HOUSE BILL 48

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Matthew McQueen and Bill Tallman and Tara L. Lujan

AN ACT

RELATING TO PUBLIC LANDS; SETTING THE ROYALTY RATE ON FUTURE OIL AND GAS DEVELOPMENT LEASES ON STATE TRUST LANDS TO ENHANCE REVENUE FOR BENEFICIARIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 19-10-4.3 NMSA 1978 (being Laws 1985, Chapter 195, Section 5) is amended to read:

"19-10-4.3. DEVELOPMENT FORM OF LEASE--PREMIUM RESTRICTED LAND.--The following form is designed as the "Development Form". It may be used by the commissioner for oil and gas leases on lands classified as restricted lands and categorized as Premium and issued on or after July 1, 2024:

"LEASE NO. ______________ APPLICATION NO. _____________

OIL AND GAS LEASE

(Development Form)

.227184.1
This agreement, dated __________________, [19] 20___,
between the state of New Mexico, acting by and through its
commissioner of public lands, hereinafter called the "lessor",
and ________________________________,
whose address is ________________________________
______________________________,
hereinafter called the "lessee",

WITNESSETH:

WHEREAS, the lessee has filed in the office of the
commissioner of public lands an application for an oil and gas
lease covering the lands hereinafter described and has tendered
therewith the required first payment; and

WHEREAS, all of the requirements of law relative to the
application and tender have been duly complied with;

THEREFORE, in consideration of the premises as well as the
sum of ________________________________
dollars ($_____________), the same being the amount of the
tender above mentioned, and the further sum of $________
filling fee, and of the covenants and agreements hereinafter
contained, the lessor does hereby grant, demise, lease and let
unto the [said] lessee, exclusively, for the sole and only
purpose of exploration, development and production of oil or
gas (including carbon dioxide and helium), or both thereon and
therefrom with the right to own all oil and gas so produced and
saved therefrom and not reserved as royalty by the lessor under
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- 2 -
the terms of this lease, together with [rights-of-way] rights
of way, easements and servitudes for pipelines, telephone
lines, tanks, power houses, stations, gasoline plants and
fixtures for producing, treating and caring for such products
and housing and boarding employees and any and all rights and
privileges necessary, incident to or convenient for the
economical operation of [said] the land, for oil and gas, with
right for such purposes to the free use of oil, gas, casing-
head gas or water from [said] the lands, but not from the
lesser's water wells, and with the rights of removing either
during or after the term hereof, all and any improvements
placed or erected on the premises by the lessee, including the
right to pull all casing, subject, however, to the covenants
and conditions hereinafter set out, the following described
land situated in the county of __________, state of New
Mexico, and more particularly described as follows:

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[Said] The lands having been awarded to the lessee and

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- 3 -
designated as Tract No. ____________ at a public sale held by
the commissioner of public lands on ________________, [19]
20__.

To have and to hold [said] the land, and all the rights
and privileges granted hereunder, to and unto the lessee for a
primary term of five years from the date hereof, and as long
thereafter as oil and gas, or either of them, is produced in
paying quantities from [said] the land by the lessee, subject
to all of the terms and conditions as hereinafter set forth.

In consideration of the premises, the parties covenant and
agree as follows:

1. Subject to the free use without royalty, as
hereinbefore provided, the lessee shall pay the lessor as
royalty ______ (not less than three-sixteenths nor more than
[one-fifth] one-fourth) part of the oil produced and saved from
the leased premises or the cash value thereof, at the option of
the lessor, such value to be the price prevailing the day oil
is run into a pipeline, if the oil be run into a pipeline, or
into storage tanks, if the oil is stored.

2. Subject to the free use without royalty, as
hereinbefore provided, at the option of the lessor at any time
and from time to time, the lessee shall pay the lessor as
royalty ______ (not less than three-sixteenths nor more than
[one-fifth] one-fourth) part of the gas produced and saved from
the leased premises, including casing-head gas. Unless [said]
the option is exercised by the lessor, the lessee shall pay the
lessor as royalty _______ (not less than three-sixteenths nor
more than [one-fifth] one-fourth) of the cash value of the gas,
including casing-head gas, produced and saved from the leased
premises and marketed or utilized, such value to be equal to
the net proceeds derived from the sale of such gas in the
field; provided, however, the cash value for royalty purposes
of carbon dioxide gas and of hydrocarbon gas delivered to a
gasoline plant for extraction of liquid hydrocarbons shall be
equal to the net proceeds derived from the sale of such gas,
including any liquid hydrocarbons recovered therefrom.

