

# Proration Units

"You keep using that word. I do not think it means what you think it means."

# Proration Units

"The acreage assigned to a well for the purpose of as  
allowables and allocating allowable production to the well." 1  
ADMIN. CODE §3.38(a)(3)

which in today's world is not necessarily the same thing as:

The acreage the Railroad Commission has determined, after h  
that a well will efficiently drain in order to reasonably dev  
particular field.

# Proration Units

Put a different way:

"The fault I find with our holding in this case is that we are trying to put the meaning of terms used by private parties to a lease into a suitably technical terminology used by the Railroad Commission in its rules and orders." *Jones v. Killingsworth*, 403 S.W.2d 325 (Tex. 1966) (Pope, dissenting)

# Proration Units

Or:

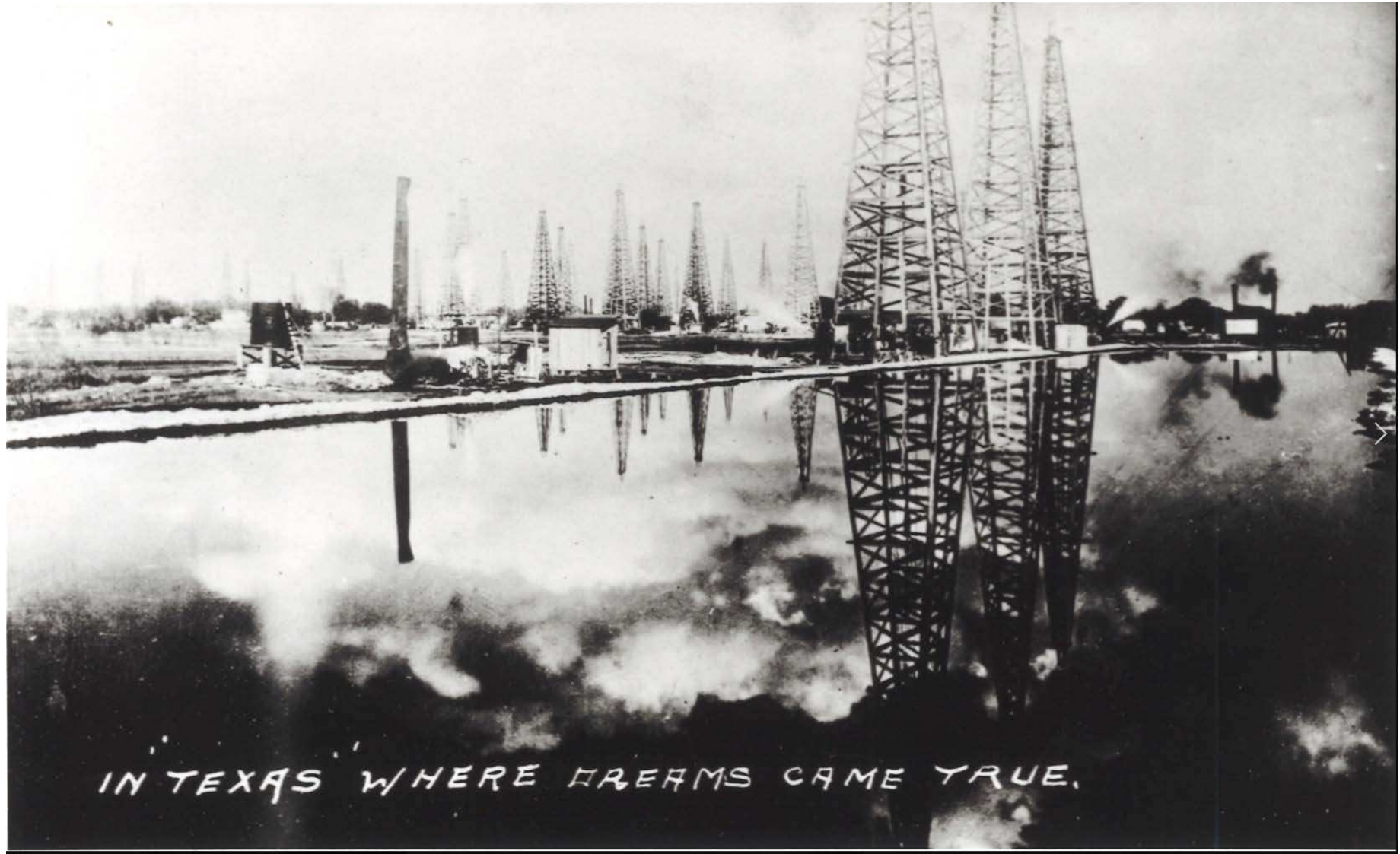
"[T]he inclusion of such regulatory principles in a retained-  
clause may also cause confusion or disappointment, as the con-  
parties may not fully understand the ramifications of inclu-  
regulatory term in the typical mineral lease." *Endeavor v. Dis*  
\_\_\_ S.W.3d \_\_\_ (Tex. April 13, 2018) (slip op.)

# How Did We Get Here?

The issue we address here and in our paper involves two concepts -- proration units and retained acreage clauses -- that have deep historical roots. Each evolved to address a different issue.

Railroad Commission regulation evolved to prevent the drilling of too many wells. The retained acreage clause evolved to prevent the drilling of not enough wells. Using RRC concepts as shorthand in retained acreage clauses can therefore make everyone unhappy. It can be the wrong tool for the job.

# How Did We Get Here?



OSBORN, MARSLAND & HARGROVE -- APRIL 20, 2018

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 \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Proration Units: "You Keep Using that Word, I Don't Think it Means What You Think it Means!"

First appeared as part of the conference materials for the  
44<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session  
"Proration Units: "You Keep Using that Word, I Don't Think it Means What You Think it Means!""