

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1569

By: Morgan (Danny)

COMMITTEE SUBSTITUTE

An Act relating to oil and gas; amending 52 O.S. 2001, Section 318.5, as amended by Section 16, Chapter 22, O.S.L. 2002 (52 O.S. Supp. 2002, Section 318.5), which relates to surface damages; requiring surface damage agreements to contain certain provisions relating to setback guidelines; allowing the operator and surface owner upon agreement to change setback guidelines; prohibiting any permanent structure or other item from being placed within a certain distance of a wellbore or equipment; defining certain term; allowing the operator and surface owner to change setback distances; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 52 O.S. 2001, Section 318.5, as amended by Section 16, Chapter 22, O.S.L. 2002 (52 O.S. Supp. 2002, Section 318.5), is amended to read as follows:

Section 318.5 A. Prior to entering the site with heavy equipment, the operator shall negotiate with the surface owner for the payment of any damages which may be caused by the drilling operation. If the parties agree, and a written contract is signed, the operator may enter the site to drill. If agreement is not reached, or if the operator is not able 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 to the parties and to the court concerning the amount of damages, if any. Once the operator has petitioned for appointment of appraisers, the operator may enter the site to drill.

1 B. Ten (10) days' notice of the petition to appoint appraisers  
2 shall be given to the opposite party, either by personal service or  
3 by leaving a copy thereof at the party's usual place of residence  
4 with some family member over fifteen (15) years of age, or, in the  
5 case of nonresidents, unknown heirs or other persons whose  
6 whereabouts cannot be ascertained, by publication in one issue of a  
7 newspaper qualified to publish legal notices in said county, as  
8 provided in Section 106 of Title 25 of the Oklahoma Statutes, said  
9 ten-day period to begin with the first publication.

10 C. The operator shall select one appraiser, the surface owner  
11 shall select one appraiser, and the two selected appraisers shall  
12 select a third appraiser for appointment by the court, which such  
13 third appraiser shall be a state-certified general real estate  
14 appraiser and be in good standing with the Oklahoma Real Estate  
15 Appraisal Board. Unless for good cause shown, additional time is  
16 allowed by the district court, the three (3) appraisers shall be  
17 selected within twenty (20) days of service of the notice of the  
18 petition to appoint appraisers or within twenty (20) days of the  
19 first date of publication of the notice as specified in subsection B  
20 of this section. If either of the parties fails to appoint an  
21 appraiser or if the two appraisers cannot agree on the selection of  
22 the third appraiser within the required time period, the remaining  
23 required appraisers shall be selected by the district court upon  
24 application of either party of which at least one shall be a state-  
25 certified general real estate appraiser and be in good standing with  
26 the Oklahoma Real Estate Appraisal Board. Before entering upon  
27 their duties, such appraisers shall take and subscribe an oath,  
28 before a notary public or some other person authorized to administer  
29 oaths, that they will perform their duties faithfully and  
30 impartially to the best of their ability. They shall inspect the  
31 real property and consider the surface damages which the owner has  
32 sustained or will sustain by reason of entry upon the subject land

1 and by reason of drilling or maintenance of oil or gas production on  
2 the subject tract of land. The appraisers shall then file a written  
3 report within thirty (30) days of the date of their appointment with  
4 the clerk of the court. The report shall set forth the quantity,  
5 boundaries and value of the property entered on or to be utilized in  
6 said oil or gas drilling, and the amount of surface damages done or  
7 to be done to the property. The appraisers shall make a valuation  
8 and determine the amount of compensation to be paid by the operator  
9 to the surface owner and the manner in which the amount shall be  
10 paid. Said appraisers shall then make a report of their proceedings  
11 to the court. The compensation of the appraisers shall be fixed and  
12 determined by the court. The operator and the surface owner shall  
13 share equally in the payment of the appraisers' fees and court  
14 costs.

