

2nd Quarter 2020



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Keith's Corner

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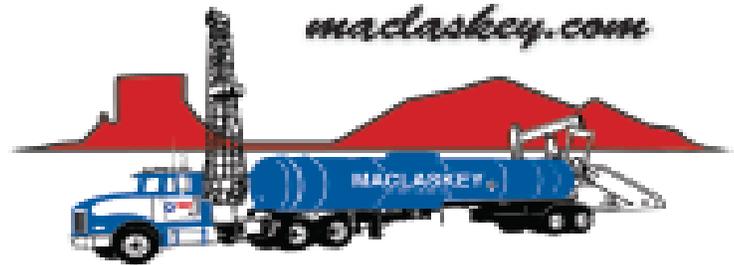


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Save the Dates!

EKOGE Legislative BBQ - August 2020
(Date and location to be determined)

EKOGE 63rd Annual Meeting & Tradeshow - Sept. 15-16, 2020
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2nd Quarter 2020

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Cover Photo by Bret Bullock

The Eastern Kansas Oil and Gas Association is a unified voice representing the unique interests of Eastern Kansas oil and gas producers, service companies, suppliers and royalty owners before the state government in Topeka on matters involving oil and gas regulations, taxes, safety standards, environmental concerns and other energy related issues.



Message from the President

Chris McGown

McGown Drilling, Inc.

Ninety days have passed since my last article, and it is three months we would like to forget. Last quarter, I wrote of being optimistic for better weather, better pricing, and a need to not panic; we had lost \$12 per bbl in two weeks over flights grounded in China due to COVID-19. I thought, 'this too shall pass'. Wow, was I grossly wrong!

The world has changed dramatically over the last three months: governments ordered businesses shut down; people ordered to stay home; travel choked to a trickle; and jobless claims through the roof. All this has decimated demand for oil, as much as 30M bbl a day by some estimates. A recent Forbes article says domestic gasoline demand is at pre-1970 levels (a 48% reduction from 2019).

In addition to the demand destruction, we are currently facing unprecedented supply / storage issues throughout the world. Storage facilities are quickly filling up, and producers are trying to cut production and wonder if the oil they have to sell has a market. The nightmare we endured in college called Econ 101 is currently manifesting itself as the crude oil market – reduced demand, ample supply, and tight storage = price collapse. This two-headed supply / demand monster created a perfect (nauseating) storm - on April 20th, we witnessed history when WTI futures went negative for the first time. Prices have rebounded a bit, but our economic storm continues. . . .

In a little over a decade, Hugo Chavez's ineptness managed to destroy the Venezuelan economy. Some days it seems like a few of our elected officials are in a race to the bottom, voluntarily handcuffing our economy and failing to positively lead. Going forward, we need leaders to act with fortitude to rebuild our economic engine and restore confidence in our fellow citizens. Engines require fuel; and the American energy sector is great at producing that fuel, literally and figuratively.

We are in a very difficult time, and it will not be easy to rebuild our economy, but unlike Venezuela, we have private ownership of our natural resources. Our energy economy will be a key driver of our resurgence. We will continue to be a foundational building block of the Kansas and US economy, providing the gasoline for travelers, base materials for thousands of day-to-day items, including many vital medical supplies, and lucrative jobs for over 100,000 Kansans. We cannot forget the role we play in American prosperity; our economy is built on energy, not magic fairy dust. People will start driving and buying again and demand for our goods will return.

*Chris McGown, McGown Drilling, Inc.
620.224.7406 chris.mcgown@gmail.com*

As an organization representing producers, will we continue to lead and educate to help our members weather this difficult time. We continue to stay engaged with our elected officials, constantly reminding them of the role we play in our economy. We are regularly communicating with the KCC to update them on our members' concerns and advocate for mutually beneficial solutions to the problems we face. Our team is gathering and disseminating timely information on vital topics – such as the PPP and EIDL loans, government updates, and regulatory matters. We will continue to advocate for our members and our industry.

