Stacey Talley

From: Suzanne Hyatt
Sent: Monday, December 07, 2015 8:02 AM
To: Mark Falcon; Stacey Talley; Rachel Newman; Charles Bradbury; Victor Vaughn; Jason Talbot; Byron Miller; Rick Heck; Anthony Fontenot; James Devitt; Ryan Seidemann
Subject: GORDON ARATA - Comments to proposed State Lease form

See below

From: Cynthia Nicholson [mailto:CNicholson@gordonarata.com]
Sent: Saturday, December 05, 2015 2:35 PM
To: Mark Falcon; James Devitt
Cc: Sam Masur; Peck Hayne; Suzanne Hyatt
Subject: RE: comments to proposed State Lease form

Jim and Mark
If you would like to discuss any of our changes, please do not hesitate to contact either Peck or myself.
As we discussed Thursday afternoon, we were not able to make all of the changes that we felt were necessary but did try to highlight the areas of concern.
If an extension is granted by the Board, we would be glad to make all of other suggested changes and work with you to finalize this form.

Furthermore, we agree that it is in everyone's best interests to have a revised form of lease that is clear and precise.
Thank you for your consideration
Cynthia

GORDON ARATA MCCOLLAM DUPLANTIS & EAGAN LLC

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From: Peck Hayne
Sent: Friday, December 04, 2015 6:35 PM
To: Suzanne.Hyatt@la.gov
Cc: James Devitt; Mark.Falcon@LA.gov; Cynthia Nicholson; Sam Masur
Subject: comments to proposed State Lease form

Dear Ms. Hyatt,
We applaud the Mineral Board's and Staff's efforts to revise and update the State Lease form. Following up our recent conversations with you, Mr. Devitt and Mr. Falcon, we are pleased to submit the attached comments and suggested changes to the proposed State Lease form. For your convenience, we are submitting these both in Word format and in PDF format.

As you'll see, we believe that further changes to the proposed form are also appropriate. In some instances, we were not exactly sure of the intent of certain proposed changes from the 2000 form. Thus, our suggested changes were based on what we believe may have been the underlying intent of the change. Based on comments that other parties may also be submitting, we suspect that further changes may also be appropriate.

Both Cynthia Nicholson and I are planning to attend next week's Mineral Board meeting on the proposed lease form and are ready, willing and able to meet you and/or others (whether Mineral Board members, Staff or industry participants) and otherwise assist further in coming up with a final, appropriate revised State Lease form. In the meantime, feel free to call us if you have any questions.

Best regards, Peck Hayne

C. Peck Hayne Jr.
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LEASE FOR OIL, GAS AND OTHER LIQUID OR GASEOUS HYDROCARBON MINERALS

STATE OF LOUISIANA State Lease No. _____
PARISH OF EAST BATON ROUGE
Louisiana State Lease Form Revised 2016

WHEREAS, under the provisions of Subpart A of Chapter 2, Title 30 of the Louisiana Revised Statutes of 1950, as amended or any successor statute, and other applicable laws, the State Mineral and Energy Board ("Board") of the State of Louisiana ("State" or ~~&~~ "Lessor") advertised for bids for a lease covering oil, gas and other liquid or gaseous hydrocarbon minerals in solution produced with oil or gas on the property described below; and

WHEREAS, notwithstanding any language herein to the contrary, this Lease and Lessee are subject to all laws, statutes, rules and regulations, state and federal, applicable to the subject matter of this Lease during the term this Lease is in force and effect, whether in whole or in part. ~~As between the parties to this Lease, the~~ In the event this Lease imposes on a party any duties, requirements, responsibilities ~~and~~ obligations greater than those under any applicable law, statute, rule or regulation, the provisions set forth herein shall control. Furthermore, Lessee shall not use this Lease or any language contained herein to circumvent any obligation which may be imposed on Lessee ~~them~~ by any applicable law, statute, rule or regulation in effect during the term this Lease is in force and effect; and

Comment [GAMDE1]: Consider moving this whereas clause into a numbered article below.

Comment [GAMDE2]: There was a conflict between these two sentences. The revised language should remove the conflict.

WHEREAS, in response to required advertisements, bids were received and duly opened in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana on the ___ day of _____, 20XX at a meeting of the Board; and

WHEREAS, on the ___ day of _____, 20XX ("Effective Date"), the Board accepted the bid of and awarded thi~~s~~e Lease to _____ ~~as~~ ("Lessee"), whose address is _____, as the most advantageous to the State as Lessor.

NOW THEREFORE, be it known and remembered that the Board, acting under said authority for and on behalf of the State, as Lessor, does hereby lease, let and grant exclusively unto said Lessee, and Lessee's successors, transferees and assigns, the property described below for the purpose of exploring by any method including, but not limited to seismic, geophysical and geological exploration for formations or structures, prospecting, drilling for and producing oil, gas and any other liquid or gaseous hydrocarbon minerals in solution produced with oil or gas, hereinafter sometimes referred to as oil, gas or other liquid or gaseous minerals. In connection therewith, Lessee shall have the right to use so much of the property as reasonably may be necessary for such operations including, but not limited to storing minerals and fluids in facilities or by means other than subsurface storage, laying pipelines, dredging canals, building roads, bridges, docks, tanks, power stations, telephone and electric transmission lines, and other structures and/or facilities.

The property ("Leased Premises") subject to this Lease, situated in the Parish(es) of _____, State of Louisiana, is more fully described as follows:

(PROPERTY DESCRIPTION)

This Lease excludes free sulfur, potash, lignite, salt and other solid minerals, and geothermal energy. Lessee shall not have any right to explore, drill for, mine, produce or take any action whatsoever in regard to any such solid mineral deposits, nor any right

under this Lease in regard to alternative energy sources as defined by La. R.S. 30:124 or any successor statute.

Notwithstanding any language herein to the contrary, the rights granted herein to Lessee shall be subject to the surface usage for seismic and geophysical exploration by any seismic permittee of the State whose valid permit predates the Effective Date of this Lease but only to the extent that such permit covers ~~and includes~~ all or a portion of the surface area encompassed within the geographical boundary of the Leased Premises. The said seismic permittee shall owe Lessee no duty to share seismic or geophysical information acquired under the predating permit nor to reimburse Lessee for surface usage, but said seismic permittee shall not unreasonably interfere with Lessee's exercise of its rights acquired hereunder.

Notwithstanding any language herein to the contrary, the rights granted herein to Lessee shall be subject and subservient to surface usage for integrated coastal protection or hurricane and flood protection projects promulgated, funded and/or effected through the State of Louisiana, the Coastal Protection and Restoration Authority, the Department of Natural Resources and/or their divisions, whether solely or in conjunction with other federal, state or local government agencies, or with private individuals or entities. Lessee shall hold the State, its departments, agencies, boards and commissions including, without limitation, the Coastal Protection and Restoration Authority, the Department of Natural Resources, the Office of Mineral Resources (OMR), the State Mineral and Energy Board and their officers, employees, agents and representatives, and the United States government, its departments, agencies and divisions, together with their respective officers, employees, agents and representatives, free and harmless of and from any claims, actions and/or causes of action, except as limited by law, for loss, harm or damage to the rights of any party arising under this Lease or any other contract, permit or license of Lessee related to this Lease caused by the diversion of freshwater or sediment, depositing of dredged or other materials, integrated coastal protection projects, or any other such action taken for the purpose of management, preservation, enhancement, creation, protection or restoration of coastal wetlands, water bottoms or related public or renewable resources. Lessee, in the exercise of its rights granted hereunder, shall utilize the best technology commercially available, including directional drilling, so as to minimize interference with the ongoing surface usage entailed in the development, construction and maintenance of said integrated coastal protection and/or hurricane and flood protection projects.

The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Lease.

The references in this Lease to statutes and regulations apply to the statute and regulation as such existed at the time this Lease was revised and also to any amended or successor statute or regulation.

DEFINITIONS

For purposes of this Lease, the following definitions shall apply:

(A) "Anniversary date" shall mean the same date on each next ensuing year or years after the Effective Date of this Lease.

(B) "Acceptable lease operations" shall mean either actual drilling operations ~~or~~, actual reworking operations, as defined below, on the Leased Premises or ~~affecting the Lease by unitization~~lands pooled or unitized with any or all portions thereof.

(1) "Actual drilling operations" shall mean (a) drilling commenced by spudding-in of a new well, (b) deepening or sidetracking of an existing

well, (c) plugging back or attempted recompletion in a separate interval of an existing well (all such operations being commenced by actual downhole operations), ~~or~~ (d) completing a ~~the~~ well or (e) installation of equipment.

Actual drilling operations shall be deemed to terminate on the last day downhole operations of any kind, such as drilling, testing or installation of equipment, are conducted in good faith for the purpose of attempting to discover minerals or complete a well as a producer.

(2) "Actual reworking operations" shall mean reconditioning, cleaning out or otherwise attempting to directly establish, increase or restore production in an existing well by downhole operations or installation of equipment.

Actual reworking operations shall be deemed to terminate on the last day any such downhole operations are conducted in good faith for the purpose of establishing, increasing or restoring production.

Under no circumstances shall drilling or otherwise creating salt water disposal wells constitute actual drilling or reworking operations for purposes of maintaining this Lease.

~~(3)~~ "Installation of equipment" shall mean that equipment necessary to maintain downhole completion, drilling or reworking activity. The installation of flowlines or other surface facilities needed to produce the well shall not be considered as actual drilling operations.

(C) "Paying quantities" shall mean paying quantities as defined by La. R.S. 31:124 and, in addition, notwithstanding the provisions of La. R.S. 31:125, the amount of royalties payable on such production must also be sufficient to constitute serious or adequate consideration ~~in relation to the amount of other leasehold payments such as bonus, rental or other sums~~.

(D) "Affiliated p~~P~~arty" shall mean a person or entity that controls, is controlled by or under common control with Lessee, where the term control refers to the power and ability to direct the management of the entity at issue~~whose relationship with Lessee is such that either party has the power to control the other, or a third party that controls or has the power to control the both~~. Control shall be determined as follows:

(1) An affiliated party includes a company, firm or other entity ~~business unit~~ that is:

(a) A direct part of Lessee's corporate or other business structure;
(b) A wholly owned~~, partially owned, or actually or partially controlled~~ subsidiary ~~corporation or other business unit~~ of Lessee or other entity controlled by Lessee;
(c) A parent corporation of Lessee; or
(d) A wholly owned~~, partially owned, or actually or partially controlled~~ subsidiary of Lessee's parent corporation or other entity controlled by Lessee's parent corporation.

(2) Ownership or common ownership of more than fifty (50%) percent of the voting securities or instruments of ownership, or other forms of ownership, of another shall constitute control (and therefore, a rebuttable presumption of affiliation). Ownership of less than ten (10%) percent constitutes a rebuttable presumption of non-control (presumed non-affiliate).

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Comment [GAMDE3]: We removed "(3)" and moved the margin for this text because the defined term "installation of equipment" applies to both (1) and (2).

Comment [GAMDE4]: Deleted provision as vague, unclear and unnecessary.

Comment [GAMDE5]: This reference to partially owned is to broad: for example, if Lessee owns a 1% interest in another company and doesn't otherwise control that other company, then it is not an affiliated party.

Comment [GAMDE6]: The term "partially controlled" does not make sense, and is otherwise unnecessary in light of (2)-(3) below.

