INTRODUCTION

AS INDUSTRY HAS EVOLVED, NEW DRILLING AND COMPLETION TECHNOLOGIES DEVELOPED

• HORIZONTAL DRILLING
• FRACKING

INTRODUCTION (CONTINUED)

THINGS THAT EFFECT GOVERNING CONTRACTS & AGREEMENTS

• NEW TECHNOLOGIES
• CASE LAW
• INDUSTRY CUSTOMS & PRACTICES
HISTORY OF HORIZONTAL DRILLING

- AROUND SINCE 1920
- COMMERCIALLY VIABLE IN LATE 70’s
- OVER 10,000 HORIZONTAL DRILLING PERMITS IN PAST 2-3 YEARS

HISTORY OF HORIZONTAL DRILLING (CONTINUED)

- LONGEST LATERAL NEARLY 7 MILES LONG
- HORIZONTAL DRILLING WAS THE MAJOR REASON GIVEN FOR IRAQ'S INVASION OF KUWAIT IN 1990

HISTORY OF THE JOA

- PRE-1956
  - COMPANY FORMS
  - ROCKY MOUNTAIN MINERAL LAW (1954)
- FORM 610-1956 MODEL FORM JOA
  - COMMON PROVISIONS
  - INDUSTRY CUSTOMS/PRACTICES
1956 JOA - ALTERNATE TITLE LOSS PAGES RELEASED IN 1967
- INDIVIDUAL LOSS PAGES, or
- JOINT LOSS PAGES

FORM 610-1977
- REVISION COMMITTEE FORMED IN 1975
- RELEASED 21 YEARS AFTER 1956 JOA
- NEW PROVISIONS
  - CASING POINT ELECTION
  - SUBSEQUENTLY CREATED INTEREST

FORM 610-1982
- REFORMATTING OF PROVISIONS
- SIDETRACKING PROVISION ADDED
- GAS BALANCING ADDRESSED
  - ALTERNATE PAGE 8’s
    - PAGE 8 – GBA ATTACHED
    - PAGE 8 ALTERNATE – NO GBA ATTACHED
HISTORY OF THE JOA
(CONTINUED)

- FORM 610-1989
  - RELEASED IN AUGUST 1989
  - 24 YEARS AGO THIS MONTH!
  - CONSIDERED MAJOR OVERHAUL OF 1982 JOA

- 1989 JOA
  - BANKRUPTCY/CREDITOR RELATED ISSUES ADDRESSED
  - SEPARATE SIDETRACK AND DEEPENING PROVISIONS
  - TERMINATION OF OPERATIONS
  - COMPETING PROPOSALS
  - ADDRESSED MANY KNOWN PROBLEMS, PITFALLS AND AMBIGUITIES

- 2002 COALBED METHANE MODIFICATIONS
  - PROVIDES OPTIONAL PROVISIONS
  - SHARING OF ROADS, PADS AND PRODUCTION FACILITIES
  - EQUITABLE ALLOCATION OF COSTS
FORMATION OF AAPL JOA TASK FORCE

- FORMED IN SEPTEMBER 2011
- TWO OBJECTIVES INVOLVING JOA
  - DRAFT NEW HORIZONTAL DRILLING MODIFICATIONS AND PROVISIONS
  - REVISE THE ENTIRE JOA

FORMATION OF JOA TASK FORCE (CONTINUED)

- AAPL BOARD APPROVED NEW LANGUAGE AT MARCH 2013 BOARD MEETING
- SUBMITTED TO FORMS-ON-A DISK
  - RETURNED TO TASK FORCE FOR MINOR CHANGES MAY 2013
  - RE-SUBMITTED LATE JULY 2013

FORMATION OF JOA TASK FORCE (CONTINUED)

- CHANGES FIRST MADE TO 1989 JOA
- CHANGES THEN TRANSLATED TO 1982 JOA
FORMATION OF JOA TASK FORCE
(CONTINUED)

- LAMONT LARSEN PAPER
  - “HORIZONTAL DRAFTING: WHY YOUR FORM JOA MAY NOT BE ADEQUATE FOR YOUR COMPANY’S HORIZONTAL DRILLING PROGRAM”
    - ROCKY MTN. MINERAL LAW FOUNDATION JOURNAL

NEW HORIZONTAL DRILLING PROVISIONS

- RE-DEFINED TERMS FOR HORIZONTAL WELLS
  - DEEPEN – EXTENSION OF LATERAL
  - SIDETRACK – CHANGE ZONE OR DIRECTION OUTSIDE EXISTING LATERAL
  - DRILLSITE – ALL TRACTS WELLBORE TRAVELS ON OR UNDER

