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The Model Form Meets the 21st Century

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*Jeff Weems has practiced energy-related litigation for 26 years. Recently, Jeff founded a new firm, Staff Weems LLP, with Rick Staff, another energy litigation veteran. Jeff also is a member of the AAPL Task Force that was charged with re-writing the AAPL Model Form. Jeff would like to thank Matthew Savage of Porter Hedges LLP for his help on an earlier version of this paper.

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I. Introduction

In 1956, the American Association of Petroleum Landmen (“*AAPL*”)¹ published the first standardized joint operating agreement known as the AAPL Form 610 Model Operating Agreement (together with its later versions, generally referred to herein as “*Model Form JOA*”). This agreement, and its later versions, has proven immensely popular with the industry as the primary contractual document focused on governing the relationships among parties looking to jointly develop the oil and gas resources in a particular area. Since its inception, the AAPL periodically has revised the Model Form JOA to address both developments in the oil and gas industry and specific legal interpretations of earlier forms. In 2011, the AAPL formed a Task Force to revise the Model Form JOA that had been published in 1989 (the “*1989 Model Form*”).

¹ The AAPL later changed its name to the American Association of *Professional* Landmen.

JOA”) in order to incorporate standard industry practices and documentation relating to the increased use of horizontal drilling techniques to develop oil and gas reserves. Based on the Task Force’s recommendations in 2013, the AAPL released a modified version of the 1989 Model Form JOA (“**1989 Horizontal Form JOA**”) incorporating the Task Force’s revisions related to horizontal drilling and development. After the AAPL released the 1989 Horizontal Form JOA, the Task Force turned its attention to revising the entire Model Form JOA to address additional operational realities in energy development and the wide range of judicial decisions interpreting the 1989 Model Form JOA.

Recently, the AAPL Executive Committee and Board of Directors approved the Task Force’s newest work, the 2015 Horizontal Form JOA (“**2015 Model Form JOA**”). This 2015 Model Form JOA is intended to be used for both horizontal and vertical operations, and currently is set for release in the next few months.

Before launching into a discussion of the changes found in the 2015 Model Form JOA, a reminder of the purpose of any Model Form JOA is in order. Always remember that a Model Form JOA is a template designed to reflect nationally-accepted standards for joint operations. It is not intended to have every answer for every situation. That is the purpose of Article XVI, which allows the parties to create and insert language that will govern their specific needs and desires for their specific operations for their specific project.

II. Revisions to the 1989 Horizontal Form JOA

To create the 2015 Model Form JOA, the Task Force began with the 1989 Horizontal Form JOA. Several articles published after the release of the 1989 Horizontal Form JOA specifically discuss the differences between the 1989 Model Form JOA and the 1989 Horizontal Form JOA,²

² See Jeff Weems and Amy Tellegen, *The New Horizontal Agreement and the Prospect of an Entirely New Form*, State Bar of Texas, 31st Annual Advanced Oil, Gas and Energy Resources Law Course, October 3-4, 2013; see also

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