

Rightly Dividing the Division of Interest

**An Analysis of
Correct and Proper
Ownership Changes**

Section 2

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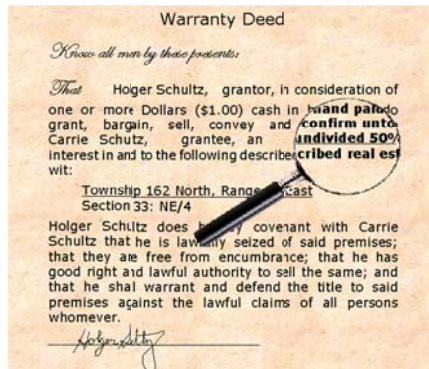
Introduction

Division Order Analysts carry out a vital and important function for an oil and gas company. Their tasks are many. They are called upon to calculate each owner's interest in a well to the 8th decimal place. They are often called upon to cure very complex title problems. They often handle substantial amounts of suspended funds. They speak with mineral owners, non-operators, overriding royalty owners, title attorneys and are called upon to coordinate well ownership with marketing, engineering and production. They provide correct information to the accounting department so people can get paid correctly. After a well is drilled and is producing, they become the guardians of everyone's interest in that producing well.

Many tasks are handed to the division order analyst. One task that can often be challenging is that of correctly dividing the division of interest when ownership changes are being made. Proper analysis of every conveying document or contract must be made in order to facilitate a proper outcome.

This course takes the division order analyst on a journey whereby they will look at various elements of a conveyance or contract in order to rightly divide the division of interest. The course asks the analyst to study each of these elements and then examine actual deeds and/or contracts. Several real-life scenarios are posed to the analyst. Their task is to examine the facts and documents as set out and then determine proper and correct ownership outcomes.

DO YOU KNOW WHAT THE CONVEYING LANGUAGE IS CONVEYING?



Words choice can alter the outcome of a conveyance. One aspect of contract law is that if the court is trying to determine the meaning and effect of a conveyance, it must restrict its review to the document itself. This restriction means the court may not look at extrinsic evidence such as prior agreements, side agreements, or verbal interactions either before or after the contract. If terms or conditions in the contract appear to be clear and

unambiguous, the court must accept the “plain meaning” of the terms and will not be influenced by outside evidence. This strict view bases the outcome on the *words* and the *words* alone. Over the years, court decisions based on certain words or phrases have become the law of the land in the states where the decisions have been made.

Some deeds' conveying language will contain the phrase:

“the land described”

Other deeds may contain the phrase:

“the interest conveyed”

Each have very specific meanings, whereby the outcome would be significantly different.

One deed may contain the conveying words:

“out of”

While another deed may only contain the conveying word:

“of”

Sometimes, words and the meaning of words can lead to ambiguities. For instance, assume that a deed conveyed *“an undivided 25% interest”*

One must ask, “Is the deed conveying a full 25% interest in the entire tract of land or just 25% of the grantor’s interest?” From the granting language, the Division Order Professional cannot clearly make a determination. Such language is ambiguous.

Scenario #5: "Land Described"

Scenario: Assume that you recently received a packet in the mail from Sarah White containing the following cover letter and Warranty Deed. Also assume that the Warranty Deed has been properly executed, notarized and recorded.

You determine that both Sarah White and Julie White are getting paid from a producing well named the Toole 1-15 located in Township 23 North, Range 17 West, Section 15, Uptown County, New Mexico. Their interests stem from their deceased mother's fee simple ownership of 40 acres, which were unitized into 640 acres that contain the Toole 1-15, and a 3/16 royalty. Their mother's interest would have been .01171875 ($40/640 \times .1875 = .01171875$).

Sarah and Julie have nearly identical royalty interests, .00585938 for Sarah and .00585937 for Julie ($40/640 \times .50 \times .1875 = .00585938$), after allowing for rounding.

After receiving the packet from Sarah to Julie, how would you rightly divide the mineral interests *of Sarah* in the Toole 1-15 well?

- Sarah White .00146484 & Julie White = .00439453
- Sarah White .00292969 & Julie White = .00292969

RE: T23N, R17W Sec 15: NE/4NE/4
Toole 1-15 Well
Uptown County, New Mexico

To whom it may concern,

Please be advised that several years ago, my sister Julie White and I inherited a 40-acre tract of land from our Mother's estate. Since it is my desire to convey my 50% interest to my sister, I have enclosed a Warranty Deed doing the same. Please also be aware that it is my intent to keep 25% of my mineral interest.

Sarah White

Warranty Deed

Know all men by these presents

That: **Sarah White**, party of the first part, for and in consideration of the sum of Ten and no/100 (\$10.00) cash in hand paid and other consideration, has granted, sold, transferred, assigned and conveyed unto **Julie White**, party of the second part, **an undivided 50% interest** in and to the following described real property and premises situated in Uptown County, New Mexico, to wit:

Township 23 North, Range 17 West
Section 15: NE/4NE/4, containing 40 acres, more or less

Excepting and reserving, however, unto grantor, subject to previous reservations of record, an undivided twenty-five percent (25%) interest in and to all the oil, gas, and other minerals in and under said lands described.

