

## **Idaho Department of Lands Oil and Gas Lease Stipulations for 19Oct2016 Public Auction**

**Compliance with Laws.** Lessee shall comply with all applicable State, Federal, and local laws, rules, regulations, ordinances and executive orders during the term of this Lease.

**1. Split Estate.** Lessor is not the surface owner of Leased Premises; therefore, Lessee shall comply with the requirements of all applicable laws and rules, including IDAPA 20.07.02.110 which requires that the operator shall, in good faith, attempt to negotiate a surface use agreement with the surface owner. The operator shall place facilities so that they will interfere as little as reasonably possible with the surface owner's existing surface use. Due to some existing surface uses (such as center pivots, wheel lines) development on the Leased Premises may be restricted. Lessee shall reclaim the Leased Premises disturbed by its exploring, developing, mining, drilling, producing and other operations or activities in compliance with the requirements of all applicable laws and rules, including IDAPA 27.07.02.510.

**2. Unstable Slope or Soil.** All or portions of surface use on Leased Premises may be restricted or denied because all or portions of Leased Premises contain a slope of 25% or steeper, or all or portions of Leased Premises contain clay-rich soil. Steep slopes and clay-rich soils have moderate to high potential for soil erosion, soil compaction, and water runoff, particularly when impacted by ground-disturbing activities. Therefore, all surface activities proposed on Leased Premises shall require Lessee to submit an operating plan to Lessor, which may include special design, construction, and implementation measures to prevent or minimize soil erosion, soil compaction, and water runoff, and how disturbed sites shall be reclaimed. Seismic imaging surveys may be restricted to a controlled seismic point-source of energy, such as dynamite, versus a truck-mounted seismic vibrator.

**3. Fire Prevention.** Prior to entry onto Leased Premises, Lessee shall implement a fire prevention and emergency response plan that covers all aspects of site visits, exploration activities, or operations. The plan will include coordination with local jurisdictions, such as the cities, counties, landowners, Idaho Department of Lands, Rangeland Fire Protection Associations, and Federal land agencies. The plan will also include: emergency contact numbers and information, such as 911 and local fire dispatch centers; fire prevention and safety procedures; designation of adequate firefighting equipment to be present at all locations during all phases of field operations; evacuation routes and procedures; designation of a safety meeting place; and equipment emergency shutdown procedures.

**4. Wildlife Management Area.** All or portions of the Leased Premises is within an Idaho Department of Fish and Game (IDFG) Wildlife Management Area (WMA), which has been established to protect wildlife habitat and is available for hunting, fishing, and other public enjoyment of wildlife (<https://idfg.idaho.gov/visit/wildlife-management-areas>). Lessee shall contact the IDFG for advice on alleviating any possible conflicts caused by Lessee's proposed activities on the Leased Premises. IDFG requirements must be documented by Lessee, unless otherwise authorized by Lessor. Lessor may also require additional mitigation measures.

**5. Threatened and Endangered Plant Species.** Threatened and endangered plant species are identified on the Leased Premises. Limitations on surface use and operational activities by Lessee may be required. Lessee shall perform a vegetation survey in areas of proposed activity prior to any surface-disturbing activity. Lessee shall conduct a vegetation survey at the time of year when the target species are actively growing and flowering. Lessee shall demonstrate that the specific location of the proposed surface-disturbing activity would not adversely impact the threatened and endangered plant species and their habitat; for example, where topography would physically isolate the plants from surface-disturbing activity. The findings of the vegetation survey may result in

restrictions to Lessee's plans or may preclude use and occupancy.

**6. Threatened and Endangered Animal Species .** Threatened and endangered animal species are identified on the Leased Premises. Limitations on surface use and operational activities may be required. Lessee shall perform a biological survey in areas of proposed activity prior to the proposed activity. Lessee must demonstrate that the specific location of the proposed activity will not adversely impact the threatened and endangered animal species and their habitat. The findings of the biological survey may result in restrictions to Lessee's plans or may preclude use and occupancy.

