

Oil & Gas Law

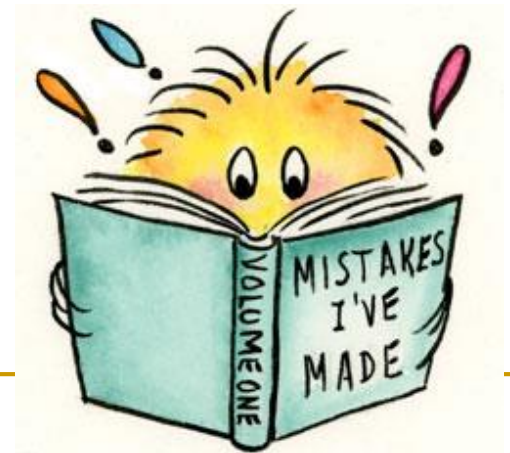
Class 17:

Lessor Title Issues (2 of 6) – Shared Ownership

CL 16: Clearing Up ...



- Barker p.414: 2 diff. royalties
- Problem p. 410: ¶ 3
 - → Harris shares this b/c it's a royalty (see N1)



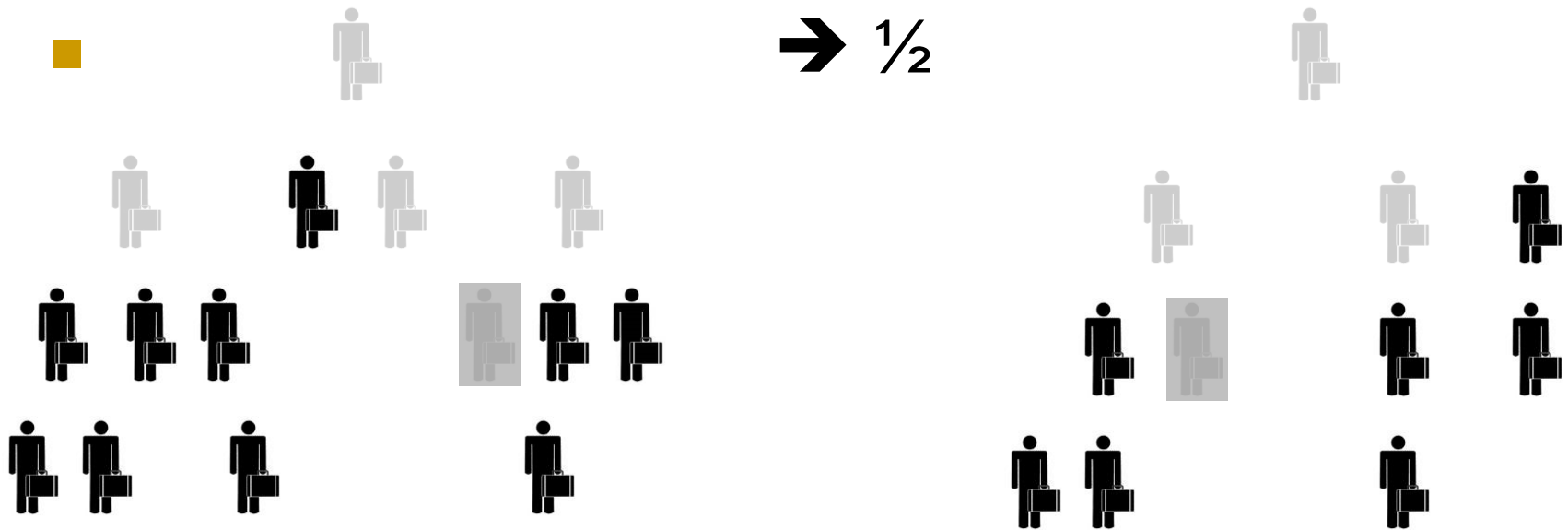
Where We Are ...

- Last Class (CL 16)
 - -- distinguished between mineral interest and royalty interest
 - -- creating those 2 interests
 - -- 2 main principles
- Tonight
 - -- shared ownership of the mineral interest

Why is Shared Ownership Important?

- Mineral interest is the “source” of the OGL
- Shared ownership is a very common occurrence that the Lessee will inevitably have to face

Shared Mineral Interest Ownership



Why is Shared Ownership Important?

