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July 31, 2001

Petroleum Equipment Suppliers Association
% Jere J. Crean
Schlumberger, NAM--Oil Field Financial Center
100 Gillingham Lane (MD 100/18)
Sugar Land, Texas 77478

Dear Mr. Crean:

RE: Petroleum Equipment Suppliers
Association--Credit
Interchange Division
Lien Law Committee

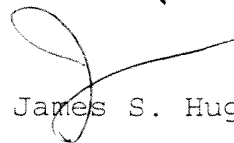
Per your request, enclosed herein is a summary of mechanic's liens in the State of Ohio as they pertain to oil and gas development.

Our law firm represents many individuals in the oil and gas industry in Ohio and West Virginia, and we frequently handle issues pertaining to mechanic's liens.

Thank you for the opportunity to provide this information to the oil and gas industry nationwide.

Please forward to our office a copy of the finished product, and please do not hesitate to contact our office should you have any questions.

Sincerely,



James S. Huggins

JSH:clt
Enclosure
(103179)

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MECHANIC'S LIEN AGAINST OIL AND GAS WELLS IN OHIO

I. Introduction

This information is relevant for mechanic's liens upon contracts or leases executed after January 1, 1992.

II. Projects Covered Under a Mechanic's Lien as it Relates to Oil and Gas Development in Ohio

There are separate rules under Ohio law governing mechanic's liens relating to oil and gas development. The information set forth below is applicable to mechanic's liens involving the construction, operation or repair of oil and gas wells, injection wells furthering the production of oil and gas or the disposal of related waste materials, leasehold production pipelines, oil derricks or oil tanks.¹

III. Property Encumbered Under a Mechanic's Lien as it Relates to Oil and Gas Development

The liens available under Ohio law attach to the oil and gas lease, the leasehold estate, or other mineral estate of the contracting owner or part owner in the project giving rise to the lien.² If a contracting owner does not have an oil and gas lease, leasehold estate or other mineral estate in the project, the mechanic's lien will attach to the oil and gas produced, the proceeds thereof, and any materials on the site or related to the oil and gas development.³

¹ R.C. § 1311.021(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-1.

² R.C. § 1311.021(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-1.

³ R.C. § 1311.021(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-1.

IV. Priority of Mechanic's Liens in Ohio as it Relates to Oil and Gas Development

For the purpose of determining issues of priority, liens created pursuant to Ohio law that pertain to oil or gas wells or facilities are effective from the date the first visible work or labor is performed or the first materials are furnished at the site of the improvement.⁴

V. What Parties Have Lien Rights Under Ohio Law as it Relates to Oil and Gas Development?

Ohio law grants lien rights to any person who provides labor or work upon a job site pursuant to a contract with the contracting owner, or to any person who supplies materials to the contracting owner.⁵

More specifically, this includes every person who performs any labor or work upon or furnishes material for digging, drilling, boring, operating, completing, or repairing any well drilled or constructed for the production of oil or gas or any injection well which furthers the production of oil and gas or which disposes of waste products generated by oil and gas operations or for altering, repairing, or constructing any oil derrick, oil tank, or leasehold production pipeline by virtue of a contract, express or implied, with the owner or part owner, or his authorized agent, of any oil and gas lease or leasehold estate, or in the event there is no lease or estate, any mineral estate.⁶ This would also include every subcontractor, laborer, and materialman who performs any labor or work or furnishes material to an original contractor or any subcontractor, in carrying forward, performing, or completing the contract.⁷

⁴ R.C. § 1311.021(C)(4).

⁵ R.C. § 1311.021(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-1.

⁶ R.C. § 1311.021(A).

⁷ R.C. § 1311.021(A).

VI. Perfecting a Mechanic's Lien Under Ohio Law as it Relates to Oil and Gas Development

There are two mandatory steps for the perfection of a lien upon oil or gas wells or facilities:

(1) the preparation and filing of an Affidavit of Lien;⁸ and

(2) serving a copy of that Affidavit on the contracting owner.

Unlike other mechanic's liens under Ohio law, the owner, part owner, or lessee who contracts for labor or work to be performed or materials furnished for an improvement need not prepare, provide, or record a Notice of Commencement.⁹ Also, subcontractors or materialmen who perform work or labor upon or furnish material in furtherance of an improvement need not prepare, provide, or serve a Notice of Furnishing as is required of other mechanic's liens under Ohio law.¹⁰

A. Affidavit of Lien

The Affidavit of Lien must contain the following information:

-- the amount due over and above all legal setoffs;

-- a description of the property to be charged with the lien;

-- the name and address of the person to or for whom the labor or work was performed or material was furnished;

⁸ R.C. § 1311.021(B), (C); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

⁹ R.C. §§ 1311.021(C)(1), 1311.04.

