



Chapter 5

Types of Conveyances

Please note that all state rulings in the matter of law are defined by the courts and can change at any time with new court decisions. No portion of this workbook is a substitute for legal advice.

LAND PATENT

At the conclusion of the federal land grants in our country's early history, close to 1.1 billion acres of land were owned by individuals. The initial transfer of land ownership from the United States government came through a conveyance called a *land patent*. These patents were issued to those individuals who met the residency requirements in the territory or state, met the improvement to the land requirements, and had actual settlement and cultivation on the land for five years. One of the important issues surrounding land patents is the reservation language contained in the conveyance.

The United States of America

CERTIFICATE }
No. 10,423 }

To all to whom these Presents shall come, Greeting:

WHEREAS *Alexander Williams, of Monroe County, Iowa,*

has deposited in the GENERAL LAND OFFICE of the United States, a Certificate of the REGISTER OF THE LAND OFFICE at *Fairfield* whereby it appears that full payment has been made by the said

Alexander Williams, according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the Public Lands," for the South East quarter of the South West quarter of Section eleven, in Township seventy three North, of Range eighteen West

NOW KNOW YE, That the United States of America, in consideration of the Premises, and in conformity with the several acts of Congress, in such case made and provided, **HAVE GIVEN AND GRANTED,** and by these presents **DO GIVE AND GRANT,** unto the said *Alexander Williams*

and to *his* heirs, the said tract above described: **TO HAVE AND TO HOLD** the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature, thereunto belonging, unto the said

Alexander Williams and to *his* heirs and assigns forever.

In Testimony Whereof, I, Zachary Taylor
PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these Letters to be made PATENT, and the SEAL of the GENERAL LAND OFFICE to be hereunto affixed.

Given under my hand, at the CITY OF WASHINGTON, the *third* day of *April* in the year of our Lord one thousand eight hundred and *forty nine* and of the

This 1849 land patent, issued by Zachary Taylor, President of the United States contained no mineral reservations of any kind

WARRANTY DEED

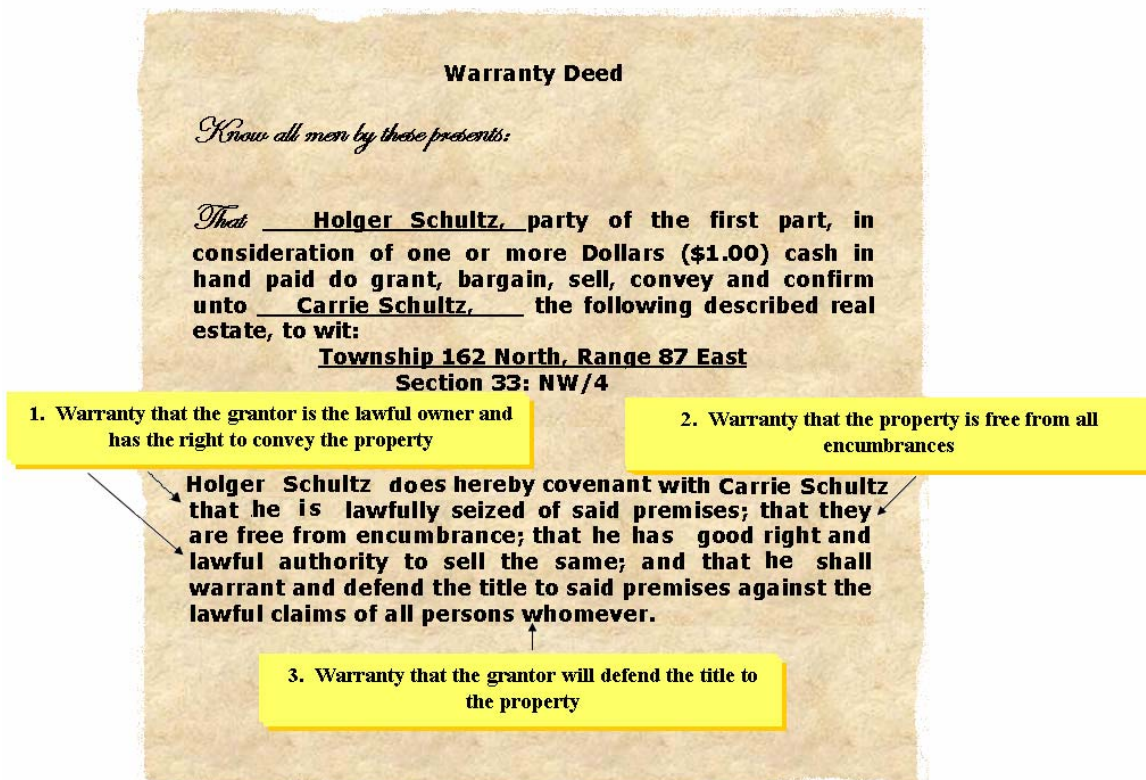
The word *warranty* defines this type of conveyance. In a warranty deed, the grantor is *warranting* certain guarantees to the grantee. In some areas of the country, this conveyance is also known as a grant deed. There are two types of warranty deeds.

1. GENERAL WARRANTY DEED

A general warranty deed will contain words such as "conveys and warrants." These words offer the following guarantees:

- First, the grantor warrants that he or she is the lawful owner and that he or she has the right to convey the property.
- Second, the grantor warrants that the property is free from all encumbrances and/or liens.
- Third, the grantor warrants that he or she will defend title to the estate.¹

Grantor does hereby covenant that he is lawfully seized of said premises; that they are free from encumbrance; that he has good right and lawful authority to sell the same; and that he shall warrant and defend the title to said premises against the lawful claims of all persons whomever.



