WEST VIRGINIA CODE: §22-10-7

§22-10-7. Right of interested person to plug, replug and reclaim abandoned wells.

(a) Upon twenty days' advance written notice, it shall be lawful for any interested person, the operator or the director to enter upon the premises where any abandoned well is situated and properly plug or replug such abandoned well, and to reclaim any area disturbed by such plugging or replugging in the manner required by article six of this chapter. Such notice shall be served by certified mail, returned receipt requested, or such other manner as is sufficient for service of process in a civil action, upon any owner of the surface of the land upon which such abandoned well exists, upon any oil and gas lessee of record with the director and upon any owner or operator of such abandoned well of record with the director, or in the event there is no such lessee, owner or operator of record with the director, by posting such notice in a conspicuous place at or near such abandoned well. The notice given the surface owner shall include a statement advising the surface owner of the right to repairs or damages as provided in this section and the potential right to take any casing, equipment or other salvage. Such notice shall be on forms approved by the director.

(b) Any interested person who plugs a well pursuant to the provisions of this section shall, to the extent damage or disturbance results from such plugging, either repair the damage or disturbance or compensate the surface owner for (i) the reasonable cost of repairing or replacing any water well, (ii) the reasonable value of any crops destroyed, damaged or prevented from reaching market, (iii) the reasonable cost of repair to personal property up to the value of the replacement value of personal property of like age, wear and quality, (iv) lost income or expense incurred, and (v) reasonable costs to reclaim or repair real property including roads.

(c) The interested person who is plugging the well pursuant to the provisions of this section, may elect to take any casing, equipment or other salvage which may result from the plugging of such abandoned well by including notice of such election in the written notice mandated by subsection (a) of this section. Should such interested person who is plugging the well not give such notice of election, the surface owner may elect to take any casing, equipment or other salvage which may result from the plugging of such abandoned well by giving written notice of such election to the interested person who is plugging the well at least ten days in advance of such plugging. In the event such notice is given, such interested person who is plugging the well may leave such casing, equipment or salvage at a location which will not adversely affect any reclamation of a disturbed area. In the event the surface owner does not give notice of an election to take such casing, equipment or salvage as provided herein, such interested person who plugs the well shall properly dispose thereof. Nothing in this subsection shall be construed to require or create a duty upon such interested person who plugs the well to protect or pull casing or otherwise take any action or incur any expense to retrieve or protect any casing, equipment or salvageable material: Provided, That nothing contained in this section may be construed to relieve the interested

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person from the responsibility to perform in accordance with the requirements of this article, article six of this chapter, or any condition of the permit.

(d) Prior to releasing any bond which is obtained in connection with plugging or replugging an abandoned well under the provisions of this section, the director shall obtain from the interested person who has obtained the bond a copy of a letter that such interested person has sent to the surface owner advising that reclamation has been completed.

(e) Where an interested person who intends to plug an abandoned well pursuant to this section is unable to obtain a bond in the full amount required by section twenty-six, article six of this chapter, the director may authorize a bond in a lesser amount; which lesser amount shall be equal or greater than the estimated cost of reclaiming the surface areas disturbed by the plugging operation: Provided, That an owner or operator of a well shall comply with the financial responsibility provisions of section five of this article and section twenty-six, article six of this chapter.

(f) In the event the owner or operator of a well fails or has failed to plug a well in accordance with laws and rules in effect at the time the well is or was first subject to plugging requirements, any interested person who plugs or replugs such well pursuant to the provisions of this section may recover from the owner or operator of such well all reasonable costs incidental to such plugging or replugging, including any compensation provided for in this section. In the event funds from the oil and gas reclamation fund established pursuant to section twenty-nine, article six of this chapter are used to plug or replug such well, the director shall be entitled to recover from the owner or operator of such well any amounts so expended from the fund. Any amounts so recovered by the director shall be deposited in said fund.

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