Approved: March 19, 2009
Date

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice Chairman Ruth Teichman at 8:30 a.m. on February 26, 2009, in Room 446-N of the Capitol.

All members were present except:
Senator Terry Bruce- excused
Senator Carolyn McGinn- excused

Committee staff present:
Kristen Kellems, Revisor of Statutes Office
Jason Thompson, Revisor of Statutes Office
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Alissa Vogel, Committee Assistant

Conferees appearing before the committee:
Terry Holdren, National Policy Director, Kansas Farm Bureau
Rich Felts, Producer, Surface Owner
Erick Nordling, Southwest Kansas Royalty Owners Association
Tom Schnittker, Farmer and Contract Land Manager, Sumner County
David W. Bolton, Executive Vice-President, Land for Quest Resource Corporation (written only)
Dave Dayvault, Chairman, Kansas Independent Oil and Gas Association
David Bleakley, Legislative Chairman, Eastern Kansas Oil and Gas Association
Ken Peterson, Executive Director, Kansas Petroleum Council (written only)

Others attending:
See attached list.

Vice Chairman Teichman opened the meeting and announced the hearing on **SB 184 - Surface owner notice act**.

Raney Gilliland, Legislative Research Department, provided a brief overview of **SB 184** that would require notice to be given to landowners when there are certain oil and gas operations proposed to be conducted upon the surface land. **SB 184** includes provisions for emergency entry and gives the Kansas Corporation Commission (KCC) the authority to adopt rules and regulations deemed necessary to carry out provisions of the act.

The hearing on **SB 184** was opened. Vice Chairman Teichman introduced Terry Holdren, National Policy Director of the Kansas Farm Bureau, who spoke as a proponent to **SB 184**. (Attachment 1) He stated KFB members have benefitted greatly from the development of oil and gas. However, the ability to develop a working relationship with the oil and gas industry has been frustrating and, at times, resulted in significant damage to the surface estate. The damage could have been avoided by efforts to notify and communicate with the surface owner. KFB supports **SB 184** as it: presents the opportunity for good communication and common courtesy between the surface owner and the oil and gas operator, preserves the sanctity of a lease, focuses only on activities that substantially affect the surface of the earth, does not impact existing leases and enforces the voluntary Good Neighbor Initiative, ensuring compliance by all oil and gas operators.

Rich Felts, producer and surface owner from Montgomery County, spoke as a proponent to **SB 184**. (Attachment 2) He stated that a great challenge in the rapid development of coal bed methane fields in Eastern Kansas has been the lack of communication between landowners and new oil and gas operators, and the multiple parties that represent operators. He stated that a landowner should be involved in oil and gas development prior to the onset of any activity, as the landowner knows the land's drainage and erosion patterns.

Erick Nordling, Executive Secretary of the Southwest Kansas Royalty Owners Association, spoke as a proponent to **SB 184**. (Attachment 3) He supports the legislation, as it will ensure that oil and gas operators communicate with landowners. He provided a summary of what other states have enacted in regard to surface owner notification and provided the Committee with a compendium of the various statutes. (Attachment 4)

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on March 2, 2009, in Room 446-N of the Capitol.

Tom Schnittker, farmer and contract land manager from Sumner County, provided testimony in support of **SB 184**. (Attachment 5) He provided two examples to the Committee that dealt with the lack of communication between landowners and oil and gas operators. He noted the burden placed on agricultural operations.

David W. Bolton, Executive Vice-President of the Land for Quest Resource Corporation, provided written testimony in support of **SB 184**. (Attachment 6)

Dave Dayvault, Chairman of the Kansas Independent Oil and Gas Association (KIOGA), spoke in opposition to **SB 184**. (Attachment 7) He explained to the Committee that it is common practice to notify landowners prior to oil and gas operations. KIOGA is opposed to **SB 184** for the following reasons: the required notification to the surface owner may not always be given to the appropriate party, the rights of ingress and egress are made conditional upon notification that reduces the rights the operator previously bargained for, and time limitations and unavailability to incorporate a waiver within the lease limits the rights of the two parties to enter into contracts and a greater financial burden will be placed on the KCC.

David Bleakley, Legislative Chairman for the Eastern Kansas Oil and Gas Association (EKOGA), spoke in opposition to **SB 184** and any legislation that would alter the private contract rights and obligations conferred upon oil and gas operators through oil and gas leases. (Attachment 8) EKOGA believes the real issue is that some oil and gas operators are not courteous to landowners, a problem that should not be resolved through legislation. He provided Committee members with the first paragraph of a standard oil and gas lease and an informal survey sent out by the KCC to document surface owner complaints regarding oil and gas companies. EKOGA's solution to the problem would be to educate the industry and work to improve the Good Neighbor Initiative. He also suggested that companies that are experiencing difficulties in communicating with landowners amend their leases and create a standard form amendment that would include provisions found in **SB 184**.

Ken Peterson, Executive Director of the Kansas Petroleum Council, provided written testimony as an opponent to **SB 184**. (Attachment 9)

The conferees stood for questions. Senator Lee requested that Mr. Bleakley provide information to the Committee on the percentage of leases that are signed with landowners versus the percentage of leases that are signed with mineral owners.

Senator Lee requested that Mr. Dayvault provide documentation to the Committee on the case law that grants the right of ingress and egress on land that oil and gas operators do not own. Mr. Dayvault replied that Bob Krehbiel would work on finding the information.

Senator Abrams requested a list of drilling permits that were approved in 2007 and 2008 and the total number of landowner complaints before the KCC. Mr. Bleakley responded that there is no mechanism for surface owner complaints to be registered before the KCC.

The hearing on **SB 184** will continue next week.

The next meeting is scheduled for March 5, 2009.

The meeting was adjourned at 9:30 a.m.

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

2/26/09
(Date)

John Donley	KS Lvsk. Assn
Jane Kelsey	SN Co Farm Bureau
Alan D. Dood	American Energies Corp
Dianne DeGood	"
T. D Davis	T. D Drilling Inc
Tim Keenan	Keenan Law Firm
Meghan Welsh	Intern, Francisco
David Bleakley	EKOGA
Debbie Nordling	
Burt Nordling	
Richfields	EKOGA
Terry Hudson	KFB
Bob Kuckuck	KIOGA/Self
ED Cross	KIOGA
David Deyrault	KIOGA
Adam Petz	Trans Pacific Oil Corporation
Bill HESS	McCoy PETROLEUM - WICHITA
Bob Vaughn	Quest Resource
Nick Hess	McCoy Petroleum Corp.
Steve Dillard	Pickrell Drilling
Doug Louis	KCC
Ken White	White Exploration, Inc.
BOB McGRATH	Stelbar Oil Company INC.
Ken PETERSON	KS Petroleum Council
David Jervis	Range Oil company
DARREL WALTERS	BERENTZ DRILLING Company

Please use black ink only!!

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

2/26/09
(Date)

Scott A. Burkdoll	EKOGA
Bob Thomas	EKOGA
Lonnie Town	EKOGA
KEN MAY	EKOGA
Keith Mangus	EKOGA
Jim Di Donietto	KKOGA
Carl C. Hughes	EKOGA
Lester Town	EKOGA
Doug Evans	EKOGA
Jim Hoehn	EKOGA
Darrel Hughes	EKOGA
ERICK NORDLING	SWKROA
Tom Schnitker	SWKROA- FARMER
Lindsey Douglas	KDA
Berend Kapps	Hein Law Firm
Kenny Carter	EKROA
Hugo Spieker	EKROA
CHRIS COFFEY	EKROA
Chuck Michel	EKROA

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KANSAS FARM BUREAU
The Voice of Agriculture

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800 SW Jackson St., Suite 1300, Topeka, Kansas 66612-1219 • 785-234-4535 • Fax 785-234-0278

Kansas Farm Bureau
POLICY STATEMENT

Senate Committee on Natural Resources

SB 184

Re: Kansas Surface Owners Notice Act

February 26, 2009
Submitted by:
Terry Holdren
National Director – KFB Government Relations

Chairperson McGinn and members of the Senate Committee on Natural Resources I am Terry Holdren, National Director – Government Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas has benefited greatly from the development of our natural resources – specifically the exploration and development of oil and gas. Because many of our members own both the surface and mineral interest they too have received substantial profit from that development. However, those gains have not come without frustration in our attempts to develop mutually beneficial partnerships with oil and gas operators and, at times, have resulted in significant damage to the surface estate and subsequent negative impact to farming and ranching operations on the surface. Much of this damage, and subsequent distrust could have been avoided by simple efforts to notify and communicate with the surface owner by the oil and gas operator.

This frustration is not unique to Kansas. In fact in recent years, surface owner groups in more than a dozen of our neighboring states have found success in their efforts to codify basic guidelines for notification of oil and gas activity and for payment of damages resulting from those operations.

Today we appear before you seeking your support for minimal standards of notification for all oil and gas operators in Kansas. This is not a new concept or effort – much discussion has occurred over at least the last two sessions and multiple attempts have been made to reach a compromise – all without success. The bill presented to you today is truly our best lowest offer.

Senate Natural Resources
February 26, 2009
Attachment # 1

KFB members have thoroughly discussed this issue and developed policy specific to these situations supporting prior notice from companies as well as repair and adequate compensation for damages resulting from those operations. Further, Farm Bureau members from across the nation have voiced their support for inclusion of policy supporting notification in our national platform.

Why This Legislation is Important

SB 184 establishes a flexible opportunity for good communication and common courtesies between surface owners and oil & gas operators. It seeks to recognize and preserve the sanctity of the oil and gas lease by addressing the issue of communication to surface owners who are not party to the lease but are most certainly impacted by any development that would occur as a result of the lease. Typical leases are silent on issues of notification of activity.

The bill provides flexibility by allowing production companies to provide notice of planned activities up to 180 days prior to the activity, only requiring notice of activity 5 business days prior. The 5 business day standard is the same minimal standard that producers are required to meet by filing of Intent to Drill with KCC before any drilling operation can be initiated. While we would appreciate any amount of notice proponents would ask that you consider amending the bill to offer 10 to 15 days notice to allow out of state landowners or individuals who simply may be out of town the opportunity to communicate with operators.

Under the legislation only activities which substantially alter the surface would require notice. Specific activities requiring notice including the following:

- Preparation or drilling of a new well
- Original construction of roads
- Substantial alteration or repair of a pipeline or electrical line
- Installation of a tank battery
- Geophysical exploration
- Activity that substantially disturbs the surface or expands the footprint of the well site

There in NO Impact on Existing Leases

The bill recognizes Kansas case law and precedents which provide oil and gas operators be allowed to make reasonable use of the surface to fulfill the terms of their lease. It will not inhibit nor reduce development or exploration in Kansas. More than a dozen of our neighboring states with oil and gas production have notification requirements and all continue to enjoy active and profitable exploration and development.

Additionally, SB 184 in no way provides a basis for additional litigation as long as production companies meet the minimum standards set by the bill.

Why Not Just Support Voluntary Efforts

The industry itself, while in large part continuing to oppose this legislation, has seen the merit of improved communication and better surface owner relationships. Just last fall, the Kansas Independent Oil and Gas Association launched a *Good Neighbor Initiative.* Among the several areas of emphasis, the program seeks to specifically improve the relationship between oil and gas operators and landowners/tenants through better communication, including:

> "Attempting to notify and reasonably accommodate the nearby landowner and/or tenant when commencing significant activity that will impact land or the immediate area. Areas of importance should include equipment and pit set up and placement, routes of ingress/egress, lease road placement, and irrigation practices."

