



PRIVATE AND INDEPENDENT SINCE 1923

ROUND 1

Written by John Melko¹

General Overview

Your objective is to negotiate an agreement with respect to surface usage of the Binton Ranch between mineral lessee Vigilant Oil & Gas Company and solar lessee Bright Tomorrow Solar, Inc. As described below, both parties have negotiated, but not yet executed, their respective leases with the owner of the Binton Land & Cattle Company, LLC. In order for both lessees to be able to fully enjoy the benefits of their leases, they will need to find a way to work together.

The Parties

There are three parties involved, though as explained below, the position of the owner of the land and minerals in fee is fixed, and the purpose of the negotiation is to negotiate an agreement between two partially competing lessees which will give them each the benefit of their bargain, and at the same time, meet the requirements of the owner.

The Parties are:

Binton Land & Cattle Company, LLC:	owner of land and mineral rights in fee simple absolute;
Vigilant Oil & Gas Company:	a shale focused exploration & development company;
Bright Tomorrow Solar, Inc.:	a SPAC (defined below) with the stated purpose of developing, owning and operating solar installations and related businesses.

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Facts Known to All Parties

Binton Land & Cattle Company, LLC (“BLCC”) owns a 5,000-acre ranch which straddles the Ward and Winkler County line.² The ranch was settled by Cyrus Binton in the late 1800’s and has been in the family ever since. BLCC was, and has been first and foremost, a cattle ranch. But given the ups and down of the ranching business, it sought other sources of revenue over the years.

First, it tried running a dude ranch, but found that too many of its guests were more interested in spa treatments than experiencing the outdoors. Then it tried raising exotic livestock for high dollar hunts during the time that Pulitzer Prize recipient James Michener’s *Texas* was having its heyday. It found the problem with exotics was that they were ingenious at getting out of the fenced thousand acre preserve, and they also overgrazed the land.

Finally, George P. Mitchell, the American businessman, real estate developer and philanthropist from Texas cracked the code on economically coaxing oil and gas from shale formations. Mitchell was born to Greek immigrant parents in Galveston, Texas in 1903. He graduated from Texas A&M University after earning a degree in petroleum engineering with an emphasis in geology.

Up until Mitchell perfected fracking in the early 2000’s, every oilman who drilled into a shale formation knew three things: (i) core samples of shale showed it to be a tightly packed, finely grained rock; (b) shale formations contained oil and gas; and (c) the grain of the rock was so tight that the hydrocarbons could not be profitably produced. Shale was thought to be a “trash rock” that had to be drilled through to get to the money zone.

Mitchell figured out that directional drilling techniques could be exaggerated into drilling what are literally horizontal well bores. Then, those well bores could be periodically “fractured” or “fracked” to open microscopic fissures in the rock through which oil could find its way into the well bore and produced at the surface. In massive quantities.

The Permian Basin, a large sedimentary basin located under much of West Texas and parts of eastern New Mexico, including Ward and Winkler counties, had traditional, vertical drilling for over 100 years. And so the area of BLCC was known to have oil bearing reservoirs in pockets beneath parts of it. But when horizontal drilling and fracking yielded mammoth oil finds, it set off a mad scramble by lease brokers to acquire drilling acreage and either flip those leases to oil & gas companies, or to find leases on behalf of oil & gas companies who had contracted with the broker but wished to remain anonymous until the lease was signed to avoid wily ranchers holding out for unreasonable prices because they believed the major oil company could afford it.

The geology in the area is well enough understood, and so BLCC was approached by several lease brokers. While ownership of the minerals has been severed from the surface acreage in the areas surrounding the ranch, BLCC’s title predates oil & gas exploration in Texas by several decades. Cyrus Binton knew cattle, and he knew people. And he lived a long time. He watched his neighbors build large successful ranches, send their kids to fine schools, only for those later generations to either lose interest in ranching or to squabble among themselves resulting in the

² County map attached.

ranches being split up into many unsustainable parcels. Cyrus and his wife Henrietta, wanted above all to keep their family together after they were gone, and to maintain the integrity of their ranch.

