



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

James L. (Jim) Gosdin

Stewart Title Guaranty Company
jgosdin@stewart.com

1



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*)

2



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)

3



RIGHT OF MINERAL OWNER TO USE AS MUCH OF LAND AS NECESSARY

Ball v. Dillard

**MINERAL RIGHTS ARE
DOMINANT ESTATE**

4



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

5



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**

6

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: Best Practices for Solar Development in Resolving Mineral Estate Issues

Also available as part of the eCourse

[2019 Renewable Energy Law eConference](#)

First appeared as part of the conference materials for the
2019 Renewable Energy Law session

"Best Practices for Solar Development in Resolving Mineral Estate Issues"