I do hereby covenant with said Grantee that I am lawfully seized of said premises, that they are free from all encumbrances, that I have good right and lawful authority to sell the same, and that I shall warrant and defend the title to said premises against the lawful claims of all persons whosoever.

WITNESS our hand this 22nd day of October, 2012

Signed *Sarah White*

STATE OF NEW MEXICO }
COUNTY OF UPTOWN }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Sarah White, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and official seal this 22nd day of October, 2012 A.D.

Jason Morales, Notary Public in and for Uptown County, New Mexico.

(SEAL)

FILED FOR RECORD this 30th of October, 2012 at 8:30 O'clock A.M., and recorded this 30th day of October, 2012 at 8:45 O'clock P.M.

How would you rightly divide the mineral interests *of Sarah* in the Toole 1-15 well?

- Sarah White .00146484 & Julie White = .00439453
- Sarah White .00292969 & Julie White = .00292969

Answer: There are 40 gross acres in the tract of land that Sarah owned. She owned an undivided 50% interest in those 40 acres. The letter tells us that she wants to sell her interest in the surface to her sister and keep 25% *of her own mineral interest*. However, the reserving language states that Sarah will keep an undivided 25% *of all minerals that are in and under the said lands*.

From the reserving language in the deed, Sarah kept 25% of the entire 40-acre mineral estate. The new interests in the well are based on the following calculation:

Sarah White $40/640 \times .25 \times .1875 = .00292969$

Julie White .00585937 (previous interest) + $40/640 \times .25 \times .1875 = .00292969$ or **.00878906**

How should the Division Order Professional respond to this issue?

Scenario #6: “Interest Conveyed”

Scenario: Assume that you recently received a packet in the mail from Arthur Watson containing the following cover letter and Warranty Deed. Also assume that the Warranty Deed has been properly executed, notarized and recorded.

You determine that both Arthur Watson and Violet Miller are getting paid from a producing well named the King Ranch 1-27 located in Township 23 North, Range 17 West, Section 27, Uptown County, New Mexico. Their interests stem from their deceased father’s fee simple ownership of 40 acres, which were unitized into 640 acres that contain the King Ranch 1-27, and a 3/16 royalty. Their father’s interest would have been .01171875 ($40/640 \times .1875 = .01171875$).

Arthur Watson and Violet Miller have nearly identical royalty interests of .00585938 for Arthur and .00585937 for Violet ($40/640 \times .50 \times .1875 = .00585938$), after allowing for rounding.

After the conveyance from Arthur to Violet, how would you rightly divide the mineral interests *of Arthur* in the King Ranch 1-27 well?

- Arthur Watson .00146484 & Violet Miller = .00439453
- Arthur Watson .00292969 & Violet Miller = .00292969

*RE: T23N, R17W, Sec. 27: SE/4SE/4
King Ranch 1-27
Uptown County, New Mexico*

November 23, 2012

To whom it may concern,

Please be advised that several years ago, my sister Violet Miller and I inherited a 40-acre tract of land from my Father's estate. Since it is my desire to convey my 50% interest to my sister, I have enclosed a Warranty Deed doing the same. Please also be aware that it is my intent to keep 25% of my mineral interest.

Arthur Watson

Warranty Deed

Know all men by these presents

That: **Arthur Watson**, party of the first part for and in consideration of the sum of Ten and no/100 (\$10.00) cash in hand paid and other consideration, has granted, sold, transferred, assigned and conveyed unto **Violet Miller**, party of the second part, an **undivided 50% interest** in and to the following described real property and premises situated in Uptown County, New Mexico to wit:

Township 23 North, Range 17 West
Section 27: SE/4SE/4, containing 40 acres, more or less

Excepting and reserving, however, unto grantor, subject to previous reservations of record, an undivided twenty-five percent (25%) interest in and to all the oil, gas, and other minerals in and under said lands described and conveyed.

I do hereby Covenant with said Grantee that I am lawfully seized of the said premises; that they are free from all encumbrances; that I have good right and lawful authority to sell the same; and that I shall Warrant and Defend the title to said premises against the lawful claims of all persons whomever.

WITNESS our hand this 22nd day of October, 2012

Signed Arthur Watson

STATE OF NEW MEXICO }
COUNTY OF UPTOWN }

Before me, THE UNDERSIGNED, a Notary Public, in and for said county and state, on this day personally appeared Arthur Watson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and official seal, this 22nd day of October, 2012 A.D.

Jason Morales, Notary Public in and for Uptown County, New Mexico.

