



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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