¹⁰ R.C. §§ 1311.021(C)(2), 1311.05.

-- the name and address of the contracting owner of the improved property, if known; and

-- the name and address of the claimant.¹¹

The Affidavit of Lien need not include the first date that the lien claimant performed any labor or work or furnished any material to the improvement as is required of other mechanic's liens in Ohio.¹²

Ohio law requires the Affidavit of Lien to be filed in the Office of the County Recorder in the county in which the improved property is located.¹³ If the property is located in more than one county, an Affidavit of Lien should be filed with the County Recorder in each county in which the improved property lies.¹⁴ The Affidavit of Lien must be filed within 120 days from the date on which the last labor or work was performed or material was furnished by the person claiming the lien.¹⁵

The Affidavit, once filed, will remain effective for six years from the date of filing or until the end of foreclosure proceedings commenced within the 6-year period.¹⁶ If the lien is not foreclosed within six years from the date of filing, it cannot be enforced.¹⁷

¹¹ R.C. §§ 1311.021(C), 1311.06(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), §§ 5-6, 11-3.

¹² R.C. § 1311.021(C)(3).

¹³ R.C. § 1311.06(A).

¹⁴ R.C. § 1311.06(A); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 5-7.

¹⁵ R.C. § 1311.06(B)(2).

¹⁶ R.C. § 1311.13(C); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 5-7.

¹⁷ R.C. § 1311.13(C); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 5-7.

Fees for filing a mechanic's lien are determined by Ohio law.¹⁸ To determine the fee for the filing of a mechanic's lien, check with the County Recorder's Office in which the lien is to be filed.

B. Service Requirements for the Affidavit of Lien

Ohio law requires that any person filing for an Affidavit of Lien must serve a copy of the Affidavit of Lien on the owner, part owner, or lessee of the improved property or his designee, within 30 days after the Affidavit of Lien has been filed with the County Recorder.¹⁹

Ohio law provides for serving the Affidavit of Lien as follows:

-- Service by the sheriff of the county in which the person to be served resides or maintains his principle place of business, in one or more of the methods provided in the Ohio Rules of Civil Procedure.²⁰ The Ohio Rules of Civil Procedure allow for personal service, certified mail service, residence service, service by publication, and service by ordinary mail in the event that one of the foregoing methods of service is refused or unclaimed.²¹ The county sheriff may charge reasonable fees for such service.²²

-- Service by certified or registered mail, overnight delivery service, hand delivery, or any other method which includes a written evidence of receipt;²³

-- If the Affidavit cannot be served in one of the above-mentioned manners, then service can be made by posting a copy of the Affidavit in some

¹⁸ R.C. § 317.32.

¹⁹ R.C. § 1311.07; O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 5-9.

²⁰ R.C. § 1311.19(A)(1). See also R.C. § 1311.07.

²¹ Ohio Rules of Civil Procedure 4.1, 4.6; O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 5.10.

²² R.C. § 1311.19(A)(1).

²³ R.C. § 1311.19(A)(2). See also R.C. § 1311.07.

conspicuous place on the premises of the improved property within 10 days after the expiration of the 30-day service period.²⁴

If the person to be served is a corporation, service of the Affidavit of Lien can be completed by serving the statutory agent of the corporation at the address of the agent as kept on record by the office of the Secretary of State.²⁵ The Ohio Secretary of State's Office maintains an internet website where one can locate the statutory agent of a corporation and its address. To find this information go to www.state.oh.us/sos/ and click on the link entitled "Business Queries." After you click on the link, the site will direct you to a form you can input the name of the corporation in order to find the statutory agent and address.

VII. The Owner, Part Owner, or Lessee May Request an Affidavit from the Original Contractor

Under Ohio law, if requested by the contracting owner, part owner, or lessee, an original contractor must serve the owner with an Affidavit setting forth the following information:

-- the amount of the contract between the owner, part owner, or lessee and the original contractor;

-- the name and address of all unpaid subcontractors, laborers, and materialmen;

-- a description of the work or materials provided or to be provided by each unpaid subcontractor, materialman, and laborer; and,

-- the amount due or to become due each unpaid subcontractor, materialman and laborer.²⁶

If the owner, part owner, or lessee requests such an Affidavit, the original contractor must provide it in order to maintain a mechanic's lien. But, if no request is

²⁴ R.C. § 1311.07.