(3) If there is ownership or common ownership of ten (10%) percent through fifty (50%) percent of the voting securities or instruments of ownership, or other forms of ownership, of another, the following factors shall determine whether there is control:

(a) The extent to which there are common officers or directors;
(b) With respect to the voting securities or instruments of ownership, or other forms of ownership, the percentage of ownership or common ownership; the relative percentage of ownership or common ownership compared to the percentage(s) of ownership of other persons; whether a person is the greatest single owner; or whether there is an opposing voting bloc of greater ownership;
(c) Common operation of a lease, plant, pipeline or other facility;
(d) The extent of participation by other owners in operations and day-to-day management of a lease, plant, pipeline or other facility; and
(e) Other evidence of power to exercise control over or common control with another person.

(4) Regardless of any percentage of ownership or common ownership, the presence of common interests among members of a family creates a rebuttable presumption of affiliation.

~~(5) The term "Affiliated Party" shall apply to marketing firms engaged in the sale of Lessee's oil, gas or products.~~

(E) "Non-affiliated party" shall mean a person, company, firm or other business unit that is not an affiliated party.

(F) "Rental paying date" shall mean the anniversary date during the Primary Term (as may be ~~unless the date is~~ extended by other terms of this~~e~~ Lease).

(G) "Outside acreage" shall mean that portion of the Leased Premises not included in a unit or units on which unitized operations are being conducted.

~~(H) "Lessee" shall mean the original Lessee and such Lessee's successors, transferees, sublessees and assigns, and additionally shall include Lessee's employees, contractors, agents, representatives and other persons or entities acting for or on behalf of Lessee.~~

(H~~I~~) "Leasehold payment" shall mean rental, deferred development or shut-in payments.

(I) "Restore to original condition" with respect to any specified portion of the Leased Premises means to restore, to the extent practicable, the lands and water bottoms within such portion to a condition as nearly equivalent (normal erosion, settlement and topographical changes excepted and also such changes caused by Lessor, one or more third parties or acts of God excepted) to what existed before Lessee's first operations under this Lease on such portion; provided, however, (i) that Lessee shall not be required under this Lease to remove any buried pipeline that is flushed and capped and (ii) that, to the extent it has jurisdiction, the Louisiana Office of Conservation shall have exclusive and primary jurisdiction as to the scope and method of any such restoration.

(J) "Unit" or "Unitization" shall mean pooled mineral acreage (or specified depths therein) by order of a governmental agency or by conventional agreement.

(K) "Unitized operations" shall mean production in paying quantities and/or acceptable lease operations attributed to ~~a well or~~ one or more unit wells

Comment [GAMDE7]: This provision is way too broad. Under this provision, if a Lessee makes any sale to a completely unrelated marketing company (e.g., Shell Trading), then that marketing company would be considered an Affiliated Party. The determining factor is "control," not whether the other entity is or is not a marketing firm.

Comment [GAMDE8]: The inclusion of employees, etc. is inappropriate in almost all places where the word Lessee is used in the lease; for example, employees aren't liable for making royalty payments or for P&A'ing wells. In the few places where a broader term is appropriate (e.g., relating to indemnity), the lease text already otherwise references the broader category. The language about successors and assigns is separately and more fully addressed in article 7 (especially Section 7(E)).

Comment [GAMDE9]: The restoration obligations are stated in slightly differing/conflicting ways in the current text. A single definition avoids any ambiguity or conflict. Also, particularly because other parties are allowed access to the Leased Premises during the lease term, Lessee should not be obligated to restore lands because of something that someone else did (or, for example, erosion caused by a hurricane). Further, a requirement that lessees remove buried pipelines would generally create more harm than it would cure, as that would require digging holes and disturbing water bottoms. Further, because the Office of Conservation has extensive authority and expertise over restoration from O&G activities, the lease language should specify that the Office of Conservation (as opposed, say, a general-jurisdiction court with no expertise in this area) should be the body to address the scope and method of restoration if the parties can't agree.

Comment [GAMDE10]: Because most Commissioner units apply only to specified depths and not to all depths, this additional clarifying language is added.

designated as a unit well, cross unit wells, substitute unit wells or alternate unit wells in ~~a unit or~~ one or more units (including a Commissioner's unit, a conventional unit, a declared unit or otherwise) encompassing all or a portion of the ~~participating~~ Leased Premises ~~or from property other than the Leased Premises within the pooled or unitized area~~.

Comment [GAMDE11]: Unit wells may not be "designated" in a voluntary unit agreement or in a declared unit.

ARTICLE 1 – BONUS

Lessee has this day paid to Lessor a cash payment of _____ ($_____) Dollars, one-half (1/2) of which is (a) bonus as full and adequate consideration for every right granted hereunder, and one-half (1/2) of which is (b) the annual rental for the first year of this Lease.

Comment [GAMDE12]: Wording added to clarify cross-reference in articles 2(C) and 3(A).

ARTICLE 2 - PRIMARY TERM

(A) Subject to the provisions hereof, this Lease shall be for a term of _____ ( ) years ("Primary Term") and for so long thereafter as oil, gas or other liquid or gaseous hydrocarbons are produced in paying quantities, acceptable lease operations are conducted, leasehold payments are made or conditions exist that continue this Lease in force and effect according to its terms.

(B) However, if this Lease is for an inland tract that ~~ordinarily~~ originally carries a Primary Term of three (3) years or less, the Board may ~~it may be possible to~~ extend the Primary Term by two (2) years if, prior to the expiration of the original Primary Term, the Board determines ~~that certain conditions have been met. Specifically, prior to the expiration of the (original) Primary Term, Lessee must demonstrate to the Board~~, by convincing evidence, that either of the following conditions has been met:

(1) This Lease is included within a unit~~,~~ (or a pilot project has been approved by the Office of Conservation for a unit, or Lessee has filed an application for a unit under La. R.S. 30:5(C) for inclusion of all or a portion of the Leased Premises within a unit) for the purpose of conducting a secondary or tertiary recovery project; or

Comment [GAMDE13]: Parentheses added to clarify that each of the three options relate to secondary or tertiary recovery projects.

(2) Lessee has commenced activities necessary for the drilling of an ultra-deep well including, but not limited to having applied for a permit to drill an ultra-deep well, having formed a unit including all or a portion of the Leased Premises for the purpose of drilling an ultra-deep well, or having provided a signed affidavit by Lessee stating that this Lease will be included, in whole or in part, in a unit for the purpose of drilling an ultra-deep well, or that this Lease is included in a lease block maintained in support of the drilling of an ultra-deep well. For purposes of this paragraph only, "ultra-deep" shall mean a true vertical depth (TVD) of twenty-two thousand (22,000') feet or greater ~~True Vertical Depth (TVD)~~.

~~(3)~~ If the Board determines that Lessee has met its burden of proving either of the two required conditions set forth above, the Board may extend the Primary Term of this Lease by two (2) additional years through an acknowledgment Resolution having the effect of an amendment of this Lease.

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(C) If the Primary Term is extended under (1) or (2) above, ~~Lessee's~~ the failure of Lessee (or the designated operator of the applicable ultra-deep well, before the end of the extended Primary T~~t~~erm, to commence secondary or tertiary recovery operations or to commence drilling of the ultra-deep well ~~and~~ as a good faith attempt to reach the required True Vertical Depth (unless prevented due to mechanical or other related downhole causes), shall subject Lessee, after demand,

to liquidated damages equal to ~~a~~ double the annual rental amount referenced in article I(A) above ~~payment~~, payment of which shall be due within thirty (30) days of the end of the extended Primary Term, regardless of whether this Lease is held by other production or acceptable ~~L~~lease operations not qualifying as a secondary or tertiary recovery project.

ARTICLE 3 - LEASE MAINTENANCE PAYMENTS

(A) If ~~actual drilling~~ acceptable lease operations on or production in paying quantities from the Leased Premises (or lands pooled or unitized with any or all portions thereof) ("operations and/or production") are not commenced hereunder in good faith on or before one (1) year from the Effective Date hereof, this Lease shall then terminate unless Lessee, on or before the expiration of that period, pays to Lessor the sum of _____ ($_____) Dollars as rental as set forth in Article 1(b), which payment shall extend for twelve (12) months the time within which ~~actual drilling~~ operations and/or production may be commenced. Thereafter, annually, in like manner and upon like payments, all of Lessee's rights hereunder may be maintained without ~~actual drilling~~ acceptable lease operations for successive periods of twelve (12) months each during the Primary Term. Payment of rental by Lessee may be made by check, wire or draft payable to the order of the Office of Mineral Resources (OMR) and delivered or mailed to OMR on or before the rental paying date.

Comment [GAMDE14]: Moved up definition from (C) below.

(B) On any rental paying date, if ~~actual drilling~~ operations and/or production are in progress~~being conducted on or production in paying quantities is being obtained from the Leased Premises~~, no rental shall be due for the annual rental period then commencing. If ~~actual drilling~~ operations and/or ~~are abandoned or~~ production ceases at any time within a period of ninety (90) days prior to any rental paying date, Lessee shall have a period of ninety (90) days after the date of such ~~abandonment~~ cessation of ~~drilling~~ operations and/or ~~cessation of~~ production within which to commence or resume ~~such drilling~~ operations and/or production ~~on the Leased Premises~~, or make the rental payment. The commencement or resumption of ~~such~~ operations and/or production or payment of rental within the ninety (90) day period shall have the same effect as though such were commenced, resumed or paid on or before the rental paying date.

(C) In the final year of the Primary Term, if ~~acceptable lease operations and/or production in paying quantities ("~~operations and/or production~~")~~ are not in progress, or operations and/or production cease on or before ninety (90) days prior to expiration of the Primary Term, if Lessee commences or resumes operations and/or production prior to expiration of the Primary Term, this Lease shall continue for so long as operations and/or production continue without a lapse of greater than ninety (90) days between cessation of operations and/or production and their recommencement.

If operations and/or production cease within ninety (90) days prior to expiration of the Primary Term or at any time beyond the Primary Term, and the operator commences or resumes operations and/or production within ninety (90) days, this Lease will continue for so long as operations and/or production continue without a lapse of greater than ninety (90) days between cessation of operations and/or production and their recommencement.

(D) This Lease may be maintained by directional drilling operations (deviation from vertical), in which event actual drilling operations therefor shall be considered to have commenced on the Leased Premises when the drill ~~stem~~ bit penetrates beneath the surface of the Leased Premises or ~~a unitized area affecting the Leased Premises~~lands pooled or unitized with any or all portions thereof.

(E) Deferred Development Payments:

~~Consistent with La. R.S. 30:129, d~~During the Primary Term of this Lease and for ~~one~~ two (2~~1~~) years thereafter, if this Lease is being maintained and if a portion of the property covered by this Lease is included in a unit, ~~by order of a governmental agency or by conventional agreement,~~ then commencement of unitized operations on that unit shall maintain this Lease as to the entirety of the Leased Premises. This provision is subject, however, to the following:

Comment [GAMDE15]: One year conflicts with the provision for two years in E(2).

(1) The Lease~~'~~s shall terminate (at the times provided for in clauses (2)-(5) below) as to the outside acreage ~~shall terminate~~ unless Lessee either:

(a) Commences and maintains ~~acceptable lease operations or production in paying quantities ("~~operations and/or production~~")~~ on the outside acreage; or

(b) Pays Lessor a sum equal to one-half of the per-acre cash payment made for this Lease multiplied by the number of acres then comprising the outside acreage ("deferred development payment").

