

Kansas Corporation Commission
Commission Meeting
January 4, 2018
1:00pm 1st floor hearing room
KCC Offices, 1500 Arrowhead, Topeka, Kansas

MINUTES

The Commission convened the regularly scheduled open meeting of the Commission at 1:00 p.m. on January 4, 2018 in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

Present: Chairman Apple, Commissioner Albrecht and Commissioner Emler. The following were considered by the Commission:

1. **Consent Agenda:** Commissioner Albrecht moved for approval of the Items on the Consent Agenda dated January 4, 2018 containing pages one through five and are attached to these Minutes. Commissioner Emler seconded the motion.

The motion was approved.

2. **Noticed:**

- A. **Docket No. 18-CONS-3160-CPEN**

In the Matter of the Failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-604 at the Ralston Lease Tank Battery in Butler County, Kansas.

Commissioner Emler moved for approval of order #17-3948 - *Order Denying Request for Rescission of Penalty Order; Designating a Prehearing Officer; and Setting Prehearing Conference.* Commissioner Albrecht seconded the motion.

The motion was approved.

- B. **Docket No. 18-CONS-3167-CPEN**

In the Matter of the Failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Wright #1 OWWO well in Butler County, Kansas.

Commissioner Emler moved for approval of order #17-3949 - *Order Denying Request for Rescission of Penalty Order, Designating a Prehearing Officer, and Setting Prehearing Conference.* Commissioner Albrecht seconded the motion.

The motion was approved.

- C. **Docket No. 17-RNBT-555-KSF**

In the Matter of the Application of Rainbow Telecommunications Association, Inc., for an Increase in its Cost-Based Kansas Universal Service Fund Support.

Commissioner Emler moved for approval of order # 17-3966 – *Order on Joint Motion to Approve Staff's Position Regarding Rainbow's Annual Cost-Based KUSF Support.*

Commissioner Albrecht seconded the motion.

The motion was approved.

3. Discussion/Presentation Item(s):

- A. RYAN A. HOFFMAN, Director, Conservation Division presented the Staff's Report and Recommendation on Chairman Sloan's Letter to the Commission about the House Committee on Water and Environment's meeting on HB2189, and attached to these minutes. Staff recommends updating the KCC website to include information on the current regulatory and statutory protections afforded to surface owners in Kansas. Further, recommends a review of the current processes in place regarding surface owner notification established pursuant to the Kansas Surface Owner Notification Act of 2009 (KSONA).

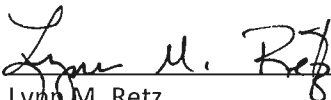
Commissioner Albrecht moved for staff to file the report and recommendation with Chairman Sloan. Commissioner Emler moved to amend the motion to reflect the Commission does not adopt the report and recommendation and the submission to the legislature is as a Staff Report and Recommendation. Albrecht seconded the amended motion. The motion was approved.

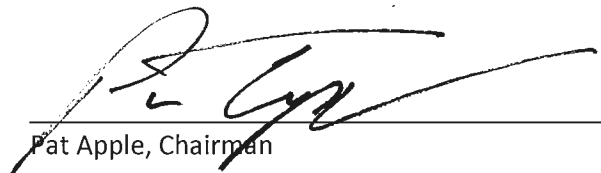
- B. RYAN A. HOFFMAN, Director, Conservation Division, presented Staff's Report and Recommendation on necessary amendments to K.A.R. 82-3-206 and 82-3-307 and recommendation to open an investigative docket to begin the regulation amendment process. The report is attached to these minutes. In an effort to generate a sufficient amount of revenue to meet its statutory and regulatory duties staff recommends amending the regulations to increase the current mills on oil and natural gas production paid into the Conservation Fee Fund.


After discussion there was no action taken by the Commission.

There being no further matters before the Commission, Commissioner Emler moved for adjournment of the Commission meeting. Commissioner Albrecht seconded the motion. The motion was approved. The Commission adjourned the January 4, 2018 Commission Meeting at 1:57 p.m.

Respectfully submitted,


Lynn M. Retz
Secretary to the Commission


Pat Apple, Chairman


Shari Feist Albrecht, Commissioner


Jay Scott Emler, Commissioner



ITEMS OF Consent Agenda

Approval Date: Thursday, January 4, 2018

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered separately or placed on the earliest possible Business Meeting agenda for discussion.

