MAY/JUNE 2021

KANSAS INDEPENDENT OIL & GAS ASSOCIATION

KIOGA

THE VOICE OF THE KANSAS INDEPENDENT PETROLEUM INDUSTRY

WHY OIL & GAS TAX PROVISIONS ARE NOT SUBSIDIES

PAGE 20

CVR Refining is a growth-oriented, independent downstream energy company with crude oil refining, gathering and refined petroleum product marketing operations located in the Midwest.

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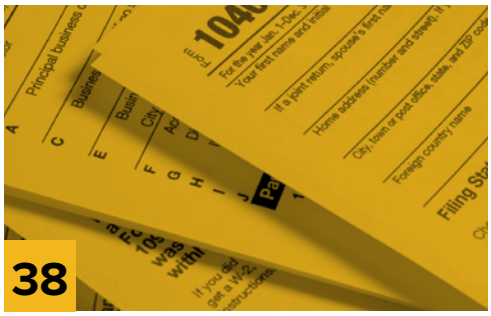

WHAT'S INSIDE

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DAVID BLEAKLEY
KIOGA CHAIRMAN

SUCCESS AND OPTIMISM SURROUND KIOGA'S BIG APRIL

Greetings KIOGA members! The arrival of Spring brought exciting news of reopenings throughout our country, and KIOGA had a very big month of April indeed! On several fronts, we saw the fruits of many KIOGA members' labor come to realization.

First, we saw the passage of the first set of completely Revised Bylaws in 68 years by the General Members on Tuesday, April 6th in a Special General Members meeting when the General Members unanimously voted to approve and adopt the Revised Bylaws which had been approved and recommended unanimously by the Board of Directors in March. Prior to this action, KIOGA had been using the same Bylaws since 1952 with a smattering of amendments over the years. The committees and people that worked on these Bylaws were very dedicated and committed to working through the details of 15 drafts before arriving at the final product. I cannot thank the following committees enough for the hours, days, months, and over a year of their time they put into hammering out the articles and sections of these new Bylaws. I would like to add a special thank you to Dr. Leonard Young, Professional Parliamentarian, for his guidance, patience, and expertise in helping us through this tedious process.

The Executive Committee Members: David Bleakley (KIOGA Chair), Alan Banta, Ed Nemnich, Charlie Wilson, Barry Hill, Jeff Bloomer, Scott Fraizer, Ken White, Jeff Kennedy, Andrea Krauss (Chair-Elect), Dan Schippers, and Ed Cross (KIOGA President as an Ex-Officio).

The Bylaws Committee Members: Jeff Kennedy (Bylaws Chair), Nick Hess, Charlie Wilson, Dr. Leonard Young (Parliamentarian), and David Bleakley (KIOGA Chair).

The Strategic Planning Committee Members: Jeff Kennedy (Chair), Jay Prudhomme, Jake Price, Nick Hess, Kurt Mai, Paul Simpson, Will Darrah, Mike Dixon, Bob Krehbiel, Barry Hill, Jeff Bloomer, Scott Fraizer, Ed Nemnich, Alan Banta, and David Bleakley (KIOGA Chair).

Outstanding work committees!

Second, we received word late on Friday, April 9th that Governor Kelly had signed HB 2022, The Abandoned Well Bill. I want to thank the Governor for signing this important piece of Legislation. This Bill was introduced by the Kansas Corporation Commission (KCC) and had wide support from KIOGA, EKOGA, and the Kansas Sierra Club. Our special thank you to **Kansas House Representative Troy Waymaster**, **Chair of the House Appropriation Committee** and **Kansas Senator Rick Billinger**, **Chair of the Senate Ways and Means Committee** for their leadership and wisdom in realizing the value of the passage of this Bill to the State of Kansas and its citizens. This bill passed through both floors of the House and Senate with unanimous votes on its way to the governor to be signed. Many industry people have worked tirelessly for decades (yes, decades) to find common ground with the KCC staff to finally arrive at a definition for "Responsible Party." We all know that no Bill is perfect, but this is a good Bill, and I want to thank the following KCC Conservation Division individuals **Ryan Hoffman, director, Jon Myer, attorney,** and **KCC Commissioner Dwight Keen** for their willingness to listen to the industry and find common ground to arrive at a Bill that is a Win-Win-Win—a win for the industry, a win for the KCC Conservation Division, and a win for the citizens of the State.

Well done to all!

Last, but not least, is the KIOGA Midyear meeting held in Garden City this year. Garden City was supposed to host the Midyear meeting last year before the COVID-19 pandemic forced its cancellation. We did not want Garden City to miss their turn to host the Midyear meeting, so we extended their date and rescheduled Garden City as the 2021 Midyear host city. The meeting was a great success and far beyond our expectations. Collectively, we could not be happier. A big thank you to Cecil O'Brate, Steve O'Brate, H.J. Swender, the American Warrior team, and the Palmer Manufacturing team for putting together a tremendous Midyear! Another big thank you to all the Sponsors, especially our platinum sponsor Merit Energy Company and the gold sponsors CVR Refining and IMA, Inc.,

the Tradeshow participants, and our members for attending this LIVE event. According to industry sources, this is the first meeting of its kind this year. The weather was not going to cooperate for golf or sporting clays, but that disappointment was filled by our exciting surprise Keynote Speaker for Thursday night's dinner, Governor Kristi Noem from South Dakota. Thank you to Cecil for making this happen to give KIOGA members and other guests a taste of straightforward, down-to-earth, practical talk about issues facing our country. Her words were very informative as were introductory speeches leading up to Governor Noem's keynote speech by Kansas House Speaker Ron Ryckman, Jr., Kansas Attorney General Derek Schmidt, and U.S. Senator Dr. Roger Marshall. The food, the car show, the trade show, the breakout sessions, the decorations, and of course the speakers were all great.

Thank you, Garden City.
We will be back!

One last thank you and recognition is for the Great Job that **Ed Cross** and **Holly McGinnis** have done this year with the office transition, adjusting to a new KIOGA structure and zoom webinars to mention a few, and Holly's first Midyear planning as our new Administrative Assistant was certainly a success.

It was a Big April indeed! With the outstanding turnout for the Midyear meeting this year, we are expecting a big turnout in August for the KIOGA Annual Convention in Wichita, so please register and book your rooms early for another exciting **LIVE** KIOGA event.

As always, I welcome your input and am always available to discuss ideas, concerns, or member's needs. My cell phone number is 620-365-9419.

The best,

David P. Bleakley
KIOGA Chairman

EDWARD CROSS
KIOGA PRESIDENT

PROTECTING OUR INDEPENDENCE

July is a special month for many Americans. Most of us will eagerly take a break from our busy summer schedules to once again celebrate Independence Day. There will be much fanfare with fireworks, parades, picnics, and other patriotic events celebrating our country's independence from Great Britain in 1776. But when the festivities have ended, only a few will have reflected upon the true meaning of independence and the role it has played in shaping our nation's character.

Our founding fathers made it clear in the Declaration of Independence that all men were entitled to certain unalienable rights. Among those rights are life, liberty, and the pursuit of happiness. It is easy to take for granted those rights and freedoms we share as Americans. However, it is important that we understand and appreciate the hard work and sacrifice that our forefathers made in order for us to enjoy the luxury of freedom. Freedom and independence are cornerstones in the foundation of our country's heritage. The independent ideology of the American people is a fundamental element of our society and a key to our nation's prosperity. We must protect that independence at all cost.

One important freedom we must protect is our free enterprise system. American business, and certainly the oil and gas industry, was founded upon the ideology of independence and free-market principles. Those principles allow business to be governed by the laws of supply and demand without government interference and excessive regulation. The dynamic free market has led to innovation and wealth creation, and has established an economic environment where hard work is rewarded.

But now, it seems free-market capitalism and independence is under attack. Three important tenets separate the U.S. from other nations around the world—Freedom, Rule of Law, and Energy. Today, we see all three of these important ideals under attack. Extreme environmental activists work to obstruct energy development and infrastructure projects, reducing our energy options under a false belief that oil and natural gas production and use are incompatible with environmental progress. Their vision is one of constrained energy choices, with less certainty and reliability, and with less assurance on affordable power.

President Biden has called for a restoration of the failed energy policies of the Obama-era. Biden's proposals are oblivious to the needs of low-income families who would be hurt the most by these misguided energy policies. President Biden's plans are out-of-touch with working people and the economy.

Ideological opposition to fossil fuels is an anti-human stance that views ordinary people not as problem-solving sources of ingenuity, but only as mouths to feed producing environmental damage.

The U.S. leads the world in reduction of carbon emissions emitting 12% fewer energy-related carbon emissions in 2018 than 2005. A carbon tax would not make a difference to global climate but would result in lower standards of living and less opportunity. We should use our energy abundance to lift people up, which is a different philosophy than a zero-emissions world.

The oil and natural gas industry has proven that over the long-term, it is possible to lead in energy production and in environmental stewardship. Those are the facts.

Contrary to claims from extreme environmental activists, cutting U.S. oil and natural gas production would not magically reduce world energy demand. But it could raise costs significantly for American families and manufacturers, profoundly damage the U.S. economy, diminish our geopolitical influence and severely weaken our energy security. That's where extreme environmental activists strategies lead, and it is not a path most Americans want to take.

We should set aside the acrimony and division that has marked too much of past national energy policy discussions and work together as one nation on a positive forward-looking energy future based on the understanding that our nation's best energy future can only be achieved through a true all-of-the-above energy strategy.

In his 1946 Independence Day speech, John F. Kennedy said, "Eternal vigilance is the price of liberty." Those words were never so true. Being mindful of the erosion of our independence and free-market system by extreme environmental activist strategies cannot be over emphasized. We must, now more than ever, remain steadfast in our resolve to protect and preserve the precious independence that has molded our nation's character.

Edward P. Cross

KIOGA President

ANDREA KRAUSS
JOHN O. FARMER, INC.

KRAUSS HONORED IN 2021 CLASS OF

50 KANSANS YOU SHOULD KNOW

Andrea Krauss, Secretary/Treasurer of John O. Farmer, Inc. and KIOGA Chair-Elect, was honored in March by being selected by *Ingram's Magazine* for the 2021 class of 50 Kansans You Should Know. *Ingram's*, a Kansas City business magazine, selected 50 Kansans they identified as high achievers, critical thinkers and visionaries who understand and embrace the values they consider typically Kansan and have made their mark on the state. The class of 2021 was highlighted in the March 2021 issue of *Ingram's Magazine.*

Andrea Krug Krauss is a graduate of Kansas State University with Bachelor of Science degrees in accounting and agricultural economics and a Master of Business Administration. In addition, she is a certified public accountant.

Since 2003, Andrea has been Secretary/Treasurer of John O. Farmer, Inc., a producer with operations throughout central and western Kansas. She has been an active member of the Kansas Independent Oil & Gas Association for 17 years and has been on the Board of Directors since 2013, serving as Chairman of the Federal and State Tax Committee and as a member of the Ad Valorem Tax Committee. She currently also serves on the Executive Committee as the Finance Committee Chairman. Andrea was the 2015 recipient of the KIOGA President's Leadership Award.

Andrea also currently serves as Chairman of the Board of Trustees of the Sunflower Foundation, having been appointed by Attorney General Derek Schmidt in 2013. Additionally, she is on the boards of Russell Development, Inc., Russell PRIDE, Inc. and the Gamma Phi Beta House Corporation at Kansas State University. She also serves on the Russell Co. 4-H Program Development Committee and the St. John Lutheran Church Council.

