THE UNIVERSITY OF TEXAS SCHOOL OF LAW

**46TH ANNUAL ERNEST E. SMITH**
**OIL, GAS AND MINERAL LAW INSTITUTE**
**FUNDAMENTALS OF OIL, GAS AND MINERAL LAW**

THURSDAY, MARCH 26, 2020
HOUSTON, TEXAS

# DIVISION ORDERS

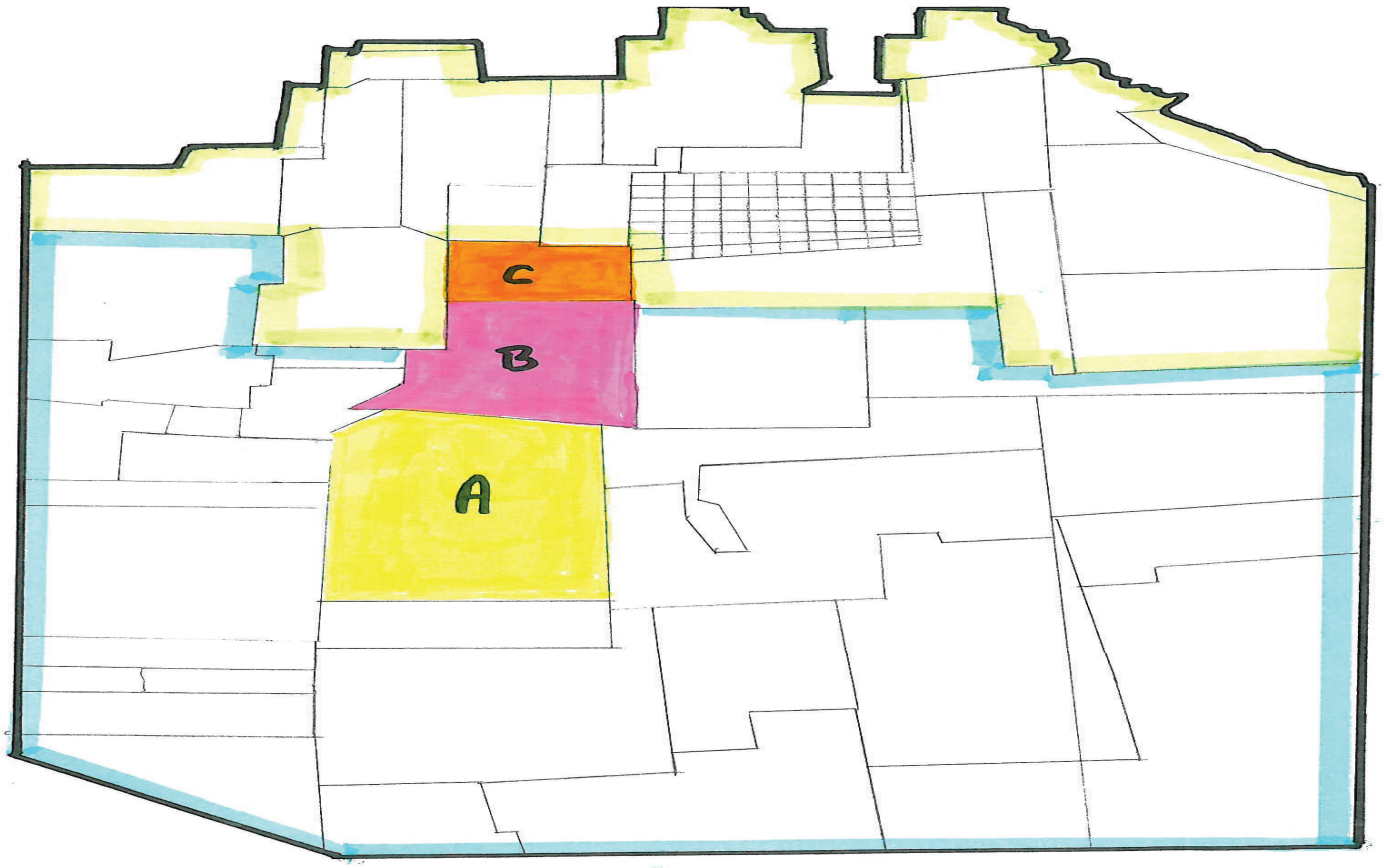
## The Uses and Abuses of the Division Order. Neither a contract nor a conveyance, a shield but not a sword.

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| Owner | Interest | Decimal |
|---|---|---|
| John and Mary Wilson | 1/2 of 1/5th RI | 10.00% |
| George Garcia | 1/2 of 1/3rd of 1/4th RI | 4.1666% |
| Louis Garcia | 1/2 of 1/3rd of 1/4th RI | 4.1666% |
| Omar Garcia | 1/2 of 1/3rd of 1/4th RI | 4.1667% |
| Larry Landman | 1/2 of 1% OR | 0.50% |
| ROC | 2% OR | 2.00% |
| BOC | 3/4ths WI | 75.00% |

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## *Chicago Corp. v. Wall,*
## 293 S.W.2d 844, 844 -847 (Tex.1956)

The Texas Supreme Court held that after the Walls executed the transfer orders they were no longer entitled to money they had directed Chicago Corporation to pay to others, and the Walls could not recover from Chicago Corporation. To hold otherwise would be to cause Chicago Corporation to suffer an injury as the result of a double payment.

Detrimental Reliance.

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## *Exxon Corp. v. Middleton,* 613 S.W.2d 240, 249 -251 (Tex.1981)

… Division orders are binding only for the time and to the extent that they have been or are being acted upon. The division orders in *Middleton* were revoked upon service of citation on Exxon and Sun. Thus, division orders are described as binding until revoked. They are an executory accord and not a contract.

STATUTE OF LIMITATIONS

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## *Gavenda v. Strata Energy, Inc.,* 705 S.W.2d 690, 690 -693 (Tex.1986)

...In Texas, division and transfer orders do not convey royalty interests; they do not rewrite or supplant leases or deeds...

The general rule in Texas is that division and transfer orders bind underpaid royalty owners until revoked...One principle underlining this rule is detrimental reliance.

Generally, the underpaid royalty owners, however, have a remedy: they can recover from the overpaid royalty owners...The basis for recovery is unjust enrichment; the overpaid royalty owner is not entitled to the royalties.

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# Title search: The Uses and Abuses of the Division Order

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