

**ARKANSAS GAME AND FISH COMMISSION**  
Little Rock, Arkansas

MINUTE ORDER NO:       06-051       SUBJECT:       Oil & Gas Policy & Procedure        
DATE PASSED:       June 22, 2006             On Commission Lands        
PAGE       1       of       1       PAGES LOCATION:       Statewide      

**WHEREAS**, the Arkansas Game and Fish Commission last revised its regulations governing oil, gas, and mineral leasing activities and procedures in August 1991; and

**WHEREAS**, on January 19, 2006, by adoption of Minute Order 06-014, the Commission directed the Commission staff to "immediately commence reviewing and updating the Commission's policies and procedures in this area including, without limitation, consultation with the Arkansas Oil & Gas Commission, review of other state and federal agency approaches to oil and gas leasing on wildlife management areas, and consultation with responsible oil and gas industry representatives to solicit input on environmentally responsible approaches to natural gas development;" and

**WHEREAS**, the Commission staff has undertaken and completed the requested policy and regulatory review, and proposed regulations for mineral exploration and production, including a sample Surface Use Agreement for Oil and Gas Development and sample Geophysical Permit. These proposed regulations and documents previously have been communicated to the general public throughout the state for review and comment.

**NOW, THEREFORE, BE IT ORDERED**, that the Arkansas Game and Fish Commission does hereby approve and adopt the regulations for mineral exploration and production, including the Surface Use Agreement for Oil and Gas Development and Geophysical Permit, to be effective immediately, and authorizes the Commission staff to proceed with making the appropriate AGFC Code Book revisions and prompt legal certification.

	<u>STAFF APPROVAL</u>	<u>COMMISSION APPROVAL</u>
Submitted by:	Loren Hitchcock <i>Loren Hitchcock</i>	<i>Michael F. ...</i> Chairman
Division:	Administrative	<i>Brett ...</i> Commissioner - 2
Approved:	<i>Scott Henderson</i> Director	<i>John ...</i> Commissioner
Approved:	<i>A. F. Woodhant</i> Legal	<i>Mark ...</i> Commissioner
Approved:	<i>Ray ...</i> Fiscal	<i>Phillip ...</i> Commissioner

**ARKANSAS GAME & FISH COMMISSION**  
**REGULATIONS FOR**  
**MINERAL EXPLORATION AND PRODUCTION**

**I. GENERAL PROVISIONS AND POLICY**

**1. Authority.** Under the provisions of Amendment 35 to the Constitution of the State of Arkansas, the Arkansas State Game and Fish Commission is responsible for the control, management, restoration, conservation and regulation of all property owned by the Commission for fish and wildlife management. The provisions of Act 524 of 1975, as amended by Act 684 of 1981, Act 691 of 1983, and Act 537 of 1991, recognize that the Arkansas State Game and Fish Commission is responsible for mineral leasing on Commission-owned lands and managing those land and mineral resources to ensure protection and enhancement of the public trust. This regulation provides the framework for prudent management of mineral exploration and production activities, including leasing and development of oil, gas, and other mineral resources, on Commission-owned lands.

**2. Policy.** It shall be the policy of the Arkansas State Game and Fish Commission (hereinafter the Commission) to provide for the recovery of oil, gas, and other mineral resources on Commission-owned lands only when such recovery will be consistent with applicable Federal and State law, including Commission regulations, and in the best interest of the people of the State of Arkansas as demonstrated by an abiding commitment to the paramount protection of land and wildlife resources and habitat values, while allowing prudent compatible natural resource development that could potentially provide substantial economic support for Commission lands and programs.

It is the policy of the Commission that management of oil, gas and other mineral resources recovery and associated activities on Commission-owned lands be compatible with the conservation, protection, and management of fish and wildlife resources, ecological diversity, and habitat values. Commission-owned lands represent the full spectrum of ecological regions and biotic diversity in the State of Arkansas and, to the fullest extent reasonably possible, the unique and valuable character of Commission-owned lands shall be protected.

**3. Terms and Conditions, Permits, Agreements, and Lease Forms.** The Commission shall establish guidelines for minimum fees and royalties, as well as the terms and conditions for various types of permits, surface use agreements, and leases for Commission-owned lands, including such activities as geophysical exploration, production, construction of roads and pipelines, and other associated activities and infrastructure. The Commission may delegate responsibility for development and approval of such guidelines, permits, agreements, and lease forms to an Oil and Gas

Committee composed of three Commissioners appointed from time to time by the Chairman. All guidelines, standard terms and conditions, and form agreements, leases and permits shall be available to the public and provided to interested parties upon request.

**4. Initiation of the Leasing Process.**

A. Any person, firm, company, corporation or association may apply in writing to the Commission to request that specified Commission-owned lands be offered for leasing. In such instance, the applicant shall be responsible for conducting title searches to determine net mineral ownership, subject to Commission review. The Commission may by regulation establish a standard processing fee to be paid by each applicant when requesting Commission lands be offered for leasing. The Commission need not process an application which does not fully conform to the requirements specified in Commission regulations or on forms adopted by the agency.

B. The Commission may, on its own initiative, identify certain Commission-owned lands to be offered for leasing. In such instance, the Commission may request written proposals from qualified applicants and impose such restrictions and requirements as the Commission shall determine are necessary or advisable to protect the land and wildlife resources on Commission-owned lands.

**5. Schedules of Terms and Conditions.** The Commission may establish a schedule of minimum fees and royalties, as well as the terms and conditions for various types of permits, surface use agreements, and leases for Commission-owned lands, which schedules may be amended from time to time as necessary or advisable, including modification to fit the needs and requirements of proposed oil, gas, and/or other mineral resources development on the particular Commission-owned property under consideration. Any such schedule, agreement, or lease form intended for general application by the Commission shall be available to the public and provided to interested parties upon request.

**6. Applications to Initiate the Leasing Process.**

A. Any person interested in securing a lease for oil, gas, or other mineral resources on Commission lands shall file a written application made upon forms prescribed by the Commission staff.

B. The application shall be filed with the Arkansas State Game and Fish Commission, #2 Natural Resources Drive, Little Rock, Arkansas. 72205. All applications must be completed in conformance with the Rules and Regulations of the Commission before the application will be accepted.