Notwithstanding the foregoing provisions, the lessor may
require the payment of royalty for all or any part of the gas
produced and saved under this lease and marketed or [utilized]
used at a price per m.c.f. equal to the maximum price being
paid for gas of like kind and quality and under like conditions
in the same field or area or may reduce the royalty value of
any such gas (to any amount not less than the net proceeds of
sale thereof, in the field) if the commissioner of public lands
shall determine such action to be necessary to the successful
operation of the lands for oil or gas purposes or to
encouragement [or] of the greatest ultimate recovery of oil or
gas or to the promotion or conservation of oil or gas or in the
public interest.

3. This lease shall not expire at the end of the primary
term hereof if there is a well capable of producing gas in
paying quantities located upon some part of the lands embraced
herein, or upon lands pooled or communitized herewith, where
such well is shut-in due to the inability of the lessee to
obtain a pipeline connection or to market the gas therefrom,
and if the lessee timely pays an annual royalty on or before
the annual rental paying date next ensuing after the expiration
of ninety days from the date [said] the well was shut-in and on
or before [said] the rental date thereafter. The payment of
[said] the annual royalty shall be considered for all purposes
the same as if gas were being produced in paying quantities and
upon the commencement of marketing of gas from [said] the well
or wells the royalty paid for the lease year in which the gas
is first marketed shall be credited upon the royalty payable
hereunder to the lessor for such year. The provisions of this
section shall also apply where gas is being marketed from
[said] the leasehold premises and through no fault of the
lessee, the pipeline connection or market is lost or ceases, in
which case this lease shall not expire so long as [said] the
annual royalty is paid as herein provided. The amount of any
annual royalty payable under this section shall equal twice the
annual rental due by the lessee under the terms of this lease
but not less than three hundred twenty dollars ($320) per well
per year; provided, however, that any such annual royalty for
any month beginning on or after ten years from the date hereof
shall equal four times the annual rental due by the lessee under the terms of this lease but not less than two thousand dollars ($2,000) per well per year; provided further, that no annual royalty shall be payable under this section if equivalent amounts are timely paid pursuant to another lease issued by the lessor and if such other lease includes lands communitized with lands granted hereunder for the purpose of prorationally sharing in the shut-in well. Notwithstanding the provisions of this section to the contrary, this lease shall not be continued after five years from the date hereof for any period of more than ten years by the payment of [said] the annual royalty unless, for good cause shown, the commissioner of public lands, in [his] the commissioner's discretion, grants such a continuance.

[3r] 4. The lessee agrees to make full settlement on the twentieth day of each month for all royalties due the lessor for the preceding month, under this lease, and to permit the lessor or its agents, at all reasonable hours, to examine the lessee's books relating to the production and disposition of oil and gas produced. The lessee further agrees to submit to the lessor annually upon forms furnished by the lessor, verified reports showing the lessee's operations for the preceding year.

[4r] 5. An annual rental at the rate of $\text{[removed]}$ per acre shall become due and payable to the lessor by the
lessee, upon each acre of the land above described and then claimed by such lessee and the same shall be due and payable in advance to the lessor on the successive anniversary dates of this lease, but the annual rental on any assignment shall in no event be less than forty dollars ($40.00).

In the event the lessee shall elect to surrender any or all of [said] the acreage, [he] the lessee shall deliver to the lessor a duly executed release thereof and in event [said] the lease has been recorded then [he] the lessee shall upon request furnish and deliver to the lessor a certified copy of a duly recorded release.

[§6] 6. The lessee may at any time by paying to the lessor all amounts then due as provided herein and the further sum of forty dollars ($40.00), surrender and cancel this lease insofar as the same covers all or any portion of the lands herein leased and be relieved from further obligations or liability hereunder, in the manner as hereinbefore provided. Provided, this surrender clause and the option herein reserved to the lessee shall cease and become absolutely inoperative immediately and concurrently with the institution of any suit in any court of law or equity by the lessee, lessor or any assignee, to enforce this lease, or any of its terms expressed or implied.

