

Subsurface Agreement Guidance – NMSLO

1. Cover letter (attached)
2. Application for Subsurface agreement (must include the language below)
 - a. Subsurface agreement for well bore onto _____ and Oil & Gas lease _____. Ultimately the wells will produce from Lease # _____ as depicted in Exhibit B & C. The well will initiate on Lease _____ as drilled it will enter into the lease _____ @ KOP the well will be turned and back into lease _____.
 - b. Project name: Well name – Subsurface agreement.
 - c. Multiple wells can be applied for with one application.
The \$250 application fee is per well and the total number of rods will be added together for each well.
 - d. The KMZ file noted will be of the wellbore unless Full Estate. If Full Estate, KMZ will include well pad, road, and any other surface disturbing activities.
3. Exhibit A – Cultural resource report - Only required for Full Estate applications.
4. Exhibit B – Surface plan. Well site & lease road.
5. Exhibit C – C102, directional plan and plot. (example attached)
6. Exhibit D – Off-Lease well bore length and length on-lease to FTP. This is the TOTAL amount of pipe in the ground off lease, not just what is depicted on an x, y coordinate plane. The acreage needs to be calculated for the subsurface easement of the NM State Lease based on a 100' wide easement (50' on either side of the wellbore). Off Lease Measured Distance x Width of Easement / 43,560 sq ft per acre = acres. Aliquot needs to be listed as well.(example attached)
7. Exhibit E – Consent letter (example attached)

***The entire packet is to be emailed to Allison Marks & Joseph Thompson @ NMSLO OGM division to obtain their approval. The emailed response from OGM will be attached to the application when submitting the entire packet with payment to OGM Division.**

***If there are multiple wells in the area where a project is proposes, there is difficulty obtaining consent, the plans look like they may strand acreage or cause difficulty for current or future drilling, it is best to have a quick meeting with OGM first to discuss the proposal.**



**Stephanie Garcia Richard, Commissioner of Public Lands
State of New Mexico**

APPLICATION FOR SUBSURFACE AGREEMENT

(Name of Applicant)

(Designated Field Contact Name)

(Street Address, City, State, Zip Code)

(Field Contact Phone Number)

(Contact Name, Phone Number)

(Field Contact Email Address)

Hereby applies for a subsurface agreement for the following lease(s) _____
(describe project):

Project Name: _____

(check the following that apply)

- ☐ New Mexico State Land Office Full Estate
☐ New Mexico State Land Office Mineral Only
☐ Back-build
☐ Off Project Area
☐ Potash Area
☐ Development Area approved. _____ (date)

It is requested that the subsurface agreement be 30' (*must correspond with survey plat*) feet wide as indicated on the attached two copies of survey maps, plats, C102's and directional surveys with the survey centerline shown in red and length of the subsurface agreement measured in rods. The legal description of the proposed surface of the subsurface agreement is described in aliquot 40-acre tracts (qtr. /qtr. breakdown) with a description of rods and acres shown in each aliquot part and a total of rods used subsurface included in the proposed subsurface agreement. Permission to survey is included with this application. The survey was completed within twelve months of this application.

It is requested that the right-of-way be for a term of 30 years or until well(s) are plugged and abandoned.

Registration with NM Secretary of State: Active ☐ In Good Standing ☐ Business ID#: _____



- ☐ The Applicant is an Oil & Gas lessee with a current mega bond.
☐ The Applicant is an Oil & Gas lessee without a current mega bond.

Cultural Resource Protection:

Parties are expected to review and abide by the laws and rules related to the protection of cultural properties, including the Cultural Properties Protection Rule (19.2.24 NMAC). Please indicate whether you have signed the enclosed Acknowledgment Form. ☐ Yes ☐ No

***IF FULL ESTATE, THE FOLLOWING IS REQUIRED:**

The NMSLO Cultural Resources Cover Sheet (Exhibit _____) provided to you by the archaeological consultant is attached to your application and indicates whether:

an ARMS Inspection ☐ or an Archaeological Survey ☐ has been conducted for this project.

(see 19.2.24.9 & 19.2.24.10 NMAC for exceptions of certain categories of activity that do not require an ARMS inspection or survey).

