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Some Factors Influencing
Mineral Rights Separation

In Land Sales

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Some Factors Influencing Mineral Rights Separation In Land Sales

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Mineral rights are so important in the Southwest that few buyers or sellers enter into a land-sale transaction without considering possible sub-surface values. As a consequence a substantial proportion of land sales transfer only the surface, or the surface and only a fractional share of the mineral rights. An earlier study in Oklahoma¹ showed some separation of surface and sub-surface rights in about 40 percent of land transactions.

A further study of land sales in six Oklahoma counties shows that the extent of separation varies from area to area and with the quality of the land. Three of the counties studied were considered to be "non-oil" counties and three were "oil" counties. In the oil counties a majority of the land sales conveyed only a portion of the mineral rights. In non-oil counties a majority of the sales conveyed all mineral rights with the land.

There is a possibility, of course, that recorded deeds upon which this study was based do not truly represent the extent of separation of mineral rights from the land. Unless the separation was mentioned in the deed itself or was recorded in the index records in the registrar's office within a short time after the deed was recorded, it would not be included in the present data.

The sales price might reflect anticipation of a later transfer of mineral rights either from the seller of the land to the buyer or from the land buyer back to the seller. However, extensive work with county records leads to the belief that delayed mineral transactions are so

Davidson, R. D. and L. A. Parcher. "The Influence of Mineral Rights on Transfers of Farm Real Estate in Oklahoma." Okla. Agri. Exp. Sta. Bul. No. B-278. Feb., 1944.

rare that even if they had all been found for this study, results would not have been materially affected.²

When land sold within the same county was classified according to its quality, the data show that the better land was less subject to separation of surface and sub-surface rights than was the poorer land. Moreover, the apparent value placed on mineral rights—or conversely, the apparent discount made when property rights are divided—varied with the land quality. It appears from the data that the better the land, the greater the discount in price when a portion of the mineral rights is withheld.

MINERAL RIGHTS SEPARATION Relationship to Non-oil Lands

The 1941-45 data on land sales were studied for three counties (Alfalfa, Choctaw, and Jackson) in which prospects for oil discovery were not considered good at that time. That is, in the general opinion of the oil interests, these counties were so lacking in appeal that little activity either in leasing, drilling, or mineral rights transfers was going on. Table I shows the extent of separation and the price paid for land in these non-oil counties.

The data from the three non-oil counties show that 65 percent or more of the land sold conveyed all mineral rights; one percent or less conveyed no mineral rights. At least three-fourths of the land sold transferred more than half the mineral rights.

The price paid for land conveying varying proportions of the mineral rights followed no pattern. In only one of the three counties was the highest price paid when all mineral rights were conveyed. The fact that some land sales conveyed no mineral rights did not mean that those sales were at the lowest figure. The price when half the rights were included ranged from 12 to 42 percent below the price paid for the complete title.

Relationship to Oil Lands

In oil counties, so designated because of continuing activity in mineral exploration, no more than 40 percent of the land sold carried with it all mineral rights as contrasted to non-oil counties in which 65 percent or more carried all mineral rights. Eleven percent or more of the land sold in these oil counties (Grady, Payne, and Pontotoc) was

² Mr. John Howard, the Payne county Clerk, reports that within the past four or five years sellers have begun to transfer complete title with an understanding that a portion of the minerals will be deeded back rather than showing a mineral exception in the warranty deed.

for the surface interest alone (Table II). In non-oil counties no more than one percent of the land sold was for surface alone.

Most sellers of land would be reluctant to part with all their mineral rights where there is oil activity. However, since 35 to 40 percent of the land in such areas did sell with all mineral rights, it is likely that in some cases the tract sold was known to have poor prospects for oil or else the price paid for the land with all minerals was high enough to compensate the seller for his speculative loss.

The difference in price paid for land with all mineral rights and for land with none in the three oil counties ranged from \$10.25 per acre in Payne county to \$32.10 per acre in Grady county. When half or some other fractional part of the mineral rights was included with the

**Table I.—Number of Sales, Acres, and Consideration Paid
For Land With Varying Proportions of
Mineral Rights (1941-45).
(Non-Oil Counties)**