Andrea has previously been elected to and served on the USD 407 School Board and the Russell County Hospital Board. Andrea has also served as Chairman of the Russell Area Chamber of Commerce and is a Past District Governor of Rotary District 5670/5680.

Andrea was a member of the 2019 class of Leadership Kansas. She was a 2019 recipient of the Rotary District 5680 Service Above Self Award, and in 2016, was the recipient of the Russell Area Chamber of Commerce Community Service Award.

She lives on her family's farm southwest of Russell, along with her husband, Tom, who farms and ranches with her father. Her family raises registered Hereford and Angus cattle and produces wheat and grain sorghum. Andrea and Tom have one daughter, Katherine, who is a junior at Kansas State University.

KIOGA congratulates Andrea for this well-deserved recognition.

KIOGA 2021 ANNUAL CONVENTION

HONORING TRADITION. BUILDING THE FUTURE.

In this challenging year, filled with anticipation over uncertain action towards regulations, legislation and uncertainty about oil prices, KIOGA invites you to attend our 2021 Annual convention as we proudly enter our 84th year focusing on Honoring Tradition and Building the Future. Our convention will focus on helping industry with value reconstruction as we look at recovery, stability, and growth. Join us as we come together as an industry to discuss the ongoing challenges we face in Topeka, Washington, and across Kansas and the nation to prepare for brighter days ahead. The KIOGA 2021 Annual Convention will feature enlightening perspectives and foster inspired conversation. Set your expectations high and join us as we move forward together to engage our energy future!

August 15–17, 2021, Wichita, Kansas

Register Today!
Get the latest details including registration incentives, confirmed speakers, networking events, and more at www.kioga.org or call at 785-232-7772!

KIOGA 2021 MIDYEAR MEETING

A RESOUNDING SUCCESS!

SOUTH DAKOTA GOVERNOR KRISTI NOEM HIGHLIGHTS THE GARDEN CITY EVENT

Oil and gas producers and service company representatives converged on Garden City for the 2021 KIOGA Midyear Meeting on April 14th–16th. The meeting, held at the Clarion Inn & Convention Center and American Warrior, Inc. in Garden City, Kansas, blended informational seminars with a car show and tours of the Palmer Manufacturing. The highlight of the event was the keynote address from South Dakota Governor Kristi Noem.

South Dakota Governor Kristi Noem

The meeting attracted top industry executives, industry professionals, legislators, and government officials from across Kansas. The Midyear Meeting Committee consisting of Cecil O'Brate, Steve O'Brate, and H.J. Swender of American Warrior, Inc. organized an outstanding meeting and the hard work and tireless effort of Holly McGinnis and Brenda Buffum, along with the staff of the Clarion Inn made the event proceed without a hitch.

The meeting surpassed our highest expectations attracting 348 participants and 28 exhibitors. Value-added seminars were well-attended and provided business development information and thought-provoking ideas.

The event kicked off on April 14th with food, drinks, and Cruise in Car Show. The car show brought over 40 antique cars and trucks.

Informational seminars were well-attended. Eugene Holubnyak of the Kansas Geological Survey and Chris Steincamp of the law firm Depew, Gillen, Rathbun, & McInteer LC provided a very informative presentation on Challenges and Opportunities for Carbon Capture and EOR in Kansas. In addition Adam Beren (President of Berexco LLC), David Bleakley (Executive Vice President of Colt Energy, Inc.), and Jake Price (General Counsel for American Warrior, Inc.) provided an excellent panel discussion of the 2021 Kansas Oil & Gas Outlook.

Cruise in Car Show

The highlight of the KIOGA 2021 Midyear meeting was the keynote address from South Dakota Governor Kristi Noem. The April 15th dinner event at American Warrior, Inc. was exceptional. Attendees heard from Kansas Attorney General Derek Schmidt, Kansas House of Representatives Speaker Ron Ryckman, Jr. and U.S. Senator Roger Marshall before hearing Governor Noem provide a phenomenal address on the importance of freedom and values.

CONGRATULATIONS ON KIOGA BEING THE TRAILBLAZER INTO A POST-PANDEMIC WORLD.

- DEL TORKELSON, *AMERICAN OIL & GAS REPORTER MAGAZINE*

THE AMERICAN OIL & GAS REPORTER

Governor Noem at KIOGA

Several legislators and government officials participated in the convention, including U.S. Senator Dr. Roger Marshall; Kansas Attorney General Derek Schmidt; Kansas State Senators Rick Billinger (R-Goodland), Mark Steffen (R-Hutchinson), John Doll (R-Garden City), Alicia Straub (R-Ellinwood), Ron Ryckman, Sr. (R-Meade); Kansas House of Representatives Speaker Ron Ryckman, Jr. (R-Olathe); Kansas State Representatives Russ Jennings (R-Lakin), Ken Rahjes (R-Agra), Tatum Lee-Hahn (R-Ness City), Steve Johnson (R-Assaria), and Jim Minnix (R-Scott City). In addition, Kansas Corporation Commission (KCC) Commissioner Dwight Keen and KCC Oil & Gas Conservation Division Director Ryan Hoffman participated in the event.

State Representative Steve Johnson (R-Assaria) used the occasion to make his initial announcement for his bid for Kansas State Treasurer.

Meeting participants were updated on the latest federal and state legislative and regulatory issues affecting the independent oil and gas industry during the KIOGA Board Meeting and General Membership Meeting. During the board/general membership meeting, KIOGA Chairman David Bleakley and KIOGA Secretary Jeff Bloomer signed the updated KIOGA Bylaws approved by KIOGA membership on April 6th. KIOGA Chairman David Bleakley, the KIOGA executive committee, Bylaws Committee, Strategic Planning Committee, Dr. Leonard Young (professional parliamentarian), and others worked many months through challenging issues to develop a very good set of Bylaws. KIOGA Chairman David Bleakley led the charge and persevered through challenges. True leaders see the need, envision a plan, and empower stakeholders for action and David exemplified great leadership in getting these new Bylaws established.

The Midyear Meeting was rounded out on April 16th with an "Energy Roundtable" discussion with U.S. Senator Dr. Roger Marshall. Senator Marshall engaged attendees with discussion of ongoing federal energy issues and challenges. Due to inclement weather, the golf tournament and sporting clays events scheduled for April 16th were canceled.

KIOGA sincerely thanks our members, sponsors, exhibitors, and attendees for making the 2021 KIOGA Midyear Meeting a resounding success!

KIOGA Secretary Jeff Bloomer and KIOGA Chairman David Bleakley sign KIOGA's new Bylaws

Senator Marshall at KIOGA

THANK YOU
KIOGA 2021 MIDYEAR MEETING SPONSORS

PLATINUM SPONSOR—$5,000+
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Berexco, LLC

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Southwind Drilling
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Paragon Geophysical Services, Inc.

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John O. Farmer, Inc.
Discovery Drilling Co.
K. & N. Petroleum, Inc.
MV Purchasing
Sunrise Oilfield Supply
Mull Drilling Company, Inc.
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KANSAS

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ROYALTY PAYMENT **ISSUES EMERGE**

In July of 2015, the Kansas Supreme Court ruled on the Fawcett v. Oil Producers, Inc. of Kansas case. The case involved the royalty clause of an oil and gas lease that provides for a royalty payment of the proceeds from the sale of gas at the well. An effort to reanimate the case made its way back to the Kansas Supreme Court on March 30th.

The controversy arises because the lessee-operator sells its raw natural gas at the wellhead to third parties, who in turn process the gas before it enters the interstate pipeline system. The price an operator is paid—and upon which royalties have been calculated—is based on a formula that starts with the price those third parties receive for the processed gas (or a published index price) then deducts certain costs incurred or adjustments made. The class argued those subtracted costs and adjustments are the operator's sole responsibility.

In 2015, the district court granted summary judgment to the class. The Court of Appeals affirmed. KIOGA filed an amicus brief in the 2015 case that was contrary to the district court and Court of Appeals judgments. On July 2nd, the Kansas Supreme Court reversed the judgment of the Court of Appeals and reversed the judgment of the district court to this issue and remanded the case to the district court. The Law Office of Morris Laing defended Oil Producers, Inc. of Kansas in the case in 2015 and David Nickel, then of Depew, Gillen, Rathbun, & McInteer, LC prepared and submitted the amicus brief on behalf of KIOGA.

The 2015 Kansas Supreme Court opinion was an evenly-reasoned opinion. The plaintiffs' attorney (Rex Sharp) has now changed his theory. On remand, he argues that the implied duty to market may be satisfied by a wellhead sale, but the implied obligation of good faith and fair dealing is not. Sharp is attempting to start over seeking the same damages based upon this new theory. The District Court rejected this theory, and the Court of Appeals affirmed the District Court also rejecting that theory. Now, however, the Kansas Supreme Court has granted review of the case.

In seeking review, the plaintiffs directly asked the Kansas Supreme Court to overrule its first Fawcett decision. It is important for all natural gas operators in Kansas that the Fawcett decision be preserved and the clear holding that enforced the leases permitting wellhead or on the lease sales be continued. Jeff Kennedy of the Martin Pringle Law Firm prepared and submitted an amicus brief on behalf of KIOGA supporting the Kansas Supreme Court's 2015 opinion. K

VOICE OF THE KANSAS INDEPENDENT PETROLEUM INDUSTRY

YOUR KIOGA MEMBERSHIP MAKES A DIFFERENCE

FOUNDED IN 1937, the Kansas Independent Oil & Gas Association (KIOGA) is a nonprofit member organization representing oil and gas producers in Kansas, as well as allied service and supply companies.

KIOGA represents the interests of the oil and gas industry at the local, state, and federal levels of government. KIOGA is committed to ensuring that tomorrow's economic climate will be one in which our members can grow and prosper. Our active presence before the Kansas Legislature, U.S. Congress, and state and federal regulatory agencies means that the concerns of independents like you are foremost in the minds of legislators and government officials. Our cooperative partnerships and networking with other state associations, the Domestic Energy Producers Alliance (DEPA), Independent Petroleum Association of America (IPAA), U.S. Global Leadership Coalition (USGLC), National Stripper Well Association (NSWA), Interstate Oil & Gas Compact Commission (IOGCC), Council for a Secure America (CSA), and the Energy Education Partnership, Inc. (EEPI) means the concerns of Kansas Independent oil and gas producers are heard in Topeka as well as Washington.

When addressing the benefits of KIOGA membership, we can begin with our motto **"KIOGA—Voice of the Kansas Independent Petroleum Industry."** KIOGA is an everyday, frontline representative of the Kansas independent oil and natural gas industry.

