Oil & Gas Law

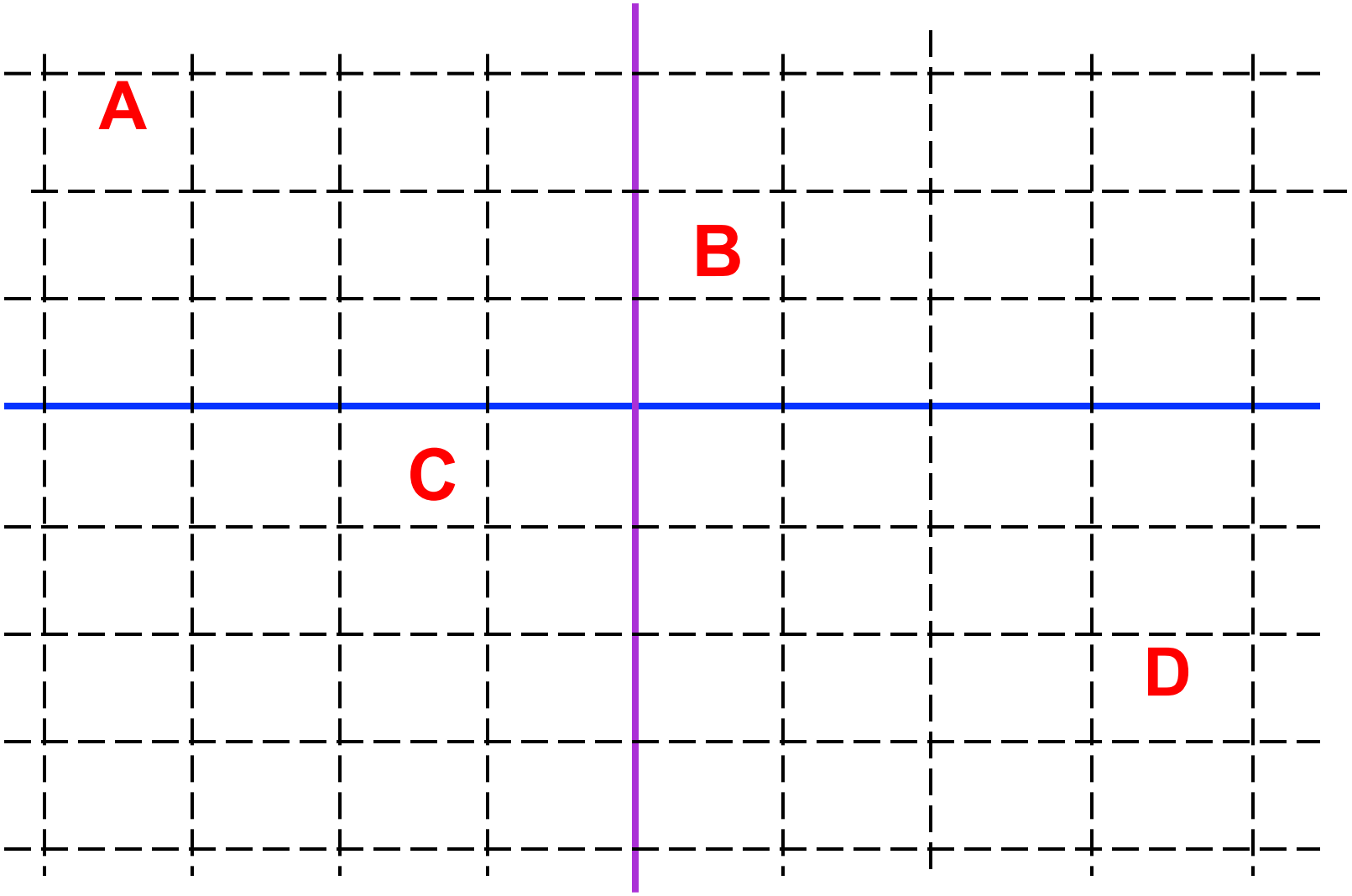
Class 3:

RoC: Common Law Limits and Correlative Rights

Last Week …

- Geology
  - How rocks are formed
  - Kinds of rocks
  - Layering (a/k/a stratigraphy)
  - Rock movements → "traps"
- History
  - How and when oil started to be used
  - How quickly it caught on as a fuel
  - Why mining law and wild animals played a role in the development of O&G Law
- Public Land Survey System (Secs. / Ts / Rs)
- "Ad coelum" / Heaven and Hell Doctrine
- Rule of Capture

