

IC 32-23-7

Chapter 7. Oil and Gas: Estates in Land

IC 32-23-7-0.3

"Coal bed methane"

Sec. 0.3. As used in this chapter, "coal bed methane" has the meaning set forth in IC 14-8-2-42.2.

As added by P.L.140-2011, SEC.18.

IC 32-23-7-0.4

"Coal bed methane estate in land"

Sec. 0.4. (a) As used in this chapter, "coal bed methane estate in land" means the aggregate of all rights in land that affect the coal bed methane:

- (1) in the land;
- (2) on the land;
- (3) under the land; or
- (4) that may be taken from beneath the surface of the land.

(b) The term includes the following:

- (1) The right to produce coal bed methane for commercial use or sale.
- (2) The appurtenant right to use the surface overlying the coal bed methane for coal bed methane operations.

As added by P.L.140-2011, SEC.19.

IC 32-23-7-0.5

"Coal bed methane production area"

Sec. 0.5. (a) As used in this chapter, "coal bed methane production area" means the area of land determined by the operator in which multiple wells are drilled for a common production purpose.

(b) A coal bed methane production area need not be part of a unit or other area in which production is pooled.

As added by P.L.140-2011, SEC.20.

IC 32-23-7-0.8

"Commercially minable coal resource"

Sec. 0.8. As used in this chapter, "commercially minable coal resource" has the meaning set forth in IC 14-8-2-47.

As added by P.L.140-2011, SEC.21.

IC 32-23-7-1

"Oil and gas"

Sec. 1. (a) As used in this chapter, "oil and gas" means petroleum and mineral oils and gaseous substances of whatever character naturally lying or found beneath the surface of land.

(b) The term does not include coal bed methane.

As added by P.L.2-2002, SEC.8. Amended by P.L.140-2011, SEC.22.

IC 32-23-7-2

"Oil and gas estate in land"

Sec. 2. As used in this chapter, "oil and gas estate in land" means the aggregate of all rights in land that affect the oil and gas in, on, under, or that may be taken from beneath the surface of the land.
As added by P.L.2-2002, SEC.8.

IC 32-23-7-2.5

"Operations for coal bed methane"

Sec. 2.5. As used in this chapter, "operations for coal bed methane", unless otherwise indicated by the context of this chapter, means:

- (1) the exploration, surveying, or testing of land for coal bed methane;
- (2) other investigation of the potential of land for coal bed methane production;
- (3) the actual drilling or preparation for drilling of wells for coal bed methane;
- (4) the stimulation of coal bed methane production by hydrofracturing or otherwise;
- (5) the collection and transportation by pipeline of coal bed methane from:
 - (A) the land; or
 - (B) nearby land that is a part of a coal bed methane production area that includes the land; or
- (6) any other actions directed toward the eventual production or attempted production of coal bed methane from the land.

As added by P.L.140-2011, SEC.23.

IC 32-23-7-3

"Operations for oil and gas"

Sec. 3. As used in this chapter, "operations for oil and gas", unless otherwise indicated by the context of this chapter, means:

- (1) the:
 - (A) exploration;
 - (B) testing;
 - (C) surveying; or
 - (D) other investigation;of the potential of the land for oil and gas;
- (2) the actual drilling or preparations for drilling of wells for oil and gas on the land; or
- (3) any other actions directed toward the eventual production or attempted production of oil and gas from the land.

As added by P.L.2-2002, SEC.8.

IC 32-23-7-4

"Person in interest"

Sec. 4. (a) As used in this chapter, "person in interest" means:

- (1) if used in reference to an oil and gas estate in land, the owner of a beneficial interest in the oil and gas estate in land; or
- (2) if used in reference to a coal bed methane estate in land, the owner of a beneficial interest in the coal bed methane estate in

land;
whether the interest is held for life, for a term of years, or in fee.
(b) The term includes a lessee, licensee, or duly qualified agent of the owner.
(c) The term does not include a mortgagee or security assignee of the owner if the mortgagee or security assignee does not have a right to the control or operation of the premises for:
(1) if used in reference to an oil and gas estate in land, oil and gas; or
(2) if used in reference to a coal bed methane estate in land, coal bed methane.
As added by P.L.2-2002, SEC.8. Amended by P.L.140-2011, SEC.24.

IC 32-23-7-5

"Surface rights"

Sec. 5. As used in this chapter, "surface rights" means all rights relating to the occupancy, user, or ownership of the surface of land affected by this chapter.
As added by P.L.2-2002, SEC.8.

IC 32-23-7-6

Rights and privileges transferred

Sec. 6. A grant or reservation contained in an instrument that affects land in Indiana and that purports to convey or transfer an interest in the oil and gas in, on, under, or that may be produced from beneath the surface of the land transfers the following expressed rights and privileges in addition to any other rights naturally flowing from the character of the instrument in law to the named recipient:

(1) A person in interest in the oil and gas estate in land may enter the land for the purpose of:

(A) exploring, prospecting, testing, surveying, or otherwise investigating the land to determine the potential of the land for oil or gas production; or

(B) otherwise conducting operations for oil and gas on the land;

whether or not the person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land.

