



Current Report

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1982 Legislation Affecting Surface and Mineral Owners

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Three Bills were passed by the 1982 Oklahoma Legislature which affect mineral and surface owners. They are discussed as follows:

House Bill 1460¹ provides procedures for payment of surface damages. A brief summary of the main points follows:

Notice to Drill

Before entering upon a site the operator shall give the surface owner a written notice by certified mail of his intent to drill. The notice shall contain the designation of the proposed location and the approximate date the operator proposes to commence drilling. If the surface owners cannot be ascertained or cannot be delivered the constructive notice of the intent to drill shall be given in the same manner as provided for the notice of the proceedings to appoint appraisers.

Within five days of the date of delivery or service of the notice to

¹ Codified as Title 52 Oklahoma statute, Section 318.2 through 318.9

drill it shall be the duty of the operator and the surface owner to enter into good faith negotiations to determine the surface damage.

Surety Bond or Letter of Credit

Every operator doing business in this state shall file a corporate surety bond or letter of credit from a banking institution with the Secretary of State in the Sum of \$25,000 for payment of location damages due which the operator cannot otherwise pay. The bonding company or banking institution shall file a certificate that said bond or letter of credit is in effect, or has been cancelled, or a claim has been made against it in the office of county clerk. Upon deposit of the bond or letter of credit, the operator shall be permitted to commence drilling. If the damages are greater than the bond the operator must pay the damages immediately or post an additional bond.

Damage Negotiations

Prior to entering the site with heavy equipment the operator shall

negotiate with the surface owner for the payment of any damages. If the parties agree and a written contract is signed, the operator may enter the site to drill. If an agreement is not reached or the operator is unable to contact all parties, the operator shall petition the district court in the county in which the drilling site is located for appointment of appraisers to make recommendations about damages to the parties and the court. After the operator has petitioned the court for appointment of appraisers he may enter the site to drill.

Notice to Appoint Appraisers

Ten days notice of the petition to appoint appraisers shall be given to the opposite party either by personal service or leaving a copy at his place of residence with some member of his family over 15 years of age. In the case of unknown nonresidents, unknown heirs or other persons whose whereabouts can be ascertained a legal notice must be published in a newspaper qualified to publish legal notices in the county. The 10 day notice of petition to appoint appraisers begins with the first publication.

Appointment of Appraisers

The operator shall select one appraiser, the surface owner shall select one appraiser, and the two selected appraisers shall select a third appraiser for appointment by the court. If either of the parties fails to appoint an appraiser or if the two appraisers cannot agree on a selection of the third appraiser, the remaining required appraisers shall be selected by the district court.

The appraisers within 15 days of the date of their appointment shall

file their written report with the clerk of the court. Their report shall set forth the quantity, boundaries and value of the property to be utilized in drilling and the amount of the surface damage done or to be done. The appraisers shall determine the amount of the compensation to be paid by the operator to the surface owner and the manner in which it shall be paid. The compensation shall be fixed and determined by the court. The operator and the surface owner shall share equally in payment of the appraisers' fees and court costs.

Notice of Findings

Within 10 days after the report of the appraisers is filed, the clerk of the court shall forward to each attorney of record and each party, a copy of the report and a notice stating the time limits for filing an exception or a demand for jury trial.

The time for filing an exception to the report or a demand for a jury trial shall be calculated as commencing from the date the report of the appraisers is filed with the court. Upon failure of the clerk to give notice within the required time, the court may extend the time, upon request by either party, but not less than 20 days from the date the application is to be heard by the court.

Findings of the Court

The court may review the written exceptions and the appraisers report within thirty days after filing of the report. The court may confirm, reject, modify or order a new appraisal. If a new appraisal is ordered the operator shall have a continuing right of entry. Either party within 60 days after filing such

report may file with the clerk a written demand for a trial by jury. In such case the damages shall be assessed by the jury. The trial shall be conducted and judgement entered in the same manner as railroad condemnation actions tried in court. If the party demanding a jury trial does not recover a verdict more favorable to him than the assessment award of the appraisers, all court costs including reasonable attorney fees shall be assessed against him. Any aggrieved party may appeal the decision of the court or verdict rendered upon jury trial.

Other

The executor or administrator of an estate, or a legal guardian or conservator of an incompetent or minor shall have authority to execute all instruments of conveyance provided for in the act. The act is not applicable to not affect any property of an Indian whose interest is restricted against voluntary or involuntary alienation under the laws of the United States. It also does not apply to property held by an Indian tribe or by the United States for an Indian tribe.

Treble Damages

The court may assess treble damages against an operator who willfully and knowingly enters the premises to drill a well without giving notice or without the agreement of the surface owner. Treble damages may also be assessed against an operator who fails to keep posted the required bond. The act is effective July 1, 1982.

²Amends Title 17 Oklahoma Statutes 1981 Section 53.2

Tenant's Rights

House Bill 1460 makes no mention of the tenants rights. If the surface owner has given an agricultural lease to a tenant he should keep this information in mind when damages estimates are being negotiated.

SENATE BILL 622² - TRASH REMOVAL AND FILLING OF PITS

Senate Bill 622 requires the Corporation Commission to develop and issue regulations requiring operators to keep oil and gas well sites free of trash and debris including but not limited to garbage, rubbish, junk and scrap. The regulations are to also include the grading and terracing of the soil unless the owner of the land and the lease operator have entered into a contract providing otherwise. (The provisions do not apply to Osage county.)

The bill provides that within twelve months after the completion of a producing well, the operator shall fill all pits containing muds, cuttings, salt water or oil that are needed for production purposes or required by law. All other drilling supplies and equipment not necessary for producing, excluding guy line anchors, shall also be removed. The operator is required to grade or terrace the land surface not needed for productions during this period.

Within twelve months after a well that has produced oil or gas is plugged or after plugging a dry hole, all production and storage structures, supplies and equipment, oil, salt water, debris shall be removed and the operator is to grade or terrace the area disturbed.

The operator is released from the requirements of this act upon filing a

request for a waiver and obtaining the written approval of the Corporation Commission. The request for the waiver has to be signed by the surface owner indicating his approval. The commission will not approve such a waiver if it finds that the waiver would likely result in substantial damage to adjoining property or contamination of surface or underground water or substantial erosion or sedimentation.

The commission may upon written application by the operator extend the period which restoration shall be completed, but not to exceed a six months period except under extra ordinarily adverse weather conditions or equipment, fuel or labor is unavailable to the operator.

The provision of the bill apply to the drilling or conversion to a salt water disposal well and to reentering or reworking any oil or gas well. The act is effective April 27, 1982.

HOUSE BILL 1274 -
ABANDONED MINERALS LAW AMENDED

House Bill 1274 amends the law pertaining to abandoned mineral

interests. Holders of suspended money are now to report to the Oklahoma Tax Commission after holding for seven years instead of 14. This includes the amount of money and the names of the owners they have been unable to locate. The minimum amount required to report was raised from \$25 to \$50.

The holders of abandoned property are to report November 1 of each year as of the preceding September 1. Within 120 days from November 1 the Tax Commission will publish at least once each week for two weeks in a legal newspaper the name and last known address of the persons involved. It is to be published in the county of the last known address of the person named. If no address is listed or it is an out of state address it may be published in the county in which the holder of the abandoned property has his principal place of business or in a newspaper most likely to be seen by the heirs.

The Tax Commission will then turn over to the District attorney the annual report of the unclaimed mineral interests. The District Attorney will initiate escheat provisions as provided in Sections 271 through 277 of Title 84.