

Case Law Update

44th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute

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The paper is current to April 9
These slides are current to April 18

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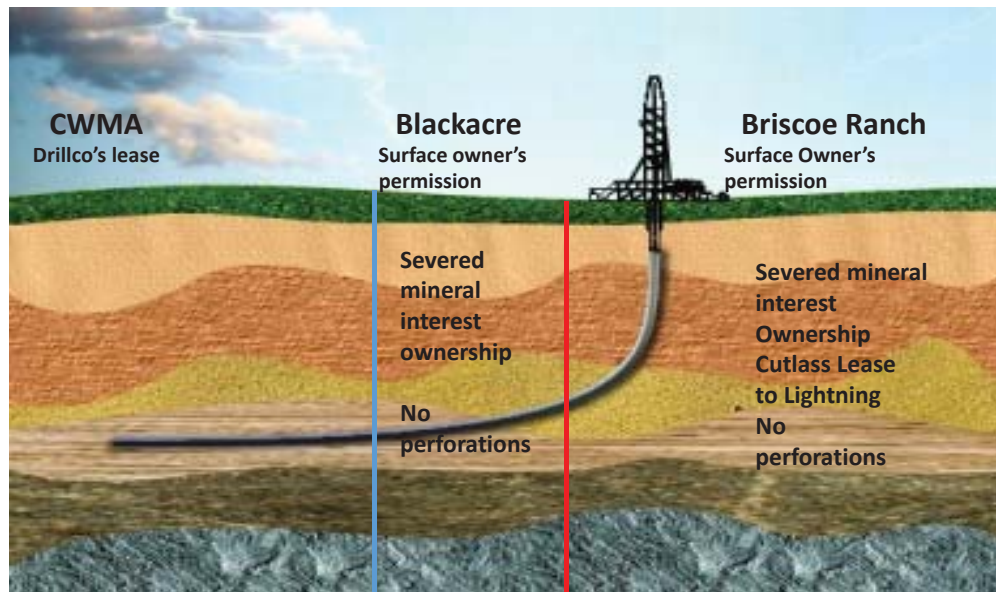
TRESPASS: SURFACE OWNERSHIP AND USE V. MINERAL OWNERSHIP AND USE

Lightning Oil Co. v. Anadarko E&P Onshore, LLC, 520 S.W.3d 39 (Tex. 2017), p. 2

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Horizontal Drilling

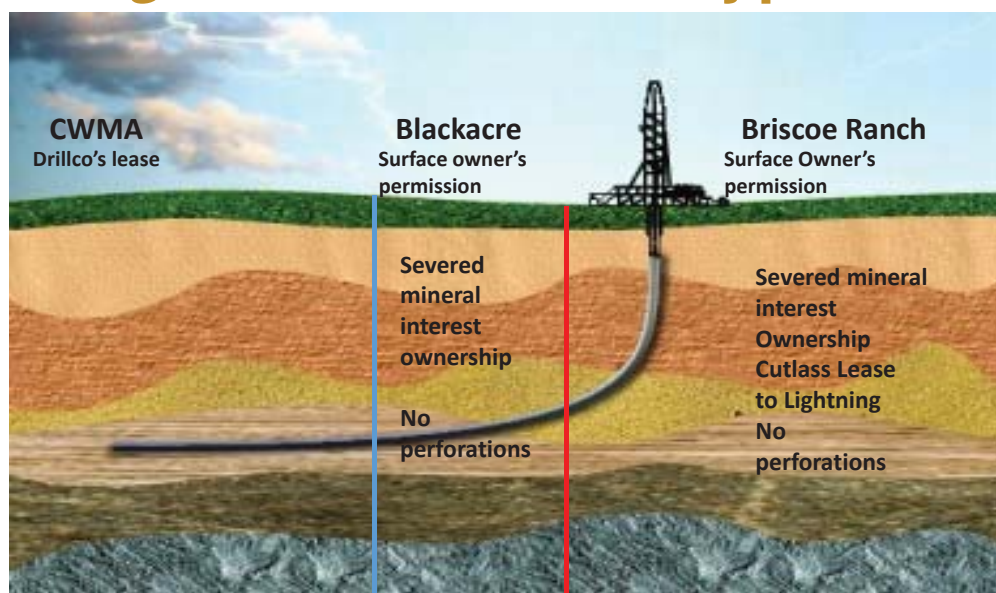
Lightning + Blackacre “Hypothetical”



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Horizontal Drilling

Lightning + Blackacre “Hypothetical”



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Accommodation Doctrine--*Getty Lightning*: Surface use operator stands in shoes of surface owner

- If mineral interest owner's use substantially interferes with the surface owner's existing use, and
- If mineral interest owner has reasonable alternatives available to it on the same land--*Sun*
- Then the mineral interest owner must "accommodate" surface owner's existing use, but
- The court must also weigh surface owner's reasonable alternatives—*Merriman*

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As to the displacement of Lightning's Minerals:

"Balanced against the small loss of minerals a lessee such as Lightning will suffer...is the longstanding policy of this state to encourage maximum recovery of minerals and to minimize waste....[W]e conclude that the loss of minerals Lightning will suffer by a well being drilled through its mineral estate is not a sufficient injury to support a claim for trespass."

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