Proportion of minerals transferred (Percent)	Number of sales	Number of acres	Percent dist. of acres	Consideration (Dollars)	Avg. per acre (Dollars)
Alfalfa					
100	33	4970	74	275,150	55.36
50	12	1757	26	68,700	39.10
Total	45	6727	100	343,850	51.11
Choctaw					
100	206	20,629	65	209,393	10.15
63-99	45	5,578	17	59,283	10.63
38-62	54	5,079	16	29,736	5.85
1-37	3	362	1	2,350	6.49
0	4	350	1	3,665	10.47
Total	312	31,998	100	304,427	9.10
Jackson					
100	851	109,755	65	4,201,421	38.28
67-99	108	17,171	10	418,631	24.38
34-66	186	26,789	16	897,651	33.51
1-33	85	13,577	8	560,360	41.27
0	10	1,364	1	35,450	25.99
Total	1240	168,656	100	6,113,513	36.25
Three County Total					
100	1090	135,354	65	-----	----
About 75*	153	22,749	11	-----	----
About 50*	252	33,625	16	-----	----
About 25*	88	13,939	7	-----	----
0	14	1,714	1	-----	----
Total	1597	207,381	100	-----	----

* More often than not minerals are withheld in some multiple of one-fourth. Therefore the "about 75," for example, probably is representative of most of the sales in the 63-99 grouping.

land, the data indicate that the discount was not in the same proportion as when none of the minerals followed the land.

In Payne county, 44 cents per acre more was paid for land conveying only half the mineral rights than was paid for land with all rights. This collective situation may have been one where prospects for oil discovery were such that the buyers insisted on a share of the mineral rights, but the sellers refused to convey all. Here the bargaining may have been over the share of the minerals as much as over the price for the land. If prospects for oil discovery are good, the seller may insist on a higher price for the mineral rights and the buyer be willing to give it.

**Table II.—Number of Sales, Acres, and Consideration Paid
For Land With Varying Proportions of
Mineral Rights (1941-45).
(Oil Counties)**

Proportion of minerals transferred (Percent)	Number of sales	Number of acres	Percent dist. of acres	Consideration (Dollars)	Avg. per acre (Dollars)
Grady					
100	486	56,544	40	2,645,030	46.78
67-99	176	26,143	18	829,131	31.72
34-66	299	37,929	27	1,129,837	29.79
1-33	42	5,453	4	127,531	23.39
0	138	14,919	11	218,996	14.68
Total	1141	140,988	100	4,950,525	35.11
Payne					
100	233	23,651	35	614,940	26.00
51-99	47	5,409	8	126,182	23.33
50	197	21,459	31	567,474	26.44
1-49	39	4,150	6	86,465	20.83
0	125	13,572	20	13,745	15.75
Total	641	68,241	100	1,608,808	23.58
Pontotoc					
100	23	3,081	38	71,703	23.27
75	3	440	5	4,250	9.66
50	30	2,711	34	62,015	22.88
25	3	280	4	3,100	11.07
0	16	1,490	19	14,303	9.60
Total	75	8,002	100	155,371	19.42
Three County Total					
100	742	83,276	38	-----	-----
About 75*	226	31,992	15	-----	-----
About 50*	526	62,099	28	-----	-----
About 25*	84	9,884	5	-----	-----
0	279	29,981	14	-----	-----
Total	1857	217,231	100	-----	-----

* See footnote to Table I.

Summary

To summarize, a comparison of the three non-oil counties with the three oil counties shows land location with regard to oil possibilities influences the amount of separation rather markedly. In the oil counties, about 38 percent of the land sold carried all mineral rights. In the non-oil counties this figure was about 65 percent. In the oil counties, about 14 percent of the land sold with no mineral rights. In the non-oil counties less than one percent fell within this category.

The correlation of price paid and the proportion of mineral rights included with the land was twice as high in the oil counties as in the non-oil counties—.605 as compared to .276. This comparison merely points up the obvious: that in areas where possibilities for oil discovery loom large in the minds of buyers and sellers, the prices paid for land will be influenced more by the mineral values than in non-oil areas.

RELATIONSHIP OF LAND QUALITY, MINERAL RIGHTS SEPARATIONS AND PRICES PAID

Land Quality and Mineral Rights Separation

There were three counties where the volume of data collected was large enough that land sales could be divided into "quality" groups and further divided into groups with varying proportions of minerals transferred, and still have a fair number of sales in each category. Two of these counties, Grady and Payne, are so called oil counties. One, Jackson, is classified here as a non-oil county.

Several things may be noted in Tables III, IV, and V. For example, while there is less separation of mineral rights in the non-oil county, here as in the two oil counties, the least separation of sub-surface rights occurs in the better land. In the case of the oil counties, the better the land the wider is the dollar difference in price paid for all as compared with none of the mineral rights. The non-oil county does not show this same pattern (Table III).

