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Opinion Committee

Steven R. Emmert

Wheeler County Attorney
WHEELER, TEXAS 79096

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GOVERNMENTAL INQUIRY
UNIT

Hon. Dan Morales
Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

July 7, 1997
FILE # ML-39654-97
I.D. # 39654

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Re: Request for Attorney General's Opinion
Ad valorem Taxation of Mineral Interest

Hon. Dan Morales:

A question has arisen in Wheeler County as to the taxation of royalty interests by school districts. The questions is predicated upon the following facts.

1. A tract of land containing 640 acres is divided at the north-south center line between two different school districts. The east 320 acres being situated in the Allison Independent School District and the west 320 acres being situated in the Briscoe Independent School District.
2. A producing natural gas well is situated on the east 320 acres of the 640 acre tract in the Allison ISD.
3. A Designation of Pooled Gas Unit has been filed on the entire 640 acre tract whereby all royalty owners in the 640 acre tract receive royalty income from said gas well; thereby assuming that gas is being produced from under the entire 640 acre tract.
4. The royalty interest owners under the east 320 acres are different individuals than those individuals owning the royalty interest under the west 320 acres.
5. Although royalty is being paid to royalty owners under the west 320 acres, which is situated in the Briscoe ISD, Allison ISD is receiving all ad valorem taxes assessed against the royalty estates in the entire 640 acre tract.
6. The result is that individuals owning a royalty interest under lands situated in Briscoe ISD are paying ad valorem taxes on such interest to Allison ISD.

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My initial question is whether ad valorem taxes are to be assessed against royalty interests (which are considered an interest in real estate) by the school district in which the royalty interest is situated, or in the school district in which the well is situated from which royalty is paid to the owners of such royalty interest?

Secondly, in the event the royalty interests have been improperly taxed by Allison ISD, can the taxes for prior years, which have been erroneously paid to Allison ISD, be recovered by Briscoe ISD?

I request that this matter be addressed at your earliest convenience in order that any necessary changes in the tax rolls can be made prior to September, 1997 when tax statements are mailed.

If you need additional information, please feel free to contact me. Thank you for your courtesy and cooperation in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven R. Emmert", written over a horizontal line.

Steven R. Emmert
Wheeler County Attorney

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