2. SPECIAL WARRANTY DEED

A *special warranty deed* is similar to a general warranty deed except it limits the guarantees made by the grantor. This type of deed offers guarantees only against defects that might arise from the time period in which the grantor owned the property and not against any issues that existed before that time.²

Corporations or individuals might use a special warranty deed in order to sidestep liability issues that could be valid under a general warranty deed. Special warranty deeds need not be titled as a special warranty deed. The language in the deed holds the key. Such language might be "conveys and specially warrants," or " by, through or under the grantor but not otherwise."

Special Warranty Deed

Know all men by these presents:

That Holger Schultz, party of the first part, in consideration of one or more Dollars (\$1.00) cash in hand paid does grant, bargain, sell, convey and confirm unto Carrie Schultz, the following described real estate, to wit:

Township 162 North, Range 87 East
Section 33: NW/4

And I do Covenant with the said grantee, her heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all encumbrances and that I have good right authority to sell the same; and that I shall and will Specially Warrant and Defend the same to the said Grantee, her heirs and assigns forever, against the lawful claims and demands of all persons claiming under or through me. ↗

Warranty that the grantor will defend title only against defects arising during his or her ownership of the property.

QUITCLAIM DEED

Sometimes called a *quit deed* or *quick claim deed*, a *quitclaim deed* is different from a warranty deed in that there are no warranties or guarantee of title being offered to the grantee. It has been said that a person owning no property in the state of California could sell, under a quitclaim deed, all right, title and interest in and to the Golden Gate Bridge. Since there is no guarantee of title under this type of deed, the buyer is buying at their own risk. Selling such an item under a warranty deed is another matter.

A quitclaim deed does, however, transfer all legal rights in the property that the grantor possessed or *may* have possessed at the time of the conveyance. This type of deed is often used between married couples going through a divorce or children wishing to transfer to one parent all interests they have received from a deceased parent's estate. Because the deed conveys all rights either owned or that may have been owned at the time of conveyance, no guarantee or warranty is offered. Quitclaim deeds will contain words such as "convey and quitclaim."

QUIT CLAIM DEED. Perkins Bros., Printers and Binders, Sioux City, Iowa.

Know all Men by these Presents:

That *Mr. Charles H. Miller and Margaret J. Miller*
husband and wife of *Montgomery*
 County, and State of *Virginia* in consideration of
 the sum of *sixteen* DOLLARS,
 in hand paid by *James R. Day*
 of _____ County and State of _____ do hereby
 QUIT CLAIM unto the said *James R. Day*
 all our right, title, and interest in and
 to the following described premises, situated in the County of *Plymouth*
 and State of *Iowa* :

*The East one half of the North East quarter (E 1/2 of NE 1/4)
 of Section thirteen (13) Township No Ninety two (92) North
 Range No Forty nine (49) West 5th P.M. - The
 South East quarter of the North West quarter and
 the South West quarter of the North East quarter of
 Section No Twenty three (23) Township No Ninety two
 (92) North Range No Forty nine (49) West 5 P.M. -
 Containing one hundred and sixty acres more
 or less according to Government survey -*

And the said *Margaret J. Miller* hereby relinquishes her right
 of dower in and to the above described premises.

Signed the *13* day of *May* A. D. 187*8*

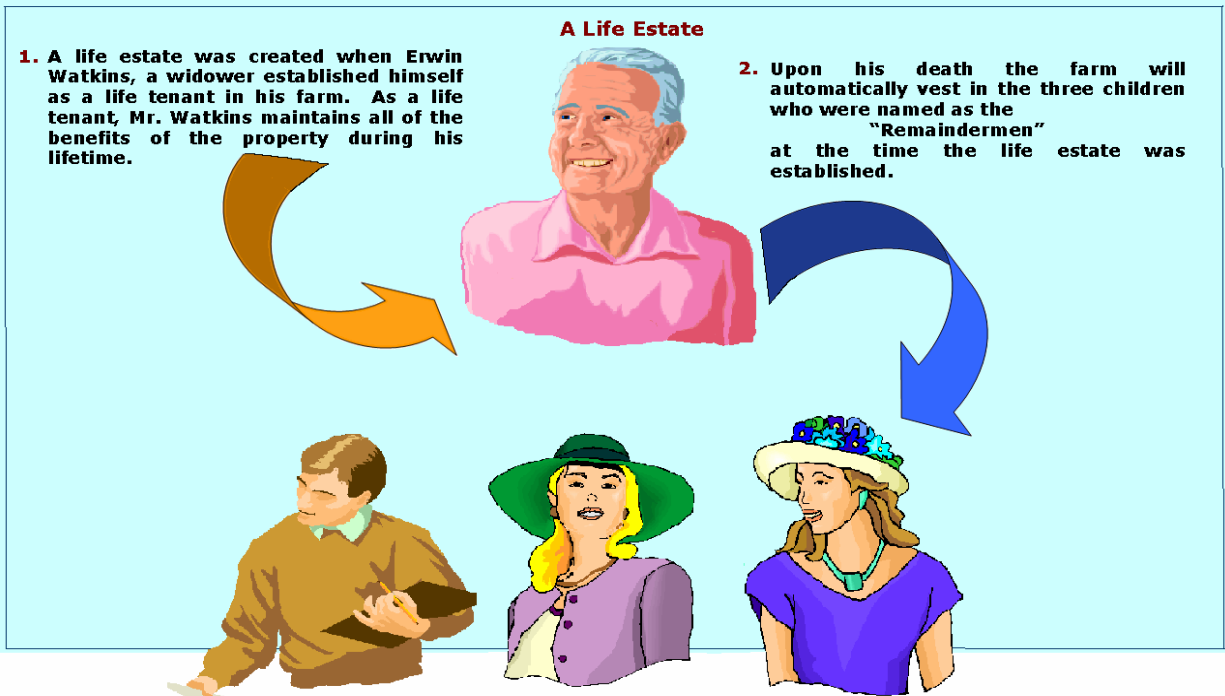
IN PRESENCE OF

Charles H. Miller

1878 Quit Claim Deed

LIFE ESTATE DEED

A life estate is established through a "life tenancy" conveyance. This deed will grant all the benefits of ownership in the property to a life tenant during his or her life and will establish who the owners are at the time of the life tenant's death. These parties are called remaindermen.



