



The Influence of  
**MINERAL RIGHTS**  
on Transfers of  
**FARM REAL ESTATE**  
in Oklahoma

By

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## **What's in It**

**“Shall I sell the mineral rights on my land, or hold on to them?”**

**“If I sell, shall I sell all or only part of the subsurface rights?”**

**“When I buy land, shall I buy the mineral rights also?”**

**These questions often confront Oklahoma farmers and landowners, even in areas where there is little or no oil and gas activity. Important points to be considered in answering them are discussed in this bulletin. It is based on experiences of persons who have bought or sold farm land in the state, and on information obtained from real estate dealers, abstractors, and others in close touch with the problem. The conclusions reached apply, of course, only to present conditions under existing Oklahoma laws.**

# The Influence of Mineral Rights on Transfers of Farm Real Estate in Oklahoma

By R. D. DAVIDSON and L. A. PARCHER<sup>1</sup>

Separate property interests in oil and gas rights<sup>2</sup> have become so numerous in some parts of Oklahoma that conveyance of a tract of land under fee-simple title is an exception rather than the rule. To determine how this separation of interests affects the buying and selling of land for agricultural purposes in this state, the Experiment Station in cooperation with the Bureau of Agricultural Economics of the United States Department of Agriculture undertook a study of land transfers in eight typical counties.<sup>3</sup> This bulletin reports results of that study. The conclusions reached are believed to be valid under existing Oklahoma laws and conditions. They might, of course, be altered in case of changes in the legal rules governing land tenure or of major shifts in the relation of agriculture to the petroleum industry in the state.

While it is often advisable and profitable to sell mineral rights, or to buy only the surface rights,<sup>4</sup> there are certain disadvantages that should be given careful consideration. This study shows that separate ownership of fractional interests in the mineral rights has resulted in the following troublesome situations:

1. It has distributed property rights in the land among individuals and groups whose specific interests in the land differ greatly. This has led to serious conflicts of interests in the use of the land's surface and to difficulties in leasing the land for oil and gas.
2. It has impaired or destroyed the credit value of the land.
3. It has led to troublesome title clearance and abstracting problems.

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<sup>1</sup> Respectively, Bureau of Agricultural Economics, United States Department of Agriculture, and Department of Agricultural Economics, Oklahoma Agricultural Experiment Station.

<sup>2</sup> These counties were Texas, Alfalfa, Jackson, Grady, Payne, Pontotoc, Craig, and Choctaw. It is believed that these counties are fairly representative of the mineral deed situation in the state as a whole, with the exception of the east central or mountain area.

<sup>3</sup> Under Oklahoma law, the landowner's right to use the land for the purpose of producing oil and gas is a valuable property right which may be assigned or subdivided and transferred on a permanent basis under mineral deed. For a detailed discussion, see "Tenure Arrangements in Oklahoma Oil Fields," by R. D. Davidson and Kenneth Wernimont, *Journal of Land and Public Utility Economics*, February, 1943, and the references cited.

<sup>4</sup> For a discussion of the advantages of buying only the surface rights, see Loris A. Parcher, "Why Not Buy Just the Surface?" *Current Farm Economics (Oklahoma)*, 14:146-151 (October, 1941). The principal advantage cited is removal of the speculative element from land values.

In addition to the problems involved in separate ownership, the study also included collection of data on the prices paid for mineral rights and their relation to the surface value of the land.

### **Legal Aspects of Separate Ownership of Surface and Mineral Rights**

There are several different methods by which a landowner in Oklahoma may separate interests in the oil and gas from other interests included in the fee simple estate:

- (1) He may sell, under mineral deed, all or any fractional part of his interest in the oil and gas, along with a permanent right to use as much of the land's surface as is needed in producing the oil and gas.
- (2) He may convey, through a royalty assignment, the right to receive royalty payments from any oil or gas produced, under either an existing or subsequent lease, without a right to participate in the leasing of the land.
- (3) He may convey, by means of an oil and gas lease the right to explore for oil and gas for a specified period of years and to continue production operations as long as any oil or gas that is found can be produced in paying quantity.
- (4) Or, he may sell the land subject to exception or reservation of all or some fractional part of his interest in the oil and gas.

Both mineral deed and oil and gas leases convey rights of ingress and egress in the lands' surface, or the right to come and go and to use as much of the lands' surface as is reasonably necessary in drilling for and producing oil and gas. Unless the conveyance provides otherwise, this includes the right to drill anywhere on the land, and to construct slush pits, power houses, storage tanks, and dwellings for personnel employed on the lease. It includes the right to run pipe lines, power lines and pull rods across the land, and the right to access at all times by means of foot paths and lease roads to points of oil and gas development or production operations. By inference, unless they contain limiting provisions, mineral deeds or leases transfer the right to do any and all things necessary in exploring for and producing oil and gas.