Please stay safe and remain steadfast – we will persevere through this difficult time and lead our economy back to prosperity. Please contact us with any needs or concerns you have, we are here to help our members!



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Executive Director's Report

Tom Palace

So, what will the new normal look like? America is clearly in uncharted waters caused by COVID -19. I won't get into the essential worker issue because I feel all workers are essential in all workforces... otherwise you would never have hired them!

It was interesting to watch how people have dealt with this pandemic. Most have taken the virus warning very seriously. The "stay-at-home" order was followed pretty religiously. In my office we have people working from home and a few at the office. EKOGA was deemed essential and our staff has continued working to keep the membership informed about the coronavirus, delayed state and federal requirements, delayed renewal of certain licenses and certificates and being here for members with that have general questions.

I am very proud of our staff and how they assisted members with questions about the coronavirus and the efforts by Becky Schwartz building the EKOGA website that has a plethora of information about COVID-19. We started inundating the membership with email updates and quickly found that or were told that we were putting out too much information. EKOGA members were being bombarded with information from many sources.

EKOGA did not stop keeping our members informed we simply went about it in a different way... through the website EKOGA.ORG. When new information came in (daily) Becky would post it on the website. We then in turn sent out a short email directing the membership to go to the website for new information.

We have also been reaching out to members to find out how they are doing. We are in trying times and how to keep your employees in a safe working environment, as well as keeping your customers safe, has been a daunting task.

The virus has had a profound effect on the oil and gas industry. The legislature too, was not spared from the grasp of COVID-19. The legislature shut down in early March hoping to come back to finish work starting April 27. That day has come and gone.

Sine' Die, a day that marks the end of the legislative session and normally a ceremonial day with attendance optional, will now be a working day. The Legislative Coordinating Council (LCC) voted down a motion to come back May 19 to work a few days before Sine" Die and voted unanimously to keep it to a one-day session, May 21.

It's clear that the session will be a full day's work. Conference committees are free to meet between

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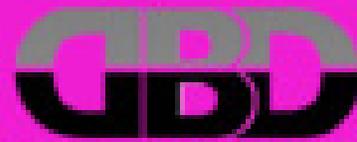
*Tom Palace, EKOGA Executive Director
620.431.1020 tom@ekoga.org*

Lesli has been an invaluable resource to my company by finding ways to reduce costs and helping us stay current with ever-changing regulations.

--Doug Evans, DE Explorations, Inc.--



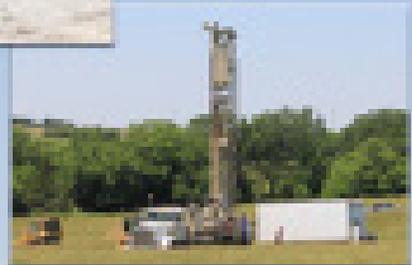
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Lesli has a Bachelor's degree in Business and is a 3rd generation operator in Eastern Kansas. Lesli is an EKOGA board member and a member of KIOGA.

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DOT Recording Keeping

If you have drivers and vehicles that fall under FMCSA guidelines, below is a condensed list of some of the documents you need to keep and their retention time. This is not a complete list of everything you have to have in all your driver, maintenance and hours of service files. In some sections the actual regulation number is cited for you. If you have any questions, call Becky Schwartz at the EKOGA office or email at becky@ekoga.org

