

BOOT CAMP

**The Oil and Gas Lease
is an economic transaction**

“It’s just bidness!”

Nature of the Lease

- Both conveyance and contract
- More deed than lease
 - Right to use land and to take oil and gas
 - Duration is indefinite
 - Lessor and Lessee share benefits
- O&G Lease Classification
 - Fee simple determinable in Texas
 - Profit a prendre in most, e.g., Oklahoma, Kansas, ND
 - Uncertain in many states

Non-Possessory Interests

- Easement -- right to use land
 - Affirmative or negative.
 - In gross or appurtenant.
- Profit a Prendre -- right to use & exploit
 - In gross
 - Affirmative

No "Standard" Lease Form

- Many different forms
 - Many labeled "Producer's 88"
- Most are drafted by lessees
 - Primarily protects lessee
 - Lessee has few express obligations
 - Courts construe ambiguities against drafter
 - Courts created implied covenants to protect lessor

LESSEE'S GOALS

- Option, not obligation, to drill
- Right to maintain lease for economic life

Key Lease Clauses for Lessee Texas AAPL Form

GRANTING CLAUSE, ¶ 1

LESSER INTEREST (PROPORTIONATE REDUCTION) CLAUSE, ¶ 10

HABENDUM CLAUSE, ¶ 2

DELAY RENTAL, ¶ 5

SAVINGS CLAUSES

- DRY HOLE/OPERATIONS/CESSATION-OF-PRODUCTION, ¶ 6
- SHUT-IN ROYALTY, ¶ 3
- FORCE MAJEURE, ¶ 11
 - POOLING/UNITIZATION, ¶ 4