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Wyoming Supreme Court Reverses District Court on State Oil and Gas Lease Anti-Washout Clause

On February 1, 2017, the Wyoming Supreme Court issued its decision in *Questar Exploration and Production Company et al. v. Rocky Mountain Resources, LLC*, 2017 WY 10, reversing and remanding the decision of the District Court holding that an overriding royalty burdening a State of Wyoming Lease applied to a subsequent lease granted by a public drawing.

A predecessor in interest to Rocky Mountain Resources, LLC owned overriding royalty interests (the “RMR ORR”) in two State of Wyoming Oil and Gas Leases issued in 1951. The State Land Board’s standard assignment form which created the RMR ORR provided that the “grants and reservations herein contained extending to any renewal lease, substitute lease or new lease issued in lieu thereof with full effect.” After the 1951 leases terminated in September of 1979, a subsequent lease was granted to Dr. Robert Ribbe on November 15, 1979, pursuant to a public drawing. The Ribbe Lease contained greater annual rental payments than the previous leases, and contained no mandatory drilling obligation like found in the prior leases. The District Court held that the renewal lease language was an anti-washout clause, which resulted in application of the RMR ORR to the 1979 lease. The District Court issued a judgment against QEP Energy Company and Wexpro Company in excess of \$30,000,000.00

The Wyoming Supreme Court reversed and held that the overriding royalty did not attach to the Ribbe Lease because it was issued on different terms than the prior leases and to a party who was not involved with the prior leases. Accordingly, the Ribbe Lease was not a substitute lease or new lease issued in lieu of the 1951 leases and was not burdened by the RMR ORR.

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