

**Filed 10/13/15 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2015 ND 242

Douglas J. Meyer, Pamela C. Handley,
Stephen T. Meyer, Andrea K. Meyer,
Emil J. Meyer, Jr.,

Plaintiffs and Appellants

v.

Noman E. Engebretson, Stephanie C. McCall
and Robert E. McCall Trustees of the
Stephanie C. McCall Living Trust dated
December 21, 2010, Karen E. Smith Personal
Representative of the Estate of Caryl E. Smith,
North Dakota Minerals, LLC, Wilma Wiengart, Daniel
Meyer, Sandra Spehar, Claude Dean Davis, Kelly Marie
Fox, Michelle Annette Jefferson, James Ghrames, Gary P.
Hytrek, Pamela C. Hytrek, Cheryl D. Hytrek, Barbara
June Nisley, Fred Louis Orchard, Eric J. (and Regina)
Kaupanger, Elena M. Brady Trustee of the Mark A.
Kaupanger 2008 Irrevocable Special Needs Trust,
Heir of Arthur M. Kaupanger, Sonja M. Nelson,
Kristiane Kaupanger, f/k/a Chris Ellis, Karen
L. Kaupanger, Karlene R. Dahlmeier, Cynthia
K. Kaupanger, Kurt Kaupanger, American Oil
and Gas, Inc., Evertson Energy Partners Royalty,
LLC, Gary C. Stewart, S&E Royalty, LLC,
Sundance Energy, Inc., Morganthaler Oil and
Gas Properties, LLC, Charles J. Heringer III Trustee,
Horizon Royalties, LLC, OGR Bakken Resources, LLC,
Hess Corporation, WM ND Energy Resources II, LLC,
and any individual or entity known and
or unknown who may have or claim interest in
mineral ownership in and to all oil gas and
other minerals in the subject lands,

Defendants

Hess Corporation, Sonja M. Eckert, Karen A. Bailey,
Robert C. Engebretson, Henry M. Hanson, Dean C. Hanson,
Angela Scott DeGrado, Myrna Elletson, Deanna Faye Asmus,
Nancy Carlson, Debra Neff, Kristen Giuseffi,
Dennis Meyer, Christie Meyer, Kay Malloy, Bruce R. Davis,
John M. Pearsall, Jeanine Sanders, David O. Pearsall
The Estate of Oliver O. Pearsall, c/o John M.
Pearsall, Ann Marie Urban, LPI Holdings, LLC, Eagle Pass
Properties, LLC, Rose Exploration, Inc., William R. LaCrosse

and Tammy LaCrosse, XTO Energy, Inc., Whiting Oil
and Gas Corporation, Northern Oil and Gas, Inc., Triangle
USA Petroleum Corporation,

Appellees

No. 20150170

Appeal from the District Court of Williams County, Northwest Judicial
District, the Honorable David W. Nelson, Judge.

AFFIRMED.

Per Curiam.

Gary M. Beaudry, 836 Holt Drive, Suite 210, Big Fork, Mont. 59911, for
plaintiffs and appellants.

Michael D. Schoepf (argued) and Lawrence Bender (on brief), 1133 College
Drive, Suite 1000, Bismarck, N.D. 58501, for appellees John M. Pearsall, Jeanine
Sanders, David O. Pearsall, The Estate of Oliver O. Pearsall, c/o John M. Pearsall,
Ann Marie Urban, LPI Holdings, LLC, Eagle Pass Properties, LLC, Rose
Exploration, Inc., William R. LaCrosse and Tammy LaCrosse, XTO Energy, Inc.,
Northern Oil and Gas, Inc., and Triangle USA Petroleum Corporation.

Jon Bogner (on brief), P.O. Box 1173, Dickinson, N.D. 58602-1173, for
appellee Whiting Oil and Gas Corporation.

Gene W. Allen (on brief), P.O. Box 188, Beach, N.D. 58621-0188, for
appellees Sonja M. Eckert, Karen A. Bailey, Robert C. Engebretson, Henry M.
Hanson, Dean C. Hanson, Angela Scott DeGrado, Myrna Elletson, Deanna Faye
Asmus, Nancy Carlson, Debra Neff, Kristen Giuseffi, Dennis Meyer, Christie Meyer,
Kay Malloy, and Bruce R. Davis.

Elizabeth E. Klingensmith (on brief) and Michael J. Mazzone (on brief), 1221
McKinney Street, Suite 2100, Houston, Tex. 77010-2007; Peter H. Furuseth (on brief)
and Taylor D. Olson (on brief), P.O. Box 417, Williston, N.D. 58802-0417, for
appellee Hess Corporation.

Meyer v. Engebretson

No. 20150170

Per Curiam.

[¶1] Douglas Meyer, Pamela Handley, Stephen Meyer, Andrea Meyer, and Emil Meyer, Jr. (collectively “Emil Meyer Heirs”), appeal from a summary judgment deciding ownership of certain Williams County mineral interests. The Emil Meyer Heirs argue the district court erred in interpreting an executrix deed conveying property and excepting and reserving mineral interests. They contend the deed conveyed and reserved all of the decedent’s mineral interests resulting in an overconveyance, the rule for construing overconveyances from Duhig v. Peavy-Moore Co., 144 S.W.2d 878 (1940) applies, and the purported reservation of the mineral interests was ineffective. In Waldock v. Amber Harvest Corp., 2012 ND 180, 820 N.W.2d 755, this Court interpreted a similar deed and rejected an argument that the plain language of the deed resulted in an overconveyance of mineral interests and that the Duhig rule applied. We conclude the plain language of the executrix deed is clear and unambiguous and the Duhig rule is not applicable because the deed did not result in an overconveyance of mineral interests. We summarily affirm under N.D.R.App.P. 35.1(a)(6) and (7).

[¶2] Gerald W. VandeWalle, C.J.
Carol Ronning Kapsner
Lisa Fair McEvers
Daniel J. Crothers
Dale V. Sandstrom