

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPEALS  
OF EDMISTON OIL COMPANY, INC. ET AL.  
(SEE ATTACHMENT) FROM ORDERS OF  
THE DIVISION OF TAXATION

Docket Nos. 2004-507-DT *et al.*  
(see attachment)

ORDER ON MOTIONS

Now the above-captioned matters come on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

The Kansas Department of Revenue (Department) filed a Motion for Summary Judgment on October 30, 2007. The Taxpayers filed a Motion for Summary Judgment and a Response in Opposition to the Department's Motion for Summary Judgment on January 22, 2008. On February 21, 2008, the Department filed a Reply to the Taxpayers' Response and a Response to the Taxpayers' Motion. The Taxpayers filed a Reply on February 29, 2008. The Board has jurisdiction over the subject matter and the parties as timely appeals have been filed pursuant to K.S.A. 74-2438.

This Board conducted oral arguments on the two motions for summary judgment on March 5, 2008. The Department appeared by counsel John Michael Hale and David J. Dunlap. The Taxpayers appeared by counsel S. Lucky DeFries and Jeff Wietharn.

"Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The trial court is required to resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. (Citations omitted.)" *State ex rel. Stovall v. Reliance Ins. Co.*, 278 Kan. 777, 788, 107 P.3d 1219 (2005). The purpose of summary judgment is to eliminate delay in legal disposition where there is no real issue of material fact. *Timi v. Prescott State Bank*, 220 Kan. 377, 386, 553 P.2d 315 (1976). Upon review of the motions, responses and replies, the Board finds that there is no genuine issue as to the material facts pursuant to K.S.A. 60-256. The next consideration is whether the Department or Taxpayer is entitled to judgment on the specific issues presented as a matter of law. Entitlement to summary judgment as a matter of law must be conclusively shown. *Cessna Aircraft Co. v. Metropolitan Topeka Airport Authority*, 23 Kan.App.2d 1038, 1041, 940 P.2d 84 (1997), *rev. denied* (1997).

### Uncontroverted Facts

The Taxpayers are all oil and gas businesses, operate oil and gas wells in the State of Kansas, and are subject to and pay Kansas mineral severance tax. The Taxpayers, in order to operate and produce from their oil or gas wells, have purchased and used certain manufacturing machinery and equipment ("MM&E") and services. The Taxpayers are claiming an exemption from retailers' sales tax and compensating use tax for certain purchases of MM&E and services pursuant to K.S.A. 79-3606(kk). Over time, the Department denied the Taxpayers' refund requests for not only the "down-hole" equipment but also, the wellhead and pumping surface equipment (such as a "Christmas Tree" and a beam pumping unit), tank battery equipment and gas compressors.

The MM&E claimed exempt by the Taxpayers consists of items that are above and below ground at the oil/gas well site. The MM&E can generally be described as below ground ("down-hole equipment"), wellhead and pumping surface equipment (such as a "Christmas Tree" and a beam pumping unit), tank battery equipment and gas compressors. Down-hole equipment in part consists of pumps, sucker rods and connections, tubing, tubing strings, and casing strings.

Oil and gas is contained in rock formations, or in the earth. Oil and gas is free to move through rock formations over time, so it must accumulate in traps to pool sufficient quantities to warrant drilling, equipping, and producing the oil and gas. Traps can be structural in nature in which the oil and gas accumulate in the upper part of the rock folds or in faults and fractures. Traps can be stratigraphic in nature where the oil and gas accumulates in the upper part of the changes in rock types that prevent further migration of the oil and gas. Traps can be a combination of structural and stratigraphic traps. To remove the oil and gas from the earth, wells are drilled to locate and extract the oil and gas from the rock and out of the earth and then deliver it to the surface where it can be sold.

After a successful well is drilled to the total depth, casing pipe is run into the well and cemented in place. This prevents the rock formations from collapsing and closing up the hole. The casing in the well bore then becomes the equivalent of a mine shaft for extracting the oil and gas from the earth or rock formation. Without the casing in the well, the well would fall in or collapse on itself, plugging off the well.