Does your project involve federal or other state agencies? Yes ☐ No ☐

In addition to complying with the requirements of the Cultural Properties Protection Rule, parties also must comply with all other applicable state and federal laws and rules, including laws and rules pertaining to endangered and threatened species and habitat protection.

Digital Files:

Digital information of your project's location is required. Acceptable formats: shapefiles (ESRI shape files preferred) or kml/kmz files. Yes ☐ No ☐

****Note that shape files must include the proposed route's centerline, Additional Temporary Workspaces, surface sites, etc. as well as a one-mile buffer layer.**

Digital Files Custodian-Name if other than the applicant: _____

Email: _____ Phone Number: _____

Pursuant to New Mexico State Land Office fee schedule, enclosed is a check in the amount of \$ _____ for _____ rods (16.5 feet) at _____ per rod, plus **\$250.00** application fee per well.

*** When you provide a check as payment, you authorize the State of New Mexico to either use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.**



Applicant Signature

(Signature of Authorized Agent)

By: _____
Print Name of Attorney in Fact or Authorized Agent

Title: _____

Agent Name and address:
(Letter of Authorization attached)

Phone Number _____
Email Address _____

NEW MEXICO STATE LAND OFFICE
310 Old Santa Fe Trail
Santa Fe, NM 87501

Re: Subsurface Agreement Application
Section ____, T-____-S, R-____-E
____ County, NM

Dear New Mexico State Land Office,

The enclosed application from _____ (“____”), as Operator, seeks to obtain a Subsurface Agreement, (“SA”), for the purpose of using the subsurface to drill well laterals across the subsurface of State lease lines. The SA is for the _____, drilled in the _____ formation (collectively, the “Well”). The Well will be drilled on the _____ well pad being located in Section ____ T____S R____E as shown on Exhibit “B”, attached.

The Well will produce solely from State Trust Lands and are covered by State of New Mexico leases _____ covering the _____. A detailed layout each wellbore path and well spacing unit can be found on the C102 plats attached as Exhibit “C”.

The well bore of the Well will traverse State lease _____ being located in Section ____ T____S R____E. _____ is the Lessee of Record of _____ and operates _____. The Well will not produce from _____. As noted in the attached Exhibit “E” of this application, _____, as Lessee of Record, consents to _____, as Operator, obtaining a SA that will traverse _____ for the purposes stated in this letter and application. Sufficient in-house wellbore directional data has been accounted for and researched to mitigate the risk of wellbore collision.

Sincerely,



Stephanie Garcia Richard, Commissioner of Public Lands
State of New Mexico

NMSLO Cultural Resources Cover Sheet Exhibit

NMCRIS Activity Number:

(if applicable)

Exhibit Type (select one)

ARMS Inspection/Review - Summarize the results (select one):

- (A) The entire area of potential effect or project area has been previously surveyed to current standards and **no cultural properties** were found within the survey area.
- (B) The entire area of potential effect or project area has been previously surveyed to current standards and **cultural properties were found** within the survey area.
- (C) The entire area of potential effect or project area has **not** been previously surveyed or **has not been surveyed** to current standards. A complete archaeological survey will be conducted and submitted for review.

Archaeological Survey

Findings:

Negative - No further archaeological review is required.

Positive - Have avoidance and protection measures been devised? Select one:

Comments:

Project Details:

NMSLO Lease Number (if available):

Cultural Resources Consultant:

Project Proponent (Applicant):

Project Title/Description:

Project Location:

County(ies):

PLSS/Section/Township/Range):

For NMSLO Agency Use Only:

NMSLO Lease Number:

Acknowledgment-Only:

Lease Analyst:

Date Exhibit Routed to Cultural Resources Office:

No person may alter the wording of the questions or layout of the cover sheet. The completion of this cover sheet by itself does not authorize anyone to engage in new surface disturbing activity before the review and approvals required by the Cultural Properties Protections Rule.



