



# Oil & Gas Disputes Looking Back to Prepare for What's Ahead

**Forensics & Valuation Services**

May 12, 2026

# Introduction



## **Jim Gray, CPA, CFA, CFE**

Managing Director

- Masters degree in Finance, Bachelors degree in Accounting – Texas A&M University
- Nearly 25 years experience in forensic accounting and energy industry disputes
- Testifying and consulting expert (Plaintiff & Defendant)



## **Christy Bessert, CPA**

Director

- Bachelors and Masters degree in Accounting – University of Wyoming
- Over 9 years experience in tax, specializing in energy
- Third generation in the energy industry

# Agenda

## Learning Objectives

1. Global energy development and its role in economic prosperity
2. Where value exists, disputes will arise
3. Emerging opportunities and challenges



# Global Energy Development

## Economic Impact

### Energy is an Economic Developer

- Reliable energy fuels industries, agriculture, and trade, boosting productivity and economic growth globally.

### Improved Quality of Life

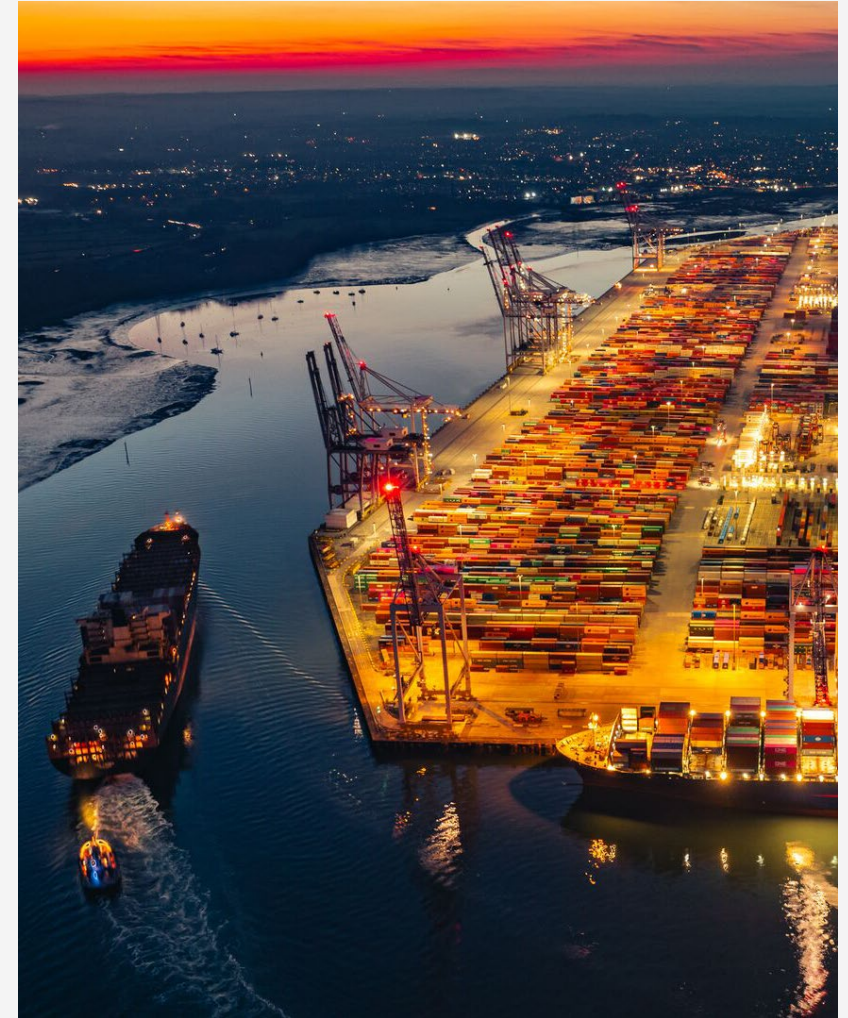
- Household energy access enhances lighting, refrigeration, communication, and mobility, raising income potential.

### Human Capital Development

- Electricity enables clinics to refrigerate vaccines and schools to support digital learning and lighting.

### Pathway to Poverty Reduction

- Expanding energy access creates jobs and growth, reducing poverty by increasing incomes and public services.