After the production casing is cemented in the hole, a perforation "gun" is lowered inside the casing to the depth where the oil or gas was identified during drilling. The "gun" is set off, firing individual focused charges that burn a hole through the casing and cement into the rock formation. This opens channels into the rock or earth for the oil, gas, condensate and water to migrate to the well bore. The perforated interval will require additional treatment before the rock will allow the fluids to flow properly. Acid is pumped into the perforated interval to dissolve the cement and the rock around the perforations, to provide better channels for flow.

In some rock formations, the oil, gas, condensate, and water is trapped in the rock because the pore spaces are not well connected, or lack permeability. Such wells require more than perforations and acid to cause the fluids to migrate to the well bore. In those cases, the rock formation is given a frac treatment which involves pumping a gelled fluid, or an inert gas like nitrogen or carbon dioxide, along with sand at high pressure into the rock. The pressures generated by this treatment create small cracks or fractures in the rock that get filled with the sand. When the frac treatment ends, the pressure slowly dissipates and the rock formation relaxes and begins to close the artificial fractures that were created. The sand that was pumped along with fluids fills the newly created artificial fractures, leaving a channel for the oil, gas, condensate and water to migrate to the well bore.

Originally, oil and gas is trapped in the rock formations under considerable pressure. The well bore created by drilling into the rock creates a low pressure point. The oil and gas migrates through the rock to the low pressure point in an effort to equalize the pressure in the formation. This migration to the well bore is the primary method of extracting oil, gas, condensate and water from the earth. It would not happen without the construction of the well to provide the means for the fluids to leave the rock formation.

Once the pressure in the formation has depleted sufficiently, there is no longer enough pressure to carry the fluids to the surface. At this point, fluid migration or extraction of the fluids from the rock cases happens as the reservoir finds a new pressure equilibrium. To overcome this new equilibrium point, pumping equipment is installed, known in the industry as "artificial lift."

The most common type of mechanical assistance or "artificial lift" is the rod pump operated by the pumping unit. In all cases, the purpose of the artificial lift is to mechanically lower the hydrostatic pressure of the fluids in the well bore by pumping the fluids to the surface. If the hydrostatic pressure is not relieved, the fluids will reach an equilibrium point and will not migrate to the well bore and extraction of the fluids from the rock cannot take place. The point at which the oil and gas leaves the rock and enters the well bore is the point where man begins exerting control over the mineral.

The Department testified that the subject property would be exempt under K.S.A. 79-3606(kk) except to the extent it is located underground. In Taxpayers' First Set of Requests for Admissions, the first request for admission was "1. Oil that is in the well casing or pipe is no longer in its naturally occurring state." The Department's response was "The Department denies this admission. The Department's [sic] has stated that the exemption does not apply to machinery and equipment used in mining, gas and petroleum drilling, water drilling, quarrying, sand and gravel extraction operations, and other similar activities to explore for or extract petroleum, gas, mineral, rock, sand, water, and other minerals or similar matter from its naturally occurring state. See Department's Private

Letter Ruling P-2001-125, November 5, 2001, attached and incorporated herein by reference.”

#### Issues

- (1) Whether the Department’s bright-line test that the phrase “extracted from the earth,” as used in K.S.A. 79-3606(kk)(2)(D)(i), means above the surface of the earth is a reasonable interpretation of the statutory language, is rationally based implementation of legislative intent, and is a permissible exercise of the Department’s rule making authority. (Department’s Motion for Summary Judgment)
- (2) Whether the term “extracted from the earth” in K.S.A. 79-3606(kk)(2)(D)(i) is properly interpreted to mean “extracted from the natural formation” or “extracted from the naturally occurring state,” and nothing within the exemption statute requires that mineral also be brought up to and out of the surface of the earth. (Taxpayers’ Motion for Summary Judgment)
- (3) Whether the subject machinery and equipment is exempt. (Taxpayers’ Motion for Summary Judgment)

