

Oil, Royalties, and Death: Transfer of a Mineral Estate

BY CAROLINE AKERS PETERSON

When probating or administering mineral interests, it becomes necessary to identify mineral interests for purposes of property inventory and transfer of legal ownership.

Where is the Property?

The first step is to obtain from your client sufficient information to identify the location and type of mineral interests. In many instances, your client may not have that information readily available. A few ways to determine the type and location of mineral interests is to request the following from your client:

- Mineral Deeds;
- Stubs from Royalty Checks and/or Division Orders for Producing Royalty Interests;
- Property Tax Records;
- Previous Income Tax Returns; and
- Inventory, Appraisalment & List of Claims (Previously Inherited Mineral Interests).

If your client can only provide where the minerals are located, such as the county, you will need to conduct some basic research. This starts with distinguishing whether the mineral interests are producing or non-producing.

Producing mineral interests can be researched in the property tax records by searching the owner's name to locate the operator, or oil and gas company. For example, records may be found at the following websites: Fort Worth (www.tad.org/); Dallas (www.dallas-cad.org/); and small counties (<http://appraisaldistrict.net/>). The operator, along with the name of the well and unit, is usually listed on the tax statement. With this information, you can contact the operator to obtain copies

of mineral deeds, assignments, conveyances or unit designations. You may also research the Railroad Commission of Texas records online at <http://www.rrc.state.tx.us/> to obtain additional information. It is advisable to contact the operator before contacting the Commission because the information the operator provides you will be more detailed.

Non-producing mineral interests can be researched in real property records by the grantor/grantee name. Many local county websites allow you to search records for free, such as Dallas County (<http://roamdallaspropertyrecords.com/ailis/search.do>); Collin County (<http://countyclerkrecords.co.collin.tx.us/webinquiry>); and Tarrant County (<https://ccanthem.co.tarrant.tx.us/RealEstate/SearchEntry.aspx?e=newSession>).

You may also research records for a fee at www.texaslandrecords.com. However, most small county real property records are not accessible via the Internet. Even many large county real property records only go back to the late 1980s on the Internet. In those situations, you can contact the county clerk and request a record search of the grantor/grantee indices for a particular name and time period for a nominal fee. In some cases, it may be necessary to hire a landman to locate mineral interests; however, this method can be costly (especially if mineral interests are located in numerous counties).

Transferring Title

If there is no administration of the estate, such as muniment of title or small estate affidavit, certified copies of the will/order or affidavit should be recorded with the county clerk in all the counties where the mineral inter-

ests are located. For estates, where an administrator or executor has been appointed, the personal representative can execute a mineral deed conveying the mineral interests to beneficiaries.

If you do not have sufficient information to describe the location and type of mineral interests, the administrator or executor can execute a general blanket deed to transfer ownership. Even though you may have very little information to describe the mineral interests, you will want to include as much property identification information as possible in the deed. Deeds executed by an administrator or executor should be recorded with the county clerk in all the counties where mineral interests are located. With a general blanket deed, you will want to record the deed in all counties where you have identified that the decedent may have owned mineral interests.

Getting the Money

In the case of an estate involving producing mineral interests, you will need to contact the operator, or oil and gas company, to request a new division order be prepared. The division order is the document that is signed by the owner (the beneficiary) that reflects new ownership and how royalty payments are to be distributed. Depending on the type of administration, the operator usually requires evidence as to probate or the administration of the estate. You should verify with the operator what type of documentation it requires to issue a new division order. A new division order does not transfer title. **HN**

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