(2) The deferred development payment shall maintain the outside acreage until the next anniversary date. Deferred development payments made on or before an anniversary date shall maintain the outside acreage of this Lease for up to two (2) years beyond the Primary Term.

(3) If operations or production on the outside acreage should cease within the ninety (90) days prior to an anniversary date for which a deferred development payment would be ~~available~~required to maintain such outside acreage, Lessee may make a full deferred development payment within ninety (90) days of said cessation and maintain the outside acreage until the next anniversary date.

(4) After expiration of the periods for which a deferred development payment would be available, if the outside acreage of this Lease is not otherwise being maintained, this~~e~~ Lease shall terminate as to all outside acreage.

(5) After the expiration of said deferred development periods, if unitized operations are commenced on or affecting the outside acreage and the outside acreage is not otherwise being maintained, the Lease insofar as it covers outside acreage ~~created thereby~~not otherwise being maintained will terminate at the end of the ninety (90) day period commencing on the effective date of unitized operations.

(6) Nothing contained in this Section (E) is intended to create nor shall have the effect of creating several or separate Leases, or in any manner serve to extend, increase or limit the obligation of Lessee to protect the Leased Premises from drainage as stated in this~~e~~ Lease or otherwise.

(7) The provisions of this Section (E) shall apply to any unit that wholly or partially underlies any or all of the Leased Premises ~~the property covered by this Lease~~.

(F) Shut-in Payments:

Lessee's utilization of this provision requires Board approval and shall be at the sole discretion of the Board, which approval shall not be unreasonably withheld. Lessee

must provide proof of the qualifying conditions in accordance with the Board's requirements. Lessee's request must be received as set forth below by the Board ~~with reasonable time~~ for consideration and approval by the Board.

Comment [GAMDE16]: Timing addressed in (F)(2)(a) below.

(1) Lessee may request to make a semi-annual payment (shut-in payment) to maintain this Lease for a six (6) month period (shut-in period) provided the following conditions (qualifying conditions) are met:

(a) There is a shut-in well on the Leased Premises or within a unit that includes all or a portion of the Leased Premises;
(b) Such well is capable of commercial production of oil and/or gas;
(c) Oil and/or gas from such well are not being used, produced or marketed because of the lack of a marketing contract or production/marketing facilities;
(d) Lessee has made and is continuing to make reasonable efforts to secure a marketing contract or production/marketing facilities;
(e) Some or all of the Leased Premises ~~This Lease~~ is not then otherwise being maintained;
(f) A period of ninety (90) days has not elapsed after the cessation of acceptable lease operations or production in paying quantities (operations or production); and
(g) Operations or production have not commenced or resumed from such well.

Comment [GAMDE17]: Why a different standard here?

Comment [GAMDE18]: This change is made to be consistent with (F)(3) which provides shut-in payments will be per acre for acreage not otherwise being maintained.

(2) Lessee's requests to the Board and the required shut-in payments shall be in accordance with the following:

(a) During any year for which this Lease is maintained pursuant to (A) or (B) of Article 3, a shut-in payment shall not be required before the next anniversary date. Lessee's request for shut-in payment authority must be received prior to such anniversary date.
(b) If the onset of the qualifying conditions occurs less than ninety (90) days prior to an anniversary date for which a rental payment may be made, Lessee's request must be received prior to such anniversary date and the shut-in payment submitted prior to the date authorized by the Board.
(c) If the onset of the qualifying conditions occurs less than ninety (90) days prior to the end of the Primary Term or any time beyond the Primary Term, Lessee's request and the shut-in payment must be received prior to expiration of the Lease.
(d) Subsequent requests for consecutive shut-in periods must be received prior to the end of each shut-in period. The requested period, if authorized, shall commence upon expiration of the then existing shut-in period.

(3) Each shut-in payment shall be at the rate of Fifty ($50.00) Dollars per acre for the acreage not otherwise maintained under the terms of this Lease, but in no event shall payment be less than One Thousand ($1,000.00) Dollars. Shut-in payments are due prior to the later of (i) the commencement of each authorized shut-in period or (ii) thirty (30) days after the Board's approval of such shut-in payments.

Comment [GAMDE19]: Request for shut-in approval cannot be submitted until well is shut-in. Therefore, initial shut-in payment cannot be due prior to commencement of authorized shut-in period.

(4) Each payment shall maintain this Lease for a period of six (6) months and during each such period, it shall be considered that oil and/or gas are being produced in paying quantities for Lease maintenance purposes only.

(5) Lessee may request up to a maximum of six (6) consecutive shut-in periods if

the aforestated qualifying conditions persist and provided that, prior to the end of each shut-in period, Lessee obtains Board authorization in accordance herewith. Thereafter, if circumstances warrant, at a future date Lessee may again request and be authorized by the Board to utilize this shut-in provision in accordance with the terms and requirements herein.

(6) Notwithstanding the limitation upon consecutive shut-in periods in (5) above, for compelling reasons proven to the satisfaction of the Board, Lessee may request, and the Board may grant an additional shut-in period or periods in accordance with the terms and requirements herein, with any such extension(s) to be approved via an acknowledgment Resolution having the effect of an amendment of this Lease.

(7) After the last day of any shut-in period, this Lease shall terminate unless it is maintained under another Lease provision.

ARTICLE 4 - FINANCIAL SECURITY

(A) In accepting this Lease and its terms, Lessee agrees that Lessee or an operator drilling on the Leased Premises shall provide financial security for the plugging and abandoning, and associated site restoration of each well drilled. Lessee's obligation to provide financial security also is required upon a change of operatorship of a well on the Leased Premises.

(B) The nature and extent of the financial security required hereby shall be as set forth in LAC 43:XIX §104. In no event, however, shall the financial security requirements of this Lease be less than those set forth in said regulation as such was in effect on September 1, 2015.

(C) Lessee's obligation under this Lease to provide financial security for the plugging and abandoning, and associated site restoration of each well drilled shall be satisfied by fully and continually complying with the applicable statutes, rules and regulations of the Office of Conservation as set forth in (B) above.

(D) Lessee shall furnish to the Board, upon request, evidence of the financial security so provided to the Commissioner of Conservation.

ARTICLE 5 - OFFSET WELLS

The obligations set forth in this Article apply only to wells drilled on property other than the Leased Premises and which are ~~not~~ neither part of a ~~pooled~~ unit containing all or any portion of the Leased Premises nor part of a unit created by the Commissioner of Conservation or by agreement to which the Board is a party ~~or drilled on offsetting State Leases or State Operating Agreements at a lesser royalty or state interest rate~~. Such non-unitized property is hereinafter referred to as "adjoining property", and such wells drilled on non-unitized property is hereafter referred to as "adjoining wells".

(A) At any time during or after the Primary Term, if there is completed on adjoining property an adjoining well located within six hundred and sixty (660') feet of the Leased Premises (or within any spacing or pooling unit distance greater than 660' established by the Commissioner of Conservation) and such adjoining well produces oil, gas or other liquid or gaseous mineral in paying quantities for twenty (20) days (that need not be consecutive) during any period of thirty (30) days, or produces its monthly allowable during ~~such~~ any period of thirty (30) days ~~period~~, Lessee agrees that the following rebuttable presumptions will arise: (1) that the Leased Premises is thereby being drained; (2) that the Leased Premises is not reasonably being protected from drainage by any well or wells on the Leased

Comment [GAMDE20]: If the Commissioner establishes a unit that does not include any Leased Premises, then he has determined that the reservoir at issue does not extend beneath the Leased Premises; also, offset provisions should not apply where the Board had made a voluntary unit just for other acreage.

Comment [GAMDE21]: Application of this provision is unclear.

Comment [GAMDE22]: Reference is unclear.

Premises or lands pooled or unitized ~~there~~with any or all portions thereof; and (3) that an offsetting well on the Leased Premises would be economically feasible.

(1) If Lessee is the operator of or has a working interest in ~~the~~ such adjoining well on the adjoining property, Lessee shall either begin actual drilling operations for a well on the Leased Premises or commence unitization within ninety (90) days after the end of the above thirty (30) day period.

(~~B~~2) In all other cases, Lessee shall be required to begin such operations only within ninety (90) days after receipt of written notice from the Board of the expiration of such thirty (30) day period.

(B) No offset well shall be necessary if, on or before the maturity date of the offset obligation or any deferred maturity date as hereinafter provided, any of the stated presumptions is rebutted or if, within one-hundred twenty (120) days after such maturity date or deferred maturity date, a unit for the adjoining well in question is formed by agreement with the Board or by Order of the Commissioner of Conservation.

(C) In lieu of commencing operations or unitization for an offset well as above provided, Lessee may, at its option, commence compensatory payments to Lessor equal to the royalty herein provided, computed on one-half (1/2) of the oil, gas or other liquid or gaseous mineral produced by the adjoining well in question on and after the date operations would otherwise have been commenced, value to be determined in accordance with the royalty payment provisions of this Lease. Such payments may be commenced on or before sixty (60) days after the date operations would otherwise have been commenced, but shall include any accrued compensatory payments. Thereafter, payments shall be due monthly in accordance with royalty payment provisions herein.

Lessee shall not be in default in either commencing compensatory payments or in making further payments as above provided if, despite due diligence, Lessee is unable to timely obtain the production information on which such payments are to be based. In such case, however, Lessee must, on or before the payment due date, notify the Board, in writing, of Lessee's inability to make such payment, the reason(s) therefor and Lessee's intention of making such payment at the earliest reasonable time.

Compensatory payments may be continued, at Lessee's discretion, for not more than one (1) year from the date offset operations otherwise would have commenced. At the end of that time, or within thirty (30) days from the end of any lesser period for which payments are made, Lessee shall comply with this offset obligation if the producing adjoining well continues to produce in paying quantities or to produce its allowable, and the other conditions making this obligation operative continue to exist. The right to make compensatory payments is intended to permit Lessee to further evaluate the producing adjoining well, and the making of such payments shall not of itself be sufficient to maintain this Lease if this~~e~~ Lease is not otherwise being maintained; however, the making of such payments shall not prejudice Lessee's right to rebut any of the above enumerated presumptions.

(E~~D~~) In addition to the specific offset drilling obligation above provided, ~~should~~ if Lessee knows or ~~have~~ a reasonably prudent operator would have reason to know, by examination of geological, seismic or other relevant data, that drainage of the Leased Premises is occurring, Lessee agrees to protect the Leased Premises from drainage of oil, gas or other liquid or gaseous minerals by a well or wells on adjoining property that may be more than six hundred and sixty (660') feet from

Comment [GAMDE23]: This re-formatting was made so that it is clear that "in all other cases" refers to when Lessee is not operator or working interest owner in said well.

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Comment [GAMDE24]: This sentence is moved into a separate clause (B) to make it clear that it applies to both (A)(1) and (A)(2).