#### Analysis

K.S.A. 79-3606(kk)(1)(A) provides an exemption from retailers’ sales tax for “all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation *by a manufacturing or processing plant or facility.*” [Emphasis added]

For purposes of subsection (kk), a ““manufacturing or processing plant or facility” means a single, fixed location owned or controlled *by a manufacturing or processing business* that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water.” K.S.A. 79-3606(kk)(1)(C) [Emphasis added]

Further, K.S.A. 79-3606(kk)(1) (D) defines a "manufacturing or processing business" as:

“a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution *as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation* or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations

include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. *Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution.*"  
[Emphasis added]

The Department contends that the equipment used to drill for and extract oil or gas from the ground is not exempt equipment under K.S.A. 79-3606(kk) as explained in Notice 00-08 and Revenue Ruling 19-2002-2. The Department asserts that this treatment is consistent with the statute which exempts only machinery and equipment used to process oil and gas after it has been "extracted from the earth." The Department argues that down-hole oil and gas has not been extracted from the earth as it is still in the ground. The Department interprets the past tense phrase "extracted from the earth" to exempt MM&E only after the oil or gas has emerged above the surface of the earth. This bright-line test exempts MM&E used in processing the oil and gas that has emerged above the surface of the earth and taxes MM&E used below the crust of the earth.

The Taxpayers note that it is undisputed that the subject property is machinery and equipment (MM&E). The Taxpayers assert that the statute expressly includes oil and gas wells and that it is undisputed that the treatment and processing of the oil and gas begins immediately upon entering the well bore. The Taxpayers' position is that the interpretation of "extracted from the earth" should be interpreted in the context of oil and gas wells as meaning "extracted from the natural formation" or "naturally occurring state" and that the property is in fact exempt under K.S.A. 79-3606(kk). The Taxpayers contend that the Board can grant the exemption if the Department's above/below ground distinction is found to be improper. In the alternative, if the Board finds insufficient information to fully consider the exemption, the Taxpayer requests that the exemption issue be preserved for hearing.

The Kansas Department of Revenue is the administrative agency charged with the responsibility of implementing and enforcing tax legislation. K.S.A. 75-5155; K.S.A. 79-3618. The Kansas Supreme Court in *In re Director of Property Valuation*, 284 Kan. 592, 599, 161 P.3d 755 (2002) recently restated when reviewing a Board decision that:

""The interpretation of a statute by an administrative agency charged with the responsibility of enforcing that statute is entitled to judicial deference . . . . Further, if there is a rational basis for the agency's interpretation, it should be upheld on judicial review. If, however, the reviewing court finds that the administrative body's interpretation is erroneous as a matter of law, the court should take corrective steps. The determination of an administrative body as to questions of law is not conclusive and, while persuasive, is not binding on the court. [Citations omitted.]"" *Trees Oil Co. v. Kansas Corporation Comm'n*, 279 Kan. 209, 226, 105 P.3d 1269 (2005) (quoting *GT, Kansas, L.L.C. v. Riley County Register of Deeds*, 271 Kan. 311, 317, 22 P.3d 600 [2001]).

The Court also succinctly restated the rules of statutory interpretation by quoting *GT, Kansas, L.L.C. v. Riley County Register of Deeds*, 271 Kan. 311, 316, 22 P.3d 600 (2001):

"Our rules of statutory construction are well known and require us to interpret a statute to give the effect intended by the legislature, . . . construe the statute to avoid unreasonable results . . . and read the statute to give effect, if possible, to the entire act and every part thereof. . . . Ordinary words are to be given their ordinary meaning, and a statute should not be so read as to add that which is not readily found therein or to read out what as a matter of ordinary English language is in it." [Citations omitted]

The statute to be interpreted in this matter is K.S.A. 79-3606(kk), a tax exemption statute. Tax exemption statutes are interpreted strictly in favor of imposition of the tax and against allowing an exemption for one who does not clearly qualify. *In re Western Resources, Inc./Kansas Gas & Electric Co.*, 281 Kan. 572, 575, 132 P.3d 950 (2006). The burden of establishing an exemption from taxation is on the party claiming the exemption. *In re Alsop Sand Co., Inc.*, 24 Kan.App.2d 527, 529, 948 P.2d 667 (1997) *rev. granted* (1998).