Membership in KIOGA gives you:

- A United Voice in Topeka and Washington
  - Few independent businesses have the budget, time, and expertise to individually tackle issues at the federal, state, and local levels of government as well as regulatory issues.
- The Power of Unity
  - KIOGA achieves results through a strong coalition of independent businesses with a common purpose and goal optimizing our effectiveness on critical issues.
- Access to Legislative and Business Information
  - Whether you need to know how to comply with the latest laws and regulations or need legislative updates on pending issues, KIOGA provides you with timely information that can affect your company's profit and growth opportunities.
  - *KIOGA Newsletter* published six times a year that covers government relations issues and other industry topics important to you.
  - KIOGA Website at www.kioga.org for industry information and online communication capabilities.
  - KIOGA Express is an email information service that keeps members abreast of ongoing and breaking oil and natural gas industry news.
  - *The American Oil & Gas Reporter*, a fast-paced monthly magazine that covers the industry from A to Z.
  - KIOGA President Reports and KIOGA Federal & State Legislative Reports keep members current with federal and state legislative, regulatory, and policy issues.
  - Kansas Oil & Gas Industry Strategic Analysis is an annual comprehensive report that provides the latest information on the economic impact of the Kansas oil and gas industry, including statistics on Kansas oil and gas industry activity, taxes, production, issues, challenges, and opportunities.
  - KIOGA Annual Federal & State Legislative/Regulatory Agenda.
- A Way to Build Public Understanding
  - Today, public perception continues to be a major challenge facing the domestic oil and gas industry. Join our efforts to fight the negative public image that has made voters and policymakers unsympathetic to major problems confronting independent oil and gas producers.

Our industry faces many challenges. Thanks to KIOGA members, voters and policymakers in Kansas are learning that the oil and gas industry is working for them, the economy, and the environment.

KIOGA has developed a ***KIOGA Membership Resource Guide*** and ***KIOGA Membership Brochures*** that provide a concise summary of the benefits of KIOGA membership highlighting KIOGA's advocacy priorities, meetings, business development events, and other value-added activities. These new membership marketing materials are available to all members who would like to use them in mailings to clients or distribution. You can find them on the KIOGA website at www.kioga.org or contact the KIOGA office at 785-232-7772 or holly@kioga.org for copies.

If you are not a member of KIOGA, we encourage you to join. Through KIOGA, you can play a significant role in our efforts to win the political battles in Topeka and Washington and the public relations battle in the court of public opinion. Be a part of the solution. Join us today! Your membership makes a difference and is vital if we are to maintain our status as the "Voice of the Kansas Independent Petroleum Industry". K

KIOGA

THE VOICE OF THE KANSAS INDEPENDENT PETROLEUM INDUSTRY

MEMBERSHIP APPLICATION

THANK YOU FOR YOUR COMMITMENT TO KIOGA.

Please indicate your desired membership level and return this form, along with payment to:
800 SW Jackson Street, Suite #1400, Topeka, Kansas 66612-1216.
You may also join online at www.kioga.org.

Company: _____

Name: _____ Category: _____ Operator #: _____

Address: _____

City: _____ State: _____ Zip: _____ County: _____

Office Phone: _____ Cell Phone: _____

Email: _____ Website: _____

How do you prefer to receive communication from KIOGA? _____ Email _____ Mail

_____ Enroll me as a Producer Member and bill me accordingly.
(If you are an operator in Kansas, we ask you to consider joining as a producer member. Contact KIOGA for more details.)

_____ Enroll me as a Regular Member at $300.00

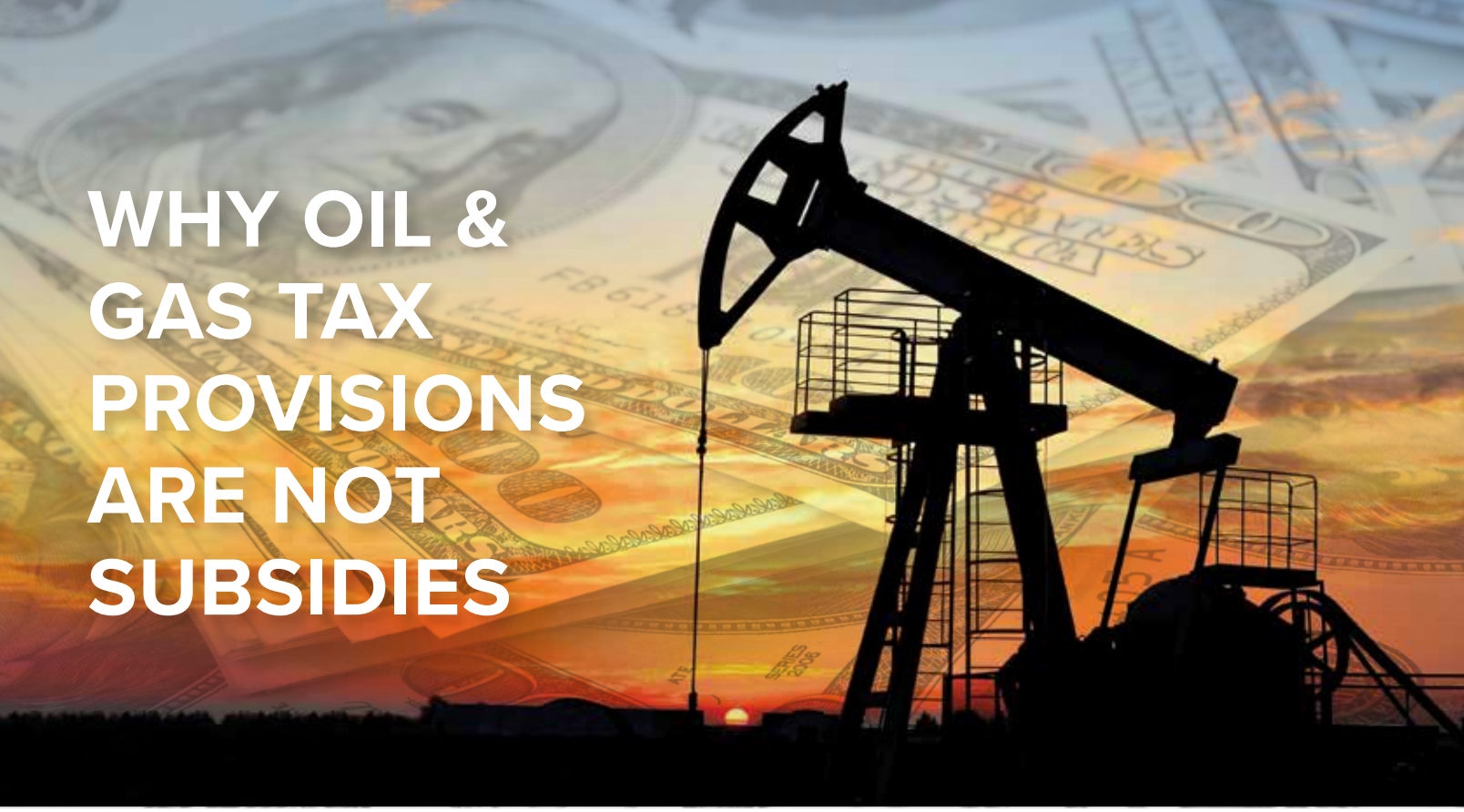
For my annual KIOGA dues investment of $ _____ ,

Please charge my: _____ Mastercard _____ VISA _____ Discover _____ Amex

Account Number: _____ Exp. Date: _____

_____ Find my check enclosed

WHY OIL & GAS TAX PROVISIONS ARE NOT SUBSIDIES



Editorial Written by KIOGA President Edward Cross

Contrary to what some in politics and the media have said, the oil and natural gas industry currently enjoys no unique tax credits or deductions. Since its inception, the U.S. tax code has allowed corporate tax payers the ability to recover costs and to be taxed only on net income. These cost recovery mechanisms or tax provisions, also known in policy circles as "tax expenditures", should in no way be confused with "subsidy", i.e., direct government spending.

Cost recovery measures, like the percentage depletion deduction and the intangible drilling costs (IDCs) deduction, are neither subsidies nor loopholes but tax provisions critical for American oil and natural gas producers to sustain capital availability and formation. By improving cash flow, these cost recovery measures allow the small businesses that make up the American oil and natural gas industry to invest more money into creating jobs and producing the energy that our economy needs.

Percentage Depletion—The percentage depletion deduction is a cost recovery method that allows taxpayers to recover their lease investment in a mineral interest through a percentage of gross income from a well. Percentage depletion is available to all extractive industries (gold, iron, etc.) in the U.S. and is in no way unique to the oil and gas industry. In fact, this depletion method is limited for the small businesses that make up the independent oil and gas industry and not available at all for major integrated companies.

Intangible Drilling Costs (IDCs)—The IDC deduction is a cost-recovery mechanism that allows for the deduction of drilling costs, such as labor costs, associated with exploration activities. IDC is a deduction, not a credit or government spending outlay and is no different than the policy behind the treatment of R&D cost deduction available to other industries. The IDC deduction is utilized by independent oil and gas producers most of the time and is only available to the major integrated companies on a reduced basis.

Many policymakers need more facts to clear up misunderstandings about "subsidies" and "tax provisions". Percentage depletion and IDCs are cost recovery mechanisms similar to those used by other industries. These tax provisions are critical for independent oil and gas producers to sustain capital availability and formation. Market-created jobs, rather than those directly created and supported by the government, are a key benefit of increased activity by the small businesses that make up the American independent oil and natural gas industry. These jobs are stable, high-paying, and often in rural areas of the country that are struggling for

opportunity. These tax provisions are neither "loopholes" nor "subsidies" but rather methods very similar to real estate depreciation in accounting for capital expenditures.

The oil and natural gas industry has been hit hard over the last 15-plus months by demand destruction created by the COVID-19 pandemic AND a concurrent global crude oil supply shock. For states where independent oil and natural gas producers are responsible for the majority of production, repealing percentage depletion and IDCs could result in oil and natural gas production falling an additional 60% and industry workforce falling an additional 33%.

Not only are most Americans skeptical about oil and gas industry tax hikes, but the increases simply would not be effective. We could raise far more revenue another way without putting additional burdens on the American people or on the economy.

The solution is to allow American oil and natural gas companies to produce at home more of the oil and natural gas we know our nation is demanding. By encouraging more development of our nation's ample oil and natural gas resources rather than relying so much on imports, we could deliver substantially more revenue to the government in the form of income taxes and royalties.

As Americans continue to face a fragile economy, the American oil and natural gas industry has the power to help. Tax policy needs to move in the direction of strengthening businesses of all sizes, including small businesses, putting our economy on a track for growth. Tax policies must recognize successful tax policies currently in place and look for changes that support growth and continued investment in the U.S.

That's the kind of bipartisan solution that's needed in Washington today!