Comment [GAMDE25]: This additional time is to recognize the usual regulatory delay for obtaining a commissioner's unit or voluntary unit.

the Leased Premises by whatever means necessary, including the drilling of a well(s) on the Leased Premises or obtaining the formation of appropriate drilling or production units. If Lessee is the operator of or has a working interest in any such adjoining well on adjoining property, Lessee shall be obligated, within ninety (90) days from the time Lessee ~~knows~~ learns ~~or reasonably should know~~ that drainage is occurring, to take such steps as reasonably necessary to protect the Leased Premises. In all other cases, Lessee shall not be obligated to begin such operations or take other steps until receipt of written notice from the Board.

(F~~E~~) In those instances in which notice from the Board is expressly required under this Article, if due, damages shall be computed only from the date that notice is received or, if Lessee commences compensatory payments, the date on which such payments are discontinued. In those instances in which there is no requirement of notice, if due, damages shall be computed from the time Lessee knew ~~or reasonably should have known~~ drainage was occurring. The damages contemplated herein shall consist of the royalty percentage of this Lease, multiplied by the value (as calculated hereinbelow) of one-half (1/2) of the production from the draining adjoining well, and may include lease cancellation (except as provided in article 11(C) below) for refusal by Lessee to take the steps necessary to prevent drainage. Written notice from Lessor containing a demand for performance shall be necessary as a prerequisite to any action for cancellation of this Lease for Lessee's nonperformance of its obligation to protect the Leased Premises against drainage.

ARTICLE 6 — ROYALTY

Unless Lessor elects to take in-kind all or any part of the portion due Lessor as royalty on minerals produced and saved hereunder, which option is hereby expressly reserved by Lessor pursuant to La. R.S. 30:127(C), and which option is to be exercised by written notice by Lessor to Lessee at any time and from time to time while this Lease is in effect (either prior or subsequent to acceptance by Lessor of royalties other than in-kind), it being understood that nothing contained in this Lease shall ever be interpreted as limiting or waiving said option, Lessee shall pay to Lessor as royalty:

(A) _____ (____%) percent of the value, as hereinafter provided, of all oil, including condensate or other liquid mineral, produced (includes sales, stored or traded in-kind) and saved or utilized by methods considered ordinary production methods at the time of production. The value of such oil sold to an ~~a non-affiliate or~~ affiliate shall not be less than the fair market price. "Fair market price" may include one or more of the following: NYMEX, NYMEX + roll, either of the major Oil Market Centers (for example, St. James, Cushing, Empire or Argus) or any combination of Field Posted Price, plus Platt's P+, plus any market adjustments (including for kind and quality) or, if at a future date, the Fair Market Valuation changes to something other than those listed above, the new method of Fair Market Valuation may be considered and/or utilized. "Fair market price" for arms' length sales to a non-affiliated party shall be the price received from such non-affiliated party.

Lessee shall not make any deduction whatsoever for the cost of any operation, process, facility or other item considered to be a production function or facility at the time such oil is run. Without limiting the foregoing sentence and without regard to classification as production costs or otherwise, the following costs shall not be deducted from the value of production: (1) costs incurred for gathering, moving or transporting production within the field boundaries; (2) costs incurred for handling, treating, separating, fractionating or in any way processing production to make it marketable by methods considered ordinary at the time such oil is run; (3) the cost of storage on this~~e~~ Lease or in the field; (4) marketing fees, any other miscellaneous

Comment [GAMDE26]: Also should be deleted.

Comment [GAMDE27]: Lessee should have time to reply to notice, including time to get permits or form unit.

Comment [GAMDE28]: Again, Lessee must be given time to act upon learning of drainage.

Comment [GAMDE29]: By requiring value in sales to non-affiliated parties to be fair market price, Lessee would effectively be prohibited from entering into any long-term shales contracts that could provide higher prices.

Comment [GAMDE30]: Why is it appropriate to disallow deductions for costs to make oil marketable?

fee, or unspecified discounts and/or subtractions from the base price incurred during or related to the sale of oil by the Lessee, affiliated or non-affiliated party; and (5) line loss. The performance of any producing function or any function mentioned within clauses (2) and (3) above at a commingled facility in or outside the field in which this Lease is situated shall not make the cost of any such function deductible.

If Lessee delivers oil at a point outside the field in which this Lease is situated by means of facilities belonging to a non-affiliated party, Lessee may deduct from the value of such oil a reasonable sum not in excess of actual costs, as evidenced by invoices from the transporter(s), for the transportation from the field boundary to the point of delivery. If such transportation is by means of facilities owned by an affiliated party, Lessee may deduct the lesser of the actual cost of such transportation~~, but only if such cost is no greater than~~ and the fair market value of the services performed. If actual cost is greater than fair market value, the fair market value shall determine the amount subject to deduction. However, if the facilities used are regulated as a common carrier by a state or federal regulatory agency, the authorized tariff chargeable and paid by Lessee for the services rendered shall be deemed the fair market value of such services. If such transportation is by means of facilities owned by Lessee, Lessee may deduct from the value of production a reasonable sum for such services computed as follows: the amount deductible shall include only (1) the direct cost of operations and maintenance, including costs of labor, direct supervision, fuel, supplies, ordinary repairs and ad valorem taxes; and (2) depreciation of the facility computed over the estimated life of the field or the reserves.

Comment [GAMDE31]: Provisions as written effective prohibit sales at wellhead. Prices at wellhead do not separately specify costs of transportation to field boundary and therefore would not comply herewith.

If Lessee receives any compensation for any function or process for which Lessee is responsible to Lessor without right to deduct costs including, but not limited to (1) handling, gathering or transporting such oil, or (2) treating or processing such oil by ordinary methods to make it marketable, the amount of such compensation shall be added to the value of such oil when computing royalties. If Lessee is deducting costs for any functions for which it also is receiving compensation, deductions may be made for costs only to the extent they are in excess of any such compensation.

(B) _____ (____ %) percent of the value, as hereinafter provided, of all gas, including casinghead gas, produced (includes sales, vented, flared, stored, interlease sales and utilized gas), sold and stored, saved or utilized by methods considered as ordinary production methods at the time of production. The value of such gas sold to an ~~non-affiliated or~~ affiliated party, or vented, flared, flash gas or gas utilized (includes gas used in lift operations) by Lessee in the field shall not be less than the fair market price. "Fair Market Price" may include one or more of the following: a pipeline index in the field or adjacent to the field; Bloomberg Liquified Petroleum Gas Prices, Platt's LP Gas Wire; NGCH published in the "Foster Natural Gas Report", a NYMEX closing price; a Henry Hub price, plus/minus premium; adjustment for gas quality; and/or transportation outside the field; or if at a future date the Fair Market Valuation changes to something other than those listed above, the new method of Fair Market Valuation may be considered and/or utilized.

Comment [GAMDE32]: All comments for oil are applicable for these provisions.

Except as expressly authorized hereby, Lessee shall not make any deduction whatsoever for the cost of any operation, process, facility or other item considered to be a producing function at the time such gas is produced. Without limiting the foregoing sentence and without regard to classification as production costs or otherwise, the following costs are not to be deducted from the value of production: (1) costs incurred for gathering, moving or transporting production within the field boundaries; (2) costs incurred for dehydrating, decontaminating

(as with an amine plant inside the field), fractionating or in any way processing production to make it marketable by methods considered ordinary at the time such gas is produced; (3) marketing fees, any other miscellaneous fee, or unspecified discounts and/or subtractions from the base price incurred during or related to the sale of gas by the Lessee, affiliated or non-affiliated party; and (4) line loss. The performance of any producing function or any function mentioned in (2) above at a commingled facility inside or outside the field in which this Lease is situated shall not make the cost of any such function deductible. Without regard to classification as production costs or otherwise, Lessee may deduct costs incurred for compression of gas at a point in or adjacent to the field for insertion into a purchaser's line or into a line owned by Lessee or a carrier for transportation to a point of delivery outside the field.

Comment [GAMDE33]: Why is it appropriate to disallow deductions for costs to make gas marketable?

If Lessee delivers gas at a point outside the field in which this Lease is situated by means of facilities belonging to a non-affiliated party, Lessee may deduct from the value of such gas a reasonable sum not in excess of actual costs, as evidenced by invoices from the transporter(s), for transportation from the field boundary to the point of delivery. If such transportation is by means of facilities owned by an affiliated party, Lessee may deduct the lesser of the actual cost of such transportation~~, but only if such cost is no greater than~~ or the fair market value of the services performed. If actual cost is greater than fair market value, the fair market value shall determine the amount subject to deduction. If such transportation is by means of facilities owned by Lessee, Lessee may deduct from the value of production a reasonable sum for such services computed as follows: the amount deductible shall include only (1) the direct cost of operations and maintenance, including costs of labor, direct supervision, fuel, supplies, ordinary repairs and ad valorem taxes, and (2) depreciation of the facility calculated over the estimated life of the field or the reserves.

If Lessee receives any compensation for any function or process for which Lessee is responsible to Lessor without right to deduct costs including, but not limited to handling, gathering or transporting such gas, or dehydrating, decontaminating or in any way processing production to make it marketable, the amount of such compensation shall be added to the value of such gas when computing royalties. If Lessee is deducting costs for any functions for which it is also is receiving compensation, deductions may be made for costs only to the extent they are in excess of any such compensation.

(C) In addition to the separation of condensate or other liquid mineral from gas by ordinary production methods (as to which Lessor shall receive royalties as above provided and for which separation, no charge may be made by Lessee), gas produced hereunder, including casinghead gas, may be processed in a gasoline or other extraction plant in or serving the field, and products may be recovered therefrom either directly by Lessee or under ~~prudently~~ arm's length negotiated contracts executed by Lessee with non-affiliated parties. If Lessee enters into an arm's length ~~prudently~~ negotiated contract for the processing of gas with a non-affiliated party or parties under which such party or parties retain in-kind a portion of the products recovered from or attributed to such gas, in lieu of processing fees, the in-kind portion of the products kept as the processing fee ~~must be~~ shall be presumed to be reasonable and prudently negotiated~~, just as any processing fee must be reasonable and prudently negotiated~~. Lessee shall be held accountable for royalty due on imprudently-negotiated excessive in-kind retention. Lessee shall pay royalty on residue gas sold as detailed for gas sold in (B) above based on the value, as hereinafter determined, of Lessee's share of such products under such ~~prudently~~ arm's length negotiated contract. Residue gas is defined as: all plant source gas delivered by a producer for processing, less shrinkage due to liquid extraction; fuel required for plant equipment necessary for liquid extraction; flare gas; and

Comment [GAMDE34]: How shall this price be determined? Third party retained the recovered product.

unavoidable losses. In all other cases, Lessee shall pay the royalty provided for gas in (B) above based on the value, as hereinafter determined, of the total products recovered, after deducting therefrom the costs of processing as specified below.

If the products referenced in (C) above are sold by Lessee to a non-affiliated party under an ~~prudently~~ arms' length negotiated contract, the price(s) agreed upon and received shall be deemed to not be less than a fair market price (which may ~~exceed~~ be less than a spot-market index price). Such transactions are subject to audit utilizing the criteria in the following paragraph, and subject to the right of Lessor to verify sales and subsequent royalty payment based upon fair market price.

If the products are sold by Lessee to an affiliated party under a prudently negotiated contract or under a contract that would not have been considered prudently negotiated if executed by a non-affiliated party, the value of the products shall be the fair market value as detailed above. The value of such products (or Lessee's share thereof) sold in the absence of a prudently negotiated contract shall be determined as follows: (1) the fair market value for products sold at the plant; (2) if no products are being sold at said plant, the average of market values for like products of the same grade and quality at the three nearest plants where such products are sold. In no event shall products be valued at an amount less than "fair market value" as detailed above.