(SEAL)

FILED FOR RECORD this 30th day of October, 2012 at 8:30 O'clock A.M., and recorded this 30th day of October, 2012 at 8:45 O'clock P.M.

How would you rightly divide the mineral interests of Arthur in the King Ranch 1-27 well?

- Arthur Watson .00146484 & Violet Miller = .00439453
- Arthur Watson .00292969 & Violet Miller = .00292969

Answer: There are 40 gross acres in the tract of land that Arthur owned. He owned an undivided 50% interest in those 40 acres. The letter tells us that he wants to sell his interest in the surface to his sister and keep 25% *of his own mineral interest*. In this case, the reservation language in the Warranty Deed does match what is in the letter. The reserving language intends for Arthur to keep an undivided 25% of all minerals that are in and under said lands described *and conveyed*, or $50\% \times .25 = 12.5\%$.

From the reserving language in the deed, Arthur kept 12.5% of the entire 40-acre mineral estate. The siblings' new interest in the well should be based on the following calculation:

Arthur Watson $40/640 \times .125 \times .1875 = .00146484$

Violet Miller $.00585937$ (previous interest) + $.00585938 - 40/640 \times .125 \times .1875 = .01025391$

"Land Described" and "Interest Conveyed" Quiz

Homer Sampson owned a 100% interest in an 80-acre tract of land.



Homer Sampson

In 1975, Homer Sampson deeded an undivided 50% interest in the 80-acre tract of land to Belinda Cruse.



Belinda Cruse

In 1985, Belinda Cruse deeded an undivided 50% interest in the 80-acre tract of land to Davy Bristol. In the deed, subject to previous reservations, she reserved an undivided 50% interest in and to all of the oil, gas and other minerals in and under said lands described and conveyed.



Davy Bristol

In 1995, Davy Bristol deeded an undivided 50% interest in the 80-acre tract of land to Clint Rowe. In the deed, subject to previous reservations, he reserved an undivided 25% interest in and to all of the oil gas and other minerals in and under said lands described and conveyed.



Clint Rowe

In 1977, Homer Sampson deeded an undivided 50% interest in the 80-acre tract of land to Kenton and Beth Schnug. In the deed, subject to previous reservations, he reserved an undivided 25% interest in and to all of the oil, gas and other minerals in and under said lands described.



Kenton Schnug Beth Schnug

In 1993, Kenton and Beth Schnug deeded an undivided 50% interest in the 80-acre tract of land to their daughter, Britney Schnug. In the deed, subject to previous reservations, they reserved an undivided 12.5% interest in and to all of the oil, gas and other minerals in and under said land described.



Britney Schnug.

Who owns what percentage of this 80-acre tract?

Homer Samson	_____	%
Belinda Cruse	_____	%
Davy Bristol	_____	%
Clint Rowe	_____	%
Kenton Schnug	_____	%
Beth Schnug	_____	%
Britney Schnug	_____	%

Answer:
Homer: 25.00%
Belinda: 25.00%
Davy: 6.25%
Clint: 18.75%
Kenton: 6.25%
Beth: 6.25%
Britney: 12.50%

Scenario #7: "Out of"

It is often difficult to determine the amount of interest being conveyed or reserved when the grantor, who only owns an undivided portion of the minerals, references that undivided interest at the time of the conveyance. Again, the division order analyst must rightly divide the division of interest by determining if the percentage being granted comes *out of* the grantor's fractional mineral interest owned at the time, or if the percentage being granted is a percentage *of* the grantor's interest. Understanding the impact of the words "out of" or "of" becomes very important to the land professional.

Scenario: Assume you receive the following Warranty Deed from Abe Johnson who owned an undivided 50% mineral interest in a 200-acre tract of land. His brother owned the other 50%. Abe conveys 25% of something to Ben Matthews. Read the conveying language in the deed and determine what Abe conveyed:

- 200 gross acres X 25%, or 50 net mineral acres
- 200 gross acres X 50% owned by Abe X 25%, or 25 net mineral acres

Warranty Deed

Know all men by these presents

That: **Abe Johnson**, hereinafter called Grantor, first part for and in consideration of the sum of Ten and no/100 (\$10.00) cash in hand paid and other consideration, has Granted, Sold, Transferred, Assigned and Conveyed unto **Ben Matthews**, hereinafter called Grantee,

an undivided 25% mineral interest in and to all oil, gas and other minerals out of the interest owned by the grantor at the time of his conveyance

in and to the following described real property and premises situated in Crockett County, Texas to wit:

The East 200 acres of Section 375, Block H, W&NW RR survey

I do hereby covenant with said Grantee that I am lawfully seized of the said premises; that they are free from all encumbrances; that I have good right and lawful authority to sell the same; and that I shall warrant and defend the title to said premises against the lawful claims of all persons whosoever.