It Would be Hard to Make This Kind of Stuff Up

DEMOCRATIC LAWMAKERS REINTRODUCE THE GREEN NEW DEAL

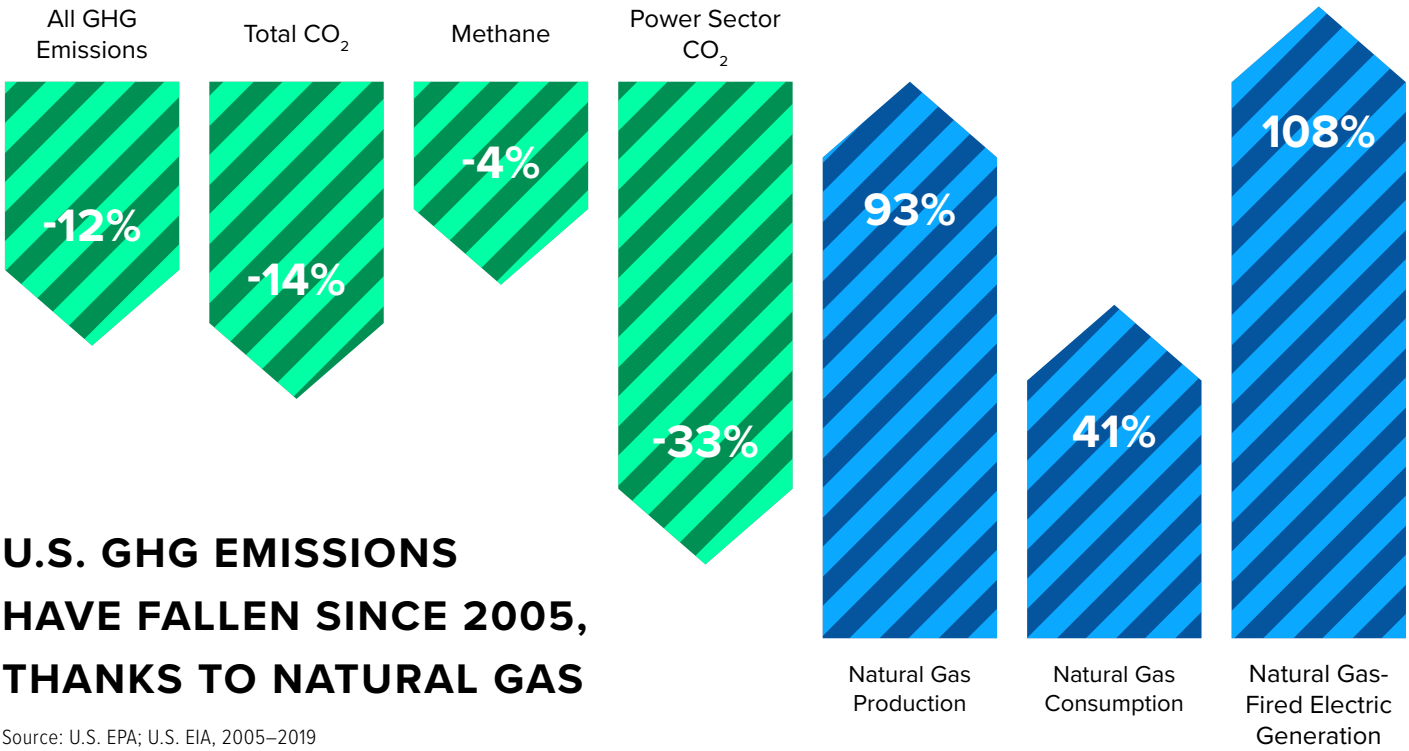
On April 20th, liberal lawmakers, led by U.S. Representative Alexandria Ocasio-Cortez (D-NY) and Senator Ed Markey (D-MA), revived their push for a Green New Deal (GND)—a nonbinding resolution. Ocasio-Cortez and Markey originally introduced the plan in 2019. This time they expanded their proposal to also address economic justice issues.

This is not the first time liberal lawmakers have advanced an anti-energy agenda. The GND promises to repeat the Obama-Biden legacy of failed energy policy, but this time the GND proposes to spend more taxpayer money on economic justice issues like public housing and more.

A swing and a miss—U.S. Representative Alexandria Ocasio-Cortez (D-NY) said, "The Green New Deal also importantly recognizes the systemic cause of climate change, because while climate change is a planetary crisis, it is not caused by an environmental or random … uh … it does not have a random or environmental genesis. It's not just human-caused—it's societally caused."

Facts debunk GND ideas. Many scientists and policymakers from both parties have discredited the ideas proposed in the GND. Climate science conventional wisdom is flawed, relies on alarmist scenarios, and exaggerates economic impacts.

The whole idea behind the GND is to take fossil fuels away from the people. The bureaucrats are nowhere near having a replacement for fossil fuels, nor will they ever be until they embrace nuclear energy. Sooner or later, people will figure this out.



U.S. GHG EMISSIONS HAVE FALLEN SINCE 2005, THANKS TO NATURAL GAS

Source: U.S. EPA; U.S. EIA, 2005–2019

If the goal is really to reduce emissions, it's worth noting that we are already doing a good job of achieving that goal. The U.S. decreased energy-related CO2 emissions in 2019 by 140 million tonnes. That's more than any other country in 2019! Since 2005, U.S. greenhouse gas (GHG) emissions have fallen by 12%, total CO2 emissions have fallen by 14%, methane emissions have fallen 4%, and power sector CO2 emissions have fallen 33%. Over the same period, natural gas production was up 93%, natural gas consumption was up 41%, and natural gas-fired electric generation was up 108%.

Inexpensive energy is necessary for economic advancement by the world's poor and for recovery from the staggering economic effects of COVID-19. Ideological opposition to fossil fuels is an anti-human stance that views ordinary people not as problem-solving sources of ingenuity, but as mouths to feed, producing environmental damage.

Americans who observed stay-at-home orders, or quarantined themselves at home this year, need to look around and think about what their lives would be like if they no longer had ample and affordable power, or natural gas to cook their meals. Because, make no mistake about it, that is what the GND proposes.

What the new 2021 version of the GND really does, is concentrate more power in the hands of the federal government and central planners, which at the end of the day, is what those who support the GND want.

The GND is the far-left's wish list dressed up like serious policy. Bad ideas are nothing new. Proposals come and go. But the philosophies and ideas behind this textbook socialism are not just foolish—they're dangerous.

The non-binding GND proposal faces stiff headwinds in gaining consensus even among Democrats, but allows the liberal flank of the Democratic Party to stake its position. Congressional Republicans labeled the GND as a 'socialist manifesto'.

KIOGA President Edward Cross was interviewed by the Paris, France-based Radio France Internationale (RFI) on April 20th when he explained how the GND and Biden's climate action policies are out-of-touch with working people and the economy. The interview was broadcast on RFI radio stations in Paris, France.

THE CHALLENGE OF FEDERAL ENERGY POLICY

OIL & GAS PROVISIONS REMAIN A TARGET

KIOGA continues to spearhead many oil and gas industry efforts to address several challenges including energy policy, energy tax, emissions, and more. KIOGA President Edward Cross participated in several Zoom meetings and calls in April with key federal policymakers to discuss issues important to the Kansas independent oil and gas industry, including tax issues (percentage depletion allowance and expensing of IDCs), methane emissions, hydraulic Fracturing, Green New Deal, and other federal energy policy issues. Cross met with Senator Joe Manchin (D-WV), Senator Jon Tester (D-MT), Senator Roger Marshall (R-KS), House Minority Whip Steve Scalise (R-LA), Representative Ron Estes (R-KS), Representative Lauren Boebert (R-CO), Representative Tracey Mann (R-KS), and Representative Jake LaTurner (R-KS).

Clean Future Act—In early March, U.S. House Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) introduced the Clean Future Act (CFA). While much of this bill relates to setting new clean energy standards and providing funding, it includes a number of specific oil and natural gas production related regulatory provisions, many of which are unrelated to climate emissions. They restructure laws like the Safe Drinking Water Act and the Resource Conservation and Recovery Act.

The provisions of the measure are replications of provisions in legislation separately introduced in prior Congresses. Several are based on a debunked 2007 Natural Resource Defense Council (NRDC) Drilling Down document. KIOGA has been at the forefront of advocating on these issues for many years and continues to fight against the misguided policies outlined in this legislation.

Some of the provisions in the proposal include:

Sec. 621. ENHANCING UNDERGROUND INJECTION CONTROLS FOR ENHANCED OIL RECOVERY—Creates a new Safe Drinking Water Act underground injection category (Class VII) for enhanced oil recovery wells using carbon dioxide thereby removing these wells from Class II regulations and setting carbon dioxide sequestration targets for enhanced oil recovery wells.

Sec. 623. SAFE HYDRATION IS AN AMERICAN RIGHT IN ENERGY DEVELOPMENT—Expands the Safe Drinking Water Act to include direct regulation of hydraulic fracturing and requiring mandatory, ongoing testing of nearby underground sources of drinking water.

Sec. 624. ADDRESSING HAZARDOUS AIR POLLUTION FROM OIL AND GAS SOURCES—Repeals the aggregation prohibition in the Clean Air Act hazardous pollutants title for oil and natural gas wells and mandates that hydrogen sulfide be listed as a hazardous air pollutant.

Sec. 625. CLOSING LOOPHOLES AND ENDING ARBITRARY AND NEEDLESS EVASION OF REGULATIONS—Repeals the current exclusion of drilling fluids

and produced water from the hazardous waste subtitle (Subtitle C) of the Resource Conservation and Recovery Act, mandates that the Environmental Protection Agency (EPA) act to subject these wastes to coverage under the subtitle and requires the EPA to develop requirements for oil and natural gas production wastes that are not hazardous to be subject to new federal requirements as nonhazardous wastes (Subtitle D).

Sec. 701. CONTROLLING METHANE EMISSIONS FROM THE OIL AND NATURAL GAS SECTOR—Targets methane emissions from oil and natural gas facilities for 65% reductions by 2025 and 90% reductions by 2030 (from 2012 levels). The regulations must apply to new and existing facilities under stricter timetables than current law.

Federal Orphan Well Plugging Bill— The Interstate Oil & Gas Compact Commission (IOGCC) is supporting a federal orphan well stimulus bill sponsored by Senator Lujan (D-NM) and Senator Cramer (R-ND) that was filed in late March. This bill is similar to the measure introduced in the U.S. House Natural Resources Committee last October. KIOGA President Edward Cross told the IOGCC, Governor Kelly, Kansas delegation, and several other federal policymakers that the Kansas oil and gas industry already pay into a state abandoned well plugging fund and that we are concerned that federal funds allocated to plug abandoned/orphaned wells could cause the state government to see these federal funds as a surrogate for the fee funds paid by Kansas oil and gas operators and then sweep the fee funds to use for something else. In essence, federal funds allocated to plug orphan/abandoned wells could risk the fee funds the Kansas oil and gas industry have been paying for decades.

KIOGA Federal Advocacy Strategy Going Forward

KIOGA will continue to work with key congressional members going forward. KIOGA President Edward Cross is an executive board member of the Domestic Energy Producers Alliance (DEPA), advisory board member of the U.S. Global Leadership Coalition (USGLC), board member of the Council for a Secure America (CSA), committee member on several committees of the Independent Petroleum Association of America (IPAA), and works closely with the National Stripper Well Association of America (NSWA).

The relationships KIOGA has built over the last 10-plus years with several key Democrat and Republican federal policymakers (over 350) puts us in a unique position to educate federal policymakers about the importance of prioritizing critical oil and gas energy policies. We will diligently work throughout the remainder of 2021 to consolidate relationships built over the last 10-plus years to address federal legislative challenges and regulatory reform.

KIOGA is prepared and is fully engaged in federal advocacy. We take our concerns directly to congressional policymakers. Frequent contact and meetings are crucial to keep our interests protected. We assist several U.S. Senate and House members with credible information to defend the small businesses that make up the Kansas oil and gas industry against efforts to eliminate critical oil and gas tax provisions, impose federal hydraulic fracturing oversight, address Endangered Species Act abuses, impose emissions regulations, and more.

Going forward, we will be working hard with Republicans and Democrats to maintain our relationships. In preparation, KIOGA has updated many of our fact sheets and reference material on all the issues impacting Kansas oil and gas producers. We provide discussion and copies of the reference material to each of the policymakers and/or their staff.

KIOGA is recognized and plays a vital role in providing credible information to key Democrat and Republican policymakers and regulatory officials. KIOGA has established a forward-looking presence with key federal Republican and Democrat policymakers and regulatory officials, and we will remain focused.