NEW HORIZONTAL DRILLING PROVISIONS
(CONTINUED)

- NEW DEFINITIONS
  - DISPLACEMENT - LENGTH OF LATERAL
  - HORIZONTAL RIG MOVE-ON PERIOD – NO. OF DAYS BETWEEN RELEASE OF SPUDDER RIG AND DATE BIG RIG MOVES IN
  - HORIZONTAL WELL – WELL CONTAINS HORIZONTAL LATERAL(S) EXTENDING AT LEAST 100’ IN OBJECTIVE ZONE
NEW HORIZONTAL DRILLING PROVISIONS (CONTINUED)

NEW DEFINITIONS (CONTINUED)

- LATERAL – THAT PORTION OF A WELL THAT DEVIATES FROM VERTICAL TO HORIZONTAL ORIENTATION
- SPUDDER RIG – A DRILLING RIG UTILIZED FOR DRILLING ALL OR A PORTION OF THE VERTICAL COMPONENT OF A HORIZONTAL WELL

NEW HORIZONTAL DRILLING PROVISIONS (CONTINUED)

DEFINITIONS

- TERMINUS – FURTHEST POINT DRILLED IN A LATERAL
- TOTAL MEASURED DEPTH – DISTANCE OF WELLBORE PATH FROM SURFACE OF THE GROUND TO TERMINUS
- VERTICAL WELL – ANY WELL DRILLED OTHER THAN A HORIZONTAL WELL

NEW HORIZONTAL DRILLING PROVISIONS

- TYPE OF OPERATION MUST BE IDENTIFIED AS A HORIZONTAL WELL
NEW HORIZONTAL DRILLING PROVISIONS

- DRILLING AND COMPLETION PLANS
  - TOTAL MEASURED DEPTH
  - SURFACE AND BOTTOM HOLE LOCATIONS
  - HORIZONTAL DISPLACEMENT
  - RIG UTILIZATION
  - COMPLETION STAGING & SIZING

NEW HORIZONTAL DRILLING PROVISIONS (CONTINUED)

- ESTIMATED COSTS
  - AFE NOW REQUIRED FOR ALL PROPOSED SUBSEQUENT OPERATIONS
- SPUDDER RIGS MAY BE DEPLOYED IF:
  - ON AN APPROVED AFE
  - MAJORITY IN INTEREST TO AN APPROVED AFE AGREE

NEW HORIZONTAL DRILLING PROVISIONS (CONTINUED)

- FAILURE TO MEET HORIZONTAL WELL MOVE-ON PERIOD
  - MUST RE-PROPOSE WELL
  - PREVIOUSLY NON-CONSENTING PARTIES HAVE RIGHT TO JOIN
  - UNUSED FUNDS MUST BE RETURNED
  - DRILLING WITH SPUDDER RIG DEEMED COMMENCEMENT OF OPERATIONS FOR JOA PURPOSES
REVISING THE MODEL FORM JOA

 AAPL JOA Task Force Just Getting Started on Revising Entire JOA
 Goal is to Have a New JOA in 1-2 Years
 Not Yet Known What Revisions to Expect
  • Joint Operating Agreements: Bringing the Model Form Into the 21st Century, by Dorsey Roach
    ○ Published in The Landman, September/October 2011

REVISING THE MODEL FORM JOA

 Payment of Royalties and Other Lease Burdens
  • 1989 JOA Changes
  • More Clarification Needed?
 Pugh Clauses
  • Lands/Depths That Terminate
    ○ Individual Loss
    ○ Joint Loss

REVISING THE MODEL FORM JOA

 Exculpatory Clause
  • 1989 JOA Was Modified to Provide That Operator Was Not Liable For Activities Under JOA Except For Gross Negligence
  • Reeder v. Wood County Exploration (2012 Texas Supreme Court Decision)
 Cash Calls
  • Currently May Cash Call Only For Next Succeeding Month
REVISING THE MODEL FORM JOA

- Operator Affiliates
  - Designated Operator Employs Affiliate to Serve as Operator of the Contract Area
  - Provision Needed That Provides If Designated Operator Sells Its Interest, Automatic Resignation of Operator Affiliate

- Emails
  - Not Addressed in Prior JOA's
  - Users Can Expect New Provisions

CONCLUSION