First, the Board finds that no rule or regulation has been adopted by the Department pursuant to the Kansas Administrative Procedures Act. The "bright-line rule," as it is referred to by the Department, is best described as the Department's interpretation of the statute as it applies to oil or gas well sites. The Department has issued two versions of Notice 00-08 in order to attempt to make its interpretation known to the public. The first version approved September 14, 2000 provides that exempt production equipment does not include "machinery and equipment used in mining, gas and petroleum drilling, water drilling, quarrying, sand and gravel extraction operations, and other similar activities to explore for or extract petroleum, gas, mineral, rock, sand,

water, and other minerals or similar matter *from its naturally occurring state.*" [Emphasis added] The revised version of November 9, 2006 provides that exempt production equipment does not include "machinery and equipment used in mining, gas and petroleum drilling, water drilling, quarrying, sand and gravel extraction operations, and other similar activities to explore for or extract petroleum, gas, mineral, rock, sand, water, and other minerals or similar matter *from below the surface of the soil or water or from a mine.*" [Emphasis added]

Neither of these notices are a rule or regulation as defined by K.S.A. 77-415. The Kansas Court of Appeals in *In re Alsop Sand Co., Inc.*, 24 Kan.App.2d 527, 948 P.2d 667 (1997) *rev. granted* (1998), noted the distinction between a rule or regulation promulgated pursuant to the Kansas Administrative Procedures Act and a Department interpretation of K.S.A. 79-3606(kk) establishing a bright line test. In its review of the Court of Appeals decision in *Alsop Sand*, the Kansas Supreme Court explained that:

The Court of Appeals emphasized the practicality of KDR's definition, stating that it "provides a bright line for business planning" and "takes the uncertainty out of business decisions." 24 Kan. App. 2d at 531. The Court of Appeals also observed that having an easily applied rule potentially would "save on appeals, costs, attorney fees, penalties, and interest." 24 Kan.App.2d at 531. Because ease of application does not necessarily pertain to legislative intent, it is not a determinative factor in the interpretation of the statute. It is, however, a welcome bonus where, as here, ease of application is in harmony with the interpretation supported by other factors. *In re Alsop Sand Co., Inc.*, 265 Kan. 510, 519, 962 P.2d 435 (1998).

Since the Department's "bright-line test" is not a rule or regulation promulgated pursuant to the Kansas Administrative Procedures Act, the Board is unwilling to make a finding that the Department's "bright-line test" is a permissible exercise of the Department's rule making authority. The appropriate question in this matter is whether the Department's interpretation of the phrase "extracted from the earth," as used in K.S.A. 79-3606(kk)(2)(D)(i), to mean above the surface of the earth is a reasonable interpretation of the statutory language and is a rationally based implementation of legislative intent.

The Board notes that K.S.A. 79-3606(kk)(1)(D) defines "industrial manufacturing or processing operations" to include petroleum refining, and further provides that such processing operations include operations at an oil well or gas well where the oil or gas "that has been extracted from the earth" is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution.

Neither party presented historical background regarding the enactment of the language at issue in this matter. The Court in *Alsop Sand* noted that examination of the committee records for the 1988 amendments to K.S.A. 79-3606 that added the manufacturing exemptions revealed no clear-cut answer to the question presented in *Alsop Sand*, but that the proponents were "united in supporting legislation that would exempt from sales tax the purchase of machinery and equipment in order to make the expense of expansion or modernization of a Kansas manufacturing plant competitive with the expense in neighboring states in order to assist in attracting new manufacturing plants to this state." 265 Kan. 442.