[§7] 7. All payments due hereunder shall be made on or before the day such payment is due, at the office of the
commissioner of public lands in Santa Fe, New Mexico.

8. The lessee with the consent of the lessor shall have the rights to assign this lease in whole or in part. Provided, however, that no assignment of an undivided interest in the lease or in any part thereof nor any assignment of less than a legal subdivision shall be recognized or approved by the lessor. Upon approval in writing by the lessor of an assignment, the assignor shall stand relieved from all obligations to the lessor with respect to the lands embraced in the assignment and the lessor shall likewise be relieved from all obligations to the assignor as to such tracts, and the assignee shall succeed to all of the rights and privileges of the assignor with respect to such tracts and shall be held to have assumed all of the duties and obligations of the assignor to the lessor as to such tracts.

9. In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land that is draining the leased premises, the lessee shall drill such offset well or wells as a reasonably prudent operator would drill under the same or similar circumstances, provided that no such offset well shall be required if compensatory royalties are paid pursuant to an agreement between the lessor and the lessee.

10. The lessee agrees to notify the lessor of the location of each well before commencing drilling thereon, to
keep a complete and accurate log of each well drilled and to
furnish a copy thereof, verified by some person having actual
knowledge of the facts, to the lessor upon the completion of
any well, and to furnish the log of any unfinished well at any
time when requested to do so by the lessor.

If any lands embraced in this lease shall be included in
any deed or contract of purchase outstanding and subsisting
issued pursuant to any sale made of the surface of such lands
prior to the date of this lease, it is agreed and understood
that no drilling operation shall be commenced on any such lands
so sold unless and until the lessee shall have filed a good and
sufficient bond with the lessor as required by law, to secure
the payment for such damage to the livestock, range, water,
crops or tangible improvements on such lands as may be suffered
by the purchaser holding such deed or contract of purchase, or
[his] the lessee's successors, by reason of the developments,
use and occupation of such lands by such lessee. Provided,
however, that no such bond shall be required if such purchaser
shall waive the right to require such bond to be given in the
manner provided by law.

[40-] 11. In drilling wells, all water-bearing strata
shall be noted in the log, and the lessor reserves the right to
require that all or any part of the casing shall be left in any
nonproductive well when the lessor deems it to the interest of
the beneficiaries of the lands granted hereunder to maintain
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1 [said] the well or wells for water. For such casing so left in
2 wells the lessor shall pay to the lessee the reasonable value
3 thereof.
4
5 [12.] The lessee shall be liable and agree to pay for
6 all damages to the range, livestock, growing crops or
7 improvements caused by the lessee's operations on [said] the
8 lands. When requested by the lessor, the lessee shall bury
9 pipelines below plow depth.
10
11 [13.] The lessee shall not remove any machinery or
12 fixtures placed on [said] the premises, nor draw the casing
13 from any well unless and until all payments and obligations due
14 the lessor under the terms of this agreement shall have been
15 paid or satisfied. The lessee's right to remove the casing is
16 subject to the provision of Paragraph [10] 11 above.
17
18 [14.] Upon failure or default of the lessee to comply
19 with any of the provisions or covenants hereof, the lessor is
20 hereby authorized to cancel this lease and such cancellation
21 shall extend to and include all rights hereunder as to the
22 whole of the tract so claimed, or possessed by the lessee, but
23 shall not extend to, nor affect the rights of any other lessee
24 or assignee claiming any portion of the lands upon which no
25 default has been made; provided, however, that before any such
26 cancellation shall be made, the lessor shall mail to the lessee
27 so defaulting, by registered or certified mail, addressed to
28 the post office address of such lessee as shown by the records
29 .227184.1
30
31 - 11 -
of the state land office, a notice of intention of cancellation
specifying the default for which cancellation is to be made,
and if within thirty days from the date of mailing [said] the
notice the [said] lessee shall remedy the default specified in
[said] the notice, cancellation shall not be made.