While these voluntary efforts are appreciated we would submit that minimal statutory standards guarantee that operators and surface owners will know the rules and be better equipped to comply. The bill before you today requires no more of an operator than their own industry created program.

Proponents of this effort appreciate your time and attention. We offer our strong support for this minimal approach and request your favorable attention when you work this bill.

Thank you.

For more information please contact:

Terry Holdren
National Director – Government Relations
Kansas Farm Bureau
800 SW Jackson, Suite 1300
Topeka, KS 66612
785.234.4535
holdrent@kfb.org

Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.

Support for Senate Bill 184

Chair McGinn and members of the committee, thank you for accepting my testimony. My name is Richard Felts and I am a land and mineral owner in Montgomery County. In addition, I am a member of the Kansas Farm Bureau, Kansas Livestock Association, and the Eastern Kansas Royalty Owners Association.

In the last few years we have been blessed with rapid development of our coal bed methane fields in Eastern Kansas. However, with this great opportunity have also come many challenges. One of the initial issues has been the lack of communication. Recently we had a road built and a well drilled without our knowledge, even though the lease stated we should have been notified prior to the activities. Part of the problem has been a result of many new operators and ever changing land people that represent those operators. On one lease we are now dealing with the fifth land man and they haven't even drilled. Our State is in need of minimal standards to facilitate good working relationship between the operator and surface owner.

S.B. 184 will address some of the issues we have experienced as surface owners. A notification act overseen by the state corporation commission would be in the best interest of surface owners and the oil and gas industry.

I urge you to support S.B.184.

Respectfully submitted,

Richard Felts
3453 County Road 4700
Liberty, KS 67351
620.485.3376

Senate Natural Resources
February 26, 2009
Attachment #2

SWKROA

SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION

209 East Sixth Street
Hugoton, Kansas 67951

Telephone: 620-544-4333
Email: erickn@pld.com

Testimony before the Senate Committee on Natural Resources
SB 184 -- Surface Owner Notice Act

February 26, 2009

Chairman McGinn and Members of the Committee:

My name is Erick Nordling. I am from Hugoton and serve as the Executive Secretary of SWKROA. I also am an attorney with the law firm of Kramer, Nordling, and Nordling, LLC. In my law practice, and as Secretary for the Association, I regularly advise mineral and royalty interest owners, as well as surface owners and farm tenants, with regard to issues relating to access to their lands for oil and gas operations and from damages resulting from such access and use of the land for oil and gas operations.

I am here to testify today on behalf of SWKROA in support of SB 184. This bill provides a framework for basic, but important, communications between an oil and gas operator and the owner of lands (surface owner) prior to entry upon the surface owner's land to conduct specified oil and gas operations on the surface owner's land in accordance with the terms of an oil and gas lease or other contractual or lawful right. The purpose of the bill is to provide the surface owner of the land with information about substantial activities which could impact the surface owner's use of the surface of the property, such as the construction of well sites and roads. Incidental activities, such as staking or surveying are not covered by the bill.

Background. As Secretary for SWKROA and as an attorney, I have received numerous inquiries over the years from landowners who have been frustrated or inconvenienced by oil and gas operations conducted on their land. Some complain of lack of notice before operations were begun, while others seek guidance on how to settle damages caused by such operations. Others have questions regarding the location of well sites which interfere with farming or livestock operations, about the location of tank batteries, the laying of electric lines and pipelines, and what rights oil and gas companies may have to conduct geophysical operations.

Typically, it is an oil and gas lease which provides the foundation for an oil and gas company to explore and develop mineral rights. Although the oil and gas lease plays a crucial role in the industry, that vital document is usually only one page in length and is a form document written by the oil company. Many of the oil and gas leases, at least in western Kansas, are quite old, some executed in the 1920s. That one page document, sometimes executed decades before anyone imagined the prospects of horizontal drilling, geophysical operations, and other modern production techniques, does not adequately address all the circumstances

confronted in the oil field today. In many instances, the courts and legislatures have stepped in to address circumstances inadequately dealt with by the express provisions of oil and gas leases.

A few key areas in which an oil and gas lease often does not provide any express provision is what rights a lessee may have under the lease to utilize the surface estate for the conduct of its operations, or what notice, if any, is required to be given to the surface owner prior to operations. These critical rights, to access and utilize the surface of the land, must be implied or inferred in order for the lessee to explore for and develop the oil and gas reserves underlying the surface estate.

The oil and gas lease must be executed by the owner of the minerals underlying the surface of the land. It is not executed by the owner of the surface. In the early years of the development of an oil or gas field, the owner of the minerals was likely also to be the owner of the surface. However, as an oil and gas field matures and time passes and generations pass away, it is common that the surface owner becomes different from the mineral owner. This is because, either through sales or generational transfers, the transferor tends to retain the minerals and dispose of the surface. For example, in the vast Hugoton Field of southwestern Kansas whose development started in the 1920s, perhaps more than 60% of the land is held in "split estates" – where one party owns the surface and another party owns the minerals. This can be contrasted to the new gas production in eastern Kansas, which is less than 10 years old, where the surface and mineral estates usually are still owned by the same person. With time, however, one can expect to see more "split estates" in eastern Kansas as well.

In the event of oil or gas production, the owner of the minerals – not the owner of surface – is entitled to receive the benefits of production under an oil and gas lease, which we refer to as "royalty payments." However, the surface is affected by the development of oil and gas production.

Attached to this testimony are several maps which demonstrate the significant areas of our state which are impacted by oil and gas production, and hence an impact to the surface owners where such oil and gas wells have been drilled. Of course, we also know that farming is one of the cornerstones of the Kansas economy. The goal of this legislation is to help in providing information to the surface owner.

It probably could go without saying that most prudent oil and gas operators generally know well in advance of when they intend to conduct the operations which would trigger notification to the surface owner under SB 184. However, the oil and gas industry in Kansas has vigorously opposed legislation for a surface owner bill which could cover notification issues as well as address issues relating to a level playing field for the settlement of damages caused by such oil and gas operations.

Proponents for surface owner legislation for notice and compensation have been advocating for change for several legislative sessions now as this continues to be an important issue for the proponents of this legislation. SB 184 is designed as a compromise to address the notice provisions for oil and gas operations. It is very much based upon the bill which was negotiated during the 2008 legislative session, but is just focused on notice provisions instead of notice and damage provisions.

SB 184 represents continued dialogue with a key oil and gas operator in southeast Kansas. One provision of SB 184 that proponents and the key oil and gas operator agreed to disagree on was the length of advance notice required under Section 3 of the bill. On lines 10 and 38 of page 2 of SB 184, it refers to a minimum of 'five business days' notice prior to oil and gas operations. Proponents believe five business days is too short to allow a surface owner adequate time to enable the surface owner to evaluate the effect of the oil and gas operations on their land. This is especially true when the provision for notice by mail (Section 3(d), page 3, line 30 of the bill) begins on the date of the postmark of such notice. If the advanced notice is only five days, by the time the letter is received a couple of days later, there is precious little time left to react.

Provisions of SB 184. Senate Bill 184 generally contains just a few key areas: What oil and gas operations trigger notification to a surface owner; contents and timing of notice; and development of notice forms by KCC's Oil and Gas Advisory Committee. There are also provisions for waiver of the notice, and provisions for emergency access to protect health, safety, or the environment. The KCC is granted jurisdiction to implement and enforce the act, but private contract rights of surface owners or oil and gas operators are not affected or limited.

I will be happy to discuss any of the provisions of the bill for your committee. As mentioned above a number of states have already enacted legislation to address these issues for oil and gas operations in their states. I will provide an overview of such legislation below.

Comparison of Bills in States. The issues raised by SB 184 are not unique to Kansas. A number of states with oil and gas production have enacted legislation and rules for an oil and gas operator to provide notice to surface owners in advance of oil and gas operations on their lands. These statues include notice provisions prior to: the issuance of a drilling permit, the drilling of gas or oil wells, coalbed methane wells, core holes or drill holes for stratigraphic tests, geophysical surveys, and activities which 'disturb' the surface. A few states even provide for notice prior to activities which may be considered as 'non-disturbing' to the surface, such as: inspections, staking, survey and general evaluation of routes and sites for oil and gas operations. States having statutes related to the interaction between surface owners and oil and gas operators include: Arkansas, Colorado, Illinois, Indiana, Kentucky, Montana, New Mexico, North Dakota,

Oklahoma, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wyoming. These fifteen states represent a significant block of the major oil and gas producing states.

In our research, several common threads become evident on how the states approach these issues, including: advance notice to the surface owner, designation of what activities trigger notice, timing and method of notice, contents of notice, ability to waive notice, and enforcement provisions for an oil and gas operator who fails to follow the notice requirements.

Several states (Tennessee, Virginia, West Virginia and Wyoming) link notice provisions to the surface owner as a condition for approval of the state agency to issue a drilling permit.

I have prepared a chart, which is attached to my testimony, which lists a comparison of how the various states have dealt with 'notice' provisions to the surface owner of intended oil and gas operations. I will highlight several of these provisions in my oral testimony. I have also prepared a compilation of the statutes from these states, which due to the volume of the report I will just leave a master copy with the Chairman. I will also make the list available as a '.pdf' file to members of the committee upon request.

Another key thread amongst these states is to provide for a statutory framework related to the settlement between the surface owner and the oil and gas operator for damages caused by oil and gas operations (sometimes referred to as 'surface damages' or 'surface compensation' statutes). Although SB 184 in its present form does not address these issues, it is important to note that many of the states which have 'notice' provisions also provide structure on how to deal with the 'surface damage' issues.

The underlying thread through all of these statutes (both 'notice' only, and 'surface damage and compensation') is to increase communication between the owner of the surface estate and the oil and gas operator. As mentioned above, many of these statues contain provisions for waiver of notice, and a lot also contain provisions which state that the legislation is not intended to prohibit an oil and gas operator from entering the premises to conduct operations pursuant to an oil and gas lease.

Activities which trigger notice. 'Drilling operations' seems to be one of the most common activities which would trigger notice, with some states defining drilling operations as meaning drilling, deepening, or conversion of a well for oil or gas production. Several also use 'surface disturbing' to not only include drilling operations, but also could include exploration, producing, and transportation. As mentioned above, at least three states consider the filing of an application to drill a well as the trigger event.

Length of Notice. The length of advanced notice varies from state to state. Five states require between twenty to thirty days advance notice for 'surface disturbing' or 'oil and gas operations.' One state requires fifteen days. One state requires eight to ten days, depending on whether service was by certified mail or personal delivery. Arkansas and Oklahoma do not specify a set number of days but links the notice to prior to entry upon the site for exploration or oil and gas drilling. New Mexico and Wyoming provide for only five days notice on 'non-surface disturbing' activities. Several states have separate statutory provisions for notice when the oil and gas operator wants to conduct seismic or geophysical exploration activities.

Who is to be Notified. Generally the 'surface owner' is the party to be notified. A few of the states, especially those which link the notice to filing of a drilling permit or plat approval, may need to notify a governmental entity as part of the notice requirement.

