

Testimony of Lance Leis, Cowley County Appraiser
Before the House Taxation Committee
In support of House Bill No. 2701
March 3, 2016

Chairman Kleeb and Representatives of the House Taxation Committee

My name is Lance Leis and I come to testify in support of House Bill No. 2701 as a concerned tax payer, County Appraiser and Chair of KCAA Oil and Gas Committee. First as a tax payer of Sedgwick County the tax burden should be applied equally and consistently across all classes of property.

Oil and gas is considered personal property within the State of Kansas and KSA 79-301 and KSA 79-501 require that personal property shall be listed and appraised at its fair market value as of January 1 of each year.

I have served as the Cowley County Appraiser Since July 1st of 2013. I have also worked in Harper, Morris and Pratt Counties in their appraiser's offices. I have valued numerous oil and gas leases for taxation purposes. As a county appraiser we are provided a guide prescribed by Property Valuation Department each tax year. By KSA 79-1412a and KSA 79-1456 we as county appraisers are required to follow the policies, procedures, and guidelines issued by the Director of the Division of Property Valuation. PVD also holds an annual guide meeting that is open to industry and appraisers before releasing the guide for that tax year. The Oil price and the market adjustment factor for gas are within the Kansas guide for that tax year. Again the director before setting those values reaches out to the oil and gas industry and county appraisers allowing them to submit documentation to be considered in the prices. They also consider futures within the trade markets. When you compare the value that has been set for taxation purposes and the yearly average of oil prices over the last ten, the ratio falls within acceptable appraisal guidelines so I believe that process is working. Also within the guide are acceptable appraisal methodologies for valuing oil and gas properties for taxation purposes. Production data twelve to eighteen months after our January 1st appraisal date is not among these methodologies within the guide.

The first factor in valuing an oil property is to adequately estimate the production you feel the lease is capable of producing. While doing this the appraiser utilizes the rendition filed with his/her office on or before April 1st. On oil property the prior two years of production is required in monthly totals on the rendition. The appraiser uses the history of production to estimate the current year production. It may be necessary to annualize production within a certain time frame to eliminate flush production or down time. In the Kansas guide under the production heading within the oil section, it is stated it may be necessary to adjust the prior year production to reflect the lease production capability for the current valuation year. It goes on to say example may be annualizing six month or quarterly production, and considering the current year first quarter production. After the appraiser estimates the production for the current year a decline rate must be established. The oil and gas guide suggests using a thirty percent decline when a reasonable rate of decline cannot be established. Existing leases use a formula of 2014 production minus 2015 production divided by 2014 production or using a plotted decline curve from past years production history. The guide also states that a leases neighborhood decline can be applied when the leases are within the same reservoir. It is also noted that no production less than four to six months should be used to determine decline curve. The estimated gross reserve is calculated by taking the annual production amount multiplied by the guide prescribed price which equals the

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estimated income stream. You then multiply that times the present worth factor tied to the decline rate within the guide table the property falls into. If the lease is a new lease starting production after July 1st of the previous tax year the estimated gross reserve value is multiplied by a sixty percent factor to help eliminate flush production. This is provided by statute K.S.A. 79-331(b) and (c). The main purpose of the guide for oil and gas properties is to help maintain uniformity. You can find within the Kansas oil and gas guide it mentioned multiple times our appraisal date as of January 1st in which the property is being assessed.

It is very discouraging as the KCAA oil and gas committee chair to hear of cases across the state where production data up to eighteen months after our appraisal date is being used against counties. The Kansas Constitution requires the legislature to provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. We do not consider sales of residential homes after the January 1st appraisal date. Those sales go into our depreciation and models the following year. Why should this not be the same for oil and gas properties? The Kansas Supreme Court, Kansas Court of Appeals and the Kansas Oil and Gas Guide approve of the methodology of using first quarter production to help where needed in arriving at a market value for these types of properties. House Bill No. 2701 puts into place a hard date that would only allow data prior to that April 1st of the year in which the property is being assessed to be considered. In recent cases that have been appealed on oil and gas properties this post appraisal date data is the only data being used as evidence against the counties. This data was not available to either party at the time of valuation. It should also be noted that these appeals are expensive for both parties involved if they go beyond the informal local level appeal. Recently county appraisers from across the state have settled cases that they do not agree with. Their fear is the next level appeal where post appraisal date data is being allowed to help argue value. This data was not available at the time the appraisal was performed. Because of this "hind sight" decision, the county is then out the cost of the appeal, plus the loss of assessed valuation from the unfair ruling. We as county appraisers want to appraise property at its fair market value while abiding by the Constitution, tax laws, and statutes. Being able to achieve that at the lowest cost to the public and within a matter that provides the highest degree of public confidence in our integrity, efficiency, and fairness is number one goal.

It is my opinion that House Bill No. 2701 should become law to help create uniformity and equity with production data being used to establish market value as of our appraisal date of January 1st.

Lance Leis
Cowley County Appraiser

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