

# Subsurface Property Issues

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## Agenda

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Title to subsurface resources

Scope and extent of rights in subsurface resources

Surface damage acts and pore space

Remedies for subsurface invasions

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# Title to Resources in the Subsurface

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## Artificially Created Salt Caverns

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*Myers-Woodward, LLC v. Underground Services Markham, LLC*

- Surface Owner v. Salt Owner
- Salt owner used salt cavern for storage of oil produced from other lands; paid no compensation to surface owner
- Salt cavern was created by salt owner's "brine mining" process
- Held: surface estate retains title to all elements of the subsurface not specifically titled in the mineral estate, including the artificially created salt cavern
- Rejects *Mapco, Inc. v. Carter* (Tex. App. 1991) holding that artificial salt cavern is titled in the mineral estate

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# Lienability of Surface Estate

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*Anderson Excavating, LLC v. Weiss World L.P.*

- Contractor of Mineral Tenant v. Surface Owner
- Mechanics' lien statute provides for a lien in "every improvement and the estate or title of the owner in the property."
- Surface estate is clearly distinct from a severed mineral estate at common law and the statute does not purport to change that
- The mineral estate's easement in the surface is not title in the surface
- Held: no lien in the surface estate

# Scope and Extent of Rights

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## Title search: Subsurface Property Issues

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