

# *Co-existing with Oil and Gas Development*

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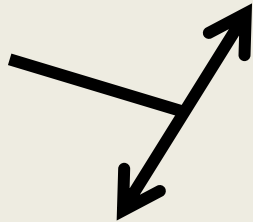


# Oil and Gas Ownership / Leasing

## Mineral Ownership

- Real Property

Lease is hybrid of  
real/personal  
interests



## Royalty Ownership

- Personal Property

## Working Interest

- Overriding royalty  
interest

# **Who owns the “Pore Spaces”?**

**Start with premise that ‘fee simple’ owner owns all rights to property. However, if the ownership of property rights has been separated, who owns what**

**Under Kansas common law the surface owner owns the pore spaces, but only the mineral owner can lease the rights to use pore spaces to develop the oil and gas reserves**

**What are pore spaces?**

**This important for certain uses of pore spaces, such as storage of natural gas, carbon dioxide, and disposal of produced salt water**

# **Severed mineral estate from the surface estate**

**Unless an oil and gas lease provides otherwise, the mineral estate is dominant over the surface estate**

- **The owner of the oil, gas and other minerals (or their lessee) is allowed to use as much of the surface estate as is necessary to explore for and develop the minerals**
- **Subject to reasonable accommodations to the surface owner for the mineral owner's use of the surface**

# Who are the players in leasing?

**Mineral Owner (Lessor)**

**Surface Owner**

**Landman**

**Producer (Lessee)**



# Why Lease the oil and gas rights?

**Something valuable is “down there”**

**Opportunity for leasing bonus and royalties on production**

**Mineral owner often lacks expertise and resources to drill wells**

# Why Leasing is Active

**New technology in geophysical testing**

**New technology in horizontal drilling**

**Advanced technology in hydraulic  
fracturing**

# Oil and Gas Leasing

**The oil and gas lease is the key document**

**There is no such thing as a 'Standard' Lease**

**Every provision in a lease should be negotiable, but often are not**

**Most leases are drafted by the lessee (the oil and gas company)**



# Oil and Gas Leasing

**In areas with new oil and gas development, the lease is often granted by the fee-simple owner of the land**

**Where minerals have been severed from the surface, only the mineral owner can grant an oil and gas lease**

# Oil and Gas Leasing

## **Practical Concerns for Land and Mineral owners:**

- **Surprisingly, there may be uncertainty of what they own and whether minerals are open for leasing**
- **Unfamiliar with oil and gas terminology and ‘going rates’**
- **Difficulty negotiating acceptable terms**



# Oil and Gas Leasing

## Practical Concerns for Land and Mineral owners (con't):

- **What company will actually be developing my mineral interests**
  - **Will the lessee be a good operator**
  - **Why won't the landman reveal actual client**
  - **What if Landman is securing blocks of leases, and then 'flips' the lease to a new Lessee**
- **Who can landowner contact if there are problems**



# Oil and Gas Leasing

## Practical Concerns for Land/Mineral owners (con't):

- **Will horizontal wells require larger footprint for drill site than vertical well**
  - **How will this impact wellsite damage amounts**
  - **Will multiple wells be drilled from single drill site**
  - **How can we be guaranteed of the actual path of the well's horizontal leg**

# Oil and Gas Leasing

## Practical Concerns for Land/Mineral owners (con't):

- **Concerns over hydraulic fracturing**
  - **Should the National debate on hydraulic fracturing concern me**
  - **Should an operator disclose the chemical composition of fracturing fluids**
  - **Will hydraulic fractures extend to neighboring lands**
  - **Will a horizontal well impact other wells in the vicinity**

# Oil and Gas Leasing

## **Practical Concerns for Land/Mineral owners (con't):**

### **Water use and disposal of produced water issues**

- **Whether a land owner has authority to “sell” water**
- **During drought conditions, how will water for agriculture needs compete with drilling needs**

### **How will a subsurface easement impact me**

- **Will the Lessee be able to bore through unleased minerals and not include them in a producing well**
- **Should subsurface easements survive the lease if lease expires**

# Oil and Gas Leasing

## **Practical Concerns for Land/Mineral owners (con't):**

**Oil and gas leases effect the lively hood of the surface owner to produce crops or livestock, perhaps for decades (roads to wells, potential chemical contaminations from disposal wells, unkempt surroundings of wells, failure to remove old equipment or other trash from the property)**

**Protection of elderly or unknowledgeable mineral/surface owners from questionable pressure tactics or misrepresentations by landmen**

# Oil and Gas Leasing

## **Practical Concerns for Land/Mineral owners (con't):**

### **Oil and gas leases effect other parties not a party to the lease:**

- **Surface owner**
- **Farm tenants**
- **Wind developers**
- **Pipelines and other utility companies**
- **Irrigators**



# **Horizontal Drilling Triggers a “Leasing Boom”**

## **Practical Concerns for Land/Mineral Owners (con’t):**

- **Surface use issues**
  - **Burdens on roads from increased truck traffic**
  - **How long can or should pit be left open**
  - **How much land will be taken out of production and for how long**
  - **What will be done to restore site after drilling**
  - **How will land spreading impact land owners**

# Terms Within A Lease (con't)

## Payments for Damages

- **Compensation should be made for all damages caused by the Lessee's operations**
- **Although many 'old' leases do not contain adequate provisions to protect or compensate surface owner**

# Terms Within A Lease (con't)

## Miscellaneous Lessor Concerns and Provisions

- **Choice of Law – Kansas law should be choice law since minerals and production are in Kansas**
- **The full lease should be filed of record, not just Memorandum of Lease**



# Closing

**A lease can and should be beneficial to both the Lessee and to the Lessor and to the landowner.**



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