Mineral deeds and oil and gas leases differ principally with reference to their duration and to the manner in which the proceeds from oil and gas production are divided. Mineral

deeds convey forever all or an undivided fractional share of all the rights the landowner has in the oil and gas in his land.<sup>5</sup> These rights include both the right to drill for oil and gas and to produce any that is found and the right to lease the land for purposes of producing oil and gas and to receive rentals and bonuses on the lease and the royalties on any oil and gas produced. Oil and gas leases ordinarily convey only the right to explore for a definite number of years, usually five, and to produce any oil and gas discovered. Continuation of the right to drill from year to year during the period of the lease is conditioned upon payment of delay rental unless oil or gas is found. In addition, payment of a bonus to the landowner or to owners of mineral deeds may be involved when the lease is negotiated. If no oil or gas is found during the period of the lease, the lease expires automatically, and the right to drill on the land goes back to the landowner or to owners of mineral deeds. If oil or gas is found and production is started during the period of the lease, the rights conveyed by the lease continue in effect as long as oil or gas is produced. When the oil or gas production is discontinued and the lease is abandoned all the oil and gas rights revert to the landowner or to owners of mineral deeds.

### **Difficulties Arising from Separate Ownership**

#### **CONFLICTS IN SURFACE USES**

The farmer who buys only the surface interests in the land has nothing to gain from oil and gas production. If oil or gas is found he must relinquish his surface uses of the land to the owner of the mineral interest or to the mineral lessee. His fields may be cut up and his crop rotation disturbed for the duration of oil and gas production operations. Loss of the use of a considerable portion of the land's surface and the delays and inconveniences associated with farming around plots and rights-of-way used in oil and gas production may easily increase his farm operating costs to such an extent that he can no longer make a profit from farming the land. His only compensation would be the value of one year's crop, to which the courts have held that farmers on land affected by drilling operations are entitled.

The farmer who buys land subject only to an oil and gas lease relinquishes to the mineral lessee his surface uses of the land needed in oil and gas production. However, payment for one year's crop will compensate for any temporary loss on his farming enterprise, and the royalties he will receive are likely

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<sup>5</sup> Mineral deeds for a definite term of years are sometimes used. These term deeds usually convey the mineral right for periods of 10 to 25 years.

to dwarf any profits which might have accrued from subsequent farming operations.

Between the extremes of the fee-simple landowner and the owner of only surface interests is the owner of the land on which only a portion of the mineral interests have been sold. He is entitled to participate in the returns from oil and gas leases and in royalties from oil and gas production. If the land is under lease for oil and gas, he is ordinarily entitled to receive a prorata share of the rental payments. If the land is not under oil and gas lease, he is usually entitled to participate in the negotiation of oil and gas leases and to receive a prorata share of bonuses and delay rentals in addition to his share of royalties from any oil or gas produced. Any amounts he receives from bonuses, delay rentals or royalties will usually compensate for any losses he may incur on his farming operations.

Oil and gas producers are expected to carry on only necessary operations and to perform them with reasonable care; but no very helpful generalizations can be made as to what the courts will regard as necessary and reasonable. This is determined very largely by circumstances and local customs. If the operations are not customary in a particular locality or under similar circumstances elsewhere, or are not carried on with usual care, thus resulting in greater than normal injury or inconvenience to the surface operator or landowner, it is not unlikely that the courts will award damages.

The courts have rather uniformly held that oil and gas producers are negligent and liable for damages if they permit injurious salt water and oil refuse to escape.<sup>6</sup> Rules for fixing the amount of compensation to be paid to the surface operator or landowner vary, of course, with the circumstances. In general, in the event of permanent damage to the land the injured party receives the difference between the market value of the land before it was damaged and its value immediately afterward. Temporary damages to land are frequently based on the loss in use or rental value for the period of injury. Damage to crops may be determined on the basis of testimony relative to probable yield and market value of the crop (at the nearest market) at maturity, less the remaining cost of cultivation and the cost of marketing the product. Damages for injury to livestock usually amount to their market value if they die. If they do not die, damages usually amount to the difference between what their owner had a right to expect to receive for them and the amount he actually received or could expect to receive for them after the injury.

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<sup>6</sup> See Davidson and Wernimont. *Op. cit.*, and references cited therein.

In order to avoid lawsuits and the delays that might result from disputes with farm operators, some of the major oil and gas producing companies take agricultural leases on the land. Others require a written statement from the farm operator to the effect that he agrees to the provisions of the oil and gas lease and that his claims have been relinquished to the owners of mineral deeds. Some compensation to farm operators and to owners of just surface interests is usually involved in such cases. The practices merely reduce or defer the possibilities for dispute, however, without removing the basic conflicts of interests.