Stephanie Garcia Richard, Commissioner of Public Lands
State of New Mexico

CULTURAL PROPERTIES PROTECTION ACKNOWLEDGMENT FORM

Exhibit _____

All lessees, operators, grantees, permittees, and/or applicants (collectively, "Parties") requesting any authorization from the Commissioner of Public Lands, or conducting any project or activity on state trust land, are expected to review and abide by all applicable laws and rules related to the protection of cultural properties on state land, including the New Mexico State Land Office's ("NMSLO") Cultural Properties Protection Rule, 19.2.24 NMAC. The Cultural Properties Protection Rule can be viewed at <https://www.nmstatelands.org/culturalproperties/>.

Parties conducting surface-disturbing activity on state trust land must follow the procedures and timelines outlined in 19.2.24.8 NMAC. To minimize processing delays, Parties are strongly encouraged to supply NMSLO with appropriate documentation as early as possible pursuant to 19.2.24.8 (C), (D), (E) & (F) NMAC. Parties are advised to always exercise due caution to ensure that cultural properties on state trust land are not inadvertently excavated, disturbed, dislodged, damaged, destroyed, or removed by any person, pursuant to the Cultural Properties Protection Rule, 19.2.24.8 (A) NMAC and Section 18-6-9 (A) and (B), NMSA 1978.

By signing this acknowledgment form, Parties affirm that they have read this document, including the accompanying Instructions for Compliance, and have reviewed and agree to comply with NMSLO's Cultural Properties Protection Rule. If a Party is other than a natural person, the individual signing below attests that they have the authority to execute this acknowledgment on behalf of and bind that Party.

Type and Number of Instrument (Lease Number):

(Required for Oil & Gas Leases-eg. VB06320001; include if available for other leases: Business, Renewables, Minerals, Water Bureau, ROW or Agricultural leases-eg. BL05220001, GR0232, R40893, SW0520, HA0102)

Name of Party (Company Name, if applicable):

Name of Signatory (Person Signing):

Relationship to Party/Title (position):

(eg. lessee, operator, grantee, applicant, self or other)

Phone Number:

Email Address:

Signature : _____

Date:

INSTRUCTIONS FOR COMPLIANCE

Cultural Properties Protection Rule (19.2.24 NMAC)

The following instructions apply to all lessees, operators, grantees, permittees, and/or applicants (collectively, “Parties”) that intend to conduct new surface disturbing activities on state trust lands. The instructions provide additional guidance for fulfilling the requirements of NMSLO’s Cultural Properties Protection Rule. A copy of the Cultural Properties Protection Rule can be found at <https://www.nmstatelands.org/culturalproperties/>.

We thank you in advance for your commitment to protecting New Mexico’s past and living history. NMSLO encourages all Parties to provide current and accurate documentation as early as possible to minimize processing delays.

Please do not hesitate to reach out to the Cultural Resources Office at croinfo@slo.state.nm.us should you have any questions after reviewing these instructions or with NMSLO’s cultural properties review process.

Part I: Archaeological Records Management Section (ARMS) Inspection (Records Review)

1. The ARMS inspection is a records review and should comply with the pre-field requirements of 4.10.15.9 NMAC. An ARMS inspection must be conducted prior to any new surface-disturbing activities, in compliance with 19.2.24.8 (C) NMAC. The specific timing of when an ARMS inspection is required depends on the category of activity, as described in 19.2.24.8 (E) NMAC. The Cultural Properties Protection Rule provides exceptions for certain categories of activity that do not require an ARMS inspection or survey; see 19.2.24.9 NMAC and 19.2.24.10 NMAC.
2. Parties are expected to engage a permitted archaeologist to conduct the initial ARMS inspection. Permitted archaeologists are referred to in these Instructions as “archaeological consultants.” Only ARMS inspections from archaeological consultants will be accepted. The list of archaeological consultants in New Mexico is available at <http://www.nmhistoricpreservation.org/documents/consultants.html>. Scroll down past the headings for “Archaeological Permits” and “Official Scenic Markers” to “Preservation Consultants.” Click on the pdf document titled “Cultural Resource Consultants.” The list is updated regularly and arranged by county of location. Because costs vary, the NMSLO encourages Parties to contact more than one archaeological consultant.
3. The Party must provide the archaeological consultant with all relevant supporting documentation. This may include a description of the project, cadastral plats, and location information in digital form (ArcGIS shape files, kml/kmz format, GPS coordinates, CAD drawings, plats, or accurate depictions on USGS 1:24000 quadrangles).
4. The archaeological consultant will conduct an ARMS inspection of the entire area of potential effect (APE). Based on the ARMS inspection, the findings will be summarized into one of three results as indicated on the NMSLO Cultural Resources Cover Sheet (“Cover Sheet”). The Cover Sheet is a fillable PDF form (available from the Web Portal and also from NMSLO’s website and Cultural Resources Office):
 - (A) ☐ The entire area of potential effect or project area has been previously surveyed to current standards and **no** cultural properties were found within the survey area.
 - (B) ☐ The entire area of potential effect or project area has been previously surveyed to current standards and cultural properties were found within the survey area.
 - (C) ☐ The entire area of potential effect or project area has **not** been previously surveyed or has not been surveyed to current standards. A complete archaeological survey must be conducted and submitted for review.
5. If the ARMS inspection indicates that the entire APE has been previously surveyed and no cultural properties were located (**result A above**), NMSLO’s Cultural Resources Office and the relevant leasing

