

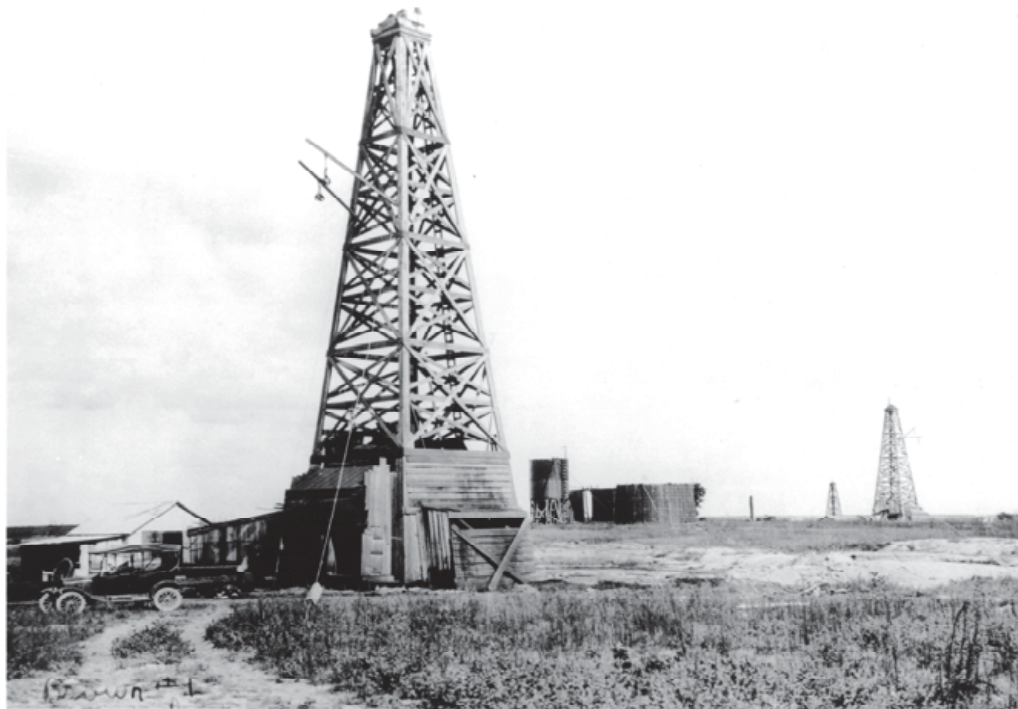
**SURFACE USE:  
THE DOMINANT ESTATE,  
REASONABLE USE AND DUE REGARD**

APRIL 20, 2018

David E. Jackson  
Marc O. Knisely  
JACKSON SJOBERG & TOWNSEND LLP  
711 West 7<sup>th</sup> Street  
Austin, Texas 78701

JS&T

1



<http://www.texascompound.com/oilfield-photos/>

JS&T

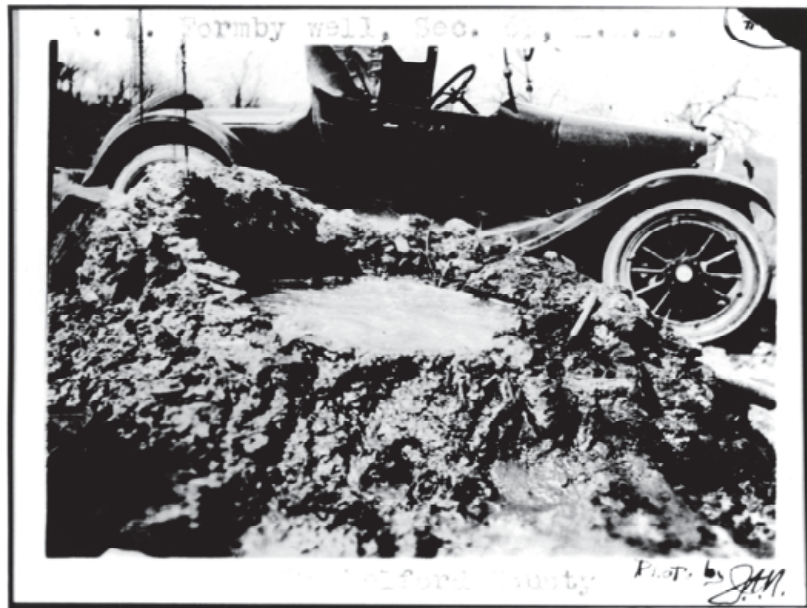
2



IN TEXAS WHERE DREAMS CAME TRUE.

