



Official Minutes of PAYNE COUNTY Board of Equalization

The Payne County Equalization Board met in a Special meeting of the Board in Suite 200, Gloria Hesser Commission hearing room, on **July 19th, 2019 at 9:30 a.m.** at the Payne County Administration Building located in Stillwater, Oklahoma.

Chairman called the meeting to order:

Chairman Wedel called the meeting to order at 9:30 a.m.

The following members were present:

Randy Wedel-Chairman, David Sasser-Vice Chairman, Becky Teague- Member, Glenna Craig-County Clerk. Also, in attendance James Cowan, Assessor, Ben Hunley from TASC, Scott Pollock representing BP Oil, and William Elias representing BP Oil. The Board also performed telecommunication conferences with Scott Crisler representing DCP, and Pat Sloan representing MV Purchasing, and 4 AM Midstream.

Approval of minutes of the previous meeting of the board:

Clerk's office presented the minutes of the previous meeting for approval. Motion by Teague to approve the minutes as presented, second by Sasser. Roll Call Vote: Sasser-Yes, Teague- Yes, Wedel-Yes.

Hear protests filed with the Clerk for discussion and possible action:

Chairman Wedel started by discussing with all present how the hearing will be conducted, and what the duty of the board is.

BP Oil Supply: Craig presented to the board the protest filed by BP Oil company account 600079843. Scott Pollock and William Elias presented on behalf of BP Oil Supply. Scott Pollock thanked the board for their time. Mr. Pollock made opening remarks to the board. BP is in protest today because the Assessor has fully denied the freeport exemption allowed by law for the Cushing facilities in Payne County. The Assessor's denial is based on two facts, that BP Oil supply does not meet the guidelines in Article 10, and that BP Oil did not supply any information requested. Mr. Pollock stated the BP did not supply any documents, because no documentation was asked for, or for any past years, except 2015. For the past few years BP Oil has filed the 901-P and 901-F and each year they were accepted, why is 2019 different? Mr. Pollock pointed out that over the past few years BP Oil has had various claims, not all have been 100% exempt, they have claimed inventory. Pollock says this to show the board that BP Oil does not arbitrarily request 100% exemption, but that Mr. Cowan has not asked for information. Mr. Pollock presented a packet of information to the board. Mr. Pollock included in that packet a history of BP's filing with the Assessor's office and what has been presented. Mr. Pollock requested all of this information be kept with the filing of protest. Craig stated she would keep this information with the protest filed. Mr. Pollock presented a revised 901-F and 901-P to the board, and gave the Assessor permission to use this information, because Mr. Pollock had to make corrections to the 901-P, and 901-F in preparation for the hearing, and because he recognized an error. BP erroneously filed a return this tax year in Lincoln County for the first time, and this was in error, and the oil should have been in Payne County, so those barrels were reported in these amended reports, and there were also some small actions in crude oil. With this Mr. Pollock modified these reports to reflect those changes. Mr. Pollock stated that they reported 2.3 billion in inventory, and 49 million was in Oklahoma. Mr. Pollock stated that in the past counties questioned freeport exemption, and in 2015 HB1962 stated that crude oil in the state of Oklahoma can be eligible for freeport exemption. Mr. Pollock went on to discuss Supreme Court rulings, and court cases to support his protest. Mr. Pollock showed the board the Oklahoma in-state crude purchases that total \$49,145,728.00. Mr. Pollock also discussed the different DNA of crude oil. Mr. Pollock presented a chart of BP Oil supply 2018 Cushing crude purchases. Mr. Pollock continued to review data with the board. Mr. Pollock is showing the board that they have identified their crude, and that 90% of what is in Cushing came from outside of Oklahoma. Pollock stated that the 901-F is used to show inventory, and

**Official Minutes of
PAYNE COUNTY
BOARD OF COUNTY COMMISSIONERS**

as long as it is not in storage 9 months, it is not taxable, BP's oil is in storage less than a month. Mr. Pollock made a closing statement to the board, that the county has granted exemptions throughout the years, and they request they continue to do so. Wedel asked if the only oil that is taxable, is the domestically listed Oklahoma oil, Mr. Pollock stated yes and directed Wedel to the data in the packet. 901-F. Wedel asked if they are requesting exemption on everything but that inventory, Pollock stated yes. Wedel asked if there was any oil in Lincoln county, Mr. Pollock says there is a pipeline terminal in Lincoln County, but it was not stored in Lincoln County. Mr. Pollock stated they are trying to do the right thing. Wedel asked Mr. Pollock if any of BP Oil's subsidiary companies bought any of the oil that is showed sold by BP. Mr. Pollock stated he did not know enough to answer that question. He supposed it was possible but could not confirm that. Sasser asked with the different years, and different percentages, what resulted in a 49% exemption in 2017. Mr. Pollock stated he did not have the evidence to back up a 100% exemption, and only had information to back up a 49% rendition.