The Board must presume that the legislature intended the statute be given a reasonable construction and ordinary words be given their ordinary meaning. Webster's Collegiate Dictionary at 363 (10<sup>th</sup> ed. 1996) defines "earth" as "the fragmental material composing part of the surface of the globe", "the solid footing formed of soil" or "ground." The Board finds that the Department's interpretation of the word "earth," as used in K.S.A. 79-3606(kk) relating to operations at oil or gas well sites, to mean the "ground" or "surface of the globe" is the ordinary meaning of the word and is a reasonable construction of the word. To give effect to the legislature's use of the past tense "*that has been* extracted from the earth," the Board finds that the statute is reasonably interpreted to mean that the processing operation at an oil or gas well includes operations occurring after the oil or gas has been extracted from the surface of the globe.

Admittedly, the Taxpayers' argument that the phrase "that has been extracted from the earth" is properly interpreted to mean "extracted from the natural formation" or "extracted from the naturally occurring state" is consistent with previous language found in Notice 00-08 and private letter rulings. However, the Taxpayers' application of this interpretation to extraction at oil or gas wells leads to an unreasonable and absurd result. The Taxpayers argue that extraction is complete as soon as the oil or gas enters the well bore. Only an expert with significantly more knowledge of the intricacies of the oil and gas drilling process than the ordinary person could contemplate arguing that extraction from the earth ends when the oil or gas flows into the well bore. The Board doubts that the Department contemplated such an argument when it utilized the words "extracted from the natural formation" or "extracted from the naturally occurring state" in its notices and private letter rulings. While man's control over the oil or gas may begin when the oil or gas enters the well bore, the oil or gas has not yet been *extracted* from earth in ordinary terms as required by the statute. It gives ordinary meaning to the past tense to find that the extraction process ends when the oil or gas reaches the surface of the earth. The Board is not persuaded that the Taxpayers' interpretation gives ordinary words their ordinary meaning in the context of oil and gas operations.

Both the Department and the Taxpayers cite several private letter rulings in their motions and responses. The Board finds the ruling addressing equipment used at a gypsum operation includes a different type of processing operation than found at an oil or gas well and is not persuasive support for the Taxpayers position. Further, the revenue

ruling and private letter rulings that address oil and gas operations do not specifically focus on the issue presented in this appeal.

As noted previously, K.S.A. 79-3606(kk) should be read to give effect to the entire act and every part thereof. A complete reading of K.S.A. 79-3606(kk)(1)(D) also includes an explanation that the term "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution *as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation.* [Emphasis added] The Board believes that the general public would regard the processing operation at an oil or gas well to consist of the operations occurring after the oil or gas has been extracted from the surface of the earth.

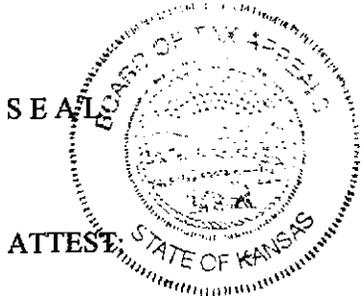
In conclusion, the Board finds that the phrase "that has been extracted from the earth" as utilized in K.S.A. 79-3606(kk)(1)(D)(I) and applied to the processing operations at oil wells described in this matter is reasonably interpreted to mean the operations occurring after the oil or gas has been extracted from the surface of the earth. However, this conclusion is rendered in light of the facts presented in this matter. The Board is not adopting a bright line rule nor providing an advisory opinion. As a result, with respect to this issue, the Board finds that the Department's motion for summary judgment is granted in part and the Taxpayers' motion for summary judgment is denied.

Tax exemption statutes are interpreted strictly in favor of imposition of the tax and against allowing an exemption for one who does not clearly qualify. The burden of establishing the exemption from taxation in this matter is on the Taxpayers. Based upon the facts and arguments presented on summary judgment, the Board concludes that the Taxpayers have not conclusively shown that the subject MM&E is exempt from retailers' sales tax as a matter of law. The Board finds that the Taxpayers' motion for summary judgment with respect to this issue is denied.