[www.texascompound.com/oilfield-photos/](http://www.texascompound.com/oilfield-photos/)

JS&T



W. J. Formby well, Sec. 6, T. 10N, R. 10E

W. J. Formby well, Sec. 6, T. 10N, R. 10E  
Photo by J.M.

[www.texascompound.com/oilfield-photos/](http://www.texascompound.com/oilfield-photos/)

JS&T

## Surface Use—An Industry Perspective

“Another issue that sometimes complicates the producer/royalty owner relationship is restrictions on surface usage and compensating surface owners. . . . The real threat is surface use restrictions. If you can’t access the land, nothing else matters. . . .”

“Royalty owners who have unified estates want to get their royalty checks and get paid for the surface use, too. It’s the free lunch theory. I can pay X for a lease, but if I have to compensate surface owners for the loss of land value, then I can’t pay X for the lease. When we bring up those issues, [royalty owners] shrug them off. I guess it is supposed to come out of producers hides.”

-Al Pickett, The American Oil & Gas Reporter

JS&T

5

### One Landowner's Perspective:

IN REGARDS TO YOUR  
LETTER I RECEIVED TODAY,  
THE MINERAL RIGHTS I HAVE  
WILL REMAIN MINE. I DON'T  
CARE WHAT THE OIL AND  
GAS COMMISSION SAYS.

YOU ARE NOT WELCOME  
ON MY PROPERTY, AND I'M  
TELLING YOU TO STAY OFF.

ANY OF YOUR EMPLOYEES,  
CONTRACTORS, OR AGENTS,  
WHO COME ONTO MY LAND  
WILL BE TREATED AS  
TRESPASSERS.

GET ALL YOUR YANKEE,  
REPUBLICAN, CARPETBAGIN, HALIBURTON  
~~AND~~ MUTHEZ ~~AND~~ AND  
TAKE THEM ALL BACK TO TEXAS  
SO WE CAN KEEP ALL THE  
~~AND~~ IN ONE PLACE.

KISS MY ~~ASS~~

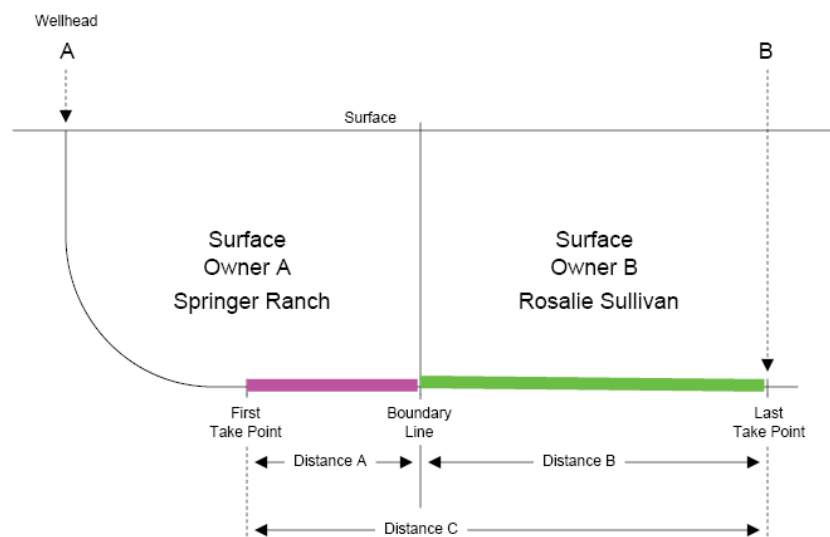
JS&T

6

# Definition of Surface and Mineral Estate

- *Springer Ranch, Ltd. v. Jones*, 421 S.W.3d 273 (Tex. App.—San Antonio 2008, no pet.)
- *Lightning Oil Company v. Anadarko E & P Onshore, LLC*, 480 S.W.3d 628 (Tex. App.—San Antonio 2015), *aff'd*, 520 S.W.3d 39 (Tex. 2017)

## Facts in *Springer Ranch*



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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Surface Use: The Dominant Estate, Reasonable Use, and Due Regard

Also available as part of the eCourse

[2018 Ernest E. Smith Oil, Gas, and Mineral Law eConference](#)

First appeared as part of the conference materials for the  
44<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session  
"Surface Use: The Dominant Estate, Reasonable Use, and Due Regard"