NON OIL LAND

In Jackson county (non-oil), 70 percent of the "good" land sold with all minerals intact. This percentage fell to 63 and 57 for "fair" and "poor," respectively. Table III shows that the price discount was greatest when the buyer received 67 to 99 percent of the minerals; even greater than when he received a half or less so long as some minerals stayed with the land. Only in the fair land group was there a meaningful number of sales of land carrying no mineral rights. Here the dis-

count was \$13.15 per acre or 61 percent of the price paid for land of the same quality with all mineral rights.

In several instances it may be noted that land with a fractional share of mineral rights in the fair and poor groups sold for more than land with all minerals. This raises the question of why a buyer would pay more for a fractional interest in this land than he would pay for a full interest. It has been suggested that in such cases both the buyer and seller are optimistic that oil will be found on the tract. This optimism not only causes the seller to insist on keeping an interest in the minerals, but to demand a high price for the interest he transfers. The buyer's optimism is great enough that he is willing to pay what is asked so long as he obtains a share of the minerals.

A similar process of reasoning may explain why more is paid for a smaller fractional share than for a larger. For example, in the fair quality group, why is less per acre paid for land with 67-99 percent of the minerals than is paid for land with 34-66 percent of the mineral rights? Lack of volume of sales sufficient to give a reliable average

**Table III.—Distribution of Sales and Price Paid for Land of Different Quality with Varying Proportions of the Mineral Rights.
Jackson County 1941-45.**

Pct. of min. trfd. by land quality	No. of sales	Acres sold	Acreage distribution (Percent)	Consideration (Dollars)	Avg. per acre (Dollars)	Dollar difference	Index
Good Land							
100	349	41,747	70	2,068,337	49.54	-----	100
67-99	36	5,212	9	162,550	31.19	-18.35	63
34-66	56	7,539	13	319,415	42.37	-7.17	86
1-33	33	4,660	8	229,060	49.15	-0.39	99
0	1	160	*	10,750	67.19	+18.00	136
Fair Land							
100	449	60,357	63	2,031,931	33.66	-----	100
67-99	66	10,329	11	240,581	23.29	-10.37	69
34-66	110	15,912	17	510,817	32.10	-1.56	95
1-33	47	8,057	8	313,400	38.90	+5.24	116
0	9	1,204	1	24,700	20.51	-13.15	61
Poor Land							
100	53	7,651	57	101,153	13.22	-----	100
67-99	6	1,630	12	15,500	9.51	-3.71	72
34-66	20	3,338	25	67,419	20.20	+6.98	153
1-33	5	860	6	17,900	20.81	+7.59	157
0	0	0	0	0	0	-----	---

* Less than one percent.

NOTE: The exact location of each sale was spotted on soil maps and, with the assistance of soil technicians, the quality of the land determined.

does not seem to be the reason for the discrepancy. The explanation may lie in the reasoning both buyer and seller are said to go through in reaching an agreement. For example:

Mr. A has a farm he is willing to sell to Mr. B. The two get together to bargain and Mr. B discovers that Mr. A insists on keeping some of the mineral rights because the latter hopes (or fears) that some day oil will be found.

Mr. B is not optimistic about finding oil, but he does insist that he wants a complete title and that if he cannot have full title, he will buy only if the price is sharply reduced. Mr. A accepts the lower price offered by Mr. B. While the seller feels that the land is worth more, he consoles himself with the thought that he will never have to berate himself for having sold all the minerals. Mr. B. consoles himself with the thought that he got the land and nearly all the minerals at a bargain.

Table IV.—Distribution of Sales and Price Paid for Land of Different Quality with Varying Proportions of the Mineral Rights. Grady County 1941-45.