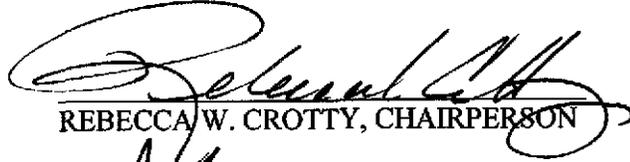
It is the Board's understanding that these motions for summary judgment do not fully adjudicate these appeals. As a result, these matters will be scheduled for further proceedings.

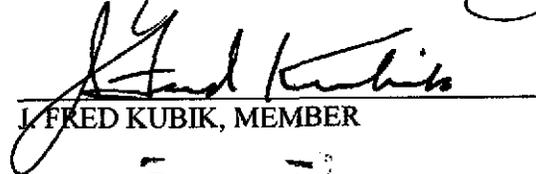
**IT IS THEREFORE ORDERED BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS that these are the findings and conclusions of the Board.**

IT IS SO ORDERED



THE BOARD OF TAX APPEALS

  
REBECCA W. CROTTY, CHAIRPERSON

  
FRED KUBIK, MEMBER

**RECUSED**

BRUCE F. LARKIN, MEMBER

  
JOELENE R. ALLEN, SECRETARY

  
AMELIA KOVAR-DONOHUE, ATTORNEY

ATTACHMENT

2004-00507-DT	Edmiston Oil Company, Inc. Edmiston Oil Company, Inc. Edmiston Oil Company, Inc. Edmiston Oil Company, Inc.	unknown unknown unknown unknown	REV.S DOCKET NO. 03-0063 REV.S DOCKET NO. 03-0065 REV.S DOCKET NO. 03-0169 REV.S DOCKET NO. 03-0170
2004-00510-DT	Falcon Exploration, Inc. Falcon Exploration, Inc. Falcon Exploration, Inc. Falcon Exploration, Inc. Falcon Exploration, Inc.	unknown unknown unknown unknown unknown	REV.S DOCKET NO. 03-0067 REV.S DOCKET NO. 03-0068 REV.S DOCKET NO. 03-0172 REV.S DOCKET NO. 03-0592 REV.S DOCKET NO. 03-0649
2004-00511-DT	Falcon Exploration, Inc. Falcon Exploration, Inc. Falcon Exploration, Inc. Falcon Exploration, Inc.	unknown unknown unknown unknown	REV.S DOCKET NO. 03-0457 REV.S DOCKET NO. 03-0459 REV.S DOCKET NO. 03-0460 REV.S DOCKET NO. 03-0461
2004-08317-DT	Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas	unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown	REV.S DOCKET NO. 03-0058 REV.S DOCKET NO. 03-0059 REV.S DOCKET NO. 03-0060 REV.S DOCKET NO. 03-0061 REV.S DOCKET NO. 03-0062 REV.S DOCKET NO. 03-0064 REV.S DOCKET NO. 03-0458 REV.S DOCKET NO. 03-0582 REV.S DOCKET NO. 03-0584 REV.S DOCKET NO. 03-0585 REV.S DOCKET NO. 03-0656 REV.S DOCKET NO. 03-0657 REV.S DOCKET NO. 03-0744
2004-08318-DT	Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas	unknown unknown unknown unknown unknown	REV.S DOCKET NO. 03-0580 REV.S DOCKET NO. 03-0581 REV.S DOCKET NO. 03-0583 REV.S DOCKET NO. 03-0653 REV.S DOCKET NO. 03-0654 REV.S DOCKET NO. 03-0655
2004-08494-DT	Petroleum Property Services, Inc. Petroleum Property Services, Inc.	unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown unknown	REV.S DOCKET NO. 03-0069 REV.S DOCKET NO. 03-0070 REV.S DOCKET NO. 03-0175 REV.S DOCKET NO. 03-0179 REV.S DOCKET NO. 03-0546 REV.S DOCKET NO. 03-0547 REV.S DOCKET NO. 03-0548 REV.S DOCKET NO. 03-0548 REV.S DOCKET NO. 03-0549 REV.S DOCKET NO. 03-0588 REV.S DOCKET NO. 03-0641 REV.S DOCKET NO. 03-0642 REV.S DOCKET NO. 03-0643 REV.S DOCKET NO. 03-0644 REV.S DOCKET NO. 03-0645 REV.S DOCKET NO. 03-0647 REV.S DOCKET NO. 03-0745 REV.S DOCKET NO. 03-1180