Life Tenant

Through a life estate, the life tenant receives the rights of possession to the property during their lifetime, the right to receive income from the property and the obligation not to destroy the property.

During the term of the life estate, the life tenant can convey the property to a third party; however the third party will only own the property during the term of the life estate. At that point in time, the property will pass to the remaindermen. The life tenant can also convey the property to the remaindermen who would then own the property in fee.³

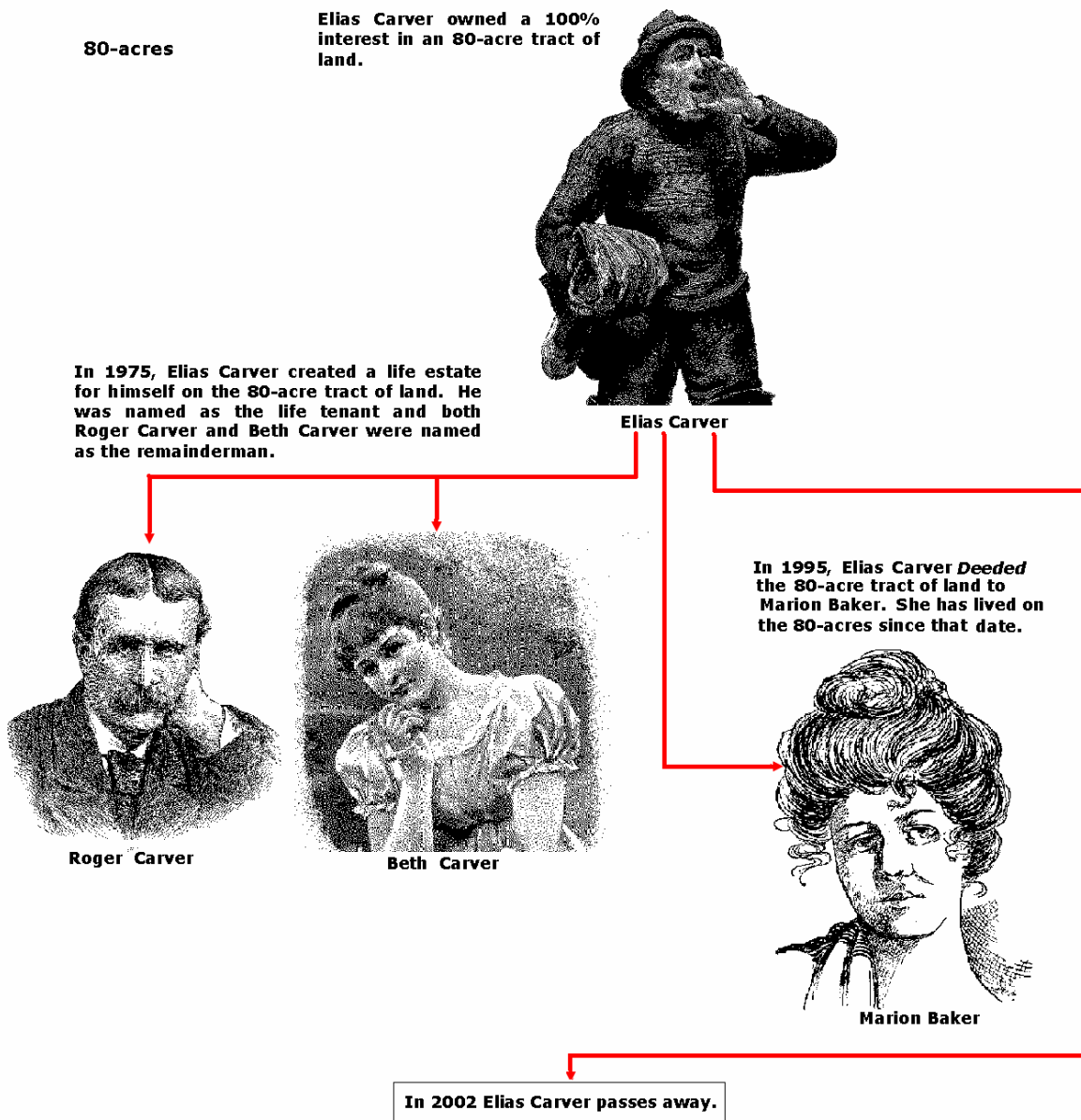
Generally a life tenant does not have the authority to enter into any oil and gas lease without signatures of the remaindermen. A general rule is to have the life tenant, remaindermen and their respective spouse sign any oil and gas lease. For land administration purposes, those receiving bonuses, annual delay rentals or royalty payments must be clearly established.

Remaindermen

The life estate deed must establish who are named remaindermen at the same time the life tenancy is created. As long as the life tenant is alive, the remaindermen do not have the right of possession to the property; however, title will vest in those named as remaindermen upon the death of the life tenant.

Practicing this Rule

In the following example, two conveyances take place. Track the ownership from Elias Carver to the other grantees and determine the percentage of minerals in the 80-acre tract that each individual owns.



Who owns what percentage of this 80-acre tract?

