

**COAL COUNTY PROPERTY OWNER BOB STRUNK** looks at a drilling site that was erected on his land in the summer of 2007. A dispute over surface damages resulted in a lawsuit that was recently settled.



Photo by Wanda Utterback

## ***Surface Damage Case Raises Bar For Drill Sites***

On the same day that *The Oklahoman* reported that Devon Energy Corporation announced plans to build what is proposed to be the tallest building in Oklahoma City — a \$400 million, 37 story, one million square foot corporate headquarters — Devon settled and dismissed a surface damages suit against Coal County landowner Bob Strunk.

The case against Strunk and his wife, Francy, began on July 6, 2007 when Devon Energy Production Company, which is in the business of drilling and operating oil and gas wells and a subsidiary of Devon Energy Corporation, filed a petition for appointment of appraisers.

Devon filed the suit in accordance with the Oklahoma Surface Damages Act and the next day began its drilling operations on Strunk's property northwest of Coalgate. On August 10, Coalgate attorney Trae Gray filed an entry of appearance in the case.

In September, District Judge Richard E. Branam entered an order appointing the appraisers. When surface damages were assessed at \$18,750, the Strunks requested a jury trial. Devon then filed an exception to the appraisal report assessing the damages at \$41,000. The Strunks and Devon signed a settlement agreement on February 13, and the case was dismissed on March 13.

The agreement states that the \$41,000 payment by Devon serves as payment as if a judgment was rendered by a jury on the date that the agreement was signed. Devon also agreed to pay the appraisal fee of \$2,250.

Strunk said he initially was offered \$20,000, which he felt did not consider his damages theory, and he refused to settle and sign the agreement.

"They sued me, and sometime in September after I had retained counsel, they offered the \$41,000 but it was contingent on a confidentiality provision. I did not feel comfortable doing that to my neighbors. Consequently, we proceeded to litigate the case.

"As soon as Devon filed their exception and made the offer public, it made more sense to settle the case because of the benefit to others and no requirement of signing their confidentiality agreement. More importantly, it meant we would not have to wait on the finalization of the litigation to raise the standard on damage compensation for those in our community."

"The recreational value of our land has driven the prices up in recent years," Strunk told the *Coalgate Record-Register*. "This value must be considered when negotiating surface damages and is often overlooked. The encumbrances placed on our property from exploratory activities drives that value down."

Bob said he bought the property about four years ago because it was ideal for hunting and fishing and a place where he could "just get away from the city." He was born and raised in Centrahoma but lived in Oklahoma City from 1971 to 2005. He officially retired from the insurance business on December 31, 2007. "We moved back so we could have cattle and land and a place for our grandkids to hunt and fish," he said. He and Franci have six sons and six grandchildren and are expecting a set of twin grandchildren in August.

"Although I am not certain I received the full value for the diminution to my land, I believe this settlement more accurately depicts what these types of encumbrances are worth as compared to what is being paid," he said.

"Essentially, it raises the bar. The public awareness of this settlement will benefit all landowners. That is why we settled when we did, to get the awareness out there."

Gray said he does not believe the exception filed by Devon had any legal significance, "although its practical consequence was the circumvention of the necessity of confidentiality because the proffered exception of \$41,000 made the offer public record. From the beginning of this litigation, Mr. Strunk was focused on raising the bar for local landowners, and he has done that."