In an effort to avoid the ranch being split up by successive generations who barely knew each other, Cyrus and Henrietta, as they entered their golden years, deeded the ranch into a family partnership, with equal shares being owned by each of their six children, per stirpes. The deed transferred fee simple determinable, such that if the primary use of the land ever changed from ranching, title would transfer to the county for use as a nature preserve, unless a super majority of the partnership (now an LLC) voted to change the nature of the land usage. Family members, themselves the product of fine universities, and schooled in biology, botany, math and computer sciences, served as Managers of the LLC and ran the ranch efficiently, producing high quality, range fed, organic beef, prized by restaurants and high-end grocers.

The Binton Ranch, as it was known in the area, sat atop valuable oil & gas reserves. However, by a fluke of geology, the seismic data showed that it did not overlay a sweet spot of reserves. But it was still a particularly attractive location because it was still in a production area, and unlike much of the surrounding land which required signing up many leases with the heirs and assigns of the original mineral owners, Binton Ranch only required one lease as the minerals had never been severed from the surface ownership.

In some respects, that also made it a difficult lease to acquire because the Binton heirs had honored their forebears' wishes. The ranch was generally viewed as a model ranch, and a bit of a throwback to simpler times. Reflecting that ethos, the Binton managers were difficult negotiating partners, hewing to the old adage that ranchers did business on a handshake and made unbreakable deals, but oil men needed thick contracts, and had to be watched closely.

BLCC rode out several decades of the "shale revolution." Now, however, with the streams and aquifer it used for irrigation pressured by commercial and residential development, and the sudden run up in oil prices exacerbated by the lack of any sort of comprehensive energy policy, it seemed to be a propitious time to finally sign up an oil & gas lease.

After arduous negotiations with many prospective counterparties, BLCC has negotiated but not yet signed a highly bespoke mineral lease (the "Mineral Lease") with the Vigilant Oil & Gas Company ("Vigilant") for the mineral rights of the entire ranch. Word of a general agreement between BLCC and Vigilant has spread through the area and is a hot topic of conversation among the surrounding ranches and the community's leasing professionals.

Then last month, the Managing Member of BLCC was approached by Bright Tomorrow Solar, Inc. ("BTS") to build out a 500-acre solar farm. BTS is a special purpose acquisition company (a "SPAC") which recently went public on the NASDAQ as a result of its reverse merger with a publicly traded company that went broke but maintained its public listing. Prior to going public, the promoter put together a management team of well-known executives from the solar field. Based on the experience and track record of its management team, BTS then "went public" and managed to attract \$150 million in new investments, primarily from smaller institutional investors looking to add green energy to their portfolios.

Under the regulations governing SPAC's, the company must find a suitable investment on which to commit to invest the funds raised from investors within two years of its public offering. If it cannot find such investment, it must refund that money to the investors. BTS has a little over 12 months remaining to find an investment in a solar facility, the basis on which it marketed its securities. BTS has had lease brokers running all over West Texas looking for large tracts of unleased land with proper terrain, good road access, and sufficient separation from densely populated areas where it can readily access and build out a solar field without disruption. BTS recently came across the Binton Ranch, and lawyers for both sides have almost completed negotiations.

The technology that BTS will use will be solar panels. The most common form of solar panels are sheets of silicon solar cells assembled into glass like panels. These cells use a photovoltaic process to convert sunlight directly into electricity and require water only for periodic cleanings to remove sand and other dirt. These differ from "solar collectors" which are mirrored panels which reflect light onto a single source thereby generating tremendous heat which in turn drives steam turbines. Needless to say, solar collectors require massive amounts of water and create zones of heat high enough to kill wildlife and of course livestock and are no longer commonly used. Solar cells have a useful life of roughly 20 years and require little maintenance. Unfortunately, at the end of the useful life of the panels, due to the high cost and energy intense process of recycling, it is impractical to do so. Accordingly, broken or worn-out solar panels, like the carbon fiber blades of wind turbines, are all destined for landfills at the end of their service.

