

## Assembly Bill No. 1966

### CHAPTER 542

An act to amend Section 848 of the Civil Code, relating to natural resources.

[Approved by Governor September 25, 2012. Filed with  
Secretary of State September 25, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

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

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 30 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 also require written notice for any further entry by the mineral rights owner, for the purpose of surface-disturbing activities pursuant to those provisions, if the mineral rights owner's entry to the real property ceases for a period of one year or more.

The bill would waive the 30-day notice requirement described above under an emergency situation if authorized by the Division of Oil, Gas, and Geothermal Resources. The bill would exclude from the requirement to provide notice an owner of the real property or an assessee that has a current, already negotiated agreement with the mineral rights owner, lessee, agent, or operator.

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

SECTION 1. Section 848 of the Civil Code is amended to read:

848. (a) Except as provided in subdivision (c), the owner of mineral rights, as defined by Section 883.110, in real property shall give a written notice prior to the first entry to the owner of the real property who is listed as the assessee on the current local assessment roll or to the owner's representative, or to the lessee of the real property if different from the mineral rights owner, and to any public utility that has a recorded interest in the real property if there is to be excavation of the utility interest, under the following circumstances:

(1) If the mineral rights owner or its agent intends to enter real property for the purpose of undertaking non-surface-disrupting activities such as surveying, water and mineral testing, and removal of debris and equipment not involving use of an articulated vehicle on the real property, the owner or agent shall provide a minimum of five days' notice. Reasonable attempts shall be made to deliver the notice by acknowledged personal delivery, but if that cannot occur, the notice shall be delivered by registered letter and be received a minimum of five days prior to the entrance on the property. The notice shall specify all of the following:

- (A) Date of entry.
- (B) Estimated length of time the property will be occupied.
- (C) General nature of the work.

(2) If the mineral rights owner or its agent intends to enter real property for the purpose of excavation or other surface-disrupting activities such as drilling new wells, constructing structures, bringing articulated vehicles or excavation equipment on the real property, or reclamation of the real property after the surface has been disturbed, the owner or agent shall provide a minimum of 30 days' notice. The notice shall specify both of the following:

- (A) The extent and location of the prospecting, mining, or extraction operation.
- (B) The approximate time or times of entry and exit upon the real property.

(3) If a mineral rights owner's entry to the real property ceases for a period of one year or more, any further entry by the mineral rights owner for the purpose of surface-disturbing activities pursuant to paragraph (2) shall require written notice pursuant to this subdivision.

(b) (1) If a mineral rights owner has been authorized by the Division of Oil, Gas, and Geothermal Resources to drill a relief well or to take other immediate actions in response to an emergency situation, or if the division or its agent is drilling a relief well or taking other immediate actions in response to an emergency situation, the notice provisions under paragraph (2) of subdivision (a) shall be waived.

(2) For purposes of this subdivision, an "emergency" means immediate action is necessary to protect life, health, property, or natural resources.

(c) The notice specified in subdivision (a) shall not be required if the owner of the real property or assessee has a current, already negotiated

surface use, access use, or similar agreement with the mineral rights owner, lessee, agent, or operator.

(d) If the mineral rights owner has not complied with the notice requirement specified in subdivision (a), the owner of the real property listed on the current assessment roll or any public utility which has a recorded interest in the real property may request a court to enjoin the prospecting, mining, or extracting operation until the mineral rights owner has complied. The absence of a known owner on the assessment roll or any public utility which has a recorded interest in the real property relieves the mineral rights owner of the obligation to give the written notice to the owner or public utility.

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