

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2156

By: Ivester

4  
5  
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.  
8 2001, Section 87.1, as last amended by Section 2,  
9 Chapter 331, O.S.L. 2007 (52 O.S. Supp. 2009, Section  
10 87.1), which relates to common source of supply;  
11 prohibiting post-production costs deductions from  
12 certain royalty payments; clarifying statutory  
13 language; and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 52 O.S. 2001, Section 87.1, as  
16 last amended by Section 2, Chapter 331, O.S.L. 2007 (52 O.S. Supp.  
17 2009, Section 87.1), is amended to read as follows:

18 Section 87.1 Whenever the production from any common source of  
19 supply of oil or natural gas in this state can be obtained only  
20 under conditions constituting waste or drainage not compensated by  
21 counterdrainage, then any person having the right to drill into and  
22 produce from such common source of supply may, except as otherwise  
23 authorized or in this section provided, take therefrom only such  
24 proportion of the oil or natural gas that may be produced therefrom  
without waste or without such drainage as the productive capacity of

1 the well or wells of any such person considered with the acreage  
2 properly assignable to each such well bears to the total productive  
3 capacities of the wells in such common source of supply considered  
4 with the acreage properly assignable to each well therein.

5 (a) To prevent or to assist in preventing the various types of  
6 waste of oil or gas prohibited by statute, or any of said wastes, or  
7 to protect or assist in protecting the correlative rights of  
8 interested parties, the Corporation Commission, upon a proper  
9 application and notice given as hereinafter provided, and after a  
10 hearing as provided in said notice, shall have the power to  
11 establish well spacing and drilling units of specified and  
12 approximately uniform size and shape covering any common source of  
13 supply, or prospective common source of supply, of oil or gas within  
14 the State of Oklahoma; provided, that the Commission may authorize  
15 the drilling of an additional well or wells on any spacing and  
16 drilling unit or units or any portion or portions thereof or may  
17 establish, reestablish, or reform well spacing and drilling units of  
18 different sizes and shapes when the Commission determines that a  
19 common source of supply contains predominantly oil underlying an  
20 area or areas and contains predominantly gas underlying a different  
21 area or areas; provided further that the units in the predominantly  
22 oil area or areas shall be of approximately uniform size and shape,  
23 and the units in the predominantly gas area or areas shall be of  
24 approximately uniform size and shape, except that the units in the

1 gas area or areas may be of nonuniform size and shape when they  
2 adjoin the units in the oil area or areas; provided further that the  
3 drilling pattern for such nonuniform units need not be uniform, and  
4 provided further that the Commission shall adjust the allowable  
5 production within said common source of supply, or any part thereof,  
6 and take such other action as may be necessary to protect the rights  
7 of interested parties. Any order issued pursuant to the provisions  
8 hereof may be entered after a hearing upon the petition of any  
9 person owning an interest in the minerals in lands embraced within  
10 such common source of supply, or the right to drill a well for oil  
11 or gas on the lands embraced within such common source of supply, or  
12 on the petition of the Conservation Officer of the State of  
13 Oklahoma. When such a petition is filed with the Commission, the  
14 Commission shall give at least fifteen (15) days' notice of the  
15 hearing to be held upon such petition by one publication, at least  
16 fifteen (15) days prior to the hearing, in some newspaper of general  
17 circulation published in Oklahoma County, and by one publication, at  
18 least fifteen (15) days prior to the date of the hearing, in some  
19 newspaper published in the county, or in each county, if there be  
20 more than one, in which the lands embraced within the application  
21 are situated. Except as to the notice of hearing on such a  
22 petition, the procedural requirements of Sections 86.1 et seq. of  
23 this title, shall govern all proceedings and hearings provided for  
24 by this section.

1 (b) In case of a spacing unit of one hundred sixty (160) acres  
2 or more, no oil and/or gas leasehold interest outside the spacing  
3 unit involved may be held by production from the spacing unit more  
4 than ninety (90) days beyond expiration of the primary term of the  
5 lease.

