

Post-Production Royalty Disputes

48th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute April 22, 2022

THE ROYALTY CLAUSE & TEXAS DECISIONS

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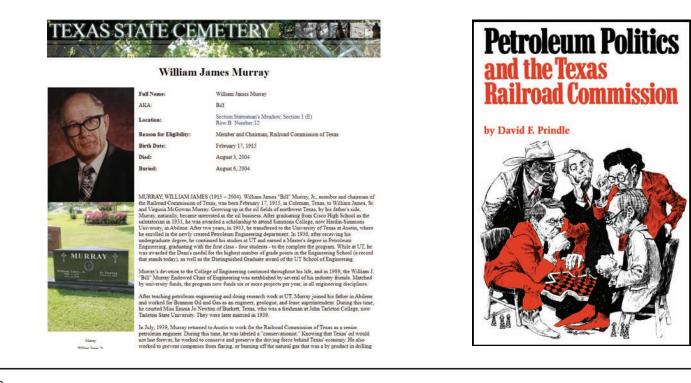
- The Early Cases: Vela, Middleton, Yzaguirre, Heritage, Judice
 - The Later Cases: Hyder, Potts, Warren, Texas Crude
- The Most Recent Cases: Blueston v. Randle, Bluestone v. Engler
 - The Pending Case: Devon v. Sheppard

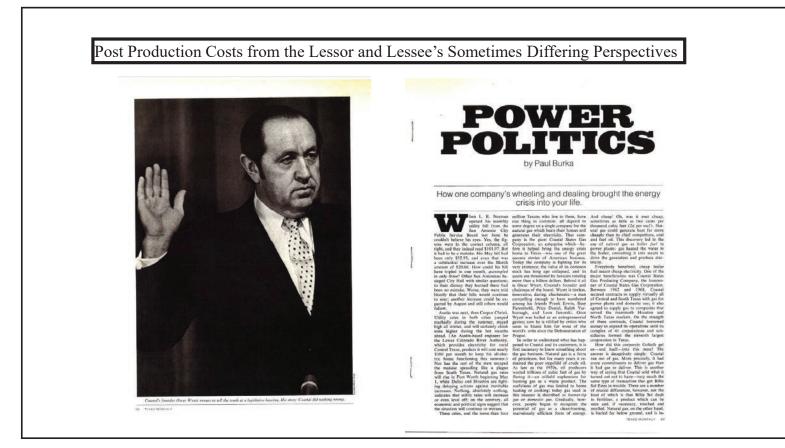
ROYALTY AUDIT ISSUES

Downstream Commingling, Condensate Shrinkage, Lease/Plant Fuel, Flaring/Venting, Lost & Unaccounted for (LUF), T&F Fees, Skim Oil, etc

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Post Production Costs from the Lessor and Lessee's Sometimes Differing Perspectives





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| | deduction, directly or compressing, processi sale or use Lessee ag | S THAT all royalties accruing under this Lease (including those paid in kind) shall be without indurectly, for the cost of producing, gathering, storing, separating, treating, dehydrating ng, transporting, and otherwise making the oil, gas and other products hereander ready for press to compute and pay royalties on the gross value received, including any reimbursement d production related costs |

POST PRODUCTION EXPENSES AFTER HERITAGE

Warren v. Chesapeake Expl., L.L.C., 759 F.3d 413, 414 (5th Cir. 2014)

- "20% of the amount realized, computed at the mouth of the well"
- No deductions clause
- Post-production deductions: **OK**
- But not 3rd lease: "market value at the point of sale"

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