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the Matter of Westar Energy, Inc. and Kansas Gas and Electric Company Seeking Commission Approval to Implement Changes in their Transmission Delivery Charges Rate Schedules. <i>Order Granting Staff's Motion to Join and Consolidate Proceedings</i>	16-WSEE-375-TAR	
1	In the Matter of Westar Energy, Inc. and Kansas Gas and Electric Company Seeking Commission Approval to Implement Changes in their Transmission Delivery Charges Rate Schedules. <i>Order Granting Staff's Motion to Join and Consolidate Proceedings</i>	17-WSEE-377-TAR	
2	In the Matter of the Application of Kansas City Power & Light Company for Approval of Changes to its Estimated Bill Procedures <i>Order Adopting Staff's Report and Recommendation</i>	18-KCPE-063-TAR	
3	In the Matter of the Application of Great Plains Energy Incorporated, Kansas City Power & Light Company and Westar Energy, Inc. for Approval of the Merger of Westar Energy, Inc. and Great Plains Energy Incorporated. <i>Order Granting Intervention to Learjet, Inc.</i>	18-KCPE-095-MER	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
4	In the Matter of the 2017 Wolf Creek Triennial Decommissioning Financing Plan. <i>Order Adopting Proposed Procedural Schedule</i>	18-WCNE-107-GIE	
5	In the Matter of the Petition of The Empire District Electric Company for Approval of Its Customer Savings Plan <i>Order Granting Admission of Sarah B. Knowlton Pro Hac Vice</i>	18-EPDE-184-PRE	
6	In the Matter of the Application of The Empire District Electric Company for Approval of its Annual Energy Cost Adjustment ("ACA") Filing <i>Protective and Discovery Order</i>	18-EPDE-231-ACA	
7	In the Matter of the Investigation of Electri-Tech Inc of Wichita, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <i>Penalty Order</i>	18-DPAX-245-PEN	
8	In the Matter of the Investigation of Kansas Gas Service, a Division of ONE Gas, Inc. of Overland Park, Kansas, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <i>Penalty Order</i>	18-DPAX-250-PEN	
9	In the Matter of the Investigation of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 et seq.) and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). <i>Penalty Order</i>	18-DPAX-251-PEN	
10	In the Matter of the Investigation of MPI Recovery, LLC of Conway Springs, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <i>Order Suspending Intrastate Motor Carrier Operations</i>	18-TRAM-123-PEN	
11	In the Matter of the Investigation of Brickley Enterprises, LLC of El Dorado, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <i>Order Approving Stipulated Settlement Agreement</i>	18-TRAM-205-PEN	
12	In the Matter of the Investigation of Hilger Trucking, LLC of Norwich, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. <i>Penalty Order</i>	18-TRAM-253-PEN	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
13	In the Matter of the Investigation of K & J Trucking LLC of Lyons, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. Penalty Order	18-TRAM-255-PEN	
14	In the Matter of the Investigation of Wilks Underground Utilities, LLC of Wichita, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. Penalty Order	18-TRAM-259-PEN	
15	In the Matter of the Investigation of Bryce Heckert, d/b/a B Heckert Trucking of Frontenac, Kansas, Regarding the Violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. Penalty Order	18-TRAM-261-PEN	
16	In the matter of the application of Norstar Petroleum Inc., for authorization to impose a vacuum on its Hume Bros Lease located in the NW/4 of Section 34, Township 29 South, Range 41 West, Stanton County, Kansas. Order Directing Parties to File Briefs	17-CONS-3403-CVAC	
17	In the matter of the notice of denial of license renewal application to A X & P, Inc. Order Continuing Testimony Deadlines, Evidentiary Hearing, and Deadline for Summary Judgment Response	17-CONS-3701-CMSC	
18	In the Matter of the Application of Summer Sun Gas, Inc. for an Operator's License Renewal. Order Rescinding Order	18-CONS-3062-CMSC	
19	In the matter of the failure of Prairie Gas Operations, LLC ("Operator") to comply with K.A.R. 82-3-111 at the Wineinger #1 in Greeley County, Kansas. Penalty Order - Prairie Gas Operations, LLC	18-CONS-3253-CPEN	
20	In the matter of the failure of Donna Garal and Vincent Innone Jr. dba VJI Natural Resources Inc. ("Operator") to comply with K.A.R. 82-3-111 at the Ward Feed Yard #1 in Pawnee County, Kansas. Penalty Order - Donna Garal and Vincent Innone Jr. dba VJI Natural Resources Inc.	18-CONS-3254-CPEN	
21	In the matter of the application of Bengalia Land and Cattle Company for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Nally Land and Cattle Company 1-7 well located in the SW SW of Section 7, Township 27 South, Range 30 West, Gray County, Kansas. Order Closing Docket	18-CONS-3169-CEXC	

Consent Agenda

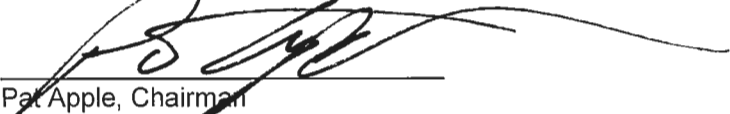
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
22	In the matter of the application of Merit Energy Company, LLC, for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Bidwell 6-13 well in the Southeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 13, Township 23 South, Range 34 West, Finney County, Kansas. <i>Order Granting Application</i>	18-CONS-3194-CEXC	
23	In the matter of the application of Wynn-Crosby Operating, Ltd. for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Santa Fe Trail Unit A-1-3 in the SW/4 of Section 06, Township 33 South, Range 40 West, Morton County, Kansas. <i>Order Granting Application</i>	18-CONS-3199-CEXC	
24	In the matter of the application of Wynn-Crosby Operating, Ltd. for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Santa Fe Trail Unit B-1-3 in the NE/4 of Section 18, Township 33 South, Range 40 West, Morton County, Kansas. <i>Order Granting Application</i>	18-CONS-3200-CEXC	
25	In the matter of the application of Wynn-Crosby Operating, Ltd. for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Santa Fe Trail Unit B-1-5 in the NW/4 of Section 18, Township 33 South, Range 40 West, Morton County, Kansas. <i>Order Granting Application</i>	18-CONS-3201-CEXC	
26	In the matter of the application of Wynn-Crosby Operating, Ltd. for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Santa Fe Trail Unit B-3-2 in the SE/4 of Section 07, Township 33 South, Range 40 West, Morton County, Kansas. <i>Order Granting Application</i>	18-CONS-3202-CEXC	
27	In the matter of the application of Berexco LLC for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its McMinimy #4-19 well located in the SE SE of Sec 19, T33S, R21W, Clark County, Kansas. <i>Order Granting Application</i>	18-CONS-3222-CEXC	
28	In the Matter of the Application of Berexco LLC for an Exception to the 10-year Time Limitation of K.A.R. 82-3-111 for its Law C #2 Well located in the SE SE NW of Sec 34, T9S, R23W Graham County, Kansas. <i>Order Granting Application</i>	18-CONS-3245-CEXC	
29	In the Matter of the Application of Kansas City Power & Light Company Seeking Approval for a Property Tax Surcharge Adjustment for 2018, Per K.S.A. 66-117(f) <i>Order Granting the Citizens' Utility Ratepayer Board's Petition to Intervene, Protective Order and Discovery Order</i>	18-KCPE-258-TAR	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
30	In the Matter of the Application of Atmos Energy Seeking Commission Approval for 2018 Ad Valorem Tax Surcharge Rider Tariff. <i>Order Granting the Citizens' Utility Ratepayer Board's Petition to Intervene, Protective Order and Discovery Order</i>	18-ATMG-264-TAR	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

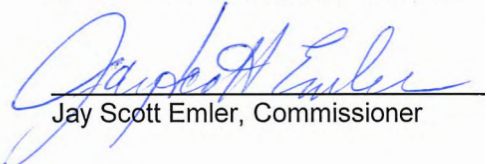
For the Commission :



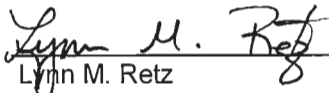
Pat Apple, Chairman



Shari Feist Albrecht, Commissioner



Jay Scott Emler, Commissioner

Attest: 

Lynn M. Retz
Secretary to the Commission

Conservation Division
266 N. Main St., Ste. 220
Wichita, KS 67202-1513



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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

**REPORT AND RECOMMENDATION
CONSERVATION DIVISION**

To: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

From: Ryan A. Hoffman, Director, Conservation Division

RAH

Date: 1/4/2018

SUBJECT:

Staff's findings regarding Chairman Sloan's letter to the Commission about the House Standing Committee on Water and Environment's meeting on HB 2189.