division (e.g. Water Bureau, Minerals; Agricultural Leasing; Business Leasing, Renewable Energy, Rights-of-Way, etc.) will complete the process of review and approval. In the case of oil and gas lease projects, once the Cultural Resources Office reviews and approves the ARMS inspection results, no further archaeological review is required and the project may proceed.

6. For the ARMS Review (**result A above**), the archaeological consultant will complete and submit the ARMS Inspection/Desktop Review web form on the Cultural Compliance Web Portal (Web Portal), available at <http://culturalcompliance.nmstatelands.org/>. NMSLO's Cultural Resources Office will have immediate access to the submitted web form and accompanying documents.
7. If the ARMS inspection result indicates a previous survey showing the presence of cultural properties within the APE (**result B above**), the Party must propose avoidance and protection measures for the project as designed in collaboration with their archaeological consultant.
8. If the ARMS inspection shows that the entire APE has **not** been subject to archaeological survey or to a current standards survey (**result C above**), a complete archaeological survey must be conducted. The new survey need not include areas already subjected to acceptable surveys. See continued instructions below, Part II.
9. Because specific locational information of cultural properties that may be contained in an ARMS inspection or archaeological survey is confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2.1, NMSA 1978), Parties should expect to receive a copy only of the Cover Sheet from their archaeological consultant, and should forward the Cover Sheet to the appropriate NMSLO leasing division with their application.
10. Parties conducting project activities on state land under oil and gas leases, like other Parties, will receive a copy of the Cover Sheet from their archaeological consultant. To provide information on their upcoming projects on state land, Parties will then fill in the Oil and Gas Project Description Web Form at <http://culturalcompliance.nmstatelands.org/> and will submit, along with the Cover Sheet, any necessary documentation for cultural compliance review pursuant 19.2.24.8 (E)(3) NMAC. Only on-lease oil and gas projects with activities that are not included in any other lease application at NMSLO (eg. Business or Right of Way) should utilize the Web Portal.

Part II: Archaeological Surveys and Compliance Measures

1. If the ARMS inspection, in compliance with 19.2.24.8 NMAC, indicates that the entire APE has not been subject to archaeological survey (see Part I, Para. 4, **result C**), a complete archaeological survey must be conducted to current standards in compliance with 4.10.15 NMAC. The new survey need not include areas already subjected to acceptable surveys.
2. In compliance with 19.2.24.8 (F) NMAC, at least 15 calendar days prior to any survey activities, the archaeological consultant should fill in and submit a Notification of Intent to Conduct an Archaeological Survey through the Web Portal at <http://culturalcompliance.nmstatelands.org/>.
3. Only archaeological surveys from archaeological consultants will be accepted and must be conducted under current standards in compliance with 4.10.15 NMAC. Information on how to access the list of archaeological consultants is listed in Part I, Para. 2 above. NMSLO encourages Parties to contact more than one archaeological consultant in your location as proximity will be a factor in estimated costs of an archaeological survey.
4. Parties will be expected to design their project to avoid any cultural properties identified within the APE (as recorded on the Cover Sheet in Part I, Para. 4, **result B**) by the archaeological survey obtained in conjunction with a project or by pre-existing surveys, or provide other mitigation measures in collaboration with their archaeological consultant. Parties are encouraged to provide NMSLO with appropriate current and accurate documentation of the proposed activity as early as possible (preferably at least sixty calendar days prior to any surface disturbing activity) to minimize processing delays and ensure implementation of avoidance and protection measures.

