

Mineral Rights in Texas

Geology.com explains mineral rights in this way: They “entitle a person or organization to explore and produce the rocks, minerals, oil, and gas found at or below the surface of a tract of land.” In other words, the minerals from a piece of land you own belong to you... except when they don't. Minerals can be a lot of things although commonly considered to refer to oil and gas.

Land ownership in the state of Texas is divided into two separate estates—mineral estates and surface estates. Understanding who owns the mineral rights is significant in that Texas law holds the mineral estate in a superior position. This means the owner of the mineral estate has the right to explore and develop the production of oil and gas without obtaining permission from the surface owner unless the mineral estate owner has waived the right to use the surface estate to access the minerals. Typically, such a waiver is in writing, recorded in the real property records of the county in which the land is located.

Simply speaking, that means that you could buy a plot of land without owning the mineral rights to that land. As a result, the person or organization who owns the mineral rights could potentially use the surface area of your land to access their minerals.

Originally, all mineral and surface rights would have been owned by the same person, but over time, as owners sold property, they reserved the minerals in areas where oil and gas production was occurring. While a title company can conduct a title search that should show what mineral reservations and mineral deeds have been filed of record, in order to determine the current ownership of a mineral estate that has been severed from the surface estate, you may need to obtain a title opinion or abstract from an attorney. If no prior mineral reservations or conveyances exist, and the seller isn't reserving any minerals themselves, then the mineral ownership should transfer with the sale.

The lesson here is to ask about the mineral estate of the land you wish to purchase and to know the rights and risks associated with that area. You might want to ask neighboring property owners about any drilling they've seen or trucks they've observed in the area.