

# RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

## RESOLUTION #18-06-007

(LEGAL & TITLE CONTROVERSY REPORT)

Escrow Agreement  
Formation -- New  
Requirements

**ON MOTION** of Mr. Haik, seconded by Mr. Watkins, the following Resolution was offered and adopted:

**WHEREAS**, there was a discussion by the Assistant Secretary of the Office of Mineral Resources on new requirements for the formation of an Escrow Agreement and a request by Staff for Board approval of the same; and

**WHEREAS**, a request by the Assistant Secretary and Staff of the Office of Mineral Resources for the State Mineral and Energy Board to approve the new requirements for the formation of an Escrow Agreement as set forth in the attached Escrow Authorization Resolution; and

**WHEREAS**, the new requirements for the formation of an Escrow Agreement as set forth in the attached Escrow Authorization Resolution will supersede and replace Resolution No. 15-06-016 dated June 10, 2015 entitled "Policy Resolution Escrow Authority" and/or all other Escrow Agreements and Resolutions pertaining to the formation of Escrow Agreement requirements preceding it; and

**WHEREAS**, OMR Staff recommend that the Board approve the proposed Escrow Authorization Resolution; and

**WHEREAS FURTHER**, after discussion and careful consideration by the State Mineral and Energy Board on this matter, a decision has been reached;

**NOW, THEREFORE BE IT RESOLVED**, that the State Mineral and Energy Board hereby approves and adopts the new requirements for the formation of an Escrow Agreement as attached hereto and made a part hereof.

### CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 13<sup>th</sup> day of June, 2018, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.



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**W. PAUL SEGURA, CHAIRMAN**  
**STATE MINERAL AND ENERGY BOARD**

**RESOLUTION NO. \_\_\_\_-\_\_\_\_-\_\_\_\_**  
**(LEGAL & TITLE CONTROVERSY)**

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| NAME<br>ESCROW AUTHORIZATION<br>STATE LEASE NO. XXX |
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ON MOTION OF \_\_\_\_\_, duly seconded by \_\_\_\_\_, the following Resolution was adopted by the State Mineral and Energy Board (Board):

WHEREAS, the State of Louisiana (State) has a strong and vital interest in developing its natural resources for the benefit of its citizens; and

WHEREAS, La. R.S. 30:129 grants the Board full supervision over all mineral leases granted by the State, authorizes the Board to take any action necessary to protect the interests of the State and enter into agreements or amend leases in the manner most beneficial to the State; and

WHEREAS, on DATE, NAME (Lessee) notified the Office of Mineral Resources that a *bona fide* dispute exists because of an adverse and competing claim by an individual or entity not a party to the lease agreement ("Disputing Parties") regarding the ownership of mineral rights or title to all or a portion of the premises (Disputed Property) under lease by the State of Louisiana within IDENTIFY UNIT affecting State Lease No. \_\_\_\_\_ ("State Lease"), and requested authorization to deposit the royalty payments due on the production attributable to the Disputed Property into an escrow account in lieu of directly making royalty payments to the Office of Mineral Resources as required by the State Lease; and

WHEREAS, when Disputing Parties assert competing mineral ownership claim(s) against the State for the minerals lying under the Disputed Property, the Lessee may desire to establish an independent escrow account(s) with an escrow agent, in lieu of suspending royalty payments and filing a concursus proceeding, for the purpose of protecting itself from making unnecessary royalty payments pursuant to a mineral lease or operating agreement. The escrow account(s) will remain open pending resolution of the ownership dispute or the filing of a concursus proceeding; and

**NOW THEREFORE, BE IT RESOLVED:**

- I. a) The escrow authorization granted shall terminate on \_\_\_\_\_, 20\_\_\_\_ or the next Board meeting; and
- b) The payment of royalties into the escrow account, as provided in Section II hereof, shall be accepted by the Board as the royalty payments due as required by the State Lease, and Lessee shall not be held in default of payment of its royalty obligation owed the State of Louisiana as long as deposits are timely and properly made into the escrow account as required by this Resolution; and
- c) The Board reserves the right to audit the royalty payments deposited into the escrow account and further reserves all audit rights authorized by the State Lease; and
- d) This Resolution shall become effective immediately upon adoption unless otherwise stated; and
- e) The Board authorizes Lessee to suspend the direct payment of royalties to the Office of Mineral Resources contingent on continued compliance with the requirements set forth herein; and

- f) The Board may within its sole discretion terminate the Escrow Agreement by providing thirty (30) days' notice to the Lessee.

**BE IT FURTHER RESOLVED:**

- ii. a) Within thirty (30) calendar days of adoption of this Resolution, Lessee shall establish an escrow account, and the Lessee, the State and any agreeable Disputing Party shall enter into an Escrow Agreement upon the terms and conditions as set forth by this Resolution; and
- b) The escrow account shall be a segregated interest-bearing escrow account at a FDIC insured financial institution having a presence in the State of Louisiana. A separate escrow account shall be established for each tract of the Disputed Property where the ownership of a tract differs amongst the Disputing Parties; and
- c) Throughout the authorized escrow period, Lessee shall timely deposit into the escrow account, in accordance with the royalty payment terms of the State Lease, the properly calculated reported royalty payments attributable to the Disputed Property; and
- d) Upon request by the State, the Lessee shall provide satisfactory documentation such as, but not limited to, deposited checks, disbursements and/or monthly bank statements pertaining to the escrow account(s), to the Office of Mineral Resources; and
- e) Throughout the authorized escrow period, Lessee shall continue to timely provide fully completed SR-9 Reports (and any other requested documents) to the Office of Mineral Resources; and
- f) The Lessee does hereby acknowledge and agree that the nature of the disputed royalty payments deposited into the escrow account(s), in addition to any accumulated interest thereon, are not the property of the Lessee, but are the property of the State or the Disputing Parties and shall not be considered as the property of the Lessee's estate if the Lessee files for bankruptcy. This acknowledgement shall be contained in the terms of the Escrow Agreement; and
- g) If the ownership/title dispute is amicably resolved prior to expiration of the authorized escrow period, the royalty payments on deposit in the escrow account(s) and interest thereon accumulating, shall be timely distributed to the State or the Disputing Parties in accordance with the terms and conditions set forth in a final executed Settlement Agreement; and
- h) If the ownership/title dispute is not amicably resolved prior to expiration of the authorized escrow period, and any extension thereof authorized by the Board, Lessee shall, within thirty (30) calendar days of expiration, be liable to resume direct payments of royalties or invoke a concursus proceeding. Upon the filing of a concursus proceeding, the royalty payments deposited into the escrow account, including interest, shall be deposited into the Registry of the Court; and
- i) There shall be no transfer nor release of any funds, including interest, on deposit in the escrow account authorized by this Resolution, without the knowledge and written authorization of the State and the Disputing Parties who are party to the Escrow Agreement; and
- j) All charges and expenses in connection with the creation and maintenance of the escrow account authorized hereby are to be borne by Lessee.

**CERTIFICATE**

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board in the City of Baton Rouge, Louisiana, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.

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**JAMIE S. MANUEL, SECRETARY  
STATE MINERAL AND ENERGY BOARD**