

37TH ANNUAL
ERNEST E. SMITH
OIL, GAS AND MINERAL LAW



FUNDAMENTALS
Thursday, April 7, 2011

INSTITUTE
Friday, April 8, 2011
Hyatt Regency ▪ Houston, Texas

▶ Video Replay
May 19–20, 2011
Cityplace Conference Center ▪ Dallas, Texas

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2011

FUNDAMENTALS OF OIL, GAS AND MINERAL LAW

April 7, 2011 ▪ Hyatt Regency ▪ Houston, Texas

▶ Video Replay May 19, 2011 ▪ Cityplace Conference Center ▪ Dallas, Texas

Earn up to 8.00 Hours of MCLE Credit

THURSDAY MORNING

**Presiding Officer: Aaron G. Carlson,
Noble Energy, Inc., Houston, TX**

**7:30 a.m. Fundamentals Registration
Opens**

Includes continental breakfast.

8:15 a.m. Welcoming Remarks

8:30 a.m. .50 hr

**So You Want to Drill Your Own Oil Well?
A Hands-On Oil and Gas Drilling Primer**

An overview of the process of finding oil and gas, and bringing it to the surface.

Frank N. Cusimano III, Chevron North America
Exploration and Production Company, Houston, TX

9:00 a.m. .75 hr

**The Rule of Capture, Correlative Rights, and
Principles of Conservation**

An examination of the effects of the Rule of Capture, which has led to extensive regulation of oil and gas drilling and production by state and federal agencies, as well as a discussion of well spacing, production limitations, pooling and unitization, and related environmental regulation. The procedures for establishing units under leases, by separate contract and through agency orders are outlined. Agency rules and regulations, rule-making and adjudication procedures are described, as well as judicial review of agency actions, including the concepts of collateral attack, exhaustion of administrative remedies, primary jurisdiction, and standards of deference. Also discussed are the effects of conservation regulation on leases and term interests.

Patrick H. Martin, Louisiana State University
Paul M. Hebert Law Center, Baton Rouge, LA

9:45 a.m. Break

10:00 a.m. .75 hr

Interests in Oil and Gas

A look at the types, characteristics, classification, and ownership issues.

Laura H. Burney, St. Mary's University School of Law,
San Antonio, TX

10:45 a.m. 1.00 hr

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

This presentation focuses on how an oil and gas lease is classified in law, and on the key clauses of the lease. Pooling and royalty clauses are covered in later sessions.

Owen L. Anderson, The University of Oklahoma
College of Law, Norman, OK

THURSDAY AFTERNOON

LUNCHEON PRESENTATION

11:45 a.m. Pick Up Lunch
Included in Fundamentals registration.

12:00 p.m. .50 hr

**Texas Title Examination Standards:
Introduction and Practical Exercises**

A look at the use of Title Examination Standards to address common defects, exceptions, and errors found in the chain of title to land; plus the language of the standards, times when they are applicable, and the commentary of applicable law for each standard. Included in the presentation are some practical examination exercises using actual instruments pulled from public records.

Allen D. Cummings,
Law Offices of Allen D. Cummings,
San Antonio, TX

12:30 p.m. Break

12:45 p.m. .75 hr

**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. This session focuses on some of the principal phrases used to describe such obligations and how the Texas courts have interpreted them, and takes a look at how that same language has been interpreted differently in other jurisdictions. The impact of division and transfer orders are analyzed to determine how such instruments may affect the royalty obligations contained in the lease.

Bruce M. Kramer, of Counsel, McGinnis, Lochridge &
Kilgore, L.L.P., Houston, TX

1:30 p.m. .75 hr

**The Oil and Gas Lease, Part III:
Implied Covenants**

An outline of the law of implied covenants, including duties imposed, standards applied, and remedies available.

Elizabeth N. Miller, Scott, Douglass &
McConnico, L.L.P., Austin, TX

2:15 p.m. .75 hr

Voluntary Pooling and Unitization

This session covers (1) the typical pooling clause in an oil and gas lease which allows the lessee to combine acreage under one lease with acreage underlying adjacent tracts, and (2) the voluntary unitization statute in Texas under which the Railroad Commission approves fieldwide units which may combine acreage from hundreds of different tracts and landowners for the purpose of second recovery or repressuring.

Jacqueline L. Weaver, University of Houston
Law Center, Houston, TX

3:00 p.m. Break

3:15 p.m. .50 hr

The Oil and Gas Lease, Part IV: Other Clauses

A review of other clauses in an oil and gas lease, including retained acreage, proportionate reduction, warranty, assignment, continuous operations, surface use clauses or riders, force majeure, shut-in gas royalty, subrogation, and offset clauses.

Trace Burton, Uhl, Fitzsimons & Jewett, PLLC,
San Antonio, TX

3:45 p.m. 1.00 hr

Oil and Gas Conveyancing

This session describes the terms used to convey mineral and royalty interests and the issues that arise in drafting and interpreting these conveyances.