Assessor Cowan presented to the board. The first thing Assessor Cowan discussed was Oklahoma Constitution Article 10, Section 10, 6A. *"Where such goods, wares, and merchandise are so held for assembly, storage, manufacturing, processing, or fabrication purposes, provided, further that personal property consigned for sale with this State must be assessed as any other personal property"* Cowan also presented information from Mario L. Dell'Osso stating that crude oil is the same as natural gas, and is taxable. Cowan explained to the board that this oil is not being manufactured, and that it is not a product. Cowan also stated that if a handle comes in to Oklahoma from Kansas, and it is placed on a cooker, then it is part of a finished product that was manufactured. Sasser asked Cowan if his opinion has changed on freeport exemption since previous years, Cowan stated yes. Cowan does not believe there is a distinction between Natural Gas, and Oil. Teague asked if what Pollock presented today changed his position, Cowan stated no. Cowan said that BP bought and sold barrels of oil from Sun Corp. and others, this oil has never changed tanks, just inventory, and it is difficult to know if it moved out, etc. Cowan said that he has requested tickets of sale and transfer from the oil companies, and from the storage tank farm, and no one has supplied this information but one. Cowan stated that if company A brings the oil in, and then sales the oil to company B in the storage tanks in Oklahoma, and it transfers within that tank in Oklahoma, then it is Oklahoma oil and is taxable. Cowan stated that most of this oil is bought and sold in the barrels. Wedel stated that this all comes down to an issue of law, not fact. Issue of law being freeport exemption regardless of owner, and the Assessor's position is freeport exemption only if the ownership does not change. The two positions have to do with the interpretation of the law. Wedel has an issue with trying to interpret the law. Wedel knows the basic grades and asked if there is a lot of blending at the Cushing refinery, and Pollock stated yes he believed that to be true.

Pollock stated that he was authorized to offer rendering of 11.5%, if granted an 88.5% exemption. After discussion by all parties, Wedel asked if Cowan, and Mr. Pollock could maybe come to an agreement. Cowan stated that he would accept that, if they could review the 2018 filing for BP Oil, and adjust anything missed by BP. Pollock agreed as long as it did not include Whitening refinery. Motion by Teague to approve an adjustment to fair cash value in the amount of \$22,701,186.00 and any agreed adjustment for domestic production for prior year if there is one, second by Sasser. Roll Call Vote: Sasser-Yes, Teague-Yes, Wedel-Yes. Mr. Pollock commended the board, he has been to a lot of hearings across the state, and this board is top notch.

**Official Minutes of
PAYNE COUNTY
BOARD OF COUNTY COMMISSIONERS**

DCP Operating Company LP: Craig presented a protest filed by DCP Operating Company LP for all accounts in Payne County. DCP requested a teleconference call. The board called representative Scott Crisler for DCP per request. Also presenting for DCP was William Elias. Mr. Crisler gave some background to the board. In Payne County DCP has gathering pipes which is over 100 miles of pipe, of all sizes, as well as a booster. The booster has been decommissioned and has been removed. The average pipe is about 20 years old. Wedel asked when the booster site was removed, Crisler does not have the exact date, an engineer stated it was in 2016 or so, and confirmed it was gone. Crisler stated 35% of the pipe is inactive. Crisler believes there is data in the tax roll that needs to be corrected, and some obsolescence of equipment that needs to be addressed. There are 25 or so meters that need to be taken off. Some diameters of the pipeline needs to be adjusted, etc. Crisler went threw the value, and the data for the board to support his filing. Crisler states that volume and revenue is down. Crisler stated that they used the OTC for the economic obsolescence of 30% which is 3 million, and TASC had 9.2 million. Crisler stated that if you use the OTC schedule, and adjust depreciation that is a 7-million-dollar difference. DCP also had asset sales to get rid of assets, twice in 2018, and once in 2019.