EXECUTIVE SUMMARY:

Staff recommends updating the Kansas Corporation Commission website to include information on the current regulatory and statutory protections afforded to surface owners in Kansas. Further, staff recommends a review of the current processes in place regarding surface owner notification established pursuant to the Kansas Surface Owner Notification Act of 2009 (KSONA).

BACKGROUND:

On March 14, 2017, the House Standing Committee on Water and Environment held a hearing on HB 2189, which is short titled as "Protecting Surface Owners' Property Rights." Staff testified as neutral on the bill while trying to outline what it saw as many issues with the way it was drafted. Representative John Wilson spoke as a proponent of the bill. Several Douglas County landowners also offered testimony in favor of the bill based on their accounts of their personal experiences. Written proponent testimony was provided by another Douglas County landowner and a Douglas County Commissioner.

Keith Brock testified on behalf of the Eastern Kansas Oil and Gas Association in opposition to the bill and Ed Cross on behalf of the Kansas Independent Oil and Gas Association noted his opposition and referred the Committee to his written testimony. Written opposition testimony was supplied by Erick Nordling on behalf of the Southwestern Kansas Royalty Owners' Association, J. Kent Eckles on behalf of the Kansas Petroleum Council, and David Pierce as a Kansas citizen.

After the hearing, Chairman Sloan mailed a letter to the Commission in which he suggested the Commission explore issues raised by the landowners and requested the Commission staff provide a written report at the start of the 2018 Legislative Session detailing any statutory changes requested and any revisions to Commission regulations. Staff recommended the matters be reviewed by the Oil and Gas Advisory. Chairman Apple responded to Chairman Sloan's

letter on March 29, 2017 in which he characterized staff's recommendation as a prudent first step and indicated a willingness to update the Commission's website.

On September 6, 2017, the Oil and Gas Advisory Committee ("Advisory") met for the regularly scheduled quarterly meeting. At the meeting, staff sought volunteers to participate in a working group to evaluate the issues raised by Chairman Sloan's letter and draft a report on behalf of the Advisory. The working group met on October 10, 2017 to review and discuss Chairman Sloan's letter. Based on the discussion, staff drafted a memorandum. Staff presented the memorandum on behalf of the working group to the Advisory during its December 6, 2017 meeting. The Advisory heard from two Douglas County landowners who attended the Advisory meeting and were allowed to participate in the discussion.

ANALYSIS:

K.S.A. 74-623(a) gives the agency "the exclusive jurisdiction and authority to regulate oil and gas activities."

K.S.A. 55-152(a) provides "[n]o rules and regulations promulgated pursuant to this section shall be adopted by the commission until recommendations have been received from the advisory committee established by K.S.A. 55-153, and amendments thereto."

K.S.A. 55-153 establishes the Oil and Gas Advisory Committee and outlines the 12-member makeup of the Committee.

STAFF'S ANALYSIS:

There were four main areas to review suggested by Chairman Sloan's letter and a miscellaneous category. Those areas are addressed in detail below.

a) The appropriate setbacks from structures and man-made features (e.g., ponds) that may have been constructed after a lease is signed, but prior to drilling operations commencing.

After participating in the working group and Advisory meeting, staff does not recommend any regulatory or statutory changes be made. Ultimately, there is no consensus as to what an appropriate setback from a structure or man-made feature should be, and staff believes establishing this type of setback would interfere with private contractual negotiations. After a lease is signed, the negotiations are completed and consideration has been exchanged. Staff recommends the proper course of action is for the landowner and operator to participate in regular communication regarding potential building plans, etc. This communication will more often than not resolve the potential conflicts. In the rare cases where the communication is unfruitful or doesn't exist, there are other civil remedies to pursue under the lease agreement.

This topic did present interesting discussion regarding the role of title insurance, realtors, and attorneys in the land purchasing arena. The working group discussion focused on the lack of information provided by title insurers and realtors regarding mineral ownership during land transactions. There is often a lack of advice regarding what rights are truly being conveyed when land is subject to a mineral lease or when the mineral ownership is not being transferred. The working group stressed this is an area for improvement by realtors and title insurers.

Furthermore, simply having an attorney review the land documents is not likely sufficient. Considering the importance of land transactions, staff's opinion is landowners need to do due diligence when hiring an attorney skilled in land transactions and when seeking legal advice regarding what property rights are being conveyed.

b) Hours of operation for drilling, road or facility construction and maintenance, product and wastewater hauling from properties with residential structures in close proximity (term to be defined by Commission) of the well and tank battery sites.

The working group recommended no statutory or regulatory changes. Staff agrees with the recommendation of the working group. Staff recommends this is again an area where the best course of action is for the operator and landowner to either negotiate these matters initially, or address them as they arise through regular communication.

c) Whether current requirements for notification to property owners are sufficient or should include information about property owners' rights by statutes, rules and regulations, and common practices of the operator with information about where the property owner can secure additional information.

The working group identified areas where information and further inspection are warranted, but ultimately recommended no statutory or regulatory changes. The working group and Advisory discussions revealed the opportunity to review the existing procedural requirements of the KSONA forms (intent-to-drill, plugging application, and transfer of operator). Currently, operators either provide staff with the mailing address of the surface owner with a processing fee for staff to mail a copy of the form to the landowner, or they verify on the form that they mailed a copy of the form to the landowner. Staff volunteered to form a group to review these procedures and make any changes necessary if operators are insufficiently providing notice.

Further, the working group discussion identified another potential addition to the Commission's website. Staff volunteered to work with industry members to create a short document outlining the potential surface uses by the operator so landowners would know what to expect after leasing their ground or after acquiring ground already subject to a lease.

d) Whether existing rules and regulations adequately address protection of property owners' use of his/her property during and after completion of the drilling operation (e.g., whether site is properly cleaned up with appropriate seeding, etc.).

Much like item c) above, this is an area where no regulatory or statutory changes are recommended; however, additions can be made to the Commission website. Staff can compile a listing of existing regulations designed to help protect the surface owner during drilling and during the remainder of the life of the well, including plugging and abandonment to post on the Commission's website. The working group memo raises some of these protections but staff will develop the listing more fully.

e) Such other issues as the Commission may deem appropriate.

The working group discussed the concept of surface owner consent as it is present in HB 2189, and the concerns of the industry regarding unintended consequences are available in the working group memo. Staff does not recommend any other issues for regulatory or statutory action.

