

## SUGGESTED TMS POLICIES

### POLICY #1

DRAFT

In all 100% or “simple” integration dockets filed under Miss. Code Anno. Section 53-3-7(1), both the Petition and the Landman’s Affidavit shall contain an affirmative statement that the petitioner has made a good-faith effort to examine the public land records for the purpose of identifying all owners of drilling rights and rights to share in production in the proposed drilling unit (whose identity can reasonably be determined) not more than ninety (90) days prior to the filing of the docket.

### Reasons for the policy

Some operators have filed 100% or “simple” integration dockets with the Mississippi State Oil & Gas Board seeking to establish TMS drilling units for the apparent purpose of preventing or blocking other TMS operators from incorporating all or portions of the proposed unit acreage into their own units. **This is essentially a race to be first.** In this race to be first, some TMS operators apparently make only a minimal effort, prior to the filing of the pooling dockets, to examine the public land records for the purpose of identifying the owners of drilling rights in the proposed units for oil and gas leasing purposes.

The purpose of the above policy is to insure that in advance of the filing of any 100% or “simple” integration docket with the Mississippi State Oil & Gas Board, each TMS petitioner will make a good-faith effort to examine the public land records to determine the names and addresses of those persons who own or control drilling rights and rights to share in production from the proposed drilling units. Obviously an operator cannot negotiate an Oil, Gas and Mineral Lease or other agreement with an owner whose identity is unknown. Equally obvious, an owner’s identity can only be determined by a timely examination of the public land records of the county.

The above policy is intended to insure that this examination of the public land records for oil and gas leasing purposes occurs on a timely basis and, to the extent possible, in advance of the filing of force integration proceedings before the Mississippi State Oil & Gas Board pursuant to the provisions of Miss. Code Anno. Section 53-3-7(1)

## POLICY #2

In all 100% or “simple” integration dockets filed with the Mississippi State Oil & Gas Board under Section 53-3-7(1), both the Petition and the Landman’s Affidavit shall contain an affirmative statement that the petitioner has made a good-faith effort to negotiate Oil, Gas & Mineral Leases or other appropriate agreements with those owners of drilling rights and rights to share in production in the proposed drilling unit whose identity and addresses are known or can reasonably be determined.

### Reasons for the policy

Some TMS operators have filed 100% or “simple” integration dockets with the Mississippi State Oil & Gas Board under Section 53-3-7(1) without first having attempted to acquire Oil, Gas & Mineral Leases or other appropriate agreements from the owners of drilling rights and rights to share in production within the proposed TMS drilling units.

Miss. Code Anno. Section 53-3-7(1)(a) clearly states that the 100% or “simple” integration statute may be used to force pool those persons who have “**not agreed to integrate their interests** \* \* \* \*” In addition, Section 53-3-7(1)(c) defines the term “non-consenting owner” for purposes of the statute to mean an owner of drilling rights in the unit “**which the owner has not agreed, in writing, to integrate** \* \* \* \*”

Implicit in the 100% or “simple” integration statute is the requirement that each “non-consenting owner” within a proposed drilling unit (whose identity and address can reasonably be determined), should, in advance of the filing of a force pooling docket with the Mississippi State Oil & Gas Board, be tendered a lease offer which they are free to either accept or reject. An owner obviously cannot be deemed to have “**not agreed**” unless and until they have been proffered some type lease offer to which they can agree.

The obligation on the part of a prospective operator to attempt to secure leases or other appropriate agreements from the owners of drilling rights in a proposed drilling unit prior to integrating those interests is a minimal legal requirement given the fact that the 100% or “simple” integration statute is in reality an exercise of the **police power** of the State of Mississippi.

The purpose of the above policy is to insure that in advance of the filing of any 100% or “simple” integration docket with the Mississippi State Oil & Gas Board, the petitioner shall make a good-faith effort to secure leases or other appropriate agreements from the owners of drilling rights and rights to share in production within the proposed drilling unit (to the extent that the identity and addresses of such owners can reasonably be determined).

This policy is fully consistent with both the letter and the spirit of Miss. Code Anno. Section 53-1-1 [**Declaration of Policy**] which imposes upon the Mississippi State Oil & Gas Board, in the administration of the Mississippi Oil and Gas Conservation Laws, the duty to safeguard, protect and enforce the co-equal and correlative rights of all parties in interest.

