Make Peace, Not War:

Negotiating and Drafting Accommodation Agreements in the Oil and Gas Industry with Wind and Solar Companies.

Rod E. Wetsel

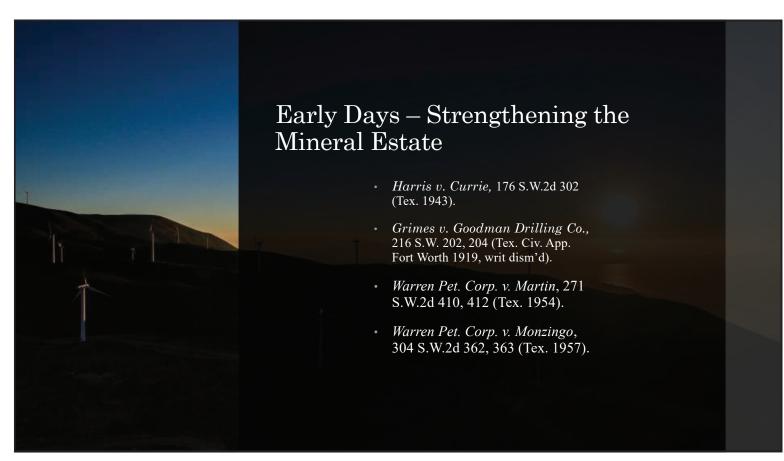
1

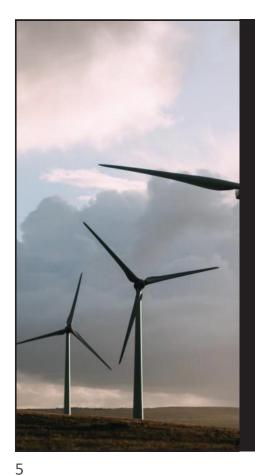


Mineral Accommodation Doctrine

- Judicial, non-statutory concept requiring the mineral owner to act with prudence and "due regard" for existing surface uses.
- Focuses only on the method of the mineral owner's operations—not a limitation on mineral owner's right whether or not to extract.
- Parties are at the mercy of a judge's discretion to weigh the factors.







The Accommodation Doctrine

- Getty Oil Co. v. Jones, 470 S.W.2d 618 (Tex. 1971).
- Tarrant County Water Control & Improvement Dist. No. One v. Haupt, Inc., 854 S.W.2d 909 (Tex. 1993).
- Texas Genco LP v. Valence Operating Co., 187 S.W.3d 118 (Tex. App.—Waco 2006, pet. denied).
- Merriman v. XTO Energy, Inc., 407
 S.W.3d 244 (Tex. 2013).
- VirTex Operating Co. v. Bauerle, No. 04-16-00549-CV, 2017 WL 5162546, (Tex. App.—San Antonio Nov. 8, 2017) rev. denied (Mar. 29, 2019), reh'g filed (May 15, 2019) (mem. op.)



Wind Leases and Mineral Leases – Major Issues

- Concurrent use of surface improvements: roads, gates, etc.
- Drill sites near Wind Turbines





Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

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

Also available as part of the eCourse

Answer Bar: Oil, Gas and Energy Agreements and Contracting Essentials

First appeared as part of the conference materials for the 47th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session "Make Peace, Not War: Negotiating and Drafting Accommodation Agreements in the Oil and Gas Industry with Wind and Solar Companies"