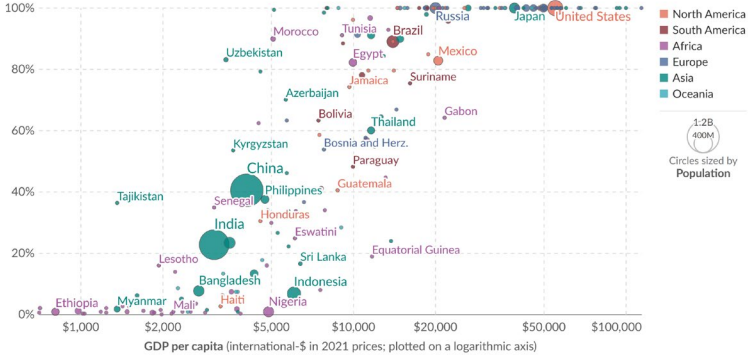


# Access to Clean Fuels vs. GDP

## Access to clean fuels for cooking vs. GDP per capita, 2000

Access to clean fuels for cooking is vital in reducing the burden of health and mortality impacts of indoor air pollution. GDP per capita is adjusted for inflation and differences in living costs between countries.

Access to clean fuels and technologies for cooking



Data source: World Health Organization - Global Health Observatory (2025); Eurostat, OECD, IMF, and World Bank (2026)  
 Note: GDP per capita is expressed in international-\$<sup>1</sup> at 2021 prices.  
 OurWorldinData.org/indoor-air-pollution | CC BY

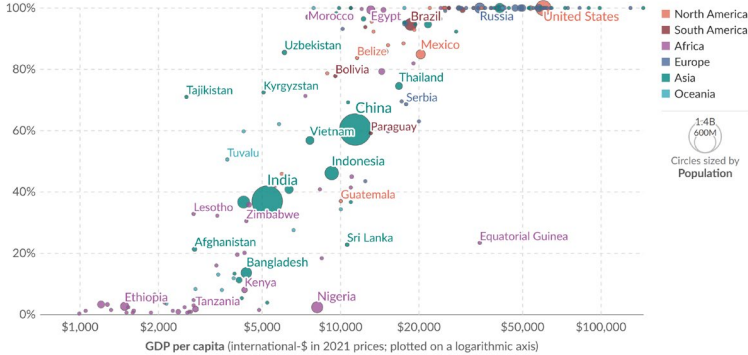
1. International dollars International dollars are a hypothetical currency that is used to make meaningful comparisons of monetary indicators of living standards. Figures expressed in constant international dollars are adjusted for inflation within countries over time, and for differences in the cost of living between countries. The goal of such adjustments is to provide a unit whose purchasing power is held fixed over time and across countries, such that one international dollar can buy the same quantity and quality of goods and services no matter where or when it is spent. Read more in our article: [What are International dollars?](#)

