

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1219

By: Hardin (Tommy)

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6 AS INTRODUCED

7 An Act relating to oil and gas; amending 17 O.S.
8 2011, Section 52, as amended by Section 1, Chapter
9 77, O.S.L. 2016 (17 O.S. Supp. 2018, Section 52),
10 which relates to Corporation Commission jurisdiction;
11 prescribing the promulgation of rules; requiring
12 Commission to make determination on damage; requiring
13 investigation and certain report generation for well
14 damage claims; amending 52 O.S. 2011, Section 570.14,
15 which relates to jurisdiction of district courts;
16 requiring claimant to request investigation prior to
17 filing case in district court; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 17 O.S. 2011, Section 52, as
21 amended by Section 1, Chapter 77, O.S.L. 2016 (17 O.S. Supp. 2018,
22 Section 52), is amended to read as follows:

23 Section 52. A. 1. Except as otherwise provided by this
24 section, the Corporation Commission is hereby vested with exclusive
jurisdiction, power and authority with reference to:

a. the conservation of oil and gas,

- 1 b. field operations for geologic and geophysical
2 exploration for oil, gas and brine, including seismic
3 survey wells, stratigraphic test wells and core test
4 wells,
5 c. the exploration, drilling, development, producing or
6 processing for oil and gas on the lease site,
7 d. the exploration, drilling, development, production and
8 operation of wells used in connection with the
9 recovery, injection or disposal of mineral brines,
10 e. reclaiming facilities only for the processing of salt
11 water, crude oil, natural gas condensate and tank
12 bottoms or basic sediment from crude oil tanks,
13 pipelines, pits and equipment associated with the
14 exploration, drilling, development, producing or
15 transportation of oil or gas,
16 f. injection wells known as Class II wells under the
17 federal Underground Injection Control Program, and any
18 aspect of any CO2 sequestration facility, including
19 any associated CO2 injection well, over which the
20 Commission is given jurisdiction pursuant to the
21 Oklahoma Carbon Capture and Geologic Sequestration
22 Act. Any substance that the United States
23 Environmental Protection Agency allows to be injected
24 into a Class II well may continue to be so injected,

- 1 g. tank farms for storage of crude oil and petroleum
2 products which are located outside the boundaries of
3 refineries, petrochemical manufacturing plants,
4 natural gas liquid extraction plants, or other
5 facilities which are subject to the jurisdiction of
6 the Department of Environmental Quality with regard to
7 point source discharges,
- 8 h. the construction and operation of pipelines and
9 associated rights-of-way, equipment, facilities or
10 buildings used in the transportation of oil, gas,
11 petroleum, petroleum products, anhydrous ammonia or
12 mineral brine, or in the treatment of oil, gas or
13 mineral brine during the course of transportation but
14 not including line pipes in any:
- 15 (1) natural gas liquids extraction plant,
 - 16 (2) refinery,
 - 17 (3) reclaiming facility other than for those
18 specified within subparagraph e of this
19 subsection,
 - 20 (4) mineral brine processing plant, and
 - 21 (5) petrochemical manufacturing plant,
- 22 i. the handling, transportation, storage and disposition
23 of saltwater, mineral brines, waste oil and other
24 deleterious substances produced from or obtained or

1 used in connection with the drilling, development,
2 producing and operating of oil and gas wells, at:

3 (1) any facility or activity specifically listed in
4 paragraphs 1 and 2 of this subsection as being
5 subject to the jurisdiction of the Commission,
6 and

7 (2) other oil and gas extraction facilities and
8 activities,

9 j. spills of deleterious substances associated with
10 facilities and activities specified in paragraph 1 of
11 this subsection or associated with other oil and gas
12 extraction facilities and activities, and

13 k. subsurface storage of oil, natural gas and liquefied
14 petroleum gas in geologic strata.

15 2. The exclusive jurisdiction, power and authority of the
16 Corporation Commission shall also extend to the construction,
17 operation, maintenance, site remediation, closure and abandonment of
18 the facilities and activities described in paragraph 1 of this
19 subsection.

20 3. When a deleterious substance from a Commission-regulated
21 facility or activity enters a point source discharge of pollutants
22 or storm water from a facility or activity regulated by the
23 Department of Environmental Quality, the Department shall have sole
24 jurisdiction over the point source discharge of the commingled

1 pollutants and storm water from the two facilities or activities
2 insofar as Department-regulated facilities and activities are
3 concerned.

4 4. For purposes of the Federal Clean Water Act, any facility or
5 activity which is subject to the jurisdiction of the Corporation
6 Commission pursuant to paragraph 1 of this subsection and any other
7 oil and gas extraction facility or activity which requires a permit
8 for the discharge of a pollutant or storm water to waters of the
9 United States shall be subject to the direct jurisdiction of the
10 United States Environmental Protection Agency and shall not be
11 required to be permitted by the Department of Environmental Quality
12 or the Corporation Commission for such discharge.