Pct. of min. trfd. by land quality	No. of sales	Acres sold	Acreage distribution (Percent)	Consideration (Dollars)	Avg. per acre (Dollars)	Dollar difference	Index
Best Quality							
100	108	12,480	60	1,032,876	82.76	-----	100
67-99	19	2,888	14	157,266	54.45	—28.31	66
34-66	30	3,906	19	212,680	54.45	—28.31	66
1-33	1	120	*	9,000	75.00	— 7.76	91
None	10	1,525	7	48,460	31.78	—50.98	38
Good Quality							
100	149	17,443	51	941,862	54.00	-----	100
67-99	51	7,383	22	300,760	40.74	—13.26	75
34-66	51	7,208	21	283,874	39.38	—14.62	73
1-33	4	634	2	27,750	43.77	—10.23	81
None	14	1,387	4	49,700	35.83	—18.17	66
Fair Quality							
100	146	17,706	34	515,982	29.14	-----	100
67-99	68	10,878	21	285,200	26.22	— 2.92	90
34-66	129	16,561	31	473,341	28.58	— 0.56	98
1-33	20	2,899	5	63,501	21.90	— 7.24	75
None	46	4,545	9	47,720	10.50	—18.64	36
Poor Quality							
100	83	8,915	27	154,310	17.31	-----	100
67-99	38	4,994	15	85,905	17.20	— 0.11	99
34-66	89	10,254	31	159,942	15.60	— 1.71	90
1-33	17	1,800	5	27,280	15.16	— 2.15	88
None	68	7,462	22	73,116	9.80	— 7.51	57

* Less than 1 percent.
See note at bottom of Table III.

OIL LAND

In both Grady and Payne counties, the total acres of land sold showing some division of the mineral rights increases as the quality of the land decreases. In Grady county, 60 percent of the "best" land sold carried the full mineral interest. This figure decreased through good and fair land, and in poor land only 27 percent of the land sold carried the full interest. It probably can be assumed that all or nearly all sales in the 34-66 percent category were for exactly one-half the mineral rights. Assuming that this is true, then slightly over seven percent of the best land sold with less than half of the mineral rights; six percent of the good land; 14 percent of the fair land; and 27 percent of the poor land sold with less than half of the mineral rights.

Tables IV and V show the variations in the degree of mineral separation and the price paid for land of different quality in two oil counties.

In Payne county (Table V), 44 percent of the good land sold with all mineral rights. This figure decreased to 35 percent in the fair land to 28 percent in the poor land. While seven percent of the good land sold with none of the minerals, 32 percent of the poor land fell into this category. The proportion of land sold with less than half the minerals ranged from 12 percent in the good land to 40 percent in the poor land.

SEPARATION AND RELATION TO LOAN SECURITY
AND ABSTRACTING COSTS

Of significance in the extent of separation is the fact that land with only a fractional share of the mineral rights is less desirable as a loan security than land with all mineral rights intact. Many lending agencies are extremely reluctant to make loans on land having less than half the minerals intact. This reluctance means that the poorer land, already undesirable security because of quality, is even less desirable security because a greater proportion has less than half the mineral rights intact. In oil producing counties this tendency is accentuated.

Another factor connected with the separation of mineral rights from the land is that of abstracting costs.³ Davidson and Parcher point out in their bulletin how abstracting and title clearance costs increase with separation of surface and sub-surface rights. It costs as

³ Davidson and Parcher. *Op. Cit.* (See Footnote, page 3)

much to draw an abstract or to clear title on poor land as it does good land, but good land can better stand these costs.

Land Quality and Prices Paid

The difference in price paid for land with varying proportions of the mineral rights fluctuates with the quality. The greatest difference in price paid for land with all the mineral rights and for land with none of the rights is found in the better grades of land.

NON-OIL LAND

While the non-oil county, Jackson, shows few sales being made without some of the minerals, 1,204 acres of surface in the fair quality land were sold at \$13.15 below the average price paid for land with all mineral rights. Otherwise in this county the data show no consistency in higher or lower prices with variations in the amount of minerals included with the surface.

Table V.—Distribution of Sales and Price Paid for Land of Different Quality with Varying Proportions of the Mineral Rights. Payne County 1941-45.

Pct. of min. trfd. by land quality	No. of sales	Acres sold	Acreage distribution (Percent)	Consideration (Dollars)	Avg. per acre (Dollars)	Dollar difference	Index
Good Land							
100	39	3500	44	151,000	43.14	----	100
51-99	9	903	11	37,702	41.75	— 1.39	97
50	27	2640	33	113,260	42.90	— 0.24	99
1-49	5	375	5	14,550	38.80	— 4.34	90
0	7	515	7	13,550	26.31	—17.01	61
Fair Land							
100	160	16954	35	402,860	24.28	----	100
51-99	30	3507	7	77,900	22.21	— 2.07	91
50	141	15714	33	395,804	25.19	+ 0.91	104
1-49	25	2796	6	61,010	21.82	— 2.46	90
0	81	8983	19	145,970	16.25	— 8.03	67
Poor Land							
100	34	3557	28	61,080	17.17	----	100
51-99	8	999	8	10,580	10.59	— 6.58	62
50	29	3105	24	58,410	18.81	+ 1.64	110
1-49	9	979	8	10,905	11.14	— 6.03	65
0	37	4074	32	54,225	13.31	— 3.86	78

See note at bottom of Table III.