Comment [GAMDE35]: But such products are not sold by Lessee.

When the cost of processing is not met by retention by the processor of a share of the products or in any other case in which Lessee may deduct from the value of such products the reasonable and prudent costs of processing, the charges shall be determined as follows: (1) if the gas is processed by a non-affiliated party under a prudently negotiated contract, the reasonable costs that may be deducted shall be those provided in such contract; or (2) if the gas is processed by an affiliated party, or is processed at a plant in which Lessee has an ownership interest, the combined value of the residue gas as set forth herein and the liquid or gaseous products resulting from such processing used to determine royalty shall not be less than as though royalty were calculated on the value (as determined under the provisions of (B) above of volume on said gas before processed, produced, saved and utilized from the Leased Premises).

The following costs are never to be deducted: (1) any and all marketing fees incurred for the sale of the plant products; and (2) any and all costs for which the Lessee is reimbursed by another party.

When processing involves an affiliated party or parties, or Lessee has an ownership interest in the plant, charges are determined by the contract between Lessee as producer and processor. In the absence of such a contract, deductible charges are limited to the proportionate part of (1) the annual direct costs of operating and maintaining the plant, including costs of labor and on-site supervision, shrinkage, materials, supplies and ordinary repairs, (2) plant depreciation, less salvage value, computed over the life of the field(s) served by the plant, or other such method as agreed upon by the Board and Lessee, and (3) ad valorem taxes.

In accordance with the provisions of (C) above, Lessor shall be entitled to the royalty for gas provided in (B) above based on the value of Lessee's share of the residue gas sold or otherwise disposed of after processing.

Total royalty on residue gas and liquids sold to an affiliated party shall never be less than royalty calculated using unprocessed gas volume available for sale at the wellhead.

Comment [GAMDE36]: If this sentence is applied to arms' length transactions with non-affiliated parties, it would effectively prohibit any sales other than spot-market sales.

(D) _____ (____%) percent of any

and all other liquid or gaseous hydrocarbon minerals in solution produced with oil or gas and saved or utilized that are not specifically mentioned herein, said royalties to be delivered or paid when marketed or utilized in accordance with the accepted practice in such matters.

Lessor's royalty shall be calculated and paid after deduction of all severance taxes.

The first payment of royalty shall be made within one hundred twenty (120) days following commencement of production from or allocation of production to the Leased Premises, except that in the case of any production from or allocable to the Leased Premises that has occurred prior to the Effective Date, but which is deemed to be covered by this Lease, Lessee hereby agrees to pay royalty on all such prior production within one hundred twenty (120) days from the Effective Date. Thereafter, royalty on oil, including condensate or other liquid mineral, produced and saved at the well by ordinary production methods shall be paid by the 25th day of each month on production from the previous month. Thereafter, royalty on gas, including liquids or other products extracted or processed from gas other than by ordinary production methods, or other liquid or gaseous mineral not specifically mentioned, shall be paid on or before the 25th day of the second month following that in which such product was produced or extracted or processed. In the event any royalty payment is not correctly or timely made, the remedies provided by La. R.S. 30:136 and 31:137-142 relative to penalties, notice, damages, interest, attorney fees and dissolution shall be applicable, except that interest shall be payable thereon until paid without any requirement for prior written notice by Lessor to Lessee.

Lessee shall be responsible for designating one or more payor(s) of all royalties due under this Lease per Lease Unit Well (LUW) Code or Lease in the event the Leased Premises is not unitized in accordance with La. R.S. 30:9 and 30:10. Designation of ~~a~~ payor(s) for each LUW Code or Lease shall be made to the Property Section of the Mineral Income Division of the Office of Mineral Resources. If reporting and payments are not received timely and properly, Lessee, its successor, transferees and assigns shall be subject to penalties, after notice, in accordance with La. R.S. 30:136(B).

Comment [GAMDE37]: Single payor per Lease will not work. For example, under almost all JOA forms in use, co-lessees may (and often are mandatorily required to) each separately market and sell their share of production in kind—and thus may sell their production to separate purchasers.

Lessee shall report all production of hydrocarbons and associated liquid or gaseous minerals from or attributable to this Lease to the Production Audit Division of the Office of Conservation and to the Mineral Income Division of the Office of Mineral Resources by appropriate SR forms containing both the LUW Code and the Well Serial Number. Failure to report production as herein specified shall be deemed "improper reporting", which shall subject Lessee to the penalty specified therefor.

ARTICLE 7 — TRANSFERS AND ASSIGNMENTS

The parties hereto understand and agree to the following:

(A) ~~In accordance with~~ Except as provided in La. R.S. 30:128(C), no assignment, sublease or other transfer (collectively "assignment"), in whole or in part, of any rights or interests granted to Lessee under this Lease shall be valid unless approved by the Board.

Comment [GAMDE38]: Revised to comply with statute, which provides that no Board approval is required for overrides, mortgages, net profits interests, etc.

(B) Prior or subsequent to any such assignment, but in no event later than sixty (60) days from the date of execution of the assignment, the assignor shall present to OMR a request for approval of the assignment by the Board. Failure to do so shall subject the assignor to the civil penalty required by La. R.S. 30:128 beginning on the sixty-first (61st) day following the date of execution of the assignment.

(C) An assignment by Lessee, notwithstanding approval by the Board and regardless of any understanding, agreement, language or reference set forth in the assignment instrument, does not release nor relieve the original Lessee from satisfying and

complying with the terms, conditions, duties, responsibilities and/or obligations required by this Lease.

(D) Lessee understands and agrees that the Board may refuse to consent to such assignment if, in the Board's reasonable opinion, the proposed assignee/transferee lacks the necessary financial capacity to meet the obligations required by this Lease (or, if the assignee/transferee is also to become the designated operator of this Lease, technical capacity to sustain reasonable development of the Leased Premises). Should the Board not approve the assignment, regardless of whether the assignment instrument is duly recorded, the assignor and its ancestors in interest shall remain responsible for satisfying and complying with the terms, conditions, duties, responsibilities and obligations of this Lease.

(E) Upon compliance with the requirements of La. R.S. 30:128 and approval of the assignment by the Board, all terms, provisions, conditions, duties, responsibilities and obligations of this Lease additionally shall be binding upon and inure to the benefit of Lessee's successors, transferees, assigns and sublessees.

(F) Assignees, sublessees and other transferees are responsible for researching the records maintained by OMR and the Clerk of Court in and for the parish(es) wherein the Leased Premises is located to determine whether this~~e~~ Lease proposed for assignment remains valid~~ and is subject to lawful assignment by the assignor~~.

Comment [GAMDE39]: This language does not make sense in this context.

ARTICLE 8 - POOLING AND UNITIZATION

(A) Lessee may, by Order of the Commission of Conservation or by conventional agreement with the consent and approval of Lessor, pool or unitize the Leased Premises ~~acreage covered by this Lease~~ (or any portion thereof), including in combination with other property or leases (or portions thereof). Unitized operations from property other than ~~this~~ Leased Premises within the pooled or unitized area shall have the same effect as if said operations had occurred on the Leased Premises with respect to Lease maintenance.~~ Lessor shall have the option, upon giving notice, to require Lessee to unitize all producing wells located on the Leased Premises at any time during the life of the Lease.~~

Comment [GAMDE40]: Suggest this be deleted. Over burdensome on Lessee and State can also request unitization by the Commissioner.

No unit or pooling agreement shall be approved by Lessor unless a unit plat compiled and certified by a licensed surveyor showing the unit outline and each Lease or other property interest within the unit as having been surveyed accompanies and is attached to the unit or pooling agreement unless waived by Lessor.

(B) Should Lessee apply or give notice of intent to apply to the Commissioner of Conservation for the creation of any unit or units that would include all or any portion of the Leased Premises, Lessee shall furnish Lessor with a copy of the notice or application, accompanying unit plat, and all other attached information. Said copies shall be furnished to Lessor either at the time the application is filed with the Commissioner of Conservation or at the time required by applicable orders, or regulations of the Commissioner of Conservation for furnishing such information, whichever is earlier. Unless waived by Lessor, if a unit or units including all or any portion of the Leased Premises are created by Order of the Commissioner of Conservation, Lessee shall submit to Lessor a survey plat of each unit or units so created, either prior to or within ninety (90) days of initial production from the unit. The survey plat of the unit or units must clearly identify the ~~state Lease acreage~~Leased Premises, the tract acreage, and the unit percentage participation for same. ~~each state Lease tract.~~

Failure of Lessee, after notice, to timely submit such a plat shall subject Lessee to

liquidated damages in the amount of One Hundred ($100.00) Dollars per day. This assessment shall commence on the thirty-first (31[8]) day after receipt of such notice and continue until the required plat is provided.

(C) If a surface and/or subsurface agreement requested by Lessee for the drilling of a well on the Leased Premises or lands pooled or unitized with any or all portions thereof ~~affecting this Lease~~ is granted by an agency of the State, Lessee shall furnish to Lessor copies of any and all data required on the subject well in accordance with Article 9 below. Further, a presumption shall exist, unless Lessee can reasonably demonstrate the contrary to Lessor, that a unit for the well should be formed to include a portion of this Lease, and Lessee agrees to form a unit either by a conventional agreement approved by the Board or make application to the Commissioner of Conservation for the formation of such a unit within six (6) months after completion of the subject well. Once the unit is formed, royalties attributable to the Leased Premises included in the unit will be paid back to the first date of production from the well.

Comment [GAMDE41]: We suggest that provision be deleted. The existence or not of a surface or subsurface agreement (with an agency or otherwise) doesn't affect or relate to unitization.

(D) On the date of this Lease, if all or any portion of the Leased Premises is included in a unit established by Order of the Commissioner of Conservation and Lessee is a working interest owner in the unit well or wells under this Lease, Lessee agrees to pay royalty on all oil, gas or other liquid or gaseous mineral produced and saved or utilized and attributable to the Leased Premises from the date of such unit or from the date Lessee acquired an interest in the well or wells, whichever is later, regardless of whether all development and operating costs chargeable to the Leased Premises have been paid.

Comment [GAMDE42]: We suggest that this provision be deleted. Provision makes such acreage unmarketable. Unreasonable to require Lessee to make 100% of these payments regardless of its prior participation in such unit.

ARTICLE 9 - LESSEE REPORTING

(A) Lessee shall furnish Lessor, upon request, all of the following types of data in Lessee's possession arising from operations conducted by Lessee: (1) all wire line surveys in open or cased holes including, but not limited to electrical and radioactivity logs, porosity logs of all types and dip-meters~~,~~ (with all such logs to be provided, if maintained by Lessee in such format, in standard fanfold paper format at scales of 1 inch to 100 feet and 5 inches to 100 feet, digital image files in TIF and PDF formats, and composite digital curve data in LAS (Log ASCII Standard) format or other format requested by Lessor and maintained by Lessee); (2) directional surveys; (3) mud logs and core descriptions of both sidewall samples and conventional cores; (4) drill stem and production test data; (5) daily drilling reports (to be supplied weekly); (6) paleontological reports; (7) velocity surveys, including vertical seismic profiles; (8) all geological and geophysical survey data derived from surveys on the Leased Premises consistent with the rights of the State under La. R.S. 30:209.1 and under permits as set forth in La. R.S. 30:213; and (9) production data, current and cumulative, including oil, gas and water production, surface and subsurface pressures.

