

The Oil and Gas Lease, Part I: Classification, Scope of Grant and Duration

Fundamentals of Oil, Gas and Mineral Law
UT Law & State Bar of Texas OGERL Section

Visiting Professor Monika U. Ehrman
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Overview

Mineral estate

Ownership theories

Oil and gas lease

Granting clause

Habendum clause

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The mineral estate

Property rights and estates

Bundle of sticks in the mineral estate

- Right to develop
- Right to make decisions about exploration and production
- Right to receive bonus
- Right to receive delay rentals
- Right to receive royalties

Property can be severed

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Oil and gas ownership theories

Ad coelum doctrine

Rule of capture

Oil and gas rights v. oil and gas lease

Ownership in place

Exclusive right to take

Fee simple determinable

Profit a prendre

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The oil and gas lease

What is the lease and its purpose

Components of lease negotiation

- Bonus
- Royalty
- Delay rentals
- Contractual provisions (aka “the rest of the story”)

Terminology

- Lessor, lessee, royalty interest owner, leasehold interest, surface owner, mineral interest owner

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The granting clause

What is it and where is it in the lease

What does it cover

- Consideration
- Rights of use
 - Accommodation doctrine
- Substances covered
- Land and interests subject to the lease
 - Property description

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