

## **NOMINATION TO LEASING**

Today, I would like to share with you the process leading up to the State Mineral and Energy Board awarding a mineral lease on state or state agency owned lands or water bottoms. Every month at the Nomination and Tract Committee meeting, a staff report is given stating:

- 1) How many nominations were received, pending Board approval for advertising, for a future lease sale;
- 2) How many tracts were advertised for the present lease sale;
- 3) What tracts are to be withdrawn, subject to Board approval, and
- 4) What tracts are affected by letters of protest, if any.

Nominations are received in OMR's Petroleum Lands Section every month for an upcoming lease sale. The deadline for receipt of nominations is the fourth Monday of each month, unless a holiday should fall on that date.

Nominations are normally submitted by industry or prospective leaseholders. However, OMR, through its staff, is also authorized by the Board to submit nominations for state lands or water bottoms for advertisement. An example would be unleased state or state agency owned lands or water bottoms situated in a producing unit or adjacent to a producing well.

State agencies are authorized to directly lease their lands for the development and production of minerals. La. R.S. 30:151 defines "agency" to mean levee districts, drainage districts, road districts, school districts, school board or other board, commission, parish, municipality, state university, state college, state penal or charitable institution or agency, unit or institution of the state or subdivision thereof. School boards are authorized to lease Sixteenth Section lands for the development and production of minerals. However, these agencies may by Resolution request that the State Mineral and Energy Board lease their lands in the manner provided by statute and in accordance with OMR's customary procedures.

When a party is interested in leasing an area for exploration purposes that contain state or state agency lands or water bottoms, the party submits to OMR in a timely manner a nomination packet for an upcoming lease sale. The nomination packet generally contains:

- 1) A Letter of Application;
- 2) A written property description;

- 3) A plat;
- 4) A DXF or digital exchange format, which will be explained shortly;  
and
- 5) A check in the amount of (\$400.00) for each nomination.

The Letter of Application contains the applicant's ID Number, name, address, contact information, type of nomination (State or State Agency, Inland or Offshore), acreage nominated and the parish wherein the acreage is located.

The Digital Exchange Format (DXF) referred to earlier are essentially lines and points. Placed into a computer program, the information is exploded and the lines and points convert into a polygon representing the written description. By definition, a polygon is a closed plane figure bounded by three or more line segments.

The written property description is in the form of Lambert X, Y coordinates or Section, Township and Range (Aliquot). All state owned water bottoms are described with Lambert X,Y coordinates, while tax adjudicated properties, vacant state lands and school indemnity lands are described by aliquot description.

When a tax debtor owning immovable property in Louisiana fails to pay taxes on that property, the tax collector for the parish wherein the property is located is authorized by law, after proper notice, to offer the property for sale at an advertised public sale. Prior to 1974, immovable property offered for such a tax sale that was neither sold nor redeemed was adjudicated to the state and is commonly referred to as Tax Adjudicated Lands. Beginning in 1974, such immovable property is adjudicated to the parish as owner.

Title to vacant state lands originating in the United States of America was transferred by various Congressional Acts to the State of Louisiana. Examples of Vacant State Lands include swamp and overflow lands, internal improvement lands, and swamp indemnity lands.

By Congressional Act in 1841, Louisiana was granted the right to select title to some 500,000 acres of vacant Federal Land under an Internal Improvement Program. The State could sell such lands for not less than \$1.25 per acre and use the revenue therefrom to dig canals, build roads and do other things to encourage settlers to move into the State.

For Louisiana, perhaps the greatest title transfers of all were the Swamp Lands Grants Acts of 1849 and 1850 which authorized the State to select and request title to any vacant public lands that were “swampy” in character and nature. Consequently, from that period to the present time, title was conveyed to some ten million acres of swamp lands.

The majority of swamp lands selected from the United States government by the State of Louisiana were either sold to private individuals or transferred to Levee Boards created in various parts of the State. These Levee Boards, in turn, were authorized to sell lands or timber to private citizens and use the revenue therefrom to build levees, roads, canals and other activities to encourage settlement.

The United States government reserved each Section 16 in each township in Louisiana for school purposes and these lands are referred to as Section 16 School Lands. When a Section 16 was lacking full acreage (640 acres) in a township, the United States government set aside other lands in the State for the benefit of the lacking township and permitted the State of Louisiana to select acreage therefrom in lieu of the Section 16 School Lands. These lands so selected are commonly referred to as School Indemnity Lands. The state holds title to these lands in trust for public school purposes and these lands may be leased for the development and production of minerals by the State Mineral and Energy Board only

La. R.S. 30:126.A expressly states that no lease of state lands or water bottoms shall contain more than five thousand acres. However, this Board, by Resolution years ago, implemented a limitation of no more than 2,500 acres for nomination or lease.

