Approved 3/29/90
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources.

The meeting was called to order by Senator ROss Doyen at
Chairperson

8:04 a.m./p.m. on March 27, 1990 in room 423-S of the Capitol.

All members were present except: All present.

Committee staff present:
Raney Gilliland, Legislative Research Department
Don Hayward, Revisor of Statutes
Pat Mah, Legislative Research Department
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:
Representative Eugene Shore, District 124
Greg Stucky, attorney for Southwest Kansas Royalty Owners' Association
John Black, attorney, Pratt, Kansas
Senator LeRoy Hayden
David Pierce, professor, Washburn Law School
Jonathan Small, representing KOCH Oil Company
Jerry Coffey, KOCH Oil Company
Don Schnacke, Kansas Independent Oil & Gas Association
Robert Anderson, Mid-Continent Oil and Gas Association
Dalton Alspaw, National Cooperative Refinery Association
Ross Martin, Kansas Petroleum Council
John Ochsner, Farmland Industries, Inc.
Ron Hein, representing Mesa Limited Partnership
Bill Fuller, Kansas Farm Bureau

Chairman Doyen opened the hearings on HB 2985 - concerning oil and gas; relating to payment of proceeds from oil and gas well production.

Representative Shore testified in support of HB 2985, and recommended some amendments (Attachment I).

Greg Stucky, attorney for the Southwest Kansas Royalty Owners' Association spoke in support of HB 2985.

David E. Pierce commenting at the request of the Southwest Kansas Royalty Owners' Association addressed his remarks to KIOGA'S proposed amendments (Attachment II A and ATTACHMENT II B).

John Black, an attorney from, Pratt, Kansas testified in behalf of HB 2985, and review some of the situations his clients have experience in receiving their royalty payments. He suggested the interest rate stated in the bill could be increased.

Senator LeRoy Hayden spoke in support of HB 2985.

Jonathan Small stated he opposed the bill in its substitute form, and he introduced Mr. Jerry Coffey from KOCH.

Jerry Coffey spoke in opposition to the bill and stated if tabling the bill was not an option the purchaser should not be required to pay any interest in five circumstances which are listed in his written testimony (Attachment III).

Don Schnacke opposed the bill and offered some amendments if the bill was to be passed (Attachment IV).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy & Natural Resources,

room 423-S, Statehouse, at 8:04 a.m./p.m. on March 27, 1990.

Bob Anderson stated Mid-Contentint Oil and Gas Association supported the amendments offered by Don Schnacke.

Dalton E. Alspaw stated they adamantly opposed HB 2985 (Attachment V).

Ross Martin presented written testimony opposing HB 2985 in its present form (Attachment VI).

John Ochsner presented written testimony opposing HB 2985 (Attachment VII).

Ron Hein presented written testimony expressing concerns with this particular bill (Attachment VIII).

Bill Fuller presented written testimony supporting HB 2985 (Attachment IX).

A letter from Coastal Derby Refining Company was distributed to the committee. Their letter stated they were extremely concerned with the proposed legislation (Attachment X).

The hearing on HB 2985 was closed.

The next meeting of the committee will be at 8:00 a.m., March 28, at that time HB 2843 will be heard. The meeting adjourned at 9:00 a.m.

1990 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3/27/90

GUEST LIST

PLEASE PRINT

NAME	REPRESENTING
Gina Bowman-Morrill	Farmland
Peggy Stepp[illegible]	Farmland
Clarn Bortell	Farmland
Alan Steppat	Pete McGill & Associates
Robert G. Anderson	Mid Cont Oil & Gas
Walter Dunn	Eastern Ks Oil & Gas
[illegible] Martin	Ks Petroleum Council
Ken Peterson	KS Petroleum Council
Darrell Montei	K. Dept. Wldf. & Pks.
Jerry Hazlett	Ks Wildlife Fed.
Rep Jack Lacey	Leg
Greg Stucky	Southwest Kansas Royalty Owners Assn
John V Black	atty from Pratt, Ks.
John Ochsner	Farmland
David E. Pierce	SW Ks. Royalty Owner's Assoc.
Jonathan Small	Koch Oil Company, Wichita
Jerry Coffey	"

1990 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3/27/90

PLEASE PRINT GUEST LIST

NAME	REPRESENTING
Debra Haifleigh	Koch Oil Company, Wichita
GAEL FLETCHER	KOCH OIL COMPANY WICHITA
STEVE KEARNEY	COASTAL
JOSEPH F. SPEELMAN	Koch Oil Company
Don Schnacke	KIOGA
DALTON ALSPAW	NATIONAL COOPERATIVE REF. ASSN
Ron Hein	Mesa LP

EUGENE L. SHORE

SENATE ENERGY COMMITTEE: Testimony for March 27, 1990, 8:00 A.M., Rm. 423-S, PROPONENT for HB-2985.

House Bill 2985 was introduced at the request of the Southwest Kansas royalty owners. The problem is usually not a total lack of payment of royalties, but extremely slow payment by some producer companies. HB-2985 provides that if not paid in 60 days from the last day of the month following production, interest would be paid in addition to royalty. We recognize that sometimes tardiness is necessary especially on new wells when legal problems may slow the payment of royalties because the correct division may not be known. The bill allows four months on initial production. KIOGA proposes six months which we could agree to. This bill would not have a punitive rate of interest. If money is owed and not paid in a timely manner the rate would be 6% if the producer was not at fault, such as waiting on documents or title opinions. This is less than they could earn if the withheld funds were deposited in an interest bearing account. If the producer was at fault the rate would be 12%. Amounts under $25 could be paid semi-annually with no interest.

I am aware of neighbors who waited over a year for sizable royalty checks on oil and gas. I have personally waited for a year for gas royalty.

E+NR
Attachment I
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There are instances of amounts of $20,000 to $30,000 being held for 6 or 7 years with no diligent effort made to pay them. These royalties when paid do not include any interest. Sometimes a small amount of interest has been negotiated for, but is not required. Current Kansas law gives no incentive to find and pay royalty owners in a timely manner.