Contents of Notice. Most of the states require the notice to be written and many also require the notice to be sent to the surface owner via certified mail. Several states also provide that the (written) notice may be delivered personally to the surface owner. A common requirement for the notice is that it must 'sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of the drilling operations on the surface owners' use of the property.' (Montana) Some states, like Tennessee, require that the notice include 'surface disturbances, including proposed location of the oil or gas wellsite, new ingress and egress routes, location of all diversions, drilling pits, dikes and related structures and facilities, the location of proposed storage tanks and all other surface disturbances.'

Several states also require that the surface owner be provided with a form developed by the state agency which deals with oil and gas development activities (which would probably be akin to the Kansas Corporation Commission's Oil and Gas Conservation Division). (Montana, North Dakota, and South Dakota). Some states also require that the notice include a copy of the state statutes for notice (and compensation).

A number of states condition that the notice must include notice of an opportunity for the surface owner to meet and have a discussion with the operator. Discussion could include roads, ingress and egress routes, pits, restoration of fences, use of water, removal of trees and drainage issues.

Waiver. At least seven states include provisions for notice to be waived by the surface owner.

Enforcement Provisions. Most of the states include provisions for enforcement, especially for the states which have a 'notice and compensation' statutory framework. A number

of these states also have specific provision for failure to provide notice as required. Generally the surface owner is not precluded from seeking other remedies allowed by law.

'Surface Damage and Compensation' Statutes. As noted above, the attached comparison deals primarily with 'notice' statutes although a number of states provide for statutory compensation to surface owners for the producer's use of the surface. States have statutory provisions designed to encourage or require negotiations regarding compensation for use of the surface, including resulting surface damages. Six states require that the operator make an offer of compensation at the same time as it gives the surface owner advance notice of its operations.

In general, all of the existing statutes allow the oil and gas operator to proceed with operations under the lease regardless of the status of negotiations concerning a surface use and damage agreement. However, several jurisdictions do require a bond or other security as a prerequisite to commencing operations. This enables the producer to go forward in the absence of an agreement, but gives the surface owner some protection against damage to the surface.

Three of the statutes provide for compensation for damage to existing water supplies. Four of the statutes expressly require the oil and gas operator to restore the surface. Kansas already has a statute – The Surface Mining Land Conservation and Reclamation Act K.S.A. 49-601 through 49-624 – which provides for reclamation and restoration of the surface following mining activities, but that does not apply to oil and gas drilling and production activities. That Act also requires the posting of a bond. There are also related regulations promulgated by the State Conservation Commission, which appear at K.A.R. 11-8-1 through 11-8-8.

Summary. Certainly, many oil and gas operators work hard to coordinate with the surface owners prior to conducting oil and gas operations, but it is not always the case. SWKROA believes that SB 184 is a positive approach to develop a framework for notice to be provided to surface owners. SB 184 does not alter the contractual provision of an oil and gas lease, and will not limit oil and gas development in Kansas. SWKROA believes that the amount of notice in SB 184 be amended to increased to at least fifteen days prior to oil and gas operations.

Respectfully submitted,

Erick E. Nordling
Executive Secretary, SWKROA

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Attachment 1

Map of oil and gas production in the United States. The highlighted states have some type of statutory notice to the surface owner before commencement of oil and gas operations.

Attachment 2

Map of oil and gas well locations across Kansas.

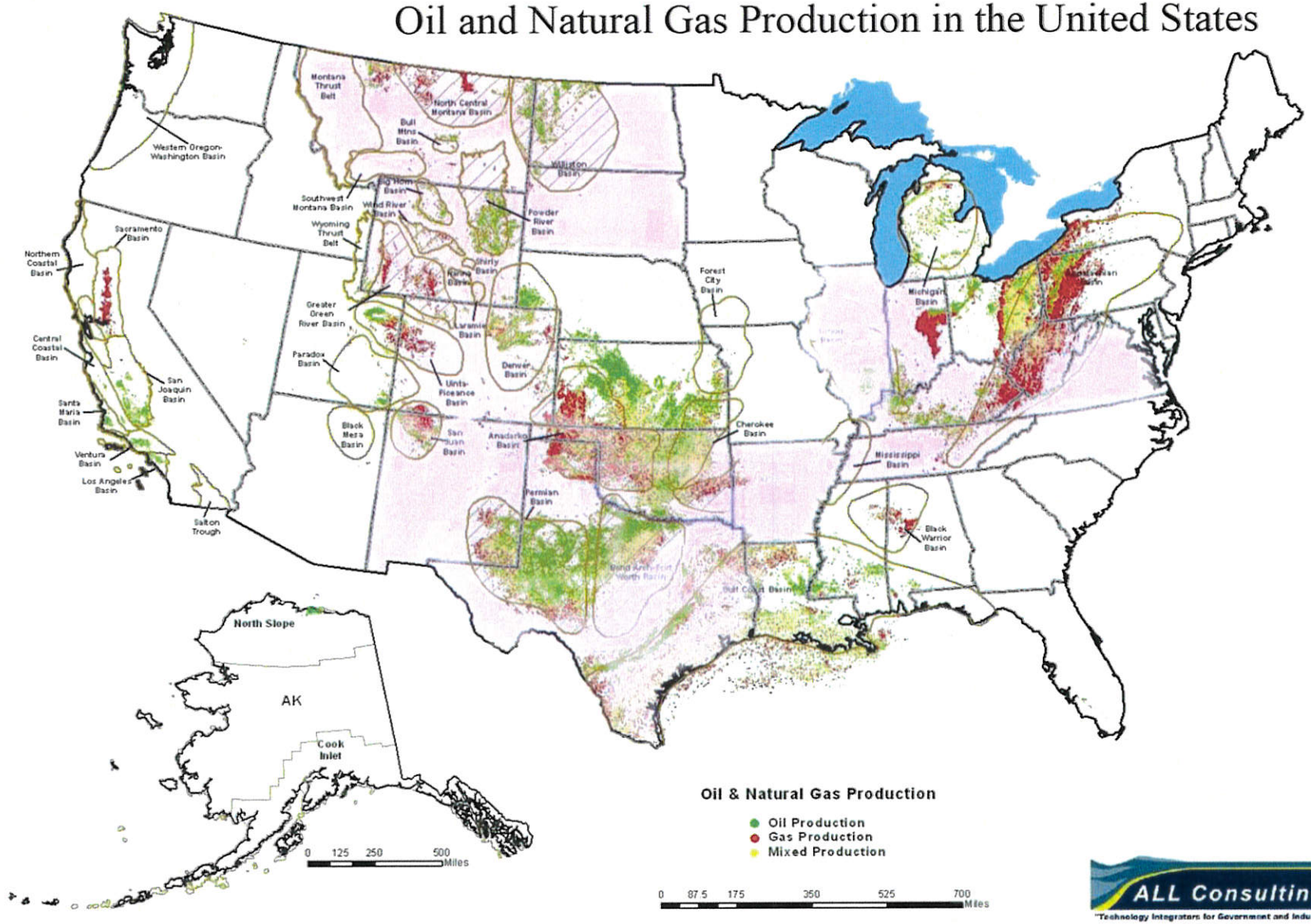
Attachment 3

Map of Stevens County showing the location of oil and gas wells, plus a close up showing density of oil and gas wells in a selected area.

Attachment 4

Comparison chart of States with Surface Notice Provisions for Oil and Gas Operations.

Oil and Natural Gas Production in the United States

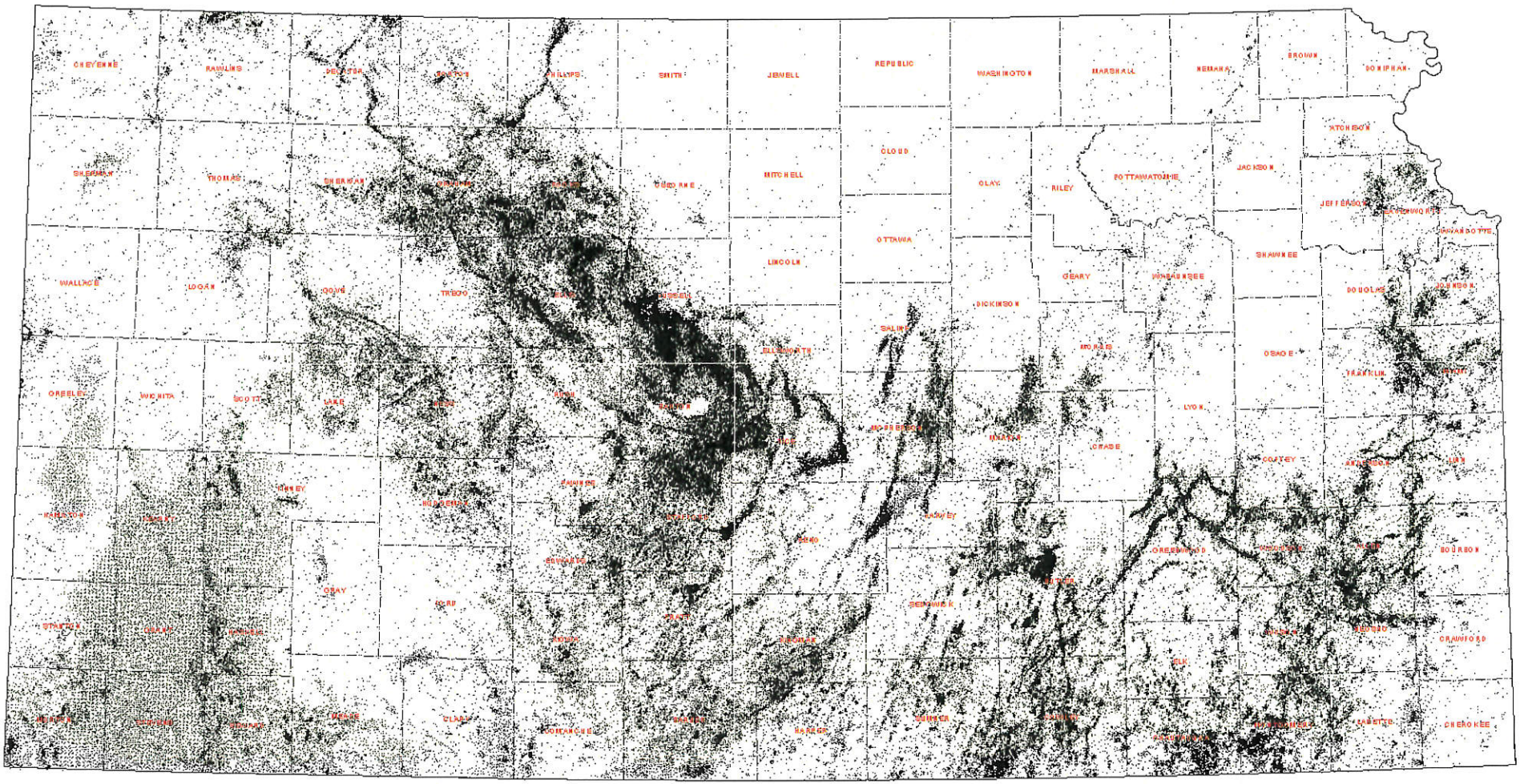


Source: Mast, et al. 1998

ALL Consulting
"Technology Integrators for Government and Industry"
www.ALL-LLC.com