In Texas, the mineral estate is deemed to be the "dominant" estate, meaning that the surface of the leased acreage is subservient to the mineral lease. This means the surface is available to the mineral lessee for drilling activity, plus reasonable ingress and egress to its operations. By the same token, if a mineral lessee obtains a lease on land where the surface is already in use, it must make "reasonable accommodations" for the surface use. Thus, by way of example, a lessee cannot lease minerals on a ranch and declare that the only acceptable drilling site would be in the middle of the ranch house.

The law on solar leasing is still developing, and to a certain extent looks to the substantial body of law on mineral leasing. Conflicting land/solar use cases (in the absence of a mineral lease) have recognized that if a surface owner enters into a solar lease, because solar gathering can only be conducted on the surface, other surface uses are secondary, subject to reasonable accommodation.

Of the few cases dealing with conflicts over surface use between mineral and solar uses, none have suggested that a solar lease's surface use would dominate over that of a mineral lease's, but that as a surface use, a solar lessee may be able to insist that the dominant mineral estate "reasonably accommodate" its use of the surface.

BTS' diligence has shown that the northwest 500 acres of the Binton Ranch is particularly hard scrubble and generally unfit for ranching. But the parties also realize that a solar installation will occupy that acreage for decades, denying use of the land for any other purpose should BLLC have such use in the future. Because solar installations require water for the regular cleaning

necessary to maintain the efficiency of solar panels, BLCC has agreed as part of the Solar Lease to sell water to BTS at a fairly high price, if BTS desired to purchase the water.

Both oil & gas operations and solar farms require good service roads over which heavy equipment can be moved. This will ultimately leave BLCC with good roads that could be utilized if it wished to develop the property once the leases have concluded. By the same token, those roads would take away usable ranch land. Thus, BLCC is ambivalent as to whether to require road removal as part of end of lease remediation in both leases. The event is far enough in the future, so that BLCC has stated it would be willing to agree to its lessees' preferences at the future date, with the ultimate cost of removal to be borne by the lessees if remediation is agreed to, or by BLCC, if it elects to keep the roads

BLCC has fully negotiated but not yet signed the O&G Lease with Vigilant and the Solar Lease with BTS. Consistent with its motto of fair dealing, BLCC has disclosed the existence but not the terms of the O&G Lease and a Surface Use Agreement to BTS; and it disclosed the existence but not the terms of the Solar Lease to Vigilant. Having made full disclosure, BLCC intends to enter into both leases. However, in order for both lessees to be able to fully enjoy the benefits of their leases, they will need to find a way to work together.

BTS has asked BLCC's permission to speak directly to Vigilant in an effort to come to a surface use agreement. BLCC's lead negotiator gave permission, both in writing and verbally, telling BTS that he thought it best if BTS got together with Vigilant to see "... if y'all can work something out", but cautioned BTS not to get together with Vigilant "... and come to see me with your hand out."

Attorneys on behalf of BTS and Vigilant will be meeting virtually on March 25th to negotiate a surface use agreement.



- 1 - Winkler County
- 2 - Ward County
- 3 - Loving County

Confidential Information for Attorneys Representing BTS

The cost of installation of solar panels is incredibly expensive and can easily top \$500,000 per acre. However, BTS believes that it can build out a 500-acre solar farm at the Binton Ranch, utilizing cash from the sale of equity, project financing, and certain tax credits and incentives that it is confident it will be entitled to.

Having established its SPAC status, the clock was ticking for BTS to identify a parcel of land, and for BTS to negotiate a lease and plan for installation. As described above, its agent found a parcel of land used for ranching in West Texas. That land happened to be located on the Binton Ranch.

Additionally, BTS has been negotiating simultaneously with construction companies, utility companies to “off-take” the power BTS hopes to produce, and high voltage transmission providers to carry the electricity. Because solar panels are rated for output, the design of the “solar farm” tends to be cookie cutter, and solar producers all rely on the same historical and predicted weather pattern data. BTS has been able to make quite a bit of progress lining up these other pieces of the puzzle on an “if, then” basis, all subject to successful negotiation of the surface lease with BLCC. These steps have been necessary because BTS’s board will not approve any one of these contracts until the solar lease is in place, firm bids have been received by BTS, and its budgets have been approved by senior management and their outside financial advisors.

