



The University of Texas School of Law  
The Oil, Gas, and Energy Resources Law Section

## 2019 RENEWABLE ENERGY LAW CONFERENCE

# BEST PRACTICES FOR SOLAR DEVELOPMENT IN RESOLVING MINERAL ESTATE ISSUES

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## WHAT ARE SEVERED MINERALS?

- What rights are minerals? depends on state, who reserves
- In Texas, minerals:
  - **DO NOT INCLUDE:** water, sand, gravel, or clay
  - **INCLUDE:** oil; gas; sulfur; gold; salt; uranium; coal or iron or lignite (*if not near surface*)

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## **WHAT DIFFERENCE DOES IT MAKE WHETHER A MINERAL?**

- It does not matter how characterized (for ownership), if it is reserved or separately conveyed
- Assume that any severed interests have rights to use the surface  
*(unless properly waived)*



## **RIGHT OF MINERAL OWNER TO USE AS MUCH OF LAND AS NECESSARY**

**Ball v. Dillard**

**MINERAL RIGHTS ARE  
DOMINANT ESTATE**



## **RIGHT OF MINERAL OWNER (DOMINANT ESTATE) TO USE AS MUCH LAND AS REASONABLY NECESSARY**

### **Davis v. Devon Energy Production Company, LP**

- Even though use of the surface may increase the surface owner's costs
- Provided it will not destroy the surface owner's ability to conduct a profitable farming operation

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## **RIGHT OF MINERAL OWNER (DOMINANT ESTATE) TO USE SURFACE OF UNITIZED PROPERTIES**

### **Delhi Gas Pipeline Corporation v. Dixon**

- Use for pipeline
- Same rights—so much of surface as reasonably necessary for production on other land

### **Key Operating & Equipment, Inc. v. Hegar**

- Use of road over pooled 1/16 mineral interest

**POOLING IS WILD CARD; DO NOT ASSUME SMALL  
PERCENTAGES CAN ALWAYS BE DISREGARDED**

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## Title search: Best Practices for Solar Development in Resolving Mineral Estate Issues

Also available as part of the eCourse

[Answer Bar: Navigating a Renewable Energy Project](#)

First appeared as part of the conference materials for the  
2019 Renewable Energy Law session

"Best Practices for Solar Development in Resolving Mineral Estate Issues"