

DIVIDED SURFACE AND MINERAL ESTATES

Survey of Split Estates, Implied Easement, Accommodation Doctrine, and Select Emerging Issues

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Overview

- Definition of Estates
- Implied Easement
- Emerging Issues



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Definition of Estates:
Surface and Minerals



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Severed Estates

- Early theory
- Modern theory



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Defining Scope of the Estates

Issue: “oil, gas, and other minerals”

Surface Destruction Test (Early Texas)

- **Test:** intent-based, balancing test:
 - proximity to surface
 - Whether any reasonable extraction = “substantial” destruction
- **Severances prior to June 8, 1983**



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