

# ONEBANE LAW FIRM

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**Via Email**

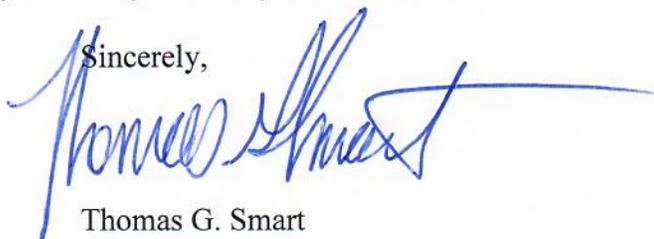
Ms. Suzanne Hyatt  
Office of Mineral Resources  
Department of Natural Resources  
617 North Third Street  
Baton Rouge, LA 70802

Re: Proposed New State Lease Form  
Comments to Articles 4, 6, 8, 11-16, and 19

Dear Suzanne:

See attached Memo with my comments to the above Articles. Additionally, I agree with and support the comments submitted by Peck Hayne and Cynthia Nicholson this afternoon.

Sincerely,



Thomas G. Smart

TGS:

**ONEBANE  
LAW FIRM**  
*A Professional Corporation*

**MEMORANDUM**

**TO:** Louisiana State Mineral and Energy Board  
**FROM:** Thomas Smart  
**DATE:** May 1, 2019  
**RE:** New Proposed State Lease Form-Articles 4, 6, 8, 11-16, and 19

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Article 4-Transfers and Assignments The 2019 Proposed Form provides in Article 4(B) that the assignor, sublessor or transferor making an assignment of a lease is not relieved of its obligations or liabilities unless the Lessor discharges him expressly and in writing. We request that consideration be given to releasing the assignor from post assignment liability. We are not requesting that the assignor be relieved of liability for obligations accruing during his/her watch, but rather under the watch of its assignee. This division of liability is consistent with post assignment liability under BOEM OCS leases and GLO leases in Texas. Continued liability is a big issue for companies. Also, the custom and practice in Louisiana is often for lease brokers to nominate and bid on State Leases, and later assign them to their clients without conducting operations. They should not still be on the hook for continuing obligations and liability after assignment when they are merely facilitating lease acquisition. We recommend replacing Article 4(B) with the following:

- (B) Notwithstanding Lessor's approval of an Assignment and regardless of any understanding, agreement, language or reference to the contrary in an Assignment, an Assignment does not release or relieve the assignor, sublessor or transferor from satisfying and complying with its obligations accruing before Lessor's approval of the Assignment. But an assignor or transferor under an Assignment shall not be responsible for any liabilities or obligations accruing under this Lease thereafter (including without limitation for payment of any royalties with respect to any production thereafter, for maintaining insurance thereafter or for Restoration Obligations with respect to any well or other facilities installed thereafter).

Article 13-Surface Use and Restoration Article 13(B)(2) requires operations to be conducted with the "highest degree of care". This is not a commonly used standard or term in Louisiana and its meaning is unclear. We recommend deleting the words "with the highest degree of care". If a standard other than as expressed needs to be inserted, then we would recommend "as a reasonably prudent operator" which is a common standard used in oilfield operations.

We recommend deleting from Article 13.(A)(2) the sentence “Lessee shall use all means at its disposal to recapture all escaped hydrocarbon minerals or other pollutants.” The Lessee is already required to comply with state and federal environmental laws. This additional requirement could be overly broad and expensive and impractical to comply with.

Under Article 13.(A)(3) “following the completion of each operation” a Lessee is required to remove all materials and equipment no longer necessary, and Article 13.(B)(1) contains similar language regarding wells, structures or facilities no longer actually producing or utilized. Companies may not always know whether the materials or equipment are no longer necessary. Materials, equipment, wells, structures and facilities often have future use and utility after cessation of initial use. This language should be deleted or instead tied to termination or release of the lease.

Article 13.(B)(2) prohibits salvage or removal of equipment, machinery, structures or facilities no longer used by any wells until those wells have been plugged and abandoned. This provision is arbitrary and unnecessary. The Lessee should have the right to do what makes sense from an operational standpoint with its equipment, machinery, structures or facilities, which often need to be used to service other parts of the lease involved or other State Leases. Removal and restoration itself is already covered under Article 13.(B)(1).