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OIL, GAS AND MINERAL LAW



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March 25, 2021

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THURSDAY MORNING, MAR. 25, 2021

Presiding Officer:

Robert G. Hargrove, Davis, Gerald & Cremer PC, Austin, TX

8:00 a.m. Welcoming Remarks

8:10 a.m. .50 hr

So You Want to Drill Your Own Oil Well? An Oil and Gas Drilling Primer

Hear an overview of the process of finding oil and gas and bringing it to the surface, as well as some of the needed agreements.

Frank N. Cusimano III, Attorney at Law, Houston, TX

8:40 a.m. 5-Minute Break

8:45 a.m. .50 hr

The Rule of Capture, Correlative Rights and Principles of Conservation

Examine the effects of the Rule of Capture, and discuss well spacing, production limitations, pooling and unitization, and related environmental regulation. Hear a description of agency rules and regulations, rule-making and adjudication procedures, along with a judicial review of agency actions including the concepts of collateral attack, exhaustion of administrative remedies, primary jurisdiction, and standards of deference.

James Coleman, Southern Methodist University, Dallas, TX

9:15 a.m. 5-Minute Break

9:20 a.m. .50 hr

What You (Yes, You) Need to Know to Drill and Complete an Oil or Gas Well in Texas

An overview of the key rules, forms and trouble spots involved in obtaining authority from the Railroad Commission of Texas to drill and complete an oil or gas well.

Ana Maria Marsland, Davis, Gerald & Cremer PC, Austin, TX

9:50 a.m. 5-Minute Break

9:55 a.m. .75 hr | .25 hr ethics

The Oil and Gas Lease, Part I: Classification, Scope of Grant and Duration

An in-depth focus on how an oil and gas lease is classified in law and on the key clauses of the lease.

Monika U. Ehrman, UNT Dallas College of Law, Dallas, TX

10:40 a.m. 5-Minute Break

10:45 a.m. .75 hr

Texas Title Examination Standards: Introduction and Practical Exercises

Take a look at the use of Title Examination Standards to address common defects, exceptions, and errors found in the chain of title to land. Explore the language of the standards, times when they are applicable, and the commentary of applicable law for each standard. Take part in a few practical examination exercises using actual situations encountered in title examination.

Allen D. Cummings, Attorney at Law, Austin, TX

11:30 a.m. Break for Lunch

Presentations resume at 12:00 p.m. CST

THURSDAY AFTERNOON

LUNCHEON PRESENTATION

12:00 p.m. .50 hr

A Brief Introduction to TOP Energy Training, a consortium of Colorado School of Mines, Penn State University, and The University of Texas at Austin

John Beckworth, The University of Texas School of Law, Austin, TX
Robert G. Hargrove, Davis, Gerald & Cremer PC, Austin, TX

12:30 p.m. 5-Minute Break

12:35 p.m. .75 hr | .25 hr ethics

The Oil and Gas Lease, Part II: The Royalty Clause in an Oil and Gas Lease

In Texas, the calculation of the royalty obligation created under an oil and gas lease is determined by looking at the specific language contained in the royalty clause. Specific phases may determine how the royalty payor must measure and calculate royalty, which post-production costs can be allocated to the lessor interest. Review judicial interpretations of royalty provisions and the impact of other instruments and statutory enactments on the royalty provisions contained in an oil and gas lease.

Tara Righetti, University of Wyoming College of Law, Laramie, WY

1:20 p.m. 5-Minute Break

1:25 p.m. .75 hr | .25 hr ethics

Oil and Gas Conveyancing – Capturing the Intent of the Parties

Explore some of the pitfalls related to conveyances of minerals and royalties (both fixed and floating).

Jasper Mason, Womble Bond Dickinson (US) LLP, Houston, TX

2:10 p.m. 10-Minute Break

2:20 p.m. .75 hr

The Oil and Gas Lease, Part III: Implied Covenants

Examine the law of implied covenants, including the duties imposed, elements necessary to establish a claim, and remedies and defenses available.

