

98
313
WHEREAS, the interest in said land previously owned by D. G. McManus and wife, Emma McManus, is now owned by D. Crockett McManus, C. B. McManus, and Birdie Kubac, whose husband is J. D. Kubac, herein collectively called "McManus et al.", who represent and claim that title to the creek beds is not in the State and that such title is and has been the same as title to the adjoining lands; and

WHEREAS, Shell Oil Company, herein called "Shell", the present owner of said lease, is unable to confirm or deny the claim of McManus et al. to title to the creek beds except that Shell asserts that if the State does not own such creek beds, the same are subject to said lease.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between McManus et al. and Shell as follows:

1. In the calculation of royalties payable in the future to each of the persons designated as McManus et al. under any of the pooled leases as defined in said gas pooling agreement, it shall be deemed that McManus et al. have title to the creek beds to the same extent as the adjoining land, that the creek beds are subject to the above-described lease, that the acreage contained in all creek beds is a part of, and has been included in, the pooled area as defined in said gas pooling agreement, and that said lease as to the creek beds is a pooled lease. Thus, for the purposes hereof, the interest of McManus et al. in the pooled area will be credited with the interest claimed by McManus in the creek bed acreage (10.80 surface acres, making a total of 707.76 acres subject to said lease in the pooled area) and the pooled area (at present 2094.39 acres) shall be increased by the total creek beds which have not been included therein (at present 24.79 acres for a total of 2119.18 acres in the pooled unit).

C.B.

2. The cash payment of \$125.00 made by Shell to McManus et al. upon execution hereof and prior payments to them cover all royalty claimed by McManus et al. under said lease for production up to the date hereof.

3. Subject to the provisions hereof, it is agreed that solely as between the parties hereto said creek beds claimed by McManus et al. (10.80 acres) shall be considered as included in and a part of the pooled area and that such lease as to said creek beds is a pooled lease under the provisions of the pooling agreement. To the extent of their interest in the adjoining land, McManus et al. warrant title to such creek beds and jointly and severally agree to indemnify and hold harmless Shell from any and all claims thereto by the State of Texas. If litigation is instituted for the purpose of establishing title of the State of Texas to creek beds, payment hereunder shall be suspended upon the filing of such suit. If a judgment which becomes final beyond further appeal affirms the title to the creek beds in McManus et al., royalty payments, including those in suspense, will be paid as herein provided. If title to the creek beds is held to be in the State by such a judgment, all obligations of Shell under this agreement shall terminate.

4. Payments hereunder shall satisfy all obligations of Shell and its predecessors in interest under said lease to the extent that same apply to any creek beds which may be covered thereby.

5. This agreement shall extend to and be binding upon the respective heirs, successors and assigns of the parties hereto.

EXECUTED as of the 1st day of SEPTEMBER, 1957.

D. Crockett McManus
D. Crockett McManus

C. B. McManus
C. B. McManus

Birdie Kubac
Birdie Kubac

J D Rubac
J. D. Rubac

SHELL OIL COMPANY

By E D Cumming
Vice President