

SUPPORT HB 1562 “PEOPLE’S PROPERTY PROTECTION ACT”

What is subsurface trespass?

Subsurface trespass can happen in both conventional and nonconventional drilling, and occurs when the fracturing of shale, fracturing fluids, and/or proppants cross boundaries of land where the operator does not have owner consent to conduct operations.

Why should legislators and landowners be concerned?

Current oil and gas law mandates that for high-volume horizontal fracking (HFRA), notice must be given to owners within a 1,500 foot radius of the well site. However a horizontal well leg can extend up to three miles from the vertical well, and the fracturing of shale and the injection of chemicals and proppants can extend thousands of feet from each horizontal well leg. So, owners of land and/or mineral rights along the lengths of the horizontal legs, within several thousand feet, can be subjected to subsurface trespass, which is a theft of their mineral rights and/or a damage to their property. This amounts to the unconstitutional taking of private property for the private gain of others.

What is an unconstitutional taking?

The exploration and extraction of mineral rights is not for a public use or purpose, and is not authorized under Illinois eminent domain law. An unconstitutional taking can happen under the Oil and Gas Act or HFRA. Illinois has a “Rule of Capture,” whereby the first person to “capture” gas or oil owns it. But this rule was adopted when wells were only vertical and used natural drainage to recover the minerals. In a recent case in PA, a judge ruled that the Rule of Capture does not give permission to trespass. Also, oil and gas extraction sometimes relies on “forced integration” (also known as “forced pooling”), which occurs when the state forces an owner of mineral rights to participate in an oil and/or gas producing unit. In these cases, the operator can use pressure and/or fracturing fluids under the land of an unconsenting owner, and artificially extract minerals from that land. When done without consent, it is an unconstitutional taking.

What are the risks to landowners?

- Devaluing and disintegrating landowner rights, and putting profit before people.
- No notice for owners who live further than 1,500 feet from the vertical wellbore.
- Potential for groundwater contamination from chemicals used in the process.
- Theft of minerals like oil and gas.
- Explosions, spills, and a legacy trail of chemicals known to cause cancer.
- Potential drop in land value.
- Potential for invalidating home mortgages.

What is the proposed solution in this bill?

- This legislation reverses the priority of rights. If this bill becomes law, the rights of those who do not want to participate in extraction would be placed above the rights of those who want to extract and profit from the mineral rights of unconsenting owners: “A person shall not drill or remove minerals ... without the express, written consent of each owner of a mineral interest affected.”
- This change would be made within HFRA also: “A person shall not conduct hydraulic fracturing operations ... without the express, written consent of each owner of a mineral interest affected.”

3 minute Educational video on Property Rights <https://youtu.be/bS532Vq8WJM>

For more information visit ILbanfracking.org or 872-201-8525