²⁵ R.C. §§ 1311.19(A)(3) and 1701.07(H).

²⁶ R.C. § 1311.021(C)(5); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

made for the Affidavit, then the original contractor need not serve this Affidavit in order to file a Mechanic's Lien.²⁷ If this document is requested by the owner, part owner, or lessee, the original contractor must serve the document upon the owner, part owner, or lessee within the 120-day period for filing the Affidavit of Lien.²⁸

An owner, part owner, or lessee who has requested and received an Affidavit with the information listed above, may make payment in one of the following ways:

-- by making payment jointly to the original contractor and any laborers, subcontractors, and materialmen. If the owner, part owner, or lessee does this, then they are entitled to credit the amounts paid against the amounts due under the original contract;²⁹ and,

-- by the owner, part owner, or lessee withholding payment to the original contractor until it provides lien releases from each unpaid subcontractor, laborer, and materialman.³⁰

VIII. Unpaid Subcontractors, Materialmen, and Laborers--Notice of Claim

Any laborer, subcontractor, or materialman may serve upon the owner, part owner, or lessee a Notice of Claim in writing containing the following information:

-- the name of the subcontractor, materialman, or laborer;

-- a description of the nature of the work performed or to be performed;

-- the materials furnished or to be furnished;

-- the amount due or to become due;

²⁷ R.C. § 1311.021(C)(5).

²⁸ R.C. § 1311.021(C)(5).

²⁹ R.C. §§ 1311.021(C)(6)(a), 1311.15; O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-4.

³⁰ R.C. § 1311.021(C)(6)(a).

-- the identity of the person with whom the laborer, subcontractor, or materialman has contracted;

-- the identity of the well, oil derrick, oil tank, or leasehold production pipeline;

-- the permit number; and,

-- the county upon which such work was or is to be performed or materials were or are to be furnished.³¹

The Notice of Claim can be served in the manner specified earlier for service of the Affidavit of Lien.³²

Service of the Notice of Claim by a subcontractor, materialman, or laborer is not required if:

-- the subcontractor, materialman, or laborer files its lien prior to the owner, part owner, or lessee making full payment on the original contract; or

-- the subcontractor, laborer, or materialman is identified in the Affidavit requested by the owner, part owner, or lessee as described above in Section VII.³³

If neither of the above events has occurred, and the subcontractor, materialman, or laborer has not filed a Notice of Claim, then he will have no lien rights. If either of the above events has occurred, then the subcontractor, materialman, or laborer need not file a Notice of Claim in order to perfect his lien rights.³⁴

³¹ R.C. § 1311.021(C)(6)(c); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

³² R.C. §§ 1311.021(C)(6)(c), 1311.19; O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

³³ R.C. § 1311.021(C)(6)(b); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

³⁴ R.C. § 1311.021(C)(6)(b); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

IX. Extending the Lien to Oil or Gas or the Proceeds of the Sale of Oil or Gas

If a claimant wishes to encumber the oil or gas produced or the proceeds of the sale of the oil or gas produced, the lien will not be effective against any purchaser or pipeline carrier of such oil or gas until a copy of the Affidavit of Lien is delivered to such purchaser or pipeline carrier by certified mail.³⁵ Service of the Affidavit of Lien by certified mail is the only additional step required to extend the lien to the oil or gas or the proceeds of the sale of the oil or gas.

X. Forms

The following are forms that can be used to perfect a lien upon oil or gas well or facilities:

³⁵ R.C. § 1311.021(B); O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 11-3.

Exhibit A
Affidavit for Mechanic's Lien

State of Ohio,
County of _____, ss:

_____, whose address is _____,
being first duly sworn, says that _____ the lien claimant, furnished certain material or
performed certain labor or work furtherance of improvements located on or removed to
the land hereinafter described, in pursuance of a certain contract, with _____,
the owner, part owner, lessee, original contractor, subcontractor, or other person, as the
case may be, whose address is _____. The first of the labor
or work was performed or material was furnished on the _____ day of _____,
____ (year).* The last of the labor or work was performed or material was furnished on
the _____ day of _____, ____ (year), and there is justly and truly due
_____, the lien claimant, therefor from _____,
the owner, part owner, lessee, original contractor, subcontractor, or other person, as the
case may be, over and above all legal setoffs, the sum of _____
dollars, for which amount _____, the lien claimant, claims a lien
on the land, building, or leasehold, of which _____ is or
was the owner, part owner, or lessee, as the case may be, which property is described as
follows:

Sworn to before me and subscribed in my presence this _____ day of
_____, ____ (year).

