CHAPTER 14: OKLAHOMA

CDOA WEBINAR

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FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- In determining ownership, title examiners and land professionals consider documents from both a record title perspective and from a transactional perspective.

- If the transactional people have done their jobs properly, the division order analyst should be able to rely on recorded documentation.

- Transactional people would have at a minimum:
  - Verified that the person executing the document is who they claim to be
  - Verified that that person has authority to execute the document as evidenced by a corporate resolution or an opinion of counsel
  - Verified that the corporation is in good standing in the state of incorporation and that they are domesticated in Oklahoma and in good standing with the State of Oklahoma.
  - Verified that the legal description matches the description of the previous deed, or if only a portion is being transferred, verified that the portion being transferred is correctly described.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Title problems can be avoided if names changes are identified in the conveyances. For example, Apex Corporation purchased the stock of and merged with Smith Company. The deed should recite the grantor as "Apex Corporation, successor by merger to Smith Company."

- A copy of the merger documentation can be recorded with the conveyance or an Affidavit of Fact can be recorded stating the Apex is the successor company to Smith Company by virtue of a merger.

- Any time a correction instrument is filed of record to correct an error in a previous instrument, the instrument should be labeled as a "Correction Assignment or Deed" and the correction being made should clearly be spelled out in the correction instrument.

- If the error was a clerical error that does not diminish the value of the conveyance, such as a spelling error in the grantor or grantee's name, an affidavit may be placed of record as notice of the error.

- Any time the correction diminishes the value of the conveyance to the grantee, both grantor and grantee must execute the agreement.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Title out of an individual or company should be exactly as title was issued into that individual or company.

- If a property was conveyed to a single woman who subsequently married, the conveyance should identify the woman by both names. For example, "Jane Mosley, now known as Jane Randolph, joined by her husband, John Randolph" or "Jane Randolph, previously known as Jane Mosley, joined by her husband, John Randolph."

- A subsequent seller can and should execute a recordable affidavit as part of their closing documents if the name on the conveyance into that seller does not match the conveyance into that owner. For example, Jane Mosley was grantee on the deed but the next conveyance on the tract to Sarah Evans shows "John Randolph and Jane Randolph, husband and wife." Sarah should have an affidavit recorded stating that Jane Mosley and Jane Randolph are one and the same person.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Conveyances out of a trust can create problems:
  - When there is no recorded documentation establishing a trust, it may be difficult to determine the correct name of the trust.
  - If a deed is granted to "John Doe, Trustee of the John Doe Revocable Trust dated January 1, 1995" then the conveyance out of the trust should be styled the same way.
  - Any time there is a question about who the trust grantor or grantee is, the title examiner should require an affidavit from the trustee or a correction deed.
  - If the grantee on the original conveyance was John Doe, Trustee of the John Doe Revocable Trust but the grantor on the next conveyance is Sarah Doe, Trustee of the John Doe Trust and the instrument was filed after November 1, 1989, the trustee was required to file a Memorandum of Trust, and Sarah Doe may have been listed as trustee. In 2008 the Memorandum of Trust requirement was clarified so that the Memorandum is not required if the deed is directed to the trustee.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- If an instrument has been recorded for five years, the Rebuttable Presumption Statute authorizes the title examiner to rely on the rebuttable presumption that the person executing the document was the proper person and had the authority to execute it. Evidence to the contrary will still invalidate the document.

- Any time it cannot be determined with certainty that the trusts being conveyed are one and the same, a recorded affidavit stating that the trusts are one and the same should be required. Example: Deed shows "John Doe, Trustee of the John Doe Revocable Trust dated January 1, 1995" as grantor. Subsequent deed shows "John Doe, Trustee of the John Doe Trust as last amended July 1, 1996".

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Both spouses should sign a conveyance if a surface interest is involved due to a potential homestead claim.

- The Oklahoma Affidavit Title Examination Standard last underwent major revisions in 1996.

- The statue provides that a recorded and acknowledge affidavit is “notice of matters covered therein” relating to property, its use or its ownership.

- Oklahoma statutes have been changed to give a lot more weight to affidavits. Affidavits may relate to:
  - Age, sex, birth, death, relationship, family history, names, and identify of parties (whether individual, corporate, partnership or trust)
  - Identity of officers of corporations
  - Membership of partnerships, joint ventures and other unincorporated associations
  - Identity of trustees of trusts and their respective terms of service
  - History of the organization of corporations, partnerships, joint ventures and trusts
  - Marital status
  - Possession; residence
  - Service in the Armed Forces
  - Conflicts and ambiguities in descriptions of land in recorded instruments

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Effective September 1, 1994, the recording of an affidavit in the office of the county clerk in the county in which the real property is situated creates a rebuttable presumption that facts stated in the recorded affidavit are true as they relate to real estate, its use, or its ownership.

- Affidavits, which were previously regarded merely as documents giving notice of possible facts now may constitute prima facie evidence that those facts are true.

- Powers of attorney should always be recorded with any document executed by the attorney-in-fact.

- Powers of attorney create an agency relationship and grants the POA the authority to act on behalf of the principal.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The power of attorney document that creates the agency relationship sets out the scope of the authority granted as well as the duration of the power.

- The POA must be recorded in the county where the land is in order to be effective. Any conveyance is of no effect unless the POA has been filed of record in the county.

- A power of attorney ceases at the death of the grantor. A power of attorney will terminate at the incapacity of the grantor unless it is a durable power of attorney.

- There are various types of POA:
  - Limited power of attorney
  - General power of attorney
  - Durable power of attorney
  - Medical power of attorney
  - Financial power of attorney
  - Special Power of attorney

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- In order for a Power of Attorney to be filed in a tract index, it must contain a legal description. Since POA's rarely contain legal descriptions, the Power of Attorney should be attached to an affidavit as an exhibit in order for it to be properly placed of record.

- Powers of Attorney are revocable by the principal. The revocation must be filed in the same office where the Power of Attorney is recorded.

- Conveyances of a homestead property by a power of attorney are void.

- Any conveyance signed by only one spouse which covers land that is or could be homestead property is void.