The Petroleum Lands Section’s staff processes the information from the nomination packet and prepares it for advertising. An example of a nomination number for a November tract would be 11201401, with “11” representing the month, “2014” representing the year and “01” representing the first nomination. When the Board grants staff the authority to advertise, the number of each nomination is changed to a five digit tract number, such as the tract number for today’s lease sale, Tract 44096.

Why do the numbers change? This office receives nominations for an upcoming lease sale every month. To distinguish which nominations received Board authority to advertise, the numbers change from the 11201401 to Tract 44096. Other than that, there is no difference in the nomination number and a tract number.

Next, The Petroleum Lands Section creates a monthly Notice of Publication (NOP). The NOP is an informal publication for the convenience of and as an accommodation to prospective bidders. The NOP can be found on the OMR website. It contains general guidelines, Tract numbers with a description and a plat, and special notes.

By law, the Board must publish in the official journal of the State, *The Advocate*, and in the official journal of the parish wherein the lands are located, an advertisement which must appear in these journals not more than sixty days prior to the date for the opening of bids. The advertisement shall contain:

- 1) A description of the land proposed for leasing;
- 2) The date, time and place where sealed bids shall be received and publicly opened;
- 3) A statement that the bid may be for the whole or any particularly described portion of the land advertised;
- 4) The royalty demanded should the Board deem it to be in the interest of the State to call for bids on the basis of a fixed royalty; and
- 5) Any other information the Board may consider necessary and appropriate.

OMR can receive sealed bids on monthly lease sales until 12:00 noon the day before the bids are opened. The sealed bids are publically opened at the time and place mentioned in the advertisement, which is the second Wednesday of every month, which is exactly what was done at 8:30 this morning. However, yesterday, being a holiday, we received bids for today's lease sale up to 4:30 P.M. on Monday.

At the conclusion of the opening and reading of the bids, a technical staff of OMR personnel reviews all bids and makes recommendations to the Board for acceptance or rejection at the regular Board meeting that convenes at 11:00 a.m. Some bids are rejected for insufficient consideration, which may result in a recommendation to the Board to re-advertise the property with required minimums. Insufficient consideration could be a low bonus amount, a rental amount less than one-half the bonus consideration or a low royalty amount.

Any party interested in submitting an application to nominate State owned lands or water bottoms for mineral leasing or interested in submitting a bid for a mineral lease is required to register, and renew registration annually, with the Office of Mineral Resources prior to submitting an application or bid. The party shall

provide a Detailed Record webpage print-out obtained from the Louisiana Secretary of State indicating the entity's current status with the submission of the application form. As required by La. R.S. 30:123.1, all prospective leaseholders' registrations must be renewed annually by January 31<sup>st</sup> of each year. If renewal is not received prior to January 31, the Registrant's name will be removed from OMR's registration list and this party cannot and will not be awarded a State lease nor approved for Assignment or Transfer of a state lease.

If an applicant wishes to withdraw a nomination before the tract has been advertised for state or state agency mineral lease, he shall submit a letter requesting withdrawal of the nomination to the staff. No tract can be withdrawn after it has been advertised unless it fails to comply with legal, procedural and technical requirements.

If a party wishes to protest the leasing of a state or state agency tract, he shall submit a formal letter of protest to the Board at least seven (7) days prior to the monthly meeting of this Board. The letter of protest shall reference the appropriate tract number, parish, and state mineral lease sale date, as well as set forth the source and nature of the title claimed, how and when acquired, and by what legal process.

Once these processes are satisfied and this Board authorizes the lease of state or state agency lands, the Petroleum Lands Section prepares lease instruments previously awarded at the lease sale for execution and recordation. The mineral lessee has 20 days from the date on the certified mail receipt to return to OMR one fully executed lease which contains the recordation data from each parish wherein the lease is recorded. Failure to return a fully executed lease within this 20 day period may result in forfeiture of the lease, including the cash payment, and 10% leasing fee. Of course, OMR staff makes every effort to secure the recorded lease prior to taking such aggressive action against the Lessee.

Once the lease is approved, executed, recorded and returned to OMR, it is up to the Lessee to perform in accordance with the lease terms. Monitoring and ensuring that the lease is properly maintained is the responsibility of OMR's Petroleum Lands and Geological and Engineering Sections. This monitoring process continues throughout the life of the lease.

Hopefully, this information has been informative. I welcome the opportunity of answering any questions you may have.