Work Area

Elias Carver _____ %
Roger Carver _____ %
Beth Carver _____ %
Marion Baker _____ %

Answer: Elias Carver—0%; Roger Carver—50%; Beth Carver—50%; Marion Baker—0%

USUFRUCT

In Louisiana the term usufruct is often used. A usufruct is much like that of a life estate. Upon the death of a spouse the remaining spouse would receive the right of *use* in any property that was deemed community property prior to the death.

This right of *use* means that the surviving spouse can enjoy the fruits and income from the property; they could rent the property or live in the property.

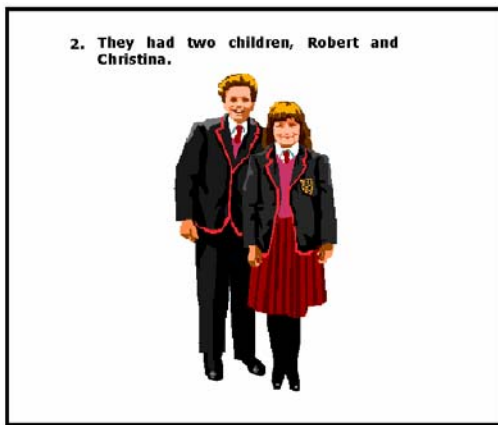
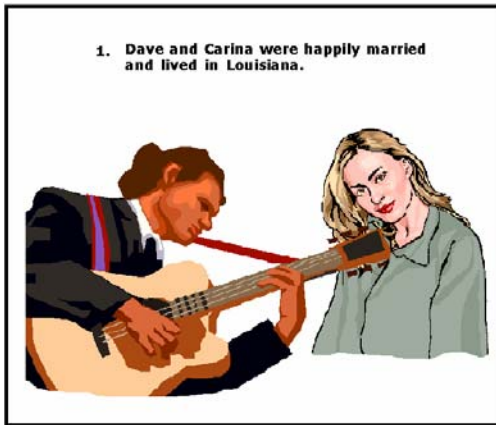
As with a life estate, the usufruct's right of use to the property is limited in time. Usually this is for life and will terminate upon the usufruct's death. Unless stated differently in the decedent's last will and testament, the

usufruct would also terminate upon remarriage of the surviving spouse. Once the remarriage takes place, the property would vest in either the children of the couple or (if there were no children) the other heirs at law.

Separate property would be distributed differently than the community property. In Louisiana, the surviving spouse would receive none of the separate property. Instead, it would pass to the children. If there were no children the separate property would pass to the brothers and sisters with a usufruct going to the parents. If there were no brothers and sisters, the nieces and nephews would inherit with a usufruct going to the parents. If there were no nieces and nephews, the parents would inherit. If there were no parents the spouse would inherit.

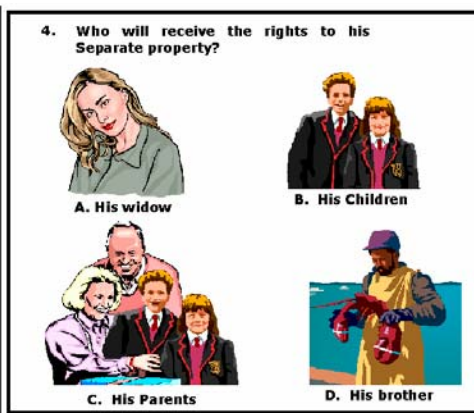
Practicing this Rule

In the following example, Dave passes away. He owns both community and separate property in the state of Louisiana. Can you determine the owners?



Who would receive Dave's separate property if he had no children?

Who would receive Dave's separate property if he had no children and his parents were no longer living?



MINERAL DEED

The mineral rights in and to land can be sold. This often takes place through a mineral deed. At the time of conveyance, the grantee to the minerals would also receive the right to execute leases and receive bonus and rental payments.

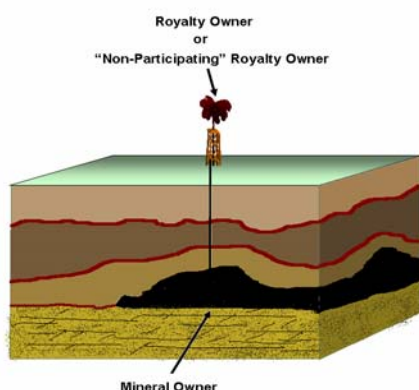
A *mineral deed* is most commonly used when conveying a mineral interest, but oil and gas land personnel must be aware that this is not the only type of deed used when conveying minerals.

ROYALTY DEED

Royalty ownership is different from mineral ownership. Royalty can be defined as the monetary benefit that one would receive out of the production of a commercial oil and gas well. When royalty ownership is severed from the mineral owner it is also referred to as *non-participating royalty*.

The person who owns the minerals under a given tract of land most generally owns the royalties; however, it is not uncommon to see a mineral owner convey either all or a portion of his or her royalty to another party. Because such a royalty owner would own no minerals, they would not have the right to execute leases, receive bonus or rental payments.

A *royalty deed* is commonly used when conveying a royalty interest, but oil and gas land personnel must be aware that this is not the only type of deed used when conveying royalty.