The pattern of price variation among the different groups is more sharply defined in the oil counties. For example, only in two out of the 28 fractional mineral rights groupings did land with a fractional share of the minerals sell for more than land with an unencumbered title. In the non-oil county this ratio was four out of the 11 groupings.

OIL LAND

In Grady county, \$51.00 per acre less was paid for the best land with none of the minerals than was paid for unencumbered land of this quality. The difference amounted to \$18.17 per acre less in good land, \$18.64 per acre less in fair land, and \$7.51 per acre less in poor land. The discount for about half the mineral rights ranged from \$0.56 per acre in the fair land group to \$28.31 per acre in the best land group in Grady county.

In Payne county, good land was discounted \$17.01 per acre when all mineral rights were withheld. This figure ranged downward to \$8.03 for fair land, and \$3.86 for poor land. The difference in price paid for land with half as compared with all mineral rights ranged from \$0.24 per acre less in the good land to \$1.64 per acre more in the poor land.

The only explanation that can be offered as to why people pay more for land of comparable quality when half of the minerals are withheld is that possibly the mineral value on many of these tracts is fairly well established. In the bargaining process, the buyer and seller arrived at the half mineral share as adequate protection for both, and the price is based on the productivity of the land plus the anticipated income from half the minerals.

On the basis of the foregoing relationships, it would appear that in some cases, particularly in better quality land, a buyer should carefully investigate the possibilities of buying the surface alone if the discounts shown in Tables IV and V are typical. In Grady county, buyers bought the surface rights of the best quality land at a discount of nearly \$51.00 per acre or 62 percent under the price paid for a complete title. In Payne county the price for the surface alone of good land was \$17.00 per acre, or 39 percent below the price paid for a complete title.

In poor grades of land, on the other hand, the price difference for land with all minerals as compared to the surface alone is not only smaller dollar-wise, but percentage-wise. In Grady county it appears that mineral rights were valued at \$7.51 per acre on the poor land

when all were retained by the seller. In Payne county the minerals apparently were valued at \$3.86 per acre on poor land when all were retained by the seller.

CONCLUSIONS

There are many things the buyer must consider in deciding whether to buy only the surface or the surface and a fractional share of the mineral rights. After he has determined that he actually can buy less than a full title at a substantially lower price, he must then weigh this reduction against:

1. The re-salability of the land. Land with a fractional or no interest in the minerals may be harder to sell because of the prejudice against encumbered titles.

2. The reluctance of lending agencies to lend on land with less than half the mineral rights.

3. The likelihood of the sub-surface owner drilling a well on the land. This is a right retained by the sub-surface owner and it could disrupt farming operations. As a matter of practice, oil operators pay some compensation to the surface owner, but apparently are not legally liable unless they cause undue damage.

4. The loss of income from leasing for oil and gas. This income varies widely from one locality to another. The average annual income from leasing in Western Oklahoma is about 38 cents per acre.⁴ It appears that on the average, to buy mineral rights at any amount higher than \$7.60 per acre in that area is a speculative investment.⁵

5. Abstracting and title clearance costs. The chances are these costs will be higher when the land is next transferred. It will depend upon what the present mineral owner does with his property right. If he sells many fractional shares, abstracting costs will be considerably higher. If he just holds his interest, costs will be little, if any higher.

6. The possibility of minimizing the investment in land. If on the same quality land a person could save even \$10 per acre in land cost on a quarter section farm by buying only a fraction of the minerals, he would lower his investment by \$1600, an amount which might permit him to buy without borrowing or would give him a substantial amount

⁴ L. A. Parcher. "Undeveloped Mineral Rights as a Source of Farm Income in Western Oklahoma." Okla. Agri. Exp. Sta. Bul. No. B-397. Oct. 1949.

⁵ Thirty eight cents capitalized at five percent.

for machinery, livestock, or equipment for more efficient operation of his farm.

Each sale has to be judged on its own merits, weighing one factor against the other. But it would appear wise for one to put aside prejudices he might have against fractional interests and examine the pros and cons from an economic standpoint: Which type of purchase will net the most money in the long run? How much can one afford to speculate in minerals?