Some amendments proposed by KIOGA are reasonable. I specifically object to new language on (Sec. 3(a) line 42 amendment - after the word "sold" add "provided that the person legally entitled to payment has executed a division order with the purchaser and provided the purchaser with his or her name, current address, social security or tax identification number.") as it would modify the original lease. No lease requires you to sign a division order to be paid. I also oppose (Sec. 5, line 28 - delete "of the county in which the oil and gas well is located".) The county where the oil or gas well is located is the logical place for disputes to be settled.

I would stand for questions.

ENR
attachment I-2
3/28/90

COMMENTS REGARDING SUBSTITUTE FOR HOUSE BILL 2985

By: Professor David E. Pierce
Washburn University School of Law

Commenting at the request of the Southwest Kansas Royalty Owners' Association

This Bill provides for the payment of interest on money due royalty owners, and other interest owners, arising out of the sale of oil and gas. The Bill is designed to give the sellers of production adequate time to process production payments:

(1) When a well is first brought into production, the persons purchasing oil and gas from the well have up to four months to figure out who owns the production and to activate their payment system.

(2) Following the initial four-month period, the purchaser has up to 60 days, following the month in which the production was sold, in which to pay the money due the owners of production.

In some situations title to a person's interest will not be marketable. However, the purchaser will continue taking production from the property and retain in its possession all proceeds associated with interests that have title problems. If the title problem cannot be cured within the four month/60-day time frame, the purchaser will be required to pay 6% interest on the suspended production proceeds until the title is rendered marketable and the proceeds paid out to their rightful owner.

If the total amount due the interest owner is less than $25, the purchaser can accumulate this amount and pay it semiannually without incurring any obligation to pay interest.

If there is a title defect relating to a person's interest and their payments are suspended, this will not relieve the purchaser from paying persons who have marketable title.

Persons distributing funds belonging to royalty and other interest owners, who fail to comply with the act, can be compelled to pay the proceeds due plus 12% interest on the total amount due.

COMMENTS REGARDING KIOGA'S PROPOSED AMENDMENTS

1. Four months or six months? KIOGA proposes to change the time for the initial delay in distributing funds from four months to six months. Although Oklahoma uses a six-month time frame, the title examination process in Oklahoma is routinely

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much more complex than it is in Kansas. Ownership of the mineral interest in Oklahoma is generally much more fractionated than in Kansas. In Oklahoma you must contend with the forced pooling statute which usually requires the determination of title to a number of tracts encompassed by a pooled unit. There are also a number of Indian title problems which generally do not exist in Kansas.

In Kansas, four months should be more than adequate time for a diligent purchaser to pass on title, cure routine defects, and commence payment.

2. Force royalty owner to sign a contract the terms of which are dictated by the purchaser? KIOGA, in its proposed addition to Section 3(a), line 42, attempts to gut the interest owner's rights under this Bill by requiring them to sign a "division order" as a condition to payment. This is like saying a creditor must agree to payment of a debt on terms unilaterally dictated by their debtor. What will be contained in this "division order?" One provision frequently found in division orders states:

> "[I]n the event of an adverse claim, question, or dispute at any time concerning title to such oil . . . or to the land from which such oil is produced, . . . [purchaser] may hold the proceeds of all oil received and run . . . without interest . . . ."

So we give the royalty owner the right to interest in Section (2) of this Bill and take it away by a legislatively-mandated division order condition in Section (3).

If the division order provision is included in this Bill, it will force purchasers and interest owners to litigate what must be signed before they are entitled to payment. See Pierce, "Resolving Division Order Disputes: A Conceptual Approach," 35 Rocky Mountain Mineral Law Institute 16-1 (Matthew Bender 1989). If the interest owner has marketable title, and is willing to cooperate with the purchaser so that payments can be made (providing them with their name and current address), the purchaser should either make the payment or refuse to buy the interest owner's production. Just like any other sales contract, if the parties can't agree, they shouldn't deal with one another.

3. Administering Small Sums of Money. Through its proposed amendment to Section 3(a)(1), line 6, KIOGA seeks to provide for the annual, as opposed to semiannual, distribution of relatively small accumulations of production proceeds. This subsection, as written, seems ambiguous. Does it mean that you

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can accumulate $24.99 each month ("monthly proceeds of amounts less than $25.00") for up to six months, for a total sum of $149.94? The intent is probably to accumulate production proceeds only until they equal or exceed $25; and in any event the funds, even if less than $25, must be distributed semiannually. The Oklahoma statute contains the same sort of ambiguity.

If the ambiguity is resolved to provide for a single annual accumulation of not more than $25, KIOGA's proposal makes sense. One way to eliminate the ambiguity, and incorporate KIOGA's proposal, would be to state:

"The purchaser may pay annually for the aggregate of up to twelve months of accumulated proceeds where the aggregate amount owed is $25 or less."

4. Interest Compounded Annually. KIOGA suggests amending Section 3(a)(2), at line 5, and Section 4, at line 26, to eliminate the annual compounding of interest. Since most purchasers actually have the use of funds they hold in suspense, the compound interest rate in Section 3(a)(2) should be measured by what it would cost the purchaser to borrow money from a bank. Clearly this would be an amount far in excess of 6% compounded annually. Another way to test the compound interest provision is to ask whether the purchaser can obtain compounded interest on the funds when they are placed in an interest-bearing account. It would appear that if this test were used, the interest should be compounded daily, or monthly, instead of annually.

With regard to Section 4, the interest charge is being used to deter the improper handling of other peoples' money. The annual compounding of interest in this situation seems particularly appropriate.

5. Marketable title. KIOGA suggests adding the word "marketable" before the word "title" in Section 3(a)(2), at line 6. Inserting the word "marketable" as proposed by KIOGA would mean interest would run from the time a "marketable" title is "perfected." If you already have a marketable title, it doesn't need to be perfected. I think KIOGA's concerns can be more accurately addressed by changing line 7 to read:

"calculated from the date of first sale, until such time as the title to such interest is rendered marketable."

This also avoids reference to the word "perfected" which may suggest a title standard higher than marketable title.

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6. Lien language. KIOGA suggests adding to Section 3(a)(2), at line 7, a listing of items that may render a title unmarketable. The act uses marketable title as the basis for determining the parties' rights and obligations. The proposed language refers to events which clearly fall within the marketable title definition. The addition of a partial enumeration of events encompassed by the marketability standard is unnecessary and invites ambiguity.