The picture depicts mineral v. royalty ownership

NON-PARTICIPATING ROYALTY OWNERS IN TEXAS POSE A PARTICULAR PROBLEM:

In Texas, a non-participating royalty owner's interest is covered by the oil and gas lease *except* if the lease is pooled with other leases and becomes a part of a pooled unit.⁴

This situation could prove disastrous to an oil and gas company--especially if the drillsite location is to be located on the non-participating royalty owner's tract of land. The Texas Supreme Court's decision in *Brown v. Smith* states that a mineral owner with executive rights to lease does not have the right to pool any interest owned by the non-participating royalty owner without

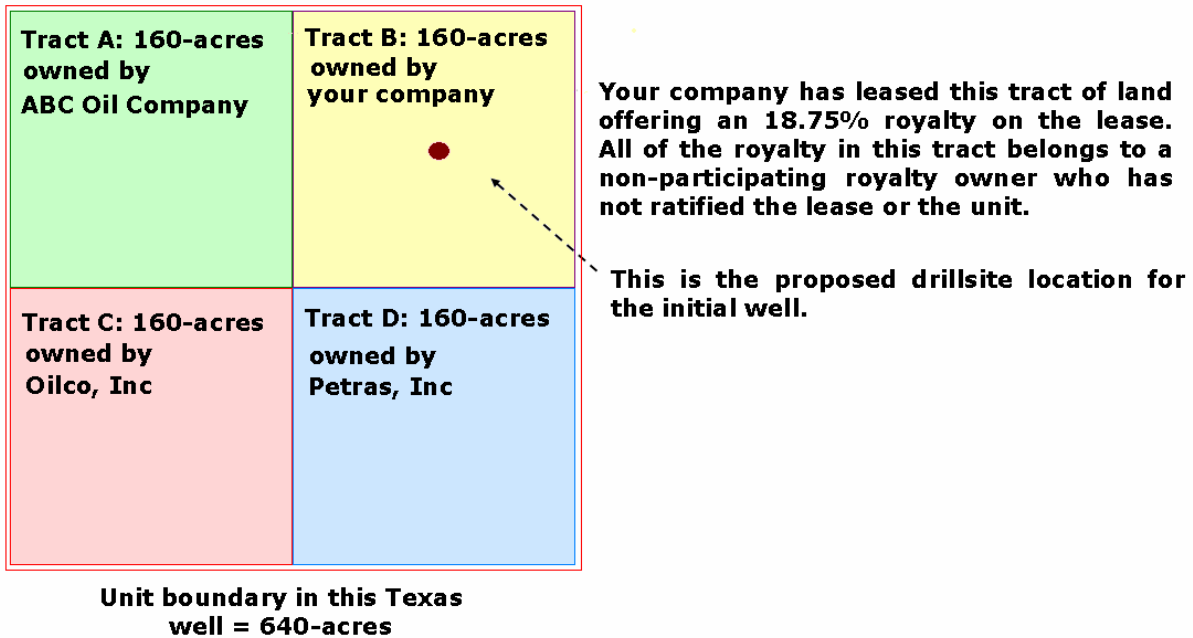
his or her approval. Courts in Texas have consistently upheld this principal in law.⁵

In Texas, if this royalty owner fails to ratify the lease or sign some sort of unit designation, his or her interest cannot be pooled in the unit. There are two different outcomes for this scenario.

- 1 First, if the drillsite is located on this tract of land, the non-participating royalty owner will receive his or her royalty in whole and not proportionately reduced by the other acreage in the unit.
- 2 Secondly, if the drillsite is located on another tract of land, the non-participating royalty owner is not entitled to receive any royalty benefits from production. This royalty owner does have the right, however, to sign a ratification or unit designation even after the well is drilled and completed. At this point the royalty payment would be based on his or her proportionate part of the unit.⁶
- 3 One court allowed a non-participating owner to collect royalty payments from a well that was drilled 13 years before he signed the ratification to the lease.⁷
- 4 Another court granted a non-participating royalty owner the right to ratify only portions of a lease. In this case, the lease covered a larger tract of land, and the non-participating royalty owner could pick and choose what portions of the lease he wished to ratify. On wells that were not located on lands burdened by his royalty interest, the owner received royalty payments based on his proportionate part of the unit. On wells that were located on lands burdened by his royalty interest, the owner received his full royalty interest.⁸

Example:

Study the scenario below as it relates to a unit boundary in Texas.



Since your company owns 25% of the unit they would be responsible to pay 25% of the costs for drilling the well. If the well was drilled and completed in the NE/4 of the section, according to what you have learned, what percent of the revenue would your company be able to keep?

- A full **25%**
- 25% - 4.6875% royalty burden = **20.3125%**
- 25% - 18.75% royalty burden = **6.25%**

Since this is a Texas well with the drillsite being located on the non-participating royalty owner's tract of land, and since they have not signed a ratification of the lease or a unit designation, you must pay them their full royalty not proportionately reduced by the unit size (a full 18.75% royalty out of production). Your company would get to keep what is left over (25% - 18.75% = 6.25%).

TERM MINERAL OR TERM ROYALTY DEEDS

Term mineral or term royalty conveyances or reservations can often pose problems to oil and gas personnel. Since statutes differ from state to state and the following is a general overview of the subject, one should consult with an attorney or a particular state legal source when specific questions arise.

Conveying or reserving minerals and/or royalty can be done in one of three manners:

First, both minerals and royalties can be conveyed or reserved without any specified term attached to the conveyance. In this case, the one party has given up any and all future or reversionary rights to what is being conveyed or reserved.

Second, both minerals and royalties can be conveyed or reserved for a specified time period. This is called a *term-mineral* or *term-royalty interest*. In this case, upon the expiration of the specified term, the minerals or royalty will revert back to the other party.

Generally, states have concluded that the holder of a term interest can sign an oil and gas lease, but that 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 and two leases should be taken, one from the holder of the term interest and the other from the holder of the reversionary interest.

Chester Morrow conveyed a 5-year term mineral deed to Victor Sherman dated March 3, 2001



On March 3, 2007 the minerals will revert back to Chester Morrow.

Any oil and gas lease signed by Victor will not continue beyond the expiration date of the term mineral interest.

In *RLM Petroleum Corp. v. Emmerich*, the Oklahoma court found that unless language in the deed expressly gives 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 will terminate upon the expiration of the term mineral interest.⁹

Carlos Santino conveyed a 10-year term mineral deed to Robert Murray dated April 7, 1997.