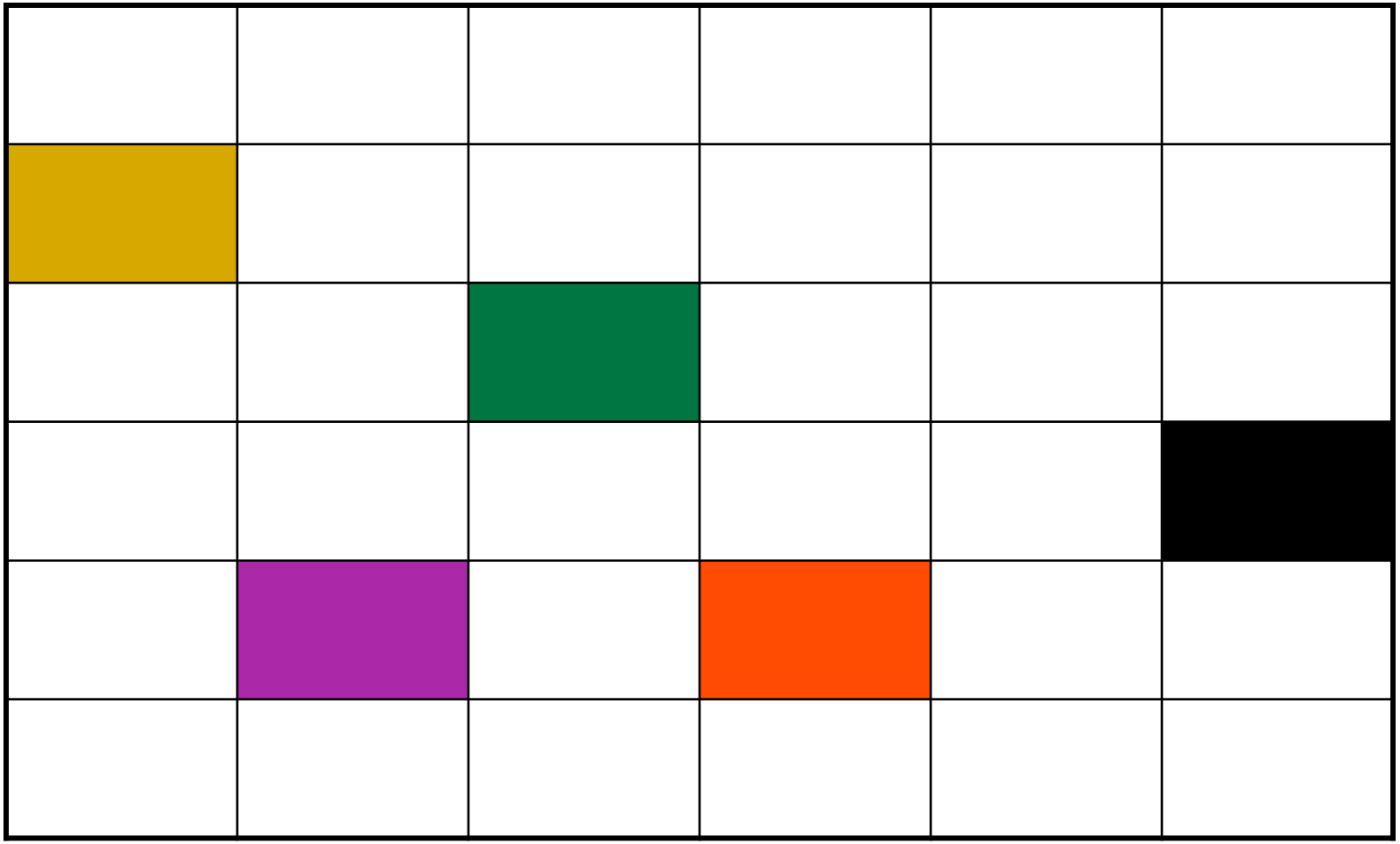
Last Week … What Townships Are These?



Last Week … What Townships Are These?

- **A:** T3N, R4W
- **B:** T2N, R1E
- **C:** T1S, R2W
- **D:** T3S, R4E

Last Week … What Sections Are These?