6 (c) In establishing a well spacing or drilling unit for a  
7 common source of supply thereunder, the acreage to be embraced  
8 within each unit shall not exceed six hundred forty (640) acres for  
9 a gas well plus ten percent (10%) tolerance, unless a governmental  
10 section contains more than six hundred forty (640) acres in which  
11 case the unit may comprise the entire section. Provided, however,  
12 fractional sections along the state boundary line and within the  
13 townships along the boundary where the survey west of the Indian  
14 Meridian meets the survey east of the Cimarron Meridian may be  
15 spaced with adjoining section unit, and the shape thereof shall be  
16 determined by the Commission from the evidence introduced at the  
17 hearing, and the following facts, among other things, shall be  
18 material: (1) The lands embraced in the actual or prospective  
19 common source of supply; (2) the plan of well spacing then being  
20 employed or contemplated in said source of supply; (3) the depth at  
21 which production from said common source of supply has been or is  
22 expected to be found; (4) the nature and character of the producing  
23 or prospective producing formation or formations; and (5) any other  
24 available geological or scientific data pertaining to said actual or

1 prospective source of supply which may be of probative value to said  
2 Commission in determining the proper spacing and well drilling unit  
3 therefor, with due and relative allowance for the correlative rights  
4 and obligations of the producers and royalty owners interested  
5 therein.

6       The order establishing such spacing or drilling units shall set  
7 forth: (1) the outside boundaries of the surface area included in  
8 such order; (2) the size, form, and shape of the spacing or drilling  
9 units so established; (3) the drilling pattern for the area, which  
10 shall be uniform except as hereinbefore provided; and (4) the  
11 location of the permitted well on each such spacing or drilling  
12 unit. To such order shall be attached a plat upon which shall be  
13 indicated the foregoing information. Subject to other provisions of  
14 this act, Section 81 et seq. of this title, the order establishing  
15 such spacing or drilling units shall direct that no more than one  
16 well shall thereafter be produced from the common source of supply  
17 on any unit so established, and that the well permitted on that unit  
18 shall be drilled at the location thereon as prescribed by the  
19 Commission, with such exception as may be reasonably necessary where  
20 it is shown, upon application, notice and hearing in conformity with  
21 the procedural requirements of Sections 86.1 et seq. of this title,  
22 and the Commission finds that any such spacing unit is located on  
23 the edge of a pool and adjacent to a producing unit, or for some  
24 other reason that to require the drilling of a well at the

1 prescribed location on such spacing unit would be inequitable or  
2 unreasonable. Whenever such an exception is granted, the Commission  
3 shall adjust the allowable production for said spacing unit and take  
4 such other action as may be necessary to protect the rights of  
5 interested parties.

6 Any well spacing or drilling unit for a common source of supply  
7 thereunder which exceeds six hundred forty (640) acres for a gas  
8 well plus ten percent (10%) tolerance or exceeds the total amount of  
9 acreage contained in a governmental section, and is not in  
10 production or in the process of drilling development on the  
11 effective date of this act shall be de-spaced. However, fractional  
12 sections along the state boundary line and within the townships  
13 along the boundary where the survey west of the Indian Meridian  
14 meets the survey east of the Cimarron Meridian may be spaced with  
15 adjoining section unit, and the shape thereof shall be determined by  
16 the Commission.