- In Tulsa and Oklahoma Counties, a sing person's or widowed person's property may not be sold by a deed executed by a POA unless the principal is incapacitated.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- An instrument with one of the following defects recorded in the county clerk's office in the proper county for a period of 5 years is considered to be a valid instrument:
  - It has not been signed by the proper representative of a legal entity.
  - The representative is not authorized to execute the instrument on behalf of the legal entity.
  - A power of attorney has not been filed of record for an attorney in fact executing the instrument.
  - The seal of the legal entity has not been impressed on such instrument or the record does not show such seal.
  - The instrument is not acknowledged
  - A deed or conveyance does not bear endorsement of approval by the appropriate governmental planning authority having jurisdiction.
  - Any defect in the execution, acknowledgment, recording or certificate of recording the same

  The instrument or the record thereof or a duly-authenticated copy thereof shall be competent evidence without requiring the original to produced or accounted for to the same extent that written instruments, duly executed and acknowledged, or the record thereof, are competent.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- A deed executed by an attorney-in-fact without a recorded power of attorney is void. However, five years later, that deed suddenly becomes valid!!!???

- If a property is held by two people as joint tenants with rights of survivorship and one dies, an Affidavit of Death and Termination of Joint Tenancy with the death certificate must be filed of record to make the title marketable.

- Unless the joint tenancy was between spouses, an estate tax release or waiver must also be filed.

- To create a joint tenancy, the deed must specify that it is into two people as “joint tenants” as a minimum. It is preferable to state that it is conveyed as “joint tenants with rights of survivorship.”

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Oklahoma does not allow a limited liability corporation to designate officers so there is no president of a LLC in Oklahoma. If title is transferred by a LLC, it should be executed by the manager. Unless an Operating Agreement specifies that one manager can sign on behalf of the LLC, all managers must sign.

- Title conveyed into a trust can be conveyed to the trustee of the express trust or in the name of the trust itself. The mere listing of a property in the trust agreement does not put the property in trust. It must be conveyed into the trust.

- Oklahoma does not recognize blind trusts. A conveyance into John Doe, Trustee without naming the trust is a conveyance into John Doe, individually. You can attach the trust document, an affidavit, or a Memorandum of Trust to the conveyance to provide the trust name.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- An affidavit identifying the trust may be filed by the trustee, a beneficiary, or even anyone who has knowledge of the trust, as long as the affiant identifies his or her source of information.

- An affidavit executed by a person who has an interest in the property does not diminish the value of the Affidavit.

- A memorandum of trust can only be executed by the trustee.

- A final decree in a probate acts as a deed vesting title in the designated heirs, beneficiaries, or devisees shown in the decree. It should be recorded in any county where property is located.

- Title 58 of the Oklahoma probate statues allows the filing of a summary of the final decree in lieu of the full document.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The summary must describe:
  - the property by legal description,
  - the name of the decedent in the probate proceeding,
  - the court, case number and date the final decree or judgment was entered
  - the name and addresses of the party or parties now holding title to the property,
  - the county where the full final decree or judgment was entered.

  If a final decree describes property or a mineral interest that the decedent did not own at the time of his or her death, it does not cloud title in and of itself.

  A divorce decree acts as a deed if there is no other deed of record. The decree is recorded in each county where minerals or real property were owned or divided between the parties. The decree must be recorded in the office of the county clerk in the county where the land is located to give constructive notice of the transfer of title.

  Divorce decrees not only terminate the marriage, but also allocate property and award title to one or the other spouse.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The divorce decree must list a legal description of any property being divided. A street address is not sufficient legal description.

- A divorce decree terminates any joint tenancy existing between the two ex-spouses and also removes the ex-spouse from a will.

- If the divorce decree is not entered in the county records but a deed surfaces from the ex-spouse to a third party, the Division Order Analyst would be under reasonable inquiry to determine where the ex-spouse acquired her interest.

- If the deed into a lessor shows he was married but the lease was taken from the lessor as a single individual, the analyst would have inquiry responsibility to determine the facts.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Liens in divorce decrees are liens on the real property of the debtor spouse and provide constructive notice.

- An order for the payment of property division alimony in a divorce decree entered after September 1, 1991 is a lien against the real property of the person against whom the property division alimony is awarded and it provides constructive notice to subsequent purchasers if:
  - the order states the amount of alimony as a definite sum, and
  - the order expressly provides for a lien on the debtor spouse's real property; and either
    - a. The court's order providing for a lien is recorded in the office of the county clerk in the county in which the real property is situated, or,
    - b. The debtor spouse acquired some or all of the interest in the real property that is subject to the lien via the divorce decree.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The specific language used in the decree determines how long the liens last.
  - If the lien was payable in a single lump sum with no state due date, it is extinguished 5 years after the date of pronouncement of the lien by the court in a divorce case
  - If the lien was payable in a lump sum with a stated due date, the lien is extinguished 5 years after the due date of the lump sum obligation.
  - If the lien was payable in installments, then the lien is incrementally extinguished as to each installment 5 years after the due date of each installment,
  - If the lien was payable in a single lump sum which is due upon the occurrence of a designated event, then the lien is extinguished 5 years after the designated event occurs. For constructive notice, evidence of the occurrence of the designated event must appear in the record.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Mortgages cease to be a valid encumbrance 7 years after their due date.
- If no due date is specified they are not enforceable 30 years after they were recorded.
- A note holder must foreclose the mortgage within a seven year limitation period after the due date.
- Estate tax liens cannot be enforced 10 years after the date of the death of the decedent. This is 10 years after the date of death, not the date of probate.
- Title acquired through a decedent is considered marketable as to the Oklahoma estate or transfer tax unless prior to the end of the 10 year period there was a tax warrant filed of record by the Oklahoma Tax Commission.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- Transfer on death deeds allow a grantor to convey his or her property to a grantee upon the grantor's death without probate proceedings.

- On November 1, 2008 a new Oklahoma statute, the Nontestamentary Transfer of Property Act, went into effect that allows a person to title real property in himself and name a beneficiary who is to receive the property upon the owner's death.

- The beneficiary on such a deed does not need to be a signatory on the deed and consideration is not necessary to validate the in-the-future conveyance.

- The transfer-on-death deed is executed, acknowledged and recorded in the office of the county clerk in the county where the real proeprty is located, prior to the death of the owner.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The designation of the grantee beneficiary may be revoked at any time prior to the death of the record owner.

- The revocation must be executed by the record owner, acknowledged and recorded in the county clerk's office where the land is located.

- Notice to the beneficiary or agreement of the beneficiary is not required.

- Payment of consideration by the beneficiary to the record title owner does not prevent the owner from removing the beneficiary from the deed.

- A transfer-on-death deed may be disclaimed by the beneficiary within 9 months after the record owner dies. The disclaimer must also be filed in the county where the property is located.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The beneficiary's ability to disclaim is waived if the beneficiary exercises dominion over the property during the 9 month period.

- Title to the property vests in the beneficiary at the death of the record owners and is evidenced by filing an affidavit by the beneficiary, with a copy of the death certificate and an estate tax release attached if the beneficiary is not the spouse of the record owner.