RECOMMENDATION:

- 1) No changes are necessary to existing statutes and regulations.
- 2) Staff should work to update the Commission to provide more information regarding existing protections and information regarding common oil and gas operation practices.
- 3) Staff will work through the Oil and Gas Advisory Committee to review the KSONA form procedures to determine if any changes are necessary.

Attachments:

1. March 17, 2017 Chairman Sloan letter
2. March 29, 2017 Chairman Apple Letter
3. Working Group Memorandum

STATE OF KANSAS



TOPEKA

HOUSE OF

REPRESENTATIVES March 17, 2017

COMMITTEE ASSIGNMENTS
CHAIRMAN: WATER AND ENVIRONMENT

MEMBER: AGRICULTURE
AGRICULTURE AND NATURAL
RESOURCES BUDGET
ENERGY, UTILITIES &
TELECOMMUNICATIONS

STATE CORPORATION
COMMISSION

MAR 24 2017

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

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LAWRENCE, KANSAS 66049-4174
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To: KCC Chairman Pat Apple
Commissioner Jay Emler
Commissioner Shari Feist-Albrecht

From: House of Representatives' Water & Environment Committee Members

Commissioners:

The Water & Environment Committee held an informational hearing on HB 2189 concerning protecting surface owners' property rights related to the production of oil and gas.

Proponents of the bill raised several issues that resonated with the Committee members; opponents stressed that property owners' rights are adequately protected under existing statutes; and Commission staff were neutral on the merits of the bill, but stated the types of additional work that would be required on the part of staff if the bill becomes law.

The Committee encourages the Commission to study the issues raised by the property owners and representatives of the oil and gas industry to determine whether existing Rules & Regulations should be revised and whether existing statutes provide all the authority and guidance the Commission requires in this subject area.

Specifically, the Committee suggests that the Commission explore: a) the appropriate setbacks from structures and man-made features (e.g., ponds) that may have been constructed after a lease is signed, but prior to drilling operations commencing;

b) hours of operation for drilling, road or facility construction and maintenance, product and wastewater hauling from properties with residential structures in close proximity (term to be defined by the Commission) of the well and tank battery sites;

c) whether current requirements for notification to property owners are sufficient or should include information about property owners' rights by statutes, rules and regulations, and common practices of the operator with information about where the property owner can secure additional information;

d) whether existing rules and regulations adequately address protection of property owners' use of his/her property during and after completion of the drilling operation (e.g., whether site is properly cleaned up with appropriate seeding, etc.); and

e) such other issues as the Commission shall deem appropriate.

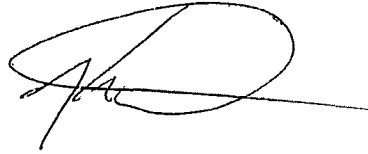
We request that Commission Staff provide a written report at the start of the 2018 Legislative Session detailing any requested statutory changes deemed appropriate and any revisions to the Commission's

Rules and Regulations related to these matters. Committee members appreciate your consideration of our request and this matter. Please do not hesitate to contact us if you desire additional information.

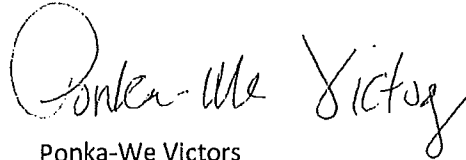
Sincerely,



Tom Sloan
Chairman



Ken Rahjes
Vice Chairman



Ponka-We Victors
Ranking Minority Member

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

March 29, 2017

Chairman Sloan
Vice Chairman Rahjes
Ranking Minority Member Victors
Members of the Standing Committee on Water and Environment

Thank you for your letter, dated March 17, 2017, addressing the Standing Committee's informational hearing discussion of HB 2189 regarding the protection of surface owners' property rights related to oil and gas production. We forwarded your concerns to our Director of Conservation, Ryan Hoffman, for review and comment. Enclosed please find Mr. Hoffman's Memorandum addressing those concerns, dated March 29, 2017.

The recommendation to seek the input of the Oil and Gas Advisory Committee is a prudent first step toward a better understanding of the issues at hand. We will update your Committee on the results of the meeting. We also intend to post resources on our website that outline surface owners' property rights with respect to oil and gas production.

Thank you for your service to our great State and for reaching out to the KCC to help the constituents you serve. We will be in touch, but please do not hesitate to contact us if we may be of further assistance.

Very truly yours,

Pat Apple
Chairman, Kansas Corporation Commission

Conservation Division
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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Fowler, Commissioner

Sam Brownback, Governor

MEMORANDUM

To: Pat Apple, Chairman

From: Ryan A. Hoffman, Director, Conservation Division *RAH*

Date: March 30, 2017

Re: HB 2189 – Outline of Ways to Explore Issues

In the March 17, 2017 letter pertaining to the informational hearing on HB 2189, the House Standing Committee on Water and the Environment suggested the Commission explore five points raised during the hearing. Please find the points outlined below with potential responses:

- a) The Commission should explore the appropriate setback from structures and man-made features (e.g., ponds) that may have been constructed after a lease is signed, but prior to drilling operations commencing.
 1. Staff proposes discussing the matter at the next quarterly Oil and Gas Advisory Committee (Advisory Committee) meeting pursuant to K.S.A. 55-153. This body consists of landowners, mineral owners, industry members, and representatives of other Kansas Agencies. The Advisory Committee could make a recommendation to the Commission for exploring these types of setbacks.
- b) Hours of operation for drilling, road or facility construction and maintenance, product and wastewater hauling from properties with residential structures in close proximity (term to be defined by Commission) of the well and tank battery sites.
 1. Staff again proposes the Advisory Committee consider this matter.
- c) Whether current requirements for notification to property owners are sufficient or should include information about property owners' rights by statutes, rules and regulations, and common practices of the operator with information about where the property owner can secure additional information.
 1. Staff is willing to address this matter at a future Advisory Committee meeting to get the Advisory Committee's thoughts toward amending the relevant statutes to include more information.
 2. The Kansas Surface Owners Notification Act (KSONA), K.S.A. 55-169 and K.S.A. 55-169b, amends the pertinent regulations so that operators must notify surface owners when they drill, transfer, or plug a well. The intent-to-drill now

includes a plat with non-binding preliminary estimates for tank battery, electrical, lease road, and other items. This is a notification-only requirement and does not provide the surface owner with any rights.