15 D. Within ten (10) days after the report of the appraisers is  
16 filed, the clerk of the court shall forward to each attorney of  
17 record, each party, and interested party of record, a copy of the  
18 report of the appraisers and a notice stating the time limits for  
19 filing an exception or a demand for jury trial as provided for in  
20 this section. The operator shall provide the clerk of the court  
21 with the names and last-known addresses of the parties to whom the  
22 notice and report shall be mailed, sufficient copies of the notice  
23 and report to be mailed, and pre-addressed, postage-paid envelopes.

24 1. This notice shall be on a form prepared by the  
25 Administrative Director of the Courts, approved by the Oklahoma  
26 Supreme Court, and supplied to all district court clerks.

27 2. If a party has been served by publication, the clerk shall  
28 forward a copy of the report of the appraisers and the notice of  
29 time limits for filing either an exception or a demand for jury  
30 trial to the last-known mailing address of each party, if any, and  
31 shall cause a copy of the notice of time limits to be published in  
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1 one issue of a newspaper qualified to publish legal notices as  
2 provided in Section 106 of Title 25 of the Oklahoma Statutes.

3 3. After issuing the notice provided herein, the clerk shall  
4 endorse on the notice form filed in the case the date that a copy of  
5 the report and the notice form was forwarded to each attorney of  
6 record, each party, and each interested party of record, or the date  
7 the notice was published.

8 E. The time for filing an exception to the report or a demand  
9 for jury trial shall be calculated as commencing from the date the  
10 report of the appraisers is filed with the court. Upon failure of  
11 the clerk to give notice within the time prescribed, the court, upon  
12 application by any interested party, may extend the time for filing  
13 an exception to the report or filing a demand for trial by jury for  
14 a reasonable period of time not less than twenty (20) days from the  
15 date the application is heard by the court. Appraisers' fees and  
16 court costs may be the subject of an exception, may be included in  
17 an action by the petitioner, and may be set and allowed by the  
18 court.

19 F. The report of the appraisers may be reviewed by the court,  
20 upon written exceptions filed with the court by either party within  
21 thirty (30) days after the filing of the report. After the hearing  
22 the court shall enter the appropriate order either by confirmation,  
23 rejection, modification, or order of a new appraisal for good cause  
24 shown. Provided, that in the event a new appraisal is ordered, the  
25 operator shall have continuing right of entry subject to the  
26 continuance of the bond required herein. Either party may, within  
27 sixty (60) days after the filing of such report, file with the clerk  
28 a written demand for a trial by jury, in which case the amount of  
29 damages shall be assessed by a jury. The trial shall be conducted  
30 and judgment entered in the same manner as railroad condemnation  
31 actions tried in the court. A copy of the final judgment shall be  
32 forwarded to the county assessor in the county or counties in which

1 the property is located. If the party demanding the jury trial does  
2 not recover a more favorable verdict than the assessment award of  
3 the appraisers, all court costs including reasonable attorney fees  
4 shall be assessed against the party.

5 G. For any well drilled after the effective date of this act,  
6 every surface damage agreement shall contain provisions outlining  
7 the minimum setback guidelines as provided for in Section 2 of this  
8 act. Nothing shall prevent an operator and surface owner from  
9 agreeing to setback provisions with distances different from those  
10 set forth in Section 2 of this act.

11 SECTION 2. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 318.10 of Title 52, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. For any well, no permanent structure, fence, debris, or  
15 other man-made items shall be placed within:

16 1. A radius of two hundred (200) feet from the wellbore;

17 2. A radius of seventy-five (75) feet from any hydrocarbon and  
18 brine storage vessel; and

19 3. A radius of two hundred (200) feet from any surface  
20 equipment, including but not limited to tank batteries, flow lines,  
21 pumping units, and any other equipment needed for the operation of  
22 the well.

23 B. For purposes of this section, "permanent structure" shall  
24 mean any man-made structure or building which is fixed or intended  
25 to be fixed to the land.

26 C. Nothing in this section shall prevent an operator and  
27 surface owner from agreeing to setback provisions with distances  
28 different from those set forth in this section.

29 SECTION 3. This act shall become effective July 1, 2003.

30 SECTION 4. It being immediately necessary for the preservation  
31 of the public peace, health and safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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