Laura H. Burney, St. Mary's University School of Law,
San Antonio, TX

4:45 p.m. .75 hr

The Joint Operating Agreement (JOA)

An overview of the important components of a JOA, completion of and additions to the form JOA, and issues that arise in the application of the JOA provisions to exploration and production activities.

John S. Lowe, Southern Methodist University,
Dedman School of Law, Dallas, TX

5:30 p.m. Adjourn Fundamentals

37TH ANNUAL ERNEST E. SMITH
OIL, GAS AND MINERAL LAW INSTITUTE

April 8, 2011 ▪ Hyatt Regency ▪ Houston, Texas

▶ Video Replay May 20, 2011 ▪ Cityplace Conference Center ▪ Dallas, Texas

Earn up to 7.25 Hours of MCLE Credit including 1.00 Hour of Ethics Credit

FRIDAY MORNING

Presiding Officer: David M. Patton, Locke Lord Bissell & Liddell LLP, Houston, TX

7:45 a.m. Institute Registration Opens

Includes continental breakfast.

8:15 a.m. Welcoming Remarks

8:30 a.m. .50 hr

Mineral Receiverships and Beyond

A practical approach as to how to obtain a mineral and royalty receivership, as well as a discussion of the need for a similar statute in renewable energy.

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

9:00 a.m. 1.25 hrs

Case Law Update

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

Ernest E. Smith, The University of Texas School of Law,
Austin, TX

10:15 a.m. Break

10:30 a.m. .50 hr

Shale Play Environmental Issues

The perfection of hydraulic fracturing techniques to unlock gas from shale formations may be one of the greatest developments in hydrocarbon production since Howard Hughes invented the rotary drilling bit, but it has created a host of new environmental concerns. This presentation addresses legal issues relating to water supply for fracturing operations, management and reuse of flow-back water, public concerns regarding chemicals used in the fracturing process, discharge or disposal of flow-back water that cannot be reused, allegations of groundwater contamination from fracturing operations, benzene emissions associated with shale gas production, and nuisance issues associated with the conduct of fracturing operations in close proximity to residential areas.

Larry W. Nettles, Vinson & Elkins LLP, Houston, TX

11:00 a.m. .50 hr

Liability Issues under Joint Operating Agreements

Current and topical liability issues arising under the model form JOAs, including force majeure, gross negligence, and operator/non-operator liabilities.

Robert L. Theriot, Liskow & Lewis, P.L.C.,
Houston, TX

11:30 a.m. .50 hr ethics

Ethics, Part I: Ethical Considerations of Getting Licensed in Multiple States

A discussion of doing deals in multiple states and Texas lawyers practicing in other states.

Eric C. Camp, Whitaker, Chalk, Swindle & Sawyer, LLP,
Fort Worth, TX

FRIDAY AFTERNOON

LUNCHEON PRESENTATION

12:00 p.m. Pick Up Lunch

Included in Institute registration.

12:15 p.m. .50 hr

Oil and Gas Development in the Gulf of Mexico Post-Macondo

Michael D. Olsen, Bracewell & Giuliani LLP,
Washington, DC

12:45 p.m. Break

1:00 p.m. .50 hr

Regulation of Water in the Oil and Gas Extraction Process

A discussion of the regulation of source water and volumes, hydraulic fracturing, flow-back and produced water.

Rene D. Ruiz, Cox Smith Matthews Incorporated,
San Antonio, TX

1:30 p.m. .50 hr

Trespass to Try Title

A review of the only way to determine disputed title in Texas, including the interplay with declaratory judgments and the procedural requirements of a trespass to try title case.

Michael D. Jones, Jones Gill LLP, Houston, TX

2:00 p.m. .50 hr

Are We There Yet? The Start and Finish of an Oil and Gas Lease

An examination of the commencement of the term of the lease and its termination.

Peter E. Hosey, Jackson Walker L.L.P., San Antonio, TX

2:30 p.m. .50 hr

Title Defect Issues in Purchase and Sale Agreements

A review and update on common title issues addressed in purchase and sale agreements.

Michael J. Byrd, Baker & McKenzie, Houston, TX

3:00 p.m. Break

3:15 p.m. .50 hr

Dealing with Unleased and Uncommitted Cotenants

The legal risks, responsibilities and consequences of drilling and operating without leases from all mineral owners and agreements among all lease owners.

William B. Burford, Hinkle, Hensley, Shanor &
Martin, L.L.P., Midland, TX

3:45 p.m. .50 hr

Modifying Oil and Gas Agreements to Accommodate Horizontal Operations

Standard industry forms were drafted before horizontal drilling was common. What should you change?

H. Martin Gibson, Patton Boggs LLP, Dallas, TX

4:15 p.m. .50 hr ethics

Ethics, Part II: Representing Multiple Parties in the Same Matter

David or Goliath? Scylla or Charybdis? A discussion of how to avoid Morton's Fork in multiple-client representation.

