

How To Conduct Your Own Mineral Title Research

— by Ralph A. Cantafio, Esq. and Rosanna Slingerland



Ralph Cantafio, shown here presenting a royalty owner seminar at NARO's 26th Annual Convention.

Doing your own mineral title research can be quite tedious and frustrating for if you are unfamiliar with title work. The intention of this article is to briefly explain the importance of reviewing your mineral properties' chain of title and to give a short "how to" on conducting your own mineral title research. There will be a

follow up installment next month on "What Was Really Conveyed In Your Mineral Title".

There are four primary reasons a mineral owner should research the chain of title for their mineral estate. First is to assure clear title. Mineral properties should be viewed as investments, and it is always important to do your due diligence on an investment to prevent anything from cutting into your profit on that investment in the future.

Second, as will be explained in greater detail in the next installment, you need to review the conveyance wording and be sure that you understand what portion of what minerals you actually retain.

Third, if you intend to pass your minerals on to heirs, it is essential that the probate is set up properly to convey what is intended. Lastly, as many NARO members are well aware, an informed mineral owner can benefit immensely in Oil and Gas Lease negotiations from knowing their title chain.

There are many ways to conduct any property title research, including purchasing a Title Insurance policy (in areas where available for mineral properties); retaining the services of an attorney to conduct a full Title Opinion; searching the title index cards at a local title company; or conducting the research yourself at the county office where the minerals are located. The

main benefit to conducting you own mineral title research is cost. Title policies and legal title opinions can be expensive and unnecessary, since all of the information is available to the public at the County Clerk and Recorder's Office.

To conduct your own mineral title research, you should begin at the County Assessor's office. They will be able to provide you with current tax records for the property that often refer to the records book and page number for the conveying documents for each portion of the mineral estate. The assessor's office is also where the mineral record index books and title index books are located. Both of these will provide recorded book and page numbers of conveying documents for a given property, by location, from the time of induction of the county up to the date when the county began transferring recorded documents onto a computer database.

You will find the books of records with the above referenced book and page numbers located in the record room of the Clerk and Recorder's Office. The records room is open to the public and copies of the conveying documents in the record books can be made for a nominal fee. Once you have gathered a list of book and page numbers from the resources at the County Assessor's office, you should go to the record room and make copies of all of the relevant documents and take them home or to your office for further review.

The first challenge in conducting your own research is chronologically ordering all of the conveyances and assuring that there are no gaps in the chain of title. Once you feel confident that you have complete documentation of the chain of title, you can begin reviewing the wording of all of the conveying documents to be sure that all of the minerals have been properly conveyed up to the time you took ownership of the minerals. Analyzing mineral conveyances will be the topic in next month's installment.

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How To Conduct Your Own Mineral Title Research (Part two)

— by Ralph A. Cantafio, Esq. and Rosanna Slingerland

This is our second installment addressing the researching and analyzing of mineral conveyances. Our first installment focused on conducting mineral title research and identifying a complete chain of title.

Once you have completed your mineral research and identified a complete chain of title, or as close as possible, on a given property, the next step is to analyze the wording in each of the conveyances.

Minerals are conveyed by many means, the most common being a mineral deed. Minerals are also reserved by the grantor in property deeds. What minerals are conveyed or reserved in any conveyance depends on the precise wording in the conveying document. As more courts hear cases addressing the interpretation of mineral conveyances, there is slowly becoming widely-accepted standard wording utilized in conveying minerals. However, wording creates problems if documents are not drafted properly.

There are two common problems in mineral conveyance wording: 1) ambiguity/over specification and 2) intention of the conveying party.

Identifying which minerals are being conveyed can be a problem if conveyance language is over-simplified or over-specified. Ambiguity can result in the argument that any mineral not specifically identified was not conveyed. It bears mention that a conveyance identifying “all minerals” generally includes any hydro-carbon that could be derived from oil and gas production. One should not have to worry about ambiguity if a chain of title contains this language and one intends to only lease oil and gas.

Over-specification in a mineral conveyance can lead to the argument that any mineral not specifically identified was not intended to be conveyed. A thorough draftsman can often be counterproductive because courts often interpret specific minerals stated in a conveyance to imply the conveyance to be limited to only the minerals specifically stated. This is problematic because mineral owners often do not know where the value in their mineral interest lies until after leasing, and try to identify as many minerals as possible. The value of specific minerals also changes as demand and technology change.

The first rule of interpretation focuses upon “what was the intention of the parties?” Whenever that question cannot

be clearly answered, the courts must determine what was intended to be conveyed based upon the wording in the conveyance. Two of the more common problems are: 1) was the grantor intending to convey a mineral or royalty interest? and; 2) was the grantor intending to convey a fraction of their interest or their entire interest? (i.e. a fraction or the entirety of their whole mineral interest). To convey only a fractional interest or a royalty interest takes great care when drafting to avoid ambiguous language.

If a potential drafting error is identified, it is highly advisable to contact any attorney knowledgeable in oil and gas law to review the conveyance to seek advice as to what action, if any, should be taken to correct the error.

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