Comment [GAMDE43]: Lessee should not be required to provide data in a format that it does not maintain; it can be very expensive and unnecessary to convert some data into some of these formats.

Lessee shall also furnish Lessor with any other information and data in Lessee's possession requested by Lessor to keep Lessor fully informed of Lessee's good faith compliance with the provisions of this Lease, and continuing development of and operations on the Leased Premises as a reasonably prudent operator for the mutual benefit of Lessor and Lessee.

Notwithstanding anything herein to the contrary, Lessee's obligation to provide such information or data is limited to the format usually used by Lessee. Furthermore, Lessor agrees to keep confidential any such data or information not already part of the public domain.

(B) Nothing in this Article shall require Lessee to furnish or permit inspection of

Lessee's interpretation of the types of data referred to above, and nothing herein shall be construed as requiring Lessee to secure any such data solely for the purpose of this Article. Lessor's representatives shall have access, at reasonable times and intervals, to examine and inspect Lessee's records and operations pertaining to the Leased Premises or lands pooled or unitized ~~there~~with any or all portions thereof. Lessor shall keep confidential any information not part of the public domain.

(C) Failure of Lessee, after notice, to satisfy the requirements of this Article shall subject Lessee to liquidated damages in the amount of One Hundred ($100.00) Dollars per day for each day of non-compliance, commencing on the thirty-first (31st) day after receipt of notice.

ARTICLE 10 - FORCE MAJEURE AND SUSPENDING EVENTS

(A) If, ~~A~~at any time this Lease is being validly maintained, ~~if~~ Lessee is prevented from continuing ~~acceptable lease~~ operations and/or production ~~in paying quantities (operations or production)~~ by the occurrence of a Force Majeure or Suspending Event (herein "Incident"), both hereinbelow defined, and Lessee cannot maintain this Lease ~~beyond any critical date~~ under any other operative provision hereof, such as the payment of annual rental, deferred development or shut-in payments, then and only then shall the date for Lessee to re-commence operations and/or production shall ~~that critical date~~ be postponed on a day-for-day basis for so long as the adverse effects upon Lessee's operations and/or production prevail.

(B) ~~The Board may recognize~~ For a Force Majeure or Suspending Event to be constitute an ~~the~~ Incident, ~~provided that~~ Lessee ~~has~~ must submit~~ted~~ the following to OMR:

(1) Written notice of the occurrence within ninety (90) days of the Incident onset;

(2) An Affidavit containing:
- (a) The onset date, description and nature of the Incident;
- (b) The effects preventing continuation of operations or production;
- (c) The steps being taken to mitigate and eliminate those effects; and
- (d) An estimated time for resumption of operations and/or production;

(3) Evidence of Lessee's diligent, reasonable and good faith efforts to mitigate and eliminate the effects of the Incident and resume acceptable lease operations; and

(4) Any other information or documentation evidencing the existence of the Incident requested by the Board.

(C) If operations and/or production cease prior to the Incident onset (or during the period which the Incident is still in effect)~~, cessation was not caused by the Incident~~ and the Incident prevents Lessee from re-establishing operations and/or production, then ~~prior to the critical date, then once the Incident and its effects end, Lessee shall have the balance of time remaining prior to~~ the ~~critical~~ date for Lessee to re-establish operations and/or production shall be extended by the period of time during the Incident when Lessee was prevented in re-establishing operations and/or production.~~, unless the Lease is maintained under other terms provided for herein.~~

(D) The occurrence of an Incident shall not alone maintain this Lease for more than twelve (12) months from the date of the Incident onset unless extended by the Board. Lessee shall be required to submit written, detailed reports on a ~~monthly~~

Comment [GAMDE44]: This term is not defined and is otherwise unnecessary here.

Comment [GAMDE45]: If incident occurred and Lessee submits the required info, it should constitute an Incident; in such cases, the Board should not have the discretion not to recognize it.

Comment [GAMDE46]: The original language was unclear. We believe this is what was intended and is reasonable.

Comment [GAMDE47]: This provision is not clear.

quarterly basis (commencing 30 days after the Board recognizes the occurrence of the Incident) to OMR and demonstrate the ongoing efforts by Lessee to mitigate the effects of the Incident. If the reports are not timely submitted or if ~~they do not adequately identify such good faith efforts,~~Lessee did not attempt in good faith to mitigate the effects of the Incident, the Board, after notice to and a hearing with Lessee may declare the Incident recognition to be ended.

(E) A Force Majeure event, as herein utilized, shall be a fortuitous event that is beyond Lessee's control and is not ultimately determined to be caused by Lessee nor due to Lessee's negligent or intentional commission or omission, or failure to take reasonable and timely foreseeable preventative measures that would have mitigated or negated the effects of the event. ~~Generally, a~~A Force Majeure event ~~is~~ may include (1) a major storm, major flood or other similar natural disaster, or (2) a major accident such as a blowout, fire or explosion.

A Suspending Event, as herein utilized, shall be (1) the lack of availability, after Lessee has diligently, timely and in good faith attempted to secure same, of any required equipment and/or personnel, such as the specific type of rig or specific type of casing or drill pipe, or (2) the unreasonable delay by any government agency or political subdivision in granting permits necessary for operations or production, or (3) an Order of any federal or state court of competent jurisdiction preventing operations or productions, or (4) the act of a third party, not under the control or at the instigation of Lessee, in shutting down and unreasonably refusing to reopen any facility through which hydrocarbons from this~~e~~ Lease are necessarily passed as part of production (and provided there is no other reasonably economical method of carrying on production), or (5) other events not described herein that are recognized by the Board.

(F) Lessee's failure to comply with the explicit requirements of this Article pertaining directly to timely notification and ~~monthly~~ quarterly updates and additionally, failure to demonstrate continuous good faith efforts to mitigate the effects of the Incident, shall prevent Lessee from utilizing this provision to excuse any failure to comply with any obligations of this Lease relating to the particular Incident involved.

Comment [GAMDE48]: This entire provision should be struck. It is contrary in part to subpart D above and otherwise duplicative.

(G) For purposes of this Article:

(1) An increase in costs of performing the obligations set forth in this Lease shall not constitute circumstances beyond Lessee's control;

(2) Lessee's financial inability to comply with any of the obligations of this Lease shall not be grounds for an extension of time;

(3) Notice (as required under subpart (B)(1) above) given beyond ninety (90) days shall be deemed unreasonable barring consequential extenuating circumstances; and

(4) The interpretation and operation of any term of this Force Majeure and Suspending Event provision are at the sole, reasonable discretion of the Board.

ARTICLE 11 - TERMINATION AND RELEASE

(A) Lessee may surrender all or any portion(s) of the Leased Premises at any time this Lease is in effect and thereby be relieved of lease development and maintenance obligations thereafter accruing as to the acreage surrendered, except that no partial surrender shall reduce or otherwise affect the amount of rental to be paid to

maintain this~~e~~ Lease during the Primary Term, nor shall any surrender of the Lease, in whole or in part, relieve Lessee, its successors, transferees or assigns, of its duty to satisfy unfulfilled lease obligations including, but not limited to plugging and abandoning wells, cleaning and restoring well/production sites, or complying with Office of Conservation regulations or Commissioner of Conservation Orders pertaining to the status of well sites/facilities.

(B) Within ninety (90) days of any such surrender or upon expiration or termination of this Lease or any portion thereof, either voluntarily or by its own terms, whether during or after the Primary Term, Lessee shall execute and record a formal Release evidencing such surrender, expiration or termination with the Clerk of Court of the parish(es) wherein the Leased Premises is located. Within this same period, Lessee shall provide a certified copy of this Release to Lessor.

(C) In the event this Lease is otherwise determined to be null ab initio or is cancelled under Article 5(F) above, Lessee may nonetheless retain (and this Lease shall remain in effect as a single lease as to) forty (40) acres around each well capable of or producing oil in paying quantities, and one hundred sixty (160) acres around each well capable of or producing gas in paying quantities (including wells drilled under this Lease by directional drilling). If any well is then being drilled or worked on, Lessee shall have the right to complete such operations and, in the event such activity results in completion of a well capable of producing oil or gas in paying quantities, Lessee may also retain (and this Lease shall also remain in effect as a single lease as to) acreage around each such well as above provided.

Retained acreage around any well shall form as near a square tract as is practical. If any acreage covered by this Lease shall have been included in a unit, whether established by Order of the Commissioner of Conservation or by conventional agreement, or if any such acreage shall have been assigned to a producing or shut-in well under statewide allowable orders of the Commissioner of Conservation and such acreage is actually being drained by the well or would be drained by it if the well were produced, Lessee may retain all of the acreage included in such unit(s) or so assigned for allowable purposes. Thereafter, each area so retained by Lessee shall be subject to the terms of this Lease and shall not create or constitute a separate lease.

Notwithstanding the foregoing, under no circumstance may Lessee retain acreage within the Leased Premises if Lessor has obtained a final, non-appealable judgment ~~dissolving~~ terminating this Lease for reasons other than non-development.

(D) In complying with the requirements of this Article, Lessee additionally shall compile a listing of all unplugged wells and facilities owned or operated by Lessee on the acreage released~~ or no longer in use that require abandonment. This list shall be recorded with the Release required hereby and a copy thereof provided to Lessor. With these documents, in furtherance of Lessee's obligation to restore the Leased Premises as herein contemplated, Lessee also shall provide to Lessor a proposal, in writing, clearly setting forth Lessee's plan for effectively and efficiently plugging and abandoning all such wells and removing all such facilities~~.

(E) In the event, after notice, Lessee fails to timely and/or fully comply with the requirements set forth in this Article, Lessee shall be liable for the reasonable attorney fees and costs incurred by Lessor in obtaining such Release and~~, and also for the compensatory damages that Lessor may prove. Additionally, failure of Lessee, after notice, to satisfy the requirements of this Article shall subject Lessee~~ to liquidated damages in the amount of One Hundred ($100.00) Dollars per day

Comment [GAMDE49]: The provisions for P&A plans are already separately addressed in Article 12. Also, these provisions should not apply to any wells or facilities (whether or not then currently in use) on unreleased portions of the Leased Premises. Further, under the Civil Code provisions on registry, recordation of this list has no legal effect.

Comment [GAMDE50]: Unreasonable. Cannot require both compensatory and liquidated damages. Liquidated damages are supposed to be a substitute (or agreed-upon approximation) of actual damages.

for each day of noncompliance after expiration of said ninety (90) day period.

ARTICLE 12 - ABANDONMENT AND RESTORATION

(A) Lessee, no later than one (1) year (as may be extended under clause (E) below) from the surrender, expiration or termination of all or any portion of this Lease, regardless of whether a formal Release has been duly recorded as required by Article 11 hereof, shall be obligated to (1) plug and abandon all wells on such portion of the Leased Premises ~~or portion thereof that are no longer necessary for operations or production~~, (2) remove from such portion of the Leased Premises ~~or portion thereof~~ all structures and facilities serving said wells (other than structures and facilities also serving wells on the remaining Leased Premises or lands pooled or unitized with any or all portions thereof and also other than buried pipelines), and (3) restore ~~the Leased Premises or portion thereof~~ to its original condition such portion of the Leased Premises, all at Lessee's sole risk, cost and expense, and subject to compliance with all applicable laws, rules and regulations.

