

# SUPREME COURT OF WYOMING

## Ultra Resources, Inc. v. Hartman

226 P.3d 889 (Wyo. 2010) · No. S-08-0258, S-08-0259, S-08-0260, S-08-0261, S-08-0262, S-08-0263, S-08-0264 · Decided March 23, 2010

### SUMMARY

The Wyoming Supreme Court considered consolidated appeals and cross-appeals concerning a net profits interest created in connection with oil and gas leases and the Pinedale Unit. The court addressed whether the interest survived termination of the unit, ownership and notice issues, contract liability, Wyoming Royalty Payment Act interest and penalties, replacement leases, limitations, joint and several liability, settlement credits, and attorney fees. The court affirmed in part and reversed and remanded in part.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                             |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Wyoming                                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Kite, Justice; Voigt, C.J.; Golden, J.; Hill, J.; Kite, J.; Burke, J.                                                                                                                                                                                                                                                       |
| JURISDICTION          | Wyoming                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | March 23, 2010                                                                                                                                                                                                                                                                                                              |
| DOCKET                | S-08-0258, S-08-0259, S-08-0260, S-08-0261, S-08-0262, S-08-0263, S-08-0264                                                                                                                                                                                                                                                 |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Seven appeals and cross-appeals from a district court judgment concerning ownership and payment obligations relating to a net profits interest in oil and gas leases.                                                                                                                                                       |
| STANDARD OF REVIEW    | Summary judgment and Rule 52(c) judgments are reviewed de novo. Contract interpretation and statutory interpretation are reviewed de novo. After a bench trial, factual findings are reviewed for clear error and legal conclusions de novo.                                                                                |
| PRECEDENTIAL VALUE    | Published Wyoming Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                      |
| PARTIES               | Ultra Resources, Inc., Williams Production Rocky Mountain Co., Arrowhead Resources (U.S.A.) Ltd., Lance Oil & Gas Company, Inc., Shell Rocky Mountain Production, LLC, SWEPI, LP, Doyle and Margaret M. Hartman, John H. Hendrix Corporation, Michael L. Klein and Jeanne Klein, Ronnie H. Westbrook and Karen Westbrook v. |

Doyle and Margaret M. Hartman, John H. Hendrix Corporation,  
Michael L. Klein and Jeanne Klein, Ronnie H. Westbrook and Karen  
Westbrook, Ultra Resources, Inc., Shell Rocky Mountain Production,  
LLC, Lance Oil & Gas Company, Inc., SWEPI, LP, Williams  
Production Rocky Mountain Co., Arrowhead Resources (U.S.A.) Ltd.

## TOPICS

oil and gas

mineral rights

contract interpretation

appellate procedure

remedies

## PRACTICE AREAS

oil and gas

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## QUESTIONS PRESENTED

1. Whether the net profits interest survived contraction and termination of the Pinedale Unit.
2. Whether the plaintiffs established a right to payment of the net profits interest and whether the defendants had standing to challenge that right.
3. Whether the plaintiffs' February 22, 2006 letter provided sufficient notice under the transfer provision of the Unit NPI Contract.
4. Whether the defendants breached the implied covenant of good faith and fair dealing.
5. Whether non-operating working-interest owners were liable under the Wyoming Royalty Payment Act.
6. Whether the non-operating defendants breached the Unit NPI Contract by failing to account for and pay the net profits interest.
7. Whether the operating defendants were liable for statutory interest and penalties under the Wyoming Royalty Payment Act.
8. Whether State Lease 79-0645 was a replacement lease subject to the net profits interest.
9. Whether the claims were barred by the statute of limitations or laches.
10. Whether the defendants were jointly and severally liable and whether the attorney-fee award was proper.

## HOLDINGS

1. The net profits interest continued to burden the leases identified in Exhibit A after contraction and termination of the Pinedale Unit.
2. The plaintiffs established a sufficient right to payment of the net profits interest, but the district court could not quiet title against persons who were not parties and had not asserted adverse claims.
3. The plaintiffs' February 22, 2006 letter and attachments provided sufficient proof of interest under Section 5 of the Unit NPI Contract, triggering entitlement to payments accruing after March 1, 2006.
4. The plaintiffs failed to establish a breach of the implied covenant of good faith and fair dealing.

