# Case Law Update

## 44th Annual Ernest E. Smith
## Oil, Gas and Mineral Law Institute
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**The paper is current to April 9**
**These slides are current to April 18**

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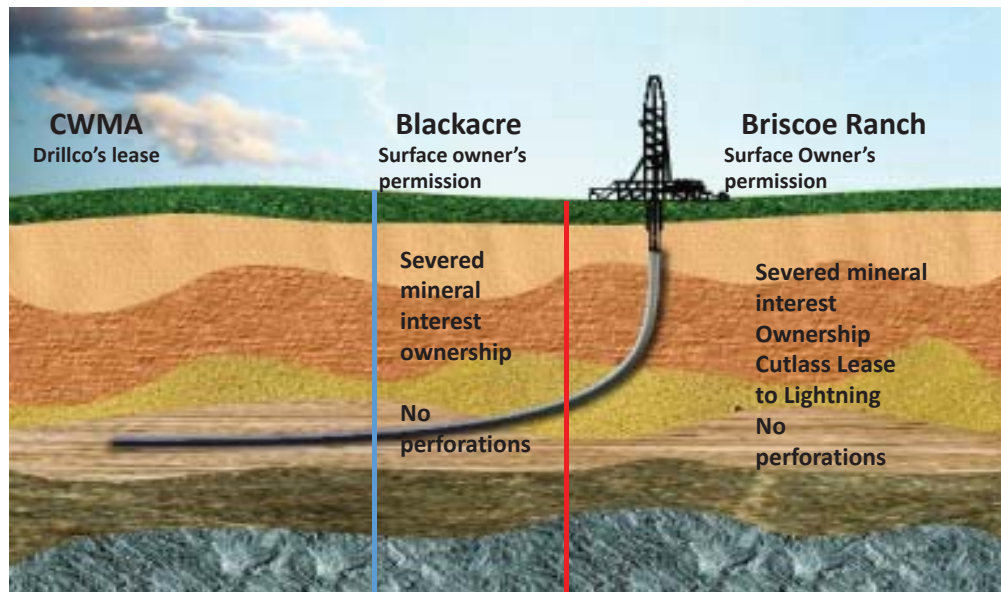
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# TRESPASS: SURFACE OWNERSHIP AND USE V. MINERAL OWNERSHIP AND USE

*Lightning Oil Co. v. Anadarko E&P Onshore, LLC*, 520 S.W.3d 39 (Tex. 2017), p. 2
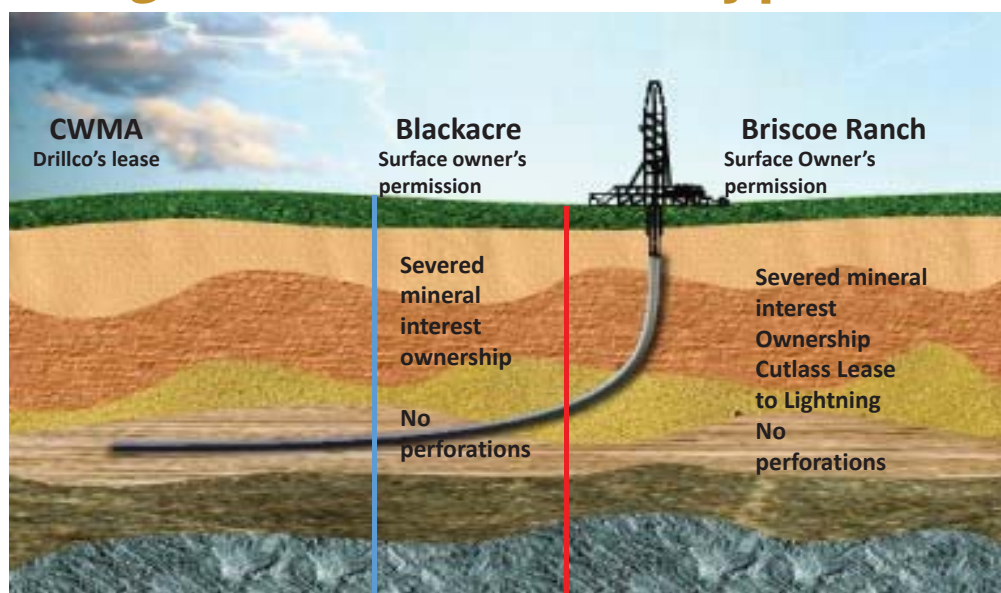
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# Horizontal Drilling
## *Lightning* + Blackacre "Hypothetical"



# Horizontal Drilling
## *Lightning* + Blackacre "Hypothetical"

# 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 <u>existing</u> use, and

➤ <u>If</u> mineral interest owner has reasonable alternatives available to it <u>on the same land</u>--*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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[Case Law Update in Oil, Gas, and Mineral Law](#)

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