C. The applicant shall submit an application fee sufficient to cover the cost of application review by Commission staff, and which shall be determined by Commission staff from time to time, subject to final approval by the Commission. The application fee shall be a minimum of \$500.00 and shall be non-refundable.

D. The Commission shall determine if other state or federal agencies have or may have an interest in the area for which an application to lease has been received. If directed to do so by the Commission, the description of the property in question shall be submitted by the applicant to all such agencies that may have an interest in the lands described in the application for review and comment by such other agencies. Federal agencies shall be allowed such time to respond as required by federal law, rule, regulation, or the nature of the federal interest in the land, and the Commission may allow such additional time for review and comment by any other agencies as necessary or advisable given the circumstances of the application. The Commission may allow such longer or shorter period for review and comment based on the particular circumstances under consideration, so long as such period complies with all applicable state and federal laws and regulations.

E. The Commission shall consider all of the facts and circumstances involving the particular application and determine whether proceeding to offer the land for leasing of the oil, gas, and/or other mineral resources is in the best interest of the Commission and the citizens and wildlife resources of Arkansas. If the Commission decides to proceed with offering the Commission-owned land for mineral leasing, any proposed lease for the subject property shall be presented to the Commission, with notification to the public and an opportunity for public comment, prior to final approval and execution by the Commission.

#### **7. Initiation by the Commission.**

A. The Commission may initiate an offer to lease Commission-owned lands for oil, gas, and/or other mineral resources development at any time on its own initiative or upon the recommendation of Commission staff.

B. In the event that the Commission initiates an offer to lease Commission-owned lands, Commission staff shall prepare a proposal containing restrictions or limitations desired by the Commission to ensure the paramount protection of land and wildlife resources on the particular property, consistent with any applicable management plan, while allowing prudent compatible natural resource development. Any such proposal shall include a statement, based on a reasoned consideration of all facts and circumstances, that Commission staff has determined the property is in a location prospective of oil, gas, and/or other mineral resources which may be produced in commercial quantities, and that such production may provide significant economic return for the benefit of the citizens and wildlife resources of the State.

C. The Commission shall consider all of the facts and circumstances involving the particular staff proposal and such other information brought to the attention of the Commission to determine whether proceeding to offer the land for mineral leasing is in the best interest of the Commission and the citizens and wildlife resources of Arkansas. If the Commission decides to proceed with offering the Commission-owned land for leasing of oil, gas, and/or other mineral

resources, any proposed lease for the subject property shall be presented to the Commission in regular or special session, with notification to the public and an opportunity for public comment, prior to final approval and execution by the Commission.

**8. Penalties.**

A. Any person removing any mineral resource, including, but not limited to sand, gravel, oil, natural gas, casinghead gas, coal, or other valuable minerals, or any timber from Commission-owned lands without first obtaining a lease or permit to do so from the Commission shall be deemed guilty of a misdemeanor and, upon conviction by a court of competent jurisdiction, shall be punished by a fine of not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00), and each day of unauthorized taking shall constitute a separate offense.

B. The Commission, or the Attorney General upon request from the Commission, may bring suit to enjoin any activity in violation of Commission regulations or other State law, and may bring suit to recover the full value of any mineral resources or timber illegally removed, as well as all severance taxes and royalties due as a result of such removal.

**II. MINERAL LEASE, PERMIT, AND SURFACE USE PROCEDURES**

1. **Scope.** These rules and regulations shall apply to all lands or interest in lands owned by the Arkansas State Game and Fish Commission.

2. **Definitions.** Unless the context specifically requires otherwise, the following words shall have the meaning prescribed below:

A. "Commission" shall mean the Arkansas State Game and Fish Commission.

B. "Applicant" shall mean any person, firm, company, corporation, association, or other legal entity submitting a written application for a lease, permit, surface use agreement, or other authorization described in these rules.

C. "Commercial Production" shall mean the physical extraction or severance of oil, gas, or other mineral resources for marketing purposes.

D. "Director" shall mean the Director of the Arkansas State Game and Fish Commission.

E. "Geophysical Activities" shall mean seismic or other survey or investigation procedures of whatsoever nature conducted to discover, evaluate, or locate oil, gas, or other mineral resources.

F. "Mineral Resources" shall mean oil, gas, and related hydrocarbons, sand, gravel, coal, as well as any other mineral substance that may be available in commercial quantities, but shall not include timber, water or agricultural crops.

G. "Mineral Recovery Activities" shall mean all oil, gas, or other mineral resources recovery and associated activities including, without limitation, drilling wells, construction of roads, pipelines, and other related infrastructure.

H. "Oil and Gas" shall mean and include oil, gas, casinghead gas, related hydrocarbons, and all other substances of whatsoever kind in a liquid or gaseous state that may be produced through a wellbore.

I. "Operator" shall mean the holder of a surface use agreement or lease for mineral recovery activities on Commission-owned land.

J. "Person" shall mean any individual, firm, company, corporation, association, or other legal entity.

K. "Project purposes" shall mean the purpose(s) sought to be accomplished by the Commission in owning and managing a particular wildlife management area (WMA) or other Commission lands; any existing management plan and other pertinent Commission management and planning documents for the area may be relied upon as an expression of the project purposes.

L. "Surface use agreement" shall mean a binding agreement between the operator and the Commission detailing the provisions and restrictions regulating surface use of the relevant Commission-owned lands.

### **3. Review of Lands Considered for Leasing**

A. All lands considered for mineral recovery activities, whether initiated by an applicant or on the Commission's own initiative, shall be thoroughly reviewed by the Commission to determine whether issuing a lease would be in the best interest of the State and the Commission.

B. Upon initiation of the review process, the Commission staff shall undertake a review of any applicable area management plan, in light of the proposed activity, to determine if mineral recovery activities would be compatible and to identify areas of special concern. Commission staff shall identify all areas of special environmental or natural resources concerns including, but not limited to: (1) the presence of wetlands, (2) rare and endangered species and their habitats, (3) historical or archaeological features, and (4) any other unique or extraordinary value or feature of the area that deserves special consideration.