- If the beneficiary dies prior to the record owner and no alternate beneficiary is named in the deed, the transfer will lapse.

- A joint tenant may utilize a transfer-on-death deed, but it only takes effect if that joint tenant survives al other joint tenants. The transfer-on-death deed does not sever the joint tenancy.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- If both spouses deed all their property into a trust, and both are trustees, all conveyances of real property out of the trust must be executed by both trustees regardless of whether the trust says only one trustee needs to sign to effectuate a transfer.

- No deed or mortgage is valid unless executed by both husband and wife. Only individuals can claim a homestead interest in property, so it is obvious that an express trust cannot.

- Some mortgage companies will require that a property be transferred from the trust back to the individuals before a mortgage is signed and then re-convey the property back into trust.

- The homestead right is a personal right and it can be waived.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- If both spouses did not join in the creation of the express private trust and the deed is of the homestead of the trust, then the conveyance into the trust is void unless the deed into the trust has been of record for 10 years and no action has been instituted seeking to avoid, invalidate, or cancel the deed.

- If the property is separate property owned by only one spouse, deeds by either spouse with the joinder of the other is allowed.

- Because a title examiner has no way of knowing which property is homestead, he must treat every deed of real property in Oklahoma executed by a married person without their spouse's joinder as void.

- This problem can be cured by either having a corrective deed signed by both spouses or by obtaining a waiver of any homestead rights signed by both spouses.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- A jurat, ("subscribed and sworn before me") is not an acknowledgement and will prevent a deed or mortgage from being recorded. A jurat is simply a statement that the person executing the document swore before the notary that the what the document said was true.

- An acknowledgement is necessary for a deed or mortgage to be recorded. An acknowledgement must include a recitation that the notary knows the signer personally or has seen positive identification and further confirms that the person signing intends to convey or encumber the property.

- People other than notaries are authorized to take acknowledgements in Oklahoma.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- If a spouse dies intestate survived by a spouse and one or more minor children, a legal guardian will need to be appointed by the court prior to property being sold. The surviving parent is not automatically the guardian for purposes of selling real property inherited by the minor children.

- Unless the trust specifically allows the trustees to act alone in executing a document, all trustees must sign every document under common law. The Oklahoma Trust Act modified the common law approach to provide that, where there are three or more trustees serving at the same time, authority may be exercised by a majority of the trustees.

- The Oklahoma Trust Act also provides that where there are two or more trustees and one or more dies, the survivor may exercise the authority previously held by the trustees jointly, unless the trust provides otherwise.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- The Oklahoma Trust Act also gives one co-trustee to give another co-trustee his or her power of attorney to act in his place.

- Even if property is held in a trust, if one spouse dies, it is necessary to obtain an Estate Tax Release or Waiver Letter.

- Many trusts are revocable living trusts where the settlors, trustees and beneficiaries are one and the same person retaining his or her right to freely amend or revoke the trust. This makes the transfer into the trust an illusory transfer. In this instance, the property is included in the gross estate of the settlor when the settlor dies.

- The Oklahoma statute states that the value of the gross estate, used as a basis for determination of the value of the net of estate, is determined by including:

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- the value at the time of death of all property, real, personal, or mixed, including any interest held in trust

- the value of any real or personal property intended to take effect in possession or enjoyment at or after his death. Any transfer made by the decedent of a material part of his estate within 3 years prior to death, without an equivalent monetary consideration, shall, unless shown to the contrary, be deemed to have been in contemplation of death, and …such transfers shall be included in the net value at the date of decedent's death.

- If the estate of a decedent passes to his or her spouse, no estate taxes are due.

- Absent any evidence to the contrary, an estate tax release should be requested where any revocable trust transfers title to real property where all the original individuals who conveyed the property into the trust in the original deed are not executing the deed out of the trust.

- In order to prevent further delays if it becomes necessary to sell the property prior to the death of the second spouse, it would be prudent for the attorney to file an estate tax return upon the death of the first spouse, even thought he property is in trust.

FREQUENTLY ENCOUNTERED TITLE PROBLEMS IN OKLAHOMA

- An estate tax release should always be requested where the property was conveyed from a husband and wife into trust, the last surviving spouse has died, and the trustee is making a conveyance out of the trust.

- There is a recording requirement as to the tax release with the property is held in trust and a deed is executed out of the trust by a trustee who is not a settlor. This can only be avoided if evidence is provided to the title examiner that the non-joining settlor died more than 10 years prior or that the non-joining settlor was alive at the time of the conveyance.

- The Rebuttable Presumptions Statue pertains to the evidentiary effect of record documents. It says that it can be assumed that the facts are true in the documents that have been recorded. The statute, however, does not provide any safety net for any person who relies on it.

OKLAHOMA INDIAN LAND TITLES

- Most of the State of Oklahoma was originally set aside for Indian occupancy.

- In 1889, the western part of Oklahoma was opened to non-Indian settlers. Title to most of those lands is derived from federal patents.

- Title to the eastern portion of Oklahoma stems from allotments to individual tribal members pursuant to three general legislative schemes:

  - The treaties and statutes governing the lands of the Five Civilized Tribes…Cherokee, Choctaw, Creek, Chickasaw, and Seminole

  - The treaties and statutes governing the lands of the Osage Nation

  - The General Allotment Act which applies to all other tribes.

OKLAHOMA INDIAN LAND TITLES

Article I of the Constitution of the United States gives the federal government complete jurisdiction over Indian tribes and their lands.

From the formation of the United States, the federal government has held fee title to Indian lands as “guardian” for the tribes, subject to the right and use of the tribes.

The Oklahoma Enabling Act and the Supremacy Clause found in Article II of the constitution protected this federal power when the State of Oklahoma was formed.

The general theme of Oklahoma Indian Titles is that the federal government imposed restrictions on alienation of Indian lands to protect the Indian allottes.

OKLAHOMA INDIAN LAND TITLES

- Indian laws are complex, were changed frequently, and are not codified in the usual manner, which makes research difficult.

- Even a slight violation of an Indian restriction may invalidate a transaction.

- The lands allotted to the Five Civilized Tribes are approximately the eastern half of Oklahoma with the exception of Osage County, which was allotted to the Osage Tribe, and a small area in northeast Oklahoma which was allotted to the Quapaws, Delawares, and a few other tribes.

OKLAHOMA INDIAN LAND TITLES

- The lands of the Five Civilized Tribes in Indian Territory were held as tribal domains, and pursuant to treaties, tribal consent was necessary to include the lands within the territorial limits of a state.

