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April 1, 2020

VIA EMAIL

The Honorable Chairman Todd Hiett  
The Honorable Vice Chairman Bob Anthony  
The Honorable Commissioner Dana Murphy

The Honorable Chairman Hiett, Vice-Chairman Anthony and Commissioner Murphy:

As you are well aware the price of Oklahoma oil has crashed, dropping to below \$20 per barrel. This has been the result of the Kingdom of Saudi Arabia and the Russian Federation's decision to increase production with the express intent of "taking out" American oil. Senator Inhofe has asked the U.S. Department of Commerce to begin an investigation into a possible "dumping Action" by these two countries. Thirteen other Senators, including Senator James Lankford, have joined in their support. The Texas Railroad Commission is considering action to curb Texas oil production by 500,000 barrels per day. We believe that these trying times call for the Oklahoma Corporation Commission (OCC) to immediately exercise its authority and determine whether Oklahoma oil is being sold below its "actual value," a prohibited activity, and take appropriate actions to protect Oklahoma's oil and gas reserves.

52 O.S. Section 272 provides:

***"The taking of crude oil or petroleum from any oil-bearing sand or sands in the State of Oklahoma at a time when there is not a market demand therefor at the well at a price equivalent to the actual value of such crude oil or petroleum is hereby prohibited,*** and the actual value of such crude oil or petroleum at any time shall be the average value as near as may be ascertained in the United States at retail of the by-products of such crude oil or petroleum when refined less the cost and a reasonable profit in the business of transporting, refining and marketing the same, and the Corporation Commission of this state is hereby invested with the authority and power to investigate and determine from time to time the actual value of such crude oil or petroleum by the standard herein provided, and when so determined said Commission shall promulgate its findings by its orders duly made and recorded, and publish the same in some newspaper of general circulation in the state." **[Emphasis added]**

In addition to the production of crude oil at less than the "actual value" of such crude oil, we believe a significant amount of crude oil is being produced in a manner that constitutes "economic waste."

52 O.S. Section 273 provides:

***"The term "waste" as used herein, in addition to its ordinary meaning, shall include economic waste, underground waste, surface waste, and waste incident to the production of crude oil or petroleum in excess of transportation or marketing facilities or reasonable market demands.*** The Corporation Commission shall have authority to make rules and regulations for the prevention of such wastes, and for the protection of all freshwater strata, and oil and gas bearing strata, encountered in any well drilled for oil."  
**[Emphasis added] See also: 52 O.S. Section 86.2.**

The drilling of a well at a cost that will not be recovered by the probable production from that well constitutes "economic waste." The OCC has recognized this concept for over seventy (70) years and the Oklahoma Supreme Court has upheld this interpretation by the OCC. Allowing the drilling of wells at a cost that will not be recovered by production from the well is "economic waste."

We respectfully submit that, pursuant to 52 O.S. Sections 271 et seq, not only is it within the OCC's authority, but it is the OCC's obligation to determine whether crude oil is being marketed and sold below its "actual value" or under conditions that result in economic waste. We urge you to use your authority to curtail such production of crude oil at less than its "actual value" or in excess of "market demand" through the use of allowables, prorationing or such other relief as may be appropriate. We further urge you to stop authorizing, permitting and approving the drilling of wells which result in "economic waste."

These matters are of great public concern and require your immediate action. Your prompt attention to these matters is greatly appreciated. If you have any questions or wish to discuss, please feel free to contact us.

Respectfully,



David Little  
President  
OEPA



Dewey F. Bartlett, Jr.  
Chairman  
OEPA

CC: Secretary Kenneth Wagner  
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U.S. Senator James Lankford  
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