(2) A person in interest in the oil and gas estate in land in Indiana may enter the land to drill a well or test well on the land for the production or attempted production of oil and gas regardless of whether the:

(A) person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land; and

(B) owner of the remaining rights in the land consents to the entrance and drilling.

A person that drills a well under this subdivision shall provide an accounting to the remaining or nonparticipating persons in interest in the oil and gas estate in the land, for their respective proportionate shares of the net profits arising from the operations conducted upon the land for oil or gas. In calculating

the profits, a reduction may not be made from the gross proceeds of the production of oil and gas, except for expenses that are reasonably or necessarily incurred in connection with the drilling, completion, equipping, and operation of the wells drilled upon the premises during the period in which the relationship of cotenancy existed between the person drilling the well and the person whose interest is sought to be charged with the respective proportionate part of the cost of the drilling.

(3) A person who may enter and enters land in Indiana for the purpose of exploring, prospecting, testing, surveying, or otherwise investigating the potential of the land for oil and gas, or for the purpose of conducting operations on the land for the production of oil and gas, is accountable to the owner of the surface of the land for the actual damage resulting from the person's activities on the land to:

- (A) the surface of the land;
- (B) improvements to the land; or
- (C) growing crops on the land.

However, a person who enters land under this subdivision is not liable for punitive damages. Actual damage for which a person is accountable under this subdivision includes actual damage to marketable timber, crops, drainage systems, or erosion control systems, or quantifiable and verifiable damage to crops from compaction, abnormal flooding, or abnormal soil erosion caused by oil and gas operations. This subdivision does not increase damages between a lessor and a lessee in a valid and subsisting oil and gas lease that specifies damages if damages are not due other than damages that are expressly provided by contract between cotenants or the lessees of cotenants of a like estate in the land. This section does not authorize the location of a well for oil and gas nearer than two hundred (200) feet to an existing house, barn, or other structure (except fences) without the express consent of the owner of the structure.

(4) The right to conduct operations for oil and gas upon land located in Indiana includes the right to:

- (A) install and maintain physical equipment on the land; and
- (B) use the portion of the surface of the land that is reasonably necessary for the operations;

subject to the payment of damages resulting from the installation only of the equipment specified in this subdivision.

As added by P.L.2-2002, SEC.8. Amended by P.L.140-2011, SEC.25.

IC 32-23-7-6.5

Notice to surface owner of intent to enter property

Sec. 6.5. (a) This section does not apply in the event of an emergency entry.

(b) Unless otherwise agreed by the surface owner, a person who is an owner or holder of an oil and gas mineral interest or coal bed methane mineral interest and who wants to enter land for the purpose of surveying a drilling location must provide to the surface owner a

written notice of the person's intent to enter the property at least five (5) days before the person's entry.

(c) The written notice under subsection (b) may be given by personal delivery or by certified mail:

(1) to the last known address of each person who is liable for any property taxes on the property as shown on the tax duplicate; or

(2) to the last known address of the most recent owner of the property shown in the transfer book.

As added by P.L.140-2011, SEC.26. Amended by P.L.6-2012, SEC.210.

IC 32-23-7-7

Interests created; title; alienability

Sec. 7. (a) This section applies to the following:

(1) Interests in oil and gas.

(2) Interests in coal bed methane.

(b) An interest referred to in subsection (a) in, on, under, or that may be taken from beneath the surface of land located in Indiana may be created:

(1) for life;

(2) for a term of years; or

(3) in fee;

in the manner and to the extent that other interests in real estate and title are created.

(c) Title to the estates specified under subsection (b) may be vested in one (1) or more persons by:

(1) sole ownership;

(2) tenancy in common;

(3) joint tenancy;

(4) tenancy by the entirety; or

(5) another manner recognized under Indiana law.

(d) Interests or estates specified in this section are freely alienable, in whole or in part, in the same manner as are other interests in real estate.

As added by P.L.2-2002, SEC.8. Amended by P.L.140-2011, SEC.27.

IC 32-23-7-8

Contract rights not limited; legislative intent; regulation of industry; construction of law

Sec. 8. (a) This chapter does not limit the rights of parties to contract with regard to an oil and gas estate or a coal bed methane estate in land affecting lands in Indiana:

(1) to the extent permitted by; and

(2) in a manner consistent with;

the nature of the estate in law as specified under this chapter.

(b) This chapter does not affect the rights or powers of any commission, board, or authority duly constituted for the regulation of the oil and gas industry or the coal bed methane industry in Indiana.

As added by P.L.2-2002, SEC.8. Amended by P.L.140-2011, SEC.28.