

The Oil & Gas Lease, Part III

Implied Covenants



Keith B. Hall
LSU Law School
(504) 250-2636
khall@lsu.edu

April 13, 2023
Houston, Texas

Fundamentals of Oil, Gas and Mineral Law

Outline of Presentation

- A. What are implied covenants? What do they do? Why do they exist?
- B. The main implied covenants
- C. Other possible implied covenants
- D. Lagniappe issues
 - standard of care, the effect of express provisions, procedural issues, etc.

What are implied covenants?

- Obligations that bind leaseholder, but which are not expressly stated in lease

What do these covenants generally do?

- Implied covenants generally impose a duty upon lessee to be reasonably active and diligent

3

Why do implied covenants exist?

1. The primary benefit that a lessor hopes to gain from a lease is the payment of royalties.
2. The likelihood of royalties and the amount of royalties depends, in part, on how active lessee is in exploring, drilling, etc.
3. Typical lease does not expressly impose any duties on lessee to explore, drill, etc.

Pages 1-5 of paper

4

Why do implied covenants exist?

“It is doubtful if any other character of legal instrument can be found in which one of the parties has so much potentially at stake with so little express contractual protection.”

A. W. Walker, Jr., *The Nature of Property Interests Created by an Oil and Gas Lease in Texas*, 11 Tex. L. Rev. 399 (1933)

Pages 3-4 of paper

5

Implied Covenants Recognized in Texas

- 1) Develop the leasehold
- 2) Protect the leasehold
- 3) Administer & manage the lease

Page 7 of paper

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: The Oil and Gas Lease, Part III: Implied Covenants

Also available as part of the eCourse

[2023 Fundamentals of Oil, Gas and Mineral Law eConference](#)

First appeared as part of the conference materials for the
2023 Fundamentals of Oil, Gas and Mineral Law session

"The Oil and Gas Lease, Part III: Implied Covenants"