WITNESS our hand this 22nd day of October, 2012

Signed Arthur Watson

STATE OF TEXAS }
COUNTY OF CROCKETT }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Arthur Watson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and official seal, this 22nd day of October, 2012 A.D.

Jason Morales, Notary Public, in and for Crockett County, Texas

(SEAL)

FILED FOR RECORD this 30th day of October, 2012 at 8:30 O'clock A.M. and recorded this 30th day of October, 2012 at 8:45 O'clock P.M.

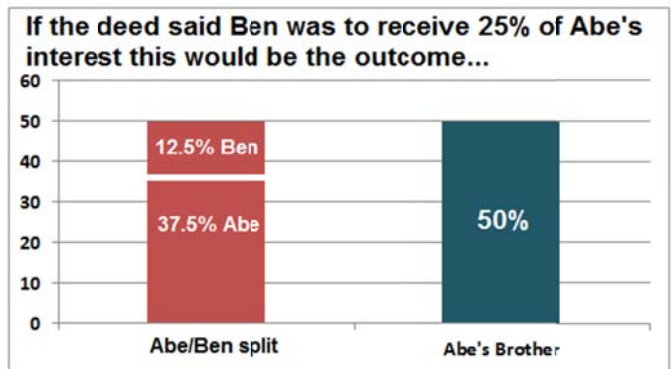
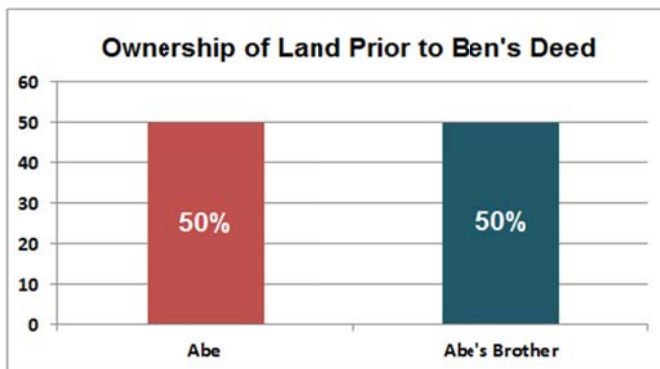
Determine what Abe conveyed:

- 200 gross acres X 25%, or 50 net mineral acres
- 200 gross acres X 50% owned by Abe X 25%, or 25 net mineral acres

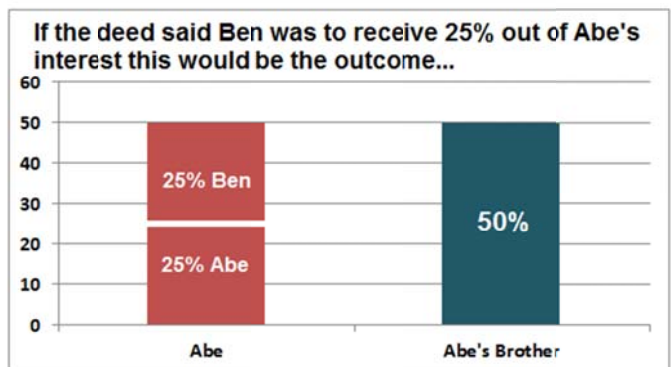
ANSWER: If you thought that Abe was only conveying 25% of his undivided 50% or 25 net mineral acres, you *would not* have interpreted the language the same as some courts. According to *Hemingway Oil and Gas Law and Taxation*, Fourth Edition, p. 113-114, the phrase “out of” holds the key and refers back only to the *source of the interest* from which the 25% interest is to be taken. The 25% is to be taken out of the grantor’s 50%, but this does not mean that the grantor is conveying 25% of his 50%.

If the deed had simply used the word “of,” the result would have been different in that the word “of” is the same as “times” in a multiplication formula. The grantor would be conveying 25% of his 50%. In this regard, Williams and Meyers, 1 Oil and Gas Law 654, Sec 319, commenting on case law says, “The position adopted by the court appears to be a tenable construction of the phrase ‘out of.’” When the words “out of” are used, the term refers to the *source of the interest from which the 25% interest is to be taken* and will not operate to reduce the amount of the mineral interest acquired by Ben, the grantee.

“Out of” = subtraction, whereas “of” = multiplication. Therefore, in this deed, Abe would have conveyed a full undivided 25% mineral interest that comes “out of” his undivided interest in the 200 gross acre tract of land. He is not conveying 50 net mineral acres. *Black v. Shell Oil Company*, 397 S.W.2d 877 (Tex. Civ. App. - Texarkana 1965); *Minchen v. Hirsch*, 295 S.W.2d 529 (Tex. Civ. App. 1956).



The term "out of" refers to the source of the interest from which the 25% interest is to be taken from. Abe clearly says that Ben's interest is to come "out of his source" not out of his brother's source of interest.



Scenario #8: "Of"

Scenario: Assume the same facts as seen in the last exercise, except the granting language in the deed you received was different. Study the language in the following Warranty Deed and determine what interest Abe is conveying.

