



1982

## Preface

Cynthia J. Norland

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### Recommended Citation

Norland, Cynthia J. (1982) "Preface," *North Dakota Law Review*. Vol. 58 : No. 3 , Article 1.  
Available at: <https://commons.und.edu/ndlr/vol58/iss3/1>

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## PREFACE

Western and central North Dakota have seen many changes with the rapid and widespread development of the Williston Basin. Because of the interest in this development, the *North Dakota Law Review* is devoting this issue to a symposium containing in-depth legal scholarship on various aspects of oil and gas law. In addition, the *Review* presented a live symposium on oil and gas law on Friday, April 30, 1982, in the law school's Baker Moot Court Room on the University of North Dakota campus. Charles Meyers, Richard Maxwell, Owen Lopez, Clint Parsley, William Pearce, and Owen Anderson presented the articles they wrote for this issue to an audience of attorneys and students.

Five law students also presented papers they had written — Gene Olson, Cynthia Norland, Gregg Nelson, Steven Wild, and Steven Lange. The live symposium was successful, in part, because of financial support in the form of grants provided by the Rocky Mountain Mineral Law Foundation and the Law Student Division of the American Bar Association. The success of the symposium on April 30 has allowed us to make this issue longer than average.

The *Introduction* to this oil and gas law symposium was written by Charles Meyers. Mr. Meyers has written treatises and textbooks on oil and gas law and water law that are relied upon by many judges, attorneys, and legal scholars. During the last nineteen years Mr. Meyers was a professor and then Dean of Stanford University's School of Law. Presently, he is in private practice in Denver, Colorado. Charles Meyers has had an enormous impact on the shaping of national and local oil and gas law. In his *Introduction*, he provides us with more thought-provoking issues to consider.

The articles in this issue involve a variety of oil and gas related topics. Richard Maxwell, another nationally recognized oil and gas law expert, contributes some comments on three recent North Dakota Supreme Court decisions involving conveyances of fractional mineral interests, the mineral-royalty distinction, and delay rental payments. Professor Maxwell is a Minnesota native

and was a professor of law at the University of North Dakota from 1947 to 1949. After spending the last twenty-eight years at U.C.L.A. Law School, he has recently moved to Durham, North Carolina, where he is teaching at Duke University.

William Pearce of Bismarck, North Dakota, thoroughly analyzes the legal implications of surface damages caused by the oil and gas operator in North Dakota in an article in this issue. The article is an excellent research tool for anyone involved in the legal aspects of the regional oil and gas industry. Mr. Pearce carefully examines North Dakota cases that involve surface owner-developer conflicts and also discusses the recent legislation in this area, the Oil and Gas Production Damage Compensation Act of 1979.

Owen Lopez of Santa Fe, New Mexico, and Clint Parsley of Austin, Texas, join to write an interesting article on the legal aspects of enhanced recovery. In particular, they examine the standard a prudent oil and gas operator must follow when pursuing enhanced recovery under the implied lease covenants of exploration and development. In their analysis of this issue, Mr. Lopez and Mr. Parsley analyze three recent enhanced recovery cases which involve the application of the implied covenants to a fireflooding project, a water drive reservoir, and the issue of profitability of further exploration. These topics should be of special interest to attorneys who represent landowners in the Williston Basin as operators there begin to make decisions concerning the profitability of secondary and enhanced recovery operations.

The last two articles do not emphasize common law or case law in the area of oil and gas, but rather look at governmental regulation of the industry. Owen Anderson, professor of law at the University of North Dakota and Special Counsel to the North Dakota Industrial Commission, discusses the technical issue of when production income and expenses should be divided after the North Dakota Industrial Commission has ordered compulsory pooling. This is an issue that many jurisdictions, including North Dakota, have not settled. Professor Anderson examines the law in Oklahoma, Louisiana, Nebraska, and Colorado before recommending the rule that he suggests should be followed in North Dakota. The final article also deals with industry regulation, but on a national level. William Mogel and James White, Jr., are in private practice in Washington, D.C. In their article they examine section 311 of the Natural Gas Policy Act of 1978, which deals with the transportation of natural gas. Mr. Mogel and Mr.

White discuss section 311's legislative history, recent actions under the section, and the role section 311 plays in the nation's natural gas supply and demand balance.

In addition to the articles, there are three student written papers in this issue. The two notes discuss the rights of nonleasing fractional mineral interest owners, and dormant mineral statutes and abandoned severed mineral interests. The case comment is an analysis of a recent North Dakota Supreme Court case involving an appeal from a North Dakota Industrial Commission decision on well spacing. Finally, the symposium concludes with a bibliography of recent oil and gas related articles compiled by Donald Hughes, Jr., public services librarian at the University of North Dakota School of Law.

The *North Dakota Law Review* is proud to present this symposium on the timely and important topic of oil and gas law. We hope that these articles will be useful for students and practitioners who are analyzing recent issues in oil and gas law.

CYNTHIA J. NORLAND  
*Special Projects Editor*