7. Laws of Kansas. KIOGA suggests adding language to Section 3(2)(c), at line 14, to refer to the "laws of the state of Kansas" when determining the marketability of title. KIOGA's addition is an improvement to this Section.

8. Change Owner to Owners. KIOGA proposes changing the word "owner" to "owners" in Section 3(2)(d) at lines 16, 18, and 20. KIOGA's proposal is an improvement to this Section.

9. Venue Provison. KIOGA proposes changing Section 5, at line 28, by taking away the provision requiring that disputes concerning this act be heard by a district court in the "county in which the oil or gas well is located." The practical effect of KIOGA's proposed amendment would be to make it more difficult for the intended beneficiaries of this law to enforce their rights. The proper venue for enforcing this act is where the Bill currently places it--in the county where the well generating the production, and the unpaid proceeds, is located.

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SUPPLEMENTAL
COMMENTS REGARDING SUBSTITUTE FOR
HOUSE BILL 2985

27 March 1990

By: Professor David E. Pierce
Washburn University School of Law

Commenting at the request of the Southwest Kansas Royalty Owners Association

During the hearing this morning KIOGA, in conjunction with KOCH and NCRA, submitted a list of five situations in which they believe the purchaser should be excused from paying interest under HB 2985. Since these issues were not raised in the proposals I reviewed for my initial comments, I offer these supplemental comments for the Committee's consideration:

1. The unlocatable owner. The unlocated owner should be treated the same as an owner with unmarketable title. Once the owner is identified, the production proceeds, plus the 6% interest, should be paid to the owner.

This matter can be addressed by adding to Section 3(a)(2), at line 4, after the word "marketable," the following:

"or because the owner having marketable title cannot be located,"

and at line 7, after the word "perfected", the following:

"or the owner having marketable title located."

2. Notice of adverse claim, lien, or other dispute. This proposed amendment is totally unacceptable. It appears this provision is designed to gut the express provisions of Section 3(a)(2) which provides that if title is not marketable, the amounts accumulated will nevertheless earn 6% interest. Under KIOGA's proposal, if the title is unmarketable because of an "adverse claim, lien, or other dispute," then the purchaser can retain the funds without payment of the 6% interest. This takes away the very rights conferred on the interest owner in Section 3(a)(2). Virtually every title defect rendering a title unmarketable could be encompassed by the reference to "adverse claim" or "dispute."

If the intent is not to nullify rights granted by Section 3(a)(2), KIOGA's concerns are adequately, and properly, addressed by the references to "marketable" title in Section 3 of the Bill. This is clearly demonstrated once we consider how the Kansas Supreme Court has defined marketable title. For example, in Darby v. Keeran, 211 Kan. 133 (1973), the Court

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states the following definitions:

> "[A] marketable title is one which, among other requisites, is free from liens and encumbrances." Darby v. Keeran, 211 Kan. at page 139.
>
> "[A] marketable title is one which is free from reasonable doubt; and under this rule a title is doubtful and therefore unmarketable if it exposes the party holding it to the hazard of litigation." Darby v. Kerran, 211 Kan. at page 138.
>
> "It is not necessary to show that a title is bad, in fact, in order to render it unmarketable . . . . It is sufficient if there be doubt based on reasonable grounds, which would impel a reasonably prudent man, familiar with the facts, to reject it in the ordinary course of business." Darby v. Kerran, 211 Kan. at page 138.

With such broad definitions of marketable title, I can't understand why KIOGA or the other parties would want to narrow the definition in any way. A broad definition is to their benefit. This makes me think this is merely an attempt to amend the Bill to try and thwart the 6% interest requirement while the funds are being used by the purchaser pending marketable title.

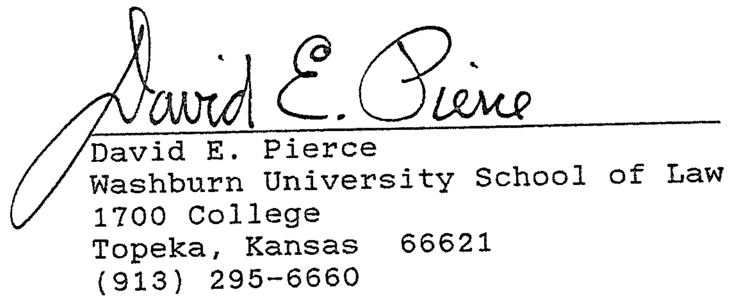
3. Confirm interest; provide name, address, and social security or federal identification number. KIOGA's concerns can be addressed by adding the following language as new subsection (3) to Section 3(a):

> "(3) Upon request by the purchaser, the person entitled to payment will indicate whether they own an interest in production from the well and provide the purchaser with their name, address, and social security number or tax identification number. Until this information is provided to the purchaser, the person's title will be deemed unmarketable and they will earn interest on their proceeds as provided in Section 3(a)(2)."

If the purchaser requests this information, and it is not provided, the purchaser will be protected from any claim, under Section 4 of the Bill, that it violated the act. However, the interest owner will still be entitled to 6% interest while the the purchaser holds the money waiting for the information.

4. Satisfactory evidence of ownership. As with my comments in paragraph 2 above, this is a marketable title issue.

Until the purchaser receives "satisfactory evidence of ownership," the title is unmarketable and should be dealt with under Section 3(a)(2) of the act. This appears to be yet another attempt to defeat the 6% interest obligation on funds withheld because the title is not marketable. As discussed in paragraph 2 of these comments, if the Committee adopts KIOGA's proposal it will defeat one of the basic purposes of HB 2985: to pay the rightful owners of production 6% interest for the use of their money while the purchaser is assembling a marketable title.



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KOCH

KOCH OIL COMPANY

DIVISION ORDER DEPARTMENT

MEMORANDUM

TO: Senate Energy & Natural Resources Committee

FROM: Koch Industries, Inc.
Jerry F. Coffey

DATE: March 27, 1990

RE: HB 2985 - Act relating to payment of oil & gas proceeds

Koch Industries, Inc. ("Koch") remains adamantly opposed to HB 2985. The bill would force the oil or gas purchaser to pay owners at its own risk or face the prospect of paying unreasonable interest. Such a measure is out of line with current industry practice, goes far beyond the measures taken by other oil states, and no compelling reason for this legislation has been put forward by its authors.

