

**BEFORE THE BOARD OF TAX APPEALS  
STATE OF KANSAS**

IN THE MATTER OF THE APPLICATION  
OF L.D. DRILLING, INC. FOR  
EXEMPTION FROM AD VALOREM  
TAXATION IN JACKSON COUNTY,  
KANSAS

Docket No. 2014-2648-TX

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**ORDER GRANTING RECONSIDERATION  
and  
ORDER ON RECONSIDERATION**

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

The Board finds and concludes as follows:

The Board has jurisdiction of the subject matter and the parties, an application for exemption having been filed pursuant to K.S.A. 2013 Supp. 79-213 and a timely Petition for Reconsideration having been filed pursuant to K.S.A. 2013 Supp. 74-2426 and K.S.A. 2013 Supp. 77-529..

The subject matter of this tax exemption application is described as follows:

Personal property located in Sections 35 and 26, Township 6  
South, Range 13 East of the Sixth Principal Meridian, Jackson  
County, Kansas, known as 043-HENRY TRUST LEASE.

The Applicant requests exemption from ad valorem taxation pursuant to K.S.A. 79-201. In its original Order on this matter, the Court granted the tax exemption request finding the Applicant qualified for exemption. The County filed a Petition for Reconsideration offering additional evidence and arguments in support of denying the exemption request. Therefore, the Court concludes that the Petition for Reconsideration should be granted.

The Applicant requests exemption from ad valorem taxation pursuant to K.S.A. 2013 Supp. 79-201t(a). The statute provides an exemption from ad valorem taxes for “[a]ll oil leases, other than royalty interests therein, the average daily production from which is three barrels or less per producing well, or five barrels or less per producing well which has a completion depth of 2,000 feet or more.”

The rendition supplied with the exemption request shows that from January 2013 through September 2013, the Applicant's lease contained three oil producing wells. In October 2013, a fourth well was added. These wells have an average depth of 3,650 feet. The lease produced an average of 4.79 barrels of oil per well per day in 2013.

The County supplied daily production reports for 2013. Those reports show that the subject property produced 5,697.02 barrels of oil in 2013. The reports also show how many wells were producing on any given day. When averaging the daily production per number of wells producing over 365 days, the evidence shows that the subject property produced 4.915 barrels of oil per well per day. The daily production record shows that there were eight days in 2013 when no production was made and one day when there was negative production. If those days are disregarded in the average daily production calculation, the subject property produced 5.04 barrels of oil per day per well and would not qualify for the exemption.

The County argues that the figure is closer to six barrels per well per day; however, the calculations showing that amount are not provided.

Pursuant to K.S.A. 2013 Supp. 79-213, the exemption is effective as of the date of first exempt use. The Board finds that the Kansas Department of Revenue, Division of Property Valuation Guide defers questions for tax exemptions granted pursuant to K.S.A. 2013 Supp. 79-201t(a) to the Board. The Kansas Court of Appeals in *In re Graham-Michaelis Corp.*, 27 Kan. App. 2d 467, 2 P.3d 795 (2000), held that the Guide supports the Board's decision to begin the exemption with the date of first exempt use and that there is nothing in the Guide that would contradict the Board's interpretation of K.S.A. 79-201t(a). Page iii of the Foreword to the 2013 Kansas Oil and Gas Guide indicates that periods of no production are expected as part of normal maintenance and already included in the 365-day calculation.

Therefore upon reconsideration, the Board finds that the per well daily production from the Applicant's lease satisfies the conditions enumerated in K.S.A. 2013 Supp. 79-201t(a) and that the exemption should stand.

IT IS THEREFORE ORDERED that the application for exemption from ad valorem taxation is granted from January 1, 2013, and each succeeding year, so long as the property continues to be used for exempt purposes. In the event the exempt property ceases to be used for exempt purposes, the Applicant must report that fact to the Jackson County Appraiser within 30 days. *See* K.S.A. 79-214.

IT IS FURTHER ORDERED that any refund due and owing the Applicant shall be made pursuant to K.S.A. 2013 Supp. 79-213(k), which limits the refund to the year immediately preceding the year in which the application is filed in accordance with K.S.A. 2013 Supp. 79-213(a).

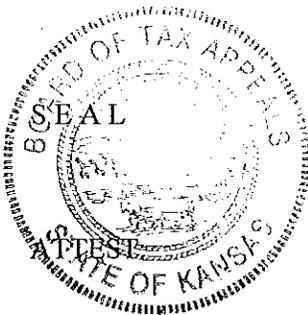
Any aggrieved person has the right to appeal this order of the Board by filing a petition with the court of appeals or the district court pursuant to K.S.A. 74-2426(c)(4)(A), and amendments thereto. Any person choosing to petition for judicial review of this order must file

the petition with the appropriate court within 30 days from the date of certification of this order. See K.S.A. 77-613(b) and (c) and K.S.A. 74-2426(c), and amendments thereto. Pursuant to K.S.A. 77-529(d), and amendments thereto, any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. See K.S.A. 74-2433(f), and amendments thereto.

The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any petition shall also serve a complete copy of the petition on all other parties.

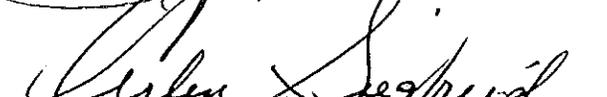
IT IS SO ORDERED

THE KANSAS BOARD OF TAX APPEALS



  
RONALD C. MASON, BOARD MEMBER

  
JAMES D. COOPER, BOARD MEMBER

  
ARLEN SIEGFREID, MEMBER PRO TEM

  
JOËLENE R. ALLEN, SECRETARY

**CERTIFICATE OF SERVICE**

I, Joelene R. Allen, Secretary of the Kansas Board of Tax Appeals, do hereby certify that a true and correct copy of this order in Docket No. 2014-2648-TX, and any attachments thereto, was placed in the U.S. mail, on this 29<sup>th</sup> day of September, 2014, addressed to:

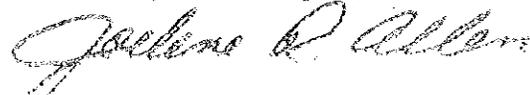
L.D. Davis, President  
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IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.



Joelene R. Allen, Secretary