

Negotiating Oil and Gas Leases and Surface Agreements

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Oil and gas are valuable commodities. It's presence beneath your land "could mean" extra income if you choose to grant a lease to an exploration company. There is however no guarantee that oil & gas or other minerals are beneath your land.

Exploration companies employ or contract with a professional called a Landman to acquire leases of mineral rights to land with potential reserves of oil and gas. Not all Landmen work for exploration companies. You may have already been approached by a landman who has asked you to sign a lease that allows a company to drill on your property. If you are approached and considering an offer of revenue which is paid to landowners, who lease their land. There can be extra income; however there is also the potential for substantial risks and inconveniences. Make sure your lease protects your interests.

SURFACE USE AGREEMENTS: One of the tools available for protecting surface property and surface owner quality of life is the Surface Use Agreement. *Oil & Gas At Your Door?* examines the pros and cons of negotiating these agreements, and provides samples of what others have been able to negotiate.

LEASING: Mineral owners have the option of leasing or not leasing their minerals to oil and gas companies. If they choose to lease, there are some tips contained in *Oil & Gas At Your Door?* to help ensure that the lease meets their needs and protects their interests.

WHAT TO DO WHEN THE LANDMAN COMES CALLING: A landman is the name given to a man or woman who serves as the company's contact person with the public who may be an employee or contractor with the oil or gas company. Some of the tasks that landmen perform include: researching courthouse records to determine mineral ownership; locating mineral/landowners and negotiating oil and gas leases and other agreements with them; and conducting surface inspections before drilling.

What to do if contacted by a landman:

1. When interest develops in your minerals, you may be approached by phone, mail, or in person. The landman or lease broker may determine your interest in leasing by quoting you an offer. You should write the offer down or get it in writing.

2. Do not sign or agree to anything (e.g., a lease or surface use agreement) without understanding the terms of the agreement or getting professional advice. You may want to contact an attorney or organizations that work with landowners. You may want to talk with your neighbors and others who have been in negotiations with oil or gas companies. It may be helpful for you to read through the landowner profiles that are scattered throughout this document. The lessons learned by others may help you to figure out your own strategy for dealing with oil and gas company representatives.
3. Stand your ground. Some landmen may use intimidation tactics or threats to pressure you into signing an agreement. For more information on intimidation tactics, see the story “Threats and Intimidation: This is Negotiation?” and also Peggy Hocutt’s story, in Chapter IV in *Oil & Gas At Your Door?*.
4. Put together a list of issues important to you before you begin negotiating with the landman. Remember, everything except your name and the legal description of the property is negotiable.
5. At any meeting with a landman, document as much as you can. Take notes, or better yet, tape record your meetings. Or have someone else sit in as a witness.
6. Understand who it is you are dealing with. Research the oil or gas company’s track record. Talk with neighbors and other landowners who have had to deal with the same company. Find out, if you can, details of agreements reached between the company and other surface owners (e.g., if they offered to test your neighbor’s well water, they should do the same for you).