Attached are the statutes governing the payment of proceeds from the states of Colorado and Texas. Both took into consideration the many situations facing the purchaser. Particularly, the purchaser is exempted from having to pay interest when: 1) the owner is unknown or cannot be located; 2) the owner has not confirmed his/her interest; 3) there are uncertainties as to title; 4) the presence of litigation affecting title.

In the current form of HB 2985, the purchaser would be required to pay 12% interest on proceeds to an owner, even though that owner could never be found.

The effect of HB 2985 would also be to completely disregard the use of division orders as a means of doing business with royalty owners and to create confusion and precipitate vexatious litigation. For the third-party purchaser, this is the only document establishing a relationship between itself and the owner. Purchasers would be required to make payment of millions of dollars monthly without the benefit of a single agreement setting forth the terms of the sale and payment.

Attachment II
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P.O. Box 2239 • Wichita, Kansas 67201 • 316/832-5500 • FAX 316/832-7997

Koch respectfully suggests that the Committee re-examine HB 2985 and make the following changes should tabling the bill not be an option.

The purchaser should not be required to pay any interest in the following circumstances:

1) when an owner cannot be located;
2) when notice is received of an adverse claim, lien, or other dispute;
3) when an owner has not certified his/her interest ownership by execution of a division order;
4) when an owner has not provided his/her name, address, and Federal tax identification number;
5) when the purchaser has not been given satisfactory evidence of lease ownership (i.e., a title opinion).

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within which spudding is to occur. During the period of cost recovery provided in this subsection (7), the commission shall retain jurisdiction to determine the reasonableness of costs of operation of the well attributable to the interest of such nonconsenting owner.

Source: Added, L. 88, p. 1216, § 1.

Law reviews. For article, "Forced Pooling in the Rockies: Penalizing the Hold-out", see 13 Colo. Law. 34 (1984).

34-60-117. Prevention of waste and protection of correlative rights.

Law reviews. For article, "Prorationing of Natural Gas Production: An Economic Analysis", see 57 U. Colo. L. Rev. 153 (1986).

34-60-118.5. Payment of proceeds. (1) As used in this section, unless the context otherwise requires:

(a) "Payee" means any person or persons legally entitled to payment from proceeds derived from the sale of oil, gas, or associated products from a well in Colorado, but shall not include those interests owned by the state of Colorado.

(b) "Payor" means the first purchaser of oil, gas, or associated products from a well in Colorado unless the first purchaser has entered into an agreement under which the operator of a well has accepted responsibility for making payments to payees, in which case such operator shall be the payor.

(2) Payments of proceeds derived from the sale of oil, gas, or associated products shall be paid by a payor to a payee commencing not later than six months after the end of the month in which production is first sold. Thereafter, such payments shall be made on a monthly basis not later than sixty days for oil and ninety days for gas and associated products following the end of the calendar month in which subsequent production is sold unless other terms or arrangements for the first and subsequent payments are provided in a valid lease or other agreement between the payor and payee. Payments may be made annually if the aggregate sum due a payee for twelve consecutive months is twenty-five dollars or less.

(3) (a) Compliance with the payment deadlines set forth in subsection (2) of this section shall be suspended when payments are withheld for a period of time due to any of the following reasons:

(I) A failure or delay by the payee to confirm in writing the payee's fractional interest in the proceeds after a reasonable request in writing by the payor for such confirmation;

(II) A reasonable doubt by the payor as to the payee's identity, whereabouts, or clear title to an interest in proceeds; or

(III) Litigation that would affect the distribution of payments to a payee.

(b) Any delay in determining whether or not a payee is entitled to an interest in proceeds shall not affect payments to all other payees so entitled.

(4) If a payor does not make payment within the time frames specified in subsection (2) of this section and such delay in payment was not caused

by any of the reasons specified in subsection (3) of this section, the payor shall pay such payee simple interest on the amount of the proceeds withheld, which interest shall be calculated from the date of each sale at a rate equal to two times the discount rate at the federal reserve bank of Kansas City as such rate existed on the first day of the calendar year or years in which proceeds were withheld.

(5) The oil and gas conservation commission shall have exclusive jurisdiction to determine the following:

(a) The date on which payment of proceeds is due a payee under subsection (2) of this section;

(b) The existence or nonexistence of an occurrence pursuant to subsection (3) of this section which would justifiably cause a delay in payment; and

(c) The amount of the proceeds plus interest, if any, due a payee by a payor.

(6) The commission may assign to the parties the costs of any administrative proceeding pursuant to this section in such proportions as it deems appropriate and may award reasonable attorney fees and costs to the prevailing party. The moneys received by the commission to cover the costs of such administrative proceedings shall be transmitted to the state treasurer who shall credit such moneys to the oil and gas conservation fund created in section 34-60-122.

(7) As a prerequisite to seeking relief under this section for the failure of a payor to make timely payment, a payee shall give the payor written notice by certified mail of such failure and the payor shall have twenty days after receipt of the required notice in which to pay the proceeds, plus any interest due thereon, in accordance with the provisions of this section or to respond in writing explaining the reason for nonpayment.

Editor's note: This section is effective July 1, 1990.

Source: Added, L. 89, p. 1374, § 1.

34-60-122. Expenses - fund created. (1) In addition to the filing and service fee required to be paid under section 34-60-106 (1) (f) and the fees authorized for other services provided by the commission by section 34-60-106 (12), for the purpose of paying the expense of administering this article, there is imposed on the market value at the well of all oil and natural gas produced, saved and sold, or transported from the field where produced in this state a charge not to exceed one and one-half mills on the dollar. The commission shall, by order, fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as, in its judgment, the expenses chargeable against the oil and gas conservation fund specified in subsection (5) of this section may require.

(5) It is the duty of the oil and gas conservation commission to collect all charges and penalties under this article and to remit them to the state treasurer for deposit in the special fund known as the oil and gas conservation fund. Moneys credited to said fund shall be expended for the purposes of administering the provisions of this article and for paying expenses in connection with the interstate oil compact commission. At the end of each fiscal

SUBCHAPTER J. ENFORCEMENT

§ 91.351. Criminal Penalty

(a) A person who wilfully or with criminal negligence violates Section 91.101 of this code or a rule, order, or permit of the commission issued under that section commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than $10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, § 9, eff. Sept. 1, 1983.