Source: Mast, et al, 1998 and ALL Consulting, 2006

Oil & Gas Well Locations Across Kansas

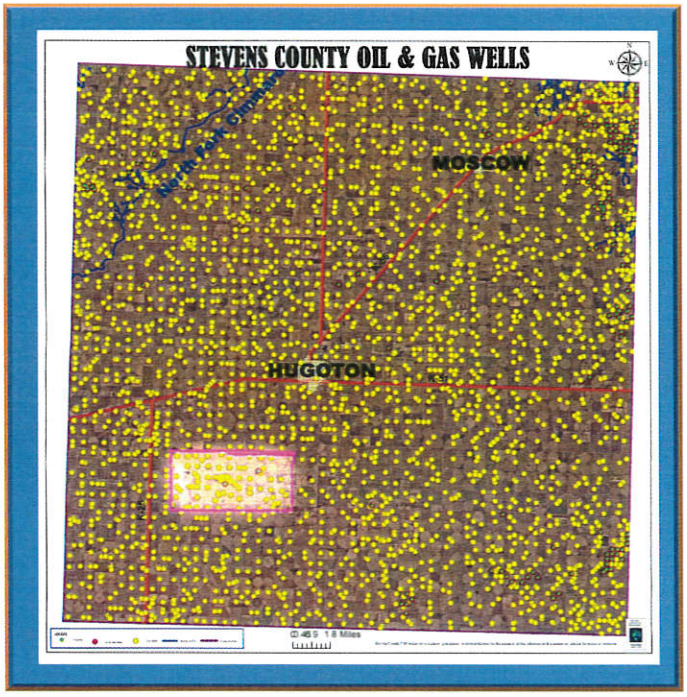


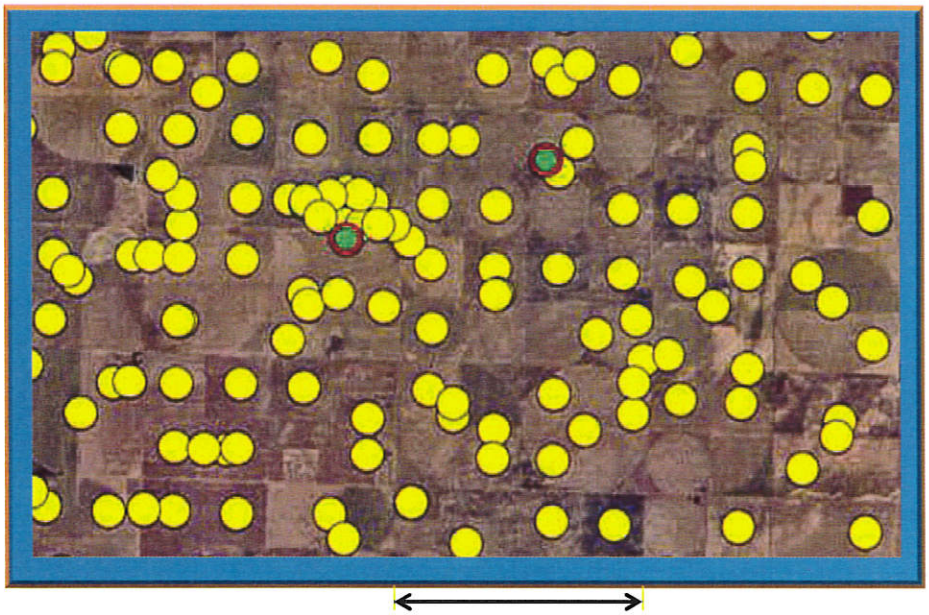
This map shows the distribution of over 330,000 oil and gas wells in Kansas Well locations include active, abandoned and all other wells that are in the Conservation Divisons RBDMS. This data is still under development and subject to change.

10 0 10 20 30 40 50 Miles

N

Kansas Corporation Commission
Utilities Divison, GIS Support
23 June 1999





Two Miles

3-10

Erik Nordling
Senate Natural Resources
February 26, 2009
#4
Attachment

Comparison of Other States Surface Notice Provisions for Oil and Gas Operations

				Notice Provisions				Enforcement Provisions
State	Length Advanced Notice	Trigger Events	Who Notified	Contents of Notice	Additional Notice Requirements	Ability to Waive Notice	Additional code provisions triggering notice	
Arkansas (AR Code §15-72-203)	Notice to surface owner but does not specify days, but is linked to notice before entering upon a site for purpose of exploration or for oil or gas drilling.	Requires notice to the surface owner "before entering upon a site for oil and gas drilling."	Surface Owner	Written notice (by certified mail or personally), containing a designation of the proposed location and the approximate date that the operator proposes to commence exploration or drilling operations.		Exception to notice for nonresident surface owners or tenants, or if operator unable to locate surface owner or tenant.		
Colorado (CRS 34-60-127)		No notice requirements		The Colorado statue provides codification of case law for operator to provide for minimizing intrusion upon and damage to the surface and for reasonable accomodations for the use of the surface.				Gives surface owner cause of action for operator's failure to meet requirements of statute
Illinois (765 ILCS 530/1 through 530/7)	At least 15 days prior to commencement of drilling operations (whether by certified mail, or personal delivery)	Drilling operations includes, drilling, deepening, or conversion of a well for oil or gas production, core hole or drill hole for stratigraphic test.	Surface owner	Notice shall include identifing location of proposed entry on surface for drilling operations, copy of drilling application, operator contact information and offer for discussions with surface owner.	Offer to meet with surface owner at least 5 days, but not less than 3 days prior to commencement of drilling operations. Discussion to include roads, points of entry, pits, restoration of fences, use of water, removal of trees, and drainage issues. Notice must include a copy of act.	Yes if surface owner has consented in writing. Surface owner can also waive discussion meeting.	Also covers coalbed methane wells. Does not apply to rework operations on a well. Also not apply to survey for location of well.	No enforcement directly tied to failure to give notice however there are enforcement for surface damages. The surface owner is not precluded from seeking other remedies allowed by law.
Indiana (IN Code §32-23-7-1 through 32-23-7-8)		No notice requirements			Limits location of oil and gas well nearer than 200' to house without consent of owner		Person who enters land for purposes of conduction operations on the land for production of oil and gas, is accountable to surface owner for actual damages resulting from activities	
Kentucky (KY Rev Stat §353.595)	At least 10 days certified mail or 8 days by personal delivery	Notice required prior to commencement of drilling operations. Drilling operations includes, drilling, deepening, or conversion of a well for oil or gas production, core hole or drill hole for stratigraphic test.	Surface owner	Notice shall include identifing location of proposed entry on surface for drilling operations, copy of drilling application, operator contact information and offer for discussions with surface owner.	Offer to meet with surface owner at least 5 days, but not less than 3 days prior to commencement of drilling operations. Discussion to include roads, points of entry, pits, restoration of fences, use of water, removal of trees, and drainage issues. Notice must include a copy of act.	Yes if surface owner has consented in writing. Surface owner can also waive discussion meeting.	Does not apply to rework operations on a well. Also not apply to survey for location of well.	No enforcement directly tied to failure to give notice however there are enforcement for surface damages. The surface owner is not precluded from seeking other remedies allowed by law.

Date of Report: 2/25/2009
Other states notice.2009 02 26

Comparison of Other States Surface Notice Provisions for Oil and Gas Operations

				Notice Provisions				Enforcement Provisions
State	Length Advanced Notice	Trigger Events	Who Notified	Contents of Notice	Additional Notice Requirements	Ability to Waive Notice	Additional code provisions triggering notice	
Montana (MT Code §82-10-501 through 82-10-511)	20 days min / 180 days max.	Notice required "before any activity that disturbs the land surface."	Surface owner and any purchaser under contract for deed	Written notice must "sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owners' use of the property."	To provide copy of statutory provision; to provide current copy of "A Guide to Split Estates in Oil and Gas Development."	Yes	Surveying is expressly excluded, provided notice provisions under separate statute met (MCA 70-16-111), in which surveyor must give 15 day notice. Also a separate notice requirement for geophysical exploration activities, linked to drilling permit (MCA 82-11-122)	Yes, specifically for notice violation. Possible actions: Board may bring action for restraining order, administrative penalty up to maximum of $125,000, or injunctive relief; possible criminal misdemeanor, with penalty of $10,000/day or imprisonment not to exceed 6 months or both; and civil penalties of at least $75 and not more than $10,000/day, and injunctive relief
New Mexico (NM Stat §70-12-1 through 70-12-10)	At least 5 business days notice prior to activities that do not disturb the surface. Minimum of 30 days notice prior to 'oil and gas operations.'	Nonsurface disturbing includes inspections, staking, surveys and general evaluation of routes and sites for oil and gas operations. Before entering for oil and gas operations (defined as surface disturbing activities associated with exploring, drilling, producing and transportation of oil and gas (from exploration, through production, and reclamation)	Surface owner	Written (certified mail or hand delivery) shall include: "sufficient discloser of the planned oil and gas operations to enable the surface owner to evaluate the effect of the operations on the property."	Notice must include a copy of the act, as well as 'laundry list of specific information', including contact information for operator, and a proposed surface use and compensation agreement. Notice deemed receive 5 days after mailing by certified mail or immediately on hand delivery.	Yes	No notice required in emergency situations for activities to protect health, safety or the environment.	A surface owner may recover attorneys fees if the operator fails to comply with the notice provisions prior to commencement of operations. If the failure is "knowing and willful", the surface owner may also recover treble damages
North Dakota (NDCCA §38-11.1-01 through 38-11.1-10)	20 days min . If less than 20 days till termination of mineral lease, notice given anytime prior to commencement of drilling operations	Notice required before commencement of "drilling operations," which is now defined to include geophysical and seismograph exploration activities.	Surface owner	Written notice must "sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property."	Must include form prepared by director of oil and gas division advising surface owner of rights and options under statute.	Yes, by mutual agreement	Separate code provisions providing for minimum of 7 days notice to 'operator of land' for geophysical exploration. (NDCCA 38-08.01, et seq.)	If mineral developer fails to give proper notice, surface owner may seek appropriate relief in the court of proper jurisdiction and may receive punitive as well as actual damages.