C. Notification will be given by the applicant (or, when deemed necessary, by the Commission) to other appropriate state and federal agencies which have or may

have a particular interest in the area proposed for mineral recovery activities, as necessary or advisable.

D. The Commission shall conduct or contract for limited title searches, as necessary, to confirm net mineral ownership for the area under review.

E. The conclusions and recommendations of the Commission staff shall be based on an evaluation of the effects that mineral recovery activities would have on current and future uses of Commission lands. Commission staff shall make reasonable inquiry into the potential of the land under review for production of oil, gas, or other mineral resources in commercial quantities, and include such information in the final report. Staff recommendations shall include specific lease and/or surface use agreement provisions necessary for maintaining project purposes and environmental protection, including identification of any areas that are unsuitable for surface activities. Staff recommendations, reports, comments received from other state and federal agencies, and other pertinent information forming the basis of staff recommendations shall be summarized for and made available to the Commission for a final determination.

F. Upon approval by the Commission, the Director or his delegate shall be authorized to take such steps, as necessary, to implement the Commission's decision, including executing such documents and recordable instruments as required.

#### **4. Federal Aid Project Lands**

A. Consultation with the U.S. Fish and Wildlife Service shall be conducted before Commission lands acquired with Federal Aid participation may be leased for mineral recovery activities. Commission staff shall make a determination after such consultation as to any restrictions or special provisions which may apply to mineral recovery activities on such lands by operation of federal law or pursuant to the terms and conditions of contracts between the Commission and the United States. All federal requirements regarding such lands shall be strictly complied with.

B. On Federal Aid Project Lands, compliance and approval requirements may include, as applicable, submission of: (1) documentation of compatibility with project purposes, (2) a formal NEPA Environmental Assessment (EA) or Environmental Impact Statement (EIS), (3) a copy of the lease as proposed, (4) an estimate of fair market value of the mineral lease, and (5) a plan for disposition of Program Income expected.

C. Any costs or expenses of complying with such requirements on Federal Aid Project Lands shall be borne solely by the applicant or operator, and payment or reimbursement of such costs and expenses by the applicant or operator shall be made a condition to any lease or surface use agreement with the Commission.

## **5. Commission Authorization**

The Commission shall meet in regular or special meeting, with notice to the public and interested parties, to consider staff recommendations regarding lease applications. Commission staff shall provide all reports and recommendations to the Oil and Gas Committee prior to the Commission meeting to enable the Committee to present its recommendation to the Commission. The Commission may deny an application or may authorize a lease or surface use agreement subject to such conditions and requirements as the Commission deems necessary to properly protect the interests of the State and Commission.

## **6. Application Content Requirements.**

An application to lease Commission-owned lands (where the Commission owns all or part of the mineral interests) for mineral recovery activities shall contain, at a minimum, the following documentation and information:

A. A description and plat of the Commission-owned lands sought to be offered for permit or lease;

B. A complete description of the activity sought to be conducted on Commission-owned lands by the applicant;

C. The applicant's determination of net mineral ownership held by the Commission, including documentation in support thereof. The applicant shall be responsible for conducting title searches to determine net mineral ownership on the particular Commission-owned property;

D. The names, addresses, telephone numbers, federal and state tax identification numbers (and/or social security numbers) of the applicant and the company or association represented, plus any other identification or background information as deemed necessary and prescribed by Commission staff;

E. A resumé of past experience of the applicant in operating for oil, gas, and/or other mineral resources on state or federal lands, along with such other evidence sufficient to demonstrate the applicant's qualifications, integrity, financial assurance, and ability to produce mineral resources on Commission-owned lands in a manner compatible with conservation and management of lands and wildlife resources, consistent with the Commission's responsibilities under Amendment 35 to the Constitution of the State of Arkansas; and

F. A statement that the applicant is willing to use its best efforts to insure that the proposed activities will comply with all applicable laws and regulations, and that the applicant is willing to conduct the proposed activity in a manner compatible with the conservation, protection, and management of fish and wildlife resources, ecological diversity, and habitat values on Commission-owned land.

## 7. Minerals Owned by Others on Commission-Owned Lands

A. Any person who owns oil, gas, and/or other mineral resources in, on, or under Commission-owned surface lands, or the lessee of such person, may make application to the Commission for development as set forth in the preceding section. In addition, the applicant mineral resources owner/lessee shall provide documentation of any leases currently in force.

B. If the applicant mineral resources owner/lessee owns or controls 100% of the mineral interest, the applicant shall enter into negotiations with the Commission for a suitable surface use agreement, consistent with, and with due regard for, the current use of the property by the Commission and the Commission's responsibilities under Amendment 35 to the Constitution of the State of Arkansas. No development of the surface shall occur prior to execution of a surface use agreement sufficient to protect the fish and wildlife resources and habitat values of the subject property.

C. Within ninety (90) days of application for a surface use permit by an applicant mineral resources owner/lessee who owns or controls 100% of the mineral interest on the subject property, the Commission shall enter into a suitable surface use agreement in the most favorable form that can be achieved through negotiation.

D. In the event that the Commission and the applicant mineral resources owner/lessee cannot negotiate a surface use agreement sufficient to protect the land and wildlife resources consistent with project purposes, the Commission may deny the application and take any of the following actions deemed appropriate by the Commission: (1) exercise the Commission's power of eminent domain to take ownership of the mineral resources interest involved; (2) take such legal action as necessary to prevent any surface use inconsistent with project purposes or found to be otherwise unreasonably damaging to land and wildlife resources held in trust by the Commission; or (3) take such other legally allowable steps the Commission deems necessary or advisable to carry out the Commission's trust responsibilities.

E. If the applicant mineral resources owner/lessee owns or controls less than 100% of the mineral estate, all other mineral resources owners may be notified and invited to participate in the negotiation process for any surface use agreement.

F. If the Commission and the applicant each own or control some portion of the mineral estate, the Commission may enter into negotiations with the applicant or such other person as the Commission deems advisable, for leasing or developing the oil, gas, or other mineral resources to maximize the benefit to the citizens of Arkansas, with due regard for the fish and wildlife resources, ecological diversity, and habitat values of the property under consideration.