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

Law Review Commentaries

Dealing with oilfield pollution: Help from Railroad Commission. Charles W. Wendlandt Jr., 47 Texas Bar J. 1132 (1984).

Library References

Mines and Minerals ⇐95.

C.J.S. Mines and Minerals § 241.

§ 91.352. Additional Enforcement Authority

In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the manner and subject to the conditions provided in Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief as provided by those chapters.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, § 9, eff. Sept. 1, 1983.

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 85.381.

SUBCHAPTER K. PAYMENT FOR PROCEEDS OF SALE

Acts 1983, 68th Leg., p. 966, ch. 228, § 1, added this Subchapter K, consisting of §§ 91.401 to 91.405. For text of another Subchapter K, Saltwater Disposal Pits, consisting of §§ 91.451 to 91.459, added by Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, see Subchapter K, post.

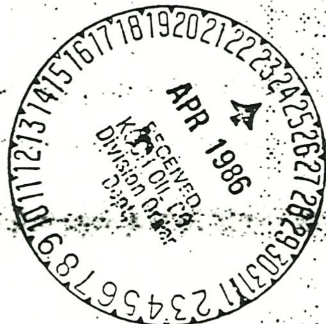
Law Review Commentaries

Annual survey of Texas law: Oil, gas, and minerals. Eric T. Laity, 38 Southwestern L.J. (Tex.) 195 (1984).

Library References

Mines and Minerals ⇐79.4.

C.J.S. Mines and Minerals §§ 216, 217.



§ 91.401. Definitions

In this subchapter:

(1) "Payee" means any person or persons legally entitled to payment from the proceeds derived from the sale of oil or gas from an oil or gas well located in this state.

(2) "Payor" means the first purchaser of production of oil or gas from an oil or gas well, but the owner of the right to produce under an oil or gas lease or

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pooling order is deemed to be the payor if the owner of the right to produce and the first purchaser have entered into arrangements providing that the proceeds derived from the sale of oil or gas have been paid by the first purchaser to the owner who assumes the responsibility of paying those proceeds to the payee.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.

§ 91.402. Time for Payment of Proceeds

(a) The proceeds derived from the sale of oil or gas production from an oil or gas well must be paid to each payee on or before 120 days after the end of the month of first purchase by a payor. After that time, payments must be made to each payee on a timely basis according to the frequency of payment specified in a lease or other written agreement between payee and payor. If the lease or other agreement does not specify the time for payment, subsequent proceeds must be paid no later than:

(1) 60 days after the end of the calendar month in which subsequent oil production is sold; or

(2) 90 days after the end of the calendar month in which subsequent gas production is sold.

(b) Payments may be remitted to payees annually for the aggregate of up to 12 months' accumulation of proceeds, if the total amount owed is $25 or less.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.

§ 91.403. Payment of Interest on Late Payments

(a) If payment has not been made for any reason in the time limits specified in Section 91.402(a) of this code, the payor must pay interest to a payee beginning at the expiration of those time limits at the rate charged on loans to depository institutions by the New York Federal Reserve Bank, unless a different rate of interest is specified in a written agreement between payor and payee.

(b) Subsection (a) of this section does not apply where payments are withheld or suspended by a payor beyond the time limits specified in Section 91.402(a) of this code because there is:

(1) a dispute concerning title that would affect distribution of payments;

(2) a reasonable doubt that the payee does not have clear title to the interest in the proceeds of production; or

(3) a requirement in a title opinion that places in issue the title, identity, or whereabouts of the payee and that has not been satisfied by the payee after a reasonable request for curative information has been made by the payor.

(c) The payor's obligation to pay interest and the payee's right to receive interest under Subsection (a) of this section terminate on delivery of the proceeds and accumulated interest to the State Treasurer as provided by Title 6, Property Code[1].

Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., p. 1906, ch. 230, § 18, eff. Sept. 1, 1985.

[1] V.T.C.A. Property Code, § 71.001 et seq.

1985 Amendment. Added subsec. (c).

§ 91.404. Nonpayment of Oil and Gas Proceeds or Interest

(a) If a payee seeks relief for the failure of a payor to make timely payment of proceeds from the sale of oil or gas or an interest in oil or gas as required under Section 91.402 or 91.403 of this code, the payee must give the payor written notice by mail of that failure as a prerequisite to beginning judicial action against the payor for nonpayment.

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(b) The payor has 30 days after receipt of the required notice from the payee in which to pay the proceeds due, or to respond by stating in writing a reasonable cause for nonpayment.

(c) A payee has a cause of action for nonpayment of oil or gas proceeds or interest on those proceeds as required in Section 91.402 or 91.403 of this code in any court of competent jurisdiction in the county in which the oil or gas well is located.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.

§ 91.405. Exemptions

This subchapter does not apply to any royalties that are payable to:

(1) the board of regents of The University of Texas System under a lease of land dedicated to the permanent university fund; or

(2) the General Land Office as provided by Subchapter D, Chapter 52, of this code.[1]

Added by Acts 1983, 68th Leg., p. 966, ch. 228, § 1, eff. Sept. 1, 1983.

[1] Section 52.131 et seq.

SUBCHAPTER K. SALTWATER DISPOSAL PITS

Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, added this Subchapter K, consisting of §§ 91.451 to 91.459. For text of another Subchapter K, Payment for Proceeds of Sale, consisting of §§ 91.401 to 91.405, see Subchapter K, ante.

§ 91.451. Definition

In this subchapter, "saltwater disposal pit" means a collecting pit on the surface of the ground used to store or evaporate oil field brines, geothermal resource water, or other mineralized water.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.

Law Review Commentaries

Annual survey of Texas law: Oil, gas, and minerals. Eric T. Laity, 38 Southwestern L.J. (Tex.) 195 (1984).

Library References

Mines and Minerals ⇐90.

C.J.S. Mines and Minerals § 235.

§ 91.452. Prohibited Activity

Except as provided by this subchapter, a person conducting oil and gas development or production operations, geothermal operations, or underground hydrocarbon storage operations may not use a saltwater disposal pit for storage or evaporation of oil field brines.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, § 1, eff. Sept. 1, 1983.