17 (d) The Commission shall have jurisdiction upon the filing of a  
18 proper application therefor, and upon notice given as provided in  
19 subsection (a) above, to decrease the size of the well spacing units  
20 or to permit additional wells to be drilled within the established  
21 units, upon proper proof at such hearing that such modification or  
22 extension of the order establishing drilling or spacing units will  
23 prevent or assist in preventing the various types of wastes  
24 prohibited by statute, or any of said wastes, or will protect or

1 assist in protecting the correlative rights of persons interested in  
2 said common source of supply, or upon the filing of a proper  
3 application therefor to enlarge the area covered by the spacing  
4 order, if such proof discloses that the development or the trend of  
5 development indicates that such common source of supply underlies an  
6 area not covered by the spacing order and such proof discloses that  
7 the applicant is an owner within the area or within a drilling and  
8 spacing unit contiguous to the area covered by the application.  
9 Except in the instance of reservoir dewatering as described herein,  
10 the Commission shall not establish well spacing units of more than  
11 forty (40) acres in size covering common sources of supply of oil,  
12 the top of which lies less than four thousand (4,000) feet below the  
13 surface as determined by the original or discovery well in said  
14 common source of supply, and the Commission shall not establish well  
15 spacing units of more than eighty (80) acres in size covering common  
16 sources of supply of oil, the top of which lies less than nine  
17 thousand nine hundred ninety (9,990) feet and more than four  
18 thousand (4,000) feet below the surface as determined by the  
19 original or discovery well in said common source of supply. In the  
20 instance of reservoir dewatering to extract oil from reservoirs  
21 having initial water saturations at or above fifty percent (50%),  
22 the Commission may establish drilling and spacing units not to  
23 exceed six hundred forty (640) acres in size.

24

1 (e) The drilling of any well or wells into any common source of  
2 supply for the purpose of producing oil or gas therefrom, after a  
3 spacing order has been entered by the Commission covering such  
4 common source of supply, at a location other than that fixed by said  
5 order is hereby prohibited. The drilling of any well or wells into  
6 a common source of supply, covered by a pending spacing application,  
7 at a location other than that approved by a special order of the  
8 Commission authorizing the drilling of such well is hereby  
9 prohibited. The operation of any well drilled in violation of any  
10 spacing so entered is also hereby prohibited. When two or more  
11 separately owned tracts of land are embraced within an established  
12 spacing unit, or where there are undivided interests separately  
13 owned, or both such separately owned tracts and undivided interests  
14 embraced within such established spacing unit, the owners thereof  
15 may validly pool their interests and develop their lands as a unit.  
16 Where, however, such owners have not agreed to pool their interests  
17 and where one such separate owner has drilled or proposes to drill a  
18 well on said unit to the common source of supply, the Commission, to  
19 avoid the drilling of unnecessary wells, or to protect correlative  
20 rights, shall, upon a proper application therefor and a hearing  
21 thereon, require such owners to pool and develop their lands in the  
22 spacing unit as a unit. The applicant shall give all the owners  
23 whose addresses are known or could be known through the exercise of  
24 due diligence at least fifteen (15) days' notice by mail, return

1 receipt requested. The applicant shall also give notice by one  
2 publication, at least fifteen (15) days prior to the hearing, in  
3 some newspaper of general circulation published in Oklahoma County,  
4 and by one publication, at least fifteen (15) days prior to the date  
5 of the hearing, in some newspaper published in the county, or in  
6 each county, if there be more than one, in which the lands embraced  
7 within the spacing unit are situated. The applicant shall file  
8 proof of publication and an affidavit of mailing with the Commission  
9 prior to the hearing. All orders requiring such pooling shall be  
10 made after notice and hearing, and shall be upon such terms and  
11 conditions as are just and reasonable and will afford to the owner  
12 of such tract in the unit the opportunity to recover or receive  
13 without unnecessary expense his just and fair share of the oil and  
14 gas. The portion of the production allocated to the owner of each  
15 tract or interests included in a well spacing unit formed by a  
16 pooling order shall, when produced, be considered as if produced by  
17 such owner from the separately owned tract or interest by a well  
18 drilled thereon. Such pooling order of the Commission shall make  
19 definite provisions for the payment of cost of the development and  
20 operation, which shall be limited to the actual expenditures  
21 required for such purpose not in excess of what are reasonable,  
22 including a reasonable charge for supervision. Provided, such  
23 pooling order shall not permit the deduction of post-production  
24 costs from royalty shares paid to owners who have not agreed to pool