Ben Hunley from TASC presented on the behalf of the Assessor. Ben stated the report he presented was a summary of the evaluation for this year which is \$9,250,017.00. These assets were in dispute in 2017, and the county and DCP came to an agreement on the fair market value of those assets. Mr. Hunley showed the board the settlement amount for 2017. In 2018 the county evaluated the same assets and DCP did not protest the value in 2018. In 2019 the original value was 11 million and it was adjusted to the \$9,250,017.00. TASC and the county rely on the assets listing from the company. If there are assets that are not supposed to be on there, they would have been removed. The rendition presented did not state the booster was removed, it said it was decommissioned. Hunley states they have a commitment to verify this information. DCP took out 3 million dollars for obsolescence. Hunley did not believe that the 3 million for obsolescence is warranted in this case. Sasser asked Crisler if the 35% was the salvage value, or abandoned, Crisler stated yes. Hunley stated that Crisler mentioned sales, and Hunley had information about assets from previous sales, and when assets are sold for zero, they do not look at them as valueless. Sasser asked if the booster that was removed was the one showing for a million in Ripley school, Hunley stated it was on the rendition, even though Crisler said it was removed. Hunley reviewed performance measurements of DCP from their 10K were they are showing increases. Cowan stated that he does not rely on the OTC schedule, he does his own research, and TASC uses theirs, which is Marshall and Swift. Wedel asked if DCP uses the OTC numbers to report to the stockholders, Crisler stated no. Wedel stated the difference in fair market value and book value. Sasser asked Crisler how many active meters are on the system, Crisler had stated there were 25 disconnected. Crisler replied 33 active meters. 35% referenced earlier was non-active. Wedel had an issue that DCP reported a booster on their rendition that they are now stating is gone. Wedel asked Cowan if he had heard anything today that gives him cause for adjustment of numbers, Cowan stated no. Wedel repeated for Crisler, he said no, he would like to lower it. After discussion further by the board, the board calculated what they believe was a fair value with what was presented on this date, and the information discussed with a 35% reduction to \$7,343,396.00. Cowan said is that 35% of footage, volume, one inch, two inches, etc? That would make a difference. This was not established. Motion by Sasser to adjust the fair cash value from \$9,250,017.00 to \$7,343,396.00 second by Teague. Roll Call Vote: Sasser-Yes, Teague-Yes, Wedel-Yes.

**Official Minutes of
PAYNE COUNTY
BOARD OF COUNTY COMMISSIONERS**

MV Purchasing: Craig presented the protest for MV Purchasing for all accounts in Payne County. MV Purchasing requested a teleconference with the board. Pat Sloan is the representative for MV Purchasing. Craig called Mr. Sloan. Mr. Sloan advised the board he was not the agent that normally handles this account, but due to shortages he is handling it today. Mr. Sloan stated that they filed a freeport exemption, as they have for years past, and this year it was denied by the Assessor. Mr. Sloan stated that after reviewing the submitted paper work, he realized a mistake was made in calculation. When calculating the inventory turns per year it was established to be 77.44%. Mr. Sloan stated the correct number for inventory cost for reporting to be exempt should have been \$15,565,064 and the inventory not exempt is now \$7,740,320.00 those are the proper calculations. Mr. Sloan stated that he saw no reason why the freeport exemption should not be granted, and that it should be applied.

James Cowan, Assessor presented to the board. Cowan stated he was going to refer back to the Oklahoma Constitution, Article 10, as well as the supreme court ruling. Cowan stated that the oil is being bought and sold in Cushing, not moving in or out by pipeline, and he does not believe it should be granted freeport exemption. Wedel asked Mr. Sloan about line 13 of his 901-F that shows inventory purchases for Oklahoma \$594,730,794.09. Then Wedel directed Mr. Sloan to line 16 inventory purchases out of state in the amount of \$1,526,679,814.65. Wedel stated this is 3 times what was purchased. Mr. Sloan stated that 34% came from Oklahoma, the rest came from other places. Line 16 is what was produced and piped in Oklahoma. Sloan stated 13 is what was in Oklahoma. 34% of average inventory rounds to the 7.7 million number given. Cowan stated yes oil is considered personal property and could get freeport exemption, but that oil is for manufacturing, not trading, and selling. The second set of paper is the Missouri gas energy vs Woods County, and Cowan believes that petroleum in storage does not meet the interstate commerce clause. Sloan stated that the Texas Supreme court went the other way, and the U.S. supreme court declined to hear it, so we have conflicting opinions. Mr. Sloan believes the constitutional interpretation does qualify them for freeport exemption. Cowan stated the declaration of having Oklahoma oil, and out of Oklahoma oil, because it is in one location in Cushing Oklahoma, it is being bought and sold right there in Cushing, and not moving. Wedel stated as a board they are trying to be a finder of fact. Wedel said as a member of the board he feels terribly unqualified to decide this, which is a question of law, not valuation. Mr. Sloan understands and believes there is case law to support his request. Mr. Sloan said their protest is because they have received freeport exemption in the past years, and this year it was denied. Teague said she will need to see what is bought and sold, and she does not know what was there. Cowan asked the question, was it moving or being transferred? Teague does not know, but neither does Cowan. Sloan stated that his client provided him with this information, and that is all he has to submit, they do have detailed records. Sasser asked if those have been provided to the Assessor? Cowan stated no. Teague asked if the Assessor has asked for this, he said yes, and only one company has given it to him. Teague asked Mr. Sloan if they tabled until the 31st could they give Mr. Cowan more information, he said he would try, but understand this is a lot of information. He is sure they can provide something. Motion by Sasser to table until Mr. Sloan can get additional information to the Assessor, second by Teague. Roll Call Vote: Sasser-Yes, Teague-Yes, Wedel-Yes.