2000

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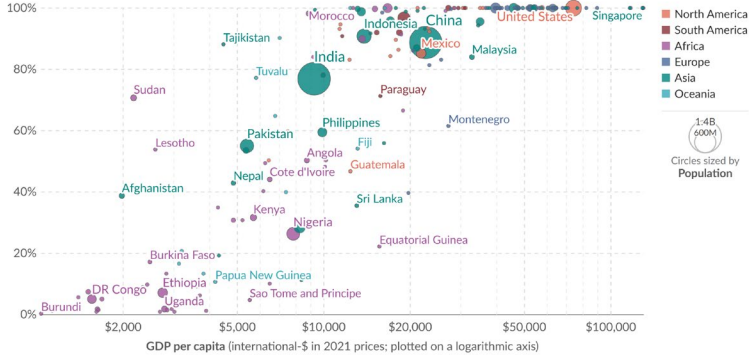
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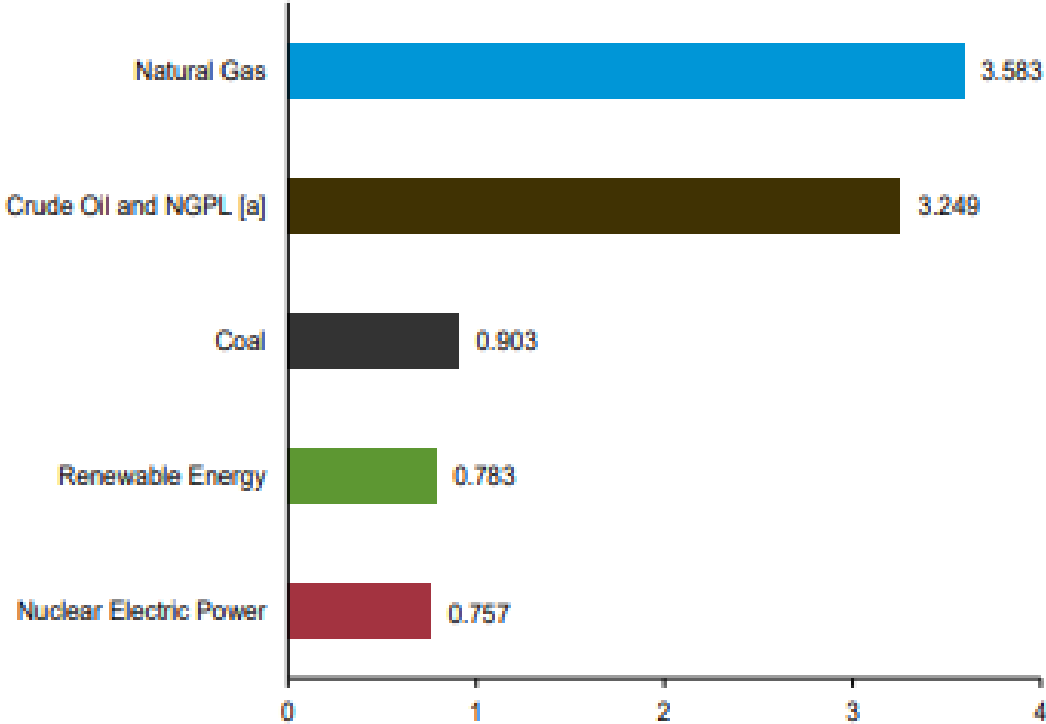
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2023

Our World in Data, Energy Leader, Max Roser (2021) - "The 'Energy Ladder': What energy sources do people on different incomes rely on?"

