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When does a Landowner own all rights, including Minerals and Royalty?

**When there have been no conveyances,
donations or reservations of minerals or
royalty, by the owner or his predecessors in
title, or if there have been any, they have
expired.**

Items to Note:

- 1. In those instances, the landowner has the right grant Oil, Gas and Mineral Leases (and to collect bonus, rentals and royalty thereunder); to sell his minerals; and the right to create Mineral Royalty.**

When does Separate Mineral Ownership occur?

Where one who has acquired, by sale, donation or other transfer, or by reservation in same, the minerals in a tract of land owned by another, and such interest has not expired by its own terms or by operation of law.

Items to Note:

- 1. You don't actually "own" the minerals, you have a "Mineral Servitude" which is akin to a right of use or an easement.**
- 2. You have "the right of enjoyment of land belonging to another for the purpose of exploring for and producing minerals and reducing them to possession and ownership."**
- 3. Separate Mineral Ownership Expires Over Time. "Mineral Servitudes"-do not last forever. Unless a shorter period is specified, if you don't have operations, drilling or production for 10 years on the land/servitude or other lands pooled with them, the Mineral Servitude terminates and the landowner/surface owner is, in effect, re-vested with the minerals. If you don't use it, you lose it. If there is a use (drilling, production or operations), that is an "interruption" and the 10 year period begins to run anew.**
- 4. The owner of a Mineral Servitude may utilize the surface, but is bound to use with reasonable regard to the owner of the surface. If you are selling your minerals and are concerned about surface use, you should prohibit it or spell out the applicable restrictions.**
- 5. Rights of the Mineral Owner include the ability to explore, produce and develop; right to grant Oil, Gas and Mineral Leases; right to collect bonus, rentals and royalty under such leases; right to create Mineral Royalty**

As a Landowner, How do I know if I own my Minerals?

Need to answer (1) Where there were any prior conveyances or reservations of minerals affecting your property? and (2) If so, has there been a 10 year gap without drilling, production or operations on the property covered by the conveyance or reservation of the minerals or lands pooled with that property?

Items to Note:

- 1. This requires first a title search (for mineral reservations or conveyances), and then if necessary research of the Department of Conservations records (to see if there has been a 10 year gap).**
- 2. Keep in mind your property may have been part of a larger tract of land at one point in time.**
- 3. Landmen may do a preliminary check prior to leasing you; if there is production, the Operator or your lessee will normally have a title opinion rendered prior to paying you.**

What is a “Surface Owner”?

Usually refers to either a landowner who does not own the minerals or to the landowner in situations where you are dealing with him for surface purposes only. Examples would be settling surface damages for surface operations, obtaining right-of-way for a non-lease pipeline, obtaining a surface lease, obtaining a non-lease road right-of-way.

What is a “Royalty Owner”?

If you are the owner of the land where minerals have not been conveyed or reserved or if you are the owner of a Mineral Servitude (someone other than the owner of the land owns the minerals), and you grant an Oil, Gas and Mineral Lease, you have the right to receive royalties payable under the lease. You may also convey, sell, donate or reserve “Mineral Royalty”. “Mineral Royalty” is the right to participate in production in land or minerals owned by another, normally cost free. It comes out of the landowner/mineral owner’s interest, and if a lease is granted it is deducted prior to paying royalty (e.g., if you sell a 5% Mineral Royalty and you sign a lease for a 25% royalty, you will be paid only 20%).

Items to Note:

- 1. Life of Mineral Royalty-Unless you provide otherwise, it lasts at least 10 years and is subject to the same 10 year termination as provided above for Mineral Servitudes (except the use that interrupts or preserves it is “production”, not drilling or operations). This means it is not limited to the life of any lease you may grant.**
- 2. If You Sell Royalty-Make sure conveyance is clear and you understand it. You want to make sure you know what you are selling, what royalty you would still be entitled to if you leased, and you want to avoid ambiguities that would cause the Operator to suspend your royalty payments until the uncertainty is cleared up. Conveyances of “Royalty Acres” are prone to such ambiguities, because they are often not clear on what is being conveyed.**

What is a “Unit” and How Does that Impact Me?

A term used to refer to the combining or pooling of acreage for the sharing of production and the expenses of obtaining such production from that acreage. Historically, units came about to prevent drainage of neighboring acreage (because you would be entitled to share in production) and prevent the drilling of unnecessary wells (if all within the pool shared they did not have to drill their own wells).

What is a Top Lease?

A “Top Lease” is a lease granted while another lease remains in effect. Normally it is granted right before and with the expectation that the underlying lease is going to expire. If you are doing so, then you should spell out that’s what you are doing.

Items to Note:

- 1. Types of Units-**There are different types of units or ways to form units. Primarily in the Haynesville Shale play, you will see 640 acre square (same size as a Section) units formed by the Department of Conservation, in an administrative proceeding, initiated by the Operator or Lessee of the acreage involved. You should receive notice of the unit proceeding if your property is within the unit or within a reasonable distance outside of the unit.
- 2. Participation-**Normally the tracts in a unit participate in the expenses and production on a surface acre basis. For example, if you have a 640 acre unit and you have a 64 acre tract that you have leased for 25% royalty. The working interest or expense share attributable to your tract that the lessee would be responsible for would be $64/640$ or 10% (of all expenses for the unit well) and the royalty you would be entitled would be $64/640 \times .25 = 2.5\%$ (of all of the proceeds of production from the unit well).

What If I sell my Property after I Sign an Oil and Gas Lease?

Absent any reservation, the new owner of the property is entitled to rentals and royalties paid after the date of the sale. But you can reserve all or part of the minerals (which would include all future rentals and royalties) or of the royalty (which would only be of the royalty).

How Close may a Well be to a Home?

To drill a well, you need a drilling permit from the Commissioner of Conservation. If the well is going to be drilled to a depth of more than 10,000 feet, the applicant has to submit a location plat, indicating the site of the proposed well in relation to the surrounding property within a radius of five hundred feet from the proposed drilling site. The commissioner reviews the plat to make a determination as to whether any residential or commercial structure is situated within a five hundred feet. If it is determined that a residential or commercial structure is located within five hundred feet, any person owning such a residential or commercial structure will be given notice, by first class mail. Any property owner so notified has the right within ten days of the mailing of such notice to request a public hearing concerning the issuance of the permit, which will be held by the commissioner, affording property owners the opportunity to be heard in regard thereto.