**7. Greater Sage-Grouse Habitat Zones.** All or part of the Leased Premises contain Greater Sage-Grouse Habitat Zones, as shown on Idaho Department of Lands Digital Lands Records system (available at IDL offices and at <http://www.idl.idaho.gov/>), and all or portions of surface use may be restricted or denied. Lessee shall perform a site-specific management plan in areas of proposed activity. Lessee shall demonstrate that the specific location of the proposed activity would not adversely impact sage-grouse and their habitat, and shall provide equal or better results than the sage-grouse conservation measures described below. Site-specific management plans shall be reviewed and approved by Lessor prior to any surface activities. When anticipated results of proposed surface activities are uncertain, Lessor may consult with Idaho Department of Fish and Game prior to approving Lessee's site-specific management plan. Such reviews and consultations may result in restrictions or may preclude Lessee's use and occupancy of all or part of the Leased Premises.

**Sage-Grouse Conservation Measures:**

**7.1 Surface Use and Timing**

**a.** Controlled surface use and timing limitations as described below will be applied within Greater Sage-Grouse Habitat Zones, unless species occupancy and distribution determined by IDFG recommends otherwise.

**b.** No surface occupancy is allowed within 1 km (0.62 mi.) of an occupied lek in the designated Greater Sage-Grouse Habitat Zones.

**c.** During lekking periods, as determined locally (approximately March 15-May 1 in lower elevations and March 25-May 15 in higher elevations), project activities will be avoided within 1 km (0.62 mile) of occupied leks between 6 p.m. and 9 a.m. to avoid disturbance to lekking and roosting sage-grouse. The terms low and high elevation are used generally. IDFG biologists with knowledge of the timeline for local lek routes usually advise when a lek should be checked. For planning purposes a 5,000-foot elevation may be used as a general distinction.

**d.** Major construction and maintenance activity shall be avoided by Lessee in sage-grouse winter range (winter concentration areas) from December 1 to February 15. Specific dates may be earlier or later, depending on local breeding chronology.

**7.2 Noise.** Limit noise levels from discretionary activities within Greater Sage-Grouse Habitat Zones to not less than 10 decibels above ambient sound levels (typically 20-24 dBA) at occupied leks from two hours before sunset to two hours after sunrise during breeding season. Ambient noise levels will be determined by measurements taken at the perimeter of an occupied lek at sunrise.

**7.3 Fencing.** New and existing wire fence segments constructed by Lessee located in high risk areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), Fence Collision Risk Tool will be marked using collision diverter markers as defined by NRCS design practices. Examples of high risk areas include fencing with characteristics such as evidence of grouse fence strikes, gentle topography near a lek, or fences that bisect winter concentration area.

**7.4 Water Supply Structures.** Wildlife escape ramps in new and existing open-water storage tanks shall be installed and maintained to facilitate the use of and escape by wildlife.

**7.5 Constructed Improvements.**

- a. Construction methods shall be implemented by Lessee that minimize surface disturbance. This could include utility placement through borings instead of trenches.
- b. Infrastructure will be placed by Lessee in already-disturbed locations, as feasible, where the habitat has not been established. Infrastructure, such as pipelines, will be located along roads already in existence or required to be newly constructed for access to facilities.
- c. Surface disturbances will be clustered in order to limit surface occupancy.
- d. New utility developments and transportation routes will be located by Lessee in existing utility or transportation corridors, as allowable by any existing right-of-way restrictions.
- e. Use best available science in concurrence with IDFG to address concerns of towers and other elevated structures as perches for predatory or corvid birds.
- f. New structures with a height over five feet will not be constructed by Lessee within 1 km of occupied leks. To the extent practicable, power lines, towers, and other tall structures that provide perch sites for raptors will not be constructed within 3 km of breeding period habitats. If these structures must be built, or presently exist, the lines should be buried or the structures modified to prevent their use as raptor perch sites. Screening or other mitigation may also be used.
- g. Permanent structures that create movement will be minimized in Greater Sage-Grouse Habitat Zones. Painting, shielding, or other measures can be implemented to mitigate potential impact from these structures.

#### **7.8 Site Reclamation for Leases**

- a. Site reclamation will be completed by Lessee as soon as phases of operations or construction are completed. Site accessibility and timing conditions for successful germination will be taken into consideration.
- b. Reclamation activities and plans will consider the ecological site potential. The goal of the reclamation will be to: (a) stabilize the site with plant species that are suitable to the site and include sage brush and native forb species; (b) provide the opportunity for sage-grouse habitat to develop over time; and (c) prevent non-native invasive species from occupying the site.
- c. Sites will be irrigated or mulched appropriately by Lessee if necessary for establishing seedlings more quickly.

