

Approved: March 23, 2004 *Carl D. Holmes*
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:05 a.m. on March 16, 2004 in Room 231-N of the Capitol.

All members were present except: Representative Nile Dillmore
Representative Judy Morrison

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: W. C. Long
Tom Day, Kansas Corporation Commission
Doug Smith, Southwest Kansas Royalty Owners Association

Others attending: See Attached List

HB 2907 - Providing for unit operations of oil and gas pools upon written agreement of 90% of working interest owners and royalty owners

Chairman Holmes opened the hearing on **HB 2907**.

Mr. W. C. Long, a manager and producer of oil leases in Barber County, testified before the committee in support of **HB 2907 (Attachment 1)**. Mr. Long had requested the introduction of the bill to address concerns about the percentage of royalty owners and working interest owners agreeing to a project without a potentially costly application, hearing and determination by the Corporation Commission.

Tom Day, Legislative Liaison for the Kansas Corporation Commission, addressed the committee on behalf of John McCannon, Assistant General Counsel, in opposition to **HB 2907 (Attachment 2)**. Mr. Day stated that Commission Staff believes there are serious due process and takings concerns with the bill as it would allow forcing up to a 10% interest into a unit without notice and the opportunity for a hearing.

Doug Smith, appearing on behalf of the Southwest Kansas Royalty Owners Association, gave testimony submitted by Erick Nordling, Executive Secretary, in opposition to **HB 2907 (Attachment 3)**. Mr. Smith shared concerns about forcing royalty owners into a unitization they didn't want.

Mr. Long, Mr. Day, and Mr. Smith responded to questions from the committee.

Chairman Holmes closed the hearing on **HB2907**.

Chairman Holmes announced that the committee would convene on Thursday, March 18 to work **HB 2907**.

The meeting adjourned at 9:37 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 16, 2004

NAME	REPRESENTING
Don Schuacke	ILIOGA
JC Long	AQUICA, INC.
W. C. Long	Wellwin
Tom Day	KCC
STEVE JOHNSON	Kansas Gas Service / ONEOK
Doug Smith	SWKROA
Julie Horn	Horn Law Firm



WellWin Drilling Corporation

P.O. Box 529
Wellington, KS 67152
620-326-7471

House Utilities Committee
Testimony of
W. C. Long, Jr.
March 16, 2004

Mr. Chairman and Members of the Committee:

My name is W. C. Long and I am a manager and producer of oil leases in Barber County, KS. I appear before you today to support passage of House Bill 2907.

House Bill 2907, as introduced by the House Appropriations Committee, would alleviate a situation where one person, one share or even a $1/32^{\text{nd}}$ interest in an oil lease can hold the vast majority of interest owners and royalty owners hostage. HB 2907 would allow, with 90 percent of the royalty owners and working interest owners agreeing, a project to move forward without a potentially costly application, hearing and determination by the KCC.

For the past year, I have been trying to unitize three leases in Barber County, KS. The total amount acreage is 400 acres. The number of royalty ownership positions amounts to three owners. The number of working interest owners in these three leases amounts to twenty-eight. I have affirmation and agreements signed from all but one of the working interest owners and all of the royalty interest owners to unitize these three leases.

To unitize oil and gas leases in Kansas you have to have by statute / regulation 63% of the owners agreeing to the unitization project. This allows you to make application to KCC to unitize the project for pooling. However, if 100% of the working interest owners and royalty interest owners agree to the contract of unitization, an application does not have to go before the KCC.

When we talk about percentages of ownership we talk in barrels of total production and how much each ownership has of the total produced primary oil in the acreage to be unitized.

Since you have different owners with different levels of ownership, one $1/32^{\text{nd}}$ owner of one of the leases would have approximately $1 \frac{1}{2} \%$ of ownership to vote. When one owner with $1/32^{\text{nd}}$ interest in $1/3$ of the project is in disagreement about the unitization contract, this $1 \frac{1}{2} \%$ ownership of the total barrels produced in primary production can prevent $98 \frac{1}{2} \%$ of the ownership in not having to go to the KCC for licensing permits.