Keith B. Hall, Louisiana State University Paul M. Hebert Law Center, Baton Rouge, LA

3:05 p.m. 5-Minute Break

3:10 p.m. .50 hr

Voluntary Pooling and Unitization

Review voluntary pooling as authorized in an oil and gas lease, which provides the lessee a means to combine acreage under one lease with acreage underlying adjacent tracts. Also, explore the voluntary unitization statute in Texas under which the Railroad Commission approves field-wide units, which may combine acreage from numerous tracts and leases for the purpose of enhanced recovery or re-pressuring operations.

Bryan D. Lauer, Scott Douglass & McConnico LLP, Austin, TX

3:40 p.m. 5-Minute Break

3:45 p.m. .50 hr

The Oil and Gas Lease, Part IV: Other Clauses

Review other clauses in an oil and gas lease, including surface use clauses and riders, retained acreage and proportionate reduction clauses, and savings clauses such as continuous operations, dry hole, *force majeure*, and shut-in gas royalty clauses.

Christopher S. Kulander, South Texas College of Law Houston, Houston, TX

4:15 p.m. 5-Minute Break

4:20 p.m. .75 hr

Joint Operating Agreements – Understanding and Application

Understanding the key components of the JOA and a consideration of recurring issues with emphasis on horizontal drilling and allocation wells. How the JOA works, what doesn't work, some suggested Article XVI provisions and some new unanswered questions.

Michel E. Curry, Henry Resources LLC, Midland, TX

5:05 p.m. Adjourn

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FRIDAY MORNING, MAR. 26, 2021

Presiding Officer:

Ronnie Blackwell, Exxon Mobil Corporation, Spring, TX

8:00 a.m. Welcoming Remarks

8:10 a.m. .50 hr

Case Law Update Part 1

Review recent decisions dealing with oil and gas leases, royalties, mineral conveyances, joint operating agreements, state regulation, and related topics.

Owen L. Anderson, The University of Texas School of Law, Austin, TX

8:40 a.m. 5-Minute Break

8:45 a.m. .75 hr

The Commingling Doctrine & Horizontal Wells: Whose Burden is it Anyway?

Review the origins of the commingling doctrine from Old English common law to early U.S. and Texas precedent, as well as various factual circumstances where commingling has been applied. The session will include a discussion of the shifting evidentiary burden necessary to establish the application of the doctrine in a modern oil and gas context.

Ricardo E. Morales, Person, Mohrer, Morales, Boddy, Garcia & Gutierrez PLLC, Laredo, TX

9:30 a.m. 5-Minute Break

9:35 a.m. .75 hr

Update On Midstream Agreements in Bankruptcy—From Sabine to Southland and Beyond

Many recent E&P bankruptcies have grappled with the characterization of midstream agreements as either contractual rights that can be rejected or real property interests that ride through unaffected. This presentation analyzes the ever-shifting legal landscape, which has seen midstream agreements characterized as both, leading to a widening split in the courts and uncertainty in the industry.

Jonathan Hyman, Gray Reed, Houston, TX
Philip Jordan, Gray Reed, Dallas, TX
Lydia R. Webb, Gray Reed, Dallas, TX

10:20 a.m. 5-Minute Break

10:25 a.m. .75 hr

Non-Participating Royalty Interest Litigation

Recent developments in non-participating royalty interest litigation and royalty instrument interpretation issues.

Corey F. Wehmeyer, Santoyo Wehmeyer P.C., San Antonio, TX

11:10 a.m. 5-Minute Break

11:15 a.m. .75 hr

Turn Around, Don't Drown: A New Generation of Oil and Gas Lease "Washouts" in Texas and How to Avoid Them

While Texas law has always been permissive toward oil and gas lease washouts—the elimination of non-operated leasehold interests or burdens by replacement of an existing lease—three new Texas cases have shaken up our assumptions about the law on this topic. This presentation will discuss these case holdings, their impact on industry stakeholders, and drafting advice for avoiding their negative effects.

