

Presented:

41ST ANNUAL ERNEST E. SMITH OIL, GAS AND MINERAL LAW INSTITUTE
UNIVERSITY OF TEXAS SCHOOL OF LAW

MARCH 27, 2015
HOUSTON, TEXAS

AN ANNOTATED
ASSIGNMENT OF OIL AND GAS LEASE/S

RONALD D. NICKUM¹

RONALD D. NICKUM
610 SW 11th avenue
Amarillo, Texas, 79105
806.371.8888
ron@nickumlaw.com
www.nickumlaw.com

¹ Ronald D. Nickum is an Attorney at Law practicing in Amarillo, Texas. He was a member of the first graduating class of the Texas Tech University School of Law in 1970, earning a JD and serving as managing editor of the Law Review. He has written extensively on oil and gas topics.

Assignment of Oil and Gas Lease/s²

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.³

STATE OF TEXAS ⁴	{	
	{	
COUNTY OF BRAVO	{	KNOW ALL PERSONS BY THESE PRESENTS:

1. Granting Clause - Identification of Assignor and Grantee

THAT effective the _ day of _, 201_, at 12:01 a.m. (Central. Standard Time) (the "Effective Date and Hour "), for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration paid by Assignee, receipt and sufficiency of which is hereby acknowledged, _, hereinafter referred to as Assignor,

2. Granting Clause - Assignment Of Entire Leasehold⁵

has assigned and conveyed,⁶ and by these presents does hereby assign and convey unto _, hereinafter referred to as Assignee, whose address is _,⁷ that one certain oil and gas lease dated January 1, 2010, from John Jones, Lessor, to Deep Reef Operating Company, covering Section 100, Block 1, ABC Survey, Bravo County, Texas, and recorded at Volume, 100, Page 50, OPR,⁸ Bravo County, Texas.

² As a starting point, read the oil and gas lease. Is there any prohibition or condition attached to assignability? An assignment may be conditioned upon lessor consent, payment of additional consideration, or other conditions. An assignment may be prohibited as to specific producers or companies. Does a breach of the condition or prohibition cause a reverter to the assignor, or cancellation of the lease, or damages? There are no Texas cases that directly answer these questions. If there is any type of restraint against alienation, including a forfeiture clause, the cases *Diamond v. Rotan*, 124 S.W. 196 (Tex. Civ. App. – Texarkana 1910, writ *ref'd*) (restraints on alienation are generally unenforceable) and *Outlaw v. Bowen*, 285 S.W.2d 280 (Tex. Civ. App. – Amarillo 1955, writ *ref'd n.r.e.*) (pooling does not constitute an “assignment”) may help predict the outcome of a lawsuit, but no one wants an assignment to lead into the courthouse. Read the lease.

³ The notice of confidentiality rights is required by statute.

⁴ This paper addresses Texas law only. Texas law treats the oil and gas lease as both a contract and a conveyance of minerals. Other jurisdictions may place different constructions upon an oil and gas lease, such as a *profit prendre* resulting in personal property interest with different recording statutes and rules.

⁵ If this language is used, the entire lease, or whatever interest the Assignor has, is assigned to the Assignee without limitation as to depth or hydrocarbons covered.

⁶ Some drafters prefer the longer (and archaic) phrase “...grant, bargain, sell, convey, assign, transfer, set over, and deliver unto Assignee...”

⁷ Assignee’s address is required by statute.

⁸ Knowledgeable title practitioners understand that “OPR” means “Official Public Records.” The use of “OPR” may not be accurate in all cases. Older leases may be found in courthouse books designated “Lease Records” or “Leasehold Records” and oil and gas leases are also found recorded in the deed records. Modern naming protocol adopted by many county clerks is “Official Public Records” and will include all manner of

3. Granting Clause - Assignment Of Multiple Leases

has assigned and conveyed, and by these presents does hereby assign and convey unto __, hereinafter referred to as Assignee, whose address is __, the Oil and Gas Leases listed on Exhibit “A” and attached hereto.

Or

the following oil and gas leases, to wit:⁹

LEASE NUMBER 1:

Dated: *Effective Date and Hour of oil and gas lease*

Lessor: *Name and address (if recited) of Lessor*

Lessee: *Name and address (if recited) of Lessee*

Land Covered: *Legal Description*

Recorded: *Recording data*¹⁰

4. Granting Clause – All Right, Title, Interest¹¹

has assigned and conveyed, and by these presents does hereby assign and convey unto __, hereinafter referred to as Assignee, whose address is __, all of Assignor’s right, title and interest in and to *describe oil and gas lease or leases*

5. Granting Clause - Assignment Of Less Than Entire Leasehold

has assigned and conveyed, and by these presents does hereby assign and convey unto __, hereinafter referred to as Assignee, whose address is __,

a) an undivided [_/ _] [_%] of Assignor’s right, title and interest

b) an undivided [_/ _] [_%] of 8/8ths interest¹²

in and to *describe oil and gas lease or leases*

6. Granting Clause - Partial Assignment¹³ With Horizontal Reservation¹⁴

conveyances. The careful practitioner will want to use the correct reference to the name of the books in which the oil and gas lease is recorded.

⁹ Lists of Oil and Gas Leases can also be attached as an Exhibit.

¹⁰ Even if the tract is not described, the assignment may be enforceable despite the statute of frauds under the “recital of ownership” doctrine. See *Coe v. Chesapeake Exploration, LLC*, 695 F3rd 311 (5th Cir. 2012). In other words, a reference to the oil and gas lease by volume and page will incorporate the legal description.

¹¹ If the assignor’s quantum of leasehold interest is unknown, the “right, title and interest” phrase will cover whatever interest he or she has. However if warranty is disclaimed, this language creates a quit claim instrument. See *Rogers v. Ricane Enterprises, Inc.*, 884 S.W.2d 763 (Tex. 1994). A quitclaim deed is a deed of conveyance intending to pass any title, interest or claim of the assignor, but not professing that such title is valid. *Porter v. Wilson*, 389 S.W.2d 650, 655-56 (Tex. 1965). Said another way, the quitclaim deed passes the mere chance of title. *Miles v. Martin*, 159 Tex. 336, 321 S.W.2d 62, 65 (Tex. 1959). The quitclaim deed is not a conveyance or a muniment of title and, by itself, it does not establish any title in those holding the deed, but merely passes whatever interest the assignor in the Premises may have, and validity of title goes back to the common source. *Id.*

¹² This is a fixed interest. For example, if the fraction 1/3 is inserted, the Assignor has assigned a full 1/3 interest in the entire lease. When using a fixed interest clause, always assure that the Assignor has enough interest to assign.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: An Annotated Assignment of Oil and Gas Lease/s

Also available as part of the eCourse

[Assignments of Oil and Gas Leases; plus Constructive Notice](#)

First appeared as part of the conference materials for the
41st Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session
"Assignments of Oil and Gas Leases"