#### LOSS OF INCOME FROM OIL AND GAS LEASES

One of the problems that often arises for the surface owner who owns only a portion of the mineral rights is that of leasing the land for oil and gas. The importance of leasing, even in a non-oil county like Alfalfa, is shown by the fact that in 1940 more than one-fourth of the farmland in that county was leased for oil and gas.

Usually all of the owners of fractional interests in a tract of land under mineral deed are co-owners and are entitled to participate in negotiating the lease and to share in the rentals and bonuses. Any one of the co-owners can delay or prevent the completion of a lease. For instance, suppose that Mr. Jones, a farmer, sells half of the mineral rights under his farm to Mr. Brown, a speculator. Mr. Brown then sells a small fraction to Mr. Smith, another fraction to Mr. Doe, and perhaps another fraction to Mr. Burns who lives in the East. The Z Oil Company comes along and tells Mr. Jones that they want to lease his land and are willing to pay a nice bonus for a lease. Mr. Jones agrees to give the lease but the other co-owners of the mineral rights must also sign the lease and Mr. Burns cannot be located immediately. He is found finally; but by that time the oil boom is over and the oil company does not want the lease.

Or it might happen that all co-owners can be found but that one refuses to sign unless the others will agree to give him more than his share of the bonus or because he thinks the bonus paid by the company should be larger. If he refuses to sign, the lease can be granted without his signature through a court action, but he can cause so much delay that the company may drop negotiations for a lease rather than go to the trouble and expense involved.

The loss of income in such cases is often considerable.<sup>7</sup>

#### LOSS OF CREDIT VALUE

Separate ownership of the mineral rights in a tract of land usually makes that tract undesirable as security for a loan. There is good reason for caution on the part of lenders in such cases. The mineral deed holder or oil and gas lessee has prior rights to the use of as much of the surface of the land as is necessary to develop his interest. Therefore, if oil or gas is discovered, conflicts in surface use (See p. 6) may greatly impair the ability of the operator to pay on a loan or to pay rent.

Interviews with real estate dealers, officials of credit agencies, and land buyers and sellers indicate that it is difficult to place a mortgage on a farm unless at least half the mineral rights go with the surface.<sup>8</sup> The opinion is that half the mineral rights usually is adequate to protect a farm owner against loss on the use or rental value of land from oil and gas operations.

#### TITLE AND ABSTRACTING PROBLEMS

Separate ownership of mineral rights frequently results in title clearance problems and increased abstracting costs. These in turn can serve as impediments to land transfers and prevent desirable readjustments in land ownership patterns.

*Title Clearance.*—The fact that there may be a large number of individuals owning an interest in the same tract poses a problem in title clearance which is likely to grow in direct proportion to the number of owners. Frequently in title clearance cases where there are a great number of outstanding interests in the land, one or several of the co-owners cannot be found. Mineral deeds pass to heirs in the same manner as other types of real estate, which may result in there being many co-owners of a small share of the minerals. In such cases it may be impossible to find the owners. Frequently, the only solution to the case is a suit to quiet title, which necessarily entails costs and delays.

Another title problem that occasionally arises out of the

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<sup>7</sup> A common price for an oil and gas lease in the form of delay rentals is a dollar an acre per year, but five dollars or more per acre is not uncommon. In addition to this delay rental, the landowner frequently gets a bonus for signing the lease, particularly if the prospects for discovery are good and there is competition among lease buyers. This bonus often amounts to several dollars per acre and may amount to several hundred dollars per acre. The land may be leased several times, of course, without wells being drilled or production found:

<sup>8</sup> The Oklahoma School Land Commission is prohibited by law from making loans on land where the applicant does not own at least fifty (50%) percent of the oil, gas, or other mineral rights. (Chapter 28, Sec. 3 (1), Session Laws, 1936-37.)



sale of mineral rights is that the obscure language of the deed leaves doubt as to what proportion of the mineral rights it was meant to transfer. Such cases frequently give rise to long and expensive court proceedings, and the seller of the fractional part, instead of making a little money on the sale, may find that he is obliged to spend more in clearing up the mistake than he originally received from the sale of some of his mineral interests.

**ABSTRACTING COSTS.**—In addition to title difficulties, abstracting costs increase with an increase in the number of instruments recorded on any particular tract. Each instrument so recorded is either copied or briefed in the abstract, with the result that abstracting costs are bound to increase as the number of transfers of mineral deeds increases.<sup>9</sup> Therefore, if there is extensive sub-division of the mineral interests, the costs of drawing up an abstract might be very high. Moreover, the cost of examining the abstract is likely to increase as the size of the abstract increases.

