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Table of Contents

I. Introduction	370
II. Statutory Law	370
A. Proposed Louisiana Bill Maximizes Funds for Orphan Wells	370
III. Administrative Law	370

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IV. Common Law 371
 A. Louisiana Court Determines When the Louisiana Department of
 Natural Resources Can Recoup Costs for Orphan Well Restorations.. 371
 B. The Western District of Louisiana Decides If Operators Can
 Withhold Severance Taxes 371
 C. Louisiana First Circuit Applies Subsequent Purchaser Doctrine to
 Property Transfers from Family Members to a Company That They
 Also Own..... 371
 V. Other 372
 A. The Federal Government Restarting Drilling on Federal Lands May
 Affect Louisiana 372
 VI. Conclusion 372

I. Introduction

In Louisiana, there were several developments in oil and gas law during the period of August 1, 2021, to July 31, 2022. In the courts, oil and gas litigation primarily dealt with technical clarifications rather than major precedential shifts. While, in the legislature, a proposed Louisiana Senate Bill could secure federal funds for orphan well restoration. Additionally, Louisiana took an interest in federal developments of oil and gas law.

II. Statutory Law

A. Proposed Louisiana Bill Maximizes Funds for Orphan Wells

The Infrastructure Investment and Jobs Act passed by the U.S. Congress on November 15, 2021, dedicates \$4.7 billion to orphan well restoration.¹ Proposed Louisiana State Senate Bills 23 and 245 are designed to help the state maximize the funds they receive to help restore orphan wells. These proposed bills could help Louisiana secure \$200 million from the federal government.²

III. Administrative Law

There were not any notable administrative developments in Louisiana during the time period of August 1, 2021, to July 31, 2022.

1. H.R. 3684, 117th Cong. (2021).
 2. S.B. 23, 2021 Leg., Reg. Sess. (La. 2021); S.B. 245, 2021 Leg., Reg. Sess. (La. 2021).

IV. Common Law

A. Louisiana Court Determines When the Louisiana Department of Natural Resources Can Recoup Costs for Orphan Well Restorations

In the case of *Litel Explorations, LLC v. Aegis Development Co., LLC*,³ Louisiana's Third Circuit Court of Appeals held that the Louisiana Department of Natural Resources cannot recover the over \$6.3 million dollars in emergency costs from prior operators of an orphaned well.⁴ In so holding this, the court reasoned that, when the Louisiana Department of Natural Resources spends money from the Oilfield Site Restoration Fund on emergencies, it can only recoup those costs from the responsible parties, being the current operator of record and the working interest owners.⁵

B. The Western District of Louisiana Decides If Operators Can Withhold Severance Taxes

In the case of *Self v. BPX Operating Co., et al.*,⁶ the Western District of Louisiana reversed course from earlier decisions and held that operators are allowed to withhold severance taxes from the payment of "proceeds" to unleased mineral owners.⁷ Here, the court reasoned that since severance taxes can be deducted from the proceeds, production-costs can as well.⁸ While this ruling is subject to appeal, for the time being it allows operators to withhold severance taxes from the payment of proceeds to unleased mineral owners.

C. Louisiana First Circuit Applies Subsequent Purchaser Doctrine to Property Transfers from Family Members to a Company That They Also Own

In the case of *Louisiana Wetlands, LLC v. Energen Resources Corp.*,⁹ Louisiana's First Circuit Court held that the subsequent purchaser doctrine applies to property transfers from family members to a company that they

3. *Litel Expls., LLC v. Aegis Dev. Co.*, 2021-741 (La. App. 3 Cir. 4/6/22), 337 So. 3d 940.

4. *Id.* at 950.

5. *Id.*

6. *Self v. BPX Operating, Co.*, No. CV 19-0927, 2022 WL 989345 (W.D. La. Mar. 31, 2022).

7. *Id.* at *8.

8. *Id.* at *7.

9. *Louisiana Wetlands, LLC v. Energen Resources Corp.*, 2021-0290 (La. App. 1 Cir. 10/4/21), 330 So. 3d 674, *writ denied*, 2021-01610 (La. 1/12/22), 330 So. 3d 614, *reconsideration not considered*, 2021-01610 (La. 3/22/22), 334 So. 3d 751.

also own.¹⁰ The subsequent purchase doctrine provides that a current landowner has no standing to bring a lawsuit for property damage that occurred prior to its acquisition, absent a valid assignment from the prior landowner of the personal right to sue.¹¹ This case involved a 300-acre tract of land that was passed down throughout the years. The current landowner sued multiple oil and gas companies alleging contamination of the property.¹² However, the defendants argued that the subsequent purchaser doctrine bars them from being liable.¹³ The court agreed with this position and held that the subsequent purchaser doctrine applies to all transactions.¹⁴

V. Other

A. The Federal Government Restarting Drilling on Federal Lands May Affect Louisiana

On April 15, 2022, the Biden Administration provided notice that it will resume selling leases to drill for oil and gas on federal lands.¹⁵ However, the government will offer limited acreage, and companies will have to pay increased royalties to drill.¹⁶ The federal government currently owns 1.3 million acres, or 4.7%, of the land in Louisiana.¹⁷

VI. Conclusion

While Louisiana has seen some development in oil and gas law from August 1, 2021, to July 31, 2022, these developments are not largely substantive.

10. *Id.* at 680-81.

11. *Id.* at 679.

12. *Id.* at 677-78.

13. *Id.* at 679.

14. *Id.* at 680-81.

15. Josh Lederman & Zoe Richards, *Biden administration to resume leasing for oil and gas drilling on federal lands*, NBC NEWS (Jun. 30, 2022, 3:43 PM), <https://www.nbcnews.com/politics/politics-news/biden-administration-resume-leasing-oil-gas-drilling-federal-lands-rcna24646>.

16. *Id.*

17. See how much land in Louisiana is owned by the federal government, STACKER (Jun. 30, 2022), <https://stacker.com/louisiana/see-how-much-land-louisiana-owned-federal-government>.