# U.S. Energy Production

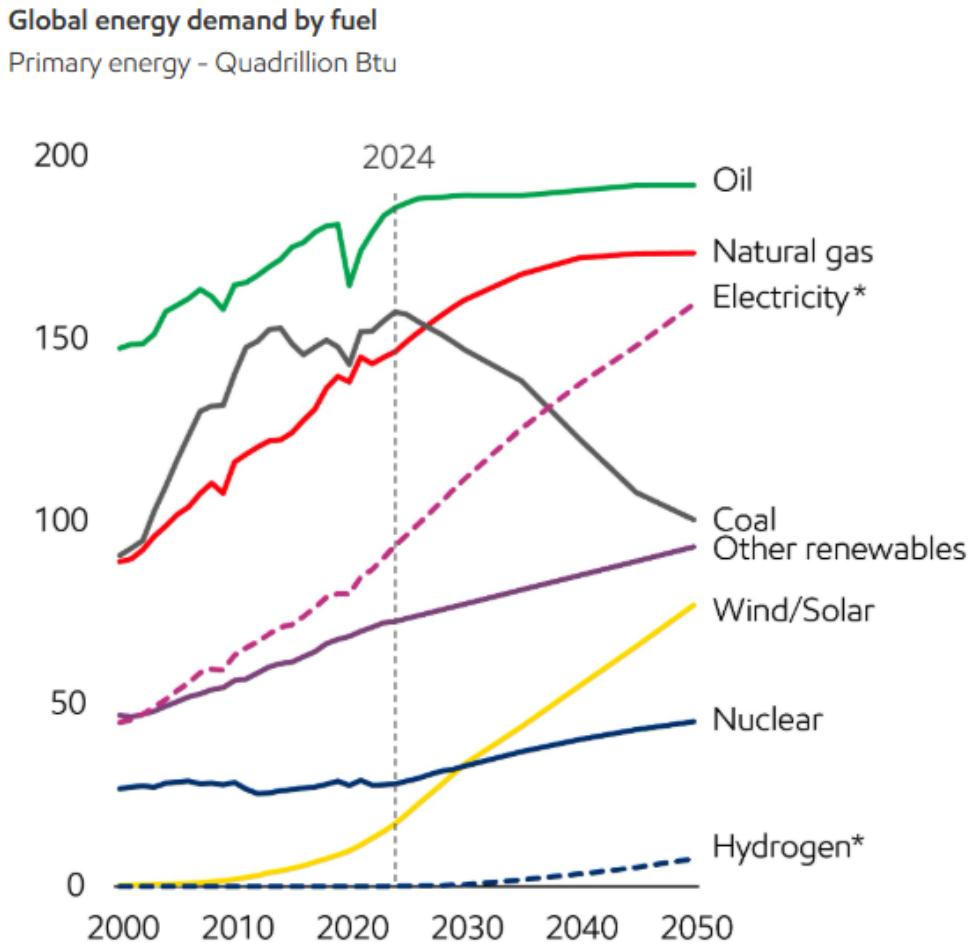
By Source, December 2025



- Of the nearly 10 quadrillion Btus of energy consumed in the U.S. in December 2025, the vast majority of it came from oil and gas.
- 10 quadrillion Btus = ~83.2 billion gallons of gasoline.

EIA Monthly Energy Review March 2026  
EIA Energy Conversion Calculator

# Global Energy Demand



\*Electricity and Hydrogen are secondary energies derived from the primary energies shown

## Exxon's 2025 Global Outlook:

- Oil will remain the largest source of primary energy.
- Natural gas demand is predicted to rise due to electricity and industrial heat.
- Coal use predicted to decrease.