Kansas 2021 Legislative Session Drawing to a Close

PRODUCTIVE SESSION FOR OIL & GAS INDUSTRY

The 2021 Kansas Legislative Session kicked off on January 11th and gaveled out for first adjournment on April 9th. Legislators were back at the State Capitol for the veto session beginning on May 3rd. KIOGA prepared for the 2021 Kansas Legislative Session and has been actively engaged. Many KIOGA members have participated in legislative and regulatory meetings focusing on issues important to the independent oil and gas industry. KIOGA has also been diligently monitoring committee hearings to cover interests of the Kansas independent oil and gas industry.

KIOGA State Advocacy Strategy

The 2021 Kansas Legislative Session saw many tough policy debates on issues critical for the Kansas oil and gas industry. That is why every legislative session KIOGA prepares a legislative/regulatory/communication agenda. The core focus of KIOGA's work at the Statehouse during the 2021 legislative session has been on protecting the Kansas oil and gas industry from increased costs while also defending industry gains made in recent years. The KIOGA legislative agenda for the 2021 legislative session is one in which we work to minimize legislative assaults on the independent oil and gas industry and optimize legislative targets of opportunity.

KIOGA Reference Material—KIOGA is proactive and prepared in advance of the 2021 Kansas Legislative Session by developing and updating several white papers, fact sheets, brochures, and other informational pieces in advance of the session. These include:

- Kansas Oil & Gas Industry Strategic Analysis (January 2021)—a comprehensive report that provides the latest information on the economic impact of the Kansas oil and gas industry including statistics on Kansas oil and gas industry activity, taxes, production, issues, challenges, and opportunities
- State of the Oil & Gas Industry—Dynamic Challenges Facing Kansas Oil & Gas Industry (February 2021)—a white paper that summarizes America's energy picture today and the challenges and opportunities faced by the small businesses that make up the Kansas oil and gas industry
- Hydraulic Fracturing—Regulatory & Policy Considerations (January 2021)
- Hydraulic Fracturing & Drinking Water Contamination (January 2021)
- Climate Issues (January 2021)
- Facts About Induced Seismicity (January 2021)
- Seismic Activity in Kansas (January 2021)
- Induced Seismicity & Injection Wells in Kansas (January 2021)
- And More

KIOGA shared these white papers, fact sheets, reports, brochures, and other informational pieces with key state legislators. The reference material was also shared with the Kansas Congressional delegation and other key federal policymakers. Many state and federal policymakers have expressed their gratitude for factual scientific-based information. All of the reference material can be found on the KIOGA website at www.kioga.org.

Meetings with Key Legislators—KIOGA President Edward Cross met with House Speaker Ron Ryckman (R-Olathe), Senate President Ty Masterson (R-Andover), House Minority Leader Tom Sawyer (D-Wichita), House Speaker Pro Tem Blaine Finch (R-Ottawa), House Majority Leader Dan Hawkins (R-Wichita), and Senate Vice President Rick Wilborn (R-McPherson) throughout the session. In addition, Cross met with the Chairs of the House Energy Committee, House Appropriations Committee, Senate Utilities Committee, Senate Ways & Means Committee, Senate Agriculture & Natural Resources Committee, and Senate Insurance & Financial Institutions Committee to discuss energy policy, electric rates, abandoned wells, and more.

State Legislative Actions

KIOGA was busy during the 2021 Kansas Legislative Session. KIOGA made several presentations before key legislative committees on the "State of the Oil & Gas Industry", testified before committees on measures impacting the oil and gas industry, and engaged in several informal discussions with legislators and key regulatory officials on issues important for the Kansas oil and gas industry. KIOGA tracked 17 issues of interest to the independent oil and gas industry and kept membership updated through five KIOGA Federal & State Legislative Reports, six KIOGA President Reports, five KIOGA Express, and two KIOGA Newsletters.

KIOGA Presentations to Key Legislative Committees—KIOGA President Edward Cross was invited and made informational presentations on the state of the Kansas oil and gas industry to two legislative committees. On January 13th, Cross made the presentation before the Senate Utilities Committee. He also made the presentation before the House Energy Committee on February 2nd, 2021. The presentations provided a summary of America's energy picture today, the state of the Kansas oil and gas industry, and the challenges and opportunities facing the small businesses that make up the Kansas independent oil and gas industry. Following the presentations, Cross was interviewed by the *Topeka Capital-Journal* and Kansas Public Radio. Several legislators expressed gratitude for the detailed information presented in the presentations and reference material. In addition, several state agencies asked for copies of the white papers and reports developed for the presentations. These white papers and reports were shared with the The Kansas Department of Health & Environment (KDHE), Kansas Corporation Commission (KCC), Kansas Department of Revenue, Kansas Water Office, and Governor Kelly's Office.


Derek Schmidt

Attorney General Schmidt & House/Senate Republican Leaders Advance Resolution on Agency Rules & Regulations—On February 23rd, Kansas Attorney General Derek Schmidt and Republican leaders of the House and Senate opened fire on executive agency rules and regulations that they asserted represent a "fourth branch" of government. They propose offering a constitutional amendment to voters to allow lawmakers to suspend or repeal rules and regulations enacted by state agencies that have the force and effect of law. Schmidt said he has not yet worked out the date for the proposed consideration of the constitutional amendment with legislative leadership. Schmidt may be kicking off a gubernatorial run based on conservative opposition to governmental administrative agencies regulating and restricting Kansans' rights. Key may be when the amendment is put on the ballot. The proposal would stand a good chance at an August 2022 primary election that will also bring out conservative anti-abortion voters. It is a solidly conservative issue that may do a Republican

general election candidate well. Schmidt was joined by Senate President Ty Masterson (R-Andover), House Speaker Ron Ryckman (R-Olathe), Senate Vice President Rick Wilborn (R-McPherson), House Speaker Pro Tem Blaine Finch (R-Ottawa), Senate Majority Leader Gene Suellentrop (R-Wichita), and House Majority Leader Dan Hawkins (R-Wichita) in proposing the measure. "Our system of government requires checks and balances," Schmidt said. "This proposal would check the power of the ever-growing administrative state by making sure the final power to make law rests where it should—with the people's elected representatives in the Legislature—and restore balance by requiring real accountability for rules, regulations and executive orders."

Abandoned/Orphaned Well Legislation Advances—KIOGA helped advance legislation addressing abandoned/orphaned well issues. The measure (HB 2022), led by the Kansas Corporation Commission (KCC), proposed to consolidate the two industry fee funds for plugging abandoned wells with no responsibility party, instills regulatory certainty into abandoned well plugging responsibility, and establishes a program to reimburse non-responsible parties for plugging abandoned wells. KCC Commissioner Dwight Keen, KCC Oil & Gas Conservation Division Director Ryan Hoffman, KIOGA Chairman David Bleakley, EKOGA President Chris McGown testified in support of the measure before the House Appropriations Committee and the Senate Ways & Means Committee. The measure passed the House floor (123–0) on January 28th and passed the Senate (39–0) on March 2nd. A conference committee was held on the measure. The Senate passed the conference committee report (40–0) on March 23rd. The House passed the conference committee report (123–0) on March 29th. The measure was approved by Governor Kelly on April 9th. KIOGA specially thanks our legislative champions for this measure: Representative Troy Waymaster (R-Bunker Hill) and Senator Rick Billinger (R-Goodland).

Kansas Energy Choice Act—Some U.S. cities have proposed outright bans on the use of natural gas in new buildings and construction. That same uninformed notion also emerged in Lawrence, Kansas. The Kansas Energy Choice Act was introduced to prohibit local governments from passing ordinances that would limit a customer's choice of energy sources. KIOGA President Edward Cross provided testimony in support of the measure before the Senate Utilities Committee on January 26th and before the House Energy Committee on March 16th. KIOGA testimony emphasized the need to ensure Kansans continue to have access to energy choices, including natural gas, which offers a clear pathway to the shared goal of reducing emissions while maintaining the affordability, reliability and the quality of life that Americans enjoy. The measure passed the Senate (27–10) on February 4th and passed the House (93–29) on March 24th. The measure became law without Governor Kelly's signature.

KDHE Proposes Penalties & Fees for Spills—The Kansas Department of Health & Environment (KDHE) advanced legislation to establish penalties and fees for spills of water and soil pollutants regulated by the KDHE. KIOGA President Edward Cross testified before the House Agriculture Committee on February 4th and the Senate Agriculture & Natural Resources Committee on March 12th to put in the record the Memorandum of Understanding (MOU) between KDHE and the Kansas Corporation Commission (KCC) giving the KCC jurisdiction over spills related to oil and gas exploration and production activities that do not get off-lease. The measure passed the House (85–36) on February 18th and passed the Senate (36–4) on March 25th and was approved by Governor Kelly on April 9th.

Critical Infrastructure Protection—The American Fuels & Petrochemical Manufacturers (AFPM) introduced legislation to increase the criminal penalties for individuals who tamper or destroy critical infrastructure. This would include pipelines, crude oil storage facilities, electrical power generating facilities, telecom facilities, and several other facilities deemed as critical infrastructure. The measure expands what is considered critical infrastructure, increases trespassing penalty on a critical infrastructure facility (CIF) from normally a B misdemeanor to an A misdemeanor, expand the crime of aggravated (with proven intent) trespassing to a level 7 severity non-person felony; damage to a CIF facility would be a severity level 6 non-person felony, aggravated damage to a CIF facility would be a severity level 5 non-person felony, and hold perpetrators and those who might recruit perpetrators financially liable for damages. KIOGA supported the legislation in the Senate and House. The measure passed the Senate (27–10) on February 4th and passed the House (93–29) on March 24th. Governor Kelly approved the measure on April 9th.

Pipeline Safety Proposal—The Kansas Corporation Commission (KCC) introduced legislation to amend statutes dealing with KCC jurisdiction over pipeline safety matters for intrastate natural gas pipelines. One of the changes would remove K.S.A. 66–1,150(b) which is an exemption that the legislature placed in the law in 1993 that does not allow KCC authority over natural gas pipelines serving farming activities or some activities associated with oil or gas production. If those pipelines are subject to pipeline safety regulations (i.e., the gas is in transportation), they would remain jurisdictional to the U.S. DOT Pipeline and Hazardous Materials Administration. Regarding gas gathering lines, the proposed changes would give the KCC jurisdiction over any gathering lines

that are already subject to federal rules under 49CFR part 192. The proposal was vetted with the KIOGA Natural Gas Committee. The proposal appears to offer no changes to current gas gathering operations and regulation in Kansas. The measure passed the House (121–1) on March 24th.

State Energy Plan Proposal—Kansas House Energy Committee Vice Chair Mark Schreiber (R-Emporia) introduced a bill to create a task force to build a state energy plan. Schreiber told KIOGA President Edward Cross that the task force would consist of developers, utilities, unions, oil and gas, advocacy organizations, and green energy groups. HB 2381 specifically names KIOGA as one of the members of the task force. Cross told Representative Schreiber that KIOGA supports a rational, data-driven, common-sense approach to energy policy that recognizes our best energy future can only be achieved through a true all-of-the-above energy strategy. We oppose policies picking winners and losers among energy sources and technologies. We oppose policies that impose mandates that increase costs when sourcing energy. We encourage the least restrictive method of regulation that supports the goal of protecting the public without limiting business activity. KIOGA opposed Governor Kelly's energy plan last year that included moving the Kansas Energy office to the Department of Administration because a good state energy plan cannot be generated from a politically-influenced and agenda-driven energy office. Schreiber opposed the Governor's plan last year as well. KIOGA is concerned that creating a state energy plan is about promoting energy policies driven by a zero-sum game philosophy for energy that says we must have less fossil fuels so that we can have more of something else. There are many examples of state energy plans that fail because they start with a preferred resource and work backwards. Many such energy plans have agenda-driven framework to assess carbon risk, all leading to some kind of green standard, often referred to as "sustainable". Cross told several members of the House Energy Committee and Senate Utilities Committee that a rational, data-driven, common-sense approach to energy policy is what our state and nation require. We need energy policy based on science, the free market, and entrepreneurial spirit. The key is to avoid placing unnecessary political or legal obstacles in the way of innovation and expansion. HB 2381 was heard before the House Energy Committee on February 23rd. The measure passed the House Energy Committee but was stricken from the House floor calendar on March 5th as lawmakers thought the measure was a covert attempt to pass Green New Deal provisions in Kansas.

