



Oil & Gas Leases - Pugh Clauses and Retained Acreage Provisions

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Keeping Unworked Portions of Land from Being Bound Up in Secondary Term Extension

There are a couple of common provisions lessors negotiate for in order to limit the effect of secondary term extension to only a portion of the land.

- Retained Acreage Provision
- Pugh Clause

Retained Acreage Provisions

- A retained-acreage provision is a negotiated provision in favor of the lessor.
- A retained-acreage provision requires the lessee to release land not assigned to a producing well (or active drilling/reworking operations) at the end of the primary term.
- Unlike a Pugh clause, this has nothing to do with pooling/unitization.
- The point of a retained-acreage provision is to be able to seek a new opportunity to lease unworked land to a different lessee, one who might do something productive with it.

Pugh Clauses

- A Pugh clause is a negotiated provision in favor of the lessor.
- Pugh clauses modify pooling/unitization rights. Their effect depends on their language.
- A Pugh clause generally provides that if a fraction of the lessor's land is pooled or unitized, and the secondary term is extended via production or drilling/re-working operations on that pooled/unitized land (meaning not the lessor's own land), then the secondary term is not extended on the lessor's remaining land that is not part of that pooling/unitization unit.
- There are many different variations of Pugh clauses. Drafting the most-effective-possible Pugh clause means covering as many different contingencies as there are ways to do pooling and utilization. (For instance, Pugh clauses can work horizontally, vertically, for compulsory pooling, for voluntary pooling, or any combination.)

A Pugh clause problem ...

"Section 7. Voluntary Pooling: The Lessee may pool portions of adjoining lands with portions of the Leased Premises ..."

"Section 8. Unitization: The Lessee may unitize the Leased Premises ..."

"Section 13. Pugh Clause: If at the end of the primary term a portion of the Leased Premises is pooled with lands as provided for in Section 7, if secondary-term extension is obtained for that portion via production from or operations on some land pooled therewith that is not part of the Leased Premises, such operations or production not on the Leased Premises will not effect secondary-term extension for any portion of the Leased Premises not a part of such pooling arrangement."

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Does this Pugh clause work for unitized units?

Does this Pugh clause work for a pooled unit created through compulsory pooling?

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Does this Pugh clause work for unitized units?

- No, because it only specifies pooled units.

Does this Pugh clause work for a pooled unit created through compulsory pooling?

- No, because it says "as provided for in Section 7," and Section 7 doesn't concern compulsory pooling.