- In 1893, the Dawes Commission was created to negotiate agreements with the tribes regarding their rights under the treaties and to dissolve the tribal domains by allocating the tribal lands in severalty to tribal members.

- In order to determine who was entitled to share in the tribal domains, the Dawes Commission compiled tribal rolls. The Indians were classified according to amount of Indian blood and age, and a roll book was published in 1906.

- For the Five Civilized Tribes, the overall scheme of allotment of lands was to give each Indian an equal share of the tribal lands or monetary compansation.

OKLAHOMA INDIAN LAND TITLES

- The allotments were accompanied by restrictions as to alienability which evolved over a period of time as numerous acts were adopted amending the restrictions.

- The justification for the restricted Indian ownership of land was to allow the Indians time to adapt to a different culture and to prepare for competent business dealings.

- An Oklahoma title examiner needs to be familiar with a minimum of thirteen Acts of Congress in connection with determining ownership of lands descending from an allotment of a member of the Five Civilized Tribes.

- A purported conveyance in violation of alienation of restrictions is void.

OKLAHOMA INDIAN LAND TITLES

- The initial step in determining ownership on Indian lands is to determine whether the inception of the Indian title is from an individual allotment or from unallotted Indian lands.

- In addition to allotting lands to individual tribal members, the treaties with the tribes reserved lands from allotment. Lands used for cemeteries, churches and schools were allotted but were reserved as common properties.

- Lots in existing towns were sold at auction and patents from the applicable tribe issued to purchasers.

- Other unallotted lands were sold at public auction under rules promulgated by the Secretary of the Interior promulgated by the Secretary of the Interior, and purchasers took fee simple title under Unallotted Land Deeds, which were approved by the Secretary of Interior and signed by the appropriate tribal authority.

OKLAHOMA INDIAN LAND TITLES

- Restriction is far more protective of tribal members with more Indian blood. The patent will show the name of the tribe and the roll number of the allottee. The degree of blood of the allottee is determined by reference to the Dawes Commission roll.

- The Dawes Commission rolls are available in the county law library or at the Bureau of Indian Affairs Office in Muskogee, OK.

- Each member of each tribe, except for the Choctaw and Chickasaw freemen, received two allotments: a homestead allotment and a surplus allotment. Choctaw and Chickasaw freedmen were allotted only surplus lands.

- Whether the allottee has attained majority at the date of the conveyance may determine whether or not restrictions were removed by an Act of Congress.

OKLAHOMA INDIAN LAND TITLES

- A conveyance by a minor of allotted lands was prohibited. A conveyance by a guardian requires the determination that the guardian was appointed pursuant to proper authority and procedure.

- The restrictions on allotted land is different for an original allottee than for an heir of an allottee.

- If title descends from a tax deed, it must be determined that the lands were subject to taxation. If not, the tax sale and deeds are void, and title remains in the allottee.

- Characteristically, the initial Indian instrument encountered when examining title is a sheet of Dawes Commission roll information for the allottee followed by an Allotment Patent designated either “Homestead” or “Surplus”.

OKLAHOMA INDIAN LAND TITLES

- In an Indian conveyance, whether the instrument is a deed or oil and gas lease the allotment restrictions must be satisfied.

- Restrictions affecting current conveyances, including oil and gas leases, apply to Indians of one-half or more blood.

- Restricted Indians of half-blood or more may convey their property if the Secretary of Interior or the district court removes restrictions.

- If the lands remain restricted, the restrictions are removed when the allottee dies, pursuant to the Act of August 4, 1947.

- Conveyances by an allottee's heirs or devisees of one-half or more Indian blood are exceptions, when the land was restricted in the hand of the person from whom the heir or devisee acquired title.

OKLAHOMA INDIAN LAND TITLES

- In these situations, a conveyance requires removal of restrictions or approval of the district court after completion of the following procedures:
  - File petition for approval in the district court where the land is located and set hearing not less than ten days from the date of filing.
  - The judge signs a notice which describes the land and recites the consideration. This is published one time in a newspaper of general circulation in the county and notice is given to the Area Director's office at least ten days prior to the hearing.
  - The grantor appears at the hearing unless he or she and the probate attorney consent otherwise.
  - The court must be satisfied that consideration is paid and that the conveyance is in the best interest of the Indian.
  - Evidence at the hearing must be transcribed and filed of record in the case.
  - The purchaser must pay all costs of the case.
  - Competitive bids may be taken at the hearing and the sale confirmed to the highest bidder.

OKLAHOMA INDIAN LAND TITLES

- After completing the court approval proceeding, the Indian is free to execute a commercial oil and gas lease or deed.

- Tribal lands and Indian allottees whose restrictions have not been removed are leased under department forms of oil and gas leases. The Bureau of Indian Affairs at Muskogee, Oklahoma has forms for these leases and assignments available.

- A departmental lease cannot be assigned unless the BIA approves.

- The provisions of these departmental leases do not die with the lessors/allottees but continue until the department relinquishes supervision.

- The BIA in Muskogee will furnish a copy of departmental oil and gas leases and their status.

OKLAHOMA INDIAN LAND TITLES

- The most common title opinion requirement in the area of Indian titles is for a judicial determination of heirship of a deceased allottee. Although an order approving a deed usually sets out information of heirship, the order is not a judicial finding as to heirship because the judge is merely acting in an administrative capacity as delegated by the federal government.

- To determine heirship of a deceased allottee, it is necessary to use one of the following methods:
  - Section 1 of the Act of June 14, 1918, where the procedure is essentially administrative and not judicial
  - Decree of final distribution where an estate is administered in probate court, or
  - Quiet title or partition action in district court.

OKLAHOMA INDIAN LAND TITLES

- Land personnel may decide to waive requirements for determination of heirship based on business judgment, especially in reliance upon an Affidavit of Heirship or a Proof of Death and Heirship from the files of the Bureau of Indian Affairs in Muskogee.

- If faced with a title requirement regarding Indian restrictions, always check with the Bureau of Indian Affairs to determine if Indian restrictions were removed from the subject land.

- The Marketable Record Title Act will generally not cure title requirement because it does not apply to Indians of the Five Civilized Tribes.

- The Osage Indians were moved from Kansas and located within the boundaries of present day Osage County by the Act of Congress of June 5, 1872.

OKLAHOMA INDIAN LAND TITLES

- The lands were held as tribal domain until passage of the Act of Congress of June 28, 1906. Pursuant to that act, the surface of the lands were allotted to individual tribal members, and the oil, gas, coal and other minerals were reserved to the tribe.