Topic	Documents to be Retained	Retention Period
Driver Qualification	<ul style="list-style-type: none"> • Application for employment (391.21), • Motor vehicle record from states (391.23) (must be obtained within 30 days of employment), • Road test form and certificate (391.31(g)), or license or certificate accepted in lieu of road test (391.33), • Medical exam certificate (original or a copy)*(391.43(g)), • Any letter granting a waiver of a physical disqualification*, • Annual review of driving record* (391.25), • List of violations* (391.27), • Any other matter relating to a driver's qualifications or ability to drive a motor vehicle safely, • Previous-employer inquiries for drivers hired before October 30, 2004 (391.23), and • Certificate of training, for drivers transporting highway route controlled Class 7 (radioactive) materials(397.101(e)). 	Employment + 3 years *The following may be removed 3 years after execution: <ul style="list-style-type: none"> • Medical examiner's certificate, • Annual motor vehicle record from state(s), • Note relating to annual review of driving record, • Annual list of violations (prepared by the driver), and • Letter granting a waiver of a physical disqualification.
Driver Qualification	<ul style="list-style-type: none"> • Safety performance history of driver/applicants (i.e., previous employer information), including name and address, date of contact (or attempts made), and information received about a driver/applicant (391.23) (must be placed into file within 30 days of hire). • A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under 391.23(d). • Corrections or rebuttals received from former or current drivers concerning their safety performance histories (391.23(j)) (should be placed in appropriate file where corrected or rebutted information is stored). • NOTE: Drug/alcohol inquiries sent to a driver's former employer(s) in compliance with 391.23 are deemed to be in compliance with the inquiries required under 40.25(b). 	Employment + 3 years

Topic	Documents to be Retained	Retention Period
Driver Qualification	<ul style="list-style-type: none"> A record of each inquiry received from other employers concerning a driver's safety performance history, and the response, including the date, the party to whom it was released, and a summary identifying what was provided. 	One year
CDLs	<ul style="list-style-type: none"> Notification for conviction for driver violations. Must include the information listed in 383.31(c). 	3 Years
Medical Qualification	<ul style="list-style-type: none"> Driver must carry the original or a copy of the medical examiners certificate. Note: The medical long form is not required. The long form is supposed to stay in the medical examiners files (see the last paragraph of Instructions for performing and Recording Physical Examinations in 391.43). 	Continuously
Hours of Service	<p>For all 100-air-mile-radius drivers, accurate and true time records showing:</p> <ul style="list-style-type: none"> The time the driver reports for duty each day, The time the driver is released from duty each day, Total number of hours on duty each day, and Total time on duty for the preceding 7 days for drivers used for the first time or intermittently. See 395.1(e)(5). 	6 months
Hours of Service	<ul style="list-style-type: none"> Records of duty status (driver logs) and all supporting documents. Supporting documents are listed in Question 10 in the interpretations to Sec. 395.8. Logs must be submitted within 13 days of completion 	6 months from date of receipt
Hours of Service	<ul style="list-style-type: none"> A copy of each log for the previous 7 consecutive days (whether hand-written or electronic) See 395.8(k)(2) and 395.15(b)(4). 	7 days (In vehicle)
Hours of Service	<p>For drivers using on-board recording devices:</p> <ul style="list-style-type: none"> An instruction sheet describing in detail how data may be stored and retrieved from the automatic on board recording system; and A supply of blank driver's records of duty status graph grids sufficient to record the driver's duty status and other related information for the duration of the current trip. 	Continuously
Hours of Service	<p>For companies using on-board recording devices, a certificate obtained from the manufacturer certifying that the design of the automatic on board recorder has been sufficiently tested to meet the requirements of this section and under the conditions it will be used.</p>	Continuously

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Opportunity Knocks
Warren Martin, Executive Director
Kansas Strong

Many Americans are struggling to find optimism in the world today. With the price of oil plummeting and the COVID-19 pandemic decimating the markets, it can be tough to find a silver lining. However, opportunity does indeed knock at the door! It comes in the form of restarting our economy and evaluating our nation's response to this crisis. The opportunity is for the oil and natural gas industry to have a vital voice in the future of our nation.

Earlier this week, as I write this article, President Trump stated clearly, "We can't let the cure be worse than the disease." His remarks signaled a change in focus to getting America back to work. Last week the Wall Street Journal published an article from the editorial board stating, "But no society can safeguard public health for long at the cost of its overall economic health." As we turn the corner on this crisis, Americans are going to be reassessing what is and what is not essential to our economy and way of life.

