

Border Titles: The Interpretation of Deed Language along the Border of North Central WV and Southwest PA

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Border Titles:
**The Interpretation of Deed Language
along the Border of
North Central WV and Southwest PA**

■ ■ Issues



- West Virginia vs. Pennsylvania
- Mineral vs. royalty interest
- Percentage of interest being conveyed/
reserved
 - $1/16$ interest = $1/2$ interest

■ ■ Factors



- Where is the property located?
- When was the conveyance/
reservation?
- What was the intent of the
parties?

■ ■ Canons of Construction



- Deeds are intended to have effect, and a construction making it operative is preferred to one making it void
- When a deed is ambiguous or where it admits of two constructions, it will be constructed against the grantor and in favor of the grantee
- If a deed contains two clauses that are contradictory, the first prevails over the second
- If the language is clear and unambiguous, parol evidence will not be admitted to give it any other construction

■ ■ Counties Along the Border



- WEST VIRGINIA
 - Ohio
 - Marshall
 - Wetzel
 - Monongalia
- PENNSYLVANIA
 - Washington
 - Greene
 - Fayette



■ ■ Drake's Well



- 1859
- Titusville
- Crawford County, PA



■ ■ Pennsylvania



- Little case law
- Roy v. Luce, 7 Pa. D. & C. 4th 580
 - Court of Common Please of Crawford County, PA
 - 9/12/1990



■ ■ West Virginia



- More case law than PA
- Follows minority rules in some cases
 - Grant of royalties creates a mineral interest
 - Toothman v. Courtney, 58 S.E. 915 (1907)
 - Paxton v. Benedum-Tres Oil Co., 94 S.E. 472 (1917)
 - Reasoning based on Coke's rule – if one grants the profits of one's land, one grants the fee interest because what is the land but the profits thereof

■ ■ Example One



- Marshall County, WV (137/540):
“The [grantors] retain and hold unto themselves the one sixteenth (1/16) part of oil rights of said land also retains one half (1/2) interest of all oil and gas rentals accruing from said land. Also one half (1/2) money derived from gas wells.”

■ ■ Example One



- Marshall County, WV (137/540):
 - “The [grantors] retain and hold unto themselves the one sixteenth (1/16) part of oil rights of said land also retains one half (1/2) interest of all oil and gas rentals accruing from said land. Also one half (1/2) money derived from gas wells.”
- ***Grantors reserved ½ of Oil & Gas in place and ½ of Oil & Gas royalties***

■ ■ Example Two



- Washington County, PA (209/469):
 - Grantors grant “All the undivided one sixteenth ($1/16$) part of all the oil lying or being in or upon or under or that may be produced from or out of all that certain tract of land . . . and the one half ($1/2$) part of all royalties for oil wells and rentals or payments for producing gas wells”

■ ■ Example Two



- Washington County, PA (209/469):
 - Grantors grant “All the undivided one sixteenth ($1/16$) part of all the oil lying or being in or upon or under or that may be produced from or out of all that certain tract of land . . . and the one half ($1/2$) part of all royalties for oil wells and rentals or payments for producing gas wells”
 - ***Grantee obtained $1/2$ of Oil & Gas in place and $1/2$ of Oil & Gas royalties***

■ ■ Example Three



- Greene County, PA (152/414):

“A further reserve is made by the parties of the first part their heirs and assigns of the one sixteenth part of all the oil produced from said land.”

■ ■ Example Three



- Greene County, PA (152/414):
 - “A further reserve is made by the parties of the first part their heirs and assigns of the one sixteenth part of all the oil produced from said land.”
 - ***Grantor reserved 1/16 royalty interest***

■ ■ Example Four



- Washington County, PA (433/424):

Grantors grant “all the undivided one-sixty-fourth ($1/64$) part of all the oil lying or being in, upon or under, or that may be produced from or out of, all that certain tract of land . . . containing [105] acres more or less; and the One-Fourth ($1/4$) part of all royalties from oil wells . . .”

■ ■ Example Four



- Washington County, PA (433/424):

Grantors grant “all the undivided one-sixty-fourth ($1/64$) part of all the oil lying or being in, upon or under, or that may be produced from or out of, all that certain tract of land . . . containing [105] acres more or less; and the One-Fourth ($1/4$) part of all royalties from oil wells . . .”

- ***Grantee obtained $1/4$ of Oil & Gas in place of $1/4$ of Oil & Gas royalties***

■ ■ Example Five



- Monongalia County, WV (117/323)

“There is also reserved to [grantors] the one sixteenth of all the oil that may be saved to the credit of this land by reason of any well or wells that may be drilled on this land. Also the one half of any money that may be paid to the second party or his assigns for any gas well or gas wells that may be drilled on this land. The second party or his assigns is to have the privilege to lease and collect all rentals for himself, only what is considered the royalty being reserved for the first parties.”