Exxon Mobil Global Outlook 2025



# Where Value Is Created (& Where Disputes Arise)

## Upstream

- Exploration & Production (E&P)
  - Geology/Seismic
  - Drilling
  - Completing

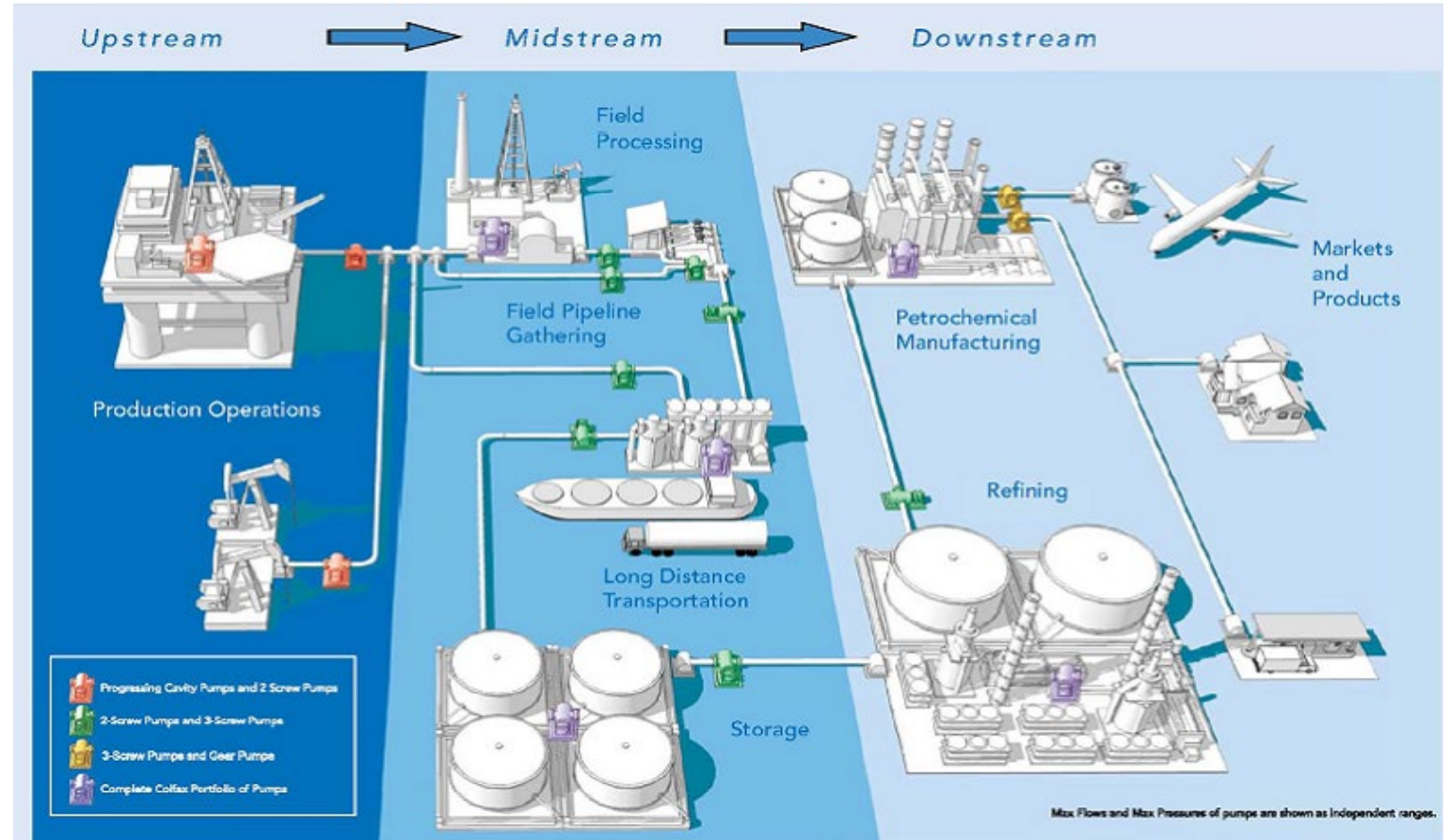
## Midstream

- Field processing
- Gathering & Transportation
- Storage

## Downstream

- Refining & Fractionation
- Retail/End user

\*Cost incurred at every stage\*



Codovia Intelligent Solutions: Oilfield services: a guide to top services and the global service providers.

# Who Gets Paid

- Royalty Interests – (Land owners)
  - NPRI
- Working interest – (Investors)
  - Overriding Royalties – (Brokers/geologists)
  - Carried interest
- Governments



COPAS Gas Accounting Manual AG-15

# Lease Economics

- Producer shall give landowner a share of the production severed, produced, sold from the ground.
- Term (Habendum Clause) –
  - Primary term (typically 3 years)
  - Thereafter, if held by production in paying quantities (“HBP”)
  - Development requirements?
- Usually as a fractional share of the market value or proceeds.
  - Historically 1/8<sup>th</sup>
  - Might exclude lease-use products
- Market value at the well vs. Proceeds
  - Option to take-in-kind





# Cost Participation

- Royalty owners do not share in the cost of production.
- Might share in the cost of post-production costs:
  - Dehydration
  - Treating
  - Compression
  - Transportation
  - Fractionation

# Selected Texas Supreme Court Cases

- Heritage Resources v NationsBank (1996) – market value at the well + workback concept
- Devon v Sheppard (2023) – unique lease language prevails
- Cactus Water v COG (2025) – produced water ownership; other questions unanswered

