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## Interstate Explorations, LLC v. Morgen Farm and Ranch, Inc.

**Interstate Explorations, LLC v. Morgen Farm and Ranch, Inc.**, 2016 MT 20 (Decided on January 26, 2016)

In *Interstate Explorations, LLC v. Morgen Farm and Ranch, Inc.*, the Montana Supreme Court held that a surface owner is not required to exhaust administrative remedies prior to commencing an action for damages to the surface caused by a mineral lessee.

In this case, Interstate Explorations (Interstate) owned a leasehold interest in the minerals underlying the surface estate of Morgen Farm and Ranch, Inc. (Morgen). Interstate filed an action against Morgen claiming that Morgen had wrongfully denied Interstate an easement necessary for a power line to operate Interstate's well. Morgen then counterclaimed concerning alleged spills by Interstate. Interstate moved to have Morgen's claim dismissed for a failure to exhaust administrative remedies, but the District Court denied Interstate's motion. On appeal, the Montana Supreme Court affirmed the District Court's decision to deny the motion. Interstate argued that as a claim under the Montana Surface Damages Act, Morgan was required by the Montana Administrative Procedure Act to first pursue its claim before the Montana Board of Oil and Gas Conservation. The Court pointed out, however, that the Surface Damages Act is found in Chapter 10 of Title 82 of the Montana Code while the Board gets its authority from Chapter 11. According to the Court, then, the Surface Damages Act is not subject to an agency or administrative proceeding that must be exhausted before commencing litigation. Further, the Court added that the Surface Damages Act, by its very language, does not require any acts prior to initiating litigation.

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