14. If this lease shall have been maintained in
accordance with the provisions hereof and if at the expiration
of the primary term provided for herein oil or gas is not being
produced on [said] the land but the lessee is then engaged in
bona fide drilling or reworking operations thereon, this lease
shall remain in full force and effect so long as such
operations are diligently prosecuted and, if they result in the
production of oil or gas, so long thereafter as oil and gas in
paying quantities, or either of them, is produced from [said]
the land; provided, however, such operations extending beyond
the primary term shall be approved by the lessor upon written
application filed with the lessor on or before the expiration
of [said] the term, and a report of the status of all of such
operations shall be made by the lessee to the lessor every
thirty days and a cessation of such operations for more than
twenty consecutive days shall be considered as an abandonment
of such operations and this lease shall thereupon terminate.

If during the drilling or reworking of any well under this
section, the lessee loses or junk the hole or well and after
diligent efforts in good faith is unable to complete [said] the
operations, then within twenty days after the abandonment of
[the] the operations, the lessee may commence another well
within three hundred thirty feet of the lost or junked hole or
well and drill the same with due diligence.

Operations commenced and continued as herein provided
shall extend this lease as to all lands as to which the same is
in full force and effect as of the time [the] the drilling
operations are commenced; provided, however, this lease shall
be subject to cancellation in accordance with Paragraph [14] 14
hereof for failure to pay rentals or file reports [which] that
may become due while operations are being conducted hereunder.

[15] 16. Should production of oil and gas or either of
them in paying quantities be obtained while this lease is in
force and effect and should thereafter cease from any cause
after the expiration of five years from the date hereof, this
lease shall not terminate if the lessee commences additional
drilling or reworking operations within sixty days after the
cessation of such production and shall remain in full force and
effect so long as such operations are prosecuted in good faith
with no cessation of more than twenty consecutive days, and if
such operations result in the production of oil or gas in
paying quantities, so long thereafter as oil or gas in paying
quantities is produced from [the] the land; provided, however,
written notice of intention to commence such operations shall
be filed with the lessor within thirty days after the cessation
of such production, and a report of the status of such
operations shall be made by the lessee to the lessor every
thirty days, and the cessation of such operations for more than
twenty consecutive days shall be considered as an abandonment
of such operations and this lease shall thereupon terminate.

[16.] 17. Lessees, including their heirs, assigns, agents
and contractors, shall at their own expense fully comply with
all laws, regulations, rules, ordinances and requirements of
the city, county, state and federal authorities and agencies,
in all matters and things affecting the premises and operations
thereon which may be enacted or promulgated under the
governmental police powers pertaining to public health and
welfare, including but not limited to conservation, sanitation,
aesthetics, pollution, cultural properties, fire and ecology.
Such agencies are not to be deemed third party beneficiaries
hereunder, however this clause is enforceable by the lessor in
any manner provided in this lease or by law.

[17.] 18. Should the lessor desire to exercise its rights
to take in-kind its royalty share of oil, gas or associated
substances or purchase all or any part of the oil, gas or
associated substances produced from the lands covered by this
lease, the lessee hereby irrevocably consents to the lessor
exercising its right. Such consent is a consent to the
termination of any supplier/purchaser relationship between the
lessor and the lessee deemed to exist under federal
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regulations. The lessee further agrees that it will require any purchaser of oil, gas or associated substances to likewise waive any such rights.

[19.] 19. The lessor reserves a continuing option to purchase at any time and from time to time, at the market price prevailing in the area on the date of purchase, all or any part of the minerals (oil and gas) that will be produced from the lands covered by this lease.

[19.] 20. The lessor reserves the right to execute leases for geothermal resource development and operation thereon; the right to sell or dispose of the geothermal resources of such lands; and the right to grant rights of way and easements for these purposes.

[20.] 21. All terms of this agreement shall extend to and bind the heirs, executors, administrators, successors and assigns of the parties hereto.

In witness whereof, the party of the first part has [hereunto] signed and caused its name to be signed by its commissioner of public lands [hereunto] duly authorized, with the seal of [his] office affixed, and the lessee has signed this agreement the day and year first above written.

STATE OF NEW MEXICO

By___________________________________
Commissioner of Public Lands, Lessor
_____________________________________

- 15 -
SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.