Underground Gas Storage

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Empty Spaces – What are we talking about here?
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An Introduction to Gas Storage Rights—What are we talking about here?
52 O.S. Sec 36.1

• (a) "underground storage" shall mean storage in a subsurface stratum or formation of the earth.

• (b) "natural gas" shall mean gas either while in its original state or after the same has been processed by removal therefrom of component parts not essential to its use for light and fuel.
• (c) "native gas" shall mean gas which has not been previously withdrawn from the earth.

• (d) "public utility" shall mean any person, firm or corporation authorized to do business in this state and engaged in the business of transporting or distributing natural gas by means of pipelines into, within or through this state for ultimate public use, or that uses natural gas as a fuel to produce electricity for ultimate public use.
• (e) "Commission" shall mean the State Corporation Commission.
Rights to Depleted Formations for Underground Gas Storage
How Natural Gas Exists in Reservoir Rock

(Microscopic View)
Commission Jurisdiction

• 52 OS Sec. 36.3
  – Formation is substantially depleted of native oil and gas
  – Has a greater value or utility as a gas storage reservoir
Commission Rule

• OAC 165:10-3-5
Arkansas Louisiana Gas Company v. Latham
650 P.2d 49 (Okla. 1982)

• The court found that a Commission order finding a common source of supply to be substantially depleted of all recoverable hydrocarbons for the purposes of certification of a gas storage facility under the Gas Storage Act is not binding upon the district court, this notwithstanding the Commission certificate.
Braly v. Cody 575 P. 2d 1362

- Inapplicability of 52 OS Sec. 112 to certificates issued under the auspices of The Underground Storage of Gas Act
District Court Jurisdiction

• 52 OS Sec. 36.5
  – Whether the operator has the power of eminent domain?
  – Whether the subject property is necessary for storage operations?
  – Whether the operator has attempted in good faith to acquire by purchase an underground gas storage lease?
The Ownership of the Void Pore Spaces

- Whether the void pore space is owned by the surface owner or the mineral owner after the hydrocarbons have been substantially produced from the proposed common source of supply for the underground storage?
Ellis v. Arkansas Louisiana Gas Company
450 F.Supp. 412 (N.D.Okla 1978); aff’d
609 F.2d 436 (10th Cir. 1979); cert. Denied
445 U.S. 964, 100 S.Ct. 1653, 64 L.Ed.2d
239 (1980)
Sunray Oil Co. v. Cortez Oil Company
112 P.2d 792 (Okla. 1941)
The Holdings of the District Court of Beckham County

- The Court found the surface owner was the owner of the underground gas storage rights.
Ownership of Well Bores and Well Casing

- The Operator and the Oil and Gas Lessees who paid for the drilling of the oil and gas well are the original owners of the well bore and casing.
- When the Operator and the Oil and Gas Lessees abandon the well bore, then is the surface owner, the mineral owner or the oil and gas lessees the owner?
- Answer: It will depend on whether the equipment was removed by the Operator within a reasonable time after the oil and gas lease terminated.
Garr-Wooley v. Martin, 579 P.2d 206

- This case discussed two theories:
  - First Theory. Theory of Abandonment
  - If the equipment and machinery is left beyond a reasonable time after the lease is abandoned by the lessee, it becomes the property of the landowner.
Garr-Wooley v. Martin, 579 P.2d 206

- Second Theory. Theory of Forfeiture
- The failure to remove fixtures from the land within a reasonable time results in a forfeiture of the fixtures making the fixtures part of the realty vesting the owner of the fee with title.
- Court found the lessee did not have an unlimited time to remove the casing and derricks and therefore forfeited the fixtures to the surface owner.
Santa Fe Minerals v. Sanford
842 P.2d 363

• The court here held that the oil and gas lessee was still entitled to re-work a non-productive well bore because the underlying oil and gas lease was still in full force and effect by the Apache Bromide Sand Unit.

• Here, although the well bore had not actually produced for years the secondary recovery unit had produced and the court found in favor of the oil and gas lessees.

• Note: The court observed that in every case it found where the landowner was held to have title to the well bore, the lease had terminated.
McDaniel v. Moyer
662 P.2d 454

• The Oklahoma Supreme Court held that a well bore abandoned by a lessee becomes subject to ownership of the surface owner after a reasonable amount of time.

• The district court granted the request for injunctive relief against the surface owners who barred and denied the operator access to the well bore, but ruled the ownership of the well bore was in the landowners and that the landowners would be entitled to recover the value of its use.
The Operator had force pooled the landowners’ mineral interests and the Supreme Court found the landowners’ refusal to allow the operator access to their land was a clear violation of the unchallenged and unchallengeable order of the Commission. The McDaniel court also ruled the compensation issue could not be litigated as a defense to an injunction suit, but let the ownership of the abandoned well bore ruling of the lower court stand without comment.
Conclusion:
Don’t Drink and Fly
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