting operation, and the approximate time or times of entry and exit upon the real property,

when that owner or agent intends to enter real property to undertake, surface-disrupting activities, including excavation, drilling new wells, constructing structures, bringing excavation vehicles or equipment on the real property, or reclamation of the real property after it has been disturbed.

The bill would waive the 60-day notice requirement described above under an emergency situation authorized by the Division of Oil, Gas, and Geothermal Resources.

(2) Existing law regulates oil and gas activities.

This bill would, commencing January 1, 2014, require the operator of an oil and gas well to provide to the surface owner a 10-day written notice of the intent to enter the surface owner's property for the purpose of the extraction of underlying oil, gas, or mineral. The bill would also require the operator to provide to the surface owner a copy of the applicable recorded short form or memorandum of oil, gas, or minerals lease within 10 days prior to entering the property.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 848 of the Civil Code is amended to read:
2 848. (a) The owner of mineral rights, as defined by Section
3 883.110, in real property shall give a written notice to the owner
4 ~~or the owner's representative~~ of the real property who is listed as
5 the assessee on the current local assessment roll ~~or to the owner's~~
6 ~~representative, or to the lessee, of the real property if different~~
7 from the mineral rights owner, and to any public utility ~~which that~~
8 has a recorded interest in the real property; if there is to be
9 excavation of the utility interest, ~~prior to the first entry upon the~~
10 ~~real property to prospect for, mine, or extract any mineral. The~~
11 ~~written notice shall be given by certified mail or acknowledged~~
12 ~~personal delivery to the owner, the owner's representative, or~~
13 ~~lessee, and shall inform the owner, the owner's representative, or~~
14 ~~lessee and the public utility of the extent and location of the~~
15 ~~prospecting, mining, or extracting operation, and the approximate~~
16 ~~time or times of entry and exit upon the real property. under the~~
17 ~~following circumstances:~~
18 (1) *If the mineral rights owner or its agent intends to enter real*
19 *property for the purpose of undertaking non-surface-disrupting*

1 activities such as surveying, water and mineral testing, and
2 removal of debris and equipment not involving use of an articulated
3 vehicle on the real property, the owner or agent shall provide a
4 minimum of five days' notice. Reasonable attempts shall be made
5 to deliver the notice by acknowledged personal delivery, but if that
6 cannot occur, the notice shall be delivered by registered letter and
7 be received a minimum of five days prior to the entrance on the
8 property. The notice shall specify all of the following:

9 (A) Date of entry.

10 (B) Estimated length of time the property will be occupied.

11 (C) General nature of the work.

12 (2) If the mineral rights owner or its agent intends to enter real
13 property for the purpose of excavation or other surface-disrupting
14 activities such as drilling new wells, constructing structures,
15 bringing articulated vehicles or excavation equipment on the real
16 property, or reclamation of the real property after the surface has
17 been disturbed, the owner or agent shall provide a minimum of 60
18 days' notice. The notice shall specify both of the following:

19 (A) The extent and location of the prospecting, mining, or
20 extraction operation.

21 (B) The approximate time or times of entry and exit upon the
22 real property.

23 (b) (1) If a mineral owner has been authorized by the Division
24 of Oil, Gas, and Geothermal Resources to drill a relief well or to
25 take other immediate actions in response to an emergency incident,
26 the notice provisions under paragraph (2) of subdivision (a) shall
27 be waived.

28 (2) For purposes of this section, an "emergency" means a
29 sudden, unexpected occurrence, involving a clear and imminent
30 danger, demanding immediate action to prevent or mitigate loss
31 of, or damage to, life, health, property, or essential public services.
32 "Emergency" includes occurrences such as fire, flood, earthquake,
33 or other soil or geologic movements, as well as occurrences such
34 as riot, accident, or sabotage.

35 If

36 (c) If the mineral rights owner has not complied with this notice
37 requirement, the owner of the real property listed on the current
38 assessment roll or any public utility which has a recorded interest
39 in the real property may request a court to enjoin the prospecting,
40 mining, or extracting operation until the mineral rights owner has

1 complied. The absence of a known owner on the assessment roll
2 or any public utility which has a recorded interest in the real
3 property relieves the mineral rights owner of the obligation to give
4 the written notice to the owner or public utility.

5 ~~For~~

6 (d) For purposes of this section, an “acknowledged personal
7 delivery” means that the written notice is personally delivered to
8 the owner, the owner’s representative, or lessee, and the owner,
9 the owner’s representative, or lessee acknowledges, in writing,
10 receipt of the notice.

11 ~~SECTION 1.~~

12 SEC. 2. Section 3205.7 is added to the Public Resources Code,
13 to read:

14 3205.7. (a) An operator shall provide to the surface owner a
15 10-day written notice of the intent to enter the surface owner’s
16 property for the purpose of the extraction of underlying oil, gas,
17 or minerals. If all surface owners cannot be located or determined,
18 the operator shall provide notice by publication. In addition, the
19 operator shall provide to the surface owner a copy of the applicable
20 recorded short form or memorandum of oil, gas, or mineral lease
21 within 10 days prior to entering the surface owner’s property for
22 the purpose of the extraction of underlying oil, gas, or minerals.

23 (b) This section shall become operative on January 1, 2014.