With this different language, determine what Abe conveyed:

- 200 gross acres X 25%, or 50 net mineral acres
- 200 gross acres X 50% owned by Abe X 25%, or 25 net mineral acres.

Warranty Deed

Know all men by these presents

That: **Abe Johnson**, hereinafter called Grantor, first part for and in consideration of the sum of Ten and no/100 (\$10.00) cash in hand paid and other consideration, has granted, sold, transferred, assigned, and conveyed unto **Ben Matthews**, hereinafter called Grantee,

an undivided 25% mineral interest of my 50% interest in, on, or under the following described lands and premises:

The East 200 acres of Section 375, Block H, W&NW RR survey

I do hereby Covenant with said Grantee that I am lawfully seized of the said premises; that they are free from all encumbrances; that I have good right and lawful authority to sell the same; and that I shall Warrant and Defend the title to said premises against the lawful claims of all persons whomever.

WITNESS our hand this 22nd day of October, 2012

Signed Arthur Watson

STATE OF TEXAS }
COUNTY OF CROCKETT }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Arthur Watson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and official seal, this 22nd day of October, 2012 A.D.

Jason Morales, Notary Public in and for Crockett County, Texas

(SEAL)

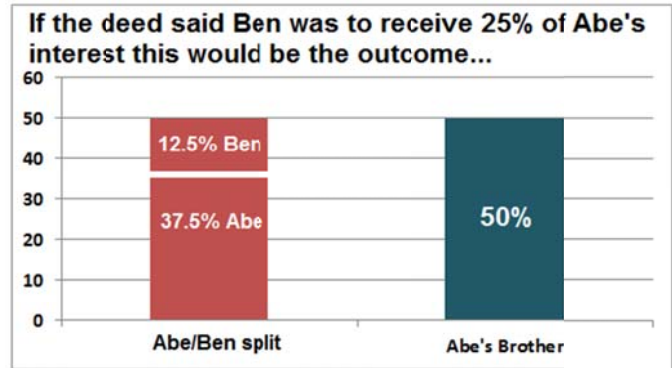
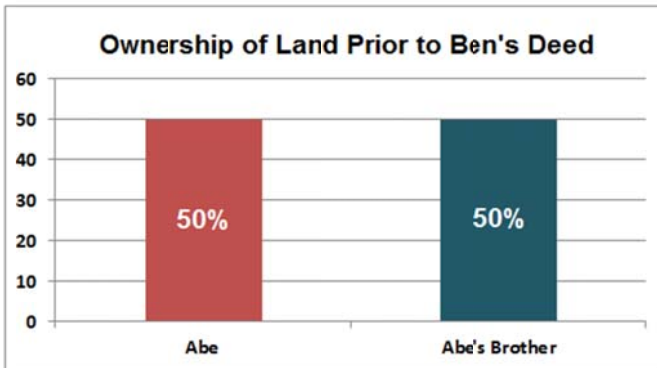
FILED FOR RECORD this 30th day of October, 2012 at 8:30 O'clock A.M. and recorded this 30th day of October, 2012 at 8:45 O'clock P.M.

Determine what Abe conveyed:

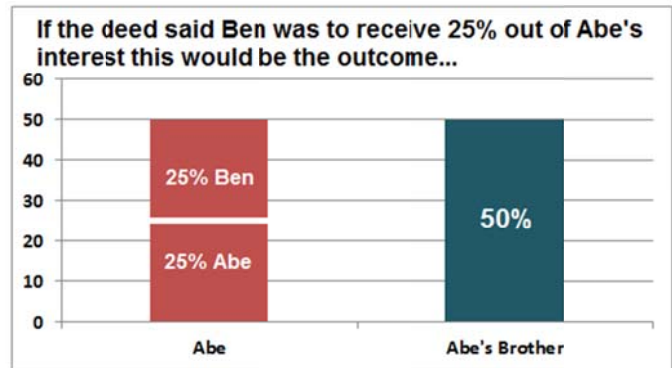
- 200 gross acres X 25%, or 50 net mineral acres
- 200 gross acres X 50% owned by Abe X 25%, or 25 net mineral acres.

ANSWER: In this case, courts might very well determine that Abe's clear intention was to grant 25% *of* his 50% rather than 25% out of his 50%. Therefore, Ben would receive 25% X the 100 net acres owned by Abe, or 25 net mineral acres.

"Out of" = subtraction, whereas "of" = multiplication. In this deed, Abe is conveying 25% of his mineral interest. He is not conveying 25% that comes "out of" his undivided interest in the 200 gross acre tract of land. *Black v. Shell Oil Company*, 397 S.W.2d 877 (Tex. Civ. App. – Texarkana 1965); *Minchen v. Hirsch*, 295 S.W.2d 529 (Tex. Civ. App. 1956).