Comparison of Other States Surface Notice Provisions for Oil and Gas Operations

				Notice Provisions				Enforcement Provisions
State	Length Advanced Notice	Trigger Events	Who Notified	Contents of Notice	Additional Notice Requirements	Ability to Waive Notice	Additional code provisions triggering notice	
Oklahoma (52 OK Stat § 318.2 through 52-318.10)	Notice to surface owner but does not specify days, but is linked to notice before entering upon a site for oil and gas drilling.	Requires notice to the surface owner "before entering upon a site for oil and gas drilling."	Surface Owner	Written notice, by certified mail, containing a designation of the proposed location and the approximate date that the operator proposes to commence drilling.	Additional provisions requiring that within 5 days of delivery or service of notice of intent to drill, for operator and surface owner to enter into negotiations to determine surface damages. Negotiation must take place "prior to entering the site with heavy equipment." No time periods are provided.	Provision for con-structure notice if operator unable to locate surface owner or notice cannot be delivered.	Oklahoma has a separate statute covering geophysical operations.	"Nothing herein contained shall be construed to impair existing contractual rights nor shall it prohibit parties from contracting . . . on the subject matter contained in this act." Surface owner may recover triple damages if an operator knowingly and willfully enters without giving required notice, and without an agreement, or knowingly and willfully fails to maintain the required bond. Court costs and attorneys' fees shall be assessed against a party who demands a jury trial and fails to get a verdict more favorable to that party than the appraisers' determination.
South Dakota (SDCL § 45-5A-1 through 45-5A-11)	30 days min.	Notice required before commencement of "mineral development, other than exploration activities." The term 'exploration activities' is not defined.	Surface owner	Written notice must "sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property."	Must include form prepared by the Department of Environmental and Natural Resources advising surface owner of rights and options under statute.		Not specific provision for failed notice, but does not preclude from 'seeking other remedies allowed by law.'	No enforcement directly tied to failure to give notice however there are enforcement for surface damages. The surface owner is not precluded from seeking other remedies allowed by law.
Tennessee (TNC §60-1-209)	No later than filing of application with Oil and Gas Board for a permit to drill and prior to initiating any site preparation	filing of application for intent to drill.	Property owner or owner of surface of land to be drilled or to be affected by the surface disturbances listed.	Written by certified mail, return receipt requested. Notice to include surface disturbances, including proposed location of the oil or gas wellsite, new ingress and egress routes, location of all diversions, drilling pits, dikes and related structures and facilities, the location of proposed storage tanks and all other surface disturbances.	Notice also include right to have meeting between property owner and applicant to discuss location of surface disturbances in connection with drilling operation. Statutory provisions include right to request hearing before Board's supervisor. Purpose of hearing is to minimize impact of proposed drilling operation on the surface of the land.		Tennessee also provides for an Oil and Gas Surface Owners Compensation act at TNC § 60-1-601 through 60-1-608	Administrative procedures for hearing and decision before Oil and Gas Board supervisor, as .
Texas (TX Nat Res Code §92.001 through 92.007)		No notice requirements	Railroad Commission	Linked to approval of creation of operations site (for mineral exploration and production) within a qualified subdivision	Condition to approval of plat. Purpose is to assure proper and orderly development of both mineral and land resources. Develops operational site of 2 acres on each 80 acres of subdivision.			

Comparison of Other States Surface Notice Provisions for Oil and Gas Operations

				Notice Provisions				Enforcement Provisions
State	**Length Advanced Notice**	**Trigger Events**	**Who Notified**	**Contents of Notice**	**Additional Notice Requirements**	**Ability to Waive Notice**	**Additional code provisions triggering notice**	
Virginia (VA Code §45.1-361.30)	Within one day of filing of application for permit for oil and gas operation	filing of application for permit for a gas or oil operation	Surface owner, coal owners, and mineral owners on the tract to be drilled; all surface owners on tracts where surface is to be disturbed.	Notice of the application. Include statement on process for objections.		Applicant can publish notice in some instances where unable to identify owners.	Also notification on filing for permit for geophysical operations to surface owner.	
West Virginia (WV Code §22-6-9)	Not later than filing of application with the Office of Oil and Gas for a permit for any well work.	Filing of application for permit for any well work	Surface owners		Personal delivery or certified mail. Include copies of application, well plat, and erosion and sediment control plan. Also contain a statement of methods and time limits for filing complaints.		West Virginia also provides for Oil and Gas Production Compensation Act at WV Code § 22-7-1 through 22-7-8; and for notification to surface owners as part of permitting process for coal bed methane wells (WV Code § 22-21-9)	
Wyoming (WY Stat §30-5-401 through 30-5-410)	At least 5 days notice prior to 'nonsurface disturbing' activities. Minimum of 30 days (and max of 180 days) of surface disturbing.	Nonsurface disturbing includes inspections, staking, surveys and general evaluation of routes and sites for oil and gas operations. Before entering for oil and gas operations (defined as surface disturbing activities associated with drilling, producing and transportation oil and gas (from exploration, through production, and reclamation)	Surface owner	Written notice of "proposed oil and gas operations shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of oil and gas operations on the surface owner's use of the land.	Notice must include a copy of the act. If plan of work changes 'substantially and materially' from notice plan, then additional notice requirements. The specifications for the 30-day notice include locations of 'seismic locations,' perhaps indicating that the 30-day notice applies to geophysical exploration. Intent for permit to drill is conditioned on operator certifying notice provided to surface owner.	Yes		Tied to a comprehensive notice and damages statute which requires a surety bond or guaranty of not less than $2,000/well site which may be forfeited if the requirements of the statue are not met. Not specific provision for failed notice, but does not preclude from 'seeking other remedies allowed by law.'.

SCHNITTKER AG. SERVICES

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March 3, 2009

Chairman McGinn and Members of the Committee:

My name is Tom Schnittker. I am a member of the Southwest Kansas Royalty Owners Association (SWKROA) and a Director at Large. I am from Pratt, KS and am a Farmer, Real Estate Salesperson and a contract Farm Manager. In my work with farm management and farming, I regularly deal with mineral and royalty owners for leasing of their land as well as the granting of right-of-ways for pipelines. As a landowner/farmer, I am in support of Senate Bill 184, Surface Owner Notice Act.

I am here to testify for the support of the SB 184. This Bill provides an important communications device between the oil and gas operator, the owner of the surface interest in the land and the mineral owner. The purpose of this Bill is to provide the surface owner of the land with information concerning the activities that will impact their farming or ranching operations.

I am here to testify concerning a complaint from a rancher in the Protection, KS area. The rancher (J. H.) was driving down his ranch road on January 1, 2009 and met heavy construction equipment. Since it was New Years Day, he inquired of the truck driver, "Where are you going and what are you doing." The truck driver said that someone was supposed to have called him and told him of their pending work. They were headed to a location to repair a portion of the gas pipeline. It was the contractor's opinion that it was not his responsibility to notify anyone concerning his ingress and egress to the property. That was supposed to have been handled by the pipeline company. After a brief discussion, it was determined that the pipeline was to be repaired by the contractor at the discretion of the pipeline company and if they worked on January 1st, they were going to get a 3 day weekend. With that in mind, the contractor was off and began his digging on the ranch. The ranch owner is the same person as the mineral owner. No one contacted him. His contact was from his adjoining neighbor concerning whom to contact for damages, access, ingress, egress, etc. The adjoining landowner had made several calls, found the name, phone number and address for the pipeline company and the landowner/mineral owner (J. H.) then contacted the people concerning the damages to the land, ingress, egress, etc. The landowner, J. H., was very discouraged over the fact that no one took the time to call him and let him know that the pipeline company was going to enter his property and do the work. He was not against the pipeline company doing the work, he was displeased that no one called him or gave him the common courtesy to let him know that the pipeline company was to repair the pipeline and who to contact concerning damages to the property.

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With SB 184, I believe the conflict between the oil and gas industry and the landowners/mineral owners would be greatly reduced.

Again, I am a proponent of Senate Bill 184. If there was to be a change, the people who I am visiting with in the field (ranchers, farmers, landowners, mineral owners) would like to add one item to Section 3, Line 8:

> "(a.) An oil and gas operator shall notify the surface owner **and Tenant**, in accordance with the provisions of this Section, . . . ".

Many times the landowners will receive a phone call and notify the Tenant. Other times, the Tenant will visit with the pipeline company, oil and gas company or drilling contractor and not notify the landowner of what's going one. Communication is the heart of successful business. With the passage of SB 184 I believe this to be in the best interest of all parties in Kansas.

There are many oil and gas operators that work hard to coordinate their operations with the surface owners and the mineral owners. There are many people in the industry that are looking out for the land. There are a few people that do not care, and Senate Bill 184 addresses the lack of consideration between the oil and gas development and the landowners. Again, I believe that Senate Bill 184 is a good bill but I would like to add "and Tenant" as shown above.

Respectfully submitted,

Thomas G. Schnittker
Farm Manager/Landowner

TGS:kls

Statement of David W. Bolton regarding SB 184

Senate Natural Resources Committee

February 26, 2009

My name is David W. Bolton. I am currently the Executive Vice-President of Land for Quest Resource Corporation. I am providing this statement in support of SB 184. This Bill would balance the rights and interests of both surface owners and oil and gas operators and, most importantly, will provide a measure of certainty to one aspect of that relationship. The certainty that would result from such legislation will, in my opinion, encourage and aid oil and gas exploration in the state.

My staff and I are responsible for managing all oil and gas lease acquisition activity and surface damage negotiations for Quest Cherokee LLC, as well as all right of way acquisition for Quest Mid-Stream Partners (collectively "Quest"). Prior to joining Quest, I worked for 6 years for Continental Land Resources LLC, a large Oklahoma based oil and gas lease broker. I held various positions with Continental, including Land Manager. I have over 18 years of experience in various aspects of the oil and gas industry and have worked extensively throughout Oklahoma, Texas, New Mexico and Kansas.

I hold a Bachelor of Liberal Studies degree from the University of Oklahoma, attended the Oklahoma City University School of Law, and I am a Certified Professional Landman. I am a member of the American Association of Petroleum Landmen, the Oklahoma City Association of Petroleum Landmen, the American Bar Association, and the Energy Bar Association.

Quest is the largest producer of natural gas in the Cherokee Basin. We currently control more than 500,000 net leased acres in the Cherokee Basin in southeast Kansas and northeast Oklahoma. The Cherokee Basin produces coalbed natural gas from blanket coal seams found at depths from approximately 400 feet to 1,300 feet. Quest estimates that the Cherokee Basin may have the potential to hold more than 1.2 trillion cubic feet of natural gas resource under Quest's existing and targeted acreage.

Quest operates more than 2,500 producing gas wells that currently produce in excess of 75 MMcf per day. The majority of those wells are located in the State of Kansas. Quest is continuing to drill wells in the Cherokee Basin. In 2006, Quest drilled more than 25% of the total number of oil and gas wells drilled in the State of Kansas. In 2008, Quest drilled more than 350 wells in Kansas. As a result of this high volume of drilling activity, I have a substantial amount of experience settling damages with landowners.

The obvious question is why would an oil and gas operator actually support the adoption of a surface access statute? Based on my experience in other states, I have found that a good surface access statute is beneficial to the oil and gas operator because it allows the operator to proceed with their operations without interruption upon

giving the proper notice. Often, this saves the operator both time and money. In the current business environment in the oil and gas industry, rig availability and scheduling are crucial. If the surface owner denies the operator access to the land or delays his entry, it can often be weeks or months before another rig becomes available. Also, the operator can be forced to pay unnecessary standby time, incur excessive rig moves, or even face the potential expiration of the oil and gas lease.

Quest supports the adoption of a fair and balanced surface access statute such as SB 184. Kansas has a rich tradition of oil and gas production that spans the majority of the last century. Nurturing a business environment that facilitates exploration and development of this most valuable natural resource would be most advantageous and economically lucrative to the State of Kansas. Common sense legislation that protects the interests of both the oil and gas producer and the surface owner would encourage and expand a booming oil and natural gas industry.

Testimony of David M. Dayvault
SB 184
Senate Natural Resources Committee
February 26, 2009

I am David M. Dayvault. I am currently Chairman of the Kansas Independent Oil and Gas Association representing over 1400 members who engage in the exploration, production, and servicing of oil and natural gas wells throughout the State of Kansas. I also serve as Chief Financial Officer of Abercrombie Energy, LLC. which produces oil and natural gas from over 200 wells primarily in western Kansas.

