



UNDERWRITING BULLETIN TO LOUISIANA AGENTS

From: Stephen G. Sklamba, State Underwriting Counsel

Dated: April 5, 2013

Bulletin No: LA13-02

Name: FDIC Mineral Interest Reservations

The Federal Deposit Insurance Corporation ("FDIC") recently issued a Guidance Statement to its National Contractors instructing them that, effective April 1, 2013, future sales of FDIC owned real estate will generally exclude Mineral Interests. Such reservations may already be included in existing contracts.

Mineral Interest Reservations will generally apply to all types of properties except for individual condominium units and transactions valued at \$50,000 or less.

As noted in the Guidance Statement, "[f]or properties located within the boundaries of **incorporated cities** the FDIC will waive all rights to utilize the surface of the property and the SWD [Special Warranty Deed] excludes the right to control surface access."

The Guidance Statement recognizes that **Louisiana** has different documentation requirements and directs its National Contractors to consult with FDIC's legal division for issuance of a Special Warranty Deed specific to Louisiana property and for instructions whether to include or exclude the reservation of Mineral Interests.

FDIC has also drafted 2 forms of addendum to be attached to the Real Estate Purchase and Sale Contract – one including surface access and one excluding surface access. Copies of the addenda are attached. If FDIC introduces a specific addendum for use in Louisiana, revised guidelines will be issued.

As a reservation of minerals without a waiver of surface rights may adversely affect merchantability of title in sales of improved property and lots in residential areas, WFG will only insure FDIC sales of improved property and residential lots where the mineral reservation **excludes** surface access. The mineral reservation without surface access must be listed as an exception in any policy issued in connection with such transactions.

WFG will insure Louisiana non-residential unimproved rural properties in transactions where the FDIC's reservation includes surface access. The FDIC's reservation of mineral interests must be included as an exception. The exception must indicate that the mineral reservation includes surface access. None of the ALTA 9 series of endorsements currently in use in Louisiana may be issued when insuring properties where the FDIC reservation includes surface access. (Once Louisiana adopts the recently approved ALTA endorsements, revised guidelines will be issued.)

UNDERWRITING GUIDELINES

- 1) **Include the appropriate FDIC Mineral Reservation as an exception in all policies:**
 - a. **FDIC Mineral Reservation including surface access dated ____, recorded ____**
 - b. **FDIC Mineral Reservation excluding surface access dated ____, recorded ____**

NOTE: Attach an Addendum when a Short Form policy is issued to include the appropriate exception above.

- 2) **For sales of improved property and residential lots, check the closing instructions, contract documents and addendum to be certain that they exclude surface access.**
- 3) **For sales of unimproved non-residential rural properties where FDIC reserves mineral interest including surface access list the reservation as an exception and indicate that the mineral reservation includes surface access. Refer to 1(a) above.**
- 4) **Do not issue any of the ALTA 9 series of endorsements with policies insuring properties subject to a mineral reservation with surface access.**
- 5) **Continue to include the standard exceptions set forth in Bulletin LA 12-02 in all owners' policies and long form loan policies.**

ADDENDUM FOR RESERVATION AND EXCEPTION OF OIL, GAS, AND OTHER MINERALS
INCLUDING SURFACE ACCESS

This Addendum for Reservation and Exception of Oil, Gas, and other Minerals (this "Addendum") is made a part of that certain Real Estate Purchase and Sale Contract dated _____, 20____ (the "Contract"), between [check one] [] the Federal Deposit Insurance Corporation (the "FDIC") in the capacity therein set forth [] _____ ("Seller"), and _____ ("Purchaser"), covering the Property located at _____ and more fully described in Exhibit "A" of the Contract. Except as specifically set forth herein, terms defined in the Contract shall have the same meanings herein. IF ANY PROVISION OF THIS ADDENDUM CONFLICTS IN WHOLE OR IN PART WITH THE TERMS OF THE CONTRACT, THE PROVISIONS OF THIS ADDENDUM SHALL CONTROL.

1. Oil, Gas, and Other Minerals Reserved and Excepted From the Sale of the Property. Notwithstanding anything in the Contract to the contrary, there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Seller. There is further reserved and excepted unto Seller, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the Property, together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter on the Property, including, without limitation, an easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers.

2. Legal Description of the Property. The legal description of the Property as set forth on Exhibit "A" to (i) the Contract, and (ii) the Deed, shall be and is hereby amended to include, at the end thereof, the following language:

SAVE AND EXCEPT, HOWEVER, there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Seller. There is further reserved and excepted unto Seller, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the foregoing described real property, together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter on such property, including, without limitation, an easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers.

3. Deed. The Deed shall include all language necessary to implement the foregoing provisions of this Addendum, including, without limitation, the insertion of the following language in the granting clause of the Deed:

there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Grantor. There is further reserved and excepted unto Grantor, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the Property, together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter on the Property, including, without limitation, an easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers as they relate to such oil, gas, and other minerals.

[Signature page follows.]

PURCHASER:

[If an individual, print name on this first line, sign on second; if husband and wife, have second spouse do likewise on next two lines.]

[If legal entity, print its name just as set forth in the Contract, including type of entity and state in which it was formed.]

By: _____

[Purchasing entity’s representative signs here.]

Print Name: _____

Title: _____

Date: _____

SELLER:

[Print name of Seller just as set forth in the Contract, including, if applicable, type of entity and state in which it was formed.]

