

Subsurface Property Issues

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Agenda

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

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

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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