### **POLICY #3**

In all TMS dockets filed with the Mississippi State Oil & Gas Board, the petitioner shall state in both the Petition and the Landman's Affidavit the following information:

- (1) The approximate percentage of interests in the drilling rights and rights to share in production in the proposed drilling unit which the petitioner owns or controls (through leases, farmouts or other agreements) as of the date of the filing of the docket;
- (2) The total number of drilling permits for TMS wells which the petitioner has previously obtained from the Mississippi State Oil & Gas Board;
- (3) The total number of TMS wells in the State of Mississippi which the petitioner has actually spudded and drilled to completion pursuant to those drilling permits;
- (4) The total number of TMS permits in the State of Mississippi which the petitioner currently holds under which no well(s) are presently being drilled;
- (5) The total number of TMS permits which the Mississippi State Oil & Gas Board has previously issued to the petitioner which have expired without a well being spudded pursuant to said permits;
- (6) The total number of TMS permits in the State of Mississippi which the petitioner has been forced to renew due to the fact that no well(s) were spudded during the term of such permits

The above information shall be furnished to the Mississippi State Oil & Gas Board in all TMS dockets (whether those dockets are filed pursuant to the 100% or "simple" integration statute [Section 53-3-7(1)] or the alternate risk charges statute [Section 53-3-7(2)]).

### **Reasons for the Policy**

Some TMS operators have filed 100% or "simple" integration dockets with the Mississippi State Oil & Gas Board at a time when they own

or control only a small percentage of the drilling rights and rights to share in production in the proposed drilling unit (through leases, farmouts, etc.).

Unlike the alternate risk charges statute, the 100% or “simple” integration statute set forth in Section 53-3-7(1) does not prescribe a minimum percentage of mineral interests which the petitioner must own or control at the time a pooling docket is filed with the Mississippi State Oil & Gas Board.

However, the information set forth above is information which the Mississippi State Oil & Gas Board should have in connection with each TMS docket filed (whether a 100% or “simple” integration docket or an alternate risk charges docket). This information is highly relevant in determining whether the petitioner is in fact serious about the timely drilling of a proposed TMS well during the term of the drilling permit or is merely seeking to use the permitting processes of the Mississippi State Oil & Gas Board to hold unit acreage and block or prevent other TMS operators from drilling.

In addition, this information is relevant (although not controlling) when two (2) or more competing dockets are filed involving the same unit acreage and competing operators.

#### POLICY #4

In those instances in which competing dockets are filed by different prospective operators involving the same or substantially the same unit acreage, the Mississippi State Oil & Gas Board shall consider all relevant facts and information in determining which of the competing dockets should be approved.

In making this determination, the Board will be guided by its findings as to which of the competing dockets, if approved, will best promote the orderly development of the oil and gas resources of the State of Mississippi, without unnecessary waste, and which of the competing dockets will best safeguard, protect and enforce the co-equal and correlative rights of all owners in the pool.

In addition to considering which of two (2) or more competing dockets was first filed, the Mississippi State Oil & Gas Board will consider other relevant factors, including but not limited to the following :

- (1) What percentage of the leasehold or drilling rights each of the competing petitioners owns or controls in the proposed drilling unit (through leases, farmouts or other agreements);
- (2) The technical and financial ability of each of the competing petitioners to timely drill, complete and operate the well;
- (3) The past experience of the competing petitioners in drilling, completing and operating similar wells;
- (4) The total number of wells in the area actually drilled, completed and operated by each of the competing petitioners;
- (5) The respective records of each of the competing petitioners in complying with the regulatory requirements of the Mississippi State Oil & Gas Board;
- (6) The commitment (financial and otherwise) of each of the competing petitioners to commence the timely drilling and completion of the proposed unit well during the term of the drilling permit;
- (7) How many, if any, drilling permits have previously been issued by the Mississippi State Oil & Gas Board to each

of the respective petitioners under which wells (although permitted) were not drilled;

- (8) How many, if any, drilling permits each of the respective petitioners currently hold from the Mississippi State Oil & Gas Board under which the drilling of wells has not commenced.

### **Reasons for the Policy**

In determining which of two (2) or more competing dockets should be approved, the Mississippi State Oil & Gas Board must at all times be mindful of the statutory mandate of Miss. Code Anno. Section 53-1-1 under which this agency operates, namely, the duty of this agency to promote the full development of the oil and gas resources of the State of Mississippi by progressive drilling, consistent with the prevention of waste and the safeguarding, protection and enforcement of the co-equal and correlative rights of all owners in the pool.

Pursuant to this public policy, the Mississippi State Oil & Gas Board will take into account the totality of all relevant facts and circumstances in determining which of two (2) or more competing dockets will be approved, not simply which of the dockets was first filed.