3. Chairman Apple has asked Staff to gather information about property owners' rights, and Staff will seek Commission approval to include this information on the Commission's website.
- d) Whether existing rules and regulations adequately address protection of property owners' use of his/her property during and after completion of the drilling operation (e.g., whether site is properly cleaned up with appropriate seeding, etc.).
1. Staff also proposes this matter be explored during the Advisory Committee process.
 2. There are not currently any regulations pertaining to overall site clean-up per se; however, there are regulations in place for closure of any pits used during the drilling process and the duration the pits remain open.
 - i. Language regarding surface restoration upon pit closure is adopted from K.S.A. 55-177 below.
 3. After a well is abandoned, K.S.A. 55-177 requires the surface owner's land to be returned as nearly as practicable to the state it was in prior to oil and gas operations.
 - i. Creates a misdemeanor for not complying with the statute.
 4. K.S.A. 55-156 creates a non-person felony for not plugging a well prior to abandoning it.
- e) Such other issues as the Commission may deem appropriate.
1. Staff is not aware of any other issues at this time but will await the Advisory Committee process to evaluate any further issues that may arise.

Staff notes that the House Standing Committee also requests that Commission Staff provide a written report at the start of the 2018 Legislative Session, detailing any requested statutory changes and any revisions to the Commission's Rules and Regulations related to these matters.

To: Oil and Gas Advisory Committee

From: Ryan A. Hoffman, Director, Conservation Division on behalf of the working group

Date: 12/29/17

Re: Oil and Gas Advisory Report responding to Questions of House Standing Committee on Water and the Environment

Background

The leadership of the House Standing Committee on Water and the Environment requested a report by Commission Staff at the beginning of the 2018 legislative session detailing statutory changes deemed appropriate and revisions to the Commission's rules and regulations related to matters outlined in the Committee Leadership's March 17, 2017 letter to the Commissioners. The letter had five areas concerning which it requested exploration. Staff recommended the matters be brought to the attention of the Oil and Gas Advisory Committee acting pursuant to K.S.A. 55-153 for review and recommendation. This memorandum represents the discussions and overall recommendations to the Oil and Gas Advisory Committee on behalf of a working group who volunteered to participate in the discussions. The working group met on October 10, 2017 and held a subsequent telephone conference on December 5, 2017. The group was comprised of Commission Staff, members of industry, attorneys engaged in private practice, royalty owner representatives, and surface owner representatives. The working group members are identified at the end of this document. The five areas and the group's recommendations are addressed specifically below.

a) The appropriate setbacks from structures and man-made features (e.g., ponds) that may have been constructed after a lease is signed but prior to drilling commencing;

The main sentiment expressed by the group is that the majority of newer leases have some clause or provision in them for well setbacks from structures. However, the group did concede that some older, historical leases were typically silent regarding setback requirements. Industry representatives stressed that such older leases were negotiated with the landowner at the time the property was leased. The group felt that it is important for current landowners and prospective landowners to review all controlling oil and gas leases affecting their property. The Southwest Kansas Royalty Owners Association (SWKROA) representatives pointed out on behalf of landowners that many such historical leases did not contain or contained inadequate language regarding surface rights. For these leases, setback requirements could help provide clarity when a lease is silent. While these oil and gas lease clauses and terms may be considered boilerplate or standard, regardless whether the lease is older or newer, they are still part of a negotiated contract between the landowner/lessor and the operator/lessee. Industry representatives urged that although two parties potentially negotiated many years ago, these terms remain valid and binding upon all parties to the lease for the term of the lease. Also, industry representatives and staff did not believe interfering with an existing lease contract or its underlying negotiations was an area for regulatory oversight or review by the Commission staff. The industry representatives

also pointed out that notification to landowners has been a long standing practice by prudent operators to promote good relationships and that communicating with landowners prior to drilling a well, plugging a well, transferring a lease, constructing lease roads, tank batteries, pipelines, and electrical lines is mandated under the 2009 Kansas Surface Owner Notification Act (KSONA) and the regulations thereunder. The industry recognizes good relationships with the landowners is in the best interests of operators and landowners and aids in avoiding acrimonious relationships and litigation. SWKROA, on behalf of their landowner representatives, urged that industry and landowners would benefit from clear statutory guidelines or regulations. While the vast majority of operators prudently communicate with landowner, there are always exceptions to the norm. Clear statutory guidelines and regulations can help avoid disputes in the future.

For properties with leases that may not contain clauses related to setbacks from structures, the group felt it was important to note the impact and intent of the Kansas Surface Owner Notification Act (KSONA). When the law was passed in 2009, the ultimate goal was fostering communication between operators and surface owners when new wells were drilled or plugged, or when operator responsibility for those wells changed. Surface owners are notified when these activities take place and that provides them with the opportunity to engage in discussion with the operator if the operator had not already engaged them. Further, the discussion related to existing leases pointed to an educational opportunity pertaining to a gap in the representations made by Realtors and for land purchasers who rely on title insurance commitments or title opinions along with Sellers Disclosure Statements. The group pointed out that neither party is required by law to investigate or include recommendations pertaining to mineral ownership in the representations made during the purchase of property. The silence on this issue leads to problems when landowners discover their property is subject to a lease after the land is purchased. The group felt the parties involved in land transactions should take appropriate steps to become better informed regarding mineral ownership and their rights thereunder.

Ultimately, staff and industry representatives did not recommend changes to the statutes or regulations. Given the discussion, the group believes incidents related to setbacks from structures to be very rare and cautioned about the unintended consequences that may result if setbacks from structures were prescribed statewide by statute or regulations. Arbitrarily setting a distance from structures could result in the waste of the state's natural resources and would be in direct conflict with one of the KCC's statutory duties. SWKROA on behalf of their landowners, urged that a lessee's use of the surface has to be reasonable, and lessees should make reasonable accommodations to have appropriate setbacks from structures and man-made features.

b) Hours of operation for drilling, road or facility construction and maintenance, product and wastewater hauling from properties with residential structures in close proximity (term to be defined by the Commission) of the well and tank battery site;

The group pointed out the differences related to drilling in Eastern and Western Kansas with the primary difference being the amount of time necessary to drill and complete a well. In Eastern Kansas, the group reported this could be accomplished during daylight hours for the most part. The further west the deeper the wells get and therefore more time is necessary to drill and complete a well efficiently, which means 24-hour drilling may be necessary. As for other

operations being conducted after sunset, the group did not believe a prudent operator would conduct operations for construction or maintenance of facilities during that timeframe because of the increased costs and other potential for risks, unless emergency operations are necessary.

