

1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Sam Brownback, Governor

Before the House Committee on Water and Environment  
January 18, 2018  
582-N 9:00 a.m.

Presentation of Kansas Corporation Commission Staff's Report and Recommendation  
Concerning HB2189

By

Ryan A. Hoffman, Director Conservation Division, Kansas Corporation Commission

Chairman Sloan, Vice Chair Rahjes, Ranking Minority Member Victors, and members of the committee, thank you for the opportunity to present on behalf of staff of the Kansas Corporation Commission (Commission) their Report and Recommendation concerning HB2189.

On March 17, 2017, this Committee sent the Commission a letter requesting the Commission to explore several aspects of HB2189. Attached is the full staff's Report and Recommendation in response to that request. This report has not been adopted or endorsed by the Commission.

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.

I will summarize staff's analysis that starts on page 2 of the report and recommendations on page 4.

Thank you for the opportunity to appear and present staff's Report and Recommendation.

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



Phone: 316-337-6200  
Fax: 316-337-6211  
<http://kcc.ks.gov/>

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

Sam Brownback, Governor

January 8, 2018

Chairman Tom Sloan  
State Capitol 521-E  
300 SW 10<sup>th</sup> Ave.  
Topeka, KS 66612

RE: Commission Staff Report

Chairman Sloan,

I have attached staff's Report and Recommendation to this letter. It includes a report from a working group formed to review the issues raised in your March 17, 2017 letter.

I presented staff's Report and Recommendation to the Commission at the Business Meeting on January 4, 2018. The Commissioners gave staff the authority to file this report with you; however, I would note their approval to file this report with you does not equate their adoption or endorsement of staff's Report and Recommendation provisions.

Please do not hesitate to contact me if you need anything further on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan A. Hoffman".

Ryan A. Hoffman, Director  
Conservation Division  
Kansas Corporation Commission

cc: Representative Ken Rahjes, Vice Chairman  
Representative Ponka-We Victors, Ranking Minority Member

Encl.

**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

TOM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL, 521-E  
300 SW 10TH AVENUE  
TOPEKA, KANSAS 66612  
(785) 296-7632  
1-800-432-3924

772 HWY 40  
LAWRENCE, KANSAS 66049-4174  
(785) 841-1526  
tom.sloan@house.ks.gov



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

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.

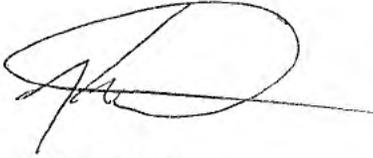
We request that Commission Staff provide a written report at the start of the 2018 Legislative Session detailing any requested statutory changes deemed appropriate and any revisions to the Commission's

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.

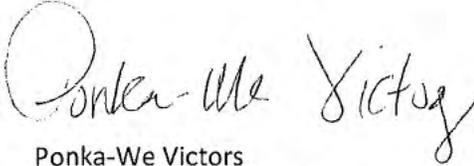
Sincerely,



Tom Sloan  
Chairman



Ken Rahjes  
Vice Chairman



Ponka-We Victors  
Ranking Minority Member



1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

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

## MEMORANDUM

**To:** Pat Apple, Chairman

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

**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 an 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.

<b>Working Group Members</b>				
<b>KCC Staff</b>	<b>Industry</b>	<b>Royalty Owners</b>	<b>Surface Interest</b>	<b>Private Attorneys</b>
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