



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

*2019 Fundamentals of Oil, Gas, and Mineral Law*

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## Overview

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- What is the lease royalty?
- Measurement, Calculation, and Payment
- Post Production Costs
- Market Value

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## The Lease Royalty

“The landowner's share of production, free of expenses of production.”

- *Heritage Resources, Inc. v. NationsBank*, 939 S.W.2d 118 (Tex. 1996)

“A royalty interest, as one of the five attributes of a mineral estate, is an interest in real property, and thereby has the same attributes as real property. As such, a royalty interest may be severed from the mineral estate and held separately, pooled, conveyed, or reserved in connection with a conveyance of the mineral estate.”

- *Aery v. Hoskins, Inc.*, 493 S.W.3d 684 (Tex. Ct. App – San Antonio)

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## Royalty Interests

- Lessor's Royalty - Paid to the lessor as main consideration for issuance of the lease
- Non-Participating Royalty – Royalty held by a non-executive interest holder
  - *KCM Financial LLC v. Bradshaw*, 457 S.W.3d 70 (Tex. 2015)
- Overriding Royalty - an interest which is carved from, and constitutes part of, the working interest created by an oil and gas lease.
  - *EOG Resources, Inc. v. Hanson Production Co.*, 94 S.W.3d 697 (Tex. Ct. App – San Antonio, 2002)
- Shut in Royalty is *not* Royalty

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