- If there's disagreement among the mineral owners on whether or not to develop the minerals / sign an OGL (i.e., some want to, some don't), questions will (and do) arise
 - Without unanimity, can minerals be developed?
 - after all, [unlike personal property] someone's share of minerals would be taken without their consent
 - If yes, what obligations do the pro-development mineral owners owe to the anti-development owners?
 - just because an owner is against development, that doesn't mean they lose their rights

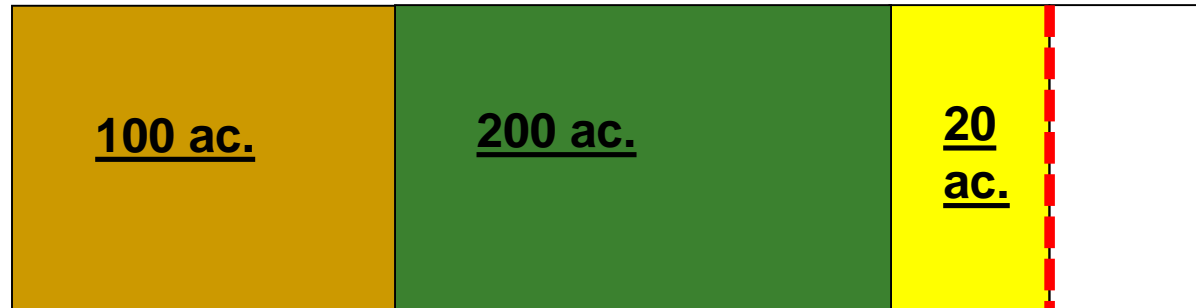
Types of Shared Mineral Ownership

- ***What are the 2 types?***
- Concurrent and Successive
- **Concurrent:** meaning “at the same time”
 - ❑ Co-tenancy
 - ❑ Partition
 - ❑ Community Lease
- **Successive:** meaning one after the other
 - ❑ Limited current tenancy (life estate; term of years)
 - ❑ + + +
 - ❑ Remainder interest

Concurrent Shared Ownership – Less Common Types

■ Community Lease

- Less common; generally handled by pooling
- Problem – p. 444



- $A \ \& \ B = \frac{1}{2} \times (\frac{1}{3} \times \frac{1}{2}) = \frac{1}{12} + \frac{1}{12} = \frac{2}{12}$
- $C = (\frac{2}{3} \times \frac{1}{2}) = \frac{2}{6} = \frac{4}{12} \rightarrow \frac{4}{12}$
- $O = \frac{1}{2} = \frac{6}{12} \rightarrow \frac{6}{12}$
- **NOTE: Principle #2 !!**

Concurrent Shared Ownership – Less Common Types

- **Partition:** *What is this?*
- Mandatory splitting of mineral estate; *WHY?*
- **Problem** – one side may contain more minerals than another
 - **Moseley:** “one of the consequences” of co-tenancy (p. 446 next-to-last ¶)
 - 2 kinds: in-kind, or forced sale
 - **Moseley:** equity applies to the method, *NOT* the determination of whether or not property should be partitioned
 - **N3:** types of issues that can arise

Concurrent Ownership: Co-Tenancy

■ 3 types

- Tenancy in common
 - Separate, undivided interests that can be unequal
 - The type most often used
- Joint tenancy
 - Owners all own 100%
 - The “4 unities”: “PITT”
 - If any 1 of the “4 unities” are missing, no Jt. Ten.
 - → instead, it reverts back to tenancy in common
- Tenancy in the entirety
 - H & W; used in very few states

Concurrent Ownership: Co-Tenancy

■ Primary Issues

- *Absent unanimity, can the oil and gas be developed?*
- If so ...
 - *What rights do the non-developing co-tenants have?*
 - *What obligations (if any) do the non-developing co-tenants have?*
 - -----
 - *What rights do the developing co-tenants have?*
 - *What obligations (if any) do the developing co-tenants have?*