Lessor recognizes Lessee's right ~~and obligation~~ to draw and remove casing from wells and further, to remove any structures and facilities no longer utilized in operations or production on the Leased Premises. ~~Under no circumstance shall Lessee or its agent be permitted to salvage and/or remove equipment, machinery, structures or facilities serving said wells until the wells are plugged and abandoned in accordance with all applicable laws, rules and regulations.~~

(B) Failure of Lessee to satisfy the duties, responsibilities and obligations set forth in (A) above during the designated one (1) year period shall render Lessee liable for any and all costs and expenses incurred by Lessor for plugging and abandoning such wells, removing and disposing of said casing, structures and facilities and restoring ~~the Leased Premises or portion thereof~~ to its original condition such portion of the Leased Premises. However, under no circumstance shall title to or ownership of said casing, structures or facilities be forfeited to, vest in or transfer to Lessor, nor shall said casing, structures or facilities be deemed "improvements" to the Leased Premises for ownership purposes.

(C) In addition to restoration of the Leased Premises as contemplated and required by this Lease, Lessee shall be responsible, without limitation, for all damage to the Leased Premises caused by its operations including, but not limited to loss or damage to timber, crops, roads, buildings, fences, bridges, soil, surface and subsurface water, aquifers and vegetation, and also all environmental damage as that term is defined in La. R.S. 30:29.

(D) After one (1) year (as may be extended under clause (E) below) from the surrender, expiration or termination of all or any portion of the~~is~~ Leased Premises, Lessee may not trespass upon the released portion of the Leased Premises to remove any machinery, equipment, structures or facilities, draw casing from any well or initiate plugging and abandonment or cleanup obligations without the express approval of the Board.

(E) Lessee ~~shall remain obligated under this Lease to~~may appear before the Board to request an extension of time to conduct this work and present an abandonment plan and schedule to fulfill its obligation to properly plug and abandon ~~all~~ wells, remove from the premises ~~all~~ structures and facilities serving said wells and restore to its original condition the applicable portion of the Leased Premises ~~to as near as possible to its pre-lease condition~~. The Board may grant Lessee temporary access to the Leased Premises to carry out its plan, or the Board may exercise its option to pursue any and all other means available to satisfy these obligations.

Comment [GAMDE51]: It sometimes takes well more than a year to obtain necessary CZM or COE permits.

Comment [GAMDE52]: This provision ignores that it may often be necessary to remove other facilities, etc. (e.g., a platform) before a well can be P&A'd. Also, if a piece of equipment breaks or becomes obsolete while the lease is still in effect, Lessee should be able to remove such from the wellsite.

(F~~E~~) Failure of Lessee, after notice and a reasonable opportunity to cure, to satisfy the duties, responsibilities and obligations set forth in this Article shall subject Lessee to liquidated damages in the amount of One Hundred ($100.00) Dollars per day, commencing one year (as may be extended under clause (E) above) after the date of the surrender, expiration or termination of the applicable portion of the Leased Premises~~this Lease or portion thereof, whichever is applicable~~. Such liquidated damages shall accrue until all such duties, responsibilities and obligations are fully satisfied unless Lessee, prior to expiration of the designated one year period, requested and for good cause shown received approval from the Board of an extension of time to satisfy such requirements.

Comment [GAMDE53]: Need time to cure post notice.

ARTICLE 13 - ENVIRONMENTAL LAWS AND REGULATIONS

(A) Lessee hereby agrees that in exercising the rights granted hereunder, it will comply with and be subject to all applicable state and federal environmental laws and regulations. Lessee also agrees that it will comply with all minimum water quality standards adopted by any governmental authority with respect to pollution, noxious chemicals and waste being introduced into affected water areas. Further, in conducting operations under this Lease requiring dredging, filling or navigation in order to conduct oil and gas exploration and production operations, Lessee shall comply with all applicable state and federal requirements for the permitting of such activities in the operational area.

(B) For purposes of this Lease, any material now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous or harmful, and/or that are subject to regulation as hazardous, toxic, dangerous or harmful material by any federal or state law, regulation, statute or ordinance, shall be transported, stored and handled in accordance and in compliance with the provisions of such laws including, but not limited to 42 U.S.C. 6901 *et seq.* (RCRA) and 42 U. S.C. 9601 *et seq.* (CERCLA), as presently existing or as subsequently enacted or amended.

ARTICLE 14 - RESPONSIBILITY FOR ENVIRONMENTAL DAMAGE

(A) Lessee shall be responsible for any pollution or other damage to the environment that occurs as a result or consequence of Lessee's occupation, oil and gas exploration, production operations and/or use of the Leased Premises, irrespective of whether such pollution or damage is due to negligence, the inherent nature of Lessee's activities or operations or other reason(s). Lessee shall use the highest degree of care and all proper safeguards to prevent pollution resulting from its drilling, construction, transportation and all other oil and gas exploration and production operations. Lessee shall use all means at its disposal to recapture all escaped pollutants and shall be solely responsible for all damage to aquatic or marine life, wildlife, birds and any public or private property that may result from any such pollution occasioned by Lessee's operations hereunder. Lessee shall report all unpermitted discharges of pollutants resulting from Lessee's actions under the Lease in accordance with all state and federal statutes and regulations to the Louisiana Department of Environmental Quality, the Louisiana Office of Conservation and any other appropriate entity. Such reporting shall occur within five (5) calendar days or within the timeframe required by any state or federal law, whichever is earlier.

All reasonably necessary preparations and precautions shall be taken by Lessee to prevent fire and explosion and to prevent contamination of any portion of the total environment of the Leased Premises, provided that nothing herein shall be construed as lessening or reducing Lessee's obligations under all applicable statutes, rules and regulations of the State of Louisiana and United States of

America.

(B) Lessee shall indemnify, defend and hold harmless Lessor, its officers, employees, agents and representatives, with respect to any and all damage, costs, liability, fees, attorney fees, penalties (civil or criminal), fines (civil or criminal) and cleanup costs arising out of or in any way related to the ~~Lessee's~~ use, disposal, transportation, generation, sale and location upon or affecting the Leased Premises of hazardous substances as defined in Article 13 of this Lease by Lessee or any of its ~~. This indemnification shall extend, without limitation, to actions of Lessee's~~ officers, employees, agents, representatives, assigns, sublessees, contractors, subcontractors, licensees and invitees. Lessee shall further indemnify, defend and hold Lessor harmless from any and all damage, cost, liability, fees, attorney fees, penalties (civil or criminal), fines (civil or criminal) and cleanup costs arising out of or related to any breach of the provisions of this Lease concerning hazardous substances and/or negligent operations. This indemnity is in addition to and in no way limits the general indemnity contained under Article 16 of this Lease.

(C) In conducting any activity under this Lease that requires dredging, filling or navigating in order to conduct oil and gas exploration and production operations, Lessee shall comply with all applicable state and federal requirements for the permitting of such activities in the operational area.

Lessee agrees that upon completion of oil and gas exploration and production activities under this Lease, Lessee shall remove all facilities, materials and equipment Lessee placed on the Leased Premises that may impede commercial fishing and trawling including, without limitation, all submerged materials, equipment or debris placed on the Leased Premises by or for the account of Lessee. Additionally, Lessee shall ~~return or~~ restore to its original condition ~~, to the extent practicable,~~ all affected water bottoms under the Leased Premises~~to a condition as nearly equivalent to that which existed before said operations were conducted and/or structures constructed~~.

Should Lessor and the Commissioner of Conservation determine after notice and public hearing that continued oil and gas exploration and production operations including, but not limited to temporary surface storage facilities and/or associated wellhead facilities (wellhead, valves, tanks, pits and flares) may cause unsafe operating conditions, waste pollution or contamination of air, fresh water or soil, Lessee agrees that Lessor and the Commissioner of Conservation may immediately prohibit further oil and gas exploration and production operations of ~~the~~ such Lessee's facility and/or its associated wellhead facilities until such time as Lessor and the Commissioner of Conservation determine that such operations can and will be conducted in a physically and environmentally safe manner.

Comment [GAMDE54]: How will these determinations be made?

Comment [GAMDE55]: Limit to just facilities at risk?

Should Lessor and the Commissioner of Conservation determine after notice and public hearing that any unsafe operating condition, waste, pollution or contamination of air, fresh water or soil is imminent, further oil and gas exploration and production operations of any affected reservoir formation and associated facility shall be discontinued until such time as Lessor and the Commissioner of Conservation determine that such operations will be conducted in a physically and environmentally safe manner.

Comment [GAMDE56]: How will these determinations be made?

Lessee shall, at its sole cost and expense, keep and maintain the Leased Premises, all improvements thereon made by Lessee and all facilities appurtenant thereto installed by Lessee ~~(regardless of ownership)~~ in good order and repair and safe condition for the safe conduct of any activities or enterprises conducted on the Leased Premises pursuant to the rights granted hereunder.

Comment [GAMDE57]: Lessee should not be responsible for maintaining other parties' facilities.

ARTICLE 15 - GENERAL LIABILITY INSURANCE [Peck]

(A) Lessee, at its sole expense, shall purchase and maintain in full force and effect, throughout the operational term of this Lease and continuing until all Lease obligations are fulfilled, a policy(s) of commercial general liability insurance having a minimum limit per occurrence of One Million ($1,000,000.00) Dollars and excess liability insurance having a minimum limit per occurrence of Two Million ($2,000,000.00) Dollars (or other such limits as deemed reasonably appropriate and necessary by the Board after notice and public hearing). This policy shall identify Lessor as an additional insured, be applicable to the Leased Premises and provide coverage, except as may be limited by law, to Lessor and Lessee against claims for bodily injury, death and property damage, and for pollution incidents of a sudden and accidental nature causing such harm that may arise from or in connection with the development and production activities and operations conducted pursuant to this Lease by Lessee, its operators, contractors, employees, agents, representatives and their successors and assigns.

For purposes of this Article, the "operational term" of this Lease shall commence thirty (30) days prior to any surface activity on the Leased Premises in furtherance of the development and production of oil and gas including, but not limited to surveying, mobilization, location preparation and other such activities preliminary to development of the Lease.

(B) The insurance coverage required hereby shall be provided at Lessee's sole expense and the insurer shall have no recourse against Lessor for payment of premiums or any assessments required by the policy(s). Deductibles and/or self-insured retentions must be reasonable, within industry standards and, upon request, disclosed by Lessee to the Board, with Lessee solely responsible for paying all such deductibles and/or self-insured retentions.

(C) The insurance coverage required hereby of Lessee shall be provided by a company authorized to do business in the State of Louisiana having an A.M. Best's rating of A-:VI or higher. At any time, if an insurer issuing such policy(s) does not meet the minimum A.M. Best rating, Lessee shall obtain a substitute policy(s) with an insurer possessing such rating and submit a substitute Certificate of Insurance in compliance herewith.