- It is not necessary to examine the records of Osage County because all records are located at the Bureau of Indian Affairs.

- All royalties are paid to the Bureau of Indian Affairs and then transferred to the Osage Tribe. Royalties are calculated at the highest posted price by the major purchasers in Osage County, and the Bureau of Indian Affairs notifies lessees of the amount to remit.

- The income from this source is distributed to tribal members according to their headrights which is their pro rata share of the income.

- Upon the death of the original allottee, the headright is divided among the heirs.

OKLAHOMA INDIAN LAND TITLES

- The surface of the Osage Nation was allotted to individual tribal members by the Act of Congress of June 28, 1906. The homestead was inalienable and non-taxable.

- The surplus was inalienable for twenty-five years and non-taxable for three years or until a certificate of competency was issued.

- Inherited lands were alienable until passage of the Act of February 27, 1925, which made lands inherited by tribal members of one-half blood or more inalienable.

- The act of March 3, 1921 removed restrictions as to adults of less than one-half blood.

- Restricted Osage Indians may execute wills if the wills are approved by the Secretary of the Interior. Oklahoma district courts have jurisdiction over estates of members of the Osage Nation.

OKLAHOMA INDIAN LAND TITLES

- Indian allotments under the General Allotment Act (more commonly known as the Dawes Act) were made on the basis of trust-type ownership.

- The allottee has an equitable and present useable estate in land, but the legal title remains in the federal government and does not pass to the allottee or his heirs until the issuance of a fee patent.

- The General Allotment Act covered most tribes except for the Five Civilized Tribes (Cherokee, Choctaw, Creek, Chickasaw, Seminole), in Indian Territory and the Osage tribe in Oklahoma territory.

- Working with lands allotted under the General Allotment Act requires examination of the records of the appropriate office of the Bureau of Indian Affairs.

OKLAHOMA INDIAN LAND TITLES

- State recording statutes and curative acts have a limited effect on the rights of parties who could claim an interest in these lands.

- Unless restrictions are removed or federal law or regulation specifically refers to state law, federal law will control all aspects of ownership of these land. Any contracts or conveyances made without the authority of federal law are void.

- The general concept of the General Allotment Act was to divide tribal lands among eligible members of the tribes and to sell the excess lands.

- Trust patents were issued to individual allottees evidencing the right to use and occupancy of the premises with final title to be issued at the end of the trust period.

OKLAHOMA INDIAN LAND TITLES

- The early trust patents set out an initial trust period of 25 years, which has been extended pursuant to various executive orders up to the present time. The most recent extension was January 1, 1994.

- Removal of restrictions and governmental trust supervision can be terminated in a variety of ways, including:
  - Competency determinations
  - Fee patents
  - Sales to non-trust status
  - Death of the allottee and the inheritance by non-Indians
  - Mortgages
  - Condemnations
  - Leasing
  - Easements

OKLAHOMA INDIAN LAND TITLES

- The Secretary of the Interior has broad powers in determining the effectiveness of wills and the heirship of a deceased allottee.

- Oklahoma state laws of descent and distribution are applied unless specifically otherwise provided by the Acts of Congress.

- Until such time that the land is no longer restricted, the state courts have no jurisdiction.

- If the heirs of a deceased allottee were not determined during the trust period, and a trust patent has been withdrawn, a fee patent issued and the supervision of the government removed, the state district courts have jurisdiction to determine the heirs of the allottee.

OKLAHOMA INDIAN LAND TITLES

- Prior to June 25, 1910 there were no statutes which allowed determination of heirship. Pursuant to the Act of May 27, 1902, the Secretary of the Interior could approve conveyances of adults and minors of inherited land, and the approval of the deed constituted a practical determination of the heirs.

- The Act of June 25, 1910 allowed the determination of heirship by the Secretary of the Interior. This grant of authority to the Secretary of the Interior is final in the absence of fraud, error of law, or gross mistake.\

- A record is kept in the Office of the Commissioner of Indian Affairs, Washington, DC of all determinations of heirship by the Department of Interior.

- The local field office of the tribe to which the allottee belonged has information as to what determination was made by the Indian Office. Often the information is conflicting. The Secretary of the Interior has the discretion to reopen a finding of heirship.

OKLAHOMA INDIAN LAND TITLES

- Statutes and regulations control the leasing of allotted lands for oil and gas. The Act of March 3, 1909 states that the allottee may negotiate a lease if it is deemed advisable by the Secretary of Interior or the Superintendent of the Bureau of Indian Affairs Agency.

- If the allottee is deceased, and the heirs are not determined, or if some or all of the heirs are not located, the Secretary of the Interior may negotiate a lease but must offer the lease for bid.

- The Secretary must first give notice and advertise, and the lease is granted by competitive bidding. The Act of August 9, 1955 expands this to apply to all leases of allotted lands, not only those of heirs or unlocatables.

- The 1938 Omnibus Leasing Act is the basic authority for leasing tribal lands.

OKLAHOMA INDIAN LAND TITLES

- Many of the rules and regulations governing the leasing of tribal lands for oil and gas are identical or substantially the same as those governing allotted lands.

- The analyst needs to be aware of some general principles in dealing with tribal lands:
  - Always determine the tribal officials which are authorized to act on behalf of the tribe with respect to the transaction. These differ among tribes.
  - Although the Secretary of the Interior may reject a lease, he or she cannot grant a lease on tribal lands of his(her) own authority. The lease must be approved by the authorized tribal body.
  - All leases must first be offered for competitive bid by advertisement in accordance with the regulations. The lease can then be made through private negotiations. The title attorney must have evidence that the lease had first been advertised, such as the certified transcript of the prior advertised sale proceedings obtained from the Bureau of Indian Affairs agency having jurisdiction over the land.

OKLAHOMA INDIAN LAND TITLES

- Section 4 of the Omnibus Leasing Act makes all operations on Indian land under oil and gas leases covering Indian lands subject to rules and regulations promulgated by the Secretary of the Interior.

- The regulations are administered under the direction of the BLM. If the lease agreement refers to any other agency, it should now be interpreted to refer to the Bureau of Land Management or the Mineral Management Service (now the ONRR) as appropriate.

- Operations may not be commenced on any tribal lease before it is approved by the Secretary of the Interior or his or her representative, usually the Superintendent of the appropriate Indian agency.

- After the lease has been approved, the lessee must obtain written permission from the BLM before commencing operations on the lease, and then the lessee must stay in compliance with all BLM regulations.

OKLAHOMA INDIAN LAND TITLES

- If the lease covers allotted lands and not tribal lands, the regulations are very similar.