■ ■ Example Five



- Monongalia County, WV (117/323)

“There is also reserved to [grantors] the one sixteenth of all the oil that may be saved to the credit of this land by reason of any well or wells that may be drilled on this land. Also the one half of any money that may be paid to the second party or his assigns for any gas well or gas wells that may be drilled on this land. The second party or his assigns is to have the privilege to lease and collect all rentals for himself, only what is considered the royalty being reserved for the first parties.”

- ***Grantors reserved 1/2 of Oil & Gas royalties***

■ ■ Example Six



- Greene County, PA (278/47):

“[P]arties of the first part . . . Grant . . . All the one half of the royalty (or one sixteenth of all the oil and gas and oil and gas rights in and under all that certain tract of land[])”

“It is expressly understood that this oil and gas, and oil and gas right, has been reserved by [previous owner], and wife, by deed . . . made to [grantor] for the period of Fifteen Year. It is expressly understood that the [grantee] shall not have possession until after the expiration of the reserve made by” previous owner and wife.

■ ■ Example Six



- Greene County, PA (278/47):

“[P]arties of the first part . . . Grant . . . All the one half of the royalty (or one sixteenth of all the oil and gas and oil and gas rights in and under all that certain tract of land[])”

“It is expressively understood that this oil and gas, and oil and gas right, has been reserved by [previous owner], and wife, by deed . . . made to [grantor] for the period of Fifteen Year. It is expressly understood that the [grantee] shall not have possession until after the expiration of the reserve made by” previous owner and wife.

- ***Grantee obtained ½ of Oil & Gas in place and ½ of Oil & Gas royalties subject to tenancy for years***

■ ■ Example Seven



- Monongalia County, WV (296/69):

“There is, however, excepted and reserved . . . Three-thirty seconds of all oil that may be produced and saved from any oils wells that may be drilled on said tract and three-fourths of all the monies that may be paid for any producing gas wells that may be drilled on this land. The said grantee, however, shall have the right to lease said land for oil and gas purposes and shall have the right to collect and retain for her own use any and all delay rentals that may be paid under any such lease and shall have the further right to drill and operate through said veins of coal hereinbefore reserved for oil and gas.”

■ ■ Example Seven



- Monongalia County, WV (296/69):

“There is, however, excepted and reserved . . . Three-thirty seconds of all oil that may be produced and saved from any oils wells that may be drilled on said tract and three-fourths of all the monies that may be paid for any producing gas wells that may be drilled on this land. The said grantee, however, shall have the right to lease said land for oil and gas purposes and shall have the right to collect and retain for her own use any and all delay rentals that may be paid under any such lease and shall have the further right to drill and operate through said veins of coal hereinbefore reserved for oil and gas.”

- ***Grantor reserved 3/4 of the 1/8 Oil & Gas royalties***

■ ■ Example Eight (Deed A)



- Wetzel County, WV (92/149)

“[I]t is further understood and agreed that the one fourth of the oil and gas royalty which is one eighth of the oil and gas produced from this property is not sold but remains the property of the parties of the first part.”

■ ■ Example Eight (Deed A)



- Wetzel County, WV (92/149)

“[I]t is further understood and agreed that the one fourth of the oil and gas royalty which is one eighth of the oil and gas produced from this property is not sold but remains the property of the parties of the first part.”

- *Grantor reserved ¼ of Oil & Gas in place*

■ ■ Example Eight (Deed B)



- Wetzel County, WV (97/146)

“[I]t is further understood and agreed that party of the first part is to Retain for himself the three fourth Right to all the Oil and Gas in and underlying this tract of land hereby conveyed that is party of the first part to have three fourths and the party of the second part to have one fourth of the Royalty being the one Eighth of all the oil and the three fourths of the Cash Received for gas is to go to said [grantor] and on fourth to said [grantee].”

■ ■ Example Eight (Deed B)



- Wetzel County, WV (97/146)

“[I]t is further understood and agreed that party of the first part is to Retain for himself the three fourth Right to all the Oil and Gas in and underlying this tract of land hereby conveyed that is party of the first part to have three fourths and the party of the second part to have one fourth of the Royalty being the one Eighth of all the oil and the three fourths of the Cash Received for gas is to go to said [grantor] and on fourth to said [grantee].”

- ***Grantor reserved 3/4 of Oil & Gas in place***
 - ***1/4 of 3/4 was “protection of warranty” in Deed A***
 - ***2/4 of 3/4 was reservation by grantor in Deed B***
- ***Grantee obtained 1/4 of Oil & Gas in place***

■ ■ Example Nine



- Marshall County, WV (204/297)

“There is reserved from the operation of this Deed the Proceeds of the Gas Well now producing on the above described Property along with the right to mantain [sic] and operate or whatever.”

■ ■ Example Nine



- Marshall County, WV (204/297)

“There is reserved from the operation of this Deed the Proceeds of the Gas Well now producing on the above described Property along with the right to mantain [sic] and operate or whatever.”

- ***Grantor reserved the Oil & Gas royalty on the existing gas well***



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