- a. Pursuant to the Cultural Properties Protection Rule, 19.2.24.12 (A) NMAC, if any Party becomes aware of actual or imminent damage to cultural properties on state trust lands where that Party is conducting activities, that Party shall immediately notify NMSLO and suspend project activities in the immediate area of the damage or the threatened cultural property. Activities shall remain suspended until the State Historic Preservation Officer and NMSLO approve resumption of activities.
 - b. A Party that damages cultural properties on state trust land is responsible for the cost of an archaeological damage assessment, plus the remediation value of the affected cultural property as determined by that damage assessment. In addition, the Commissioner of Public Lands may file an action to recover an amount equal to twice the cost of restoration, stabilization, and interpretation of the damaged cultural property, in accordance with the Cultural Properties Act, Section 18-6-11.2(C), NMSA 1978.
5. The archaeological consultant, upon completion of the survey report, should submit the fillable, completed Cover Sheet to croinfo@slo.state.nm.us with any relevant questions.

Pursuant to the requirements of 4.10.8.18 NMAC, the Cultural Resources Office will review a complete copy of the survey report, its findings and any required compliance (avoidance or mitigation) measures and recommend revisions, if applicable. The Cultural Resources Office will provide further guidance on how archaeological consultants should submit complete survey reports and any required compliance measures for review.

The Cultural Resources Office additionally may request electronic files of survey report(s), sites, location of findings, or survey areas in order to complete its review, all of which should be sent to croinfo@slo.state.nm.us.

6. The complete results of an archaeological survey are confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2.1, NMSA 1978).
 - a. Upon approval of the final archaeological survey report and its findings/recommendations, the archaeological consultant will upload the final archaeological report along with all supporting documentation to the New Mexico Cultural Resources Information System (NMCRIS). Parties should expect to receive a copy of the Cover Sheet from their archaeological consultant, and should forward it to the appropriate leasing division with their application.
 - b. In the case of oil and gas leases only, Parties themselves will upload the Cover Sheet along with their Project Description Web Form documentation submitted via the Web Portal at <http://culturalcompliance.nmstatelands.org/>.
7. The website <http://nmstatelands.org/cultural-resources-office/> contains a list of State Trust Land Archaeologists within NMSLO's Cultural Resources Office (along with related contact info) to whom questions can be addressed.
8. Below is a list of useful links, emails, and phone numbers:
 - a. Cultural Compliance Portal: <http://culturalcompliance.nmstatelands.org>
 - b. Cultural Resources Office Website: <http://www.nmstatelands.org/cultural-resources-office/>
 - c. Cultural Properties Protection Rule and FAQs: <http://www.nmstatelands.org/culturalproperties/>
 - d. Historic Preservation Division-List of Archaeological consultants: <http://www.nmhistoricpreservation.org/documents/consultants.html>
 - e. Inquiries to the Cultural Resources Office: croinfo@slo.state.nm.us
 - f. Main New Mexico State Land Office phone number: 505-827-5760