On April 7, 2007 the minerals will revert back to Carlos Santino.

Any oil and gas lease signed by Robert will not continue beyond the expiration date of the term mineral interest.

hip of minerals can be conveyed or reserved for a specified term (i.e. 5 years or 10 years). They can also be conveyed or reserved with the following language: "conveyed or reserved for a fixed term and as long thereafter as oil or gas is produced."

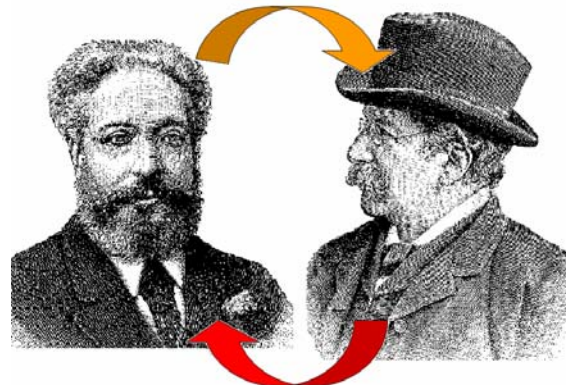
When this language is added, in order for this option to take affect and move the term mineral into a "secondary term", there must be either oil or gas production in paying quantities, not only during the term of the deed, but at the date of expiration of the term or there must be diligent operations in place. If not, the minerals will revert back to the other party.

In the illustration, if your company leased Robert Murray and drilled a producing well on the leased lands, at the end of the 10 year term, the minerals would revert back to Carlos Santino.

Even though your company had drilled a producing well on the lands, the lease would no longer cover the mineral interest. In other words, unless the term mineral conveyance gave permission for Robert Murray to encumber the reversionary interest, his lease would not cover the future interest of Carlos Santino.

The owners

Chester Morrow conveyed a 10-year term mineral deed to Victor Sherman dated March 3, 2001



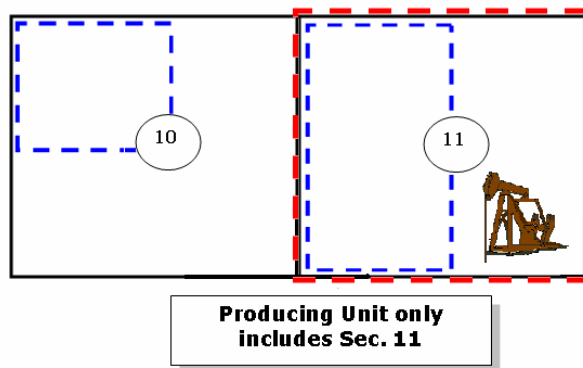
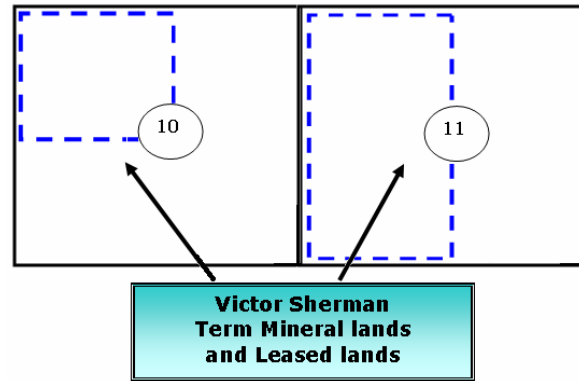
The conveying deed contained these words:

" 100% of the minerals in and under the land for a period of 10-years and as long thereafter as oil or gas is produced".

If a well is producing in paying quantities on March 3, 2011 the minerals will still be owned by Victor Sherman and as long thereafter as oil or gas is produced.

Example:

In the illustration, Chester Morrow conveyed to Victor Sherman all of his interest in Section 10: NW/4 and Section 11: W2 (those lands shown in the dotted area). Your company leased both tracts of land on the same lease.



The only portion of the lease that was pooled into the drilling unit was the W2 of Section 11. The drilling unit comprised all of Section 11 and a producing well was drilled in the SE/4 of the section.

No other wells were drilled on the other lands prior to March 3, 2011.

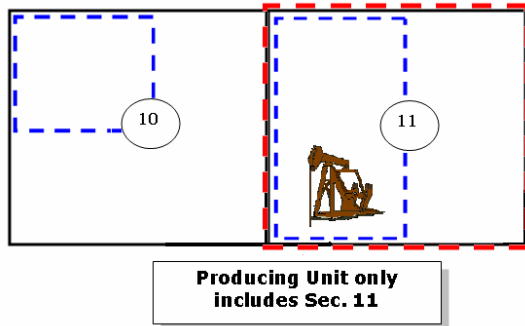
Would production from the well in Section 11 perpetuate the mineral ownership to Victor Sherman as to the lands in Sections 10 and would the production from the unit hold those lands outside the unit?

_____ Yes _____ No

Answer: This answer becomes a little tricky. Since these lands are tied to a term mineral and potential reversionary interest, in states like Kansas, only the acreage included in the spacing unit would perpetuate into the secondary term. Since the lands in Section 10 fall outside the production unit, they would revert back to Chester Morrow. If your company did not have a lease from him on this tract of land, these lands would not carry into the secondary term.¹¹

If this same scenario happened in Texas, since the well was not located on *any of the lands* covered in the granting clause of the conveying deed, the minerals would not perpetuate into the secondary term. *All* of the lands would revert back to Chester Morrow. If your company did not have a lease

from him these lands would not be covered nor would they be held by production from the unit.



On the other hand, if the well *was located anywhere* on the “conveyed lands” (as shown in the following illustration) then, in Texas, as long as there was production on March 3, 2011, all lands covered in the lease would perpetuate into the secondary term and the lands located in Section 10 would be held by production from the unit.

