

# 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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"Emerging and Re-Emerging Issues in the Use of Surface for Oil and Gas Operations"