Proposal to create the Uniform Partition of Heirs Act—Legislation was introduced in the Senate and House to create the Uniform Partition of Heirs Act. These measures were repeats of legislation introduced in 2017 and again in 2019. The proposals sought to address what some see as a history of real estate developers and speculators purchasing undivided interests and partitioning the property by sale in order to take it at a good price. However, the measures could make it practically impossible to partition many parcels of real estate in Kansas. The problem is that partitioning is often the best option (and sometimes the only option) to fix title problems that would otherwise render the land unable to be developed for oil and gas production. KIOGA President Edward Cross explained this issue with the Senate Judiciary Committee Chair Kellie Warren (R-Leawood) and the House Judiciary Committee Chair Fred Patton (R-Topeka). Neither the Senate bill nor the House bill advanced out of committee.

Electric Rate Issues—KIOGA participated in informational briefings on ratepayer perspectives on electric rates. KIOGA Electric Power Committee Chair Adam Beren testified before the Senate Utilities Committee on March 25th. KIOGA President Edward Cross testified before the House Energy Committee on March 23rd. Cross also distributed informational reports to legislators about the causes/effects of the polar vortex event of mid-February. Both Beren and Cross told the lawmakers that the root cause of the blackouts in Kansas and elsewhere was national and state policies that prioritized the

adoption of unreliable wind/solar energy over reliable energy. Lawmakers were told that the high natural gas prices experienced were NOT a windfall to natural gas producers. KIOGA emphasized that ratepayers, like oil and gas producers and citizens in general, should not be punished for electric grid mismanagement. Cross also published an editorial about the energy issues surrounding the mid-February cold weather event. The editorial titled "The Perils of 'Electrify Everything'" ran in 17 newspapers across Kansas during the last week of February.

Legislature Adjourns

The Kansas Legislature adjourned on May 12th until sine die, after which legislators can legally receive financial contributions to their re-election campaigns. The legislature will stay adjourned until January 2022, unless a special session is called.

A BIG THANK YOU!

The Kansas independent oil and gas industry has an outstanding talent pool that includes experts in a variety of technical specialties. The diversity of thought contributes powerfully to the advancement of KIOGA's goals. Over the past several years, KIOGA has achieved nearly all of our legislative priorities and the 2021 Kansas Legislative Session was no exception. We achieve our goals because we have the values and human capital essential to the success of any major enterprise. We have skilled and dedicated oil and gas industry professionals and talented leadership who volunteer their time and efforts. Leveraging our industry's intellectual capital and leadership is a major driver of our success. The following KIOGA members are some of the many who gave a little extra for the oil and gas industry during the 2021 Kansas Legislative Session:

David Bleakley	**Jeff Bloomer**
Dick Schremmer	**Steve Dillard**
Ken White	**Emma Richmond**
Alan Banta	**Richard Koll**
Adam Beren	**Barry Hill**
Dana Wreath	**Scott Fraizer**
Andrea Krauss	**Dylan Klaus**
Jeff Kennedy	**Chris McGown**
Dan Schippers	**Nick Powell**
Charlie Wilson	**Dennis Hedke**
Ed Nemnich	**H.J. Swender**

We have learned many things over the past several years. One of the most important things we have learned is that we can accomplish more than we realized was possible. So, we advance in the name of the industry pausing to acknowledge and recognize the accomplishments of the industry leaders named above and to those we may have missed or who we are not aware. To you, our gratitude and we say "Thank you!"

KIOGA ENGAGED ADDRESSING **ELECTRIC RATE CONCERNS**

In mid-February, an arctic blast swept across Kansas and the nation that took away people's power, heat, and clean water. Electric and natural gas users (including oil and gas operators) then experienced outrageous energy bills. KIOGA has been engaged to find more information and be a part of discussions to address this critical issue.

Electric Rate Issues—There is a lot of conflicting information about the cause of electricity blackouts and energy costs. KIOGA participated in legislative informational briefings on ratepayer perspectives on electric rates. KIOGA Electric Power Committee Chair Adam Beren testified before the Senate Utilities Committee on March 25th. Adam did an excellent job providing detailed information. KIOGA President Edward Cross testified before the House Energy Committee on March 23rd. Cross also distributed informational reports to legislators about the causes/effects of the polar vortex event of mid-February. Both Beren and Cross told the lawmakers that the root cause of the blackouts in Kansas and elsewhere was national and state policies that prioritized the adoption of unreliable wind/solar energy over reliable energy. Lawmakers were told that the high natural gas prices experienced were NOT a windfall to natural gas producers.

Both Beren and Cross explained to lawmakers that during the polar vortex weather event in February, wind was not available (down 93%) and baseload natural gas and coal plants ramped up (coal up 47% and natural gas up 450%), but it was not enough to meet demand. However, natural gas plants did not have fixed price natural gas contracts, and when told by the Southwest Power Pool (SPP) to operate, were subject to high spot natural gas prices due to high demand.

In addition, the grid failed to prioritize natural gas facilities for non-interruption of electric service and so, although badly needed, some natural gas wells, plants, and transmission compressor facilities did not run due to lack of electricity. The bottom line is the SPP grid put too much emphasis on wind and solar power and not on baseload preparedness. In other words, the grid was mismanaged.

KIOGA emphasized that ratepayers, like oil and gas producers and citizens in general, should not be punished for electric grid mismanagement. Cross also published an editorial about the energy issues surrounding the mid-February cold weather event. The editorial titled "The Perils of 'Electrify Everything'" ran in 17 newspapers across Kansas during the last week of February.

In mid-April, KIOGA President Edward Cross asked the Kansas Electric Cooperatives, Inc. (KEC)—a statewide association of electric cooperatives—about electric rate issues. In late April, Doug Shepherd, Vice President of Management Consulting Services for the KEC, responded with the following information:

You had several questions regarding the February 2021 winter weather event and the impact of this storm on electric ratepayers. In a follow-up phone conversation, we clarified your questions. I hope the following helps you inform your members.

The February 2021 winter weather event was caused by a polar vortex that led to record low and near record low temperatures across much of the central United States. These extreme temperatures increased demand, not only for electricity, but also for natural gas used for space heating as well as electric generation. At the same time, supplies of natural gas and electricity were constrained throughout the entire 14-state Southwest Power Pool (SPP) region. Gas wells and processing plants were forced offline because of frozen lines and pressure gauges, and electric generation was less due to low wind speeds and some gas- and coal-fired plants being offline. The sustained low temperatures caused the market price of electric energy in the SPP to increase dramatically over a three-day period causing all electric utilities to incur extraordinary power supply costs.

First off, I would like to say that the financial impact on electric consumer-members can vary from cooperative to cooperative.

Each cooperative has their own unique set of members/load to serve and will make their own decision regarding the method and timing of the recovery of the extraordinary costs. I cannot speak for each cooperative on how they intend to treat the extraordinary costs incurred from the event. I would advise cooperative members to visit their cooperative's website or look to the cooperative's recent newsletter or magazine. Most of the cooperatives mail the Kansas Country Living *magazine to their members. The center-page insert contains local information pertaining to their cooperative. Additionally, the member can contact their cooperative directly and visit with a member service representative. Having said that, I will address your questions at a general level.*

1. *Do we know how the losses associated with the winter storm were allocated between rate classes? Residential, commercial, and industrial?*

After visiting with you, we understand you are asking how the financial costs incurred by the electric cooperatives due to the winter weather event will be recovered from the different classes of ratepayers. All the retail electric distribution cooperatives that I have spoken with intend to recover the extraordinary costs on the same basis as it was incurred, on a kilowatt-hour basis. Said another way, the cost is not necessarily allocated to the different residential, commercial, and industrial rate classes, rather it is recovered on a proportionate basis depending on the kilowatt-hour consumption of each customer and class. The extraordinary costs were incurred by all wholesale power providers in the SPP marketplace and will vary across the 14-state region depending on their own generation mix. In some cases, these extraordinary costs were offset by the ability to sell extra generation into the market. The extraordinary costs will be passed through to retail electric providers on the same kilowatt-hour basis. Electric utilities do not make a profit on this cost of energy. A base amount is included in the retail energy rate and monthly fluctuations are passed through via an adjustment mechanism often called an Energy Cost Adjustment (ECA) or Power Cost Adjustment (PCA).

2. *Was residential first priority relative to base load?*

I understand that you are asking how the utility determined which customers to interrupt in order to shed load. This decision was made by the transmission-owning utilities at the direction of SPP. Except for Mid-

> **"THE FEBRUARY 2021 WINTER WEATHER EVENT WAS CAUSED BY A POLAR VORTEX THAT LED TO RECORD LOW AND NEAR RECORD LOW TEMPERATURES ACROSS MUCH OF THE CENTRAL UNITED STATES. THESE EXTREME TEMPERATURES INCREASED DEMAND, NOT ONLY FOR ELECTRICITY, BUT ALSO FOR NATURAL GAS USED FOR SPACE HEATING AS WELL AS ELECTRIC GENERATION.**

west Energy, the local electric distribution cooperative did not make the determination of which customers would be interrupted. Midwest Energy will contact you to describe their decision process for interruptions. In Kansas, most of the other electric distribution cooperatives are provided transmission services from either KEPCo (via Evergy) or Sunflower Electric Power Corporation. Prior to interrupting load, the transmission operators and electric distribution cooperatives made public appeals for conservation and called upon commercial and industrial consumers to curtail where possible. When SPP finally issued its Emergency Energy Alert 3, the transmission operators had a few minutes to shed load to meet its responsibility. The interruptions were spread proportionately across the entire 14-state SPP region based on load served during last year's winter season. The transmission operators initiated the controlled outages which affected both homes and businesses. These outages were a last resort to preserve the integrity of the grid and followed a pre-determined schedule of load blocks that were chosen to avoid certain critical loads such as hospitals.

3. Are residential customers and farmers seeing the same proportionate allocation of loss as the oil producers?

Residential, commercial, and industrial will see the same proportionate impacts based on their kilowatt-hour consumption.

4. Could the federal government absorb some of the financial burden from the winter weather event by providing cooperatives who borrow through federal programs an "interest holiday" or forgive some principal repayment?