## **8. Qualified Operator Requirement**

Only qualified operators will be allowed to conduct mineral resources recovery activities on Commission-owned land. Any person desiring to be qualified as an operator for such activities shall submit a resumé of past experience in operating for oil, gas, or other mineral resources on state or federal lands, along with such other evidence sufficient to demonstrate the applicant's qualifications, integrity, financial assurance, and ability to produce minerals on Commission-owned lands in a manner compatible with conservation and management of lands and wildlife resources, consistent with the Commission's Constitutional responsibilities. The Commission staff shall develop such forms and guidelines as it deems useful in obtaining the necessary information to determine the qualification of applicants to become operators. An applicant requesting operator qualification shall submit information on forms prescribed by Commission staff. The Commission shall maintain a list of operators that have been qualified by the Commission.

## **9. Lease Proposals by Qualified Operators**

A. Upon receipt of an application to lease, or upon identification of potential lease lands by the Commission, the Commission may contact known qualified operators and/or may contact other mineral operators known to be leasing in the general vicinity and invite such operators to submit a request for qualification. The Commission also may, through publication of notice of a lease application, invite other persons to submit a request for operator qualification and/or a competing lease proposal.

B. The Commission may seek or accept lease proposals from any qualified operator in an effort to obtain the most favorable lease for the subject property.

C. The Commission may select one or more qualified operators who have submitted the best lease proposal(s) to negotiate a proposed final lease agreement, including all appropriate surface use agreements and restrictions.

D. Upon negotiating a lease agreement with a qualified operator, the Commission staff may submit the lease proposal to the Commission for review and approval in regular or special meeting, with notification to the public and an opportunity for public comment.

E. Prior to the Commission meeting, any other qualified operator may, in response to public notice by the Commission, submit a competing lease proposal for consideration by the Commission. If the Commission determines that the competing lease proposal may potentially be more beneficial to the State and Commission, it may defer consideration of the issue to allow for publication of the competing proposal for action at a subsequent Commission meeting.

F. The value of benefits provided by any lease proposal to the Commission

and the citizens of the State shall be judged based upon a totality of the lease provisions, including the bonus, rentals, and royalty provisions, and all other provisions and limitations of the lease proposal that would provide a benefit, whether economic or otherwise.

G. The Commission may approve, approve with modifications, or deny any lease proposal after consideration of all relevant facts and circumstances. If the Commission approves a lease proposal with modifications, the lease shall become final if the qualified operator accepts the lease as modified by the Commission.

**10. Standard Lease Provisions.** The following requirements and provisions shall be applicable to all leases on lands owned by the Commission, unless the Commission approves an alternative provision based on substantial justification, which justification must be stated in the minute order approving the lease:

A. The primary term shall not exceed five (5) years;

B. Royalties shall be no less than fair market value, but in no event less than fifteen percent (15%); no post-production expenses shall be deducted prior to calculation of royalty;

C. Bonus, rental, and any other such payments due under the lease shall be no less than fair market value;

D. The operator shall save, hold harmless, defend, and indemnify the State of Arkansas and the Commission, including its commissioners, director, employees and agents, for any losses, damages, judgments, and expenses on account of bodily injury, death, or property damage, and any claims or causes of action whatsoever, arising out of or related to the activities of the operator, the operator's agents, employees, contractors, and subcontractors on Commission-owned land.

E. The operator shall be required to post a performance bond in an amount of not less than One Million Dollars (\$1,000,000.00) per each activity site, or not less than Five Million Dollars (\$5,000,000.00) for a universal bond for all activity sites, prior to beginning mineral recovery. If bond is posted per activity site, it shall be in an amount determined by the Commission to be sufficient to pay a third-party contractor to restore the site to its pre-activity condition in the event of the worst-case accident or occurrence. The bond requirement may also be satisfied by suitable insurance coverage, irrevocable letter of credit, or such other commercially reasonable form of financial assurance approved in advance by the Commission.

F. The operator shall enter into a surface use agreement with the Commission consistent with project purposes.

G. The operator shall use the best technology currently available so as to minimize unavoidable disturbances and any adverse impacts upon wildlife, wildlife

habitat, and related environmental values, and shall achieve enhancement of such resources where practicable.

H. No mineral recovery activities shall be conducted which are likely to jeopardize the continued existence of any endangered or threatened species of wildlife or plants listed by the United States Secretary of Interior or Secretary of Commerce, or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 et seq.

#### **11. Lease Assignment**

No assignment shall be valid without written consent of the Director as authorized by the Commission. All proposals for assignments of leases or interest therein shall be submitted to the Director for the Commission's final approval. The Commission may by regulation establish a processing fee for an assignment of a lease or interest therein.

#### **12. Surface Use Agreements**

A surface use agreement consistent with project purposes shall be required for all mineral recovery activities on Commission-owned lands. The surface use agreement shall be negotiated on a case-by-case basis to meet the parties' requirements and to insure the protection of land and wildlife resources, consistent with project purposes. A suggested form of surface use agreement (for oil and gas development) is appended to these regulations as Schedule I for illustrative purposes only, and such agreement may be modified by the Commission staff as necessary to provide consistency with, or carry the intent of, the requirements of these regulations and other applicable laws.

#### **13. Geophysical Permits**

No person may undertake a seismic survey or other geophysical activity upon Commission-owned lands without first obtaining a geophysical permit from the Commission staff. The geophysical permit shall be negotiated on a case-by-case basis, but shall be substantially in the form appended to these regulations as Schedule II.

#### **14. Monitoring of Production**

A. The Commission shall monitor the operations of lessees to assure compliance with all state and federal environmental laws and regulations; compliance with provisions of the lease; receipt of appropriate fees and royalty payments; and any other matter related to compliance.

B. The Commission will study and update methods of monitoring production on Commission leases to assure that the Commission is continuing to receive fair compensation for the mineral resources.

C. Throughout the term of a lease, permit, or surface use agreement, the holder or operator shall submit an annual report to the Commission by April 1 regarding the production and royalty payments to the Commission during the preceding year for each lease, itemized by producing well or mineral resource site.