5. Non-operating working-interest owners were not liable for statutory interest, penalties, and fees under the Wyoming Royalty Payment Act because they were not contractually responsible for actually remitting payment to the interest owners.
6. The non-operating defendants retained the ultimate contractual obligation to pay the net profits interest and breached the contract by failing to account for and pay it, even though administrative payment functions were delegated to the operators.
7. The operating defendants were liable for statutory interest and penalties after receiving sufficient notice of the plaintiffs' ownership because the contract's ownership-dispute withholding provision did not permit them to deny the existence of the NPI.
8. State Lease 79-0645 was a replacement lease subject to the net profits interest because it covered lands previously subject to Exhibit A leases that had been surrendered and was acquired by a First Party within five years.

## KEY QUOTATIONS

*“By providing that in the event of surrender of any of the Exhibit A leases, the NPI would continue on operations relating to lands in which the leasehold interest is not so surrendered,” this provision clearly attaches the NPI to the leases rather than to continuation in the unit.” (908-909)*

*“The logical view of the Unit NPI Contract is that Novi permanently gave up its leases in exchange for a permanent 5% NPI, not a temporary one.” (910)*

*“The parties to the Unit NPI Contract used the mandatory language “in no event” to elucidate the compulsory notice requirement.” (916)*

*“The Moncrief decision makes it clear that the WRPA applies only to parties contractually obligated to actually remit payments to royalty interest owners.” (922)*

## FACTUAL BACKGROUND

In the 1950s, Novi Oil Company assigned oil and gas leases to the First Parties in exchange for a five-percent net profits interest. The Unit NPI Contract identified leases associated with the Pinedale Unit and contained provisions governing computation, payment, transfer, surrender, and replacement leases. The Pinedale Unit later contracted and terminated, but some leases remained in production or were incorporated into successor units; the leases became profitable in 2005. The plaintiffs, successors to Novi, demanded payment in February 2006, and the defendants disputed the continuing existence of the interest and the plaintiffs' entitlement to payment.

## PROCEDURAL HISTORY

The district court granted the plaintiffs partial summary judgment, ruling that the net profits interest survived termination of the Pinedale Unit and that the plaintiffs were entitled to payment. After a bench trial, the court found contractual breaches, awarded net profits, statutory interest and penalties, imposed joint and several liability, and awarded more than \$3.9 million in attorney fees. The parties appealed the summary-judgment rulings, Rule 52(c) rulings, bench-trial determinations, and fee award.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The judgment was affirmed in part and reversed in part, including reversal of any attempted quiet-title declaration against nonparties; the case was remanded for further proceedings consistent with the opinion.

## CASES CITED

- Covington v. W.R. Grace-Conn., Inc., 952 P.2d 1105, 1106 (Wyo. 1998)
- Kirkwood v. CUNA Mutual Insurance Society, 937 P.2d 206, 208 (Wyo. 1997)
- Wolter v. Equitable Resources Energy Co., 979 P.2d 948, 951 (Wyo. 1999)
- Ferguson v. Coronado Oil Co., 884 P.2d 971, 976 (Wyo. 1994)
- Wadi Petroleum, Inc. v. Ultra Resources, Inc., 2003 WY 41, 65 P.3d 703 (Wyo. 2003)
- Halliburton Energy Services, Inc. v. Gunter, 2007 WY 151, 167 P.3d 645 (Wyo. 2007)
- Scherer Construction, LLC v. Hedquist Construction, Inc., 2001 WY 23, 18 P.3d 645 (Wyo. 2001)
- Whitlock Construction, Inc. v. South Big Horn County Water Supply Joint Powers Board, 2002 WY 36, 41 P.3d 1261 (Wyo. 2002)
- Moncrief v. Harvey, 816 P.2d 97, 107-109 (Wyo. 1991)
- Cities Service Oil & Gas Corp. v. State, 838 P.2d 146, 156-157 (Wyo. 1992)
- Sawyer v. Guthrie, 215 F. Supp. 2d 1254, 1264 (D. Wyo. 2002)
- Avatar Exploration, Inc. v. Chevron, U.S.A., Inc., 933 F.2d 314, 319 (5th Cir. 1991)