

Planning For Mineral Interests

LESLIE DOLLIVER

Estate Planning & Probate

When Mary was 60 years old, her father died and left her with an inheritance she knew little about; mineral rights scattered throughout the State of Texas.

Her father had spent his lifetime acquiring these rights and quietly negotiating leases, but his generation didn't believe in teaching their girls how to do business in a man's world. They put their girls on pedestals to show them they loved them. Mary was about to embark on a journey of learning like none she'd ever dreamed of...a land where "landmen" live...where a "bonus" is what you get at the beginning...where the world is negotiable if you just have the guts to do your homework and learn the language of the mineral world.

Just a few months after her father's death, Mary received her first mineral lease offer in the mail. She called up the "landman" who sent her the lease to confirm what she needed to do with it. He told her that they sent her the "Standard Producers' 88" lease form and that she should just sign and notarize it, send it back to him, take the bank draft to her bank, and she would have the cash in her account in just a few weeks. How could she have known that there is NO "standard", that the "Producers' 88" was merely a printing form number for the landmen to order in the earlier days of leasing? After doing a few leases, she knew that something didn't feel right, so she started asking friends and family for their input and help in negotiating mineral leases.

Now Mary is 70 and knows a lot more about negotiating a good mineral lease. Here is some of what she learned along the way.

First, EVERYTHING is negotiable.

Some major terms to understand in any lease are:

- The "**term**" - how long will the lease last? The ranges are different for different counties.
- The "**bonus**" - the amount of dollars per net mineral acre that the Lessee will pay you as a lump sum at the time of signing the lease to lease your mineral interest.
- The "**royalty**" - the percentage amount you will receive for your share of the production if a successful well is drilled.
- The **Lessor** - the mineral interest owner.
- The **Lessee** - the company that leases the land to drill for oil or gas.

Second, Mary learned much of what she now knows by joining the National Association of Royalty Owners (NARO). She found their website helpful (at naro-us.org) and ordered inexpensive books about negotiating leases from them. She attended an annual NARO convention in Texas and realized that she was not the only person learning about leasing and managing mineral interests at 60! The other owners she met were very friendly and open to sharing what they've learned along the way.

As a member, Mary calls NARO whenever she gets a lease offer. NARO collects leasing data for Texas (by county) so that members can find out what the high, low, and most common amounts are for the term, bonus, and royalty. This is valuable information and lets a Lessor know whether the first lease offer is sincere or not.

Third, a good contract always has BOTH parties signing and notarizing their signatures. Almost every lease offer Mary receives only has a signature line for her to sign, not one for the company. Mary always asks that the authorized officer of the company sign and notarize the lease. If they won't sign the lease (which has not yet happened), then you shouldn't sign either!

WHAT TO DO

If you find yourself in Mary's shoes, contact NARO and start learning as soon as you can. Don't let a Lessee pressure you into a lease. Get the information you need to make an informed decision. If you have no interest in learning the ropes yourself, then find a member of your family who is interested in learning and negotiating on your behalf. Mineral interests are often passed down from one generation to the next, so it's important that the next generation learn as well. If you need more help, contact a good attorney

who is familiar with mineral lease negotiation. Often, the increase that can be negotiated on the bonus alone (especially in today's market) will more than pay the cost of hiring the attorney.

Leslie Henges Dolliver is an attorney in the Austin area whose practice is focused on generational family issues. She negotiates mineral leases and also helps people with collaborative family law issues.