DOCUMENTING THE FARMOUT AGREEMENT

MARK K. BOLING
President, V+ Development Solutions
and General Counsel
Southwestern Energy Company
Houston, Texas
mboling@swn.com
281-618-4806

State Bar of Texas
OIL, GAS AND ENERGY RESOURCES LAW 101
October 2, 2013
Houston

CHAPTER 1
# TABLE OF CONTENTS

I. Introduction ......................................................................................................................... 1  
1.01 Managing Exploration Risk .................................................................................... 1  
1.02 Types of Exploration Ventures ............................................................................... 1  
1.03 Goals of the Documentation Process ...................................................................... 2  

II. Getting the Business Deal Right ......................................................................................... 2  
2.01 The Term Sheet/Letter of Intent ............................................................................. 2  
2.02 Avoiding the “Unintended Contract” ...................................................................... 2  

III. The Farmout Agreement .......................................................................................................... 4  
3.01 The “Go By” Agreement ........................................................................................ 4  
3.02 The Document Preparation Checklist ..................................................................... 4  
3.03 The Farmout Agreement Checklist ......................................................................... 4  

IV. Avoiding Common Documentation Mistakes ................................................................. 12  
4.01 Complying with the Statute of Frauds .................................................................. 12  
4.02 Recognizing the Tax Consequences of the Transaction ....................................... 14  
4.03 Coordinating the Farmout Agreement with the Operating Agreement ................ 15  
4.04 Recognizing the Limitations of the Operating Agreement ................................... 17  

V. Putting It All Together ...................................................................................................... 20  

VI. Conclusion ........................................................................................................................ 20  

Appendix A – Form of Farmout Agreement  
Appendix B – Sample “Other Provisions” for Operating Agreement  
Appendix C – Description of Hypothetical Farmout Opportunity  
Appendix D – Powerpoint Presentation Materials  

* This paper was presented at the 56th Annual Rocky Mountain Mineral Law Institute. Portions of this paper were originally published by the Rocky Mountain Mineral Law Foundation in the Rocky Mountain Mineral Law Foundation Journal, Vol. 42, No. 2 (2005).