

OIL AND GAS LAW IN A NUTSHELL

By
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Reviewed by
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While skeptics might doubt the premise of his title — that it is possible to distill the principles of oil and gas law into a nutshell — Professor Lowe has managed to produce a readable summary of this area of the law in this useful little volume. His purpose is to provide a succinct and comprehensive outline of the development of oil and gas resources, ranging from the rules governing ownership and transfer of oil and gas rights to federal taxation of transactions involving such rights. As a reference work, *Oil and Gas Law in a Nutshell* should be of value to the energy practitioner who finds a basic knowledge of oil and gas law helpful in his or her practice.

The book is divided into four major parts. The first part, which deals with the nature and protection of oil and gas rights, describes how oil and gas law gradually developed out of existing common law concepts relating to property rights into a distinct body of law in response to society's needs to exploit these important sources of energy. In this section, Professor Lowe explains how the basic rule of capture governing development of oil and gas reserves — which modified existing common law rules in order to encourage production of oil and gas by providing protection to owners of mineral rights against liability to neighboring landowners — has been limited over time in various ways in order to achieve certain purposes deemed useful to society. For example, the doctrine of correlative rights, a corollary to the rule of capture, excludes waste or wasteful production techniques from the immunity against liability afforded by the law of capture on the theory that waste is inconsistent with encouragement of production. Professor Lowe also explains how state conservation laws, including well spacing rules, production regulations, and compulsory pooling provisions, were enacted to provide additional limits on the rule of capture. Other chapters describe the different kinds of oil and gas interests — fee interests, mineral interests, leasehold interests, royalty interests, etc. — and their characteristics, and explain how such interests may be protected against trespass.

In the second major part of the book, Professor Lowe outlines the basic rules governing conveyances of oil and gas interests, and describes at some length several of the major interpretative problems that have arisen in connection with transfers of oil and gas interests. Generally, he attempts to summarize majority and minority judicial views on these issues, and sometimes offers specific drafting suggestions as to how to avoid major problems. He also uses diagrams effectively to help illustrate complicated factual situations. A particularly useful chapter in this part of the book deals with the rules governing joint ownership of oil and gas rights, including methods of obtaining the right to develop mineral resources in the case of

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fractionalized interests.

The third part of the book discusses the problems most frequently encountered by the typical oil and gas practitioner — problems arising out of oil and gas leases. Here, Professor Lowe describes the essential provisions of modern oil and gas leases (the granting clause, the term clause, and the drilling-delay rental clause) as well as typical “defensive” provisions normally found in today’s oil and gas leases in order to protect the lessee, such as dry hole clauses, pooling and unitization provisions, shut-in royalty clauses, etc. This section also contains a helpful discussion of implied covenants in oil and gas leases as well as rights and obligations arising out of lease transfers.

The final part of the book relates to various tax and business matters involving oil and gas. This section includes a brief overview of certain basic principles governing oil and gas taxation, although the discussion is, of necessity, somewhat superficial. It also contains a chapter outlining the major provisions typically found in oil and gas contracts today, such as price escalation, deregulation, and market-out clauses, take-or-pay provisions, and other clauses in gas contracts that are often the subject of dispute in regulatory proceedings before the FERC.

Oil and Gas Law in a Nutshell also includes, as appendices, various forms, including a mineral deed form, a conveyance of nonparticipating royalty interest form, and oil and gas lease forms commonly used in two states, as well as a glossary of oil and gas terms. The glossary of oil and gas terms, in particular, should be of value to the lawyer who does not regularly practice in the field of oil and gas law, but occasionally encounters such terms in an energy regulatory practice.

Like most books in the West Publishing Company’s Nutshell Series, Professor Lowe’s book is thorough, well organized, and readable. Given the complexity of the subject, the discussion is, inevitably, often quite general, so a serious practitioner in the area will typically find the book only a starting point for resolving many oil and gas issues. As an introduction to oil and gas, however, *Oil and Gas Law in a Nutshell* should be a helpful addition to the energy lawyer’s bookshelf.