

# Oil and Gas, Natural Resources, and Energy Journal

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Volume 3 | Number 2

*A Collection of Archived Works from the Deans of Oil and Gas Law*

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July 2017

## Editor's Introduction

Mason W. Smith

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# ONE J

*Oil and Gas, Natural Resources,  
and Energy Journal*

VOLUME 3, NUMBER 2

JULY, 2017

## Editor's Introduction

Welcome to the second issue of Volume 3 of the University of Oklahoma College of Law's *Oil and Gas, Natural Resources, and Energy Journal* ("ONE J"). This issue is unlike any the Journal has published before: Today, we are pleased to reprint articles written by eight of the nation's most influential scholars on oil and gas law and policy. Without question, their research and expertise have shaped the education of multiple generations of oil and gas lawyers. These renowned scholars headlined the inaugural ONE J Symposium last spring and have generously permitted the Journal to republish their work. Today's issue also features summaries of recent cases that are relevant to the energy industry.

Professor Owen L. Anderson is the Eugene Kuntz Chair in Oil, Gas and Natural Resources Emeritus and George Lynn Cross Research Professor Emeritus at the University of Oklahoma College of Law. He currently serves as Professor and Distinguished Oil and Gas Scholar for the Kay Bailey Hutchison Center for Energy Law and Business at the University of Texas School of Law. Professor Anderson has lectured on oil and gas law on six continents. His 2013 article, *Shale Gas Revolution or Evolution: Opportunities and Challenges for Europe*, compares the exploitation of shale gas in the United States to that of Europe and discusses methods the latter should employ to become less dependent on foreign nations for gas imports. The article was originally published in Cleveland-Marshall College of Law's *Global Business Law Review*.

Professor Bruce M. Kramer is the Jack F. Maddox Professor of Law Emeritus at Texas Tech University School of Law and Of Counsel at McGinnis Lochridge & Kilgore LLP in the firm's Houston office. His 1993 article, *The Sisyphean Task of Interpreting Mineral Deeds and Leases: An Encyclopedia of Canons of Construction*, surveys Texas courts' convoluted approach to applying an array of canons of construction in the oil and gas context and advocates for changes that would put the canons in "their proper place as a useful tool in resolving legal disputes over written instruments." The article was originally published in the *Texas Tech Law Review*.

Professor John S. Lowe is the George W. Hutchinson Chair in Energy Law and Professor of Law at Southern Methodist University's Dedman School of Law. Professor Lowe also serves as a legal advisor for petroleum issues in the Commercial Law Development Program of the United States Department of Commerce. His 1987 article, *Analyzing Oil and Gas Farmout Agreements*, discusses the complexities of farmout contracts in view of statutory and common law issues and provides a swath of

representative agreement language from nationwide practitioners. The article was originally published in what is now the *SMU Law Review*, formerly the *Southwestern Law Journal*.

Professor Patrick H. Martin is a Professor Emeritus at Louisiana State University's Paul M. Hebert Law Center and Director of the Louisiana Mineral Law Institute. Professor Martin is also the author of three casebooks related to legal philosophy, oil and gas, and economic regulation. His seminal 1976 article, *A Modern Look at Implied Covenants to Explore, Develop, and Market Under Mineral Leases*, provides a "fundamental reexamination" of oil and gas law's implied covenants and promotes a modified approach to the "prudent operator" standard in view of lessees' national responsibility for energy development and environmental protection. The article was originally published in the *Twenty-seventh Annual Institute on Oil and Gas Law and Taxation*.

Professor Phillip E. Norvell is a Professor of Law at the University of Arkansas School of Law and 1973 graduate of the University of Oklahoma College of Law. Professor Norvell has also served on the Board of Editors of the *Oil & Gas Reporter* for more than thirty years. His 1995 article, *Pitfalls in Developing Lands Burdened by Non-Participating Royalty: Calculating the Royalty Share and Coexisting with the Duty Owed to the Non-Participating Royalty Owner by the Executive Interest*, analyzes "the peculiar problems that beset the interpretation" of mineral conveyances when it is unclear whether the grantor intended a *fractional share* royalty or a *fraction of* royalty. Further, the article highlights the divergent interests (and ensuing tension) between non-participating royalty owners and executive-rights holders in the leasing context. The article was originally published in the *Arkansas Law Review*.

Professor David Percy is a Professor of Law and the Borden Ladner Gervais Chair of Energy Law and Policy at the University of Alberta Law Center. His 2011 article, *Overlapping Remedies and the Unexpected Termination of Oil and Gas Leases*, examines the "perilous and uncertain existence" of Canadian oil and gas leases under the courts' strict interpretation of such agreements and proposes a solution to "the problem of overlapping remedies" when such agreements unexpectedly terminate. The article was originally published in the *Alberta Law Review*.

Professor David E. Pierce is a Professor of Law and the Norman R. Pozez Chair in Business and Transactional Law at Washburn University School of Law. Among other things, Professor Pierce is the author of the *Kansas Oil and Gas Handbook* and coeditor of *Kuntz, A Treatise on Oil and Gas Law*. His 2004 article, *The Renaissance of Law in the Law of Oil and Gas: The Contract Dimension*, highlights the jurisprudential issues that

arise when courts “depart from basic contract, property, or tort law” in favor of oil and gas law concepts and advocates for a judicial retreat to conventional contract-law principles when interpreting oil and gas leases. The article was originally published in the *Washburn Law Journal*.

Finally, Professor Ernest E. Smith is the Rex G. Baker Centennial Chair in Natural Resources Law and former Dean of the University of Texas School of Law. Professor Smith is the author of several leading casebooks and treatises and is the recipient of countless teaching awards. His 2017 article, *Applying Familiar Concepts to New Technology: Under the Traditional Oil and Gas Lease, a Lessee Does Not Need Pooling Authority to Drill a Horizontal Well That Crosses Lease Lines*, argues that the typical oil and gas lease authorizes inter-tract horizontal drilling if the operator holds leases on each tract and allocates production to the extent that such production is attributable with reasonable probability. The article was recently published in the *Texas Journal of Oil, Gas, and Energy Law*.

We would like to sincerely thank these distinguished authors for allowing the Journal to publish their work. This issue is dedicated to their legacy and exemplary service to the industry. Further, we would like to thank the remarkable editorial staffs of the past publishers, each of whom made this issue possible by permitting the Journal to republish the articles.

Thank you for your interest in this very special edition of ONE J. We welcome your article submissions and topic suggestions for future issues. Please help us promote the Journal by sharing the link to our Digital Commons page. You can also find us on Twitter by searching @ONEJ\_OULaw. Please follow us for information about future publications, events, and relevant industry news.

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