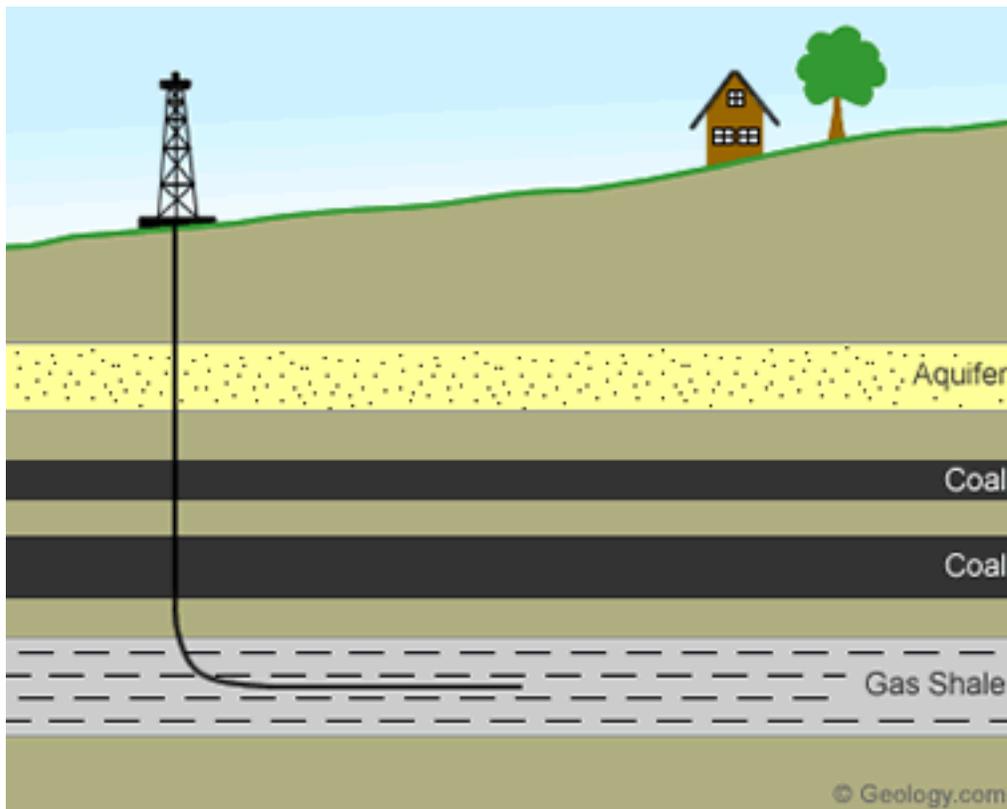
The Texas Railroad Commission (TRC) and the Texas Commission on Environmental Quality each maintain a database of oil and gas violations. To look up violations on the TRC website you first have to know that they are called a “Severance.”

- <http://www.rrc.state.tx.us/>
- Look in the right column and scroll down to “Most Popular Links.”
- Click on “Online Research (Queries)”
- Find the box titled: “Oil & Gas Data Queries”
- Click “Launch Application.” This will open the Severance Query Criteria box
- Fill in Query data (this is not very user-friendly and can be challenging to find all the data required).

To look up violations on the TCEQ website:

- <http://www.tceq.state.tx.us/>
- Look in the middle section and find “How Do I” • Click on Track complaints, enforcement

7. Consider signing a lease or negotiating a Surface Use Agreement (both are discussed below). If you are going to sign a lease, consider negotiating the Surface Use Agreement either before or at the same time that you negotiate the lease.



"Mineral Rights" entitle a person or organization to explore and produce the rocks, minerals, oil and gas found at or below the surface of a tract of land. The owner of mineral rights can sell, lease, gift or bequest them to others individually or entirely. For example, it is possible to sell or lease rights to all mineral commodities beneath a property and retain rights to the surface. It is also possible to sell the rights to a specific rock unit (such as the Pittsburgh Coal Seam) or sell the rights to a specific mineral commodity (such as limestone).

Agreements should contain several key points, which will help protect the mineral owner:

1. Grant Clause- Most common term is three years.
2. A description of the leased property and specific minerals. (Oil and Gas only, and Oil and Gas bi-products)
3. Royalty Clause- Standard royalty share is twenty to twenty five percent of production.
4. NO COST SHOULD BE SHARED BY OWNER (ex. Using gas to supply equipment on well)
5. A payment structure should be set as to when landowner will be paid.
6. Royalty audit clause language that would allow land owner and CPA to audit books for production.
7. A clause disclaiming all warranties of title.
8. Include hours of operation for Oil and Gas companies and ALL contractors.

The oil and gas industry plays a vital role in not only the U.S. economy, but the world. It is our job to make sure that we understand the important facts about oil and gas leases. Oil and gas attorney's and other legal professionals should always help any mineral or land owner with their lease.

Works Cited

"Negotiating Oil and Gas Leases and Surface Use Agreements" Ezra Johnson, ALC National Land Conference March 10-13, 2016

<http://gdhm.com>

<http://earthworksaction.org>

<http://www.rrc.state.tx.us/>

Landowner's Guide to Oil & Gas Leasing

<http://www.dec.ny.gov/energy/1553.html>

<http://geology.com/articles/mineral-rights.shtml>