Whether this could even be accomplished through federal agency or legislative action is unknown. To date, we know of no effort to essentially offset extraordinary costs from the winter weather event by adjusting loan terms. Furthermore, not all cooperatives, and only a portion of those in Kansas, borrow from the federal government through USDA Rural Utilities Service (RUS) loan programs. K

KIOGA MEMBERS ENGAGE ON STATE REGULATORY ISSUES

STATE REGULATORY ENGAGEMENT IS A CORE FOCUS FOR KIOGA AS WE WORK TO PROTECT OPERATIONAL CERTAINTY ACROSS KANSAS. KIOGA REGULATORY EFFORTS EMPHASIZE COMMON-SENSE REGULATORY POLICY AND INCLUDE ENGAGEMENT AT ALL LEVELS WITH STATE REGULATORY AGENCIES. KIOGA HAS BEEN ENGAGED IN A NUMBER OF STATE REGULATORY ISSUES IN 2021. SEVERAL KIOGA MEMBERS HAVE PARTICIPATED IN REGULATORY MEETINGS FOCUSING ON ISSUES IMPORTANT TO THE INDEPENDENT OIL AND NATURAL GAS INDUSTRY.

KDHE Right-to-Know Proposal

The Kansas Department of Health & Environment (KDHE) held a public hearing on February 23rd to receive comments regarding their proposed amended Right-to-Know regulations. The original proposed changes appeared to impact Kansas oil and gas operators. Currently, operators file aggregate Tier II Right-to-Know filings for all facilities owned and operated by the operator and pay a $25 single blanket fee for the aggregate report. The original proposed KDHE change would have required operators to file an individual report and pay a $25 fee for each lease. KIOGA President Edward Cross submitted comments to the KDHE on behalf of KIOGA on February 18th stating the fee hikes in the KDHE proposal would impose significant costs on an industry struggling to recover. KDHE responded saying they received the comment and listened to our concerns. They said they altered their proposal to address KIOGA concerns. KDHE said, "Oil and gas operators will not be impacted at all, fee-wise. The flat $25 applies to any oil & gas operator with SIC Code 1311 and/or NAICS Code 211120. The new regulations will not affect that. Operators will just have to file electronically instead of using hard copy. There should be no significant cost impact, and the hassle of using the electronic forms versus the aggregate form should be negligible."

Several KIOGA members have engaged on state regulatory issues through the KCC Oil & Gas Advisory Committee. Ken White is KIOGA's representative on the KCC Oil and Gas Advisory Committee. The KCC Oil & Gas Advisory Committee is currently evaluating several regulatory issues that impact the Kansas oil and gas industry including:

- Financial Assurance
- KCC Budget
- Abandoned Wells
- Temporary Abandonment
- Exceptions
- Public Notice
- Potential Regulatory Amendments

In addition, Governor Kelly formed an Arbuckle Study Workgroup to study Arbuckle injection/seismic activity. Governor Kelly asked for KIOGA representation on the workgroup and KIOGA representatives Dana Wreath of Berexco, LLC, Ken White of White Exploration, Inc., and Dylan Klaus of Vess Oil Corporation were appointed to the workgroup. Dana, Ken, and Dylan have participated in the workgroup expressing KIOGA concerns with the Arbuckle injection/seismic activity issue.

KIOGA Regulatory Advocacy

KIOGA has, and will continue to, work aggressively with state and federal officials to address all oil and gas industry issues. There is no problem that good policy and solid technology cannot solve. However, we will always rely on science, fact, and due process as the regulatory and policy benchmarks to ensure that decisions are made to best serve all Kansans.

KIOGA has been doing this for quite some time. Here are some recent examples of our efforts:

- KIOGA worked with the Clear Energy Alliance (CEA) to develop an educational video on earthquakes in Kansas. CEA strives to raise the energy intelligence quotient of our society. Much of what the media and activist groups tell us about energy is misleading or entirely false, which can lead to dangerous and expensive outcomes. CEA challenges false claims and premises. CEA arrives at conclusions using logic, reliable data, human experience, history, and rational analysis. Regarding the injection well/earthquake issue in Kansas, KIOGA provided reliable data, history, and rational analysis for the making of the video. KIOGA is providing the CEA video to legislators and those interested in knowing the truth about injection wells and earthquakes in Kansas. Check out the video at www.kioga.org.

- KIOGA is engaged in Topeka and Washington addressing important policy and regulatory issues. We developed a white paper on methane emissions that gathered facts and scientific information for regulators and decision makers to consider during policy and rule making efforts. We developed fact sheets and other reference material on injection wells and induced seismicity for state regulators and legislators to consider. KIOGA has also prepared fact-based scientific white papers on hydraulic fracturing, climate change, and more.

- KIOGA hosts conferences and events that have a statewide and even national impact. We bring industry professionals, policymakers, regulators, business leaders, and the public together to educate on important regulatory and legislative issues. The 2021 KIOGA Annual Convention, which will be held August 15–17, 2021 in Wichita, Kansas, will provide a great forum for members and guests to share ideas, network with peers, participate in thought-provoking sessions, and see the latest technology/products/services for the oil and gas industry.

There are many more issues KIOGA is and will be addressing. Through our members, KIOGA represents good people doing good work. It is honest work for good pay. It attracts smart and hardworking men and women. No one supports pollution. Period. No oil company, no regulator, no Kansas elected official, no oilfield worker. No one. To infer otherwise is simply false.

You can count on KIOGA to be there to present the facts and policies to make sure Kansas oil fields are working for all Kansans.

Methane Emissions and Hydraulic Fracturing Lead Federal Regulatory Issues

KIOGA's advocacy efforts on federal regulatory challenges facing the Kansas oil and gas industry continues. KIOGA is actively engaged and vigilant in staying on top of federal regulatory concerns impacting Kansas oil and gas producers and reporting to membership. KIOGA continues to work with our allies at the Domestic Energy producers Alliance (DEPA), Independent Petroleum Association of America (IPAA), Liaison Committee of Cooperating Oil & Gas Associations and others to engage not only in advocacy on the regulatory front, but also in legal challenges. Please check our website at www.kioga.org for the latest information on all of KIOGA's efforts on behalf of the Kansas independent oil and gas industry.

FEDERAL METHANE UPDATE

The methane issue is an important issue. KIOGA is part of an industry methane litigation coalition. That coalition is working on the legal challenges to exempting low-producing wells from the Environmental Protection Agency (EPA) methane regulations. The coalition submitted legal intensive comments to the EPA and the courts. KIOGA submitted comments to EPA and the Appeals Court that complemented the legal intensive comments with technical support and cost of compliance information.

KIOGA joined associations from Michigan, Indiana, Illinois, Kentucky, and West Virginia to contract with the U.S. Department of Energy (DOE) to have a third-party study of methane emissions from marginal wells and facilities (like those found in Kansas). DOE completed field measurements of volatile organic compounds (VOCs) and methane emissions from marginal wells and facilities in Kansas, West Virginia, Kentucky and Indiana. Field measurements were taken in Kansas in December 2019. Preliminary results found no quantifiable or measurable emissions from wells or tank facilities. The study is not yet complete and a final report has not yet been released. DOE is currently funding an expanded study to include wells and facilities in the Permian basin and Anadarko Basin (including western Kansas). That expanded study was delayed in 2020 due to COVID-19 concerns. Currently, DOE hopes to complete the expanded study and have a final report ready by the end of 2021.

On January 28th, the Department of Justice said the government wanted to hold the methane emission litigation in abeyance pending the Biden Administration action on the policy rule. In consideration of the position of the current administration, our industry litigation coalition did not think it would be a good use of our limited resources to fight the motion to hold the litigation in abeyance. Our coalition will now focus our efforts on influencing their assessment of regulations. The third party study of methane emissions from marginal wells and facilities has become even more important going forward.

KIOGA prepared a document summarizing the methane emission issue underscoring the need for EPA to consider the marginal well emission profile. KIOGA has shared the brief with several key federal policymakers (both Republican and Democrat) as well as EPA officials. You can find a copy of the summary brief titled EPA Methane Regulation & Low Production Wells on KIOGA's website (www.kioga.org).

Some U.S. Senators Looking at Rollback of Methane Rule—U.S. Senators Martin Heinrich (D-NM) and Angus King (I-ME) drafted a resolution of disapproval on the August methane rule, the first step in using the Congressional Review Act (CRA) to unwind a regulation. The CRA allows Congress to nix any regulations finalized in the previous 60 legislative days, a period stretching back to mid-August.

The CRA has seldom been used—perhaps because the law prohibits agencies from reissuing any rule in the future that is "substantially the same form" as the rule being nullified.

KIOGA President Edward Cross discussed this issue with Senator Marshall (R-KS), Lankford (R-OK), and Manchin (D-WV) on March 25th. Cross told the Senators that independent producers recognize the importance of environmentally sound, cost-effective regulations to manage their methane emissions. Industry seeks to find a regulatory pathway designed for the sources it regulates. Big new oil and natural gas wells and low producing older wells have differing emissions profiles.

The Heinrich CRA to overturn the EPA's methane policy regulations would have limited short-term implications for oil and natural gas production because the underlying New Source Performance Standards for this segment of the industry would remain the same. The same technology that manages methane also manages volatile organic compounds. In the long run, however, this change in regulations would open a pathway to the regulation of one million existing facilities ("existing sources"), 750,000 of which are small business operations.

Cross told them that it is KIOGA's view that any regulatory actions should recognize the differences between these existing small operations and newly built large facilities. KIOGA will stay engaged and keep members informed of any activity in the coming weeks and months.

HYDRAULIC FRACTURING LEGISLATION RE-INTRODUCED

U.S. House Democratic Representatives Diana DeGette (D-CO), Matt Cartwright (D-PA), Yvette Clarke (D-NY), and Jan Schakowsky (D-IL) recently introduced hydraulic fracturing legislation that has consistently failed to pass Congress regardless of which party was in control.

Much like the first time it was introduced more than a decade ago, the legislation is stuck in the past, mandating disclosures that are already happening and revoking an "exemption" that has never existed, completely disregarding existing federal, and more importantly, state regulations. The legislative pieces introduced include:

- "Fracturing Responsibility and Awareness of Chemicals (FRAC) Act,"
- "Safe Hydration Is an American Right in Energy Development (SHARED) Act,"
- "Closing Loopholes and Ending Arbitrary and Needless Evasion of Regulations (CLEANER) Act,"
- "Focused Reduction of Effluence and Stormwater Runoff Through Hydrofracking Environmental Regulation (FRESHER) Act,"
- "Closing Loopholes for Oil and Other Sources of Emissions (CLOSE) Act,"

KIOGA President Edward Cross has been in communication with the Kansas Congressional delegation and many other key federal policymakers on this issue. Cross provided facts and scientific information demonstrating that hydraulic fracturing—when used lawfully and responsibly, with appropriate attention to environmental and safety protections—is vital not just to our domestic prosperity but also to our national security.

KIOGA CONTINUES WORKING WITH KEY FEDERAL POLICYMAKERS AND AGENCY OFFICIALS

Active engagement by KIOGA and our allies is necessary to address ongoing regulatory policy decisions. KIOGA is vigilant in staying on top of these issues and reporting to membership. KIOGA continues to work with our allies at DEPA, IPAA, CSA, IOGCC, Liaison Committee of Cooperating Oil & Gas Associations and others to engage not only in advocacy on the regulatory front, but also in legal challenges.

KIOGA has been working with key federal policymakers and agency officials to address many of the concerns of Kansas independent oil and gas producers. KIOGA President Edward Cross is an executive board member of the Domestic Energy Producers Alliance (DEPA), an advisory committee member of the U.S. Global Leadership Coalition (USGLC), board member of the Council for a Secure America (CSA), and active participant with the Independent Petroleum Association of America (IPAA). We have provided key policymakers, and key agency officials a full briefing on the issues that can promote and strengthen America's independent oil and gas industry. Cross has provided input on several energy priorities including:

- Methane emission rules
- PHMSA regulation of gathering lines (block federal access to the lease level)
- Endangered Species Act (ESA) including "critical habitat" designation and petition for listing of species, including lesser prairie chicken
- Oil price issues
- Guard against USGS or EPA developing federal rules concerning induced seismicity
- And More.