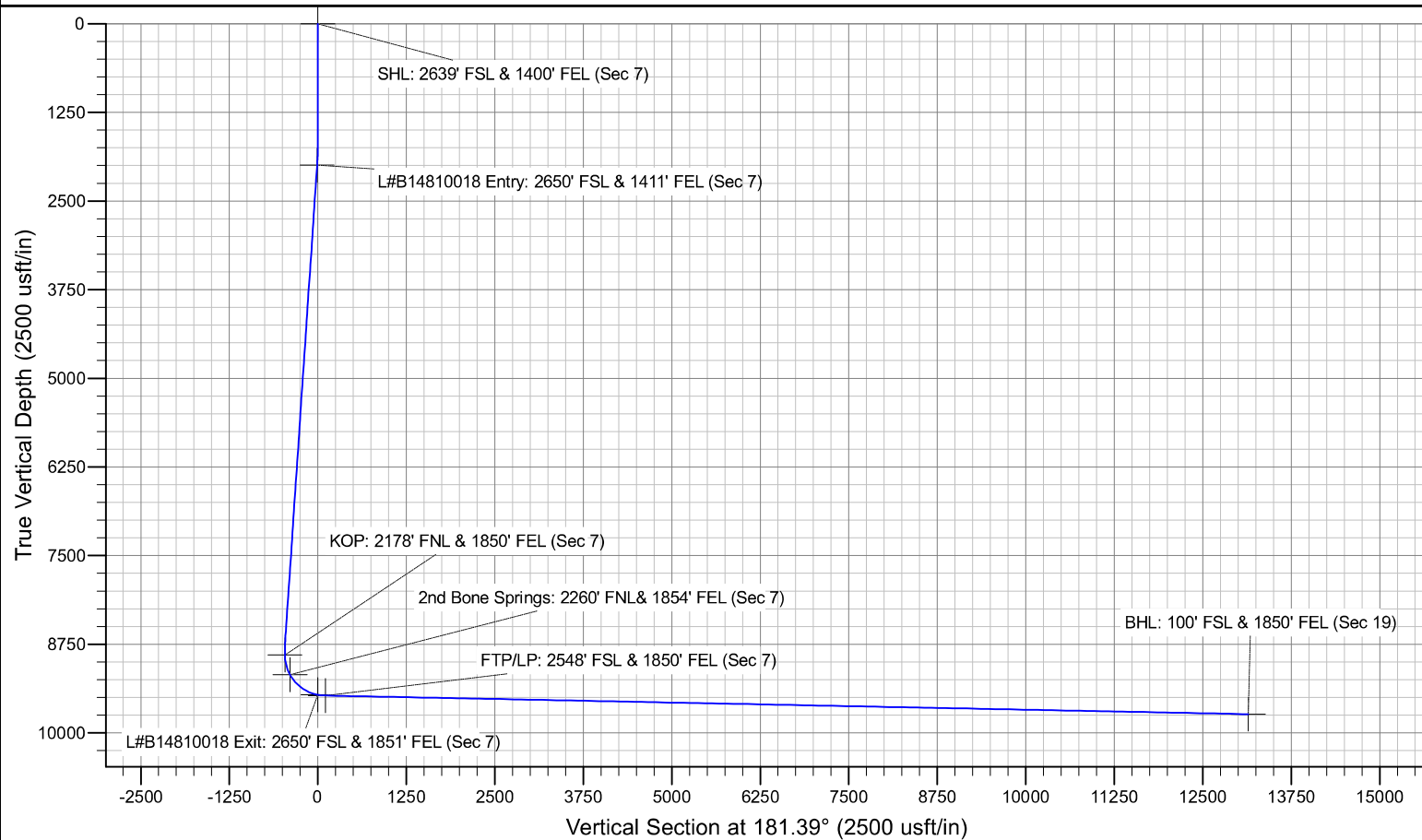
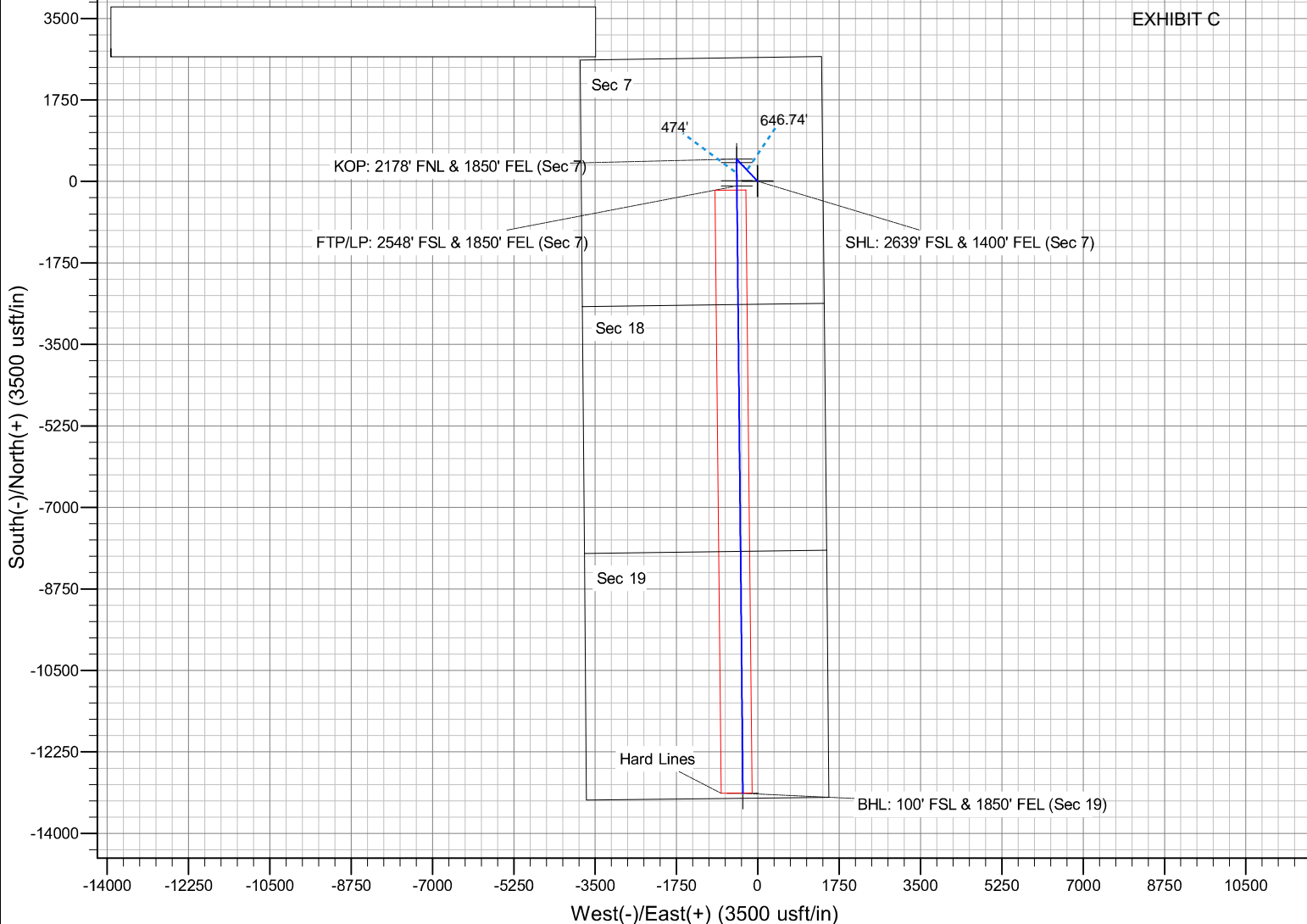