**15. Oil, Gas, and Mineral Resources Leasing Program –Annual Report**

A. Commission staff shall evaluate and review the oil, gas, and mineral resources leasing program annually.

B. The assessments by Commission staff will be for the purpose of continued improvement in the leasing method and the overall leasing program on Commission-owned lands to: (1) assure that Commission leases are competitive, (2) acquire and maintain expertise in the management of mineral development, and (3) provide for changing conditions to be reflected in the overall oil, gas, and mineral resources leasing program.

C. The Commission staff shall issue an annual report of the complete Commission leasing program activities for the preceding annual period which shall include, but not be limited to: (1) the number of leases granted, (2) a summary of the revenue generated and their ultimate disposition, (3) a summary of active leases for the current year, and (4) a summary and assessment of any identified problems and any recommendation for changes in the leasing program.

**GEOPHYSICAL PERMIT # \_\_\_\_\_**

This Agreement made and entered into by and between the Arkansas State Game and Fish Commission, hereinafter called "Commission", and \_\_\_\_\_  
\_\_\_\_\_ (address), (\_\_\_\_) \_\_\_\_\_ telephone, hereinafter called "Company."

**WITNESSETH**

WHEREAS, Commission owns certain land in \_\_\_\_\_ County, Arkansas, known as the \_\_\_\_\_ Wildlife Management Area (hereinafter called WMA or "the Land"), and

WHEREAS, Company desires to conduct a seismic survey thereon, as indicated on the attached map marked "Exhibit A" and tract boundaries marked "Exhibit B" made a part hereof, with geophysical instruments to locate drill sites for oil and gas wells, and Commission is willing to permit the survey upon the terms and conditions hereinafter stated:

NOW, THEREFORE, for the consideration shown below under "Special Conditions," Commission grants this permit, beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, to explore the land with seismograph or other geophysical instruments (but not core drilling). No geophysical operations shall be permitted during the period \_\_\_\_\_  
\_\_\_\_\_

unless otherwise authorized in writing by the Commission Minerals Manager. This permit expires upon completion of the geophysical survey or \_\_\_\_\_, whichever date comes first.

This permit is issued subject to the following conditions:

**GENERAL CONDITIONS**

1. All work shall be conducted during hours and days as designated by the Commission Minerals Manager. Wet weather, water conditions, and soil conditions may prohibit

access to the Land. In the event of adverse weather or environmental conditions, the Commission Minerals Manager or the Regional Wildlife Supervisor may temporarily halt all geophysical operations. Should work be delayed for this reason, the Director may, in writing, extend the period of the permit as needed; otherwise, any holdover beyond the period covered by this permit will result in a penalty of Five Hundred Dollars (\$500.00) per day.

2. Cutting, clearing, or other vegetation disturbances shall be confined within the boundaries of the staked geophysical lane, to include only line-of-sight clearing unless otherwise authorized by the Commission Minerals Manager. The width of any clearing shall be authorized by the Commission Minerals Manager. No tree of any kind equal to or greater than four (4) inches in diameter (measured twelve (12) inches above ground level) shall be removed, damaged, or otherwise destroyed except by Commission's written consent to be given at the discretion of the Commission Minerals Manager. Company shall off-set around trees four (4) inches or greater in diameter (measured twelve (12) inches above ground level). Brush clearing, if authorized, shall be done by hand.

3. Entrance to and travel within Commission lands shall be over established routes or as authorized by the Commission Minerals Manager. Geophysical lines shall be accessed by existing roads. Additional service roads shall not be constructed unless authorized by the Commission Minerals Manager. All roads used in conjunction with the geophysical survey shall be regularly maintained by Company throughout operations to ensure two-wheel drive vehicle accessibility. Any existing roads, bridges, levees, water channels, culverts, or other physical features damaged shall be restored to preconstruction site conditions upon completion of the geophysical survey by Company. The Commission Minerals Manager shall determine conditions and extent of restoration required. In the case of roads this may include, but shall not be limited

to, gravel purchase and road blading. The Commission Minerals Manager may require a contour elevation survey at levee crossings to verify conditions before and after crossing. All restoration costs shall be borne by Company. All restoration activities shall be satisfactorily completed prior to the release of the performance bond.

4. Fences must not be cut for any reason. Existing gates must be used. Gates shall remain closed, unless otherwise authorized by the Commission Minerals Manager. Where access to the Land is through a locked gate, Company may use its own lock and shall provide gate security at all times. Only authorized Company employees or agents shall be allowed access to the Land. All Company vehicular and employee activities shall be directly related to the geophysical operation.

5. Water-holding facilities, dams, levees, water control structures, creeks, sloughs, lakes, ponds or springs must not be disturbed or altered with any activity.

6. Shot holes must not be drilled nor explosives used as follows: (a) within two hundred (200) feet of any levee, water control structure, bog or spring branch perimeter; (b) within seven hundred fifty (750) feet of any building or water well, and (c) within one thousand (1000) feet from the headwaters of a flowing spring. It shall be Company's responsibility to designate an individual to meet with management area personnel to ensure that these sensitive areas are avoided. No shot hole shall be less than one hundred (100) feet in depth and shall be spaced no closer than two hundred twenty (220) feet. Explosives shall not exceed twelve (12) pounds in any hole.

7. Seismic activity shall not be conducted at a time that will interfere with public hunting, fishing, use or other scheduled activities on the Land. Company shall contact the Commission Minerals Manager and the Regional Wildlife Supervisor, for information about other

scheduled activities, including hunting seasons. Shot holes shall be discharged only in daylight hours.

8. When seismic activity is completed, shot holes shall be filled and plugged in accordance with applicable Arkansas Oil and Gas Commission and Arkansas Department of Environmental Quality regulations within fifteen (15) days after completion of survey.

9. Company must not travel on the Land or its roads during wet weather, as determined by the Commission Minerals Manager or the Regional Wildlife Supervisor.

10. Fishing is permitted only in accordance with AGFC regulation.

11. Fires are prohibited in all circumstances.

12. Firearms are prohibited in all circumstances.

13. Company shall be directly responsible to the surface lessee and any other holder of a surface right for any damages caused by operations hereunder to wildlife, livestock, houses, fences, gates, roads, bridges, tanks, and other improvements and to timber, pasture, food plots, and growing crops on the land, and this permit is issued subject to the prior rights of any lessee of the land.