1 their interests. In the event of any dispute ~~relative~~ relating to  
2 such authorized costs, the Commission shall determine the proper  
3 costs after due notice to interested parties and a hearing thereon.  
4 The operator of such unit, in addition to any other right provided  
5 by the pooling order or orders of the Commission, shall have a lien  
6 on the mineral leasehold estate or rights owned by the other owners  
7 therein and upon their shares of the production from such unit to  
8 the extent that costs incurred in the development and operation upon  
9 said unit are a charge against such interest by order of the  
10 Commission or by operation of law. Such liens shall be separable as  
11 to each separate owner within such unit, and shall remain liens  
12 until the owner or owners drilling or operating the well have been  
13 paid the amount due under the terms of the pooling order. The  
14 Commission is specifically authorized to provide that the owner or  
15 owners drilling, or paying for the drilling, or for the operation of  
16 a well for the benefit of all shall be entitled to production from  
17 such well which would be received by the owner or owners for whose  
18 benefit the well was drilled or operated, after payment of royalty,  
19 until the owner or owners drilling or operating the well have been  
20 paid the amount due under the terms of the pooling order or order  
21 settling such dispute. No part of the production or proceeds  
22 accruing to any owner of a separate interest in such unit shall be  
23 applied toward payment of any cost properly chargeable to any other  
24 interest in said unit.

1 For the purpose of this section, the owner or owners of oil and  
2 gas rights in and under an unleased tract of land shall be regarded  
3 as a lessee to the extent of a seven-eighths (7/8) interest in and  
4 to said rights and a lessor to the extent of the remaining  
5 one-eighth (1/8) interest therein. Should the owners of separate  
6 tracts or interests embraced within a spacing unit fail to agree  
7 upon a pooling of their interests and the drilling of a well on the  
8 unit, and should it be established by final, unappealable judgment  
9 of a court of competent jurisdiction that the Commission is without  
10 authority to require pooling as provided for herein, then, subject  
11 to all other applicable provisions of this act, the owner of each  
12 tract or interest embraced within a spacing unit may drill on his  
13 separately owned tract, and the allowable production therefrom shall  
14 be that portion of the allowable for the full spacing unit as the  
15 area of such separately owned tract bears to the full spacing unit.

16 In the event a producing well or wells are completed upon a unit  
17 where there are, or may thereafter be, two or more separately owned  
18 tracts, each royalty interest owner shall share in all production  
19 from the well or wells drilled within the unit, or in the gas well  
20 rental provided for in the lease covering such separately owned  
21 tract or interest in lieu of the customary fixed royalty, to the  
22 extent of such royalty interest owner's interest in the unit. Each  
23 royalty interest owner's interest in the unit shall be defined as  
24 the percentage of royalty owned in each separate tract by the

1 royalty owner, multiplied by the proportion that the acreage in each  
2 separately owned tract or interest bears to the entire acreage of  
3 the unit.

4 (f) Notwithstanding any provision of this section to the  
5 contrary, the Corporation Commission shall have jurisdiction upon  
6 the filing of a proper application therefor, and upon notice given  
7 as provided in subsection (a) above, to establish spacing rules for  
8 horizontally drilled oil wells whereby horizontally drilled oil  
9 wells may have well spacing units established of up to six hundred  
10 forty (640) acres plus tolerances and variances as allowed for gas  
11 wells pursuant to subsection C of this section. For purposes of  
12 this subsection a "horizontally drilled oil well" shall mean an oil  
13 well drilled, completed or recompleted in a manner in which the  
14 horizontal component of the completion interval in the geological  
15 formation exceeds the vertical component thereof and which  
16 horizontal component extends a minimum of one hundred fifty (150)  
17 feet in the formation. The Corporation Commission shall promulgate  
18 rules necessary for the proper administration of this subsection.

19 SECTION 2. This act shall become effective November 1, 2010.

20

21 52-2-2158 MJM 2/3/2010 8:09:30 PM

22

23

24