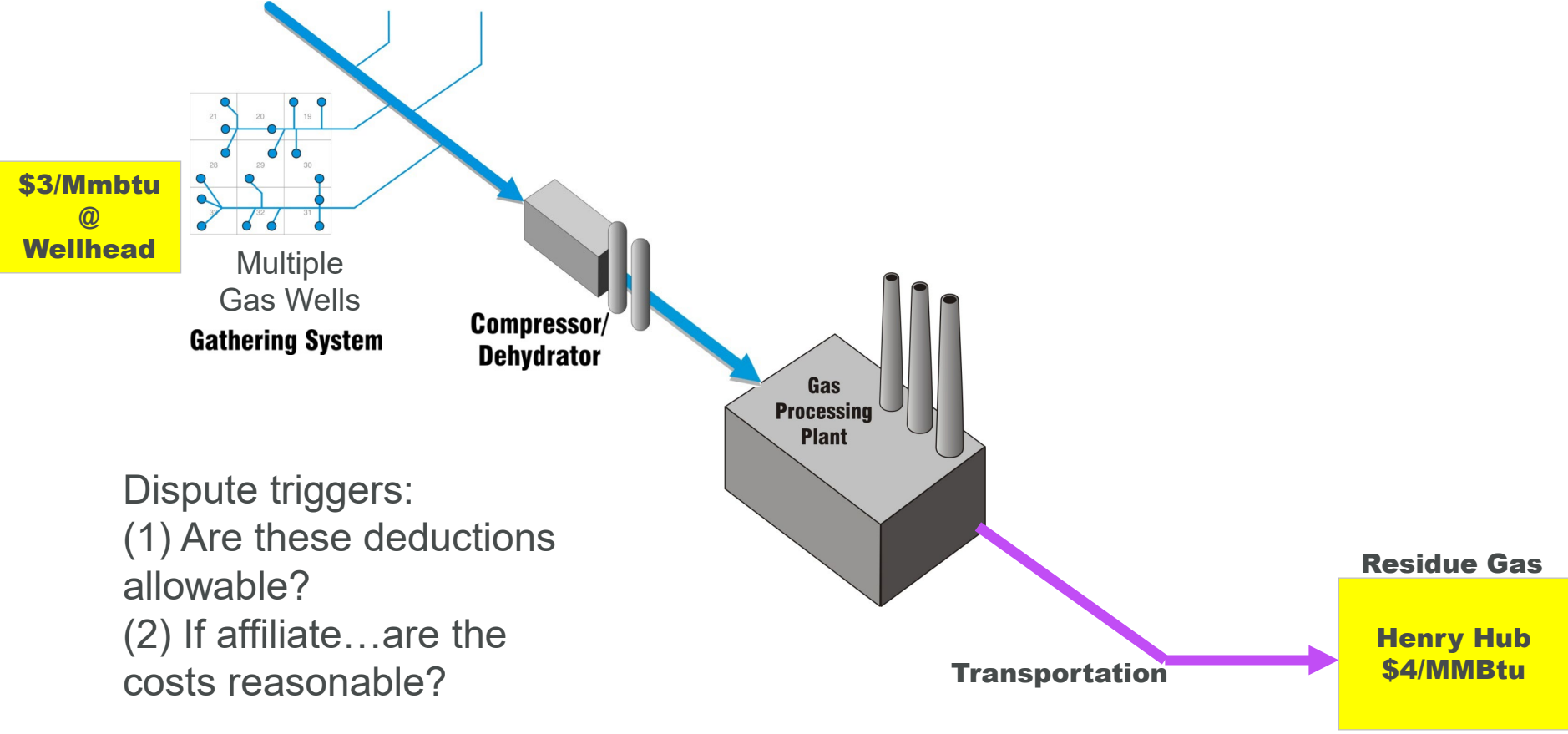


# The (Recent) Past



- Netback methodology referenced in Supreme Court case Heritage Resources vs NationsBank, 1996
  - Addressed Market Value at the Wellhead
  - Default rule is that post-production costs are deductible unless stated otherwise
  - Recognized that the ultimate sale price can be reduced by the cost to get the product to the sale point to arrive at an implied wellhead price. Aka: “Workback”
- “No-deductions” was treated as surplusage

# Netback Pricing – How It Generally Works



Dispute triggers:  
(1) Are these deductions allowable?  
(2) If affiliate...are the costs reasonable?

# The Present

Landowners have become much more contract savvy.

- Devon Energy Production vs Sheppard, (March 2023)
  - Gross proceeds lease with:
  - Add-back for Post-Sale costs incurred after the sale
- Most Favored Nation clauses
- Ceilings on allowable deductions/FLU

\*Data intensive\*



# Application

## Typical Fact Pattern



- Event occurs
  - Operator change
  - Payout suspected/declared
  - Commodity price change
- Someone reads their documents
- Specific language might make a difference, *e.g.*, “cost-free”

# Application Framework

- Issue triage – evaluate contract language from an accountant’s perspective (not a legal opinion)
- Inventory Data
  - What is available?
  - What do we need?
- Analytics – (1) Tally, (2) Recalculation based on but-for factors
  - **Volume:** Reported vs check; AMIs; Drainage; FLU
  - **Price:** Proceeds vs Market @ well; Deductions; Reasonability of fee
  - **Decimal:** Carried interests, Suspense issues, Title disagreements
- Report & Demonstratives



# The (Potential) Future

Accounting and valuation questions are just beginning.

