

Surface Damage Agreement Checklist

DAMAGES

A. Realities of Money

1. When:
 - a. Before work
 - b. After work
 - c. Split payments
 - d. Annuals
2. How much
 - a. Risk
 - b. Real damages
 - c. Intangible damages
 - d. Value to buyer
3. How
 - a. Check
 - b. Cash
 - c. Sight draft
 - d. Time draft
4. Who
 - a. Lessee
 - b. Contractor
 - c. Agent

5. Credit worthiness of payor

6. Well Sites

7. Deep well

a. Initial damages

b. Annual damages

8. Methane well

a. Initial damages

b. Annual damages

9. Strat well

a. Initial damages

B. Roads

1. Permanent shaled

a. Initial damages

b. Annual damages

2. Permanent two track

a. Initial damages

C. Annual damages

D. Pipelines

1. Flowlines

a. Initial damages

b. Annual damages

2. Water Disposal Lines

a. Initial damages

- b. Annual damages
- 3. Large 4" or greater oil lines
 - a. Initial damages
 - b. Annual damages
- 4. Large 4" or greater gas lines
 - a. Initial damage
 - b. Annual damage

E. Compressor Stations

- 1. Initial damages
- 2. Annual damages

F. Electrical lines Above the Ground

- 1. Initial damages
- 2. Annual damages

G. Electrical Lines Below Ground

- 1. Initial damages
- 2. Annual damages

H. Service access points

ACTIVITY OF CONCERN

A. Surveyors

- 1. When can they go?
- 2. How will they go?
- 3. How will they mark?
- 4. Who will pick up junk?

5. Will they get permission?
6. How much will be paid for access?

B. Seismic activities

1. Hole
2. Vibrosize
3. 3D
4. Types of damage
 - a. Surface
 1. Soil compaction
 2. Destruction of plant life
 3. Junk
 4. Time of operations
 - b. Water
 1. Drainage between formations
 2. Damage to existing wells or springs
 3. Who will pay?

C. Drilling operations

1. Depth
2. Length to time of operations
3. Time of year of operations
 - a. Size of pad
 - b. Width of easements
 - c. Location of drilling operations

d. Location of road

1. Fences
2. Snow
3. Type of construction
4. Weight to be carried on road
5. Crossing of road
6. Grade and Crown
7. Soils
 - a. Sandy
 - b. Clays
 - c. Expansive
 - d. Compaction
 - e. Erosion
 - (i) Wind
 - (ii) Water
8. Culverts
9. Gates
10. Cattle Guards
11. Deviation from established roads

D. Junk

1. Oil
2. Mechanical work in field
3. Survey and pin flags

4. Placement of signage

5. Duty to pick up trash

E. Recreational uses

1. Guns bows and crossbows

2. Dogs

3. Drugs

4. Alcohol

5. Recreation vehicles

a. Four wheelers and Motorcycles

b. 4 Wheel Drives

6. Fishing

7. Hunting

8. Searching for artifacts

a. Paleo

b. Arch

F. Operations in mud and snow

G. Water Protection

1. Drilling water

2. Disposal of water

a. Quality of water

1. Heavy metals

2. Salts

3. Temperature

- b. Volume of Water
 - 1. Slope
- c. Soil conditions
- d. Protection of water resources
 - 1. Federal law to be considered
 - (1). Federal Water Pollution control Act (Clean Water Resources Act) of 1972 [PL92-500]
 - (2). Coastal Zone Management Act of 1990(CZAR) [101-508] applies to coastal states and Great Lakes states
 - (3). Federal Agriculture Improvement Act of 1996 (1996 Farm Bill)
- e. Endangered Species Act of 1973 [PL93-205]
- a. Ownership of Federal Property
- b. Bureau of Land Management
- c. Forest Service
 - d. Park Service
 - e. Bureau of Reclamation
 - f. Department of Defense
 - g. General Services Administration
 - h. Corps of Engineers
 - i. Indian Lands
 - (i) Tribe
 - (ii) Bureau of Indian Affairs
- 1. State law to be considered (Beneficial Use)
 - a. Beneficial Use

- (i) Riparian Doctrine
- (ii) Appropriation Doctrine
- (iii) Correlative Doctrine (ground water)
- b. State Water Quality Law and Program
- c. Storage of Water
 - (i) State Engineer
 - (ii) Corps of Engineers

H. Soil pollution

I. Noise pollution

J. Light pollution

K. Air pollution

L. Protection of viewscape

M. Protection of vegetative resource

- 1. Growing crops
 - a. Harvest Time
 - b. Soil erosion
 - c. Turning expense
- 2. Grass
- 3. Fire
 - a. Vegetation
 - b. Timber
 - c. Structures
 - d. Livestock

M. Extraordinary loss

1. Livestock
2. Wildlife
3. Human

N. Cooperation with others as to roads and water storage

O. Reclamation

1. Protection of soil and vegetative resource
2. How graded
3. How long open
4. When seeded
5. What seeded
6. How seeded
7. Wildlife areas
 - a. Riparian areas
 - b. Duck islands
 - c. Fish
8. Noxious Weeds
 - a. 21 introduced species - 1 native
 - b. How spread
 - c. Control

P. Parking of equipment off road

Q. Access Points (Security and protection of hunting)

R. Time of operations

1. Time of year
2. Mud and snow
3. Time of day

S. Cooperation with other companies

T. Changes in location of roads, electric lines, wells

U. Dealing with Agencies

1. BLM
 - a. On site inspection
 - b. Cultural surveys
2. State Engineer
3. Department of Environmental
4. Quality
5. Oil and Gas Commission

Legal Concerns

A. ID of parties, addresses, phone #'s, tax ID

B. Legal descriptions

C. Notices

D. Force Majure

1. Choice of jurisdiction and venue
2. Release of liability and indemnification

E. Statutory law citation

1. Federal
2. NEPA (National Environmental Protection Act) [PL93-205]

3. Clean Water Act Federal Water Pollution Control Act (Clean Water Resources Act) of 1972 [PL92-500]

- a. Cultural Survey
 - b. National Historic Preservation Act of 1966 (P.L.89-665; 16 U.S.C. 470)
 - c. Implementing regulation (36 CFR part 800)
 - d. Executive Order No. 11593 Protection and Enhancement of the Cultural Environment
2 CFR 154(1971) 16 U.S.C. 470
 - e. BLM Manual 8100.07 Responsibilities for Nonfederal Cultural Resources
 - (i). 8143.06F
 - (ii). BLM Manual Supp. (Wyo) 8143.11
1. Instruction Memorandum
- a. WY-86-457
 - b. WY-93-121
 - c. WY -93-138
 - d. OnShore Oil and Gas Order No. 1 (48 F.R.48916) 21 Nov. 1983