EXHIBIT “D”

SUBSURFACE AGREEMENT LENGTH AND FIRST ON-LEASE TAKE POINT

The table below is the calculated length or the measured distance (MD) of the well bore portion that will reside off lease.

WELL NAME	OFF LEASE MD-FT	OFF LEASE MD-ROD
TOTAL:		

DESCRIPTION OF SUBSURFACE AGREEMENT IN ACREAGE/ALIQUOT PARTS

WELL NAME	OFF LEASE MD-FT	SUBSURFACE AGREEMENT WIDTH-FT	SA SQ-FT	SA ACRES	ALIQUOT	SECTION	TOWNSHIP	RANGE

State of New Mexico
Commissioner of Public Lands
Attn: Allison Marks
310 Old Santa Fe Trail
Santa Fe, NM 87501-1148

Re: Subsurface Agreement Consent – _____
Section _____, T-_____-S, R-_____-E
_____ County, NM

Dear Ms. Marks,

This letter is to advise that _____ (“_____”), as Lessee of Record in State of New Mexico lease _____, waives any objections to and consents to _____ (“_____”), as Operator, drilling their _____ well, (“_____”), located at _____, _____ & _____, Section _____ T _____ S, R _____ E, _____ County, New Mexico, where _____ operates additional State wells. It is further confirmed that only State Trust Land Wells will benefit from drilling the _____. This consent will terminate upon the termination of the associated Subsurface Agreement, which is in effect for 30 years, or when all _____ Wells are plugged and abandoned, whichever occurs earlier.

Sincerely,