2004-08496-DT	Petroleum Property Services, Inc. Petroleum Property Services, Inc.	unknown unknown unknown unknown unknown unknown	REV.S DOCKET NO. 03-0071 REV.S DOCKET NO. 03-0579 REV.S DOCKET NO. 03-0587 REV.S DOCKET NO. 03-0646 REV.S DOCKET NO. 03-0648 REV.S DOCKET NO. 03-1181
2004-08500-DT	Falcon Exploration, Inc. Falcon Exploration, Inc.	unknown unknown	REV.S DOCKET NO. 03-0729 REV.S DOCKET NO. 03-0746
2004-08502-DT	American Energies Corporation American Energies Corporation American Energies Corporation American Energies Corporation	unknown unknown unknown unknown	REV.S DOCKET NO. 03-1170 REV.S DOCKET NO. 03-1211 REV.S DOCKET NO. 03-1212 REV.S DOCKET NO. 03-1213
2004-08503-DT	American Energies Corporation	unknown	REV.S DOCKET NO. 03-1214
2004-08956-DT	John O. Farmer, Inc./The Buckeye Corp.	2000-2003	REV.S DOCKET NO. 04-0103
2004-08957-DT	John O. Farmer, Inc./Crawford Supply Co.	2000-2003	REV.S DOCKET NO. 04-0104
2004-08958-DT	John O. Farmer, Inc./Gehrig & Sons	2000-2003	REV.S DOCKET NO. 04-0106
2004-08959-DT	John O. Farmer, Inc./Mai Excavating	2000-2003	REV.S DOCKET NO. 04-0108
2004-08960-DT	John O. Farmer, Inc./National-Oil Well, L.P.	2000-2003	REV.S DOCKET NO. 04-0109
2004-08961-DT	John O. Farmer, Inc./Pfeifer Dozer & Well Serv	2000-2003	REV.S DOCKET NO. 04-0110
2004-08962-DT	John O. Farmer, Inc./Total Lease Service, Inc.	2000-2003	REV.S DOCKET NO. 04-0111
2004-08963-DT	John O. Farmer, Inc./WB Supply Company	2000-2003	REV.S DOCKET NO. 04-0112
2004-08964-DT	John O. Farmer, Inc./Oilfield Manufactures Wa	2000-2003	REV.S DOCKET NO. 04-0120
2006-01603-DT	Edmiston Oil Company, Inc./Pratt Well Serv. -e Edmiston Oil Company, Inc./Pratt Well Serv. -e Edmiston Oil Company, Inc./Pratt Well Serv. -e Edmiston Oil Company, Inc./Pratt Well Serv. -e	unknown unknown unknown unknown	REV.S DOCKET NO. 04-0217 REV.S DOCKET NO. 04-0218 REV.S DOCKET NO. 04-0219 REV.S DOCKET NO. 04-0220
2006-01604-DT	F.G. Holl Company, L.L.C./Hi-La Engine -etal F.G. Holl Company, L.L.C./Hi-La Engine -etal F.G. Holl Company, L.L.C./Hi-La Engine -etal F.G. Holl Company, L.L.C./Hi-La Engine -etal	unknown unknown unknown unknown	REV.S DOCKET NO. 04-0183 REV.S DOCKET NO. 04-0184 REV.S DOCKET NO. 04-0185 REV.S DOCKET NO. 04-0186
2006-06532-DT	Oil Producers, Inc. of Kansas Oil Producers, Inc. of Kansas	unknown unknown unknown unknown unknown unknown unknown	REV.S DOCKET NO. 06-0186 REV.S DOCKET NO. 06-0187 REV.S DOCKET NO. 06-0188 REV.S DOCKET NO. 06-0189 REV.S DOCKET NO. 06-0190 REV.S DOCKET NO. 06-0191 REV.S DOCKET NO. 06-0192 REV.S DOCKET NO. 06-0193