By: _____

[Selling entity’s representative signs here.]

Print Name: _____

Title: _____

Date: _____

ADDENDUM FOR RESERVATION AND EXCEPTION OF OIL, GAS, AND OTHER MINERALS
EXCLUDING SURFACE ACCESS

This Addendum for Reservation and Exception of Oil, Gas, and other Minerals (this "Addendum") is made a part of that certain Real Estate Purchase and Sale Contract dated _____, 20____ (the "Contract"), between [check one] [] the Federal Deposit Insurance Corporation (the "FDIC") in the capacity therein set forth [] _____ ("Seller"), and _____ ("Purchaser"), covering the Property located at _____ and more fully described in Exhibit "A" of the Contract. Except as specifically set forth herein, terms defined in the Contract shall have the same meanings herein. IF ANY PROVISION OF THIS ADDENDUM CONFLICTS IN WHOLE OR IN PART WITH THE TERMS OF THE CONTRACT, THE PROVISIONS OF THIS ADDENDUM SHALL CONTROL.

1. Oil, Gas, and Other Minerals Reserved and Excepted From the Sale of the Property. Notwithstanding anything in the Contract to the contrary, there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Seller. There is further reserved and excepted unto Seller, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the Property, together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter the subsurface of the Property, including, without limitation, a subsurface easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers. Provided, however, in connection with this reservation, Seller hereby waives for itself, its successors and assigns, all rights to utilize the surface of the Property for the purpose of mining, producing, transporting, storing, drilling and exploring for oil, gas and other minerals. Provided further, however, this waiver shall not be construed to affect the right of Seller to lease, develop and/or produce oil, gas and other minerals in, on, or under, or that may be produced from, the Property, by pooling or unitization of the Property with other lands or by utilizing directional or horizontal drilling from well sites located on lands other than the Property or by any other development method that does not involve utilization of the surface of the Property. This surface utilization waiver is also subject to the rights of any lessee under any existing oil, gas and mineral lease effecting the Property or any portion thereof.

2. Legal Description of the Property. The legal description of the Property as set forth on Exhibit "A" to (i) the Contract, and (ii) the Deed, shall be and is hereby amended to include, at the end thereof, the following language:

SAVE AND EXCEPT, HOWEVER, there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Seller. There is further reserved and excepted unto Seller, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the foregoing described real property (for the purposes of this reservation, the "Property"), together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter the subsurface of the Property, including, without limitation, a subsurface easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers. Provided, however, in connection with this reservation, Seller hereby waives for itself, its successors and assigns, all rights to utilize the surface of the Property for the purpose of mining, producing, transporting, storing, drilling and exploring for oil, gas and other minerals. Provided further, however, this waiver shall not be construed to affect the right of Seller to lease, develop and/or produce oil, gas and other minerals in, on, or under, or that may be produced from, the Property, by pooling or unitization of the Property with other lands or by utilizing directional or horizontal drilling from well sites located on lands other than the Property or by any other development method that does not involve utilization of the surface of the Property. This surface utilization waiver is also subject to the rights of any lessee under any existing oil, gas and mineral lease effecting the Property or any portion thereof.

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there is reserved and excepted herefrom, and not conveyed hereby, any and all interest in oil, gas and/or minerals, title to which is outstanding in anyone other than Grantor. There is further reserved and excepted unto Grantor, its successors and assigns, and not conveyed hereby, all remaining oil, gas, and other minerals in, on, or underlying, or that may be produced from, the Property, together with all rights and powers incident thereto, including, but not limited to, (i) bonuses, rents, and royalties relating thereto from any existing and future oil and gas leases, (ii) the perpetual, full, and absolute rights and powers to enter the subsurface of the Property, including, without limitation, a subsurface easement for ingress and egress, to search for and develop oil, gas, or other minerals and to remove, transport, and dispose of such products, (iii) the exclusive right to negotiate for and procure oil, gas, and mineral leases covering any or all of such oil, gas, and other minerals, and (iv) the right to sell and convey any or all such oil, gas, or other minerals or any or all of the foregoing rights and powers as they relate to such oil, gas, and other minerals. Provided, however, in connection with this reservation, Grantor hereby waives for itself, its successors and assigns, all rights to utilize the surface of the Property for the purpose of mining, producing, transporting, storing, drilling and exploring for oil, gas and other minerals. Provided further, however, this waiver shall not be construed to affect the right of Grantor to lease, develop and/or produce oil, gas and other minerals in, on, or under, or that may be produced from, the Property, by pooling or unitization of the Property with other lands or by utilizing directional or horizontal drilling from well sites located on lands other than the Property or by any other development method that does not involve utilization of the surface of the Property. This surface utilization waiver is also subject to the rights of any lessee under any existing oil, gas and mineral lease effecting the Property or any portion thereof.

PURCHASER:

[If an individual, print name on this first line, sign on second; if husband and wife, have second spouse do likewise on next two lines.]

[If legal entity, print its name just as set forth in the Contract, including type of entity and state in which it was formed.]

By: _____
Print Name: _____
Title: _____
Date: _____

[Purchasing entity's representative signs here.]

SELLER:

By: _____
Print Name: _____
Title: _____
Date: _____

[Print name of Seller just as set forth in the Contract, including, if applicable, type of entity and state in which it was formed.]

[Selling entity's representative signs here.]