BTS’ management believes that once everything else is in place, the company will be able to raise debt financing for the substantial amounts over and above the equity investment needed to build out the solar installation and ancillary support entities. If nothing else, having secured a lease, and a full suite of construction, transmission and power sale agreements, BTS believes it can flip the company to another solar company, even if BTS cannot raise adequate financing for the build out.

But in addition to the time remaining to reach a committed project under SPAC regulations, BTS is also sensitive to questions about continuing tax credits and potentially costly regulations being considered which could require that alternative energy providers “winterize” equipment (at very high costs) in the aftermath of Winter Storm Uri.

As far as location goes, BLCC’s site is BTS’s best option, and to the decision makers at BTS, it is the only viable option, given the remaining time pressures described above. But there is another relevant factor in favor of the BLCC site. BTS’ chairman of the board, Tex Rillerton, owns a ranch on the southeastern edge of Loving County, just where it touches Ward and Winkler counties. The ranch has no oil but has more water than it can use. A number of years ago, savvy investors acquired a number of West Texas ranches primarily for the water rights, and this has turned into a good business for them. Rillerton had that in mind for the ranch when he acquired it and was lucky to do so during a real estate “crash”, so he paid a low price. Given his sizeable investment in BTS and his low-cost basis in the ranch, Tex has agreed to sell water to BTS at a below market rate, “to be used in BTS’ discretion.” A conflict committee comprised of independent directors of BTS’ board, as well as its outside securities lawyers, have signed off on the deal.

In early planning meetings, BTS management has brainstormed a “what if” scenario revolving around what to do with excess power production in the event that during periods of strong sunshine, its production exceeds its ability to sell that power into the transmission grid. One of the alternative uses discussed was mining crypto currency. Management quickly realized that crypto mining required a continuous and steady supply of power, i.e., not only 24 hours a day, but at a steady rate to avoid power spikes, as well as “brown outs,” to the banks of computers required, plus significant cooling capacity. Current storage technology, i.e. batteries, have not yet developed sufficiently to handle several consecutive days of cloud cover, snow or rain. What is needed is another source of readily available power. Electricity generation companies and grid managers that use large amounts of either wind or solar power, typically have standing contracts with traditional power generators which can be cycled on quickly. These are called “peaker plants” because they are available at peak usage periods. These peaker plants normally use coal, oil or natural gas as feed stocks because with no more than a few hours’ notice, they can be generating at full capacity and then can shut down.

If a solar farm had its own, small peaker plant to provide a steady stream of standby power to supplement excess solar power, a producer could power the computers necessary to mine crypto currency. This is actually an area where Vigilant may be able to help. Permian Basin formations have historically produced very high percentages of oil, often with small to negligible amounts of natural gas. Because the gas quantities are small, they have generally not justified building pipelines to transport it to market, even at today’s high prices. Producers have injected some of this gas back into the geologic formation to increase reservoir pressure which helps drive oil into the well bore and then to production. Quantities which cannot be reinjected have historically been flared. Even counties in Texas with flaring bans typically have permits available for small, intermittent, or emergency flaring. However, BLCC’s lease has a strong “no flaring” clause. If Vigilant’s natural gas production is insufficient to justify building a transportation line to a larger pipeline to reach the market, it will have to either reinject it into the formation, or to shut in the well (literally, to turn the valves off thereby “shutting in” the well). One option to explore during negotiations is for Vigilant to sell its excess natural gas to BTS.

BTS, for all of its time and operational pressures, has some unique opportunities. It has a location which could have a steady gas supply from Vigilant to run generators to supplement its solar production if it wants to pursue crypto-currency mining. And while its own needs for water are relatively small, it has an abundant supply at a bargain price. But it hasn’t completely solved its timing problem as the clock on its SPAC status continues to run down. Its chairman, Tex, has told his senior managers that based on his experience, Vigilant will have challenges that BTS could help with in a way which would help itself. Likewise, he knows that well-siting and timing are largely up to the operator (i.e., Vigilant) and tells management to be alert to whether there is some horse trading which can be done. If BTS is going to close the deal on time, it must proceed as quickly as it can, so it has some pressure to come to terms with Vigilant sooner rather than later as knowing that all other issues are resolved will smooth negotiations with BLCC.