Concurrent Ownership: Co-Tenancy

- Tract of land
 - Albert – 10%
 - Bob – 15%
 - Christina – 60%
 - Donna – 10%
 - Edward – 5%
- 1. A & E sign OGL w/ L'ee; **Under Majority rule [Prairie Oil], can they? What about under the Minority rule [Heck Oil]?**
 - ***If the well produces, what (if anything) do A & E owe to B, C and D?***
 - ***If the well is a dry hole, can A & E charge B, C & D for 85% of the drilling costs?***
 - ***What if the dry hole provides data that helps drill a productive 2nd well? → (see P. 439 N7)***

Concurrent Ownership: Co-Tenancy

- Problem 1 – A & E owe the others their share of 85% of “net profits”
 - Defined as the “value” of gross production ...
 - Less reasonable expenses incurred for development and operation
- ***Does “value” = market value or sales proceeds?***
- ***Which of these expenses qualify for deduction?***
 - ***Operating***
 - ***Drilling***
 - ***Dry hole***
 - ***Compression***
 - ***Processing***
 - ***Transport***

Concurrent Ownership: Co-Tenancy

- Tract of land
 - Albert – 10% Bob – 15%
 - Christina – 60% Donna – 10%
 - Edward – 5%
- B & E sign OGL w/ L'ee on Feb. 15
- ***Can A & D sign OGL w/ a different L'ee on Mar. 1?***
- ***What happens then?***

Successive Ownership

■ Successive

- ❑ Limited current tenancy (life estate; term of years)
- ❑ + + +
- ❑ Remainder interest

Successive Ownership

- Limited current tenancy
 - Some fact / situation where the current “owner” / holder of the mineral interest does **NOT** have the right to own the minerals forever
 - from Property I: the “defeasible fee interest”
 - for a fixed term of years
 - for a period pegged to an event (“for so long as ___)
 - or to a life (“for the rest of your children's' lives”)

Successive Ownership

- Other types of “limited duration” owners
 - ❑ Creditors
 - ❑ Easements
 - ❑ Agents
 - ❑ Trustees: Hynson case
 - P. 451, N3
 - Uniform Principal and Income Act (“UPIA”)
 - **“Open Mine Doctrine”: see p. 456 AND p. 459 N2**
 - ❑ Guardians of unborn / minor children: Wellborn

Successive Ownership – Ques. (1)

- *What's the general rule with respect to a current, limited-duration, owner and a holder of the remainder signing an OGL?*
- *Why can't the life tenant, or the remainderman, acting alone, sign an OGL?*
- *See p. 450, N1*
- *What 2 methods can a Lessee use to obtain valid exploration and mineral rights?*
- *See p. 451, N2*

Successive Ownership – Ques. (2)

- ***Assuming that both the life tenant and the remainderman execute the OGL, what's the general rule re who gets to keep the money?***
 - ❑ ***Rentals?***
 - ❑ ***Bonus?***
 - ❑ ***Delay Rentals?***
 - ❑ ***Royalties?***
 - ❑ ***Shut-In Royalties?***
- ***How does the “Open Mine Doctrine” change that general rule?***

Successive Ownership – Ques. (3)

- Alice owns the life estate and Barbara owns the remainder on $\frac{1}{2}$ of the mineral estate, and Susan owns the other $\frac{1}{2}$ of the mineral estate in fee
- ***Can Susan sign an OGL?***
- ***Can Lessee develop / produce the O&G?***
- ***Who receives the:***
 - ❑ ***Rentals?***
 - ❑ ***Bonus?***
 - ❑ ***Delay Rentals?***
 - ❑ ***Royalties?***
 - ❑ ***Shut-In Royalties?***

Successive Ownership – Ques. (4)

- ***Can a life tenant:***
 - ❑ ***... sign a new OGL to replace an OGL that has expired? See p. 460, N3***
 - ❑ ***... sign an extension of an OGL?***
 - ❑ ***... sign an amendment of an OGL?***

NEXT WEEK...

- **TU 3/25: CL 18**
- Terminable Interests and Executory Rights
 - Ch. 3, Sec. C & D
 - pp. 464 – 484
- =====
- **TH 3/27: CL 19**
- Conveyances & Reservations 1 (of 2)
 - Ch. 3, Sec. F
 - pp. 511 – 546