(D) Lessee shall furnish to Lessor, initially as required by (A) above, and on an annual basis thereafter within thirty (30) days of the annual renewal date, a Certificate(s) of Insurance fully completed and signed by the insurer's authorized representative evidencing satisfaction of the insurance coverage requirements of this Article. Additionally, upon request, Lessee shall provide to Lessor the Declaration Page and the Cancellation Endorsement for the policy(s), along with any additional endorsements that may be requested by Lessor. These documents shall be provided to Lessor prior to commencement of the operational twit, with the Certificate Holder listed as:

State of Louisiana
Office of Mineral Resources
LaSalle Building — 8th Floor
617 North Third Street
Baton Rouge, Louisiana 70802
Ref: State Lease No. _____

If Lessee's obligation to maintain insurance coverage is provisionally suspended in accordance with (H) below, Lessee still must furnish proof or cause its operator to furnish proof to Lessor of such coverage as required hereby.

(E) As soon as practicable, but in no event later than fifteen (15) days prior to occurrence, Lessee shall advise Lessor of the suspension or cancellation of any policy of insurance. In such event, Lessee shall secure replacement insurance in compliance with the requirements herein to ensure that continuous coverage is maintained on the Leased Premises.

(F) Failure of Lessee to maintain and furnish proof of insurance as required hereby may, at the sole option of Lessor, after notice and reasonable opportunity (of at least thirty (30) days) to correct such failure, cause this Lease to be terminated. Additionally, Lessee's failure, after notice, to obtain insurance or provide proof of insurance within thirty (30) days of receipt of such notice shall subject Lessee to liquidated damages in the amount of One Hundred ($100.00) Dollars per day until the earlier of (i) when proof of such insurance is provided to OMR or (ii) the termination or surrender of this Lease. The liquidated damage assessment may be waived, in whole or in part, for cause by the Board. Such failure, however, shall not relieve Lessee of liability nor its duty to perform the obligations required by this Lease.

(G) In the event of:

(1) An assignment or other transfer of the entirety of Lessee's interest in the Lease, upon producing acceptable proof that Lessee's assignee(s)/transferee(s) has secured insurance coverage as required hereby, Lessee shall be relieved of its obligation to maintain such coverage.

(2) An assignment or other transfer causing this~~e~~ Lease to be held in indivision, Lessee and/or its assignee(s)/transferee(s) shall maintain or cause to be maintained such insurance.

(3) An assignment or other transfer causing this~~e~~ Lease to be held in divisible portions, Lessee and its assignee(s)/transferee(s) shall maintain such coverage on their respective portions.

Nothing herein shall require a duplication of coverage, with Lessee and/or its assignee(s)/transferee(s) responsible for ensuring that such coverage is provided.

(H) Lessee and/or its assignee(s)/transferee(s) may request Board authority to provisionally suspend its obligation to maintain insurance by demonstrating to the satisfaction of the Board that an operator(s), actively engaged in development and production activities and operations on the Leased Premises on behalf of Lessee, has obtained and will continually maintain insurance coverage compliant with the requirements set forth herein. In the event coverage by the operator(s) lapses or terminates for any reason, such suspension shall automatically terminate and Lessee shall again obtain and maintain insurance coverage as required hereby.

ARTICLE 16 - INDEMNITY AND HOLD HARMLESS

Lessee unconditionally agrees to respond to, investigate, provide defense for, protect against, save, indemnify and hold free and harmless the State of Louisiana, the Department of Natural Resources, the State Mineral and Energy Board and the Office of Mineral Resources of, from and against any and all demands, claims, causes of action, damages, judgments, costs, fees, expenses and attorney fees arising from any harm, loss, injury or death to any person, or any harm, loss, damage or destruction of any property resulting from any act, omission, fault or negligence of Lessee or its successors, transferees, sublessees, assigns, employees, contractors, agents and representatives in conducting activities or operations in, upon or under the Leased Premises pursuant to the

Comment [GAMDE58]: Revised provision to properly reflect indemnification.

rights granted by this Lease. The protections afforded by this provision equally apply to the officers, employees, agents and representatives of the referenced governmental entities. ~~The obligations required by this provision equally apply to Lessee's successors, transferees, sublessees, assigns, employees, contractors, agents and representatives~~.

This general indemnity provision is in addition to and shall not be limited in any way by any specific indemnity provision contained elsewhere within this Lease.

ARTICLE 17 — LAW AND FORUM

Lessee agrees that the terms and provisions of this Lease shall be construed in accordance with the laws of the State of Louisiana and that the courts of this State shall be the proper forum for any litigation related to this Lease, unless such litigation is required to be filed in or is removed to a federal court of this State.

Comment [GAMDE59]: Note that this arguably allows for suits to be filed outside of East Baton Rouge Parish.

Lessee further agrees that the rule of construction requiring that the terms and provisions of an instrument be construed against the drafting party is not and shall not be applicable to this Lease.

ARTICLE 18 - TITLE DISPUTES

(A) In the event of a bona fide dispute or litigation involving Lessor's ownership or title to any portion of the Leased Premises, Lessee agrees to promptly notify Lessor, in writing, and provide any information and/or documentation in Lessee's possession requested by Lessor regarding such dispute, including the identity of the adverse claimant(s) and the nature of the dispute.

(B) During the pendency of and through resolution of the dispute or litigation, Lessee shall comply with all terms, provisions and requirements of the Lease, including the payment of royalty, and shall be deemed in default of payment of royalty if Lessee suspends or stops making royalty payments in compliance therewith. However, in lieu of making said payments directly to Lessor, pending settlement or final and definitive adjudication of the title dispute or litigation, Lessee may:

(1) Request and obtain authorization from the Board to suspend the direct payment of royalty due on the production attributable to the disputed acreage, deposit the royalty payments into an interest bearing escrow account at a FDIC insured financial institution having a presence within the State and otherwise fully comply with the title dispute protocol approved by the Board; or

(2) Initiate a concursus proceeding and deposit the royalty payments attributable to the disputed acreage into the court registry; or

(3) Take other action as authorized by the Board.

(C) Lessor shall accept the funds so deposited as royalty payments attributable to the disputed acreage such that Lessee shall not be held in default in payment of royalty if properly computed and timely made in accordance with the terms and provisions of this Lease, pursuant to an Order of the court or in accordance with the Board's authorization.

(D) Nothing herein is intended to waive, release, relinquish or in any way diminish any rights Lessor may have to review, examine, audit, dispute, challenge or contest any payments made or not made by or on behalf of Lessee on the production attributable to the disputed acreage. In the event an audit or other examination should reveal that the sums deposited into an escrow account or into

the registry of the court are incorrect, Lessee shall remain fully responsible for all royalty determined to be due and owing, and may be subject to payment of interest and penalties as required by law or the terms of this Lease.

(E) Upon termination of any escrow authority, concursus proceeding or other action authorized by the Board, royalty payments due on the production attributable to the disputed acreage shall be made in accordance with the terms of any settlement, compromise or final, definitive adjudication and pursuant to the terms and provisions of this Lease.

ARTICLE 19 - LEASE ACCESS

(A) This Lease is subject to the requirements of La. R.S. 30:127(G) such that the public's access to public waterways throughout the State lands covered by this Lease shall be maintained and preserved for the public by Lessee.

(B) Lessor retains the right, throughout the life of this Lease, to use all existing roads and waterways and those constructed or reconstructed by Lessee for any and all purposes deemed necessary or desirable in connection with the control, management, administration and harvest of Lessor-owned land or resources thereof, including timber management.

(C) Lessor retains the right, throughout the life of this Lease, to use any and all portions of the Leased Premises for any and all purposes so long as doing so does not unreasonably interfere with the rights and performance of Lessee under this Lease.

(D) Lessor shall have the right to sell, exchange, transfer or otherwise dispose of all or any portion of the Leased Premises. Further, Lessor shall have the right to issue rights-of-way and easements upon the Leased Premises so long as such rights-of-way or easements do not unreasonably interfere with Lessee's operations conducted pursuant to the rights granted by this Lease.

(E) Lessor reserves the right to access the Leased Premises at all reasonable times in order to inspect the Leased Premises and to investigate and secure compliance by Lessee with all Lease requirements.

(F) The rights reserved hereunder may be exercised by Lessor or any other person or entity acting under the authority of Lessor in any manner that does not unreasonably interfere with or endanger the Lessee's operations under this Lease.

(G) All rights pertaining to the Leased Premises not expressly granted to Lessee by this Lease, or necessarily implied herein, are hereby reserved to Lessor.

ARTICLE 20 - AUDIT RIGHTS

(A) Lessee shall keep a complete and accurate account of all books and records pertaining to the calculation of royalty due under this Lease for six years after the production at issue, utilizing accounting systems and methods in compliance with Generally Accepted Accounting Principles consistently applied to ensure the most accurate figures reasonably available. Lessee shall retain in its possession detailed papers, books, records, accounts and other documents relative to the calculation and payment of royalties and other sums due hereunder for examination by OMR personnel at all reasonable times. Such documentation shall be maintained in the manner which best facilitates its review, inspection, examination and audit. Upon reasonable notice, the Board, through OMR, shall have the right to review and audit such documents and systems for purposes of verifying their accuracy and

Comment [GAMDE60]: Unreasonable to not have a time limitation on record retention forever. Six years is the period required for federal records.

reporting requirements. To the extent allowed by law, all documents, working papers and information provided for review/audit shall be maintained by OMR personnel in strict confidence.

(B) In addition to all other audit rights set forth in this Lease or required by law, OMR personnel shall have the same audit rights afforded the Louisiana Department of Revenue under La. R.S. 47:1542-1543. Lessees and their agents shall be subject to the same recordkeeping requirements as set forth in 30 U.S.C. 1713.

ARTICLE 21 - NO WARRANTY OF TITLE

(A) Notwithstanding any provision herein to the contrary, this Lease is granted and accepted without any warranty of title and without any recourse against Lessor whatsoever, either expressed or implied. It is expressly agreed that Lessor shall not be required to return any payments received hereunder or be otherwise responsible to Lessee therefor. Lessee represents that it has investigated title to the Leased Premises and is satisfied with such title as Lessor may have. Lessor hereby disclaims any covenant of quiet enjoyment or peaceful possession of the Leased Premises.

(B) Lessor makes no warranties as to the condition of the Leased Premises and Lessee accepts the Leased Premises "AS IS". Lessor has no obligation to make any repairs, additions or improvements to the Leased Premises, and Lessor does not warrant the suitability of the Leased Premises for any purposes intended by Lessee or contemplated by this Lease.

ARTICLE 22 - EXECUTORY CONTRACT

Lessor and Lessee herein agree that for so long as it remains in full force and effect, it is deemed to be an executory contract and an unexpired ~~L~~lease within the meaning of Section 365 of the United States Bankruptcy Code (or successor statute).

ARTICLE 23 - LESSOR'S RIGHTS

Lessee agrees that any failure by Lessor to enforce any provision, obligation, condition, right or privilege of this Lease shall not constitute a waiver or relinquishment by Lessor of its rights, privileges and/or remedies afforded herein or by law. Furthermore, Lessee agrees that it shall not hold or use Lessor's failure to enforce any provision, obligation, condition, right or privilege as a defense in any future dispute or litigation. As such, all provisions, obligations, conditions, rights and privileges granted hereby or by operation of law shall remain valid, in force and enforceable despite Lessor's failure to previously enforce them.

ARTICLE 24 – SEVERABILITY

This Lease sets forth the full terms of the agreement between the parties. If any provision hereof is found to be invalid for any reason, such provision shall be severed from the agreement and the remaining terms and provisions shall be fully binding upon the parties.