The term "out of" refers to the source of the interest from which the 25% interest is to be taken from. Abe clearly says that Ben's interest is to come "out of his source" not out of his brother's source of interest.



Scenario #9: Ambiguous Language

Scenario: Assume that a mineral deed arrives in your office. In the deed, Barrett MacDonald, the grantor, conveys to Kenneth MacDonald a “25% mineral interest” in a 160-acre tract of land. Upon further research, you determine that Barrett MacDonald does indeed own an undivided 80% mineral interest in a 160-acre tract of land under lease with your company; that Barrett’s interest has been pooled into a 640-acre unit; that he signed a 3/16 royalty lease and that he is set up on the pay decks for the well with a .03750000 royalty interest: $160/640 \times .80 \times .1875 = .03750000$.

After an examination of the conveyance, determine what interest should be given to Kenneth, and what interest Barrett should keep.

- Option 1: Barrett is conveying 25% of what he owned at the time

Kenneth MacDonald: $160/640 \times .80 \times .25 \times .1875 = .00937500$

Barrett MacDonald: $160/640 \times .80 \times .75 \times .1875 = .02812500$

- Option 2: Barrett is conveying a full 25% of the mineral estate.

Kenneth MacDonald: $160/640 \times .25 \times .1875 = .01171875$

Barrett MacDonald: $160/640 \times .55 \times .1875 = .02578125$

MINERAL DEED

KNOW ALL MEN BY THESE PRESENTS THAT

BARRETT MACDONALD, hereinafter called "Grantor," for and in consideration of the sum of One and no/100 Dollars, each in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey, transfer and deliver unto **Kenneth MacDonald**, 45 N. Main St., Brady, ND 74325, hereinafter called "Grantee," a **Twenty-five percent(25%)** mineral interest.

Township 45 North, Range 55 West 6th P.M.
Section 15: SW/4 Carbon County, ND

WITNESS by our hand this 10th day of May, 2012.

Signed *Barrett MacDonald*

STATE OF NORTH DAKOTA }
COUNTY OF CARBON }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Barrett MacDonald, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 10th day of July, 2012 A.D.

Terry Marshall, Notary Public in and for Carbon County, North Dakota.

(SEAL)

FILED FOR RECORD this 1st day of August, 2012 at 8:40 O'clock A.M. and recorded this 1st day of August, 2012 at 9:40 O'clock A.M.

Answer: In this case, the language in the deed seems to be ambiguous. It is not clear if Barrett is conveying 25% of his 80% mineral interest or if he is conveying a full 25% mineral interest. In light of this, what steps would be in order before you make any changes to the .03750000 royalty interest?

How should the professional Division Order Analyst proceed?

Intent Clauses

Often, language will be added to the granting clause with the intent of clearing up any potential ambiguities or confusion about what is being granted or reserved. This language would be considered an “Intent Clause” of the document. Intent clauses can be found in every state but seem to be more popular in a handful of states.

The following would be an example of intent clause language:

“It is my intent to convey to Kenneth MacDonald a full 25% mineral interest in the tract of land.”

Assume that Barrett owned an undivided 50% interest, in both the surface and minerals in a 160-acre tract of land and conveyed the land to Kenneth using this language:

“I hereby grant to Kenneth all my right, title and interest in and to the described lands reserving unto myself an undivided 50% interest in and to all the oil, gas and other minerals in and under said lands. *It is my intent* to reserve a full undivided 50% interest in and to all of the oil, gas and other minerals in and under said lands.”

The intent language clears up any ambiguity.

Instead, Barrett could have added this language: **“It is my intent to convey only surface interest to Kenneth MacDonald.”**

The Division Order Professional can see how this would change the outcome.

When an ambiguity exists in granting language but the conveyance has intent language added, the courts have often placed greater weight on the intent language because they see it as language added in an attempt to make a clear statement of reservation or conveyance.

Assume that Barrett's conveyance to Kenneth read as follows:

"I hereby grant to Kenneth 40/160 mineral interest in and to the said lands described."

It appears that Barrett's intent is to convey an undivided 25% of the tract of land. The end result is that Barrett has kept an undivided 120 mineral acres and has conveyed 40 to Kenneth. However, assume that the tract of land contained 148.23 acres instead of the 160 referenced. In this case, Kenneth would have received only 37.0575 acres ($148.23 \times 40/160$).

If Barrett had added intent language stating that it was the intent to convey 40 net mineral acres to Kenneth, the outcome would be different and Kenneth would be granted the full 40 net mineral acres.

Scenario #10: Term Mineral Interest

Scenario: Assume you receive the following two items in the mail. The first is a 10-year Term Mineral Deed from Benjamin Conant to Otis Vargus. The second is a 3-year Oil and Gas Lease between Otis Vargus and the company you work for. Assume that both are properly executed and recorded.