Law Review Commentaries

Annual survey of Texas law: Oil, gas, and minerals. Eric T. Laity, 38 Southwestern L.J. (Tex.) 195 (1984).

Library References

Mines and Minerals ⇐90.

C.J.S. Mines and Minerals § 235.

§ 91.453. Commission Authorized

(a) On written application, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit on a temporary emergency basis.

(b) On written application, the commission or its designated employee may administratively authorize a person to use an impervious surface pit in conjunc-

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D Schnicke

KIOGA
KANSAS INDEPENDENT OIL & GAS ASSOCIATION
105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202 • (316) 263-7297

March 27, 1990

TO: Senate Energy & Natural Resources Committee

RE: Subs. HB 2985 - Oil and Gas Proceeds Payment Act

Subs. HB 2985 arose from a subcommittee of the House Energy Committee without the benefit of a hearing. Floor amendments were refused and the bill, as drafted by Repr. Patrick, was passed on the House floor. This is the first time a hearing has been held on Subs. HB 2985.

Our association represents interest holders of all types. We are a statewide association of producers, working interests, override interests, and royalty interests. All of these interests are involved with the paperwork and flow of money from the sale to the first purchaser. We are interested in prompt payments, but we are also aware there are many reasons why payment may be delayed, suspended, or not made. We have not received any pressure or communication to introduce and support a bill like Subs. HB 2985. We had many problems with the original bill and appeared in opposition to it.

The Committee, I am sure, is aware of the sharp economic decline that occurred in 1986. The industry retreated by laying off thousands of workers, leaving fewer people to process the increased paper flow. Operators have increased switching purchasers. Increased sales of properties have been taking place resulting in title searches and an enormous paper trail. Some of this is responsible for delayed or suspended payments to make certain the right party is receiving the money.

We sympathize with those few persons that insist on prompt payment. We believe that mission is generally being handled well today. I've not seen any statistics that would indicate there is a big problem of failure to pay interest holders. We think it's probably a very small issue compared to the total. I personally have dealt with a number of first purchasers who send out checks and I've never experienced any problems.

We have suggested amendments to offer in order to meet the test of the entire industry if you are considering passing this bill. This is not a bill limited to the Southwest Kansas royalty interests. It is a bill with a statewide impact that affects all interest holders. It also impacts on those producers who also serve in the role of a first purchaser. Our proposed amendments are as follows:

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Sec. 3(a), line 40 - substitute "six" for the word "four".

Sec. 3(a), line 42 - after the word "sold" add "provided that the person legally entitled to payment has executed a division order with the purchaser and provided the purchaser with his or her name, current address, social security or tax identification number."

Sec. 3(a)(1), line 43 - substitute the word "annually" for the word "semiannually".

Sec. 3(a)(2), line 5 - delete the words "compounded annually".

Sec. 3(a)(2), line 6 - add the word "marketable" before the word "title".

Sec. 3(a)(2), line 7 - after the period, add "or in the event of an adverse claim, lien, or dispute concerning title".

Sec. 3(2)(c), line 14 - before the period add "and the laws of the state of Kansas".

Sec. 3(2)(d), line 16 - replace "owner" with "owners".

Sec. 3(2)(d), line 18 - replace "owner" with "owners".

Sec. 3(2)(d), line 20 - replace "owner" with "owners".

Sec. 4, line 26 - delete the words "compounded annually".

Sec. 5, line 28 - delete "of the county in which the oil and gas well is located".

We concur with Koch and NCRA that the purchaser should not be required to pay any interest in the following circumstances and that they should be added to the bill:

1. When an owner is unlocatable.
2. Receipt of notice of adverse claim, lien, or other dispute.
3. When an owner has not confirmed his/her interest.
4. When an owner has not provided his/her name, address, and social security/federal identification number.
5. When the oil and gas purchaser has not received satisfactory evidence of ownership.

Donald P. Schnacke
Executive Vice President

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3/28

National Cooperative Refinery Association

2000 SOUTH MAIN ST. • P.O. BOX 1404 • McPHERSON, KANSAS 67460 • 316/241-2340

March 26, 1990

TO: Senate Energy & Natural Resources Committee

National Cooperative Refinery Association (NCRA) remains adamantly opposed to House Bill 2985. This bill as written goes far beyond measures taken by other oil states.

House Bill 2985 as currently written will require oil and gas purchasers to accept the risk of paying owners with uncertain title or title in litigation. If this risk is not accepted, purchasers must face the prospects of paying interest.

The effect of House Bill 2985 would be elimination of division orders as a mean of doing business with interest owners. For an oil and gas purchaser, the division order is the only document establishing any relationship between purchaser and owner.

In the current form House Bill 2985 would require the purchaser to pay 12% interest on proceeds to (1) unknown owners or unlocated owners; (2) owners who have not or will not confirm their interest; (3) owners with uncertain titles or titles in litigation. This interest must be paid even though some owners may never be found.

If House Bill 2985 cannot be tabled, NCRA respectfully suggests the following changes:

The oil and gas purchaser should not be required to pay any interest under the following circumstances:

1. **When an owner is unlocatable.**

2. **Receipt of notice of adverse claim, lien, or other dispute.**

3. **When an owner has not confirmed his/her interest.**

4. **When an owner has not provided his/her name, address, and Social Security/Federal Id Number.**

5. **When the oil and gas purchaser has not received satisfactory evidence of ownership.**

Dalton E. Alspaw

Dalton E. Alspaw
Manager, Lease Acquisitions

attachment V
E+NR
3/27/90

SUBSTITUTE HOUSE BILL 2985

THE OIL AND GAS PROCEEDS PAYMENT ACT

for the Senate Committee on Energy and Natural Resources

Statement by the Kansas Petroleum Council

March 27, 1990

Mr. Chairman and Members of the Committee, I thank you for time to comment on this bill. My name is Ross Martin and I am representing the thoughts of the Kansas Petroleum Council.

I would like to begin by quickly summarizing the contents of Substitute House Bill 2985.

The bill would effect persons who have a financial interest in an oil or gas well, including production, working interests, overrides, and royalty owners.

As we understand it, the bill would require producers of new wells (or first purchasers) to make payments to interest owners within 4 months from the date the oil or gas is first sold. In the case of existing wells, the payments would be due within 60 days after the end of the calendar month in which the production was first sold.