Last Week … What Sections Are These?

- Gold: Section 7
- Green: Section 16
- Black: Section 24
- Purple: Section 29
- Red: Section 27

Last Week … Dividing Up Sections

- **Where is the:**
  - **NW/4**
  - **S/2 SE/4**
  - **E/2 W/2 NE/4**
  - **S/2 SW/4 NW/4 SW/4**
- **… and how many acres are in each of the 4 questioned blocks?**

a	b	c	d
e	f	g	h
i	j	k	l
m	n	o	p

Last Week … Dividing Up Sections

Where is the:

NW/4: a, b, e and f
→ 160 ac.

==========

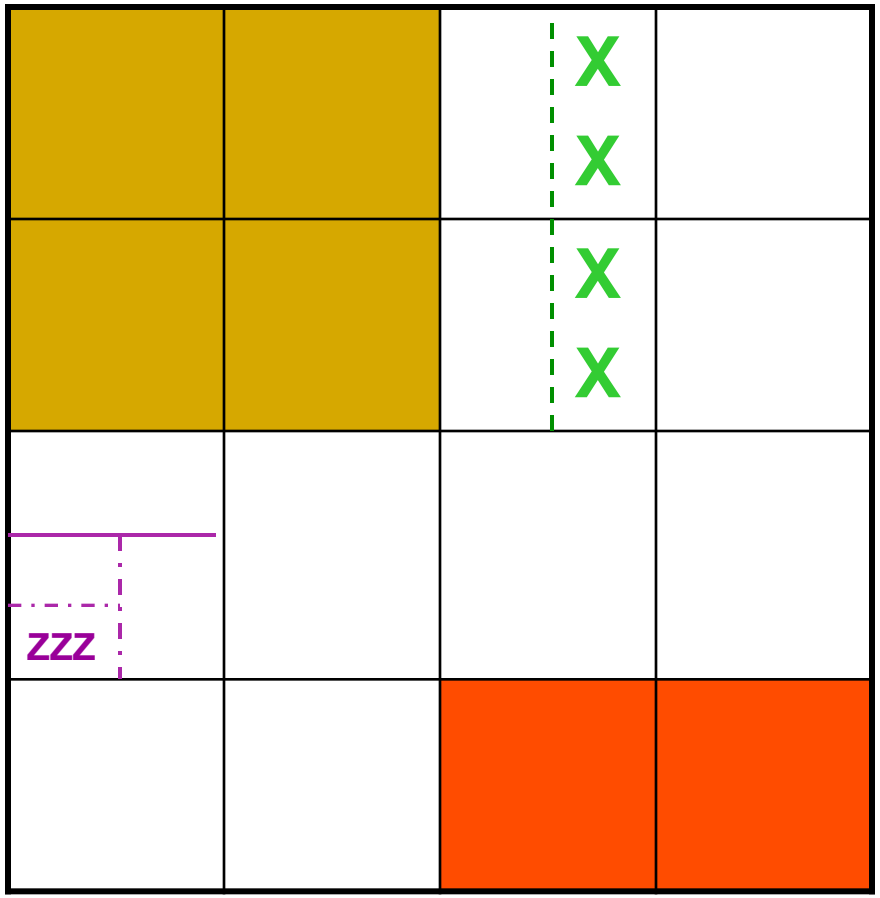
S/2 SE/4: o and p
→ 80 ac.

==========

E/2 W/2 NE/4: right side of c and g
→ 40 ac.

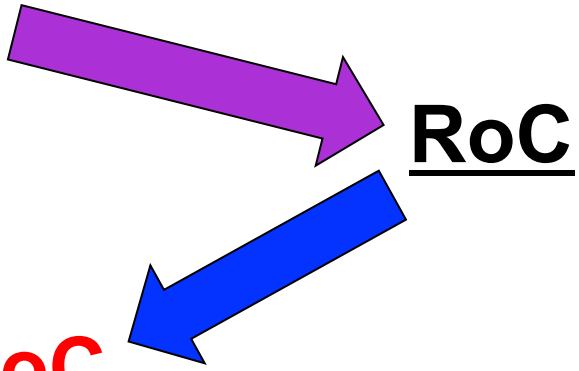
==========

S/2 SW/4 NW/4 SW/4: lower left corner of l
→ 5 ac.