KIOGA supports assigning many of the federal programs to the states. This includes looking for opportunities, whenever a federal statute is opened, to increase delegation opportunities to the state, whether it be the CWA, CAA, methane regulations, Endangered Species, PHMSA, etc. All of these have some type of duplication of State efforts at a federal level. The duplication is costly and unnecessary, and has been used in the past for political purposes.

We also recommend that the federal budgets be utilized to accomplish these delegation goals. Not every statute needs to be opened and re-written. Simply delegating more money out of the federal agency budgets to existing state programs can have a powerful impact and allow the states to grow their expertise, and limit the ever expanding federal bureaucracy.

KIOGA is being recognized and playing a vital role in providing credible information to key federal policymakers and federal regulatory agencies.

FEDERAL TAX POLICY DISCUSSIONS

KEEP OIL & GAS TAXES AT RISK

KIOGA ENGAGED DEFENDING PERCENTAGE DEPLETION ALLOWANCE AND EXPENSING OF IDCS

On April 21st, U.S. Senate Finance Committee Chair Ron Wyden (D-OR) and 24 colleagues introduced the Clean Energy for America Act "to overhaul the federal energy tax code, create jobs and combat climate change."

According to the Senators, "The current system of energy incentives is overly complex and far less effective than it should be, with more than 40 different energy tax incentives, including permanent subsidies for Big Oil. The Clean Energy for America Act moves in a different direction, making the climate crisis and reducing carbon emissions the lodestar of America's energy tax policy."

The bill repeals important tax provisions for fossil fuel companies, including expensing of intangible drilling costs, percentage depletion, deductions for tertiary injectants, and credits for enhanced oil recovery, marginal oil wells, coal gasification, and advanced coal projects.

The bill also reinstates the current taxation of multinational oil companies' non-extraction income and ensures multinational oil companies are not specially exempted from the 2017 tax law's global minimum tax. It also repeals the fossil fuels publicly traded partnership rules, closing the "Lone Star Loophole."

On March 18th, KIOGA was asked by the U.S. House Ways & Means Committee tax counsel for information and input to contribute to the U.S. House/U.S. Senate Joint Committee on Taxation examination of oil and gas tax provisions. KIOGA has prepared a strategy for defending percentage depletion and intangible drilling costs (IDCs) including the development of white papers and briefing documents on the origin of percentage depletion, reasons to maintain percentage depletion and IDCs, and more. KIOGA shared these white papers and informational briefing reports with the committee tax counsel and key members of the Joint Committee on Taxation including Senators Tim Scott (R-SC), James Lankford (R-OK), John Barasso (R-WY), and Mark Warner (D-VA) as well as Representatives Ron Estes (R-KS), Kevin Brady (R-TX), Adrian Smith (R-NE), and Lloyd Doggett (D-TX). KIOGA also shared the white papers and briefs with our allies at the Domestic Energy producers Alliance (DEPA) and National Stripper Well Association (NSWA).

KIOGA continues to actively engage and educate Members of Congress with the facts on the tax treatment of our industry and coordinating with allied trade groups on strategy to combat this legislation.

Carbon Tax—Taxing carbon to tackle climate change is one of those big ideas that have long held a kind of bipartisan sway. President Biden's climate action plan would cost $16 trillion—or about $55,000 for every American. However, a nationwide survey conducted in late 2020 indicated Americans don't place high priority on climate change. Moreover, when asked how much they are willing to pay to address climate change, the median response was consistently between $25 and $50 a year. Public support for climate action appears to be broad, but it is shallow. Addressing climate change enjoys widespread approval, until climate action comes with a tangible price tag.

All too often state and federal proposals to tax carbon directly or launch new carbon tax schemes have much more to do with raising revenue than helping our environment. For those who prefer higher taxation to spending cuts, having an entirely new source of revenue is appealing. However, taxing carbon only takes more resources from the private sector to support swelling state and federal government.

A recent study analyzed probable effects of a U.S. carbon tax that starts at $20 per ton and then rises 4% per year, which is in line with recent proposals. The study suggests that such a tax would decrease household consumption, due to the increased cost of goods. The average household would have to pay 40% more for natural gas, 13% more for electricity, and more than 20 cents per gallon extra for gasoline. Costs would rise even more in subsequent years.

Price hikes like these can only mean lower standards of living and less opportunity. Families that spend a bigger portion of their household income on transportation, utilities and household goods are hurt, not helped, by carbon tax schemes that make traditional forms of energy more expensive.

The power to tax involves the power to destroy, and never more so than in the case of a carbon tax. That's because unlike other taxes, a carbon tax is designed to tax away the base on which it is levied.

THE CONCEPT OF THE "SOCIAL COST OF CARBON" IS NOT OBJECTIVE OR SCIENTIFIC. IT IS BASED ON SUBJECTIVE HUMAN DECISIONS ON WHAT TO INCLUDE IN THE MODEL, THE DISCOUNT RATE TO APPLY TO FUTURE COSTS AND BENEFITS, AND HOW TO DEAL WITH UNCERTAINTY.

API Endorses Carbon Pricing—The American Petroleum Institute (API) announced in early March their endorsement of carbon pricing. Carbon pricing is the first step toward a carbon tax and represents another effort by large multinational conglomerates pandering to bureaucrats, politicians, and Green New Deal activists at the expense of American energy and industrial independence and the American working class. Major integrated companies who were once powerful skeptics of carbon pricing schemes, are now supporting such schemes. Clearly, this is just a ploy to stifle competition. Major integrated companies can pass along tax increases to consumers while small companies that are not integrated from production through end-product do not have the ability to pass along tax increases. Like so many other "progressive" policies, governments and big corporations reap the benefits while U.S. workers and consumers are left to pay the bill in wages and lost jobs.

U.S. Doesn't Need a Carbon Tax—Even if the U.S. imposed some kind of carbon tax, it would not make a difference to global climate. In 2018, U.S. carbon emissions were around 5,100 billion metric tons from all sources, an almost 20% drop below emissions in 2007. While U.S. greenhouse gas emissions have been falling in recent years, world carbon emissions keep increasing by an average of more than 300 gigatons each year for the last decade, driven primarily by China's and India's increasing demand for energy. Together, these two countries now account for one-third of world carbon emissions. China and India are not going to impose a carbon tax on themselves. Doing so would increase their energy costs and reduce their economic growth. Neither will Russia, nor countries in the Middle East, nor developing nations whose primary concern is improving the economic well-being of their citizens.

Social Cost of Carbon—As February concluded, President Biden reinstated the Obama-era economic cost of greenhouse gases. This makes it easier for federal agencies to reject domestic energy production and manufacturing and impose aggressive regulatory mandates to confront climate change by tipping the scales to discount any positive current day benefits of a project with overwhelming negative cost of a future calamity. The new price is $51 for every ton of carbon released into the atmosphere, up from the $8 cost used by former President Trump. The price point is temporary and will be revised upward by January 2022.

The Social Cost of Carbon is the estimated cost to society of releasing a ton of carbon dioxide, the main greenhouse gas, into the atmosphere. The figure takes into account everything from lost agricultural productivity, to property damages from strong storms, to diminished fresh water availability.

President Biden recently signed an executive order directing the team to publish an interim social cost of carbon within 30 days. Environmentalists and climate scientists agree that undoing the Trump administration's changes to how the social cost of carbon is calculated will play a big role in federal policy, as well as in states that take their lead from the federal government.

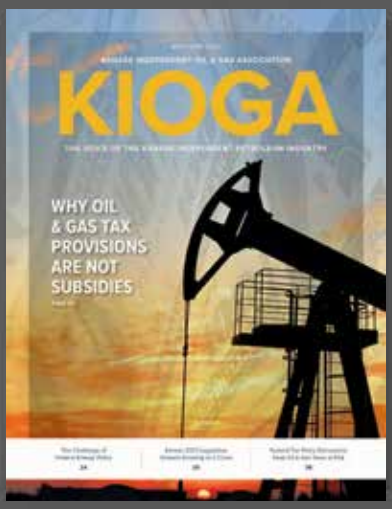
Since 2009, the Obama administration's Interagency Working Group on the Social Cost of Greenhouse Gases set the first federal social cost of carbon at $21 per ton. When President Obama left office in 2017, the figure had risen to $52 per ton.

But President Trump disbanded the working group by executive order soon after taking office, and his administration came out with a new estimate that was as low as $1 per ton. A figure that low makes it easier for agencies to issue new regulations that are more permissive to industry.

In June, the Government Accountability Office said the EPA under Trump had arrived at its lower estimate because it only considered domestic costs, rather than global costs. It is almost certain that the Biden team will revert to the government's pre-Trump way of calculating the social cost of carbon.

Any figure the Biden team comes up with is expected to be challenged in court. Judges have ordered a lot of additional climate analysis in recent years, but they haven't often dealt directly with the social cost of carbon. When environmentalists have sued to force agencies to use the metric in their environmental reviews, courts have often required additional analysis but deferred to agencies to decide which analytical tools to use.

Kansas Joins 11 Other States in Suing Biden Administration Over Climate Executive Order—A coalition of 12 states is suing President Biden's administration over a climate executive order that could potentially have serious economic impact across the country through the expansion of federal regulatory power. The suit, led by Missouri Attorney General Eric Schmitt, was filed on March 8th. State attorneys general from Arkansas, Arizona, Indiana, Kansas, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Tennessee, and Utah also joined the action. The suit alleges that President Biden's climate executive order does not have the authority to issue binding numbers for the 'social cost' of greenhouse gases to be used in federal regulations. KIOGA President Edward Cross spoke to media on March 9th about the issue. Cross explained that the concept of the "social cost of carbon" is not objective or scientific. It is based on subjective human decisions on what to include in the model, the discount rate to apply to future costs and benefits, and how to deal with uncertainty. President Biden's plan allows federal agencies to pick and choose what perspective to take and which benefits and costs to count. As a result, federal agencies would likely engage in cherry-picking whereby agencies count global effects that are favorable to the Biden agenda and ignore impacts that put the Biden agenda in an unfavorable light.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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New Members

We welcome the following members to the KIOGA family. Thank You for your continued support!

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GeoStar, LLC

Mel Crist
Mel Crist- LMT Farms, LLC

Eric Schlecht
CVR Refining

Neil Sharp
Rampike Resources, Inc

KIOGA CALENDAR

Event Name	Date	Location
WAPL J. Fred Hambright Memorial Golf Tournament & Bingo *	June 7, 2021	Rolling Hills Country Club, Wichita, KS
KIOGA 2021 Annual Convention	August 15–17, 2021	Wichita, KS
NAPE Summit (in-person)	August 18–20, 2021	Houston, TX
NAPE Summit (virtual)	August 9–September 3, 2021	
Kansas State Fair	September 10–19, 2021	Hutchinson, KS
Energy Workforce & Technology Council Annual Meeting	September 15–17, 2021	Santa Ana Pueblo, NM

*Info & Registration: www.wapl.biz

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The Kansas Independent Oil & Gas Association (KIOGA) believes in seeking common ground, through common sense solutions, to the challenges facing the Kansas oil and gas industry. Our bipartisan approach provides a uniquely powerful voice for our members at the state and national level. **Our work is critical. Your support is vital.**

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