## POLICY #5

No incomplete TMS permit application or docket shall be filed with the Mississippi State Oil & Gas Board. Each TMS permit application shall consist of the following:

- (1) A duly executed FORM 2 (Application to Drill);
- (2) All applicable permit application and docket filing fees;
- (3) A duly certified unit location plat;
- (4) Reserve Pit Information (including pit schematic);  
and
- (5) Proof of Financial Responsibility pursuant to Statewide Rule 4(c)

The following requirements shall apply to all unit location plats filed with the Mississippi State Oil & Gas Board.

- (i) Unit location plats shall be prepared by a Professional Land Surveyor and certified by the surveyor preparing the plat. Plats shall bear the word "Certified" and shall have affixed thereto both the signature and stamp and/or seal of the surveyor.
- (ii) Plats must depict the exterior drilling unit boundaries as well as the proposed well location on the unit, including the estimated distance of the well from the two (2) nearest exterior drilling unit boundaries.
- (iii) In the case of directionally drilled or intentionally deviated wellbores, the plat must depict both the surface location and the bottomhole location of the well.
- (iv) In the case of horizontally drilled wells, the plat must depict the surface location, the point of entry or penetration point and the terminus point of the well.



- (v) If the proposed well location has been surveyed and staked, the plat shall reflect that fact by additionally containing the words "Surveyed location." If the well location has not been surveyed, the plat shall reflect that fact by additionally containing the words "Plat only (location not surveyed)".
- (vi) Unit location plats shall also depict all other wells located on the proposed drilling unit, as well as all adjoining units and the wells located thereon.
- (vii) In those instances in which a unit location plat has been submitted to the Mississippi State Oil & Gas Board as a plat only (no surveyed well location), the operator within thirty (30) days after the spudding of the well shall have prepared and filed with the Board a revised unit location plat depicting the actual surveyed well location.

#### **Reasons for the policy**

On occasion TMS permit applications have been filed accompanied by incomplete unit location plats (e. g., plats which fail to depict the well location on the unit). Such plats are obviously of no value either to the Mississippi State Oil & Gas Board staff or the general public. If final and complete unit location plats are unavailable, the filing of the TMS permit application should be delayed until such time as such plats are available.

## **POLICY #6**

Each petitioner/applicant for a TMS drilling permit shall submit to the Mississippi State Oil & Gas Board (concurrent with the filing of the permit application) a written **Plan of Development** which shall state in precise terms the applicant's future plans for the drilling and development of the proposed drilling and production unit being permitted. Such Plan of Development shall, at a minimum, include the following:

- (1) The petitioner's commitment (if any) that an initial unit well will be drilled and completed on the proposed drilling and production unit during the twelve (12) months term of the drilling permit;
- (2) The estimated spud date of the initial unit well;
- (3) The total number of increased density wells sought to be authorized for drilling on the proposed drilling unit;  
and
- (4) The estimated time expected to elapse between the drilling and completion of the initial unit well and the complement of other increased density wells proposed to be drilled on the drilling unit.

## **Reasons for the Policy**

Miss. Code Anno. Section 53-1-1 declares it to be the public policy of the State of Mississippi to foster, encourage and promote the full development of the oil and gas resources of the state by the progressive drilling of oil and gas wells, consistent with the prevention of waste and the protection of the co-equal and correlative rights of all the owners in the oil and gas pools of the state.

That policy obviously cannot be advanced by the permitting of large numbers of wells which operators have neither the resources nor the capacity to drill in a timely fashion. The purpose of the policy is to require, to the extent possible, a commitment from operators seeking drilling permits that the

wells being permitted will be drilled and developed in a timely fashion.

**POLICY #7**

TMS drilling and production units in most instances are significantly oversized and generally are described utilizing complicated metes and bounds legal descriptions. In most instances, these TMS drilling units also consist of lands located in multiple sections. When describing these TMS drilling units (whether in the Petition, the Public Notice or the Affidavits), the Mississippi State Oil & Gas Board requests that the metes and bounds legal descriptions of the drilling units conclude with a separate paragraph reading substantially as follows:

**The hereinabove described tract contains \_\_\_\_\_  
acres situated in Sections \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_,  
Township 1 North, Range 5 East, Wilkinson County,  
Mississippi**

**Reasons for the policy**

A concluding paragraph similar to the above following a metes and bounds legal description will assist the general public in determining whether or not they own interests within a proposed drilling unit. Laymen are not surveyors. However, they generally know if they own interests within a particular section, township and range.