Ad Coelum and RoC: Progression

- **Ad coelum**
- **RoC**
- **Limits on RoC**



Rule of Capture – Review

- ***What is the RoC?***
- ***What was the first limit on it?***
  - ***(… that we learned about last week …)***

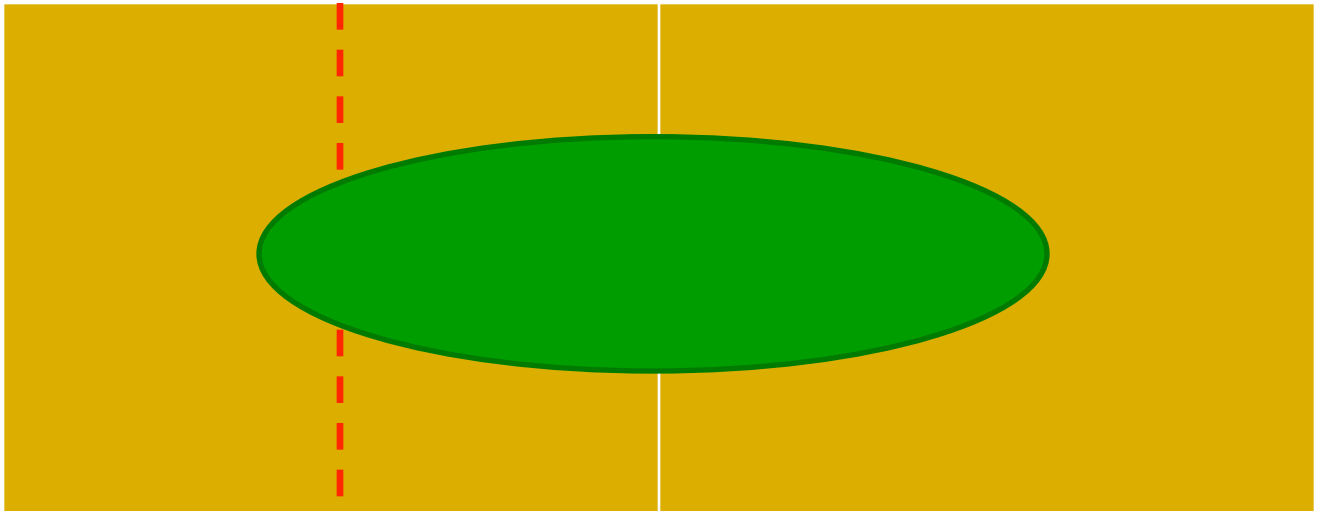
People's Gas Co. v. Tyner

- **Note:** like Kelly, another in the series of late 1800s cases from PA, OH, IN that formed early O&G law
- ***Parties?***
- ***Does homeowner allege that oil co. has no right to drill?***
- ***Does homeowner allege that oil co. can't increase flow (e.g., more drilling / equipment)?***
- ***So what's the problem?***
- **What do we mean by "nuisance"?**

Wronski v. Sun Oil Co.

- **Preview – next 4 classes (regulatory matters)**
- ***How are Wronski and Sun involved with one another?***
- ***What is Wronski's claim?***
- ***What is Sun's response?***
- ***What "principle" does the Ct set forth?***
- ***Does "fair share" principle supersede RoC?***
- ***What is an owner's "fair share"?***
- ***Can an owner recover more than its fair share?***

Elliff v. Texon Drilling



Elliff v. Texon Drilling

- ***What is Elliff's claim?***
- ***What is Texon's defense?***
- ***What does the Ct say?***