- Cactus Water Services, LLC v COG Operating, LLC, (2025)
  - The operator owns produced water absent an express reservation
  - Production of liquid waste is an inevitable and unavoidable by-product of O&G operations
- Justice Busby's Concurring Opinion
  - Leaves open the question of other unleased minerals (Lithium?)
  - Leaves open the question of how parties account for profit and loss realized from beneficial reuse or disposal?



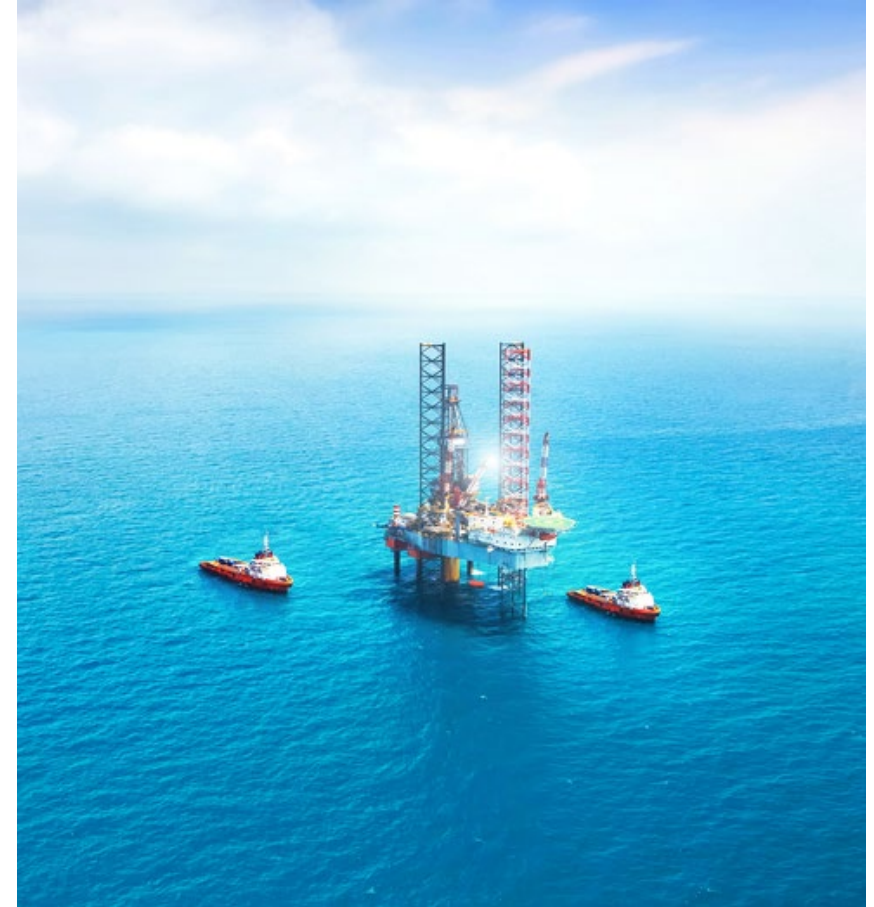
# The (Potential) Future

Produced water can be a problem.

- Permian produces approximately 15 million bbls of water per day.<sup>1</sup>
  - Concerns exist:
    - Disposal capacity
    - Seismicity,
    - Cost
    - Migration
      - Groundwater
      - Other Oil & Gas operations

\*Direct damages or Economic benefit if not “properly” disposed?\*

(1) PB Oil & Gas Journal, “The Produced Water Challenge,” April 14, 2025, <https://pboilandgasmagazine.com/the-produced-water-challenge/>

