# ARE WE THERE YET?

## An Examination of the Commencement & Termination of an Oil and Gas Lease

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# THE INTEREST CONVEYED BY AN OIL AND GAS LEASE

- An oil and gas lease creates a fee simple determinable estate, by making the conveyance of the mineral estate subject to a special limitation
  - A conveys Blackacre to B "for so long as" B shall use Blackacre for a particular purpose
    - B receives defeasible estate in the minerals
    - A retains a possibility of reverter



# Requirements for Conveyance

## Tex. Prop. Code § 5.021

"A conveyance of an estate of inheritance, a freehold, or an estate for more than one year, in land and tenements, must be in writing and must be subscribed and delivered by the conveyor or by the conveyor's agent authorized in writing."



# Consideration

(Payment of Bonus Not Required)



*Jones v. Bevier*

- Lessor executed and delivered to the lessee an oil and gas lease, which lessee recorded. The lessor never received the payment of a bonus.
- Held: The lease was supported by nonmonetary consideration in the form of an affirmative drilling obligation, which was sufficient to overcome the claim by lessor that there was a lack of consideration.



# DELIVERY



**Requirements for Delivery**:

1. Surrender of Control. Surrender of possession (either actual or constructive) of the conveyance instrument to the grantee/lessee

2. Intent for Instrument to be Effective. Grantor must intend for the conveyance instrument to take effect immediately

- Whether delivery has occurred is a question of fact
- What constitutes delivery is a question of law

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