Oil and gas operators strive to have good relations with landowners who own either the surface, the minerals or both covering the lands we have under lease. I am here to describe current industry practices. Each operator will vary these somewhat based on their particular circumstances. At the time an oil and gas well is first drilled certain preparations to the land must be made to accommodate the drilling equipment. A drill site seldom exceeding two acres in area is prepared using a bulldozer and other heavy equipment. Several pits are dug in this area to accommodate drilling fluids, water and cuttings from the well. In addition a road is prepared into the drill site to a nearby county or state road. If the well results in a discovery of oil and/or gas in commercial quantities, the drilling rig departs and a completion rig enters this surface area. Additional equipment is installed, both underground and above the surface of the earth, while lead lines which would carry produced fluids are laid to the site of a tank battery which is typically located adjacent to a county or state road. At such time as the pits are dry, the heavy equipment returns to fill in the pits and restore the location to nearly its original state.

Prior to the time that a drilling operation is undertaken, the operator typically contacts the surface owner by letter or by telephone from its exploration office. A surveyor will drive a stake into the ground indicating the proper location. Typically an individual will meet with the surface owner on site to discuss the upcoming operations. The representative of the operator may actually be employed by one of his subcontractors. In many instances, this individual will be the toolpusher in charge of the drilling rig or the dozer operator. Prior to any of this notification, the operator goes through its records to determine who is the appropriate person to notify. The owner of the surface often lives quite some distance from the lease location. As time has passed and as lands have passed from one generation to another, the surface has increasingly become owned by multiple parties. Typically, one party will serve as the primary operator of the surface, farm or ranch. This may be one of the surface owners, it may be a relative of one of the surface owners or it may be a tenant operating under a lease arrangement. The operator frequently has to do a certain amount of detective work by examining his own files or by making inquiries to find who would be the appropriate person to notify.

Geophysical operations are conducted in many instances well before the time a well is drilled. Geophysical operations involve the utilization of heavy trucks to vibrate the earth's surface so that reflective waves can be received and measured during the process. Prior to the conduct of geophysical operations the geophysical contractor contacts the landowners and obtains permits to conduct these operations, even though the oil and gas lease allows the conduct of exploration activities such as this absent the permitting process.

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The other time heavy equipment typically enters an oil and gas lease is during a repair or re-working operation. These operations use existing lease roads and the existing lease pad and only infrequently disturb any of the surface which has not been previously utilized in the oil and gas operations. These repair jobs typically are scheduled on short notice and no additional notification is undertaken with the landowner prior to commencement of a repair operation.

KIOGA opposes SB 184 as it provides statutory requirements for operations which require flexibility. The bill requires that we notify the surface owner as identified by the records of the County Treasurer. However this individual (or individuals) is frequently not the most appropriate party to notify. This may be the tenant or some other operator of the property. Should SB 184 be enacted, Operators will meet the statutory requirement to notify the owner but may not continue with their existing practice of doing the detective work to identify the proper person to notify.

Included in the rights that an oil and gas operator obtains in the oil and gas lease is the right of ingress and egress. According to the oil and gas lease this is an unconditional right. SB 184 makes the right of ingress and egress conditional upon notification which reduces the rights the operator previously bargained for.

SB 184 requires that notice be given at least five days before commencement of certain oil operations in most circumstances. This conforms with the minimum waiting period required by the Kansas Corporation Commission between the time that a drilling intent is filed and the time that the well is spudded. However SB 184 requires a 10 day notice period if the notice is personally delivered. Personal delivery would suggest that a lesser notification period would be appropriate rather than a greater period.

Section IV of the Act provides that the surface owner and oil and gas operator may by an agreement separate and apart from the oil and gas lease alter or waive the notice requirements. This waiver could not be enforceable beyond one year after the agreement. We believe the time limitation and the unavailability to incorporate a waiver within the oil and gas lease provides an unreasonable limitation on the rights of the two parties to enter into contracts.

The Act contemplates a greater role for the Kansas Corporation Commission. Any regulation by the Commission is paid for the Conservation Fee Fund which is assessed to industry. Ultimately the additional costs associated with enforcement of this Act will be born by industry in the form of higher assessments to the Conservation Fee Fund. Currently the Governor's budget request contemplates that $2.5 million will be swept from the Oil and Gas Conservation Fee Fund to the State General Fund. This Bill expects the Commission to do more at a time when it is likely facing a funding shortfall.

KIOGA believes that efforts to improve landowner relations are best conducted outside of the statutory scheme contemplated by SB 184. KIOGA has gone to great efforts to better educate its members and surface owner groups of the need for use of best practices and for better communication with one another. Ed Cross, KIOGA President, is here today to explain some of those efforts.

Testimony before the Senate Natural Resources Committee

February 26, 2009

RE: SB 184 - An Act enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission.

Testimony of David Bleakley - Legislative Chairman
Eastern Kansas Oil and Gas Association
&
Director of Acquisitions & Land Management
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association (EKOGA) is strongly opposed to SB 184 and any legislation that would interfere with, change or amend the private contract rights and obligations conferred upon landowners and oil and gas operators through the oil and gas leases that such parties have mutually and voluntarily negotiated and executed.

EKOGA represents and supports eastern Kansas oil and gas producers, royalty owners, gas gatherers, service companies and associated businesses and is concerned about the overall welfare of the Kansas economy and the oil and gas industry.

MY BACKGROUND

For the past 19 years, I have served as the Director of Acquisitions and Land Management for Colt Energy, Inc., an independent oil and gas company with operations located throughout Eastern Kansas. I am currently and have been a Kansas royalty owner for over thirty years. For nine years prior to my employment with Colt, I owned an oil and gas company and farmed and co-managed a 5,000 acre family farm and oversaw 200 head of registered Angus cattle. I am a graduate of Kansas State University with a degree in Animal Science and Industry. For the past eleven years I have also served as the EKOGA representative to the Kansas Corporation Commission Oil and Gas Advisory Committee and the KCC Rules and Regulations Sub Committee.

WHAT IS THE ISSUE OR PROBLEM?

NOT EVERY PERCEIVED PROBLEM HAS A LEGISLATIVE SOLUTION. Virtually all oil and gas operators have been courteous and good neighbors to the landowners with whom they share property rights on the lands that are subject to their oil and gas leases. Indeed, most oil and gas operators discuss their plans with their landowners when they are preparing to drill or conduct major non-routine operations on their property. The following is common language taken from the first paragraph of a standard Kansas oil and gas lease:

That the said Landowner/mineral owner (Lessor), for and in consideration of TEN OR MORE DOLLARS cash in hand paid, receipt of which is hereby acknowledged and of the covenants and agreements hereinafter contained on the part of Oil and Gas Company (Lessee) to be paid, kept and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let exclusively unto Oil and Gas Company (Lessee), for the sole and only purpose of investigating, exploring by geophysical and other means, drilling, producing, saving, taking, owning, gathering, transporting, storing, handling, processing, treating, and marketing; oil and liquid hydrocarbons (including, but not limited to, distillates and condensates) and all gases (including, but not limited to, casinghead gas, methane gases from coals and shales, helium and all other constituents and substances produced therewith) and; to the extent reasonably necessary or convenient to enable Oil and Gas Company (Lessee) to carry out said purposes, including the dewatering for production of any gases, the right of constructing, operating and

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mai. ing pipelines, flowlines, gathering lines, compressors, tank batteries, electric lines, roa. ays, metering facilities and equipment, facilities for the injection of water, other fluids and gaseous substances into subsurface strata, and other facilities, structures, and equipment required by Oil and Gas Company (Lessee) for said purposes; all of the following described land, together with any reversionary rights and after acquired interest therein, situated in the County of _____, State of Kansas described as follows, to wit:

I have attached to this testimony a copy of the entire oil and gas lease from which the above language was drawn. As you can see from a review of this lease, oil and gas leases contain numerous detailed, important and complex rights and obligations for each party to the lease.

HOW BIG IS THIS ISSUE OR PROBLEM?

Specifically, which problems or issues is SB 184 intended to remedy? In 2008, the oil and gas industry asked both of the Kansas royalty owners associations, the Kansas Livestock Association and the Kansas Farm Bureau to provide the Legislature and the industry with specifics from their members regarding the character and number of concerns, issues or problems that their members had encountered with any oil and gas company together with the identity of any company that had created these concerns or problems. To date, we have not received any such list or accounting from these organizations so that we might, with the Legislature, determine the true scope of and best solution for such issues or problems. Currently there are over 2,100 KCC licensed oil and gas operators in the state and in 2008, the KCC undertook a survey to document surface owner complaints regarding oil and gas companies. The results of this survey are attached to my testimony. These results show a total of 8 complaints statewide during a time when 2,211 total drilling intents were approved for wells to be drilled statewide. Of these eight complaints, most were handled by the KCC under existing rules and regulations and the balance involved legal issues between the landowners and the oil and gas companies that would be best resolved in the courts. **NOT EVERY PERCEIVED PROBLEM HAS A LEGISLATIVE SOLUTION.**

OPPOSITION TO THE LEGISLATURE CHANGING PRIVATE CONTRACTS

The fundamental problem with SB 184 or any legislation that purports to change the rights or obligations of either party to a private contract (in this instance an oil and gas lease) after the contract has been negotiated is the serious erosion of the constitutional right to enter into private contracts that have fixed terms upon which both parties to the agreement may rely. In this instance, the potential harm to the right to contract is significant if a small group of landowners or individuals who are disgruntled about the terms of an oil and gas lease that they have negotiated and are effected by, succeed in utilizing the Legislature, after the fact, to amend or revise the negotiated for rights and obligations of the parties to and under the lease. Keep in mind, no oil and gas company has forced any landowner to sign a contract to lease their land. The oil and gas lease is a private mutual agreement wherein both parties are free to negotiate its terms. After these contracts are signed and recorded, both parties thereafter act in reliance on those terms for the life of that lease. Therefore, under Kansas law the terms of an oil and gas lease endure as originally written for the life of that lease. After the lease has been entered into, serious differences that may arise between the landowner and an oil and gas company are best resolved thru the time tested legal system of our state.

ALTERNATIVE TO SB 184 OR OTHER SURFACE OWNER LEGISLATION

The oil and gas industry is offering an alternative to SB 184. Our alternative is entitled the "Kansas Good Neighbor Initiative". Through this initiative we are proposing to "Educate not Legislate" since we believe that the changes that the proponents of SB 184 are attempting to achieve through this legislation can best be achieved through landowner education. Our initiative sets forth how good neighbors should treat each other with respect to each other's rights to utilize property owned by the landowner and leased by

an oil and gas company for oil and gas development. Ed Cross, President of KIOGA, has already addressed this initiative in depth in his testimony. We would prefer to jointly put forth such an initiative with the landowner associations in an effort to educate both landowners and oil and gas company personnel. During the last year, the oil and gas industry has proceeded to actively pursue this good neighbor initiative. We have had numerous conferences within the industry to discuss potential solutions and educational efforts for both the landowners and their associations and the oil and gas companies and their associations. Furthermore, we have had numerous meetings and conversations with the leadership of the Eastern Kansas Royalty Owners Association (EKROA) and representatives of the Kansas Livestock Association and Kansas Farm Bureau. Indeed, last year the industry recommended that the Legislature create two board positions on the Kansas Corporation Commission Oil and Gas Advisory Committee and the KCC Rules and Regulations Sub Committee for the Kansas Livestock Association and Kansas Farm Bureau. This advisory committee meets quarterly and discusses new proposed rules and regulations together with issues, problems and complaints pertaining to the oil and gas industry in Kansas. Both of these positions have been filled by representatives of the Kansas Livestock Association and Kansas Farm Bureau. Surely the combined effect of these efforts will be to enhance communications between landowners and oil and gas companies.