Assume that your company is actively drilling in this area and intends to drill a well on this very important lease within the next 12 months.

What should be your proper response?

- Nothing currently. Wait until the well is drilled and then set up Otis Vargus in the system so he can get paid.
- Problem-solve the issues that the Term Deed and Oil and Gas lease have created.

Term Mineral Deed

KNOW ALL MEN BY THESE PRESENTS:

That Benjamin Conant hereinafter called Grantor, for an in consideration of the sum of ten and more dollars (\$10.00) cash in hand paid and other good an valuable consideration, the receipt of which is hereby acknowledge, do hereby grant, bargain, sell, convey transfer and deliver unto Otis Vargus, 3323 E 18th Ave., Oklahoma City, OK 73552, hereinafter called Grantee, 100% of grantor’s right, title and interest in and to all of the oil, gas and other minerals for a term of ten (10) years from April 13, 2009 from the following tract of land situated in Beaver County, Oklahoma, to wit:

The Northeast quarter of section eight (8) in Township one hundred and twenty-nine (129) North, Range one hundred and three (103) West of the Fifth Principal Meridian, containing one hundred and sixty acres, in Beaver County, Oklahoma, together with the right of ingress and egress at all times. ...

Dated this 13th day of April, 2009. Signed Benjamin Conant

STATE OF OKLAHOMA }
COUNTY OF BEAVER }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Benjamin Conant, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and official seal, this 13th day of April, 2009 A.D.

Jason Morales, Notary Public in and for Beaver County, Oklahoma.

(SEAL)

FILED FOR RECORD this 30th day of May, 2009 at 8:30 O’clock A.M. and recorded this 30th day of May, 2009 at 1:15 O’clock P.M.

OIL, GAS AND MINERAL LEASE

AGREEMENT, Made and entered into February 14, 2015, by and between, Otis Vargus, a single man, 3323 E 18th Ave. Oklahoma City, OK 73552 , HEREINAFTER call Lessor, and YOUR Oil and Gas, Inc. , HEREINAFTER called Lessee.

WITNESSETH, That the said lessee, for and in consideration of ***** Ten and MORE ***** DOLLARS, cash in hand paid, receipt of which is hereby acknowledge and of the covenants and agreements hereinafter contained on the part of the lessee to be paid, kept and performed, had granted demised, leased and let and be there presents does grant, demise, lease and let unto the said lessee, for the sole and only purpose of exploring by geophysical and other methods for oil, gas, and all other hydrocarbons therein, situated in the County of Beaver, State of Oklahoma , described as follows, to-wit:

The Northeast quarter of section eight (8) in Township one hundred and twenty-nine (129) North, Range one hundred and three (103) West of the Fifth Principle Meridian, Oklahoma, containing one hundred and sixty acres, in Beaver County, Oklahoma

Subject to the provisions herein contained, this lease shall remain in force for a term of three (3) years from this date (herein called Primary Term) and as long thereafter as oil or gas or either of them is produced from said land.

For all purposes of this lease, Lessee covenants:

1st. To deliver to the credit of lessor free of cost, in the pipeline to which it may connect its wells, 3/16 of all oil produced and saved from the leased premises.

2nd. On gas including casinghead gas or other gaseous substance produced from said land and sold or used in the manufacture of products therefrom, the market value at the well of 3/16 of the gas so sold or used, such proceeds to be less severance and other excise taxes, said payments to be made monthly.

Signed Otis Vargus

STATE OF OKLAHOMA }

COUNTY OF BEAVER }

Before me, THE UNDERSIGNED, a Notary Public in and for said county and state, on this day personally appeared Dorothy Osmond, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal, this 14th day of February, 2015 A.D.

Jason Morales, Notary Public in and for Beaver County Oklahoma.

(SEAL)

FILED FOR RECORD this 15th day of April, 2015 at 8:30 O'clock A.M. and recorded this 15th day of April, 2015 at 1:15 O'clock P.M.

Answer: In order to rightly divide the division of interest, one must fully understand what the conveying language is conveying.

Term mineral or royalty conveyances or reservations can pose a particular problem for the Division Order Professional. One must understand that a grant of ownership for a particular term reserves all future rights to the grantor when the term comes to its end. In other words, the owner of the term interest has no right or privilege to future interest. Generally, states have concluded that the holder of a term interest can sign an oil and gas lease, but the lease, or portions thereof, *will not continue* beyond the expiration date of the term mineral interest. This issue can create a challenge for oil and gas personnel. Unless the conveying document provides for the continuation of the lease past the expiration date, a lease will not transfer to the reversionary mineral owner. Therefore, the oil company should take two leases, one from the holder of the term interest and the other from the holder of the reversionary interest.

In *RLM Petroleum Corp. v. Emmerich*, an Oklahoma court found that unless language in the deed expressly gave the term mineral interest holder the right to encumber both the term mineral interest and the future reversionary interest with an oil and gas lease, the oil and gas lease would terminate upon the expiration of the term mineral interest.