This is the opportunity that knocks at the door. There is no doubt concerning the vital role the oil and natural gas industry has in the economy and our way of life. Essential to addressing the current crisis the industry is vital in providing life-saving products to the medical industry like ventilators, monitors, sterilization trays, scrubs, soap and hand sanitizer, antiseptics, aspirin, and much more. Add to that the distribution of food and medicines, manufacturing processes, energy to fuel our medical facilities and work from home options, and an entire book could be written on the variety of ways America is dependent on the oil and natural gas industry.

As we grow beyond the crisis and the conversation will change to address protecting our way of life in the future, we must be ready. It is vital our industry is at the forefront advocating and educating the people of this great State about the crucial role we have in our economic prosperity.

There is no lobbyist, organization or media campaign that will suffice on its own to accomplish this task. It is going to take all of us in the industry to educate our fellow citizens. We are all going to have to become advocates, educators and optimists about our future and how we can make it better.

The opportunity is not to promote a product, company or even the industry. The opportunity is to build a better America for the future.

We cannot recover from this economic impact without cheap, reliable energy and the products that come from oil and natural gas. We are essential in establishing the American way of life. This is an opportunity to make sure our communities know the vital role we have in their lives.

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Keith's Corner
Keith Brock
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Read YOUR Leases and Talk with YOUR Lessors

READ YOUR LEASES:

During this unprecedented time many operators are frantically seeking advice from anyone and everyone regarding the best approach to protect their leases during this difficult time. I have been bombarded with calls inquiring whether the current circumstances constitute a force majeure, how long a lease can be shut down, etc. However, my first question to them has been whether their lease even has a force majeure clause, if so what the clause defines as a force majeure and what other terms are in the subject lease concerning cessation of production and the like. Often the operator cannot answer these questions and it becomes clear that they are looking for generic advice that can be applied to all of their leases. Unfortunately, attempting to apply generic advice to all leases is a recipe for disaster. Each oil and gas lease is a separate and independent contract and although most leases do share some common provisions there are just as many differences from one lease to the next as there are commonalities.

My prediction is that most of the leases which are lost during this period of time will terminate due to failure to comply with a unique or special provision in the lease. Operators should be more focused on complying with these special provisions, (specifically those establishing monetary payment obligations, production thresholds and cessation provisions) than generic questions concerning paying quantities and force majeure. Even if a lease contains a force majeure clause, these provisions typically do not relieve a party from obligations to make monetary payments. Thus, if the lease has minimum royalty or shut in provisions it is imperative that those terms be complied with even if the lease has a force majeure clause. Therefore, an operator's time is best spent reviewing THEIR leases to identify any of these terms that exist. Unfortunately, there is no silver bullet that can be used across all leases and thus no shortcut to determining the best way to proceed during this time on each individual lease.

TALK WITH YOUR LESSORS:

I have been drafting agreements for some clients whereby the lessor and lessee agree that the lease may be shut-in or production severely curtailed until certain triggers occur, such as hydrocarbon prices exceeding a stated threshold or the passage of a set amount of time. These agreements suspend the occurrence of a variety of events which could otherwise lead to lease termination during the agreed upon period. In many instances the lessors have proven willing and even eager to sign these agreements. After all, the good Lord has blessed the lessor with a finite volume of hydrocarbons in the reservoir beneath their property and their royalty is based on the sale price received for such hydrocarbons; thus