**8. No Surface Occupancy on Navigable Waterways.** A navigable waterway is located within all or a portion of the Leased Premises. Unless Lessor otherwise agrees in writing, surface occupancy, including but not limited to wells and related surface infrastructure, is prohibited on, in or above the beds of navigable waterways, abandoned channels, islands or accretions, and is also prohibited within ¼ mile of the ordinary high water mark of the navigable waterway.

**9. Public Water Supply Source Water Protection Area.** The Idaho Department of Environmental Quality (IDEQ) has determined that this tract contains portions or all of the 3-, 6-, or 10-year time-of-travel surface expression of the groundwater capture zone for a public water supply well, or the physical area contributing water to a public water supply spring or a public water supply surface water intake. IDEQ performed a source water assessment that defined the land area contributing water to the public water supply well, spring, or surface water intake, identified the major potential sources of contamination that could affect the drinking water supply, and then determined how susceptible the public water supply is to this potential contamination. No activity shall be allowed within the time-of-travel capture zones for a public water supply well or the physical area contributing water to a public water supply spring or a public water supply surface water intake without prior written approval by IDEQ and Lessor.

**10. Controlled Surface Use Due to One or More of the Following Water Resources: Floodplain, Riparian - Wetland Area, Intermittent and Perennial Streams, Standing or Slow-Moving Bodies of Water, Human-Made Channels for Water.** No new surface disturbance (excluding fence lines) shall be allowed on the Leased Premises within the 100-year floodplain or 100 meters (330 feet) on

either side from the centerline, whichever is greater, along the following water resources: riparian - wetland areas; intermittent and perennial streams; standing or slow-moving bodies of water; and human-made channels for water. Lessor may authorize an exception if there are no practical alternatives. Lessor may also authorize an exception if Lessee can demonstrate: (a) that the surface-disturbing activity would cause only negligible impacts to the water resource or its use for which this stipulation was designated to protect; or (b) that the surface-disturbing activity would improve the protected water resource or its use as defined by scientifically-defensible objectives, standards, or conditions.

**11. Location Surveys.** If Lessee completes a proved, developed, and producing well, and if either the mineral estate of land title is disputed by Lessor, or if the location of the producing interval is disputed by Lessor, then Lessee must fund appropriate location surveys, including, but not limited to: (a) Legal Boundary Land Survey and (b) Producing Interval Location Survey.

(a) A Legal Boundary Land Survey must determine the location and acreage encompassed by the drill spacing unit or pooling unit along with the state lease acreage within either of such units. The survey must be conducted by an Idaho- licensed Professional Land Surveyor acceptable to Lessor, and must be prepared pursuant to survey requirements provided by Lessor. Surveyors must conduct surveys in accordance with all applicable jurisdictional requirements and professional standards of practice. Boundary lines and corners of any portion of the Leased Premises being surveyed must be established or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and survey. All data gathered by Lessee must be presented to Lessor in a format compatible to Lessor's software.

(b) A Producing Interval Location Survey must determine the location of the producing interval of the well borehole. Lessee must determine the three-dimensional coordinate location of the: (i) top of the producing interval by its magnetic azimuth recorded in degrees of latitude, degrees of longitude, and true vertical depth in feet; and, (ii) bottom of the producing interval by its magnetic azimuth recorded in degrees of latitude, degrees of longitude, and true vertical depth in feet. The location data must be measured via borehole logging tools either in drill string assembly (measured while drilling) or lowered into wellbore after well is drilled (gyroscopic survey), or by another method approved by Lessor. Lessee must provide to Lessor the producing interval location projected onto a surface map that also shows the well surface location, the Leased Premises boundaries, and distances to boundaries. At Lessor's discretion, Lessee must provide additional directional survey information, accuracy requirements, and reported data.

**12. No Surface Use or Operations.** No surface use or surface operations shall be allowed or permitted pursuant to this Lease. Notwithstanding anything herein to the contrary, it is agreed that Lessee shall not conduct any exploration or drilling on the surface of the Leased Premises or use the surface in the exercise of any rights granted herein or pursuant to any applicable laws or rules unless prior written approval to the contrary is expressly granted to Lessee by Lessor. Lessee expressly waives any right to use the surface estate which may otherwise generally be provided by any applicable law or rule. Any development of the underlying Leased Premises shall be by means of a directional or horizontal well located off the surface of the Leased Premises, or by pooling of the mineral estate of said land with other mineral estate land, lease or leases as provided herein.

