

Check List for Comm Agreements

- **Submit CAs 6-8 months early, prior to APD application if possible (best practice)**
- Cover letter with API, well name(s), Contact info/Return address
- 1 Original that the Land Office will keep for record
- Fee: \$100/section (or portion) to be communitized, check made out to "Commissioner of Public Lands" (subject to change per published fee schedule)
- Most recent form, available on-line at:

<https://www.nmstatelands.org/divisions/oil-gas-and-minerals/oil-and-gas-forms/>
- OCD forced-pooling order or self-certification form (only applicable to Fed and Private interests)
- All signatures notarized
- All lessees of record signed
- Operator signed
- Working interest owners signed (only for Fed minerals, unless self-certificated)
- Effective date is before first production from the well
- No changes or edits made to the legal language of the form, except for in the exhibits, if needed
- Acreage of comm matches OCD permit for the well spacing
- Recapitulation adds up to 100%
- Paragraph 14 submitted, for Short-Term comm case only
- If enlarged spacing is requested with OCD, modification of the com may be needed. Discuss with SLO prior to submitting a com. This is case specific; allow extra time.

Call Joseph Thompson at 505-827-5750 with ANY questions!

Important Info for Submitting Comm Agreements to NMSLO

COM agreement must be approved by the SLO prior to drilling across lease boundaries and producing wells across lease boundaries. Failure to obtain approval will subject an operator to penalty by the SLO, including the lack of approval of the well.

The forms are available on our website at:

<https://www.nmstatelands.org/divisions/oil-gas-and-minerals/oil-and-gas-forms/>

- Use the State/State or State/Fee form if all leases are State leases, or a combination of State and fee leases, and are in their primary term or held by production, or production will be established BEFORE the expiration date of the soonest-expiring lease
- Use the State/Fed or State/Fed/Fee form if there are both State and Federal minerals to be developed by a well. The BLM has a separate form that must be submitted to them, independently, but concurrently. Note: working interest owners must sign state/Fed agreements unless a self-certification form is provided
- Use the Short-Term form for State/State or State/Fee where one of the State leases will be subject to expiration for non-production before the well will be in full-blown production, per the NM Oil Conservation Division (OCD). Submit this before the lease expires, along with a paragraph 14 invocation to hold the lease(s) past the primary term. Please contact the lease manager, Denise Gallegos, at 505-827-5749, for details on how to invoke paragraph 14.
- Use the CO2 form if the well develops only carbon dioxide gas.

Submit the applicable fee, as set forth in the SLO fee schedule (currently, \$100/section or part thereof). If you have a 1-mile lateral well drilled in 1 section, the fee is \$100. If you have a 2-mile lateral well drilled in 2 sections, the fee is \$200 and so on. If the fee is missing, your agreement cannot be processed.

ALL lessees of record (record title holders) MUST sign the agreement. The only exception will be if you have a forced-pooling order from the OCD and an exhibit listing the interest to be pooled showing the non-committed leases; this applies, however, only to private and Federal lessees. The order should be submitted with the comm agreement. Even if you own all the working interest in a zone, and the lessee of record conveyed that interest via miscellaneous instrument, the Commissioner of Public Lands still recognizes the lessee of record as the responsible party, as that is the entity that will be held responsible for the lease and anything that happens on it, and they are the entity with whom the Commissioner has a contract. Working interest owners may also sign if they (or you) wish.

Use only the most recent versions of the comm forms, available on our website. **DO NOT** change the language of the agreement, change the font size or style, or add or subtract anything from the body of the agreement. Doing so will invalidate the agreement and/or make it much more difficult to process if the agreement appears different from the standard form

on the website, and will result in a delay of approval. If special language must be added, that can be included in the exhibits attached to the agreement.

All signatures must be notarized.

Fee lessees must also sign agreements or be subject to a forced-pooling order. Fee leases should be listed and ownership properly reported for each fee tract included in a comm agreement.

Please contact the Land Office if there is doubt about who is the lessee of record for a given SLO tract. We can look that up in our database if you are having trouble establishing ownership. If there is a break in the chain of title, we may be able to help assist in guiding you on what would legally be required to re-establish proper ownership.

If company X is listed as record title holder, then an agent from company X MUST sign the agreement. If a lease is in the name of company X and an agent from company Y, a subsidiary of company X signs the agreement in their stead, this will not be permitted and the comm will be rejected by SLO.

All parts of the agreement must be filled out correctly. The effective date of the comm should be sometime between APD effective date and first production from the well. State/State comms are valid for 1 year, and as long thereafter as production in paying quantities is continued. State/Fed comms are also valid for 1 year, and as long thereafter as production is continued. Short-Term comms are valid until the expiration date of the earliest expiring lease, and for as long thereafter as diligent drilling and completion operations are being conducted on the well, or production in paying quantities is sustained.

The recapitulation needs to show all the leases and their tract percentages, not only the state leases. Only the portions of a lease that are being developed by the particular well are included here. Percentages should equal 100%.

Comms are created for spacing units/proration units, so the number of acres to be communitized must coincide with the dedicated acreage of the well per the OCD permit. For example, if the pool to be produced by the well is on statewide oil rules and will be drilled one mile, in the W2W2 of a section, it will produce from a 160-acre proration unit. So, the comm must cover the same 160 acres in the formation/pool, and the comm cannot be enlarged to cover, for example, the entire W2 of the section. If a comm is desired that would be larger than the standard proration unit for the pool, an OCD hearing and order for a non-standard proration unit or spacing will be required; additional language may need to be added to the com for an enlarged com spacing and must be discussed with the SLO prior to submission of the com.

Only one original copy that can be kept by the Land Office is required for submission. If a second copy is submitted too, then it will be returned along with the approvals showing a timestamp of when it was received at the Land Office. Send a cover letter that states the

name of the well, API number and contact info/return address with the agreements.

The SLO highly recommends, as a best practice, to email a copy of the proposed wellbore and spacing to the SLO's Oil and Gas Division's units and coms bureau for pre-authorization 6-8 months prior to seeking final approval of the com. The bureau will email a pre-authorization approving the well and spacing. If subsequent changes need to be made to the proposed well, an updated pre-authorization may be received. By following this practice, the SLO ensures its acreage is fully developed, and operators can be confident that, when the final com is submitted, the com will be quickly processed, as only signatures need to be reviewed. Failure to follow this best practice may lead to delays in processing times of coms.

Contact Joseph Thompson, at jthompson@nmslo.gov or 505-827-5750 if you have any questions or doubts about correctly filling out and submitting a comm agreement to SLO