Topic	Documents to be Retained	Retention Period
Hours of Service	For companies using on-board recording devices, a second (back-up) copy of the electronic hours-of-service files, by month.	6 months
Inspections/Maintenance	<p>For any motor vehicle controlled for 30 days or more:</p> <ul style="list-style-type: none"> • An identification of the vehicle including co. number (if so marked), make, serial number, year, and tire size, and vehicle owner's name if the motor carrier does not own the vehicle; • A means to indicate the nature and due date of the various inspection and maintenance operations to be performed; • A record of inspection, repairs and maintenance indicating their date and nature; and • A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses. 	1 year and for 6 months after the vehicle leaves your control
Inspections/Maintenance	Copy of roadside inspection form	12 months from date of inspection
Inspections/Maintenance	<ul style="list-style-type: none"> • Original DVIR (driver's vehicle inspection report), • Certificate of repairs, and • Certification of drivers review. <p>Note pre-trip requirements in 392.7 and 396.13. Only 396.13 has recordkeeping requirements. See 396.11(c)(2) and Question 18 in the interpretations.</p>	3 months
Inspections/Maintenance	Documentation of periodic inspection (a report or other document such as a sticker or decal).	Continuously
Inspections/Maintenance	Evidence of an individual's qualifications to conduct annual inspections.	Until 1 year after employee stops performing inspections
Inspections/Maintenance	Periodic inspection report (original or copy).	14 months
Inspections/Maintenance	Evidence of a brake inspector's qualifications.	Until 1 year after employee stops performing inspections
Accidents	<ul style="list-style-type: none"> • Accident register • Copies of accident reports required by states, other governmental entities, or insurers. 	3 years

EKOGA WEBSITE

Keep up to date on happenings with EKOGA and the industry by visiting the EKOGA website

ekoga.org

There you can find information on EKOGA events, legislative agenda, regulatory issues, past EKOGA newsletters and coming soon **Membership Directory!**

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Executive Director's Report continued from page 6

now, May 6 and May 21 with only a few committee reports to be worked the final day. With this action it takes away a potentially long abortion and Medicaid expansion debate and narrows the focus on taxes and how to spend the \$1.2 billion in federal aid Kansas will receive for response to the pandemic.

Unfortunately, the well plugging bills being promoted by EKOGA and the industry will not be discussed in this session and will need to be introduced again in 2021.

In other news Kansas Corporation Commission Chair Susan Duffy, Topeka, has been appointed to the Interstate Oil and Gas Compact Commission by Gov. Laura Kelly. The Interstate Compact promotes conservation and efficient recovery of oil and natural gas while protecting health, safety and the environment. The seat was previously held by Commission Dwight Keen.

Warren Martin continued from page 10

However, it will take all of us. It will take every single oil and natural gas company in the state doing what it does best to provide for the needs of the people. It will also take every person working in the industry to advocate for the industry to make the most of this opportunity.

The Kansas Oil and Natural Gas Industry is crucial, vital and irreplaceable. Everyone in the state needs to know it. Now is the time to have a conversation with people in our communities to make sure they understand it. All of us must be a part of the recovery conversation!

Keith's Corner continued from page 13

it is in their best interest that these hydrocarbons not be "given" away for a song at the current price levels. Prudent lessors will prefer to maximize the value of their finite resources by holding produced hydrocarbons until prices improve or ceasing production until price improves.

If you are contemplating shutting in or severely curtailing production from a lease it would be wise to approach your Lessor with one of these agreements and discuss the situation with them. Although, I have no crystal ball I can assure you that one of two outcomes will ensue: 1) the lessor will sign the agreement, thus negating the need to review and comply with the subject lease terms during such period, or 2) the lessor will refuse to sign the agreement, thus signaling to the operator that it is imperative that they strictly comply with the terms of that individual lease agreement and seek clarification and advise concerning such lease if necessary. Either of these outcomes is beneficial as the operator clearly knows where they stand BEFORE the lease has been breached and the lessor has the leverage in the relationship.

In summary, my recommendation to operators during these times is to approach your lessors and get agreements with them where possible concerning how the lease will be operated (or not operated). For leases where an agreement with the lessor is not possible, operators should familiarize themselves with the terms of those leases and seek legal advice and clarification when necessary in order to develop a plan of action specific to the individual lease.

DISCLAIMER: This article does not constitute legal advice and no attorney client relationship is intended or implied.

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