

The Asset Transaction

LEGAL, LAND/LEASE, INSURANCE, PRODUCTION AND ACCOUNTING  
DUE DILIGENCE CHECKLIST

**I. LEGAL**

	<u>Person</u> <u>Assigned Task</u>	<u>Due Date</u>	<u>Task</u>
<input type="checkbox"/>	_____	_____	Review all past and current claims, arbitrations, mediations, litigation, and the like occurring within the past five years, whether currently outstanding or resolved. Discuss with officers and supervisors any matter which might give rise to a claim if none has yet been asserted occurring within the last three years.
<input type="checkbox"/>	_____	_____	Review annual opinion of counsel letters regarding pending or threatened litigation.
<input type="checkbox"/>	_____	_____	Review any and all complaints, claims, notices, or any other type of notice of dissent or dissatisfaction whether from a governmental agency, royalty owner, working interest owner, surface owner, or any other party to which Seller owes any duty or obligation, including any pending investigation or regulatory or administrative proceeding.
<input type="checkbox"/>	_____	_____	Review all permits, consents, approvals, registrations, licenses, and pending applications for such. Review seismic licenses for transfer rights and any applicable transfer fees.
<input type="checkbox"/>	_____	_____	Review all compliance efforts regarding MMS, Coast Guard, and other regulatory agencies regarding any operations whether offshore, in state coastal waters, marshes, or other sensitive areas, and all compliance efforts regarding salt water disposal, gas processing, or like facilities including emergency planning and Community Right to Know Act

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filings and all inspection reports from any governmental entity.

\_\_\_\_\_      \_\_\_\_\_      Compile lists of all facilities subject to governmental regulation.

\_\_\_\_\_      \_\_\_\_\_      Review all major contracts such as seismic licenses and agreements, exploration agreements, joint venture agreements, partnership agreements, limited partnership agreements, consulting agreements, construction agreements, and confidentiality agreements, non-competition agreements, unit agreements, purchase and sale agreements, offshore operating agreements, onshore operating agreements, any governmental concession agreements, and the like and determine the obligations imposed thereby or assumed thereby and the status of Seller's compliance. Pay special attention to any assumption of environmental obligations of others and actions necessary to earn or maintain rights acquired.

\_\_\_\_\_      \_\_\_\_\_      Determine necessity for and, if appropriate, prepare necessary SEC and stock exchange filings, i.e., 8-K registration.

\_\_\_\_\_      \_\_\_\_\_      Prepare, review, and obtain, if necessary, Seller's consent to any press release or other public disclosure.

\_\_\_\_\_      \_\_\_\_\_      Determine applicability of Hart-Scott-Rodino filing rules, and, if necessary, make necessary filings.

### **II. LAND/LEASE**

\_\_\_\_\_      \_\_\_\_\_      Identify preferential rights to purchase and consents to assign and insure all required notices have been sent.

\_\_\_\_\_      \_\_\_\_\_      Title review to determine WI and NRI of Seller.

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- \_\_\_\_\_ Review lease and well files and prepare lease and well lists which should include the following (see data forms):
  - property name and number
  - the state and county or parish
  - record title owner/operating rights owner
  - legal description, including any depth limitations and/or horizontal or vertical segregations
  - working interest and net revenue interest both in the individual leases and the wells
  - status of any reversionary interests
  - all payments out of production affecting the seller's interest
  - attendant contracts to which the wells and leases are subject such as salt water disposal agreements, water purchase and disposal agreements, pooling agreements, communitization agreements, rights-of-way, farmout and/or farmin arrangements, joint operating agreements, joint venture agreements, gas balancing agreements, area of mutual interest agreements, together with any agreements with surface and/or other mineral owners
  - long-term production purchase agreements
  - status of delay rental payments, minimum royalty, and/or advance royalty payments
  - producing status for the affected leases
  - applicable Pugh clause expirations on producing leases
  - expiration of the primary term for non-producing leases
  
- \_\_\_\_\_ Review contract files and prepare contract summaries which should

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include following:

