

# **Case Law Update**

## **44<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute**

### **April 20, 2018 Houston, Texas**

The paper is current to April 9  
These slides are current to April 18

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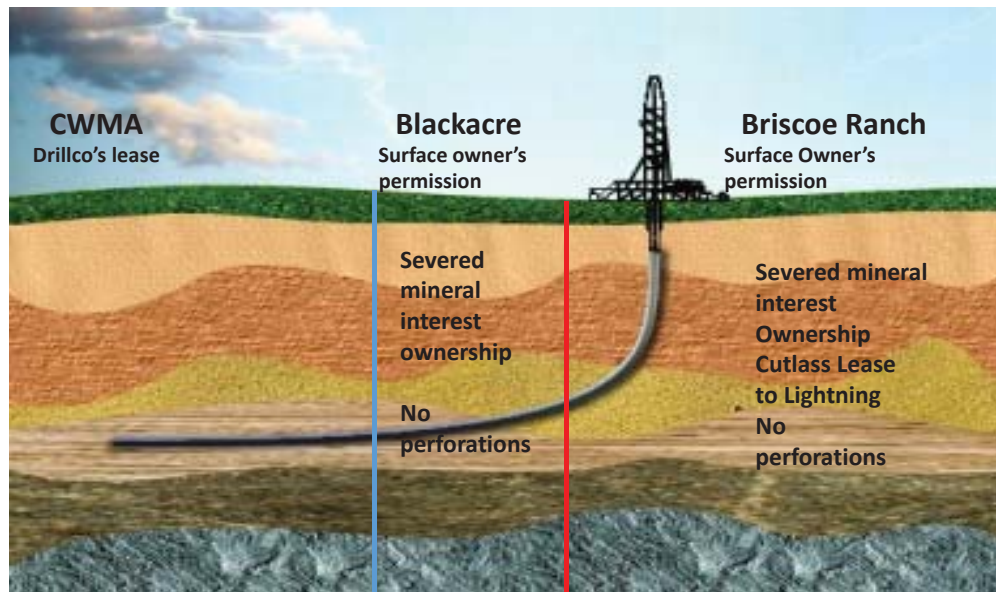
## **TRESPASS: SURFACE OWNERSHIP AND USE V. MINERAL OWNERSHIP AND USE**

*Lightning Oil Co. v. Anadarko E&P Onshore, LLC*, 520 S.W.3d 39 (Tex. 2017), p. 2

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# Horizontal Drilling

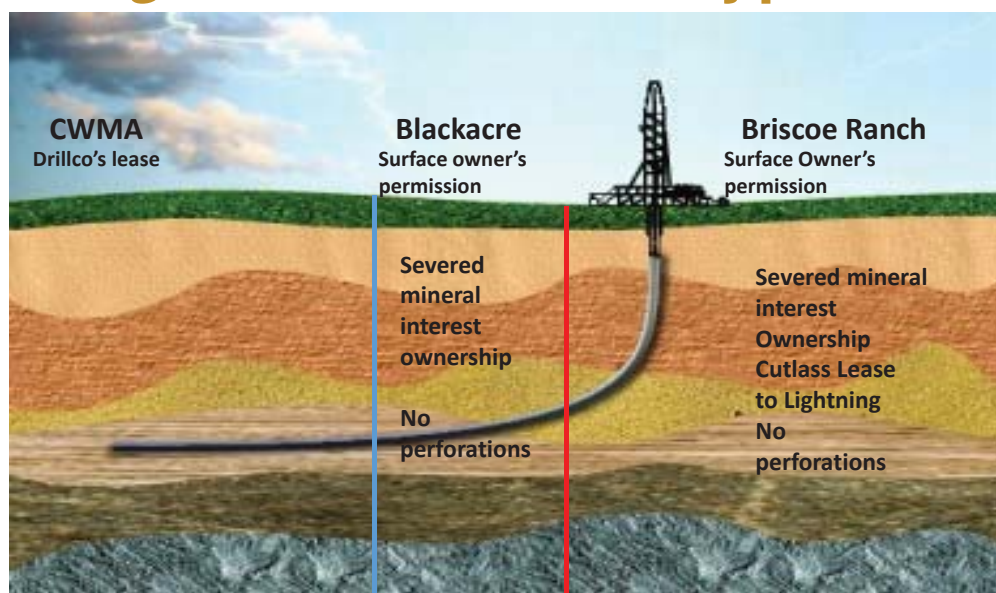
## *Lightning + Blackacre* “Hypothetical”



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# Horizontal Drilling

## *Lightning + Blackacre* “Hypothetical”



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## Accommodation Doctrine--*Getty Lightning*: Surface use operator stands in shoes of surface owner

- If mineral interest owner's use substantially interferes with the surface owner's existing use, and
- If mineral interest owner has reasonable alternatives available to it on the same land--*Sun*
- Then the mineral interest owner must "accommodate" surface owner's existing use, but
- The court must also weigh surface owner's reasonable alternatives—*Merriman*

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## As to the displacement of Lightning's Minerals:

"Balanced against the small loss of minerals a lessee such as Lightning will suffer...is the longstanding policy of this state to encourage maximum recovery of minerals and to minimize waste....[W]e conclude that the loss of minerals Lightning will suffer by a well being drilled through its mineral estate is not a sufficient injury to support a claim for trespass."

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