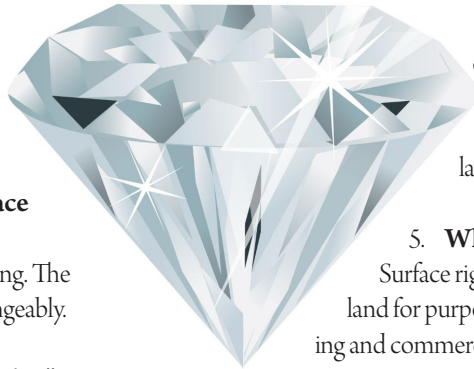


Gifts of Mineral Rights

by Betsy Suppes



1. **Is there any difference between the terms “mineral interests,” “mineral rights” and “subsurface rights”?**

They mean the same thing. The terms are used interchangeably.

2. **What are “mineral rights”?**

“Mineral rights” are the ownership of the minerals below a parcel of land.

3. **What qualifies as a mineral?**

Ores of metals, coal, oil, natural gas, gemstones, dimension stone (quarried natural rock shaped to a specific size), construction aggregate and evaporates, including salt, potash, gypsum.

4. **How do I find out if I own the mineral rights?**

Mineral rights sales are filed at the county recorder’s office. Like other land sales, you should be able to find out with a title insurance search. Mineral rights are verified through deeds. Sometimes finding deeds that prove mineral ownership can prove difficult as a transfer of ownership has not been diligently processed from one generation to another.

Mineral ownership may be affected by a will, trust, divorce decree, or other documents. Some counties index these documents by “grantor” and “grantee” or the names of the parties to the transaction.

Some state laws consider mineral interests to be “abandoned” if severed interests (that is, the surface owner is different from the mineral interests owner) have not been used for a period. The interest is considered used if activity regarding this interest has taken place, generally documented by the recording of a lease, mortgage, or other

documents. This issue is complex and best handled by a land professional or a lawyer.

5. **What are surface rights?**

Surface rights are the ownership of the land for purposes such as agriculture, housing and commercial buildings.

6. **What are subsurface rights?**

Subsurface rights are the rights to extract minerals from below the surface of the land. Many times these subsurface rights are called “mineral rights.” If an individual owns mineral rights to a tract of land, they are legally entitled to the minerals beneath the surface and may utilize the surface within reasonable perimeters to access the minerals underneath.

7. **If you own the surface rights do you also own the subsurface rights?**

If you own the surface rights you don’t always own the subsurface, or mineral rights. In the United States, the minerals rights may be owned independently from surface rights.

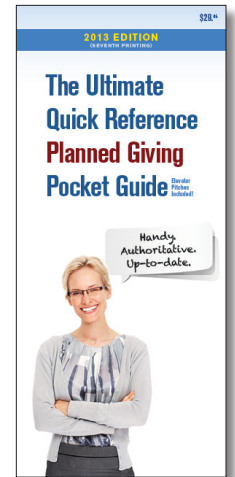
8. **What is the difference between a mineral interest owner and a royalty interest owner?**

A mineral interest owner has the right to execute leases and collect bonus payments called “land” or “leasing bonus” payments.

A royalty owner does not execute leases or collect bonus payments.

Both the mineral interest owner and the royalty interest owner receive a percentage of the income once a well (for example) is producing. This percentage is agreed to in the lease that the mineral interest owner signs.

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9. **What is the difference between a “land bonus” and a “royalty”?**

A land bonus is an agreed price between the mineral owners and an operator for a set number of years prior to drilling/digging. The land bonus is like rent, usually paid annually with a set value per acre. Sometimes a land bonus will be referred to as a “leasing bonus.” A land bonus is a means of holding the lease until the operator has time to line up contractors to drill or dig.

Royalty is a percentage of the revenue from the sale of the product. The royalty percentage is usually negotiated in a lease. In some states, there is a minimum royalty given to the owner of the mineral rights.

10. **What is the financial value of the mineral rights?**

The value of the mineral rights is determined by what the mineral is, i.e., coal, oil, natural gas, metal ores, etc. It is also dependent upon the depth to the minerals and distance to markets. A qualified minerals appraiser can make an estimate of value of the mineral rights.

11. **What is the difference between a royalty owner and a working interest owner?**

A royalty owner receives a predetermined percentage of production revenue. A royalty owner receives a check as long as the well is flowing. They bear no costs to drill or maintain the well.

A working interest owner pays an agreed percentage to drill and complete the well in addition to maintenance to keep the production flowing. Their percentage of production revenue is after expenses.

12. **Why would anyone gift their oil and gas royalties?**

Oil and gas royalties are gifted for a number of reasons. An example would be to reduce the taxable portion of their estate. Another reason would be if the oil and gas royalties are too small to divide among the number of heirs. Some owners gift because they no longer have the desire to manage their royalties.

13. **What is the difference between leasing mineral interests and selling them?**

When you lease mineral interests, it is like rental agreement. It is the opportunity for someone to extract the minerals from the subsurface for a set period of time (usually 3-5 years) to drill. If they do not drill, the lease is ended and the owner of the mineral interests can lease the subsurface minerals again. Alternatively, if the lessee drills and decides not to pursue extracting the minerals, the mineral interest owner can lease the minerals again.

When you sell the mineral interests, it is like selling a house. You receive an agreed upon value for the subsurface minerals and after the documents are signed, you receive a lump sum compensation. You no longer own it, and cannot receive any additional revenues streams from the subsurface rights. However, it is possible to limit the depth of the subsurface rights, or the type of mineral extracted. Generally, you cannot separate oil from gas rights, however, you may be able to separate coal. Keep in mind that coal-bed methane (natural gas) can also be extracted from the coal seam, and some coal companies might want both.

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