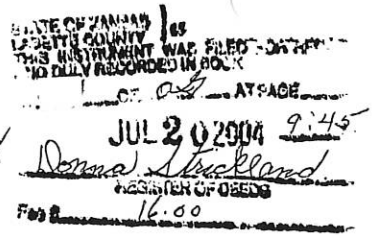
CONCLUSION

NOT EVERY PERCEIVED PROBLEM HAS A LEGISLATIVE SOLUTION. The overwhelming majority of operators in Kansas operate with courtesy and act as good neighbors in their dealings with landowners, farmers and tenant farmers. Why should a small minority of oil and gas companies who do not act with courtesy in conducting their business condemn the majority of oil and gas companies that are doing their best to conduct business by using courtesy and by acting as good neighbors? In upholding its obligations under an oil and gas lease, oil and gas companies incur tremendous expenses in trying to find and produce oil and gas on any landowner's property. In most cases, their investment to find and extract oil or gas exceeds the value of the land covered by the lease as both parties hope that the drilling effort will be successful so both can reap the monetary rewards. Why else would a landowner lease?

Disputes over private contract rights and obligations (including oil and gas leases) have always been and belong in the small claims or district courts of Kansas. These courts provide the fairest forum for both parties to utilize in resolving disputes involving an oil and gas lease. Utilizing legislative action to resolve private contract disputes is a very dangerous alternative to the unique and complex dispute resolution process already provided by our judicial system. Let's utilize the time tested system of resolving complaints and disputes already in place for such purposes instead of trying to alter our existing legal system.

Thank you for your time.

David P. Bleakley



OIL AND GAS LEASE

THIS AGREEMENT, made and entered into this 8th day of July, 2004, by and between , hereinafter called Lessor (whether one or more), and hereinafter called Lessee, does witness:

1. That the said Lessor, for and in consideration of TEN OR MORE DOLLARS cash in hand paid, receipt of which is hereby acknowledged and of the covenants and agreements hereinafter contained on the part of Lessee to be paid, kept and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let exclusively unto Lessee, for the sole and only purposes of investigating, exploring by geophysical and other means, drilling, producing, saving, taking, owning, gathering, transporting, storing, handling, processing, treating, and marketing; oil and liquid hydrocarbons (including, but not limited to, distillates and condensates) and all gases (including, but not limited to, casinghead gas, methane gases from coals and shales, helium and all other constituents and substances produced therewith) and; to the extent reasonably necessary or convenient to enable Lessee to carry out said purposes, including the dewatering for production of any gases, the right of constructing, operating and maintaining pipelines, flowlines, gathering lines, compressors, tank batteries, electric lines, roadways, metering facilities and equipment, facilities for the injection of water, other fluids and gaseous substances into subsurface strata, and other facilities, structures, and equipment required by Lessee for said purposes; all of the following described land, together with any reversionary rights and after acquired interest therein, situated in the County of Labette, State of Kansas described as follows, to wit:

TOWNSHIP 32 SOUTH, RANGE 18 EAST
SECTION 20: S/2 SE/4

less and except the wellsite of any abandoned well(s) existing on this land on the date of this lease that is not claimed by Lessee, and containing 80.00 acres, more or less (herein called leased premises).

2. This lease shall remain in full force for a term of three (3) years from this date, and as long thereafter as oil or gas, or either of them, is produced from the leased premises or acreage pooled therewith, or the leased premises are being developed or operated, including dewatering operations, or are otherwise perpetuated as provided herein.

3. In consideration of these premises Lessee covenants and agrees:

(a) To deliver to the credit of Lessor, as royalty, one-eighth (1/8) part of the oil produced and saved from the leased premises, said payments to be made monthly.

(b) To pay Lessor, as royalty, for gas of whatsoever nature or kind (with all of its constituents) produced and sold, one-eighth (1/8) of the proceeds at the wellhead, or when used off the leased premises (unless for development, operation, gathering or processing thereof) or used on the leased premises by Lessee for any purpose other than the development, operation, gathering, or processing thereof or used in the manufacture of any products therefrom, one-eighth (1/8) of the market value of the gas at the well, said payments to be made monthly.

The proceeds from the sale of gas at the well, or the market value of gas at the well, shall be the amount paid by the gas purchaser at such well to the Lessee. If the purchaser is an affiliate of the Lessee, the proceeds or market value of the gas shall not be less than an amount equal to the proceeds received by such affiliate for the gas from its buyer, less: (a) such affiliate's expenses (including overhead and taxes) for gathering, transporting, processing and marketing the gas; and (b) such affiliate's reasonable return on investment on its assets used in gathering, transporting, processing and marketing the gas.

An "affiliate" shall mean a corporation in which the Lessee owns more than 50% of the outstanding voting stock, a limited liability company in which the Lessee owns more than 50% of the voting membership interests, or partnership in which the Lessee receives more than 50% of the allocations of income, expenses and losses.

(c) To bury all pipelines associated with this lease below normal plow depth.

(d) To pay for damages caused by Lessee's operations to the leased premises. It is agreed in advance that surface damages for the drilling of each well shall not exceed Four Hundred Dollars $400.00

(e) To avoid drilling a well closer than 300 feet to the house(s) now existing on said premises.

4. When gas is not being sold or used and a gas well is shut in or has commenced dewatering operations on the leased premises or on acreage pooled therewith, whether or not said well has theretofore actually produced, and there is no current production of oil or gas or operations on the leased premises or acreage pooled therewith sufficient to keep this lease in force beyond the primary term, this lease shall, nonetheless, remain in full force and effect, and it will be deemed that gas is being produced in paying quantities if Lessee pays or tenders $5.00 per net mineral acre annually as shut-in royalty, at the end of each yearly period during which such gas is not sold or used.

5. Lessee is hereby granted the right at any time and from time to time to unitize the leased premises or any portion thereof, as to all strata or any stratum or strata, with any other lands as to all strata or any stratum or strata, for the production primarily of oil or primarily of gas with or without distillate. However, no unit for the production primarily of oil shall embrace more than 160 acres, or for the production primarily of gas with or without distillate more than 160 acres; provided that if any governmental regulation shall prescribe a spacing pattern for the development of the field or allocate a producing allowable based on acreage per well, then any such unit may embrace as much additional acreage as may be so prescribed or as may be used in such allocation of allowable. Lessee shall file written unit designations in the county in which the leased premises are located. Operations upon and production from the unit shall be treated as if operations were upon or such production were from the leased premises whether or not the well or wells are located thereon. The entire acreage within a unit shall be treated for all purposes as if it were covered by and included in this lease except that the royalty on production from the unit shall be as below provided, and except that in calculating the amount of any shut in gas royalties, only the part of the acreage originally leased and then actually embraced by this lease shall be counted. In respect to production from the unit, lessee shall pay lessor, in lieu of other royalties thereon, only such proportion of the royalties stipulated herein as the amount of his acreage placed in the unit, or his royalty interest therein on an acreage basis, bears to the total acreage in the unit.

6. This is a paid up lease. In consideration of the cash down payment, Lessor agrees that Lessee shall not be obligated, except as otherwise provided herein, to commence or continue any operations during the primary term. All of Lessee's operations shall be conducted at the sole cost, risk and expense of Lessee, and Lessee agrees to indemnify, defend and hold Lessor harmless from any and all claims, liens, demands, judgments and liabilities of whatsoever nature arising out of Lessee's operations. At all times during the term of this lease, Lessee shall carry and require all contractors performing work under this lease to carry insurance to protect all relevant parties from loss or liability in accordance with amounts and coverages normally carried by prudent operators in similar operations in the area.

7. If, at the expiration of the primary term of this lease, there is no well on the leased premises which is capable of producing oil or gas in paying quantities, but Lessee is then engaged in drilling or reworking operations, then this lease shall continue in force so long after the primary term as drilling or reworking operations are being conducted on said land and drilling or reworking operations shall be considered to be conducted if not more than one-hundred-twenty (120) consecutive days shall lapse between the completion or abandonment of a well and the beginning of operations for the drilling or reworking of the well or another well whether such completion or abandonment occurred during or after the primary term.

8. If, after the expiration of the primary term, at any time, or from time to time, there is no production from Lessee's well(s), and there is no well on the leased premises which is capable of producing oil or gas in paying quantities and there are no drilling or reworking operations being conducted on the leased premises, this lease shall continue in effect if, within 365 days from the date of cessation of production or drilling or reworking operations, Lessee restores the capability of a well to produce in paying quantities, or if Lessee has commenced additional drilling or reworking operations or other operations designed to restore production, and this lease shall remain in force during the prosecution of such operations and, if production results therefrom, then this lease shall remain in force as long as such production continues.

9. If said Lessor owns a less interest in the leased premises than the entire and undivided fee simple estate therein, then the royalties and rentals herein provided shall be paid to the Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee. If the leased premises are now or hereafter owned in severalty or in separate tracts, the premises, nevertheless, may be developed and operated as an entirety, and the royalties shall be paid to each separate owner in the proportion that the acreage owned by him bears to the entire lease area. There shall be no obligation on the part of the lessee to offset wells on separate tracts into which the land covered by this lease may hereafter be divided by sale, devise, or otherwise, or to furnish separate measuring or receiving tanks for the oil or gas produced from such separate tracts.

10. If the estate of either party hereto is assigned, and the privilege of assigning in whole or in part is expressly allowed, the covenants hereof shall extend to its heirs, executors, administrators, successors or assigns. However, no change in or division of the ownership of the right to receive royalties, delay rentals or other payment to Lessors hereunder, whether such change is by assignment, partition or otherwise, shall operate to increase or enlarge the obligation or to diminish the rights of Lessee hereunder. No change in the ownership of the land or assignment of royalties shall be binding on Lessee until after Lessee has been furnished with a written transfer or deed or a true copy thereof. If all or any part of this lease is assigned, no leasehold owner shall be liable for any act or omission on the part of any other leasehold owner. In case Lessee assigns this lease, in whole or in part, Lessee shall be relieved of all obligations with respect to the assigned portion or portions arising subsequent to the date of assignment.