4 AM Midstream: Craig presented the protest filed by 4 AM Midstream for all accounts in Payne County. Pat Sloan presented on behalf of 4 AM Midstream. Wedel stated they are looking at the 976 filed by 4 AM Midstream with the Assessor valuation at \$18,046,272.00, and the protest value at \$4,169,014.00. Mr. Sloan said basically they have an appraisal of the assets for pipeline. Allocated to Payne County is \$4,169,014.00. TASC hired by the Assessor has appraised the pipeline without depreciation, or obsolescence. Mr. Sloan discussed that there is economic obsolescence, and the appraisal needs adjusted. Mr. Sloan discussed this with the board. Mr. Wedel asked if the appraiser did an independent verification of the numbers given him by the company, Sloan did not know. Sloan is not an appraiser, but a client advocate, but discussed the appraisal process and getting historical data, and the operator giving accurate data. Wedel said it looked like the cost approach was used for value, Mr. Sloan stated it looks like the income, cost and market approach. Ben Hunley from TASC asked Mr. Sloan, aren't these assets subject to

**Official Minutes of
PAYNE COUNTY
BOARD OF COUNTY COMMISSIONERS**

sales in the last two-three years. Mr. Sloan said yes and discussed the different companies but did not know the details. 4 AM Midstream bought assets from White Star. Wedel asked if the primary assets in Payne County were acquired by White Star? Mr. Sloan had the appraisal. Wedel would rather see sales instead of appraisal. Mr. Hunley stated he would address that.

Ben Hunley with TASC addressed the board on behalf of the Assessor's office. Mr. Hunley reviewed the sale of assets to 4 AM Midstream. Mr. Hunley passed out a few exhibits for the board. Mr. Wedel asked for Mr. Hunley to address sales data first. Page 14 total sales price for 66.7% of the assets were in the amount of \$47,912,539.00. Mr. Hunley stated this is a system that encompasses three counties. These were White Star assets. Did not sale 100% of the Assets. Mr. Hunley discussed the purchase details with the board. Mr. Hunley stated that Payne County value should be \$18,046,272. Wedel asked who did this appraisal and break down, Hunley stated TASC. It is based on pipe, and systems in Payne County. Hunley continued to discuss with the board the sales, and appraisal of assets in Payne County, depreciation, etc. The board looked at depreciation for a year and a half and determined that there should be an adjusted sales price of what a willing buyer and willing seller would agree on, and took into account depreciation, and came up with a valuation of \$15,149,557.00. Motion by Sasser to adjust the Assessor's value to \$15,149,557.00, second by Teague. Roll Call Vote: Sasser-Yes, Teague-Yes, Wedel-Yes. Hunley said that would be a good number if all parties agreed to sale, but there was a third party that did not agree to sale, and there has been a great increase in the price of steel. He believes those things should be taken into consideration. Mr. Sloan stated he understands how the board is approaching this, but he does not know if in the sale there is any provision for White Star was to also service their liens, and that could be taken into consideration.

Adjournment:

Motion by Sasser to adjourn, second by Teague. Roll Call Vote: Sasser-Yes, Teague-Yes, Wedel-Yes.

Minutes of the Board attested to

By _____
Glenna Craig, Payne County Clerk
Seal of office

Approved by the Excise Board

On the _____ day of _____ 2019

Chairman _____

Vice-Chairman _____

Member _____