

Oil & Gas Law

Class 19:

Lessor Title Issues (4 of 6) – Conveyances & Reservations 1

Admin Stuff ...

- CL 21 → “Supplemental Readings”
- **NONE**

Up to Now ...

- Lessor Title and Conveyance Issues
 - Mineral and Royalty Interests
 - What they are
 - How they are created
 - Shared Ownership
 - Concurrent
 - Successive
 - Terminable Interests
 - Executive Rights

Tonight ...

Conveyancing Issues, Part 1

- Catch-all Clauses (a/k/a “Mother Hubbard” clauses)
- Fractions, Double Fractions & Over-conveyances
- Proportionate Reduction Clauses
- =====
- **WHY DO WE NEED ALL THESE RULES?**

1. Mother Hubbard Clauses

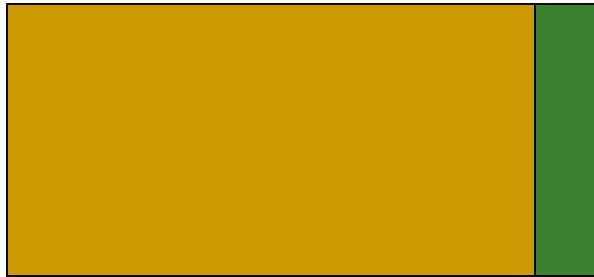
- *What are they? Why are they needed?*
- **Uncertainty ...**
 - about what kind of interest G'or / L'or has
 - limitations on that interest
 - how much interest G'or / L'or has
- **“This is the 21st Century! How could there be that much uncertainty?”**
 - early surveys: deficient, inexact and inaccurate
 - surveys followed fencing or other boundaries
 - small tracts often awarded drilling permits, reducing G'ee / L'ee perceived benefits / rights

J. Hiram Moore v. Greer

- ***Issue?***
- ***What are the 2 main positions taken on that issue by (a) the majority, and (b) the dissent?***
- Smith, p. 514
 - ❑ Disparate sizes of the specific vs. general
 - ❑ \$ amount relates to specific

Mother Hubbard Clauses

- **WHY?**
- **Different size of the “catch-all” tract(s)**



Mother Hubbard Clauses: J. Hiram Moore v. Greer

- *What's the real / underlying business issue here?* → p. 517 N1
- *What's the real / underlying philosophical issue here?* → p. 398 2nd ¶ vs. p. 517 N1
- pp. 517-18 N2: 2 common situations in which a catch-all clause is used
- pp. 519-20, N6: “Strip and gore” doctrine
- pp. 520-1, N7: Doctrine of accretion

2. Fractional Interests

- A “persistently fertile source of title problems”
- **ALSO** a “persistently fertile **source of BAR EXAM QUESTIONS**”
- Fractions confuse people
 - Like termites in a house, once they enter the chain of title, they stay / persevere / multiply
- Like all the other conveyancing / reservation / title issues we look at, the **real questions** are whether the document(s) is clear and what the parties’ intent was (or seemed to be)

Fractional Interest Cases – Averyt

- Grande → Fogleman → Averyt
 - G → F described the land, and in that description, said that the land was “subject to” an undivided $\frac{1}{2}$ mineral interest
- *What are the 2 issues?*
- *What if the lang. of the conveyance / reservation doesn't fall within the rules set out in Averyt? → pp. 524-25 N1*

Fractional Interest Cases – Duhig

- Gilmer → Duhig → Peavy-Moore
 - 1: reserve $\frac{1}{2}$ int. in mineral estate
 - 2: reserve $\frac{1}{2}$ int. in mineral estate, w/ no reference to first reservation
- ***Issue? Parties' positions? Ct's ruling / rationale?***
- ***Does the fact that the Duhig → Peavy-Moore deed was a warranty deed matter?***
See p. 529 N1

Duhig

- *Why DID Duhig lose?*
- Because ...
- If you try (or appear to try) to convey something, the Courts will generally carry out what it seems your goals are
- The Duhig Rule: if Grantor doesn't own enough to give full effect to both the granted int. and the reserved int., the Courts **WILL GIVE PRIORITY** to the granted interest
- Problems w/ the Duhig Rule

Fractional Interest Cases – Acoma Oil

- *How do issues here differ from Duhig?*
- **Differences**
 - Here, the dispute is how to share ORRs
 - No reservation in the grants at issue
 - G'ee knew about the outstanding royalty

Fractional Interests Problems – 1

- 2 reservations in 2 conveyances
 - 1/16 of the 3/16 royalty
 - 1/16 out of the 3/16 royalty
 - Who gets what? Why? [p. 525 N2]
- 2 different conveyances
 - ½ of the minerals in the land described
 - ½ of the minerals in the land conveyed
 - Who gets what? Why? [Averyt]

Fractional Interests Problems – 2:

- Problem – p. 532-33 (variation)
- 3 conveyances
 - $O \rightarrow A$ reserving $\frac{1}{2}$ interest in the minerals
 - $A \rightarrow B$ reserving $\frac{1}{4}$ interest in the minerals
 - $B \rightarrow C$ no reservation but excepting O's $\frac{1}{2}$ and A's $\frac{1}{4}$
 - *How much do O, A, B and C own in the mineral estate?*
 - *What are the arguments on behalf of each?*

Fractional Interests Problems – 3:

- $O \rightarrow G$ Blackacre, res. $\frac{1}{4}$ int. in the minerals
- $G \rightarrow P$ Blackacre, res. $\frac{1}{4}$ int. in the minerals
- **How much do O, G and P own in the mineral estate?**
- O: $\frac{1}{4}$ G: $\frac{1}{4}$ P: $\frac{3}{4}$
- ***Why not?***
- It adds up to $\frac{5}{4}$!!
 - Remember General Principle #2: must add to 1!
- O: ____ G: ____ P: ____

3. Proportionate Reduction Clauses

- Can arise in older Leases
- Most often handled now by Lease language
 - See: TX Lease, §7
- 2 reasons (p. 539)
 - Assures L'ee that L'or isn't inadvertently retaining any interest
 - L'ee gets after-acquired title

Proportionate Reduction Cl. – Texaco v. Parks

- OGL for $\frac{1}{2}$ interest in minerals provides for \$160 / yr delay rental
- ***Issue?***
- Does the \$160 already take into account the $\frac{1}{2}$ interest, or was it based on a 100% and is then subject to being reduced proportionately?
- **P. 545 N1:** ***How to draft an OGL to avoid the problem?***

Proportionate Reduction Cl. – Texaco v. Parks

- ***PP. 545-46 N3***
- J: $\frac{1}{2}$ interest in Blackacre, burdened by $\frac{1}{16}$ NPRI
- M: $\frac{1}{2}$ interest in Blackacre, unburdened
- Both enter into an identical (but separate) OGL, conveying 100% of the mineral estate, with $\frac{1}{8}$ royalty & proportionate reduction cl.
- ***Who gets how much royalty?***

NEXT WEEK...

■ TU 4/1: CL 20

- L'or Title Issues (5 of 6) – Conveyances and Reservations 2
- Ch. 3, Sec. G → pp. 546 – 583

■ TH 4/3: CL 21

- L'or Title Issues (6 of 6) – Pooling
- Ch. 3, Sec. H → pp. 583 – 604
- → + Supplemental Materials