In Oklahoma, production can simply be on lands pooled with those involving the term mineral interest; however, actual marketing of the production must have taken place on or before the expiration date of the term mineral interest. In Oklahoma, the production attributed to those leased lands inside the unit would continue the entire lease into the secondary term.¹⁰ However, the Oklahoma statutory pugh clause would apply to this situation since the lease was executed after May 25, 1977 and the spacing unit contained 160 acres or more. The lands outside the unit would automatically expire 90 days after the primary term of the lease.

Many states such as Texas and Oklahoma have held that a shut-in payment will not perpetuate the term mineral interest into the secondary term unless the conveying document states that a shut-in gas well will continue the term interest.¹²

EXERCISE 1:



Rudolph and Martha Perkins conveyed to Tommy Chew all of their interest in Section 10, 11 and 12 lands on the following 10-Year Mineral Deed.

MINERAL DEED

KNOW ALL MEN BY THESE PRESENTS:

Dated: April 7, 1997

THAT Rudolph and Martha Perkins of 146 S. Wood Street, Gamble City, South Dakota hereinafter called Grantor, for and in consideration of the sum of ten and more dollars (\$10.00) cash in hand paid and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, convey, transfer, assign and deliver unto Tommy Chew, a single man of 7223 S. Main Street, Gamble City, South Dakota hereinafter called Grantee an undivided One-hundred 100% percent interest in and to all of the oil, gas and other minerals that may be produced in and under said land for a period of 10-years and as long thereafter as oil and gas is produced"

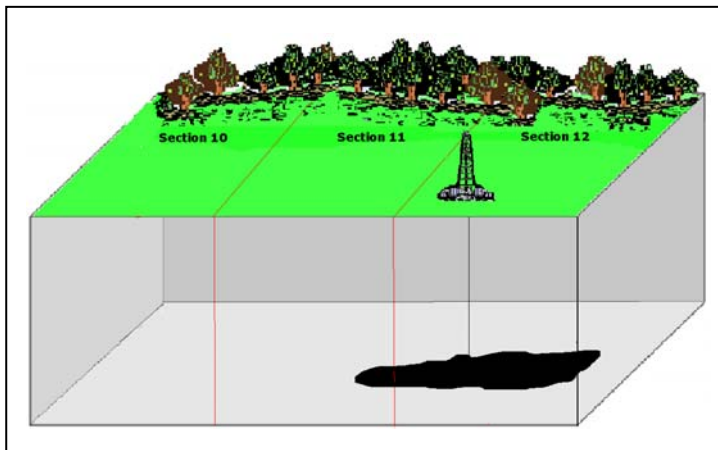
Morgan County, South Dakota to-wit:

Township 23 North, Range 15 East

Sections 10, 11, 12

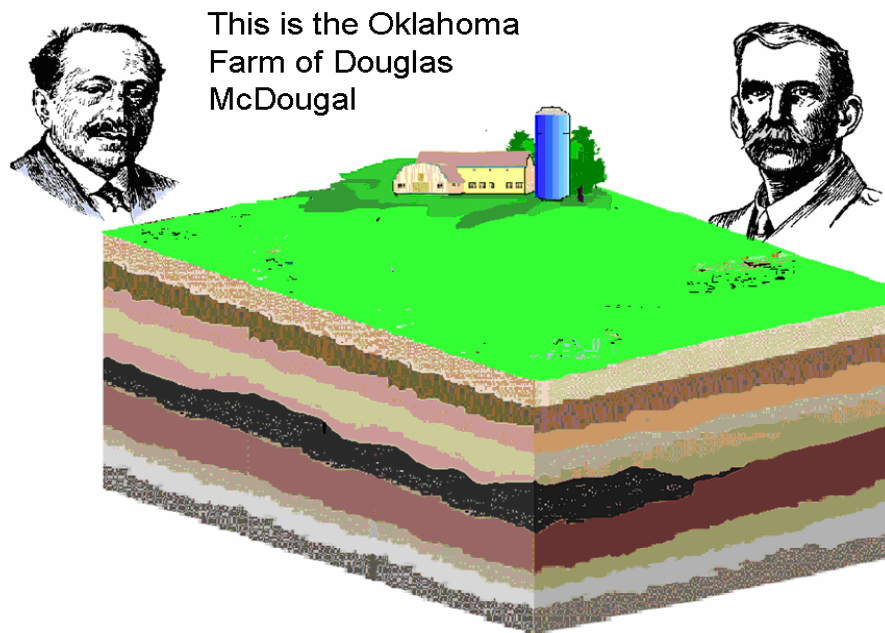
Containing 1,920 acres more or less, together with the right of ingress and egress at all times ...

1. On January 1, 2006 a producing well was drilled and completed in the SW4 of Section 12.
2. Would production from the well in Section 12 perpetuate the mineral ownership to Tommy Chew as to the lands in Sections 10 and 11?



Answer: Since the deed conveyed the interest under "said lands" for a period of 10-years and as long thereafter... the production would perpetuate the mineral ownership to Tommy Chew as to all lands.

EXERCISE 2:



On July 31, 2001 he conveyed the minerals to Robert Murray for 5 years and as long thereafter as oil and gas is produced.

6-months later your company leased Robert and drilled a producing well on the tract of land.

One month prior to the minerals reverting back to Douglas the well was shut-in and Robert received only a shut-in royalty payment.

On August 8, 2006 your pumper reported seeing Douglas talking to a competitor oil company. He had some type of written form in his hand. What could that mean?