Northern Natural Gas v. Nash

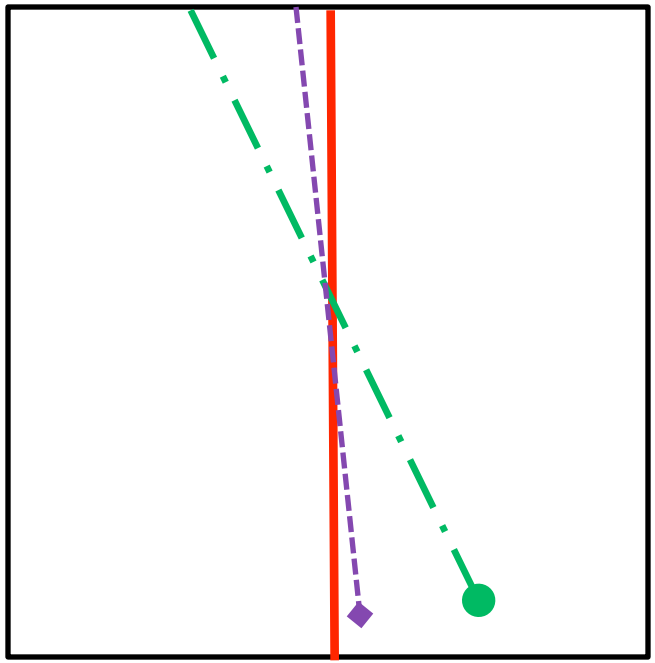
- ***What's NNG's factual complaint?***
- ***NNG is making what legal claims?***
- ***Decision?***
- ***Why isn't this decided like the TX-Am case? (from last wk; pp 107-111)***
- Timeline
  - **93:** migration suspected; **93-96:** more studies
  - **99:** negotiations; **00-03:** threats and models
  - **04:** sue

Gregg v. Delhi-Taylor / Kishi

- ***What legal claim is being made here by the Plaintiff in each of these cases?***
- ***What's the factual basis for each trespass claim?***
- **Kennedy v. Gen'l Geophysical** (p.127): want to run seismic across someone else's land [see also pp. 26-31]

Gregg / Kishi / Kennedy

- Common Theme is “trespass”
- ***Definition***
- In O&G context … “**subsurface trespass**”



Subsurface Trespass

- Based on common law principles of above-ground trespass → ***WHAT'S THE ISSUE?***
- Earliest cases: see diagram on SL 17
- **Considerations:**
  - What is crossing the property line
  - What kind of formation / zone is being entered
  - Remedy sought
  - Good faith vs. bad faith – affects damages
  - Trespasser's intent: irrelevant (except re good / bad faith)

RoC: Correlative Rights – Summary

- **Correlative Rights – *definition?***
- **Definition:**
  - Limits on, or modifications to, the RoC (whether imposed by Courts or Regulatory Agencies) that establishes rights and duties that exist between mineral owners in **a common source of supply** **[pp. 59-61 N's 3 & 4]**
    - Recognition that owners in a common source operate in a "special community" and they cannot inflict "**unreasonable**" losses on one another
- Constant "tug of war" btwn what is / is not "unreasonable"
- Correlative Rts are a limitation on the RoC …
  - t/f, the RoC is no longer (if it ever was) unlimited and unrestricted

RoC: Correlative Rights – Summary

- Correlative Rts can take different forms
  - "Fair share" doctrine (Wronski)
  - **Common law claims**
  - Regulatory rules (Classes 4-7)
- Types of common law claims
  - Trespass – Kishi / Gregg / Kennedy
  - Nuisance – People's Gas
  - Waste – None
  - Conversion – Wronski / Nash
  - Unjust Enrichment – Wronski
  - Negligence – Elliff

Other Property Issues and Principles (pp. 153 – 172)

- Oil and gas rights are property rights
- Therefore, like other kinds of property rights, they **can** be lost
- Loss through non-use
  - Abandonment
  - Adverse possession (6 elements)
  - Dormant mineral interest acts

Geo-Viking v. Tex-Lee

- Creative use of trespass and RoC
- T-L hired Geo-Viking to frac a formation, and Geo fails to do it properly
- T-L sues: TX DTPA violation + breach of K
- Geo: if done properly / as T-L had asked, frac job would've gone past the property boundary (trespass) and T-L wouldn't have been able to keep that production
  - t/f, they shouldn't have to pay damages for that
- Ct: RoC; T-L could keep the oil; damages allowed

Ad Coelum and RoC: Progression

- **Ad coelum**
- **RoC**
- **Limits on RoC**
  - **Personal Property**
  - **Correlative Rts / Common Law Claims**
  - **Regulatory Actions / Rules**

Next Class (TH 1/23) …

- Regulatory responses to RoC by State Regulatory bodies (e.g., the TX RRC) – 1 of 4
  - **Ch. 4 Sec. A, B1, and B2 (b)**
  - **(pp. 609 – 617; 628 – 631; 650 – 674)**