There are other provisions, too:

--One would allow semiannual payments, if the total amount owed to an interest owner was $25 or less.

--Another would impose payment of 6 percent annual interest, when there are problems getting a clear title. The interest penalty would apply until the title could be perfected.

--The bill would allow a purchaser to shift the responsibility of making timely payments to the producer by means of an agreement between the two parties.

--A penalty type of provision would impose a compounded 12 percent annual rate of interest on the proceeds if the act is violated.

--And finally, the bill would cause all related legal proceedings to be conducted in the district court where the oil or gas is located.

You should note this bill is a nearly complete rewrite of the original bill. And, to the best of our knowledge, a hearing on this substitute House bill has not been held until now.

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The bill does represent major changes in the law.

You have heard from others already, so I will try to lay out our concerns as clearly and briefly as possible...

Our member companies tell us they cannot accurately complete the complex paperwork needed to make payments on every new well within the allotted 4 months. An incorrect address, a title dispute, or probate of a will all can result in a late or deferred payment of royalty. A royalty interest is a negotiable asset. A landowner can sell it, assign it, leave it in a will, or divide it. When one of those situations arises, it may take months to identify and track down the person to whom a payment is owed. Oklahoma, Texas, Louisiana, Wyoming and other states have recognized the potential for problems by allowing at least 6 months time to make initial payments.

If a deadline of only 4 months is imposed, it is likely that first sales of oil or gas will have to be delayed to ensure there is enough time for completion of the necessary paperwork. And having to delay a first sale could force a corresponding loss of time in getting checks to interest owners.

We are also very concerned about the relatively short 60-day period the bill requires for payments on existing wells.

Again, the timeframe is too tight. For essentially the same reasons, an allowance of 90 days would be much better for all concerned. Requirements for payment of royalty in shorter time periods are unrealistic in that they exceed the administrative accounting capability of the industry. Incidentally, 90 days would be the same time period called for in HB 2353, a similar bill, passed by the Senate Judiciary Committee just yesterday.

We think the 12 percent penalty provision for not complying with the act is highly objectionable. In some cases, royalty owners have refused to sign division orders, even though by law a division order cannot alter the terms of a lease. Purchasers don't pay unless the division orders are properly completed and signed because they otherwise don't know who to pay. The result is the producer could -arbitrarily and through no fault of his or her own- be penalized at 12 percent per annum, compounded.

And finally, when the monthly oil or gas royalty to be paid is less than $25, the industry supports provisions for annual payment.

As you can see, certain features of Substitute House Bill 2985 make it necessary for us to oppose its passage.

Thank you for hearing our concerns. I'd be glad to try to answer any questions.

Attachment VI-2
3/28/90

FARMLAND INDUSTRIES, INC.

post office box 7305/kansas city, missouri 64116

John Ochanee

COMMENTS BEFORE

THE

SENATE ENERGY & NATURAL RESOURCES COMMITTEE

MARCH 27, 1990

RE: HB 2985

Thank you, Mr. Chairman and Members of the Committee. Farmland Industries, Inc., a regional farm supply cooperative based in Kansas City, is very concerned about HB 2985, the act which relates to payment of oil and gas proceeds. This legislation, if passed, will force the oil or gas purchaser to pay owners at its own risk or be responsible for paying at an unreasonable interest rate of 12%.

Farmland has two main concerns about this legislation:

1) No incentive exists for an interest owner who cannot be located by the purchaser to notify the purchaser of his/her whereabouts, since the reward could be 12% on his/her proceeds.

2) Is the state willing to offer a blanket indemnification to purchasers who make distributions to owners who haven't been certified by execution of a division order?

For these reasons, Farmland opposes HB 2985. We hope that you will seriously consider these points and vote against this legislation.

Thank you for your serious consideration.

attachment VII
E & NR
3/27/90

Ronald R. Hein
William F. Ebert

HEIN AND EBERT, CHTD.
ATTORNEYS AT LAW
5845 S.W. 29th, Topeka, Kansas 66614
913/273-1441

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
TESTIMONY RE: SUB. HB 2985

PRESENTED BY RONALD R. HEIN ON BEHALF OF
MESA LIMITED PARTNERSHIP
March 27, 1990

Mr. Chairman, members of the committee:

My name is Ron Hein, and I am legislative counsel for Mesa Limited Partnership, an oil and gas production company with significant reserves in Kansas, primarily in the Hugoton field.

We do not oppose the concept and intent of HB 2985. As we understand it, this is an attempt to give the payee some protection from payors who wrongfully withhold payments due to the payee.

However, we have several concerns about this particular bill.

1. If the bill is designed to protect royalty interest owners, then it should be limited to them, and the payor should be limited to the business that would have knowledge as to who the payee should be.

   Many times the first purchaser and even the operator do not know who the payee should be or even if he has been paid, as oftentimes there is no contractual relationship between the operator and the royalty owner at all. It seems unfair to require interest to be paid where payment cannot be made due to lack of knowledge as to who the payee is.

2. The bill should be applicable to lessees only. If payment has been made back downstream, why should an operator be forced to pay interest to an unknown owner because the lessee (who has been paid) doesn't distribute the money. The language in Section (2)(d) and (3)(a) are very vague in that regards.

   In today's market for natural gas with spot market sales, split streams, etc., the terminology is inadequate to allocate responsibility. On page 2, line 16, we interpret "owner of the right to drill" as the lessee. If that is what it means, a lot of our opposition is mitigated. However, some would interpret that language to mean "operator". This bill, if so interpreted, would make an operator liable for interest and payment, even in such cases as split stream sales. The operator should not have to be an insuror for non-paying lessees or even non-paying first purchasers who were contracted with beyond the operator's control.

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3. The sixty day time frame provided on line 41 is simply inadequate. Ninety days would be preferable. In line 40, four months should be six months.

4. This bill statutorily changes the terms of existing contracts.

5. This bill is unnecessary. Under current law, the parties can contract for interest to be paid on the terms that they desire.

6. Section 5 is very unclear. It seems to entitle an award of attorneys fees for recovering payments due under the lease agreement. Can the royalty owner sue on day 61 and recover attorneys fees for the suit even if payment arrives on day 62 with interest? I think yes. Can the royalty owner sue the first purchaser who pays within 60 days, but the payment is not distributed by the lessee until after 60 days? Possibly so--it is extremely unclear.

