

# FUNDAMENTALS OF OIL, GAS AND MINERAL LAW COURSE

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## BASIC CAUSES OF ACTION AND DEFENSES IN LITIGATING LAND TITLES

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### Who Owns this Land?

#### **I. Land equals wealth and security.**

- A. For most of human history, until at least the Industrial Revolution, all wealth and security was based on land.
- B. Land was essential for food, water, shelter, plants, animals, and minerals.
- C. Who owned the land was generally decided by might, not right.
- D. As civilization evolved and the rule of law developed, it is not surprising that some of the first and oldest procedures adopted are those designed to answer the question: "Who owns this land?"



## II. Oil and gas is real property until severed.

- A. Private ownership of minerals is almost unique to the English-speaking world; everywhere else, minerals are state owned.
- B. “Minerals” in England were rocks and simply a part of the “land.”
- C. Not so simple – streams and wild animals.
- D. Our jurisprudence developed with distinct differences in rights and procedures determined by whether the property involved was real property or personalty.
- E. Oil and gas in Texas.
  - 1. In place – real property.
  - 2. Severed (produced) – personal property.
- F. Therefore, the answer to “Who owns the land?” usually determines who owns the oil and gas.
- G. And, the very old procedures developed for resolving title to land, together with the thousands of real property cases, govern how you must proceed and who will win.



## III. The role of the oil and gas lawyer.

- A. Most property rights in the industry are driven by pieces of paper (leases, farmouts, operating agreements, purchase and sale agreements, transportation agreements, processing agreements, etc.)
- B. Lawyers as wordsmiths are key to the value chain.
- C. All of the value in the chain ultimately is dependent upon the ownership of the oil and gas in the ground.
- D. The title examiner, the lawyer(s) who accepts that title, and the lawyer who ultimately tests that title in court, must answer the question: “Who owns this land?”



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## Title search: Basic Causes of Action and Defenses in Litigating Land Titles

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