When language is used such as "conveyed or reserved for a fixed term and as long thereafter as oil or gas is produced," then in order for this option to take effect and move the term mineral lease into a "secondary term," oil or gas must be produced in paying quantities, not only during the term of the deed, but at the date of expiration of the term, or there must be diligent operations in place. If not, the minerals will revert to the other party.

What should be your proper response?

The Granting or Reserving of “Royalty Acres”







The land professional must make a distinction between the term “royalty acre” and “mineral acre.” Because royalty acre is not often used today, when it does appear, confusion may follow. Usually, it can be seen in older instruments when the standard lease royalty was $1/8^{\text{th}}$.

With that being said, there would be a total of 8 royalty acres in one mineral acre. The oil company would receive 7 of them and the landowner would receive 1 of them. Owning a one *net royalty acre* would give a person the right to receive a $1/8^{\text{th}}$ royalty on that one acre with $7/8^{\text{th}}$ going to the oil company.

Example 1: Assume Abe owned a 100-acre tract of land under a $1/8^{\text{th}}$ royalty lease. This would equal 800 royalty acres (100×8). The oil company would be entitled to 700 royalty acres and Abe would be entitled to 100 royalty acres. Calculating royalty acres is based on the number of acres in the tract of land $\times 8$; multiplied by the percentage of royalty in a lease ($100 \text{ acres} \times 8 \times 1/8^{\text{th}} = 100 \text{ royalty acres}$).

If Abe had negotiated a $3/16^{\text{th}}$ lease the outcome would be $100 \times 8 \times 3/16 = 150$ royalty acres.

Example 2: Assume that Abe owned a second tract of land of 120 acres and he negotiated a 3/16ths lease royalty with Provision Petroleum. How many net royalty acres does he own? Also, assume that Abe conveyed "60 royalty acres" to Betty. What percent of production will each owner receive?

<p>Abe negotiated a 3/16th lease royalty on his 120-acre tract of land.</p>    <p>Abe</p>	<p>How many net "royalty acres" does Abe own?</p> <p>$120 \times 8 \times \frac{3}{16} = 180$</p> <p>If Abe had leased for a 1/5th royalty, how many net roylaty acres would he own?</p> <p>_____</p>
<p>Abe conveyed "60 royalty acres" to Betty</p>    <p>Abe</p> <p>Betty</p>	<p>What percent of production will each owner receive?</p> <p>Provision _____</p> <p>Abe _____</p> <p>Betty _____</p>

NOTE: Betty was conveyed 60 "royalty acres," not 60 mineral acres. If she had been conveyed mineral acres she would have received 50% of the minerals in the 120-acre tract of land. With royalty acres the outcome will be different.

ANSWER: Total royalty acres ($120 \times 8 = 960$)

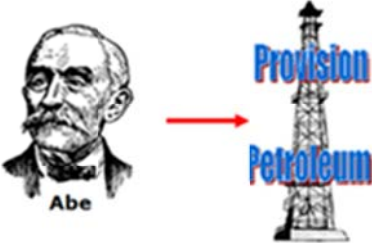

Royalty acres going to Abe and Betty ($120 \times 8 \times \frac{3}{16} = 180$)

Royalty acres going to Provision Petroleum ($120 \times 8 \times \frac{13}{16} = 780$. This gives Provision an 81.25% of all production $780/960 = 81.25\%$.)

Royalty acres going to Betty ($60 / 180 \times \frac{3}{16} = 6.25\%$ royalty from all production).

Royalty acres going to Abe ($120 / 180 \times 3/16 = 12.5\%$ royalty from all production).

Example 3: Assume that Abe owned a 210-acre tract of land and negotiated a $1/5^{\text{th}}$ royalty with Provision Petroleum. Subsequent to the lease, he conveyed "a 15 acre royalty interest" to Betty. Answer the following questions:

<p>Abe negotiated a $1/5^{\text{th}}$ lease royalty on his 210-acre tract of land.</p> 	<p>How many net "royalty acres" does Abe own?</p> <p>_____</p>
<p>Abe conveyed "a 15 acre royalty interest" to Betty</p> 	<p>What percent of production will each owner receive?</p> <p>Provision _____</p> <p>Abe _____</p> <p>Betty _____</p>

ANSWER: Total royalty acres ($210 \times 8 = 1680$)

Royalty acres going to Abe and Betty ($210 \times 8 \times 1/5 = 336$)

Royalty acres going to Provision Petroleum ($210 \times 8 \times 4/5 = 1344$. This gives Provision 80% of all production $1344/1680 = 80\%$.)

Royalty acres going to Betty ($15 / 336 \times 1/5 = .89285\%$ royalty from all production).

Royalty acres going to Abe ($321 / 336 \times 1/5 = 19.10715\%$ royalty from all production).