**13. Idaho Transportation Department Highway Right-of-Way Lease.** The Leased Premises is the mineral estate under a segment of highway controlled by the Idaho Transportation Department (ITD), and Lessee must understand and comply with the following 5 items.

**13.1.** Lessee acknowledges that neither lessor, nor any agent or representative of lessor or of the State of Idaho, has made any representation or warranty whatsoever, express or implied, with respect to the title, merchantability or fitness of the leased mineral estate for any particular purpose or use, including specifically the use for which this lease is granted, and lessee accepts the leased mineral estate in "AS IS" condition. In entering this lease, lessee relies solely upon lessee's own inspection of the leased mineral estate.

**13.2.** Lessee acknowledges that lessee was and is responsible for making a thorough inspection of the leased mineral estate at its own expense, as well as thoroughly researching any information available about the leased mineral estate for oil and gas exploration and production, including title, and its surroundings prior to the date of this lease. Lessee is solely responsible for satisfying itself with respect to the ownership of the leased mineral estate; and if subsequently divested of said title, no liability shall be incurred by virtue of Idaho Transportation Department Highway Right-of-Way Lease for any loss or damage to lessee; nor shall any claim for refund of any bonus payments, rents, or royalties theretofore paid, be made by lessee, its successors or assignees; provided however, that in the event a defect in the title of any portion of the leased mineral estate for oil and gas exploration and production is established, any rent or royalties not yet paid shall be proportionately reduced to exclude the area as to which the title defect has been established.

**13.3.** No surface use or surface operations of ITD Property or highway over which ITD has jurisdiction shall be allowed or permitted pursuant to this lease without the express written consent of the Chief Engineer of the ITD. Surface operations on non-highway properties (such as materials sources or surplus property) will be considered on a case by case basis upon written notice from lessee through IDL. Notwithstanding anything herein to the contrary, it is agreed that lessee shall not conduct any exploration or drilling on the surface of the leased mineral estate or use the surface in the exercise of any rights granted herein or pursuant to any applicable statute or rules unless prior written approval to the contrary is expressly granted to lessee by ITD's Chief Engineer. Lessee expressly waives any right to use the surface estate which may otherwise generally be provided by Idaho statute or rule. Any development of the underlying leased mineral estate shall be by means of a directional or horizontal well located off the surface of the leased mineral estate, or by pooling of the mineral estate of said land with other mineral estate land, lease or leases as provided herein.

**13.4.** Nothing contained herein shall be interpreted as granting access to any parcel of property adjoining a state highway or interstate, nor to any ITD property or highway rights-of-way. To the extent necessary to fulfill the purpose of this lease, access to leased ITD property from a state highway or change in use of an existing approach or encroachment shall be by an encroachment permit application and subject to the relevant IDAPA rules on highway encroachment/access. All access-related issues will be resolved by the ITD at its sole discretion.

**13.5.** ITD may, at its sole discretion, require a pre-condition survey by a licensed geologist for any ITD property subject to this lease. Such survey shall include at a minimum a review of the substrata in the proximity of the ITD property or any resource pool that could potentially affect the state's surface assets (such as the highway) and submit a report to ITD, through IDL, indicating any potential risks of subsidence and mitigation strategies to ensure no subsidence occurs. This report is subject to review and approval by ITD before production or mineral extraction occurs.

**13.6.** ITD shall be named as an additional insured on Lessor's Liability Insurance policy on the ITD Leased Premises.

**14. Archaeological and Vertebrate Paleontological Resources.** Lessee shall monitor for archaeological and vertebrate paleontological resources during all ground-disturbing activities on the Leased Premises. If any archaeological resources are encountered during all ground-disturbing activities on the Leased Premises, then Lessee shall cease all ground-disturbing activities that may adversely impact the discovered artifacts or other potential artifacts at the discovery site until a qualified archaeologist is consulted and Lessor approves of further activities. If any vertebrate paleontological resources are encountered during all ground-disturbing activities on the Leased Premises, then Lessee shall cease all ground-disturbing activities that may adversely impact the discovered fossil or other potential fossils at the discovery site until a qualified paleontologist is consulted and Lessor approves of further activities. Lessee shall also notify Lessor within 48 hours of any archaeological or vertebrate paleontological resource discoveries on the Leased Premises.