43rd Annual Ernest E. Smith Fundamentals of Oil, Gas and Mineral Law

Interests in Oil & Gas

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PRIVATE AND INDEPENDENT SINCE 1923.

haynesboone
Setting precedent.

Common Patterns of Ownership

Key Interests are:

- Fee Simple Absolute Interest
  - Mineral Interest(s)
    - Different types of minerals
  - Surface Interest
    - Surface tenant
- Leasehold or Working Interest
  - Beneficial Interest (from farmout)
- Royalty Interest (three different ones)
- Executive/Non-Executive Interest

Kinds of Oil and Gas Interests

Fee Interest (whole estate, endures forever)

Mineral Interest (mineral fee, endures forever)

- Right to use the surface (explore, develop, etc.)
  - Use must be "reasonable"
- Right to alienate or convey (executive right)
- Right to retain lease benefits
  - bonus, royalty, shut-in royalty, delay rentals
- In some states, a right of possibility of reverter



Severing Mineral Estate "Sticks"

Grants of mineral rights can pass some mineral right "sticks" while reserving others

- X conveys an undivided 75% mineral interest to Y but reserves all executive rights in Blackacre
- State of Title:
  - X owns 100% of the surface, an undivided 25% of the minerals, and 100% of the executive rights
  - Y owns a 75% non-executive interest in the minerals. Cannot lease but entitled to 75% of all other interests. (Bonus, etc.)



Basic Mineral Owning & Leasing: Meet the Cast of Characters

Assume the minerals are severed:

- Original Surface Owner (at severance)
  - Current Surface Owner
    - Surface lessee (farmer, rancher, deer lease, etc.)
- Original Mineral Owner (at severance)
  - Current Coal or Other Mineral Owner
    - Lessee (mining company or "operator")
  - Current O&G Owner
    - Lessee (o&g company or "developer" or "operator")
    - Depth severances abound!

***Ad Coleum* doctrine** – ownership from the sky above to the center of the Earth.



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