With regard to product and wastewater hauling from tank battery sites, the group did not believe this was an issue for the vast majority of Kansas leases. The amount of production to be picked up and hauled away from the tank batteries is not sufficient enough to cause multiple trips in the majority of leases in Kansas. Secondly, saltwater is generally not hauled away from leases in Kansas to a commercial disposal site as it is in other states. The Kansas Corporation Commission does not permit commercial saltwater disposal facilities, therefore, most wastewater is disposed of on lease or in a near-enough proximity to the lease to make the building of a gathering system or pipeline economically feasible. Without commercial disposal facilities operating around the clock, the amount of consistent truck traffic is greatly reduced.

The group recommended there was no need to institute or amend regulations regarding this topic.

c) Whether current requirements for notification to property owners are sufficient or should include information about property owners' rights by statutes, rules and regulations, and common practices of the operator with information about where the property owner can secure additional information;

As stated above, under KSONA the surface owners are required to be notified when an operator files and Intent-to-Drill, Plugging Application, or a Transfer of Operator Responsibility form. These forms include information related to where the operator plans to drill a well and preliminary estimates as to the location of other production related facilities and utilities. The notices attached to these forms are intended to foster communication between the surface owner and the operator prior to the activity taking place. The group discussed the belief that many of the instances where problems may occur is due to situations involving split estates or separate surface and mineral ownership.

The group felt there was a positive impact the KCC could achieve in relation to this topic. Staff volunteered to add information to the FAQ section of its website to include a brief listing of the regulatory and statutory rights landowners have; however, it would likely be important to draw the distinction between which rights are within KCC jurisdiction.

Aside from the statutory and regulatory rights update to the website, the group discussed the possibility of drafting a brief document that staff could refer to outlining what some of the basic practices are, or what landowners could expect when a well is being drilled on their property.

No regulatory or statutory changes were recommended.

d) Whether existing rules and regulations adequately address protection of property owners' use of his/her property during and after completion of the drilling operation (e.g., whether site is properly cleaned up with appropriate seeding, etc.)

There are statutes and regulations already in place to protect the surface owners' use of the property. The operator is required to notify the KCC prior to drilling the well so staff may witness the setting of surface casing in a manner protecting usable water. During the drilling operation, the KCC has regulations regarding the use of pits covering construction requirements, fluid removal, and deadlines for closure. The regulations also prohibit the dumping of chemicals into drilling pits. The standard established by regulation for the restoration of the surface is "nearly as practicable" to before the pit was dug. There are further requirements for pits in sensitive groundwater areas such as site inspection and the utilization of portable steel pits to further protect the landowners' property.

After a well is drilled, KCC regulations require operators to act with reasonable diligence to prevent spills and to keep saltwater, oil, and other refuse confined. In the event containment is lost there are notification and clean-up requirements.

KSA 55-177 creates a public nuisance for leaving operating structures or other equipment on the surface of the land after plugging a well and to grade or restore the surface to nearly as practical as it was prior to the operation. This restoration must occur within six months of plugging unless the operator and landowner have entered into a contrary agreement. There are criminal penalties associated with failing to meet the provisions of this statute whose enforcement is outside the jurisdiction of the KCC.

This is another area where it may be possible to generate a brief listing of the regulations and statutes in place referenced generically above for property owners to consult; however, no regulatory or statutory changes were recommended.

e) Such other issues as the Commission shall deem appropriate

The concept of surface owner consent is present in HB 2189 and an industry member of the group expressed concerns specific to potential unintended consequences of establishing a consent right based on their experiences operating in other states. Most of the group believed the issues covered by this portion of the bill are not proper for Commission rulemaking and the potential for litigation regarding these matters is high. SWKROA would support regulations which provide some flexibility on surface locations while acknowledging the priority of the mineral estate to explore and develop oil and gas resources, while having a reasonable balance for the rights of surface owners.

Summary

Overall, the group believed the issues presented in the letter from Chairman Sloan were the exceptions to and not in the normal course of business in the Kansas oil and gas industry. Some of the issues are currently subject to civil and contract law and may be beyond the current purview of KCC jurisdiction. Nothing from the group's discussion indicated the need for further

regulatory or statutory requirements for the KCC based on the provisions in HB2189. Inherently, oil and gas leases create complex long term contractual relationships between landowners and lease operators and their successors. The underlying impetus for HB2189 illustrates the need for a better understanding by landowners or prospective landowners of the terms of oil and gas leases affecting their lands, the existing statutory and regulatory requirements governing those leases and the information provided by their realtors and title insurance companies prior to the purchase or transfer of any real estate subject to an oil and gas. Staff will work with the Oil and Gas Advisory to gather information helpful to surface owners and display that information on the KCC website – all in an effort to better inform surface owners.

Working Group Members				
KCC Staff	Industry	Royalty Owners	Surface Interest	Private Attorneys
Ryan A. Hoffman Jonelle Rains Jonathan Myers	Kent Eckles Ed Cross Dana Wreath Kenneth White David Bleakley Nick Powell Rob Kramer Dwight Keen Rob Eberhart	Kenny Carter (EKROA) Erick Nordling (SWKROA) Kenneth White	Kenny Carter (EKROA) Erick Nordling (SWKROA) Tom Black	Diana Edmiston Jonathan Schlatter Keith Brock

**REPORT AND RECOMMENDATION
CONSERVATION DIVISION**

To: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

From: Ryan A. Hoffman, Director, Conservation Division

RAH

Date: 1/4/2018

SUBJECT:

Staff's recommendation on necessary amendments to K.A.R. 82-3-206 and K.A.R. 82-3-307 and further recommendation to open an Investigative Docket to begin the regulation amendment process formally.

EXECUTIVE SUMMARY:

In an effort to generate a sufficient amount of revenue to meet its statutory and regulatory duties, staff recommends amending regulations K.A.R. 82-3-206 and K.A.R. 82-3-307 to increase the current mills on oil and natural gas production.

BACKGROUND:

While participating in the two-year budgeting process Commission staff determined the current decline in production and associated decrease in revenue would result in a negative balance in the Conservation Fee Fund during ensuing fiscal years. This determination was based on several assumptions, primarily that oil and gas production would continue to decline by 6% each year¹ and spending from the Conservation Fee Fund would remain at approved, essentially flat levels. Given these assumptions, staff determined it would be necessary to increase the mill assessed per barrel of oil production from 91.00 mills to 147.00 mills. Likewise, staff determined the mill assessed against one thousand cubic feet of gas (mcf) would need to be increased from 12.90 mills to 20.90 mills. Based on production information available at that time, these increases would provide sufficient revenue to meet the budgeted \$8.45 million revenue necessary to administer the statutory and regulatory obligations of the Conservation Division.