*This sentence is not required in a mechanic's lien relating to oil and gas development
pursuant to R.C. § 1311.021(C)(3).

SOURCE: R.C. § 1311.06(C).

Exhibit B
Affidavit for Mechanic's Lien

AFFIDAVIT OF LIEN
(O.R.C. §§ 1311.02, 1311.06)

Now comes (A) _____ having been first duly sworn, and states and affirms as follows:

1. He is a duly authorized agent for (B) _____
("C) _____").

2. Pursuant to a contract with (D) _____,
(C) _____ provided certain work or materials for the improvement of the property described in Exhibit A hereto, said property being commonly known as (E) _____.

3. The following persons are or may claim to be owners, part owners or lessees of the property referred to in Paragraph (2) above:

(F) _____

(C) _____ hereby claims a lien against the interests of said person(s) in that property in order to secure the claim described in Paragraph (4) below.

4. The first date that (C) _____ provided the work or materials described in Paragraph (2) above was (G) _____.* The last date that (C) _____ provided work or materials described in Paragraph (2) above was (H) _____. (C) _____ is currently owed (I) _____ over and above all credits and setoffs, for the work and materials described in Paragraph (2) above.

Further, affiant sayeth naught.

(A) _____
Agent for
(B) _____

Sworn to before me and subscribed in my presence this _____ day of _____, 20__.

Notary Public

This instrument prepared by: (J)_____

KEY:

A = Name of affiant

B = Name and address of lien claimant

C = Short form reference for lien claimant

D = Name of person lien claimant had direct contact with

E = Street address or other alternate way of describing the improved property

F = Name and address of each owner, part owner or lessee of the improved property

G = First date that lienor provided work or materials on the project

H = Last date that lienor provided work or materials on the project

I = Amount due lien claimant

J = Name and address of person preparing Affidavit

*This sentence is not required in a mechanic's lien relating to oil and gas development pursuant to R.C. § 1311.021(C)(3).

SOURCE: O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 13-3.

Exhibit C
Affidavit of Original Contractor – Oil and Gas Development

AFFIDAVIT OF ORIGINAL CONTRACTOR
(O.R.C. §§ 1311.021)

County of _____,
State of _____:

Now comes (A) _____, having been first duly sworn, and, pursuant to Ohio Revised Code Section 1311.021(C), states and affirms as follows:

1. (A) _____ is an authorized agent for (B) _____. (B) _____ is an original contractor under a contract with (C) _____ in connection with improvements to certain property of (C) _____.

2. The amount of the contract described in Paragraph (1) above is (D) _____.

3. The following parties are unpaid subcontractors, materialmen or laborers working under (B) _____ in connection with the contract described in Paragraph (1) above. Those parties have provided the following types of work or materials and are or will be owed the following amounts:

Name and address	Type of work or materials	Amount due or to become due
_____	_____	_____
_____	_____	_____
_____	_____	_____

Further, affiant sayeth naught.

(B) _____
By:
Its authorized agent

Sworn to before me and subscribed in my presence this _____ day of _____, 20__.

Notary Public

KEY:

- A = Name of affiant
- B = Name or original contractor
- C = Name of contracting owner
- D = Amount of contract

SOURCE: O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 13-4.

Exhibit D
Subtrade's Notice of Claim – Oil and Gas Project

NOTICE OF CLAIM
(O.R.C. §§ 1311.021(C))

TO: (A) _____

CERTIFIED MAIL
RETURN RECEIPT
No. _____

FROM: (B) _____

You are hereby notified that (C) _____ is, has
or will be providing work or materials in connection with an improvement to your
property located in (D) _____ Township or (E) _____
County, Ohio, said project being described in (F) _____.
(C) _____ has, is or will be providing the following type of
work or materials:

(G) _____

(B) _____ is or will be due

(H) _____ for said work or materials.

You are so notified.

(C) _____

By: _____

Its authorized agent

KEY:

A = Name and address of contracting owner

B = Name and address of subtrade

C = Name of subtrade

D = Township that the project is located in

E = County that the project is located in

F = Permit description and number

G = Description of work and materials

H = Amount due or to become due

SOURCE: O'Rourke, Ohio Mechanics' and Materialmen's Liens (3rd Ed.), § 13-5.