- The Department of Interior has held that failure to put leased premises under production in paying quantities during the primary term results in the termination of the lease by its own terms. However, case law has held, based on Oklahoma law, that a well commenced during a primary term of an allotted lease with a standard habendum clause would extend the lease for a period sufficient to complete the well.

- All documents transferring any interest in, or modifying the terms of the tribal or allotted oil and gas lease must be on forms prescribed by the Secretary of the Interior and must bear the Secretary's approval.

- Assignments of overriding royalties do not need to be filed for approval.

- Assignments of tribal leases issued under the Omnibus Leasing Act of 1938 can be of either the entire interest or an undivided interest in the whole lease.

OKLAHOMA INDIAN LAND TITLES

- There has not been consistency with the Secretary of Interior's approval of divided assignments of interest in a tribal lease. Some times they have been approved and some times not.

- Recent forms usually provide that if a lease is divided by the assignment of an entire interest in any part, each part is considered a separate lease.

- All assignments and conveyances of leasehold interests other than overrides must be filed with the Superintendent within 30 days of execution. If a document is filed after this time but nonetheless is approved, this is not deemed a title defect.

- In many instances where a prior assignment has not been approved, companies will use an assignment of operating rights as a document of transfer of an interest in the oil and gas lease.

OKLAHOMA INDIAN LAND TITLES

- Assignments of operating rights must be approved in order to be effective under the applicable regulations; however, a 1956 Oklahoma court has indicated that the assignment of operating rights may be enforced between the parties regardless of whether approval had been granted.

- Because many companies do not seek approval of the assignment of operating rights, it is very important to review company files as well as BIA files and county records in determining title.

- Kah-Kah-to-the-Quah was a restricted Indian who executed a Warranty Deed to the C.R.I.&P Railroad, but his deed was not approved by the Secretary of the Interior. After his death, his heirs executed an oil and gas lease. The railroad also issued an oil and gas lease on the same land. The courts ruled that the deed to the railroad was void because it did not have the Secretary's approval so therefore the oil and gas lease from the railroad was void.

OKLAHOMA INDIAN LAND TITLES

- The Cheyenne-Arapaho Tribes executed four oil and gas leases with Woods Petroleum expiring in May of 1976 and two with Reading & Bates expiring in February of 1980. All of the leases were for 5 year primary terms. In April 1981 Reading & Bates and Woods tried to communitize all of the leases. The tribe refused to approve the communitization without additional consideration, even though the director of the Anadarko Office of BIA approved the communitization.

SB 168

- In 1963 the Oklahoma Supreme Court handed down the Blanchard decision which caused the “Blanchardizing” of one-eighth of all production from a unitized area. Under this ruling royalty owners received one-eighth of everyone’s proceeds, not just one-eighth of the price for which their lessee sold his gas.

- In 1985 the Oklahoma legislature enacted SB 160 which attempted to Blanchardize the excess royalty. This bill was contested by certain pipeline companies as being unconstitutional.

- A panel of lawyers, legislators, producers, royalty owners, and pipeline representatives were charged with finding a solution.

- The Production Revenue Standards Act, which became effective July 1, 1993 was the result of their labor.

SB 168

- This statute also includes the Natural Gas Market sharing Act which eliminated the Sweetheart Gas Bill. This act requires a working interest owner to ratably share gas production and the resulting revenues with the non-contracted working interest owners in the same well who elect to share and who meet certain of the Act's requirements. The NGMSA became effective September 1, 1992.

- Production Revenue Standards Act definitions:
  - Owner: A person or governmental entity with a legal interest in the mineral acreage under a well which entitles that person or entity to oil or gas production or the proceeds or revenues from it.
  - Producing Owner: An owner entitled to produce, who, during a given month, produces oil or gas for its own account or the account of subsequently created interest as they burden its interest.
  - Proportionate Production Interest (PPI): The interest in production which a working interest owner is entitled to produce in order to adjust for shifting of royalty burdens among working interest owners under the royalty payment provisions of this act.

SB 168

- PPI is calculated as follows:

  (sum of WI owner's NRI plus subsequently their created interests)/(1 – royalty share)

- The Proportionate Royalty Share (PRS) is the percentage of the royalty owned by a royalty interest owner. It is calculated as follows:

  (owner's royalty sare)/(well royalty share)

- The Royalty Interest In a Well is calculated as:
- owner's royalty interest x (owner's gross mineral acres/total mineral acres in well)

- The Royalty Proceeds is the share of proceeds or other revenue derived from or attributable to any production of oil and gas attributable to the royalty share. It does not include payments of bonus, delay rentals, shut-in royalties or any addition royalty payable to the Commissioners of the Land Office or other governmental entity.

- Royalty share is the percentage of the well equal to the sum of all royalty payments in the well.

SB 168

- Subsequently Created Interests is any interest carved from a working interest other than a royalty interest.
  - A nonparticipatory interest created by a working interest owner for the benefit of a mineral interest owner in excess of a one-eighty royalty interest, may, by separate agreement other than the oil and gas lease, be a subsequently created interest. It cannot thereby be communitized under the terms of the Production Revenue Standards Act.

  - The additional royalty payable to the Commisioners of the Land Office or other governmental entity, pursuant to and valued according to the terms of its lease, which is calculated separately from the royalty portion of actual proceeds from the sale or oil or gas is also a subsequently created interest and thereby is not communitized under the Production Revenue Standards Act.

The PRSA applies to all owners and to all producing wells, regardless of the date pooled, drilled or the date of the underlying leases.

SB 168

- Section 570.4 provides that each month every royalty owner shares in all the proceeds derived from the sale of gas production to the extent of the owner's royalty interest in the well.

- Each producing owner pays the operator the royalty share of its gas sales proceeds, valued according to the producing owner's lease terms or the Corporation Commission force pooling order, from all gas produced from the well by the owner during that month.

- The operator is then required to pay each royalty interest owner in that well according to the royalty interest owner's proportionate royalty share.

- The additional value due the Commissioners of the Land Office under their lease is not communitized under the Act. It is treated as a subsequently created interest.

SB 168

- Restricted Indian leases (BLM OR BIA) are not communitized under the Act.

- If an owner, including the Commissioner of the Land Office, takes his royalty in kind, it is considered consumption of gas from a well by the royalty interest owner and is deemed production by the working interest owner burden by the CLO lease.

- The accounting is based on the average price, weighted by volume for gas sold by that working interest owner for that month.