14. Company shall save, hold harmless, defend, and indemnify the State of Arkansas and the Commission, including its commissioners, director, employees and agents, for any losses, damages, judgments, and expenses on account of bodily injury, death, or property damage, and any claims or causes of action whatsoever, arising out of or related to the activities of Company, Company's agents, employees, contractors, and subcontractors during the term of this permit.

15. Nothing in this permit is intended or should be construed as absolving Company of any legal claim for damages the Commission may be entitled to assert resulting from Company's negligence or excessive or wrongful conduct of any agent, employee, contractor, or subcontractor

of Company, and no expressed or implied waiver of any claim is intended.

16. Company affirmatively represents that it is acting on behalf of the mineral owners or their agents, lessees, or assignees and shall provide written documentation of same to Commission at the time the permit is executed.

17. This permit does not relieve Company of its responsibility for obtaining a permit in compliance with Ark. Code Ann. §15-71-114 before conducting seismic activities. This requirement cannot be waived by Commission.

18. The Commission retains the right to require reasonable alternatives to disturbance in high resource value areas. All reasonable precautions, including consultation with the Commission Minerals Manager and Regional Wildlife Supervisor, shall be taken to avoid disturbance of fish, wildlife, or critical plant resources during geophysical survey operations. The Company shall use the best technology currently available so as to minimize unavoidable disturbances and any adverse impacts upon wildlife, wildlife habitat, and related environmental values, and shall achieve enhancement of such resources where practicable. Particular caution shall be taken to avoid and protect sensitive habitats, such as wetlands and bottomland hardwoods. Activities affecting these species and habitats may require coordination with other state and federal agencies.

19. Geophysical vehicles/machinery are prohibited from entering or crossing standing water sites.

20. Use of surface water on the Land is strictly prohibited.

21. Company shall post signs at all appropriate locations, including as designated by the Commission Minerals Manager, to adequately notify the visiting public of geophysical operations.

22. Speed limit for vehicular traffic on the Land shall be twenty (20) miles per hour.

### SPECIAL CONDITIONS

**NOTE: In case of conflict these Special Conditions will prevail over the above General Conditions.**

1. The lines of geophysical operation are shown in detail on the map marked "Exhibit A" and attached hereto and made a part hereof.
2. The consideration for this permit is a lump sum payment of not less than \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for geophysical operations on \_\_\_\_\_ acres.
3. Company shall post one performance bond in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) before beginning the geophysical operation. The bond shall be effective until the requirements of the permit are fulfilled as determined by the Commission Minerals Manager. Other types of security including, but not limited to, certificates of deposit, cash deposits, and letters of credit shall be accepted by Commission.
4. Company must supply Commission with a copy of archeological clearance letter from the Arkansas Historic Preservation Program before initiating the project.
5. Company must notify the Commission Minerals Manager and Regional Wildlife Supervisor in writing at least forty-eight (48) hours in advance of initiating geophysical or survey activity.
6. Company must notify the Commission Minerals Manager and Regional Wildlife Supervisor in writing upon completion of all activities associated with the geophysical survey. The Commission Minerals Manager shall inspect the completed operation for compliance with the terms of this permit prior to release of the performance bond. The performance bond shall be released upon receipt of written notification from the Commission Minerals Manager of

satisfactory completion of the project.

7. The Commission Minerals Manager is \_\_\_\_\_, address, telephone. The Regional Wildlife Supervisor is \_\_\_\_\_, address, telephone.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_

**ARKANSAS GAME AND FISH COMMISSION**

By: \_\_\_\_\_

Director

ATTEST:

\_\_\_\_\_

\_\_\_\_\_ **COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**

**EXHIBIT B**

**SURFACE USE AGREEMENT  
FOR OIL & GAS DEVELOPMENT**

This agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Arkansas State Game and Fish Commission, a constitutionally independent agency of the State of Arkansas under Amendment 35 to the Arkansas Constitution, hereinafter called "Commission," and \_\_\_\_\_ Company, located in \_\_\_\_\_, hereinafter called "Company."

**WITNESSETH**

**WHEREAS**, the Commission is the surface owner of lands situated in \_\_\_\_\_ County, Arkansas designated as \_\_\_\_\_ Wildlife Management Area ("WMA"); and

**WHEREAS**, the Company, as owner of certain oil and gas leases, must use the surface to the extent necessary for the recovery of such minerals;

**NOW, THEREFORE**, in consideration of the compensation for surface use stipulated in Appendix I and the covenants and conditions described herein, to be kept and performed by Company, the Commission hereby recognizes the right of Company to enter upon a portion of the WMA for the sole purpose of drilling and operating the \_\_\_\_\_ (the "Well") as hereinafter located and described on Exhibit A.

**IT IS UNDERSTOOD AND AGREED** that the SURFACE USE granted Company herein is **SUBJECT TO** the following reservations and/or conditions, the singular to be read as plural as the context requires:

1. The Company shall save, hold harmless, defend, and indemnify the State of Arkansas and the Commission, including its commissioners, director, employees, and agents,

and the State of Arkansas, for any losses, damages, judgments and expenses on account of bodily injury, death, or property damage, or claims for bodily injury, death, or property damage of any nature whatsoever, and by whomsoever made, arising out of activities of the Company, the Company's agents, employees, or subcontractors associated with the exploration and or recovery of any and all oil, gas or mineral resources made the subject of a surface use agreement with the Commission.

2. Prior to drilling, a performance bond of not less than \_\_\_\_\_ (\$ \_\_\_\_\_) per well shall be posted to ensure proper plugging and surface cleanup at the drilling site should a dry well be obtained.

3. Violation of applicable federal, state or local laws or failure to adhere to provisions of this surface use agreement (SUA) by the Company or the Company's agents, employees, or subcontractors shall render the SUA subject to cancellation. The Commission shall notify the Company of the violation and the Company shall have thirty (30) days in which to come into compliance. If the Company fails to comply with the terms of this agreement or fails to pay any money due under the terms of this agreement when same becomes due, Commission has the right, at its option, to cancel this agreement and to reenter upon and take possession of said premises, without prejudice to any claim of payments due.