HOUSE UTILITIES

DATE: 3-16-04

ATTACHMENT 1

In understanding the formula, if you had 1,000 barrels of oil produced from the three leases in primary production, and had ten owners each would have 10% of the eligible votes. When you take 840,000 barrels of oil as the primary production and you have a owner with only 1 ½% of that total amount, you have an owner who can block basically 832,000 barrels of votes to require an application to the KCC. This seems unreal that 98 ½ % of ownership can be controlled by 1 ½ % of ownership.

Mr. Chairman, thank you for the opportunity to testify on HB 2907.

1-2

John y

KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR
BRIAN J. MOLINE, CHAIR
JOHN WINE, COMMISSIONER
ROBERT E. KREHBIEL, COMMISSIONER

Testimony of John McCannon
Assistant General Counsel
State Corporation Commission of Kansas
Conservation Division
before the
House Utilities Committee
March 16, 2004

I would like to present Commission Staff comments on HB 2907 to the Committee.

The bill would amend K.S.A. 55-1302 to permit unitization without notice or a Commission hearing if 90% of working interest owners and royalty interest owners approve the Unit Agreement in writing. Currently, 100% of working interest and royalty interest owners must approve the Unit Agreement for unitization to occur without notice and a Commission hearing.

An application for Commission approval of a unit for secondary recovery operations, such as a waterflood, can be filed when a minimum of 63% of both working interest and royalty interest owners have approved the Unit Agreement. After notice and a hearing, if the Commission finds the Unit Agreement treats all parties fairly and equitably, unitization can be approved and all parties can be brought into the unit. HB 2907 would force up to 10% of non-consenting parties into a unit without notice or a hearing.

In many instances, there are non-consenting parties who do not disapprove of unit operations, but for a variety of reasons will not sign the Unit Agreement. There are also instances where small working interest or royalty owners believe the Unit Agreement treats them unfairly. In both these instances, the Legislature has provided a remedy for the unit operator to go forward. Under current law, he can file an Application with the Commission for approval of the proposed unit.

Commission Staff believes there are serious due process and takings concerns with HB 2907, since it would allow forcing up to a 10% interest (working interest or royalty interest) into a unit without notice and the opportunity for a hearing.

Commission Staff would like to reiterate its support of HB 2652 but has concerns about the advisability of passage of HB 2907.

HOUSE UTILITIES

DATE: 3-16-04

ATTACHMENT 2

Testimony before the House Utilities Committee
House Bill 2907

March 16, 2004

Chairman Holmes and Members of the Committee:

My name is Erick Nordling. I am Executive Secretary of the Southwest Kansas Royalty Owners Association. Our Association has over 2,600 members who own mineral and royalty interests in Southwest Kansas. We appear in opposition to HB 2907.

We are generally supportive of the unitization of gas and oil leases to allow for the orderly, efficient development of reserves and to prevent both economic and physical waste resulting from the development and operation separately of tracts that can best be operated as a unit. Producers, royalty owners and landowners are benefitted by having fewer wells drilled on each leasehold or unit, while still having the production units sufficiently spaced to fully develop and produce the reserves of oil and gas.

However, we feel that royalty owners should not be forced into a unit, without their written approval.

House Bill 2907 would be a significant departure from longstanding Kansas laws by allowing producers to form a unit with only 90% of working interest owners and 90% of royalty owners approving the unit formation, without KCC oversight or approval.

We feel that there should be unanimous written approval by royalty owners. We urge that HB 2907 be amended to delete the reference to royalty owners.

Thank you for your consideration.

Respectfully submitted,

/s/ Erick E. Nordling
as presented by Doug Smith

HOUSE UTILITIES

DATE: 3-16-04

ATTACHMENT 3