Brandon Durrett, Dykema Gossett, PLLC, San Antonio, TX

12:00 p.m. Break for Lunch

Presentations resume at 12:30 p.m. CST

FRIDAY AFTERNOON

LUNCHEON PRESENTATION

12:30 p.m. .75 hr ethics

How Did My Texas Disciplinary Rules Change in 2021 Referendum?

Texas lawyers are voting on new disciplinary rule proposals in the February 2021 referendum. Hear which ones passed, and how do these rules affect your law practice? What should you (and what can you) do differently?

Claude E. Ducloux, Attorney at Law, Austin, TX

1:15 p.m. 5-Minute Break

1:20 p.m. .50 hr

Case Law Update Part 2

Review recent decisions dealing with oil and gas leases, royalties, mineral conveyances, joint operating agreements, state regulation, and related topics.

Owen L. Anderson, The University of Texas School of Law, Austin, TX

1:50 p.m. 5-Minute Break

1:55 p.m. .75 hr

Protecting Lessor Rights against a Financially Distressed Lessee

In 2020, nearly 50 exploration and production companies filed for bankruptcy, with Texas-based operators accounting for the majority of those filings. As a lessor-landowner, certain actions must be taken to secure rights under the oil and gas lease and preserve potential claims against the distressed operator.

Ryan Lammert, Uhl, Fitzsimons, Jewett, Burton & Wolff, PLLC, San Antonio, TX

2:40 p.m. 10-Minute Break

2:50 p.m. .50 hr | .25 hr ethics

Title/Environmental Due Diligence and Related Issues in Oil and Gas Acquisitions

Explore drafting issues and corresponding title and environmental examination measures to consider in connection with acquisitions and divestitures of oil and gas assets.

Joe F. Flack, III, Jackson Walker LLP, Houston, TX

3:20 p.m. 5-Minute Break

3:25 p.m. .50 hr

Force Majeure During and After the COVID Pandemic

In the wake of COVID-19 and plunging oil prices, many practitioners have found themselves reviewing whether *force majeure* provisions may apply to forgive certain shortcomings in performance during 2020 and beyond. Survey existing law regarding *force majeure* issues and discuss considerations in drafting future *force majeure* provisions.

Austin W. Brister, McGinnis Lochridge, Houston, TX
J. Derrick Price, McGinnis Lochridge, Austin, TX

3:55 p.m. 5-Minute Break

4:00 p.m. .50 hr

Make Peace, Not War: Negotiating and Drafting Accommodation Agreements in the Oil and Gas Industry with Wind and Solar Companies

A brief discussion of the basic elements of a comprehensive accommodation agreement, which shall include pitfalls to avoid in drafting such agreements, as well as an overview of typical accommodation issues and how best to resolve them.

Roderick E. Wetsel, Wetsel, Carmichael & Allen, LLP, Sweetwater, TX

4:30 p.m. 5-Minute Break

4:35 p.m. .50 hr

Trade Secrets in the Oil and Gas Context: Litigation and Discovery Issues

From prospect generation and evaluation to geophysical data and completion methods, the oil and gas industry relies on trade secret and proprietary information. Explore litigation-related considerations for this confidential information, from discovery matters and protective orders to claims under the Texas Uniform Trade Secret Act.

Joseph G. Thompson III, Porter Hedges LLP, Houston, TX

5:05 p.m. Adjourn

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LIVE WEBCAST

March 25–26, 2021

KEY DATES

March 19, 2021

Last day for full refund cancellation

March 22, 2021

Last day for partial refund cancellation

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March 25, 2021, 8:00 a.m. CST

Fundamentals Webcast begins

March 26, 2021, 8:00 a.m. CST

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March 26, 2021

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