4. It shall be the sole responsibility of the Company to insure compliance with all applicable local, state and federal regulatory authorities, statutes and regulations. The Commission may require additional public safety measures including, but not limited to, site security signs, gates and a posted 24-hour emergency response number.

5. The Commission retains the right to make special provisions to protect sensitive

resources or to minimize potentially adverse impacts including, but not limited to, enhanced erosion control or containment, biological or cultural monitoring, periodic or post-activity aerial photography or monitoring, specialized equipment or techniques, directional drilling and provisions to address aesthetic and noise concerns. The Commission further retains the right to require reasonable alternatives to disturbance in high resource value WMAs.

6. All reasonable precautions, including consultation with the Commission Minerals Manager and Regional Wildlife Supervisor, shall be taken to avoid disturbance of fish, wildlife, and critical plant resources during mineral resources recovery operations. The operator shall use the best technology currently available so as to minimize unavoidable disturbances and any adverse impacts upon wildlife, wildlife habitat, and related environmental values, and shall achieve enhancement of such resources where practicable. Particular caution shall be taken to avoid and protect sensitive habitats, such as wetlands. Activities affecting wetlands may require coordination with other state and federal agencies.

7. Company must obtain archeological clearance from the Arkansas Historic Preservation Program (“AHPP”) prior to commencement of mineral resources recovery activities, including but not limited to, rights-of-way for road construction and proposed activity sites. Archeological clearance must be site-specific and shall not be construed to authorize any other or additional use within the designated rights-of-way or activity sites. A copy of the archeological clearance shall be submitted to the Commission before proposed construction activities are initiated. If an undocumented archeological or cultural site is discovered during mineral recovery or associated operations, all work in the immediate WMA shall cease and the site shall be reported to the Commission Minerals Manager, Regional Wildlife Supervisor and the AHPP.

This report shall be the sole responsibility of the Company. The AHPP and the Commission will then determine whether or not further investigation is necessary prior to proceeding with activities. Work may continue where no archeological deposits are present.

8. Company shall notify the Commission Minerals Manager and Regional Wildlife Supervisor in writing forty-eight (48) hours in advance of the initial entry to begin operations. An entry schedule for drilling operations and routine maintenance shall be developed in consultation with the Commission Minerals Manager and Regional Wildlife Supervisor. Entry may be reasonably postponed during peak recreation periods, special events or public hunts conducted on Commission lands. Entry for emergency purposes such as fire, explosion, or injury shall not require prior notice. The Commission Minerals Manager and Regional Wildlife Supervisor shall be notified as soon as possible after the emergency event. The Commission Minerals Manager has express authority to represent the Commission for purposes of inspecting the construction in order to determine on behalf of Commission that the provisions of this SUA are being complied with by Company.

9. No firearms are permitted on Commission lands by any agent or employee of the Company or contractors thereof at any time.

10. A closed drilling system shall be used for all operations unless otherwise authorized by the Commission Minerals Manager. Water-based drilling muds shall be used where feasible. All drilling fluids, cuttings, completion fluids and any other products of drilling or completion operations shall be contained in steel tanks or lined pits. All ditches around the rig for the purpose of catching fluids involved in rig operations shall be lined. These lined ditches will drain into a lined catch basin. All oil and gas waste materials will be removed to an off-site

disposal facility approved, where applicable, by the Arkansas Oil and Gas Commission (“AOGC”) and the Arkansas Department of Environmental Quality (“ADEQ”) and the Company shall notify the Commission Minerals Manager of the facility to be used. In the event surface mud pits are used, Company will erect and maintain adequate fencing capable of turning livestock. Upon completion of the drilling activity, pit residue will be removed to an off-site disposal facility approved by AOGC and ADEQ, such pits will then be filled and the WMA leveled to its preexisting plane and re-sodded with appropriate native vegetation to the satisfaction of the Commission Minerals Manager.

11. Pad size shall be restricted to the minimum area required to conduct drilling operations, store equipment and supplies, and contain waste materials. Pad size shall not exceed two (2) acres unless otherwise authorized in writing beforehand by the Commission Minerals Manager. Vegetation damage, equipment and supply storage, and removal of fill materials from outside pad and road boundaries are prohibited unless authorized in writing beforehand by the Commission Minerals Manager.

12. The Company shall prevent soil erosion in the activity area and within the rights-of-way, and shall take site-specific soil conservation measures including, but not limited to, restoration, mulching, and re-vegetation.

13. Vehicular activity shall be confined within the boundaries of the road ROW, pad site, or access routes authorized by the Commission Minerals Manager.

14. If road construction is necessary, Company shall incorporate design criteria to restrict road width to the minimum area required for transport of equipment and personnel to the site. Road width shall be authorized in writing beforehand by the Commission Minerals Manager.

Fill material needed for construction shall be brought from outside the WMA unless otherwise specified in writing beforehand by the Commission Minerals Manager.

15. Entrance to and travel within Commission lands shall be over established routes or as authorized in writing beforehand by the Commission Minerals Manager. Additional service roads shall not be constructed unless authorized in writing beforehand by the Commission Minerals Manager. All roads used in conjunction with mineral resources recovery activities shall be regularly maintained by the Company to support designated Commission uses. Company shall restore all roads to preconstruction conditions, unless otherwise authorized in writing beforehand by the Commission Minerals Manager, before securities are released.

16. Gates shall be closed after use, unless otherwise authorized in writing beforehand by the Commission Minerals Manager. Where access to the WMA is through a locked gate, Company may use its own lock and shall provide gate security at all times. Only authorized Company employees or agents shall be allowed access to the WMA.

17. Existing drainage patterns associated with the road shall be maintained and shall be uninterrupted by the use of conduit, culverts, bridges, or applicable techniques as specified and authorized in writing beforehand by the Commission Minerals Manager. The use of flashboard risers may be required as mitigation to create or enhance wetland habitat. Water turnouts on roads may be required as deemed necessary by the Commission Minerals Manager.

18. Any flare pit location shall be determined in consultation with the Commission Minerals Manager prior to construction.

