

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1870

By: Billy

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 318.5, which relates to negotiating
9 surface damages; requiring jury trial to be held
within certain time period; and declaring an
emergency.

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

13 SECTION 1. AMENDATORY 52 O.S. 2011, Section 318.5, is
14 amended to read as follows:

15 Section 318.5 A. Prior to entering the site with heavy
16 equipment, the operator shall negotiate with the surface owner for
17 the payment of any damages which may be caused by the drilling
18 operation. If the parties agree, and a written contract is signed,
19 the operator may enter the site to drill. If agreement is not
20 reached, or if the operator is not able to contact all parties, the
21 operator shall petition the district court in the county in which
22 the drilling site is located for appointment of appraisers to make
23 recommendations to the parties and to the court concerning the
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1 amount of damages, if any. Once the operator has petitioned for
2 appointment of appraisers, the operator may enter the site to drill.

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

12 C. The operator shall select one appraiser, the surface owner
13 shall select one appraiser, and the two selected appraisers shall
14 select a third appraiser for appointment by the court, which such
15 third appraiser shall be a state-certified general real estate
16 appraiser and be in good standing with the Oklahoma Real Estate
17 Appraisal Board. Unless for good cause shown, additional time is
18 allowed by the district court, the three ~~(3)~~ appraisers shall be
19 selected within twenty (20) days of service of the notice of the
20 petition to appoint appraisers or within twenty (20) days of the
21 first date of publication of the notice as specified in subsection B
22 of this section. If either of the parties fails to appoint an
23 appraiser or if the two appraisers cannot agree on the selection of
24 the third appraiser within the required time period, the remaining

1 required appraisers shall be selected by the district court upon
2 application of either party of which at least one shall be a state-
3 certified general real estate appraiser and be in good standing with
4 the Oklahoma Real Estate Appraisal Board. Before entering upon
5 their duties, such appraisers shall take and subscribe an oath,
6 before a notary public or some other person authorized to administer
7 oaths, that they will perform their duties faithfully and
8 impartially to the best of their ability. They shall inspect the
9 real property and consider the surface damages which the owner has
10 sustained or will sustain by reason of entry upon the subject land
11 and by reason of drilling or maintenance of oil or gas production on
12 the subject tract of land. The appraisers shall then file a written
13 report within thirty (30) days of the date of their appointment with
14 the clerk of the court. The report shall set forth the quantity,
15 boundaries and value of the property entered on or to be utilized in
16 said oil or gas drilling, and the amount of surface damages done or
17 to be done to the property. The appraisers shall make a valuation
18 and determine the amount of compensation to be paid by the operator
19 to the surface owner and the manner in which the amount shall be
20 paid. Said appraisers shall then make a report of their proceedings
21 to the court. The compensation of the appraisers shall be fixed and
22 determined by the court. The operator and the surface owner shall
23 share equally in the payment of the appraisers' fees and court
24 costs.

1 D. Within ten (10) days after the report of the appraisers is
2 filed, the clerk of the court shall forward to each attorney of
3 record, each party, and interested party of record, a copy of the
4 report of the appraisers and a notice stating the time limits for
5 filing an exception or a demand for jury trial as provided for in
6 this section. The operator shall provide the clerk of the court
7 with the names and last-known addresses of the parties to whom the
8 notice and report shall be mailed, sufficient copies of the notice
9 and report to be mailed, and pre-addressed, postage-paid envelopes.

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

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

20 3. After issuing the notice provided herein, the clerk shall
21 endorse on the notice form filed in the case the date that a copy of
22 the report and the notice form was forwarded to each attorney of
23 record, each party, and each interested party of record, or the date
24 the notice was published.

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

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

1 and judgment entered within six (6) months after the filing of the
2 written demand for a trial by jury and the court or judge shall not
3 continue the matter to a later date. A copy of the final judgment
4 shall be forwarded to the county assessor in the county or counties
5 in which the property is located. If the party demanding the jury
6 trial does not recover a more favorable verdict than the assessment
7 award of the appraisers, all court costs including reasonable
8 attorney fees shall be assessed against the party.

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

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