Jeffrey R. Jury, Burns Anderson Jury & Brenner,
Austin, TX

4:45 p.m. Adjourn Institute

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Eastland, TX

SPECIAL INVITATION

ANNUAL MEETING OF THE OIL, GAS AND ENERGY RESOURCES LAW SECTION OF THE STATE BAR OF TEXAS 5:00 P.M. FRIDAY, APRIL 8, 2011 HOUSTON

Immediately following the Institute—in Houston only—all members of the Oil, Gas and Energy Resources Law Section of the State Bar are invited to join the Section's Council members for the 2011 Annual Meeting of the Section. Elections of Council officers and new Council members will be held, and there will be reports on the Section's activities over the past year.

The State Bar's oldest Section, the Oil, Gas and Energy Resources Law Section has more than 3,000 members. The Section sponsors or co-sponsors eight major institutes each year—including the Ernest E. Smith Institute and the Fundamentals course—which provide over 60 hours of CLE annually. It also publishes a quarterly Section Report containing a variety of updates and articles on energy law topics.

Associate memberships are available to non-lawyers and non-Texas lawyers. Membership inquiries should be directed to M.C. Cottingham (Cottie) Miles, Secretary and Membership Committee Chair, at 210-220-1354, or visit the Section's website at www.oilgas.org.

REGISTRATION FOR 2011 OIL, GAS AND MINERAL LAW

Mail this registration form to:
**The University of Texas School
of Law, Attn. CLE—OP11/OG11**
P.O. Box 7759
Austin, TX 78713-7759

or fax a copy to:
512-475-6876

or register online:
www.utcle.org

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REGISTRATION

FUNDAMENTALS

Includes Course Binder and Luncheon Presentation

Houston, April 7, 2011

- ☐ Early Registration due Wednesday, March 30, 2011 \$250
☐ Registration after Wednesday, March 30, 2011 \$300

Dallas – Video Replay, May 19, 2011

- ☐ Early Registration due Wednesday, May 11, 2011 \$200
☐ Registration after Wednesday, May 11, 2011 \$250

Fundamentals Registration Total \$ _____

INSTITUTE

Includes Course Binder and Luncheon Presentation

Houston, April 8, 2011

- ☐ Early Registration due Wednesday, March 30, 2011 \$275
☐ Registration after Wednesday, March 30, 2011 \$325

Dallas – Video Replay, May 20, 2011

- ☐ Early Registration due Wednesday, May 11, 2011 \$225
☐ Registration after Wednesday, May 11, 2011 \$275

Institute Registration Total \$ _____

REGISTRATION TOTAL \$ _____

PUBLICATIONS AND MEDIA *Allow 3-5 weeks from the conference date for delivery.*

FUNDAMENTALS

- ☐ Course Binder Without Conference Registration \$150
Note: Conference registration includes Course Binder
☐ Audio MP3 Speeches on CD \$90
☐ Audio CD Set \$135
☐ DVD Set \$200
☐ eBinder on CD (PDF format) \$150/\$50
(\$150 purchased alone, \$50 with Registration or purchase of Course Binder or Audio MP3 Speeches on CD or Audio CD Set or DVD Set)

Fundamentals Publications and Media Total \$ _____

INSTITUTE

- ☐ Course Binder Without Conference Registration \$150
Note: Conference registration includes Course Binder
☐ Audio MP3 Speeches on CD \$90
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☐ DVD Set \$200
☐ eBinder on CD (PDF format) \$150/\$50
(\$150 purchased alone, \$50 with Registration or purchase of Course Binder or Audio MP3 Speeches on CD or Audio CD Set or DVD Set)

Institute Publications and Media Total \$ _____

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HOUSTON

April 7–8, 2011

CONFERENCE LOCATION



Hyatt Regency

1200 Louisiana Street
Houston, TX 77002
713-654-1234

Special Room Rate: \$199

good through March 7, 2011
(subject to availability)

Parking:

Valet \$15 per day, \$25 overnight;
Self-parking available in nearby lots and garages
(subject to change)

KEY DATES

March 30, 2011, 5 p.m.

last day for early registration
add \$50 for registrations received after this time

April 1, 2011, 5 p.m.

last day for full refund

April 4, 2011, 5 p.m.

last day for partial refund
\$50 processing fee applied

April 7, 2011, 8:30 a.m.

Fundamentals begins

April 8, 2011, 8:30 a.m.

Institute begins

DALLAS

May 19–20, 2011

VIDEO REPLAY



Cityplace Conference Center

2711 North Haskell Avenue
Dallas, TX 75204
214-515-5100

Parking:

Complimentary self-parking;
Valet \$22 per day
(subject to change)

KEY DATES

May 11, 2011, 5 p.m.

last day for early registration
add \$50 for registrations received after this time

May 13, 2011, 5 p.m.

last day for full refund

May 16, 2011, 5 p.m.

last day for partial refund
\$50 processing fee applied

May 19, 2011, 8:30 a.m.

Fundamentals begins

May 20, 2011, 8:30 a.m.

Institute begins

FUNDAMENTALS MCLE

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 8.00 hours. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

INSTITUTE MCLE

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 7.25 hours, of which 1.00 credit hour will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).