Specific Negotiation Authority Granted to Attorneys for BTS

BTS's management and the Board believe that they need this lease and are willing to be creative with respect to cooperating with Vigilant. However, BTS has several concerns. Most important among these are being able to finalize lease negotiations with BLCC and finalizing a construction schedule and budget. The precise construction schedule and budget are dependent upon the outcome of its talks with Vigilant. And its authorization by its board to commit to a lease with BLCC is dependent upon finalization of that budget. So BTS is running against the clock. Overall however, BTS sees several advantages that it can gain from cooperation with Vigilant, and it believes it has something valuable to trade.

First, BTS wants to dangle a carrot in front of Vigilant. In return for other accommodations, it can offer a steady supply of water to Vigilant at a price equal to the lowest market price available in the area. The market price in the area ranges from 25 cents per bbl. to 50 cents per bbl. BTS can make this offer because of Rillerson's commitment to supply water from his ranch. BTS has authorized you to offer to lock in the 25 cent/bbl. price, but you are authorized to go as low as 15 cents per bbl. if necessary to make a deal.

BTS knows that Vigilant's Mineral Lease and Surface Use Agreement with BLLC will restrict drilling sites to three locations west of the center point of the lease, spread evenly north to south. However, Vigilant is free under the proposed lease with BLLC to select the sequencing of the three drill sites it has agreed to (i.e., it can start at the northernmost, southernmost, or middle site at its discretion). BTS really needs Vigilant to make its first drilling site the northernmost site that it has planned, and to complete operations on that site promptly. The solar lease will completely occupy whatever acreage it is built out on for 20 years. BTS recognizes that the northwest corner is nearly worthless for ranching. Thus, a solar lease on that tract will not interfere with ranch operations, and Vigilant can complete operations and get out of BTS' way in time for BTS' SPAC timing to work. If, for example, Vigilant started another location and got to the northernmost tract later, it would be in direct conflict with BTS' already built out solar farm. Drilling takes a lot of space while it is being conducted, but once the well is completed, all that is required is a relatively small piece of land for maintenance. If BTS built out first, there would be no room for drilling operations to commence.

Generally speaking, a horizontal well can be drilled and completed in a month or less. BTS understands that if Vigilant commences operations, but slows completion, Vigilant could do so and still be in compliance with the O&G Lease. This could cause budget and other potentially project timing problems for BTS, so the sequencing and timing of Vigilant's operations is the most critical benefit that you've been directed to obtain in negotiations. The optimal timing for BTS would be if Vigilant drilled its northernmost site first, with completion of the well accomplished no later than 100 days after signing the O&G Lease with BLLC, and in no event later than 130 days from the date of these negotiations. This would mean that Vigilant would have to finish discussions with BLCC and execute the O&G Lease no later than 30 days from the date of negotiations with BTS.

Third, BTS has held its crypto currency mining plans in strictest confidence. Divulging these plans could cause Vigilant to start its own crypto operation, so secrecy on that point is to be maintained. Thus, you've been directed to negotiate the right but not the obligation to purchase

any natural gas not used on the lease for BTS on-site power generation needs, without getting into specifics. Knowing that otherwise stranded gas is something that is a problem for all Permian oil producers, BTS expects that Vigilant will see this as a benefit.

You anticipate that there will be four separate costs to negotiate if Vigilant is willing to sell excess gas to BTS: 1) gas processing costs Vigilant will incur; 2) royalties Vigilant must pay to BLLC; 3) how much Vigilant will charge BTS for the gas itself; and 4) the cost of constructing a small pipeline to transport the gas from Vigilant to BTS.