- parties
- lands and wells affected
- nonconsent provisions
- preferential rights to purchase
- consents to assign
- COPAS matters
- earning requirements
- obligations assumed
- identify any reversionary or convertible interests
- outstanding authorities for expenditures or cash calls, or other financial obligations
- tax partnership agreements
- special or unusual obligations

- \_\_\_\_\_ Analyze AML provisions (including expiration dates of existing AMLs).
- \_\_\_\_\_ Review suspense accounts and determine future actions regarding these accounts.
- \_\_\_\_\_ Assess materiality of any title defects or encumbrances.
- \_\_\_\_\_ Confirm status of well lease accounts with Minerals Management Service, state agencies, or tribal authorities, including proper status of Reduced Royalty Rate payments, if applicable.
- \_\_\_\_\_ Confirm no breaches of any representations, warranties, or covenants of Seller. Specific attention should be paid to pending claims, administrative notices, litigation, proper permits and licenses, and confirm there are no outstanding employee, pension, or union issues.
- \_\_\_\_\_ Review check stubs and JIB's and compare with Seller's represented WI and NRI.
- \_\_\_\_\_ Coordinate with Seller regarding

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transfer of all data including computer to computer transfers in addition to hard copies. Include all maps, interpretative data, seismic data, and other matters which can be transferred.

\_\_\_\_\_

Review all existing title opinions, and, as appropriate, update them by reviewing all pertinent county, parish, federal (including MMS), tribal, DIA, and state records affecting title.

\_\_\_\_\_

Prepare defects letter including title, expense, environmental, representation and warranty, and other issues which diminish the value of the transaction in accordance with the purchase and sale agreement.

**III. PRODUCTION**

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Review production reports filed with state and internal reports to confirm production volumes and compliance with state regulations.

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Inspect and inventory all equipment whether at wellsites, production facilities, or located in yards or offices to be included in the transaction and determine their suitability.

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Review operations and all operating equipment to insure its suitability.

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Review independent engineering audit material.

\_\_\_\_\_

Review post-Effective Time operations and acquisitions.

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Coordinate with Gas Marketing regarding gas balancing status both on a well and pipeline basis.

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Review and analyze BTU and gravity information.

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\_\_\_\_\_ Review LOE to confirm well economics.

**IV. ENVIRONMENTAL**

\_\_\_\_\_ Review all notices from any governmental agency regarding any environmental matter.

\_\_\_\_\_ Obtain environmental review, at least Phase One and Phase Two if indicated subject to PSA terms.

\_\_\_\_\_ Review all state and federal regulatory agency records regarding Seller and its properties.

\_\_\_\_\_ Review any in-house environmental programs or environmental compliance programs or environmental reviews conducted by or on behalf of Seller.

\_\_\_\_\_ Determine if any Seller properties are included on the National Priority List or the Comprehensive Environmental Response, Compensation and Liability Information System List.

\_\_\_\_\_ Determine whether there exist any complaints or citizen suit notice letters pertaining to environmental matters.

\_\_\_\_\_ Review all inspection reports from any governmental agency pertaining to the properties.

\_\_\_\_\_ Prepare defect letter regarding any Environmental Defect.

\_\_\_\_\_ Determine whether documents such as Air Permits or Spill Prevention Countermeasure, and Control (SPCC) plans exist based on existing equipment and site conditions.

\_\_\_\_\_ Determine if exhaust stacks associated with Heater Treaters, separators,

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compressors, etc. protect against the entry of birds – Migratory Bird Act.

### V. GEOLOGIC/GEOPHYSICAL

#### GEOLOGIC

- \_\_\_\_\_      \_\_\_\_\_      Review all prospect files and maps and coordinate with land so that all upcoming elections and obligations can be understood and prepared.
- \_\_\_\_\_      \_\_\_\_\_      Determine status of geologic computer files, their location and usability.

#### GEOPHYSICAL

- \_\_\_\_\_      \_\_\_\_\_      Review all geophysical prospect files and maps regarding pending prospects and existing projects.
- \_\_\_\_\_      \_\_\_\_\_      Review all computer systems and filings to determine compatibility with existing systems.
- \_\_\_\_\_      \_\_\_\_\_      Inventory all geophysical data including field notes and tapes.
- \_\_\_\_\_      \_\_\_\_\_      Coordinate with Land and Legal regarding seismic licensing agreements and notifications to contractors regarding change of ownership issues.