Staff called a special Oil and Gas Advisory Committee (Advisory) meeting on November 1, 2017 to discuss this potential change to the regulations and receive feedback from its membership. During the discussion Advisory members made requests for more information from staff and follow-up meetings were scheduled to discuss potential alternative mill increases. This time was also valuable to Advisory members and staff to explore other viable plans of action. At a follow-up meeting, staff requested feedback regarding six different mill scenarios. The

¹ The actual declines in production for the prior two fiscal years as reported to the Division from the Kansas Department of Revenue are: FY 2016 Oil 16.01% Gas 11.79%, FY 2017 Oil 11.8% Gas 11.41%.

scenarios evaluated different production decline rates and mill increases based on the various production declines to meet the minimum revenue required to fund the Division. The scenarios also included options with a 2% Division spending decrease. These scenarios are attached.

Staff appeared before the Commission at the Business Meeting on December 21, 2017 to provide an update on the status of the potential mill increases. During the meeting, staff informed the Commission it had received only one recommendation – a joint recommendation submitted by the Kansas Independent Oil and Gas Association (KIOGA) and Eastern Kansas Oil and Gas Association (EKOGA) Advisory representatives. A copy of that recommendation is attached to this document.

ANALYSIS:

K.S.A. 74-623(a) gives the agency “the exclusive jurisdiction and authority to regulate oil and gas activities.”

K.S.A. 55-153 establishes the Oil and Gas Advisory Committee and outlines the 12-member makeup of the Committee. K.S.A. 55-152(a) provides “[n]o rules and regulations promulgated pursuant to this section shall be adopted by the commission until recommendations have been received from the advisory committee established by K.S.A. 55-153, and amendments thereto.”

K.S.A. 55-143 establishes the Conservation Fee Fund to administer the pertinent provisions of the Kansas Oil and Gas Act contained in Chapter 55 of the Kansas Statutes Annotated.

K.S.A. 55-183(b) provides that fees, levies, and assessments allowed by Chapter 55 shall be done by or through the adoption of a regulation.

K.S.A. 55-609 provides the Commission with the authority to assess a mill for administering the provisions of the production and sale of crude oil or petroleum statutes.

K.S.A. 55-711 provides the Commission with the authority to assess a mill for administering the provisions of the production and conservation of natural gas statutes.

K.A.R. 82-3-206 establishes a charge of 91.00 mills per barrel of oil used or marketed each month.

K.A.R. 82-3-307 establishes a charge of 12.90 mills per thousand cubic feet of gas sold or marketed each month.

STAFF’S ANALYSIS:

The important goal to consider for this process is revenue in the amount of \$8.45 million. That is the revenue necessary for the Conservation Division to continue to operate without a deficit into Fiscal Year 2020. There are numerous ways to reach that goal; however, time is of the essence and not all of those methods can be fully explored as viable options at this time. Staff has reviewed the industry recommendation and, given the most recent production data, believes there is room to compromise from the mill increases and production declines initially presented. The tables below identify the initial mill increase discussed, industry’s recommended increase, and

staff's updated mill increase with the most current production data being factored into staff's forecasted production declines. All of the tables adopt the reduction to other income as included on Exhibit 1 from KIOGA and EKOGA (Industry). The category of other revenue consists of amounts received through various other fees such as licensing, plugging, Underground Injection Control applications and amendments, etc.

Table 1 contains the original information distributed to the Advisory with the production amounts updated to reflect the most recent receipts and updated forecasts based on those numbers.

Table 1: KCC Initial (Declines: 6% in oil and gas, mill increases to .147 / .0209)				
	FY19		FY20	
Resource	Production	Revenue	Production	Revenue
Oil	32,917,321	\$ 4,838,846.21	30,942,282	\$ 4,548,515.44
Gas	206,983,114	\$ 4,325,947.07	194,564,127	\$ 4,066,390.25
Other		\$ 514,500.00		\$ 504,210.00
Total		\$ 9,679,293.28		\$ 9,119,115.68

Table 2 uses the Industry recommended production declines and the most recent actual production information.

Table 2: Industry Recommended* (Declines: 2% oil, 4% gas, mill increases to .123 / .0174)				
	FY19		FY20	
Resource	Production	Revenue	Production	Revenue
Oil	34,318,058	\$ 4,221,121.16	33,631,697	\$ 4,136,698.74
Gas	211,387,010	\$ 3,678,133.97	202,931,529	\$ 3,531,008.61
Other		\$ 514,500.00		\$ 504,210.00
Total		\$ 8,413,755.13		\$ 8,171,917.34

*Staff used Division production actuals and amended forecasts to resolve a discrepancy in the numbers submitted by industry and those staff receives from the Kansas Department of Revenue.

Table 3 is an updated projection from staff regarding the mill increase necessary to achieve the goal of \$8.45 million in revenue by Fiscal Year 2020.

Table 3: KCC Updated (Declines: 4% oil, 5% gas, mill increases to .1315 / .0186)				
	FY19		FY20	
Resource	Production	Revenue	Production	Revenue
Oil	33,617,690	\$ 4,419,286.55	32,272,982	\$ 4,242,515.08
Gas	209,185,062	\$ 3,898,192.52	198,725,808	\$ 3,703,282.89
Other		\$ 514,500.00		\$ 504,210.00
Total		\$ 8,831,979.06		\$ 8,450,007.97

RECOMMENDATION:

- 1) Staff recommends opening an investigative docket to amend K.A.R. 82-3-206 to increase the mill levy on a barrel of oil from 91.00 to 131.5 mills.
- 2) Staff further recommends the above-mentioned investigative docket include an amendment to K.A.R. 82-3-307 to increase the mill levy on a mcf of gas from 12.90 mills to 18.60 mills.
- 3) Staff has prepared a Motion it could file with a copy of the amended regulations for the Commission to consider or would be prepared to amend the draft regulations to conform to any guidance offered by the Commission.
- 4) Staff will begin examining sufficiency of the mill annually through the Oil and Gas Advisory Committee. It should report to the Commission if any regulatory changes are necessary. As part of this process, staff should also consider potential revisions to the other existing sources of revenue for examination and discussion.