Because processing costs will be minimal and this is an overall benefit for Vigilant, BTS is not willing to reimburse Vigilant for the processing costs they will incur. However, BTS is willing to work with Vigilant on the other costs. BTS recognizes that Vigilant must pay royalties to BLLC under their own O&G Lease for any gas sold but not used in lease operations. Therefore, BTS is willing to reimburse Vigilant for these royalties. Regarding the cost of the gas itself, BTS has authorized you to negotiate a gas purchase price equal to Vigilant's cost to produce. And lastly, there will also be costs associated with building a small pipeline to carry the excess gas from Vigilant's processing plants to BTS's own generators. BTS anticipates that Vigilant will not want to pay for the pipeline construction, however, you know that offloading the excess gas is also advantageous for Vigilant. Therefore, you are authorized to pay up to 65% of the costs, but ideally you would end with an equitable 50/50 split of pipeline construction costs.

Lastly, BTS will need access to the roads that Vigilant will build. Normally, Vigilant and similar O&G companies have to build roads to remote sites. The surface owner customarily is granted use of those roads so long as such use does not interfere with the mineral lease. A lessee of the surface rights, such as a solar lessee, would likely enjoy that same right of access and usage, but the law is undeveloped in this area. BTS believes that its solar lease should be construed to allow it to use any roads that the surface owner has access to, but it cannot afford the delay of a long, drawn-out court battle. Accordingly, BTS has instructed you to offer to reimburse Vigilant up to 25% of its costs associated with road construction in return for road access and use, but it has permitted you to settle at a 50% reimbursement if absolutely necessary to make a deal, provided the other points can be accomplished.

Confidential Information for Attorneys Representing Vigilant

The currently negotiated draft of Vigilant's Mineral Lease with BLLC will have a primary term of 18 months and a secondary term that runs so long as oil & gas are produced in paying quantities. The "primary term" of a lease is the period of time during which the lease remains in force even in the absence of drilling or production in paying quantities. Thereafter, if production in paying quantities stops, the lease may be kept in force under one of the commonly found provisions requiring that the cessation of production be time limited, and only during certain defined events such as maintenance, or other events for which additional payments are required. This subsequent term is generally called the "Secondary Term".

Because BLLC was concerned that they might miss the current price boom, the lease will provide a tight drilling and completion schedule. Wells are to be drilled and completed which were "producing in paying quantities" at the minimum rate of three per year, with the beginning of the period commencing within the primary term of the lease. Wells drilled in excess of three do not carry over to the successive year. Failure to drill and complete a productive well on time would result in loss of acreage under the lease in a pre-negotiated pattern and direction spanning a width of 300 yards and a length of 25,000 feet. Failure to establish any continuous drilling operations during the primary term would result in a termination of the entire lease. There is a delay rental provision that in effect "buys" a six-month extension. The amount bargained for and agreed to is \$10 million dollars, as "delay rental", which is less than half of the lease bonus Vigilant paid of \$5,000 per acre.

The lease will be coupled with a land use surface agreement (the "Surface Use Agreement") which includes a provision whereby BLCC will sell fresh water to Vigilant for use in its operations. Fracking requires large quantities of either fresh or recycled water during the drilling and completion process. BLCC's water is priced above the going market rate, in part to encourage Vigilant to be efficient, but also to encourage Vigilant to find another source of water. BLCC should have sufficient water to supply Vigilant's projected needs and to maintain ranching operations. But if snow fall further north is light or other drought conditions occur, or Vigilant's projections are off, there will be shortages.

Mindful of this, BLCC's obligation to supply water is conditioned on the accuracy of those projections as well as an unusual provision that permits BLCC to deliver less water if weather conditions result in a lower water table and surface water supply than the prior five-year rolling average. Mathematically, if there are several years of dry conditions, the water available to Vigilant would successively ratchet down.

Vigilant is aware of the potential water limitations. Because BLCC can limit the amount of water it sells within the terms of the land use agreement, if Vigilant is successful at a given drilling location, it may opt to drill and complete more than three wells. In fact, operators using modern techniques can drill as many as nine wells from a given drilling site by "stepping out" the well from the main well bore, drilling diagonally to establish a new direction or a varying depth, and frequently both, for the new horizontal well. This is only done where the drilling zone is a relatively "thick" layer of oil-bearing shale such that each new well will not siphon oil from its "sister wells".