### VI. PRODUCTION SALES

- \_\_\_\_\_      \_\_\_\_\_      Review all gas purchase contracts to determine pricing matters, including price redetermination deadlines, term, assignability, termination rights, if any and quality standards.
- \_\_\_\_\_      \_\_\_\_\_      Review gas balancing statements and any other information available to determine status of the Seller's balancing position. Review applicable balancing agreements and determine

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the value of Seller's imbalance position.

- \_\_\_\_\_      \_\_\_\_\_      Review all transportation contracts and gathering agreements to determine liabilities and obligations.
- \_\_\_\_\_      \_\_\_\_\_      Review all oil purchase contracts.
- \_\_\_\_\_      \_\_\_\_\_      Review all calls on production, the terms thereof, and compliance therewith by the holder of such call on production.
- \_\_\_\_\_      \_\_\_\_\_      Determine if there exists any contracts or other arrangements by which Seller is required to deliver production without then being paid therefor.
- \_\_\_\_\_      \_\_\_\_\_      Determine any purchase price adjustments based on gas balancing.

### **VII. ACCOUNTING**

- \_\_\_\_\_      \_\_\_\_\_      Review Seller's well master reports, revenue deck reports, and JIB deck reports, and compare Seller's interests from these reports to those in the Schedules and Exhibits and with Land's findings to corroborate Seller's WI and NRI.
- \_\_\_\_\_      \_\_\_\_\_      Review both 8/8ths and net LOS reports by well.
- \_\_\_\_\_      \_\_\_\_\_      Review and tabulate COPAS producing well overhead rates on all wells.
- \_\_\_\_\_      \_\_\_\_\_      Determine all facilities operated by Seller and properties served. Review any existing facility agreements.
- \_\_\_\_\_      \_\_\_\_\_      Analyze payout statements and current status of payout issues.
- \_\_\_\_\_      \_\_\_\_\_      Determine and analyze audit requests by any party including MMS, non-operators, or others.

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- \_\_\_\_\_      \_\_\_\_\_      Review and analyze state and tribal production tax information and filings, including severance taxes, gross production taxes, ad valorem taxes, and others.
  
- \_\_\_\_\_      \_\_\_\_\_      Review utility bills and other direct costs for operated wells.
  
- \_\_\_\_\_      \_\_\_\_\_      Review and analyze suspense accounts that will be transferred.
  
- \_\_\_\_\_      \_\_\_\_\_      Review JIB and revenue information pertaining to Seller's interests in wells operated by others to compare with Seller's represented WI and NRI and to confirm cost assumptions in economic model.
  
- \_\_\_\_\_      \_\_\_\_\_      Review and analyze any accounts payable or accounts receivable being transferred upon Closing.
  
- \_\_\_\_\_      \_\_\_\_\_      Analyze and list asset abandonment liabilities.
  
- \_\_\_\_\_      \_\_\_\_\_      Confirm status of all lease accounts with MMS, state, and tribal authorities.
  
- \_\_\_\_\_      \_\_\_\_\_      Inventory all equipment as needed for personal property schedules.

### **VIII. HUMAN RESOURCES/ADMINISTRATION**

- \_\_\_\_\_      \_\_\_\_\_      Determine staffing needs as a consequence of this transaction.
  
- \_\_\_\_\_      \_\_\_\_\_      Determine adequacy of office space and facilities for any new staffing occasioned by this transaction including furniture, computer equipment, software licenses, and the like.

### **IX. INSURANCE**

- \_\_\_\_\_      \_\_\_\_\_      Determine well footage for producing rate under well control coverage.

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- \_\_\_\_\_      \_\_\_\_\_      Insure all necessary bonding is in place.
- \_\_\_\_\_      \_\_\_\_\_      Gather information needed to add newly acquired wells, equipment, and property to applicable policies of insurance.