





## Post-Production Royalty Disputes

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



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#### THE ROYALTY CLAUSE & TEXAS DECISIONS







- 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

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

# TEXAS STATE CEMETERY

#### William James Murray

Full Name: William James Morray
AKA: Bill

A:

Section: Statesman's Meadow, Section 1 (E)
Row: B. Number: 12

Reason for Eligibility: Member and Chairman, Railroad Commission of Texas

 Birth Date:
 February 17, 1915

 Died:
 August 3, 2004

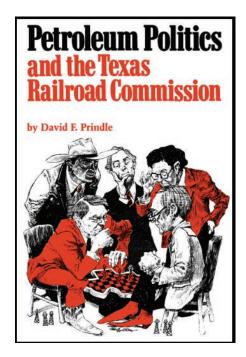
 Buried:
 August 6, 2004

MURRAY, WILLIAM JAMES (1915 ~ 2004). William James "Bill" Murray, Jr., member and chairman of the Rainoad Commission of Texas, was born February 17, 1915, in Coleman, Texas, to William James, Sr. and Virginia McGowan Murray, Gerowing up in the oil fields of northwest Texas, by his father's side, Murray, naturally, became interested in the oil business. After graduating from Cisco High School as the salutationain in 1931, he was awarded a scholarship to attend Simmons Collège, now Hardin-Simmons University, in Ableine. After two years, in 1935, he transferred to the University of Texas at Austin, where he enrolled in the netty Created Petroleum Engineering department. In 1936, after receiving his undergraduate George he continued his studies at UT and earned A Matter's degree in Petroleum Engineering, graduating with the first class - four students - to the complete the program. While at UT, be was sawarded the Dennis medial for the highest number of grade points in the Engineering School (a record that stands today), as well as the Distinguished Graduate award of the UT School of Engineering.

furray's devotion to the College of Engineering continued throughout his life, and in 1989, the William J Bill "Murray Endowed Chair of Engineering was established by several of his industry friends. Many or university finds, the program now finds six or more moverage review in all engineering discrimines.

After teaching petroleum engineering and doing research work at UT, Murray joined his father in Abilene and worked for Brannon Oil and Cus as an engineer, geologist, and lease superintendent During this time, he courted Miss Emma So Newton of Burkert, Teass, who was a freshman at John Turfeton College, now Tarleton State University. They were later married in 1939.

In July, 1939, Murray returned to Austin to work for the Railroad Commission of Texas as a senior pertoleum engineer. During this time, he was labeled a "conservationsis." Knowing that Texas' oil would not last forever, he worked to conserve and preserve the driving force behind Texas' economy. He also worked to prevent companies from flaring, or burning off the natural gas that was a by product in drilling



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



# POWER

by Paul Burka

How one company's wheeling and dealing brought the energy crisis into your life.

Petits Survive San Antenian City Stiff from the San Antenian City Could Stiff from the San Antenian City Could Stiff from the San Antenian City Could Stiff from the San Antenian City Stiff from Swer in the current column, all right, and they included and \$101.977. But have been copy \$12.593, and even that was a substantial increase over the March Land State City Stiff from the San Antenians have been completely from the San Antenians have copy of the San Antenians have considered the San Antenians have considered the San Antenians have been an intalker More, they were told boardy that their bills would continue penetic by Angara and still other world and the San Antenians have been supposed by Angara and still other world have been supposed by Angara and still other world have been supposed by Angara and still other world have been supposed by Angara and still other world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and still potent world have been supposed by Angara and Stiff have been supposed by Angara an

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horough, and Leon Jawonsk. Once Wysel was haded as an enterpensional genius now he is stilled by critics who seem to blame him for most of the worlds with since the Defensation of Prague. In order to understand what has happened to Coustal and its customers, it is first necessary to know something about

pened to Coastal and its customers, it is first necessary to slow consetting about first necessary to slow consetting about first necessary to slow consetting about the consetting and the consetting about the consetting and the consetting about the consetting and a consetting and a large part of the consetting and a large part of the consetting and a consetting and a consetting and a property of the consetting and a property nd chasp! Oh, was it ever cheap, metitines as little as two couls per consum dubic feet (2¢ per mgt.). Nati-all gas could generate heat far more seaply than its chief competitore, coul fatel oil. This discovery led to the continuous gas as before fore in were plantic gas as before fore where plantic gas behald the water in a boller, converting it into steam to twen the generators and produce elections.

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

#### BlueStone v. Randle



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Attached to and made a part of Oil, Gas and Mineral Lease dated April 1, 2003, by and between MURRAY RANDLE, Lessor and QUICKSILVER RESOURCES, INC, Lessoe It is understood and agreed by all parties that the language on this Exhibit "A" supersedes any provisions to the contrary in the printed lease hereof

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14 ANYTHING HEREIN TO THE CONTRARY notwithstanding, the royalties to be paid Lessor on production are 0 Mc- Fi<sup>\*</sup>Fi<sup>†</sup>Three-Sixteenthe (3/16), and wherever the word One-Eighth appears in this lease, the same is hereby amended to read-Three-Sixteenthe (3/16) OMe-FiFTH (1/5); WMR

26 LESSEE AGREES THAT all royalties accruing under this Lease (including those paid in kind) shall be without deduction, directly or indirectly, for the cost of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting, and otherwise making the oil, gas and other products hereunder ready for sale or use. Lessee agrees to compute and pay royalties on the gross value received, including any reimbursements for severance taxes and production related costs.

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## 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 3<sup>rd</sup> lease: "market value at the point of sale"





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