In terms of timing, a horizontal well can be drilled and completed generally in a month or less, and sometimes as quickly as two to three weeks. That means that even if any one location proves to be highly productive, it could drill out a maximum nine wells and remediate the acreage used for staging drilling operations in well under a year.

Drilling a well is a messy business until the well is completed. Thereafter, the several acres surrounding the well site which had been used for staging and assembling drilling rigs, fracking equipment and the like can be restored to original condition, except for approximately an acre or less which is normally fenced off, planted with sod and maintained so that work crews can periodically access the wells and storage tanks. Vigilant equates time to money and is known for pressing its crews to stick to a schedule.

Ironically, the more successful that Vigilant's drilling program is, the more it runs the risk of exceeding its water allotment. That would leave two alternatives: (i) processing wastewater from its drilling operation; or (ii) buying barrels of fresh water on the market. Recycling water from drilling operations, and from production thereafter, is inordinately expensive. Purchasing water on the open market is an option, especially in light of BLCC's water pricing. However, open market transactions, and transportation, inserts just one more risk factor. In the specific area of BLCC, fresh water sells for 25 to 50 cents per bbl. This is really Vigilant's only viable option, but still an expense it would like to minimize. This makes it an attractive area for negotiation, if it can find a willing party with whom to negotiate.

Vigilant is restricted under the proposed lease with BLCC to drilling sites at three locations the parties had agreed upon west of the center point of the lease, spread evenly north to south. However, Vigilant is free to select the sequencing of the three drill sites it has agreed to, i.e., it can start at the northernmost, southernmost, or middle site at its discretion. Vigilant is largely indifferent to the order or sequence in which it drills the wells it has agreed to. Vigilant does not know exactly where the BTS solar lease will be but knows that there is overlap in surface usage needs and sees this as a key negotiating lever it can use.

There is one other potentially serious limitation under the lease. Permian Basin formations have historically produced very high percentages of oil, often with small to negligible amounts of natural gas. Because the gas quantities are small, they have generally not justified building pipelines to transport it to market, even at today's high prices. Producers have injected some of this gas back into the geologic formation to increase reservoir pressure which helps drive oil into the well bore and then to production. Quantities which cannot be reinjected have historically been flared. Even counties in Texas with flaring bans typically have permits available for small, intermittent, or emergency flaring.

However, BLCC's lease has a strong "no flaring" clause. If Vigilant's natural gas production is insufficient to justify building a transportation line to a larger pipeline to reach the market, it will have to either reinject it into the formation, or to shut in the well (literally, to turn the valves off thereby "shutting in" the well). Some producers have found creative uses for the gas, but that is currently not commonplace, and Vigilant has not yet identified any other use for the small but steady stream of gas that it will have to deal with. Without some answer to the

potential excess natural gas problem, Vigilant runs the risk of having to shut in the well for periods of time longer than the periodic maintenance shutdowns permitted by the lease terms it negotiated so far with BLLC. If it exceeds the maximum shut in period, it risks losing leased acreage as whichever well that is shut in will no longer be producing in paying quantities. BLCC has been in discussions with other local producers about potentially tying into their gathering systems. However, the prices at which those competitors are willing to consider allowing Vigilant to connect to its gathering systems are exorbitant.

While Vigilant has taken every reasonable step to keep their negotiations, and especially their difficulties, confidential, its problems (gas to be disposed of and a supply of water) are common throughout the Permian, and thus are suspected to exist by its negotiating parties.

Vigilant needs to at least try to negotiate an accommodation of surface usage with BTS. Vigilant believes that as the dominant estate, Vigilant has the upper hand. It knows from its diligence about BTS that the solar company is on the clock. It needs to take the meeting with BTS to appease its lessor, BLCC, but unless BTS can demonstrate some advantages it can give to Vigilant, then the oil company is willing to slow-play negotiations.