- Any portion of the proceeds not paid within the applicable time (which starts 6 months from the date of first production) earns interest at the rate of 12% per annum compounded annually, calculated from the end of the month in which the production is sold until the day paid.

SB 168

- If an interest owner is not paid because his or her title is not marketable, the interest is 6% per annum compounded annually and calculated from the end of the month in which production is sold until the time the title becomes marketable.

- Under the PRSA, royalty owners should not ever get out of balance on a well. However, the PRSA did not require balancing at the time the Act became effective. Time has resolved most of the balancing issues that have carried over from the effective date of the act, but there could be some royalty owners who are out of balance.

- The PRSA applies to all owners and producing wells, regardless of the date pooled, drilled, or the date of the underlying leases. It does not apply to wells in common sources of supply under unitized management pursuant to Sec 287.1 of Title 52 of the Oklahoma Statutes or where royalty remittance is otherwise provided by written agreement among all owners in a well.

SB 168

- Owners of interests in any well can remove themselves from the operation of the PRSA. Everyone is required to sign an agreement, usually as part of their division orders, that they agree to remove themselves from the effects of the Act.

- Proceeds are payable commencing not later than 6 months after the date of first sales and thereafter not later than the last day of the second succeeding month after the end of the month in which the production was sold.
  - The purchaser and selling working interest owner are responsible for paying the royalty within 2 months of sale.
  - If the proceeds are less than $25, they can be paid semi-annually.

  If the operator distributes the royalty, a three month rule applies to gas production proceeds.

SB 168

- Since states cannot exercise jurisdiction over federal entities, the State of Oklahoma does not have jurisdiction over the Office of Natural Resources Revenue (formerly MMS) or Indian lands located in the state.

- This is the reason that Indian lands cannot be force pooled but must be included in a unit, if at all, under a communitization agreement.

- For the same reason, the ONRR, BIA or restricted Indian mineral interest is not communitized into the royalty pool since such federal entities do not have to submit to state enforced statutory payment plans.
  - ONRR (formerly MMS), BIA, and Indian interests are valued based on the terms of the lease and what the lessee recoups from its share of production.
  - The ONRR, BIA, and Indian royalty is excluded from the royalty pool.
  - The ONRR, BIA, and Indian Interest is excluded from the royalty share and proportionate royalty share computation.

SB 168

- In the early 1980s the biggest problem facing gas producers was finding someone to purchase their gas from their new wells.

- The operator of the well generally entered into a sales contract and the non-operators either ratified the operator's contract or the operator sold the uncontracted owner's gas under his contract and disbursed the proceeds directly to the interest owners.

- Through the late 1970's, gas prices were regulated. Since gas prices did not vary from contract to contract, it did not really matter who purchased the gas as long as the operator found someone who would.

- When natural gas prices were deregulated and the gas bubble formed in the early 80's, gas purchasers had more gas than they wanted and started strictly enforcing the quantity and dedication provisions of their contracts., especially new contracts that had higher priced gas payments.

SB 168

- This left some producers without a market for their gas.
- The Oklahoma legislature passed the Sweetheart Gas Act, which was designed to force those producers, primarily perceived as the major oil companies, to shore those contract rights with smaller producers who did not have the leverage or the clout to obtain such contracts.
- The Sweetheart Gas Bill did not meet the needs of the growing industry.
- Under-produced owners were still out of balance with over-produced owners.

SB 168

- New purchasers appeared to fill the gap previously held only by traditional pipeline purchasers thus effectively curing the problems which spawned the Sweetheart Gas Act.

- Working interest owners began to dispose of whatever production was available on the spot market. The centralized control traditionally enjoyed by the operator or first purchaser was lost. The resulting confusion culminated in the enactment of SB 160 in 1985.

- This legislation was immediately disfavored because it made the first purchaser liable for all royalty payments.

- The second part of the SB168 is the Natural Gas Market Sharing Act, which replaces the Sweetheart Gas Bill.

SB 168

- NGMSA definitions:
  - Designated marketer is the operator of the well or a producing owner substituted fro the operator.
  - Electing owner is any owner who elects to produce and market his share of production pursuant to the provision so this act.
  - Nonexempt sales are those gas sales which are subject to the provisions of this act and do not qualify for exemptions as set forth in Section 21 of this act.
  - Overproduced owner is an owner who has produced and sold a volume of gas in excess of his or her working interest percentage of cumulative sales from a well
  - Producing owner is an owner who produces and sells gas from a well for its own account.
  - Working interest is the interest in a well calculated prior to deduction for royalty, overriding royalty, and other non-cost bearing interests burdening production, entitling the owner to drill for and produce oil and gas , including the interest of a participating mineral owner to the extent set forth in Section 87.1 of Title 52 of the Oklahoma Statutes.

SB 168

Sample Calculation 1 – No Overriding Royalty Interests.

- Royalty owner A owns the W2 of a 640 acre section and has leased to WIA at 1/8 royalty.
- Royalty owner B owns the E2 of a 640 acre section and has leased to WIB at ¼ royalty.

- RIW:
  - Royalty Owner A — 1/8 x 320/640 = 1/16 — .125 x .5 = .0625
  - Royalty Owner B — 1/4 x 320/640 = 1/8 — .25 x .5 = .125

Proportionate Royalty Share:

Royalty Owner A	1/16 / 3/16 = 1/3	.0625/.1875 = .33333
Royalty Owner B	1/8 / 3/16 = 2/3	.125/.1875 = .66667

Working Interest Revenue in the Well:

WIA	7/8 x 320/640 = 7/16	.875 x .5 = .4375
WIB	3/4 x 320/640 = 3/8	.750 x .5 = .3750

SB 168

- Calculate the total Working Share. The formula is 1 – Royalty Share = Working Share

  7/16 + 3/8 + 13/16 .4375 + .375 = .8125

  Calculate the PPI (Proportionate Production Interest)

  WIA = 7/16 / 13/16 = 7/13 .4375 / .8125 = .53846154

  WIB = 6/16 / 13/16 = 6/13 .3750 / .8125 = .46153846

  (There is a typo in book on page 47. Under Step 8, W = 7/8 should be 7/16).