Your Company should do the following:

- Pay Robert Murray his share of the royalty out of production
- Pay Douglas McDougal his share of royalty out of production

Answer: Since this took place in Oklahoma and the well was shut in prior to the reversionary date, the minerals would not perpetuate to Robert Murray. Unless your company had taken a lease from Douglas McDougal or the deed stated otherwise, your company might find themselves in an unfortunate situation.

TRUSTS

Trusts are agreements whereby two parties, a grantor (settler) and a trustee, contract with each other to place certain property or goods into a trust which will be managed by the trustee.

When individuals form a trust, they will name the beneficiaries of the trust and also designate either an individual or a trust company to act as the trustee of the trust.

One of the main functions of the trustee is to hold or grant assets from the trust to the beneficiaries.

Often individuals will place their assets in a trust in order to avoid paying estate taxes. The federal government places an estate tax, sometimes called a "death tax," on a person's estate when he or she dies. This tax can far exceed the normal income tax on a person's income. For example:

- Estate taxes range from 37% for taxable estates to 55% or more and are based on the deceased person's entire property and or goods.
- Normal income taxes range from 15% to no more than 39.6% and are placed on the person's taxable income for a given year.

A LIVING TRUST OR REVOCABLE TRUST

The trustee(s) in a Living Trust or Revocable Trust are usually the same person or persons as the grantor(s) of the trust.

The grantors will often be a husband and wife who, together, will act as the trustees of the trust until one or both of the parties die, become incompetent, or give notice of resignation as trustee of the trust.

There are three chief purposes for either a Living Trust or a Revocable Trust:

1. If the grantors are one and the same as the trustees, they remain in a position of administrating or having control over their property or goods in the same manner they did prior to the creation of the trust.
2. The trustees have the ability to keep, sell, accumulate, invest, borrow against, or give the property or goods away.
3. When the trustees die, provision is made for the distribution of the property placed into the trust.

Living Trusts or Revocable Trusts act much the same as a will would act.

Just as a will can designate beneficiaries for an estate, a trust can also designate how property will be distributed when the trustees die.

Just as a will distributes property that was previously titled in the name of the deceased, so too, a trust can distribute property that had been placed into the trust.

At the time a trust is drawn up, a successor trustee should be established. This person's roll is to handle the trust's affairs when the trustees die and then make distribution of the property to the beneficiaries.

Both trusts and wills can be terminated at any time.

Whereas a will must pass through the probate process in order to become valid; a trust, containing all of the deceased person's assets, will avoid the probate process.

DEEDS OF TRUST

A deed of trust also involves a trustee or one who has been appointed to act on behalf of a lender. Usually this trustee is a title insurance company or public trustee in rural areas.

When Bill and Marilyn Henderson borrowed a large sum of money on their farm, they entered into a deed of trust with a certain trust company. In doing this, the Hendersons' in essence, gave the trustee title or ownership to their farm. They still had the rights of occupation to the farm and the rights to the use of the farm, but the trustee held the original deed to the property until the loan was paid in full. The trustee also possessed the power to foreclose on the Hendersons' farm without first taking them to court.

TYPES OF DEEDS

The following is a list of deeds that will convey ownership from one party to another party:

- GENERAL WARRANTY DEED
- SPECIAL WARRANTY DEED
- QUIT CLAIM DEED
- MINERAL DEED
- ROYALTY DEED
- PUBLIC TRUSTEE'S DEED
- SHERIFF'S DEED
- TREASURER'S DEED
- PERSONAL REPRESENTATIVE'S DEED
- FIDUCIARY DEED
- CONSERVATOR'S DEED
- GRANT DEED
- TRUSTS

The following are legal instruments that will not convey title from one party to another. Notice that several of these instruments are entitled "deeds."

- MORTGAGE DEED
- DEED OF TRUST
- A CORRECTION DEED
- MARRIAGE LICENSE OR CERTIFICATE
- LEASE
- AFFIDAVIT
- LETTERS OF TESTAMENTARY

FOOTNOTES

¹ homebuying.about.com/cs/realestateglossary/g/generalwarranty.htm

² washingtonpost.com/wp-srv/business/longterm/glossary/n_z/special_warranty_deed.htm

³ George Snell, Timothy Dowd, Tom Daily, Gregory Nibert, John McDavid and Richard Revels, "Real Property Law Oil and Gas Law," National Association of Lease and Title Analysts Certification Review Manual, (July, 2005), page 3-2.

⁴ George A. Snell, III, Oil and Gas Law 2001: Nationwide Comparison of Laws on Leasing, Exploration and Production.

⁵ *Brown v. Smith*, 141 Tex. 425, 174 S.W.2d 43 (1943).

⁶ George A. Snell, III, Oil and Gas Law 2001: Nationwide Comparison of Laws on Leasing, Exploration and Production.

⁷ *DeBenavides v. Warren*, 674 S.W.2d 253 (Tex. Civ. App.—San Antonio, 1984, writ ref'd, n.r.e.).

⁸ *MCZ, Inc. v. Triolo*, 708 S.W.2d 49 (Tex. Civ. App.—Houston [1st Dist.], 1986, writ ref'd n.r.e.).

⁹ *RLM Petroleum Corp. v. Emmerich*, 1995, OK 50, ¶12, 896 P.2d 531.

¹⁰ An Introduction to Kansas Oil & Gas Law, 1988 Washburn Law School Oil & Gas Law Series, David E. Pierce, November, 1988, p. 51.

¹¹ *Ibid*, p. 51-52.

¹² George Snell, Timothy Dowd, Tom Daily, Gregory Nibert, John McDavid and Richard Revels, "A Comparative Review of Oil and Gas law in Texas, Oklahoma, Arkansas, New Mexico, Mississippi & Louisiana," *Landman Oil & Gas Law Special Section*, (December, 2002).