13 5. The Corporation Commission shall have jurisdiction over:

14 a. underground storage tanks that contain antifreeze,
15 motor oil, motor fuel, gasoline, kerosene, diesel, or
16 aviation fuel and that are not located at refineries
17 or at upstream or intermediate shipment points of
18 pipeline operations, including, but not limited to,
19 tanks from which these materials are dispensed into
20 vehicles, or tanks used in wholesale or bulk
21 distribution activities, as well as leaks from pumps,
22 hoses, dispensers, and other ancillary equipment
23 associated with the tanks, whether above the ground or
24 below; provided that any point source discharge of a

1 pollutant to waters of the United States during site
2 remediation or the off-site disposal of contaminated
3 soil, media, or debris shall be regulated by the
4 Department of Environmental Quality,

5 b. aboveground storage tanks that contain antifreeze,
6 motor oil, motor fuel, gasoline, kerosene, diesel, or
7 aviation fuel and that are not located at refineries
8 or at upstream or intermediate shipment points of
9 pipeline operations, including, but not limited to,
10 tanks from which these materials are dispensed into
11 vehicles, or tanks used in wholesale or bulk
12 distribution activities, as well as leaks from pumps,
13 hoses, dispensers, and other ancillary equipment
14 associated with the tanks, whether above the ground or
15 below; provided that any point source discharge of a
16 pollutant to waters of the United States during site
17 remediation or the off-site disposal of contaminated
18 soil, media, or debris shall be regulated by the
19 Department of Environmental Quality, and

20 c. the Petroleum Storage Tank Release Environmental
21 Cleanup Indemnity Fund and Program and the Leaking
22 Underground Storage Tank Trust Fund.

23 6. The Department of Environmental Quality shall have sole
24 jurisdiction to regulate the transportation, discharge or release of

1 deleterious substances or hazardous or solid waste or other
2 pollutants from rolling stock and rail facilities. The Department
3 of Environmental Quality shall not have any jurisdiction with
4 respect to pipeline transportation of carbon dioxide.

5 7. The Department of Environmental Quality shall have sole
6 environmental jurisdiction for point and nonpoint source discharges
7 of pollutants and storm water to waters of the state from:

- 8 a. refineries, petrochemical manufacturing plants and
9 natural gas liquid extraction plants,
- 10 b. manufacturing of oil and gas related equipment and
11 products,
- 12 c. bulk terminals, aboveground and underground storage
13 tanks not subject to the jurisdiction of the
14 Commission pursuant to this subsection, and
- 15 d. other facilities, activities and sources not subject
16 to the jurisdiction of the Corporation Commission or
17 Department of Agriculture as specified by this
18 section.

19 8. The Department of Environmental Quality shall have sole
20 environmental jurisdiction to regulate air emissions from all
21 facilities and sources subject to operating permit requirements
22 under Title V of the Federal Clean Air Act as amended.

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1 B. The Corporation Commission and incorporated cities and towns
2 shall have exclusive jurisdiction over permit fees for the drilling
3 and operation of oil and gas wells.

4 C. The Corporation Commission shall comply with and enforce the
5 Oklahoma Water Quality Standards.

6 D. For purposes of immediately responding to emergency
7 situations having potentially critical environmental or public
8 safety impact and resulting from activities within its jurisdiction,
9 the Corporation Commission may take whatever action is necessary,
10 without notice and hearing, including without limitation the
11 issuance or execution of administrative agreements by the Oil and
12 Gas Conservation Division of the Corporation Commission, to promptly
13 respond to the emergency.

14 E. The Corporation Commission shall promulgate such rules as
15 necessary to facilitate the investigation of damage claims occurring
16 to existing vertical or lateral wells caused by drilling or other
17 well operations of a nearby well. Prior to the filing of any action
18 in district court, a party claiming damages shall request an
19 investigation and seek a report from the Commission stating whether
20 or not actual damages to a well occurred. A determination that
21 damage to a well occurred and a report of the Commission findings
22 shall be made available to interested parties.

23 SECTION 2. AMENDATORY 52 O.S. 2011, Section 570.14, is
24 amended to read as follows:

1 Section 570.14 A. The district courts within this state shall
2 have the sole and exclusive jurisdiction to determine the
3 entitlement of any owner in a well to:

4 1. Its share of proceeds from production; or

5 2. Damages, interest, court costs, attorneys' fees or allowable
6 litigation expenses incurred as a result of the violation of this
7 act.

8 B. Any rulemaking power granted to the Corporation Commission
9 by the Production Revenue Standards Act shall neither preclude nor
10 impair the right of any owner to obtain through the district courts
11 remedies available under existing law or additional remedies herein
12 granted to any owner injured in business or property by reason of
13 any action in violation of the provisions of the Production Revenue
14 Standards Act. However, in the case of a claim of damage to an
15 existing vertical or lateral well caused by drilling or other well
16 operations of a nearby well, the claimant shall, prior to filing a
17 claim in district court, request an investigation and seek a report
18 from the Commission stating whether or not actual damages to a well
19 occurred.

20 C. Any owner injured in business or property by reason of any
21 action in violation of the provisions of the Production Revenue
22 Standards Act shall have the right to:

23 1. Recover actual damages so sustained; and

24 2. Obtain specific performance where equitable.

1 The prevailing party in any court proceeding brought pursuant to
2 the Production Revenue Standards Act shall be entitled to recover
3 the costs of the suit, including but not limited to reasonable
4 attorney and expert witness fees.

5 D. For purposes of the Production Revenue Standards Act, the
6 statute of limitations on actions brought pursuant to the provisions
7 of the Production Revenue Standards Act shall be five (5) years from
8 the date the cause of action shall have accrued, provided however,
9 nothing shall create, limit or expand any statute of limitations
10 applicable to production occurring prior to September 1, 1992.

11 SECTION 3. This act shall become effective November 1, 2019.

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