2006-07907-DT	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0203
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0205
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0206
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0209
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0210
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0211
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0212
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0213
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0214
	Abercrombie Energy, L.L.C./Dan's Oilfield -eta	unknown	REV.S DOCKET NO. 06-0215
2006-07908-DT	Edmiston Oil Company, Inc./Hanover Compres	unknown	REV.S DOCKET NO. 06-0207
2006-08528-DT	Baird Oil Company, L.L.C./Swift Services -eta	unknown	REV.S DOCKET NO. 06-0380
	Baird Oil Company, L.L.C./Swift Services -eta	unknown	REV.S DOCKET NO. 06-0381
	Baird Oil Company, L.L.C./Swift Services -eta	unknown	REV.S DOCKET NO. 06-0394
	Baird Oil Company, L.L.C./Swift Services -eta	unknown	REV.S DOCKET NO. 06-0395
2006-08529-DT	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0396
	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0397
	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0398
	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0399
	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0400
	Edmiston Oil Company, Inc./Express Well Servi	unknown	REV.S DOCKET NO. 06-0401
2007-03637-DT	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0812
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0813
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0814
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0815
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0816
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0817
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0818
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0819
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0820
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0821
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0822
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0823
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0824
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0843
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0844
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0845
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0846
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0847
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0848
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0849
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0850
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0851
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0857
	American Energies Corp./Jayhawk Oilfield & S	unknown	REV.S DOCKET NO. 06-0858

CERTIFICATION

I, Joelene R. Allen, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of the order in Docket Nos. 2004-507-DT et al., and any attachments thereto, was placed in the United States Mail, on this 24<sup>th</sup> day of June, 2008, addressed to:

Jon McCallen, President  
Edmiston Oil Company Inc  
125 N Market Ste 1130  
Wichita, KS 67202-1774

Micheal S Mitchell, President  
Falcon Exploration Inc et al.  
155 N Market Ste 1020  
Wichita, KS 67202

John S Weir, President  
Oil Producers Inc of Kansas  
2400 N Woodlawn Ste 230  
Wichita, KS 67208

Greg Gleason  
Oil Producers of Kansas  
1710 Waterfront Pkwy  
Wichita, KS 67206-6603

Alan DeGood, President  
American Energies Corporation  
155 N Market Ste 710  
Wichita, KS 67202

Carmen Booth  
American Energies Corporation  
155 N Market Ste 710  
Wichita, KS 67202

John O Farmer III, President  
John O Farmer Inc  
PO Box 352  
Russell, KS 67665

Margery Nagel, Managing Member  
F G Holl Company LLC  
9431 E Central Ste 100  
Wichita, KS 67206

Dave Dayvault, CFO  
Abercrombie Energy LLC  
150 N Main Ste 801  
Wichita, KS 67202

Robert B Hartman, Exec VP  
Baird Oil Company LLC  
PO Box 428  
Logan, KS 67646

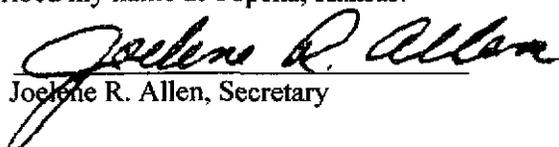
S Lucky DeFries, Attorney at Law  
Coffman DeFries and Nothern  
534 S Kansas Ave Ste 925  
Topeka, KS 66603-3407

and a copy was hand delivered, addressed to:

John Michael Hale, Attorney  
Legal Services Bureau, Dept. of Revenue  
DSOB, 915 SW Harrison, 2<sup>nd</sup> Floor  
Topeka, KS 66612

David Dunlap, Attorney  
Legal Services Bureau, Dept. of Revenue  
DSOB, 915 SW Harrison, 2<sup>nd</sup> Floor  
Topeka, KS 66612

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.

  
Joelene R. Allen, Secretary