19. If a well will produce hydrogen sulfide gas, the Company shall implement all appropriate and necessary safety measures for producing this type of well. The safety measures

shall comply with all federal, state, and local statutes and regulations relating thereto.

20. Company shall grade and level an earthen levee only when absolutely necessary. Bridges and culverts shall be installed, maintained, and replaced. Fill material needed for construction shall be brought from outside the WMA unless otherwise specified in writing beforehand by the Commission Minerals Manager.

21. All dredge and fill activities must comply with the regulations promulgated by the U.S. Army Corps of Engineers under Section 404 of the federal Clean Water Act. The Commission Minerals Manager and Regional Wildlife Supervisor shall be notified in advance of dredging and spoiling operations for placement or maintenance of production equipment. All spoil shall be deposited and contained within a spoil retention levee. The spoil shall be spread and leveled to the satisfaction of the Commission Minerals Manager.

22. Electrical lines shall be routed within existing road ROW or other easement corridors unless otherwise authorized in writing beforehand by the Commission Minerals Manager. No permanent overhead utilities shall be allowed. Permanently buried lines shall be placed using plowshare techniques or other environmentally sensitive techniques as authorized by the Commission Minerals Manager.

23. No use of underground or surface water from the WMA will be permitted without prior written approval of the Commission.

24. The Company shall hold all oil and gas wastes, including discarded equipment, materials, debris, and trash, in a manner and location consistent with the SUA and all applicable federal, state and local laws and regulations; such items shall be removed from Commission lands within thirty (30) days of project completion. Debris may not be burned or disposed of on

Commission lands.

25. All toxic refuse such as gasoline, paint, oil, and gas wastes shall be containerized and stored for no longer than is necessary and shall be disposed of off-site and consistent with AOGC and ADEQ regulations. All oil and gas waste, such as fluid and pit residue, solid waste and domestic sewage, shall be transported off-site for disposal by an authorized oil and gas waste hauler within thirty (30) days after generation of such waste. Company shall notify the Commission Minerals Manager and Regional Wildlife Supervisor in writing beforehand of the disposal facilities to be used. Disposal of any refuse on Commission lands is strictly prohibited.

26. Used or waste solid materials resulting from production processes or treatment equipment, such as oil contaminated sand, brine sediments, chemical precipitates, or other filterable solids, may not be used as fill material on Commission lands.

27. In the event of adverse weather conditions, the Commission Minerals Manager or Regional Wildlife Supervisor may temporarily halt all waste disposal operations. Should work be delayed for this reason, the Director may, in writing, extend the period of the SUA, as needed.

28. Inactive rigs must be removed within thirty (30) days after drilling operations are completed. Skidding of drilling rigs is strictly prohibited except within the pad WMA.

29. During site closure and abandonment, the Company shall conduct all restoration operations in shallow semi-aquatic areas or on firm marsh substrates by boat or by hand unless otherwise authorized in writing beforehand by the Commission Minerals Manager. The use of marsh buggies, draglines, and other similar heavy equipment in such areas must be authorized in writing beforehand by the Commission Minerals Manager.

30. Restoration of the drilling pad shall include the following measures:

reestablishment of former surface contours, restoration of soil structure, restoration of preconstruction drainage patterns, removal of excess fill materials from Commission lands, disking or plowing of compacted soils, fertilization, re-vegetation with site appropriate native species, construction of nesting platforms, denning sites, food plots, or other wildlife habitat improvements to replace natural features lost or altered by mineral recovery activities. Species used in replanting should be a mixture of species indigenous to the site and approved in writing beforehand by the Commission Minerals Manager. Company shall be responsible for an 80% survival rate for the first five (5) years of restoration. Commission shall assume full responsibility for the restoration after that time.

31. Company assumes full responsibility for any damages which may hereafter occur to the real property or to any improvements of Commission resulting from any malfunction of Grantee's drilling equipment or other equipment from whatever cause, and Company agrees to replace, repair or restore such improvements and/or correct such damage to the real property to the satisfaction of Commission or, at the election of Commission, compensate Commission for such damage in an amount necessary to repair, replace, or restore such improvements.

32. If production is obtained, all surface equipment, such as separators and tank batteries, will be located at a site to be designated by Commission and, if applicable, fenced to exclude livestock and wildlife. No surface equipment installed shall exceed thirty (30) feet in height. All tank battery locations will be enclosed by revetments sufficient to contain one hundred twenty-five percent (125%) of maximum storage capacity, and shall comply with all applicable requirements of AOGC and ADEQ orders and regulations. Commission will retain the right to determine the location of all flow lines between the well location and the surface equipment, and

all such lines will be buried, the site leveled to its preexisting plane, and re-sodded with appropriate native vegetation to the satisfaction of Commission.

33. Upon the completion of the construction, all equipment, material, markings and supplies previously placed upon the WMA by Company or its contractor shall be removed and Commission will not be responsible for the loss of any equipment, supplies, marking or materials used upon the site during or following the construction.

34. Upon completion of the well, either as producing well or as a dry hole, Company shall repair any damage done to the WMA to the satisfaction of the Commission Minerals Manager and Regional Wildlife Supervisor. Upon ultimate cessation of operation of the drilling site, all equipment, materials, supplies and debris shall be removed to the satisfaction of the Commission Minerals Manager and Regional Wildlife Supervisor. Commission retains the option to require Company to leave the well casing in place for a deep water well, if production is not achieved. Access roads shall be left intact unless otherwise authorized by the Commission Minerals Manager.

35. None of the rights and privileges herein granted to Company may be assigned, except by prior written permission of Commission.

36. Should Company abandon its Well, all rights and privileges hereunder shall automatically terminate.

37. Commission reserves the right to use any or all of the WMA for any purposes not specifically prohibited.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_

**ARKANSAS GAME AND FISH COMMISSION**

By: \_\_\_\_\_  
Director

ATTEST:

\_\_\_\_\_

\_\_\_\_\_ **COMPANY**

By: \_\_\_\_\_  
Title: \_\_\_\_\_



## APPENDIX I

As consideration for surface damages resulting from activities described herein, Company agrees to pay Commission at the rate of \_\_\_\_\_ per well site.

**EXHIBIT A**