   Attorney fees are not even discretionary. They are mandatory. Even if the alleged responsible party is without fault, attorneys fees can be assessed. This will encourage royalty owners to attack the deepest pocket, not the party who should pay.

7. This bill may prompt significant litigation, partially due to the vagueness of terms and partially due to the attorneys fees incentive. Oklahoma has similar legislators and is awash in problems as a result.

Thank you very much for permitting me to testify today. I will attempt to yield to any questions, or to obtain answers to any questions that I can't personally answer.

0070w

ansas Farm Bureau

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: Sub. H.B. 2985 — Payment of Interest on Delayed Proceeds from Oil and Gas Production

March 27, 1990
Topeka, Kansas

Presented by:
Bill R. Fuller, Assistant Director
Public Affairs Division, Kansas Farm Bureau

Chairman Doyen and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to speak on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

We **support the concept of Sub. H.B. 2985.** Our position is based upon a new section in Farm Bureau policy on "Mineral Interests." The 437 voting delegates representing the 105 County Farm Bureaus at the 1989 KFB Annual Meeting adopted this resolution:

Mineral Interests

We believe legislation should provide for an orderly divestiture of mineral interests held by the Farm Credit System. These mineral interests should be appraised and sold to the owners of overlying surface property.

We support legislation to reduce from 20 years to 10 years the time required for unused mineral interests to be returned to the owner of the overlying surface land.

We support legislation which would result in renegotiation of mineral leases involving infill drilling.

We support legislation to give a royalty owner a lien to ensure royalty payments — or an improved, secured creditor position in the case of a mineral producer bankruptcy.

We believe legislation is needed to protect a landowner and royalty owner from division orders which modify or amend the terms of an original lease to the disadvantage of the royalty owner or landowner. We support legislation to require the payment of interest on suspended royalties.

We believe the provision requiring interest " ... on delayed payments of oil and gas proceeds ..." is reasonable. We consider this proposal to be a "prompt payment" bill. Interest payment is only required if payments are not paid on a timely basis. Frankly, our members prefer receiving timely royalty payments rather than any interest payments that his bill would require.

Thank you for this opportunity to express Farm Bureau support for **Sub. H.B. 2985.**

attachment IX
E&NR
3/27/90

Coastal Derby Refining Company
A SUBSIDIARY OF THE COASTAL CORPORATION

The Energy People

March 23, 1990

Honorable Senator Ross Doyen
Chairman, Senate Natural Resources Committee
Kansas State Legislature
State Capitol
Topeka, Kansas 66612

RE: Kansas House Bill 2985, Substitute Bill Concerning Payment of Oil & Gas Proceeds.

Dear Senator Doyen:

Coastal Derby Refining Company is a major purchaser of crude oil produced in the state of Kansas. In 1989 Coastal Derby purchased 2,675,000 barrels of crude oil from Kansas wells. We understand that hearings will be conducted in connection with the referenced bill concerning the payment of oil and gas proceeds for production from wells located in the state of Kansas.

We are extremely concerned that the proposed legislation will cause substantial disruptions in long standing industry practices in connection with crude oil purchases in the state of Kansas.

Most oil and gas lease forms in general use provide that the title to the royalty share of oil is retained by the royalty owner(s) subsequent to production. Oil, when produced, is stored in tanks at or near the well site or is transported through gathering systems to central storage points near the point of production. In most instances, the lessee/operator of the well in question enters into marketing arrangements whereby the lessor's royalty share of oil is sold along with that of the share attributable to the interest of the lessees. In other instances the lessor/royalty owner may enter into a separate marketing arrangement with a purchaser. Other working interest owners may also enter into separate marketing arrangements. In any event, however, the purchaser of the production is dealing with a party with whom it otherwise has no prior contractual relationship. While the relationship between the lessor/royalty owner and the lessee/operator is governed by the terms and provisions of the oil and gas lease between them, the purchaser of production is not a party to that agreement. Nor is the

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3/27/90

COASTAL TOWER
NINE GREENWAY PLAZA
HOUSTON, TEXAS 77046-0995
713/877-1400

purchaser a party to any agreements among working interest owners. Thus, in purchasing production, the purchaser either deals with the operator/lessee, acting on its own behalf, and as agent for the other non-operating lessees as well as the lessor/royalty owner, or it may deal directly with the various operating and non-operating lessees and royalty owners. In any case, however, the crude oil purchaser must rely upon such parties' representations of ownership and entitlement to the proceeds of production.

It is a long standing industry practice that the parties selling the production and expecting payment therefor execute an instrument commonly known as a "division order". In its simplest form, the division order identifies the party or parties entitled to receive the proceeds of the sale of oil or gas production, their address and tax identification number, a description of the property from which the production is obtained, and the fractional interest in the production, expressed as a decimal fraction, of the party executing the division order. For example, a lessor/royalty owner entitled under his lease agreement to a royalty of one eighth of production would be presented with a division order reflecting a 0.125000 interest in such production. One purpose of the division order is to provide assurance to the purchaser that the party to whom payment will be made is in fact the party entitled thereto. The division order generally includes a representation and warranty by the party selling the production that it is the true and lawful owner thereof and that such party is entitled to receive such payment. The warranty provides assurance to the purchaser of production that it will not be required to pay for the same production twice in the event of an erroneous payment to the wrong party, and provides a basis for seeking a refund of erroneous payments from parties who by fraud or mistake wrongfully represent to the purchaser that they are entitled to receive such payments.

The proposed legislation does away with this long standing industry practice, thereby disrupting the purchasing practices that have evolved over many years and depriving the purchasers of the needed assurance that the parties with whom they are dealing are in fact the parties entitled to receive payment.

We therefore view the proposed legislation with extreme concern due to the significant disruptions its enactment would impose upon our purchasing practices in Kansas. We therefore urge that the proposed legislation not be enacted in its present form and that further consideration be given to the matter of providing assurance to the purchaser by written representation from the parties selling production that the payees are in fact the parties legally entitled to such payment.

attachment X-2
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Thank you very much for your consideration in connection with this matter.

Yours sincerely,

COASTAL DERBY REFINING COMPANY

Charles E. Taylor
Vice President

CET/jc

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