

AMENDMENT TO H.R. 3535
OFFERED BY MR. HEINRICH OF NEW MEXICO

At the end of title VII add the following:

1 **SEC. ____ . SPLIT ESTATE.**

2 (a) IN GENERAL.—Section 17 of the Mineral Leasing
3 Act (30 U.S.C. 226) is amended by adding at the end the
4 following:

5 “(q) SPLIT ESTATES.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) COVERED LAND.—The term ‘covered
8 land’ means land with respect to which—

9 “(i) title to oil and gas resources is
10 held by the United States; but

11 “(ii) title to the surface estate is not
12 held by the United States.

13 “(B) LEASE.—The term ‘lease’ means a
14 lease issued by the Secretary under this Act
15 that provides for the development of oil and gas
16 resources (including coalbed methane) on cov-
17 ered land.

18 “(C) LESSEE.—The term ‘lessee’ means
19 the holder of a lease for the development of oil
20 and gas resources on covered land.

1 “(D) OIL AND GAS OPERATIONS.—The
2 term ‘oil and gas operations’ means all activi-
3 ties affecting the interest of a surface owner in
4 covered land that are associated with explo-
5 ration, drilling, or production of oil and gas,
6 through final reclamation of the affected sur-
7 face.

8 “(E) OPERATOR.—The term ‘operator’
9 means a person with the legal right to conduct
10 oil and gas operations on covered land.

11 “(F) SECRETARY.—The term ‘Secretary’
12 means the Secretary of the Interior.

13 “(G) SURFACE OWNER.—The term ‘sur-
14 face owner’ means a person who holds legal or
15 equitable title, as demonstrated in the records
16 of the applicable county clerk or other local gov-
17 ernment official, to the surface of the covered
18 land on which the operator has the right to con-
19 duct oil and gas operations.

20 “(2) COMPENSATION AND RECLAMATION.—

21 “(A) IN GENERAL.—An operator shall
22 compensate the surface owner for damages re-
23 sulting from the oil and gas operations of the
24 operator on land affected by the operations
25 from—

1 “(i) loss of agricultural production
2 and income;

3 “(ii) lost land value;

4 “(iii) lost use of and lost access to the
5 land of the surface owner; and

6 “(iv) the lost value of improvements.

7 “(B) RECLAMATION.—An operator shall
8 reclaim the surface affected by the oil and gas
9 operations of the operator.

10 “(3) NOTICE OF OPERATIONS.—

11 “(A) PRIOR TO INITIAL ENTRY.—Prior to
12 initial entry for activities that do not disturb
13 the surface, the operator shall provide at least
14 five days notice by certified mail or hand deliv-
15 ery to the surface owner.

16 “(B) OPERATIONS.—Prior to commencing
17 oil and gas operations, the operator shall pro-
18 vide not less than 30 days notice by certified
19 mail or hand delivery to the surface owner with
20 sufficient disclosure of the planned operations
21 to enable the surface owner to evaluate the ef-
22 fect of the operations.

23 “(C) PLACE OF NOTICE DELIVERY.—The
24 notices required by this section shall be given to
25 the surface owner at the address shown by the

1 records of the county clerk at the time the no-
2 tice is given.

3 “(D) NOTICE DEEMED RECEIVED.—No-
4 tices required by this section shall be deemed to
5 have been received five days after mailing by
6 certified mail or immediately upon hand deliv-
7 ery.

8 “(4) SURFACE USE AGREEMENT.—

9 “(A) SURFACE USE AGREEMENT.—At the
10 time of providing notice of operations under
11 paragraph (3)(B), the operator shall provide to
12 the surface owner a proposed surface use agree-
13 ment that—

14 “(i) to the extent known, specifies suf-
15 ficient disclosure of the planned oil and gas
16 operations to enable the surface owner to
17 evaluate the effect of the operations on the
18 property, including—

19 “(I) placement, specifications,
20 maintenance and design of facilities,
21 equipment and roads;

22 “(II) terms of ingress and egress,

23 “(III) water protection (quality
24 and quantity);

25 “(IV) proposed reclamation; and

1 “(V) actions to minimize surface
2 damages to the land including runoff
3 and erosion; and

4 “(ii) includes an offer of compensation
5 for damages to the surface affected by oil
6 and gas operations.

7 “(B) PROCEDURE.—

8 “(i) IN GENERAL.—Not later than 30
9 days after the date of receipt of the pro-
10 posed surface use agreement, the surface
11 owner may accept or reject the agreement.

12 “(ii) FAILURE TO ACCEPT.—Failure
13 to accept the agreement during the 30-day
14 period described in clause (i) may be con-
15 sidered a rejection of the agreement.

16 “(C) NEGOTIATIONS.—The surface owner
17 and operator may enter into negotiations re-
18 garding the surface use agreement.

19 “(D) AGREEMENT.—The operator and the
20 surface owner may enter into a mutually ac-
21 ceptable agreement that specifies the rights and
22 obligations of the parties with respect to the
23 surface activities conducted by the operator.

24 “(5) ENTRY WITHOUT AGREEMENT; BOND.—

1 “(A) IN GENERAL.—In lieu of executing a
2 surface use agreement under paragraph (4)(A),
3 the operator may enter the property of the sur-
4 face owner and conduct oil and gas operations
5 as provided in this section.

6 “(B) FINANCIAL ASSURANCE.—The oper-
7 ator shall provide an appropriate financial as-
8 surance for the benefit of the surface owner, as
9 determined by the Secretary, prior to com-
10 mencing operations under this paragraph.

11 “(C) RELEASE OF FINANCIAL ASSUR-
12 ANCE.—The Secretary shall provide for the ap-
13 propriate release of the financial assurance on
14 a determination that—

15 “(i) the reclamation is complete; and

16 “(ii) the surface owner has been com-
17 pensated for any damages.

18 “(6) NOTICE OF SECRETARIAL ACTION WITH
19 RESPECT TO FEDERAL LEASES.—The Secretary
20 shall make reasonable efforts to provide to each sur-
21 face owner of affected covered land, and to each per-
22 mittee or right-of-way holder with the right to use
23 the surface of affected Federal land, written notice
24 of—

1 “(A) any lease sale for an oil or gas lease
2 under this Act by not later than 30 days before
3 the date of the lease sale; and

4 “(B) the issuance of a drilling permit by
5 not later than 5 days before the date of
6 issuance.

7 “(7) RELATIONSHIP TO STATE LAW.—Nothing
8 in this subsection preempts any applicable State
9 law.”.

10 (b) REGULATIONS.—Not later than 180 days after
11 the date of enactment of this Act, the Secretary of the
12 Interior shall promulgate such regulations as are nec-
13 essary to carry out the amendment made by subsection
14 (a).