  Calculating Proceeds:

  Assume sales of 1000 mcf

  AW contracts to sell at $5 and BW contracts to sell at $10

SB 168

- WI contribution to royalty pool:
  - WIA 1000 mcf x .53846154 (PPI)

    538.46 mcf (not $$ shown in book)
    x $ 5.00 per mcf
    $2,692.30 8/8 Value

    x .187500 Royalty Share
    $ 504.81 Paid to Royalty Pool

  - WIB 1000 mcf x .46153846 (PPI)

    461.54 mcf (not $$ shown in book)
    x $ 10.00 per mcf
    $4615.40 8/8 Value

    x .187500 Royalty Share
    $ 865.39 Paid to Royalty Pool

  - Total Royalty $504.81 + $865.39 = $1370.20

SB 168

- Royalty Owners' Share:

AR	$1370.20 x 1/3	$ 456.73
BR	$1370.20 x 2/3	$ 913.47
		$1370.20

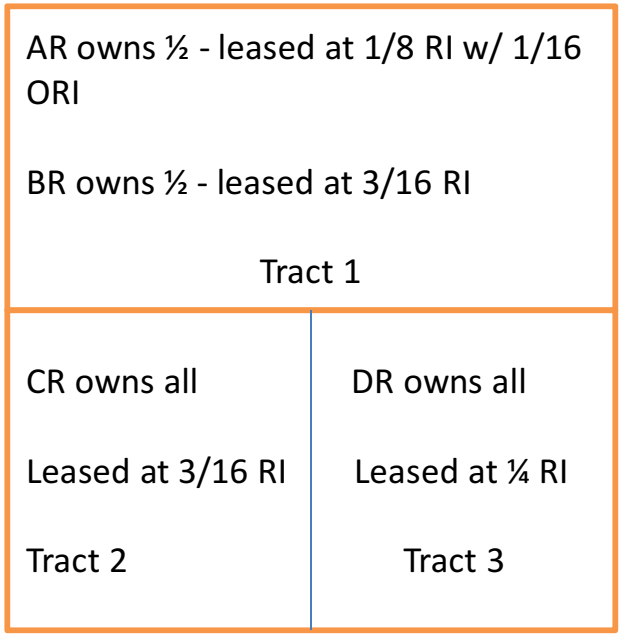
- What this would look like in a title opinion:

Tract	Owner	Acres	Royalty PRS	RIW/NRI
W/2	AR	320	.33333333	.0625000
E/2	BR	320	.66666667	.1250000
				.1875000

Tract	Owner	Acres	GWI	Rev Int	WIW	PPI	NRI
W/2	AW	320	.500	7/8	.4375000	.5384615	.4375000
E/2	BW	320	.500	3/4	.3750000	.4615385	.3750000
			1.00		.8125000	1.000000	.8125

SB 168

- Calculating Subsequently Created Interests – (ORI's and ONRR):



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- AR = RIO under ½ of Tract 1
- AW = WIO under ½ of Tract 1
- AS = Subsequently Created Interest under ½ of Tract 1
- BR = RIO under ½ of Tract 1
- BW = WIO under ½ of Tract 1
- CR = RIO under Tract 2
- CW = WIO under Tract 2
- DR = RIO under Tract 3
- DW = WIO under Tract 3

- Royalty Calculation:
  - AR 1/8 x ½ x 320/640 .031250
  - BR 3/16 x ½ x 320/640 .046875
  - CR 1/5 x ½ x 320/640 .050000
  - DR ¼ x ½ x 320/640 .062500
    - .190625 Total Royalty

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- Proportionate Royalty Share Calculation:
  - AR .03125/.190625 .16393443
  - BR .046875/.190625 .24590164
  - CR .05/.190625 .26229508
  - DR .0625/.190625 .32786885
  - 1.0000000
- Working Interest in Well Calculation:
  - AW .875 x .5 x .5 .2187500
  - BW .8125 x .5 x .5 .2036250
  - CW .8 x .25 .2000000
  - DW .75 x .25 .1875000
  - Total WIW .8093750
- PPI Calculation:
  - AW .21875/.809375 .27027027
  - BW .20325/.809375 .25096525
  - CW .20/.809375 .24710425
  - DW .1875/.809375 .23166023
  - Total WIW 1.0000000

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- What this would look like in a title opinion:

ROYALTY

Tract	Royalty Owner	PRS	Royalty
1	AR	.16393443	.03125000
1	BR	.24590163	.04687500
2	CR	.26229508	.05000000
3	DR	.32786886	.06250000
		1.0000000	.19062500

WORKING INTEREST

Tract	Tract Owner	Acres	GWI	WIW	PPI	NRI
1	AW	160	.2500	.21875000	.27027027	.20312500
1	BW	160	.2500	.20312500	.25096525	.20312500
2	CW	160	.2500	.20000000	.24710425	.20000000
3	DW	160	.2500	.18750000	.23166023	.18750000
			1.0000	.80937500	1.0000000	.79375000

SUBSEQUENTLY CREATED INTEREST (ORRI)

1	AS	1/16 x 1/2 x 320/640	.01562500

SB 168

- Calculations that include ONRR Interest and ORRI's.

- AR leases his 320 acres to AW for a 3/16 royalty
- BR leases his 200 acres to BW for a 1/8 royalty
- ONRR leases its 80 acres to MW for a 1/4 royalty
- CR leases its 40 acres to CW for a 3/16 royalty
- BW grants Bob a 1/16 ORI on its lease.
- CW grants Chuck a 1/8 ORI on its lease.

- The ONRR royalty is treated as a subsequently created interest.

• AR	3/16 x 320/640	.0937500 /.14453125	= .64864864 RS
• BR	1/8 x 200/640	.0390625 / .14453125	= .27027027 RS
• CR	3/16 x 40/640	.01171875 /.14453125	= .08108108 RS
	• Total RIW	.14453125	1.00000000

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PPI Calculations:

Owner	Rev Int.	SCI	WIW	PPI
AW 13/16 x 320/640	.40625000	.00000000	.40625000	.47488582
BW 7/8 x 200/640 - 1/16 x 200/640	.25390630	.01953125	.27343755	.31963474
MW 3/4 x 80/640 - 1/4 x 80/640	.09375000	.03125000	.12500000	.14611871
CW 13/16 x 40/640 - 1/8 x 40/640	.04296875	.00781250	.05078125	.05936073
	.79687505	.05859375	.85546880	1.0000000

NRI Calculation:

AW .47488582 – (.47488582 x .14453125)	.40625000
BW .31963474 – (.31963474 x .14453125) - .01953125	.25390628
MW .14611871 – (.14611871 x .14453125) - .03125	.09375000
CW .05936073 – (.05936073 x .14453125) - .0078125	.04296875
	.79687503

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- Recap:

• Royalty Share	.144531250
• ONRR Royalty	.031250000
• Bob ORRI	.019531250
• Chuck ORI	.007812500
• AW NRI	.406250000
• BW NRI	.253906250
• MW NRI	.093750000
• CW NRI	.042968750
	1.00000000