11. For the consideration first stated above, Lessor conditionally grants to Lessee an easement and right of way as provided herein. The use of such easement and right of way are conditioned upon Lessee first paying or tendering to Lessor the sum of TEN DOLLARS ($10.00) per rod. Such payment or tender may be made at any time while this Lease is in effect. Such easement and right of way are described as follows: Lessor grants to Lessee a strip of land three rods wide for the purpose of laying, constructing, operating, inspecting, maintaining, repairing, replacing and removing a pipeline or pipelines for the transportation of water, brines, oil, gas and other substances, and electric line(s), at a location or locations to be determined by Lessee, on, in, over and through the land described hereinabove. The centerline of such easement and right of way shall be the center of the pipeline(s) and/or electric line(s) as actually laid. Lessee will consult with Lessor on course, route and direction of lines so as to minimize interference with surface use by Lessor. Such pipeline(s) and electric line(s) shall be buried when reasonably possible below plow depth. Lessee shall pay for damages to growing crops, fences or other structures of Lessor that are caused by the construction, maintenance and operation of such pipeline(s) and electric line(s). Lessee shall have the right of ingress and egress to and from the premises for all purposes necessary to exercise of the rights granted herein. This easement and right of way shall be construed as if conveyed by separate instrument, without regard to the oil and gas Lease or the term thereof; provided, however, that if use of such easement and right of way is not actually commenced within the term of said oil and gas Lease or extension or renewal thereof then this easement and right of way and all rights granted thereunder shall cease and terminate on the date said oil and gas lease expires. This easement and right of way are independent of, and in addition to, and are not a substitute for, the rights of Lessee under said Lease, which rights are not hereby diminished or affected, it being understood that this easement and right of way provides for transporting products mentioned herein which may be produced, obtained, stored or transported upon or across lands adjacent thereto or in the vicinity thereof. The easement and right of way granted herein are a covenant running with the land and shall extend to Lessee and Lessee's successors and assigns, and shall remain in force for the term of said oil and gas Lease and as long thereafter as such easement and right of way are used by Lessee, its successors and assigns, for the purposes herein mentioned.

12. For the consideration first stated above, Lessor conditionally grants to Lessee a license, easement and right of way as provided herein. The use of the license, easement and right of way described in this paragraph 12, are conditioned upon Lessee first paying or tendering to Lessor the sum of FIVE HUNDRED DOLLARS ($500.00) and a like amount annually on each twelve (12) month anniversary thereafter. The first such payment or tender may be made at any time while this Lease is in effect. If such payment is not timely made, this license, easement and right of way shall not terminate unless Lessee fails to make or tender such payment within thirty (30) days after receipt of written notice of default given by Lessor to Lessee by certified mail, return receipt requested. Such license, easement and right of way are described as follows: Lessor grants to Lessee the right and license to use a newly drilled well or re-complete an existing well upon the above described land and to use same for disposing of waters, brines and other substances produced from wells owned or operated by Lessee located on said land and upon lands adjacent to or in the vicinity thereof, together with an easement and right-of-way of approximately one (1) square acre around such well, the center of which shall be the borehole of the disposal well, and an easement and right of way on a strip of land three rods wide to install, repair, operate and remove such lines, pipes, pumps, equipment, machinery, electric lines and other appliances as Lessee shall deem suitable for the operation of such disposal well. The centerline of said three-rod easement and right of way shall be the center of the pipe line(s) and/or electric line(s) as actually laid. Lessee will consult with Lessor on course, route and direction of lines and the location of new well(s) so as to minimize interference with surface use by Lessor. Any pipeline(s) and electric line(s) shall be buried when reasonably possible below plow depth. Lessee shall pay for damages to growing crops. fences or other structures of Lessor that are caused by the construction, maintenance and operation of such well, pipeline(s) and electric line(s). Lessee shall have the right of ingress and egress to and from the premises for all purposes necessary to the exercise of the rights granted herein.

Lessee shall have the right at any time to remove from the disposal well any and all equipment associated therewith, it being understood that the same shall be and remain personal property, whether or not affixed to the realty; and upon cessation of use of said well, Lessee shall clean up the area with reasonable diligence and dispatch, and shall restore the area as nearly as reasonably possible to its original condition. This license, easement and right of way shall be construed as if granted by separate instrument, without regard to the oil and gas Lease or the term thereof; provided, however, that if a disposal well is not commenced within the term of said oil and gas Lease or extension or renewal thereof then this license, easement and right of way and all rights granted thereunder shall cease and terminate on the date said oil and gas Lease expires. This license, easement and right of way are independent of, and in addition to, and are not a substitute for, the rights of Lessee under said Lease, which rights are not hereby diminished or affected, it being understood that this license, easement and right of way provides for transportation and disposal of substances which may be produced, obtained, stored or transported upon or across lands adjacent thereto or in the vicinity thereof. The license, easement and right of way granted herein are a covenant running with the land and shall extend to Lessee and Lessee's successors and assigns, and shall remain in force for the term of said oil and gas Lease and as long thereafter as such license, easement and rights-of-way are used by Lessee, its successors and assigns, for the purposes herein mentioned.

13. At Lessee's sole option, the primary term of this lease may be extended for a period of two (2) additional years by Lessee's payment to Lessor of the sum of ten dollars ($10.00) per net mineral acre, and with said payment made by Lessee on or before the originally scheduled expiration of the primary term of this lease.

14. Lessee may at any time and from time to time surrender this lease as to all or any part of the leased premises by delivering or mailing a release thereof to Lessor, or by placing a release of record in the proper county, and thereafter Lessee shall be relieved of all obligations accruing hereunder as to the portion of the leased premises so surrendered. This lease shall continue in full force and effect as to all of the leased premises not surrendered. Lessee shall have the right to use, free of cost, gas, oil and water produced on the leased premises for Lessee's operations thereon, except water from wells of Lessor, or from ponds of Lessor without Lessor's consent. Lessee shall have the right at any time to remove all equipment and fixtures placed on the leased premises, including the right to draw and remove casing.

15. In the event the Lessor, at any time, considers that operations are not being conducted in compliance with this lease or that Lessee is otherwise in breach of, or in non-compliance with, any term of this lease, either express or implied, Lessor shall notify Lessee in writing of the facts relied upon as constituting a breach or non-compliance hereof, and Lessee shall have 60 days after receipt of such notice in which to commence any operations or other activities that are then legally necessary to comply with the requirements hereof. No default of Lessee with respect to any well or part of the leased premises shall impair Lessee's rights as to any other well or part of the leased premises.

16. Lessee's obligations under this lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and producing of wells, and the price of oil, gas and other substances covered hereby. When drilling, reworking, producing or other operations are prevented or delayed by such laws, rules, regulations or orders, or by operation of force majeure, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control, this lease shall not terminate because of such prevention or delay, and if such prevention or delay shall occur during the primary term the period of such prevention or delay shall be added to the primary term hereof. If any such prevention or delay should commence after the primary term hereof, Lessee shall have a period of 120 days after the termination of such period of prevention or delay within which to commence or resume drilling, producing or other operations hereunder, and this lease shall remain in force during such period and thereafter in accordance with the other provisions of this lease. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, producing or other operations are so prevented, delayed or interrupted.

17. Lessor hereby grants and warrants to the Lessee all of the rights granted to the Lessee under this lease and warrants that Lessor has merchantable title to the leased premises, subject to mortgages and easements of record, and that Lessor has full and exclusive right to lease the same. Lessor further warrants and agrees to defend the title to the leased premises and agrees that the Lessee shall have the right at any time to redeem for Lessor by payment, any mortgages, taxes or other liens on the leased premises, in the event of default of payment by Lessor, and be subrogated to the rights of the holder thereof. Lessee may reimburse itself by applying to the discharge of any such mortgage, tax or other lien, any royalty, shut-in royalty, or rentals accruing hereunder.

18. This lease shall be effective as to each Lessor on execution hereof as to its interest and shall be binding on those signing, regardless of whether it is signed by any other Lessor party. This lease shall at all times and in all respects be subject to valid orders, rules, and regulations of any duly constituted authority having jurisdiction of the subject matter hereof. This instrument contains the entire agreement of the parties and it may not be changed or modified except by subsequent written agreement signed by both parties.

IN WITNESS WHEREOF, this lease agreement is signed and executed on the day and year first above written:

_____ _____

STATE OF KANSAS

COUNTY OF Labette

Before me, the undersigned, a Notary Public, in and for said County and State, on this ____ day of _____, 2004, personally appeared _____, to me well known to be the identical person who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and official seal the day and year first above written.

_____
Notary Public

My commission expires:

KANSAS
CORPORATION COMMISSION

February 12, 2009

Diana Edmiston
Edmiston Law Office, LLC
212 N. Market, Suite 401
Wichita, Kansas 67202

RE: Open Records Request

Dear Diana:

Attached is the number of approved intent to drill from April 1, 2008 to July 31, 2008 by district.

I have previously provided a spreadsheet showing the type of complaint and district for the informal landowner complaint survey we conducted from April 1, 2008 to July 31, 2008.

If the information furnished doesn't satisfy your open record request, please let me know.

Very truly yours,

John McCannon

John McCannon
Litigation Counsel

CountOfAPI_WELLNO	ST_DIST
448	01
139	02
1158	03
466	04

DODGE CITY SW

WICHITA CENTRAL

CHANUTE EAST

HAYS NW

2,211 TOTAL

County	District	Nature of Concern
Butler	2	Possible future damage to pond
Trego	4	Location of drill pits
Labette	3	Operator causing deep ruts gravel road not installed as required by lease created a staging area
Wilson	3	No payment for land damage at well location, ruts, standing water and erosion
Franklin	3	Spillage, tree knocked down with bulldozer, crops damaged
Sedgwick	2	Trees dying land subsiding from saltwater spill
Franklin	3	Operator cut fence oil spill dozed over
Wilson	3	Brine spill damaged 4 acres

Kansas Petroleum Council

COMMENTS SUBMITTED TO THE SENATE NATURAL RESOURCES COMMITTEE

IN OPPOSITION TO SENATE BILL 184

FEBRUARY 26, 2009

Madam Chairman and member of the Senate Natural Resources Committee:

The Kansas Petroleum Council joins KIOGA and EKOGA in opposing Senate Bill 184. The Council, like KIOGA and EKOGA, is a trade association that represents the oil and gas industry. Our members with active natural gas production in the state include OXY, BP and ExxonMobil.

Witnesses for the independent producer associations presented comments today on why SB 184 is an unwise and unnecessary intrusion into an area that has worked successfully for decades. Proponents have frankly not made a case that this bill, a violation of contractual agreements, is needed.

I will not belabor the points made by the other trade associations in their opposition to SB 184, but would emphasize that (1) after the fact, the legislation changes the terms of oil and gas leases negotiated in good faith by both parties, (2) creates burdensome notice and time requirements for operators on the lease, and (3) hands regulatory authority to the Kansas Corporation Commission, which is ill-designed to handle contract disputes. It should be emphasized that you can bet the industry will foot the bill for this folly, and, if passed, royalty interests and the state will suffer a loss of revenue.

A far more preferable solution is to continue the Good Neighbor Initiative that the trade associations have taken over the past year with various landowner groups to educate both sides on their rights and obligations. In addition, I should point out that the Legislature last year added two agricultural groups to membership on the KCC oil and gas advisory committee to have a voice in matters that SB184 so erroneously and unconstitutionally seeks to address.

Thank you for the opportunity to submit these remarks.

Sincerely,

Ken Peterson

Ken Peterson, executive director

SUITE 1005 ● 800 SW JACKSON STREET ● TOPEKA, KANSAS 66612-1224
PHONE: 785.234.0589 ● FAX 785.235.6179 ● E-MAIL: kansas@api.org

Senate Natural Resources
February 26, 2009
Attachment #9