Attachment:

1. Mill Scenarios
2. Industry Recommendation

Oil and Gas Mill Levy Changes Assumptions A - F

Assumption	Annual Production Change from FY17-FY20	Annual CFF Expenditure Change from FY17-FY20	Gas		Oil	
			New Mill Levy	Mill Increase - No. and Pct.	New Mill Levy	Mill Increase - No. and Pct.
A	6 % decline	None, hold at FY17 level	20.9	8.0 / 62.0%	147.0	56.0 / 61.5%
B	6 % decline	2% decline	19.6	6.7 / 51.9%	140.0	49.0 / 53.8%
C	4 % decline	None, hold at FY17 level	19.4	6.5 / 50.4%	139.1	48.1 / 52.9%
D	4 % decline	2% decline	18.4	5.5 / 42.6%	131.5	40.5 / 44.5%
E	4.09% gas decline 1.6% oil decline	None, hold at FY17 level	19.5	6.6 / 51.2%	129.1	38.1 / 41.9%
F	4.09% gas decline 1.6% oil decline	2% decline	18.4	5.5 / 42.6%	122.0	31.0 / 34.1%



December 20, 2017

Mr. Ryan Hoffman
Director, Conservation Division
Kansas Corporation Commission
266 N. Main Suite 220
Wichita, KS 67202-1513

Dear Ryan:

As KIOGA and EKOGA representatives on the Oil and Gas Advisory Committee, we are writing in response to your notice to producers and operators identifying a need to increase funding for the Conservation Division of the KCC. We commend you and your staff for being forthright in providing us with your economic projections and your operating expenses. We realize that the Conservation Division is adjusting their operating expenses in light of the decline in revenue from the Conservation Fee Fund. We also recognize the need to raise Conservation Division funding to avoid potential funding shortfalls in FY 2019 and FY 2020. However, the increase in fees by approximately 60% on natural gas and oil is considered to be an extreme measure.

We have reviewed the Conservation Division staff budgetary assumptions and projections as well as several analogous projections from the industry for the proposed oil and gas mill levy changes. We appreciate your consideration of the assumptions and projections offered to you by the industry which considers the statewide decline in oil and gas production and its effect on the mill levies. We have also reviewed the handouts and e-mails sent to the Advisory Committee at its special meeting on November 1, 2017. After considering the information received from your staff and the industry's projections for oil and gas prices and anticipated general activity levels for the industry in 2018 thru 2020, attached you will find the industry's mill levy increase proposal and the following is our justification and reasoning.

In essence, the industry's justification and reasoning for our proposed mill levy increase is predicated on four major factors:

1. The price for oil seems to have currently stabilized and appears to be gradually increasing. The projected price for natural gas is more difficult to determine, however most analysts seem to project a slight increase in gas prices over the next three years. With higher prices, there will be increased activity that should stabilize production declines well below the declines originally proposed by the KCC. Our proposal contains a 2% decline projection for oil production and a 4% decline projection for gas production.
2. Other Income (licenses, renewal etc.) collected by the Conservation Division has actually increased from 2016 to 2017. However, we utilized a 2% decline

notwithstanding the possibility that this income could increase if higher prices result in increased near term activity.

3. The Conservation Division staff and industry both believe that the industry going forward will likely shrink in size regardless of oil and gas price trends. As a result, the probability exists that fewer wells will be drilled and that overall industry activity will be reduced. These probabilities should be anticipated in future budgets for the Conservation Division. Given this shared concern, it is most important in future years that the industry remains intimately involved in assisting the Conservation Division in its budgetary process.
4. Per the Conservation Division's assumptions in the handout provided at the special advisory meeting, the Conservation Division expenditures remain flat from FY2017 thru FY2020. Accordingly, the industry's revenue models have not factored in any expenditure declines for FY2019 and FY2020 for the Conservation Division. However, the industry believes that the Conservation Division should continue to find additional spending cuts to aid in reaching the necessary forecasted yearend balances.
5. Historically, natural gas has a steeper decline than oil. Also, natural gas prices vary significantly across the state, greater than oil prices. Prices can vary as much as \$1.00 per MCF due to Btu content and pipeline economics. Therefore, such a large increase in the fee fund on natural gas could create a large penalty for small volume wells with low Btu contents and could be the tipping point for profitability for some gas wells. In addition, severance tax on natural gas is determined on gross receipts.

The industry utilizes a working group that consults annually with the Department of Revenue to provide its insights regarding the future price trends for oil and gas for ad valorem taxation purposes. We believe an analogous committee would be helpful to provide for industry input into annual budgetary issues effecting the Conservation Division. A Finance Subcommittee of the Oil and Gas Advisory Committee could be a proper format for such industry input.

We have appreciated this opportunity to review and comment on the Conservation Division's budgetary proposals -- most prominently including its proposals to raise fee fund revenues for FY2019 and FY2020. Low oil and gas prices for the past few years have adversely impacted the industry. Salary cuts and layoffs have been the norm for Kansas operators as they have struggled to reduce expenditures commensurate with their reduced revenues. In future years it will be important for the Conservation Division to continually review their own operations and in a similar fashion find ways to streamline their efforts and reduce expenditures. We appreciate the opportunity to assist the Conservation Division in attaining that goal.

Sincerely,



Jon M. Callen, KIOGA representative



David P. Bleakley, EKOGA representative

INDUSTRY RESPONSE

12/20/2017

4% gas decline
 2% oil decline
 2% other income decline

Gas		Oil	
New Mill Levy	Mill increase No. / Pct.	New Mill Levy	Mill increase No. / Pct.
17.4	4.5/35.0%	123	32/35%

INDUSTRY PROJECTED REVENUE

FY2017 Actuals (7/1/16-6/30/17)	FY2018 Estimate (7/1/17-6/30/18)	FY2019 Estimate (7/1/18-6/30/19)	FY2020 Estimate (7/1/19-6/30/20)
Assumes 50% of 1st yr & 100% from 2nd	Assume 4% gas / 2% oil Decline	Assume 4% gas / 2% oil Decline	Assume 4% gas / 2% oil Decline
233,414,040	224,077,478	215,114,379	206,509,804
37,054,110	36,313,028	35,586,767	34,875,032
	Current Mill Levy	New Mill Levy	New Mill Levy
	12.9 Gas / 91 Oil	17.4 Gas / 122 Oil	17.4 Gas / 122 Oil
\$ 3,011,041	\$ 2,890,599	\$ 3,742,990	\$ 3,593,271
\$ 3,371,924	\$ 3,304,486	\$ 4,377,172	\$ 4,289,629
\$ 6,382,965	\$ 6,195,085	\$ 8,120,163	\$ 7,882,900
Other Income	\$ 525,000	\$ 514,500	\$ 504,210
TOTAL	\$ 6,720,085	\$ 8,634,663	\$ 8,387,110