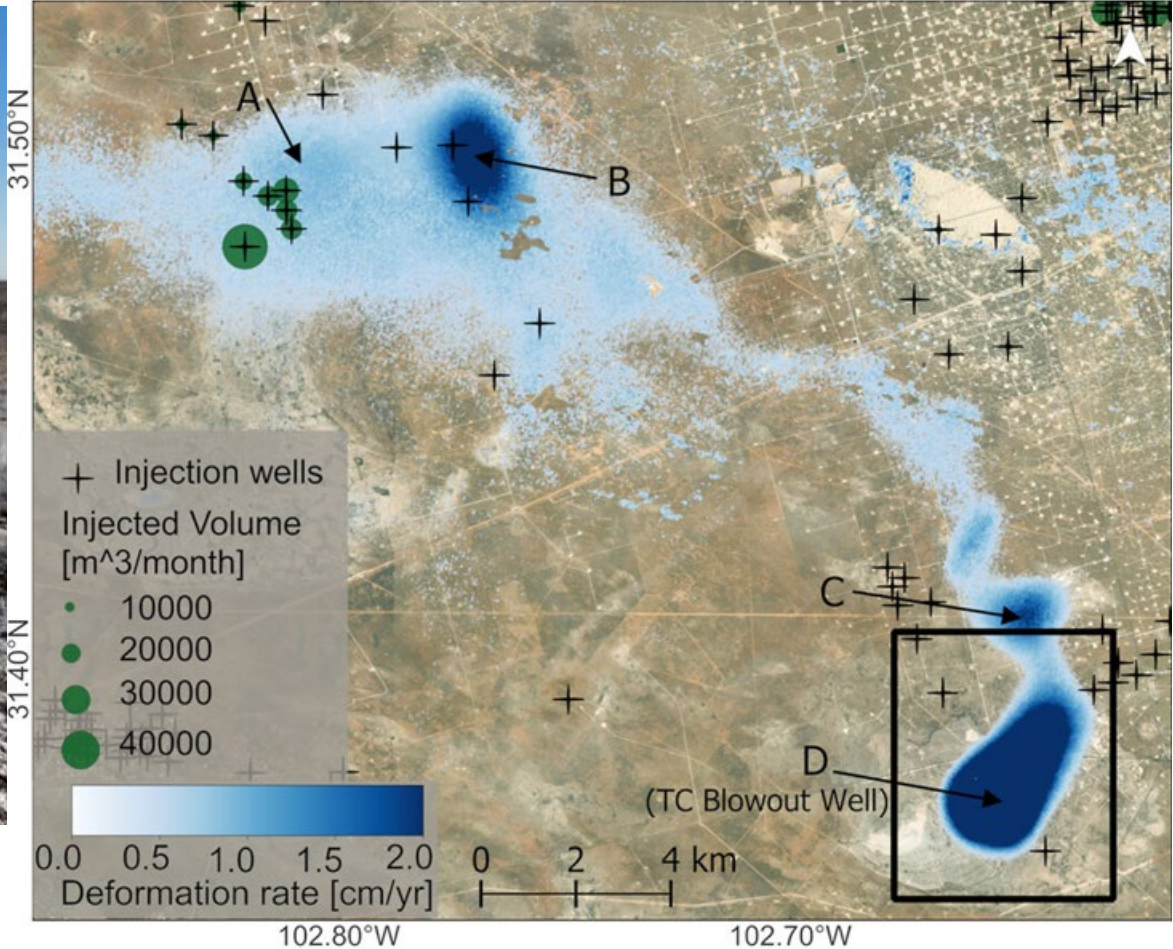


# Tubbs Corner Blowout Jan 2022



(1) Morenne, Mollica; “America’s Biggest Oil Field is Turning Into a Pressure Cooker”; WSJ; Dec 25, 2025.  
 (2) Sarah Stogner

(a) Annual deformation rate map



Karanam, Lu, Kim; “Investigation of Oil Well Blowouts Triggered by Wastewater Injection in the Permian Basin, USA”; Southern Methodist University; 2024.

# The (Potential) Future

- It can be treated<sup>1</sup>
  - \$0.60/bbl disposal -> \$5.5./bbl treatment to drinking water<sup>3</sup>
  - Power generation, fire control, non-edible crop irrigation
  - Often contains valuable critical minerals and rare earth elements such as Lithium
  - 15,500 metric tons/year of lithium could<sup>2</sup> be recovered from the Permian Shale play

## How to value lithium based on lease language and available markets?



(1) US Dept. of Energy, “Produced Water from Oil and Gas Development and Critical Minerals,” June 2024.

(2) Ibid. Challenges exist.

(3) “The Future of Produced Water Recycling in Texas”; Texas Real Estate Research Center at Texas A&M University; 2026.

# Contact

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