Specific Negotiation Authority Granted to Attorneys for Vigilant

Vigilant has varying degrees of latitude as to the location and timing of its drilling activity. It realizes that the timing and placement of drilling operations can help or hinder the solar lessee. Vigilant also realizes that by commencing drilling operations while BTS is raising money and before BTS actually commences construction, it will not have to offer reasonable accommodation to an existing solar use, as none will have been established. From BTS's public filings and press releases, Vigilant believes that it can sequence its drilling operations in such a way to run BTS close to its SPAC deadline, but also knows that BTS has some defensive measures available to it.

The only thing Vigilant really gains from strategic timing decisions is a bargaining chip which it can use in negotiations with BTS. It has no preference for the location of the first well. But ideally, Vigilant would like some leeway in terms of sequencing its drilling and completion dates. For budgetary reasons, Vigilant wants at least 80 days, if not more (from the date of signing the O&G lease with BLLC) to drill the first well.

Vigilant is aware that solar farms require water for occasional cleaning of the panels. Given the rumored size of the solar lease, Vigilant assumes that BTS may have made separate arrangements for water since BLCC may not have enough excess water to service the Vigilant lease as well as the BTS lease. Vigilant has instructed you to probe this issue and to negotiate for water at or below the market price (25 cents to 50 cents per bbl.) and to aim for 25 cents or less locked in for the duration of drilling operations. If BTS has a water supply at a price equal to or below market that it can share with Vigilant, that would be valuable consideration for Vigilant to gain in return for adjusting its drilling and completion schedule to best accommodate BTS.

The second area of negotiation between Vigilant and BTS concerns road construction costs and use of those roads. Normally, Vigilant and similar companies have to build roads to remote sites. The surface owner customarily is granted use of those roads so long as such use does not interfere with the mineral lease. A lessee of the surface rights, such as a solar lessee, would likely enjoy that same right of access and usage, but the law is undeveloped in this area. Thus, any cost sharing that Vigilant can extract from BTS would be a material benefit. Vigilant has instructed you to propose that BTS pay or reimburse Vigilant for 60% of road construction costs, since BTS would be the primary user of the roads once Vigilant completes drilling operations, but Vigilant has also authorized you to settle for as low as a 35% if necessary.

The final point to be negotiated has to do with any natural gas needs that BTS may have. Given the size of its installation, BTS will likely place one or more construction office buildings and temporary offices near where Vigilant plans to drill. Prior to BTS producing solar power, and during evenings and overcast periods when no power is being produced, BTS will need on-site generators. Vigilant will also need some amount of electrical power. Vigilant intends to build a simple processing unit to strain the natural gas liquids from the natural gas and to use the resulting “dry gas” to power its own generators. It will have to re-inject the rest to the best of its ability. Vigilant projects producing more natural gas than it can use and is concerned that it will not be able to inject the remainder back into the formation without pushing the oil so far back in the formation that it is unreachable.

Up until recently, any excess gas could simply be flared, but that is now a prohibited activity. Thus, Vigilant is open to making natural gas produced as a byproduct available to BTS. If this is something BTS is interested in discussing, there will be four separate costs that need to be negotiated: 1) processing costs Vigilant will incur; 2) royalties Vigilant must pay to BLCC; 3) how much Vigilant will charge BTS for the gas itself; and 4) the cost of constructing a small pipeline to transport the gas from Vigilant to BTS.

Vigilant is willing to sell BTS the gas at a purchase price equal to Vigilant’s cost to produce, in return for water and road cost concessions. However, BTS would have to agree to reimburse Vigilant for the royalties to BLCC on the gas sent to BTS because Vigilant is required under the O&G Lease to pay royalties on gas sold and not used in lease operations. These royalties would be a direct pass through, so the amount isn’t negotiable. Because any use of gas would solve a problem for Vigilant, it has authorized you, if necessary, to offer to pay processing costs (which are minimal), and only if necessary, to pay up to 50% of the costs associated with constructing a small diameter pipeline from Vigilant’s processing plant to BTS’s generators.