For purposes of comparison, a Stillwater abstractor estimated the cost of drawing up abstracts on three separate tracts in Payne County. One tract of 160 acres that had the mineral rights intact could be abstracted for about \$75; but costs on this tract were about double what they would have been had not the tract been involved in litigation at one time. Another tract of 80 acres having 123 mineral transactions could be abstracted for about \$175; and a third tract of 160 acres with 109 mineral transactions could be abstracted for about \$250. The abstractor stated that the higher costs on the latter two tracts were directly attributable to the mineral transactions.

Abstracting costs sometimes amount to more than the value of the land for agricultural purposes. In one instance cited by a Pottawatomie County abstractor, an abstract on an 80-acre farm cost \$1,800 because of the minute sub-division of the mineral interests. This figure undoubtedly is exceptional and such an amount would not ordinarily be paid unless the land had value in addition to its agricultural value. However, several abstractors stated that they had drawn abstracts for land, where the oil value was no longer a factor, which cost \$400 to \$600. It is reported that such a charge is not unusual in areas of intensive speculation in the mineral rights.

An abstractor in Woodward County, a county with no oil

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<sup>9</sup> It is recognized that in many instances the abstract of title is kept fairly well up to date and that only a few additional entries have to be made each time the land changes hands.

and gas development, stated that he had abstracted the title on a particular farm four different times over a period of years. The first time, the abstract cost \$8.75, the next, \$30.00, the third, \$60.00 and the fourth \$130.00. When the landowner protested the charge, the abstractor explained to him that subdivision and re-subdivision of a portion of the mineral rights sold years ago caused the charge to increase in this fashion and that so long as these mineral interests were outstanding and continued to change hands the abstracting costs would continue to increase.

An Alfalfa County abstractor stated that if a landowner gets enough for the mineral rights he can risk its subsequent splitting into small shares. But the landowner who sells a portion of the minerals for a low price sometimes finds when he wants to sell his farm that he has lost on the deal because the increase in abstracting costs amounts to more than was realized from the sale of the mineral rights.

A lawyer, practicing in an oil area, stated that nearly all abstracts examined by him had a flaw in the chain of title, because of the transfer and re-transfer of property rights in connection with oil development. He stated that, in all likelihood, many of the flaws would never be of any consequence but that they were flaws according to law and that court action would be necessary to perfect the titles.

Such difficulties of clearing title and increased abstracting costs inevitably impede land transfers in many instances. If the value of the land is low, it will not justify an expensive abstract nor much tracing of co-owners to clear the title. Instances have been cited by real estate men of sales of land not being culminated when the owner found out the cost of furnishing an abstract. Prospective buyers hesitate to invest in land if there is a chance that some unknown person may later come in and claim an interest in the property. Suits to quiet title may not be justified from a cost standpoint on low-valued land—nor, indeed, on high-valued land if the court action is an expensive proceeding.

### Extent of Separate Ownership

Data on all bona fide land sales in the eight counties studied<sup>10</sup> show that there is considerable separate ownership of mineral interests in land in all parts of the State, regardless of the distance from actual oil development. In 40 percent of the sales, all or part of the mineral rights were reserved by the seller or had been previously conveyed to a third party.

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<sup>10</sup> See footnote 3, page 3. The eight counties are also listed in Table 1.

The proportion of sales with mineral reservations ranged from 72 percent in Pontotoc County to 15 percent in Craig County.

In Pottawatomie County, it was estimated that there are 69,000 separate holdings of mineral interests.<sup>11</sup> Glassmire reports that there are more than 3,000 owners of producing royalty in the Seminole field alone with as many as 600 persons sharing the royalties from a single lease.<sup>12</sup>

County deed records on four quarter-section farms located near four different oil fields in Pottawatomie County showed an average of 163 buyers of mineral rights on each tract. The number of transfers of property rights in the chain of title ranged from 65 on the lowest to 320 on the highest. The farm with the greatest number of mineral right transfers had only 24 transactions involving real property rights in the 25 years preceding oil discovery in the area. In the 14 years following discovery, 296 transfers of property rights, all in the subsurface, were recorded for the farm.

In Payne County, there has been an average of three mineral transactions for every farm in the county. The distribution by political townships ranges from an average of 0.5 to 10.2 mineral deeds for each farm in the township. One township of 50 sections has a total of 2,260 mineral deeds recorded, and only three sections in this township have not had at least one mineral transfer at some time. In the county as a whole, only 224 sections or 14 percent of all sections never have had a mineral deed recorded. This is not meant to imply, however, that only 14 percent of the land in the county is free of encumbrances of this kind because the encumbrances may cover only one or two farms in each section.

In Alfalfa County, where there is no oil development, a random sample of 438 sections was checked for mineral conveyances. On 209 of those sections, 1,486 mineral deeds had been recorded, indicating that about half the sections in the county have one or more encumbrances in the form of mineral deeds.

In some areas there is little separate ownership of mineral rights because the oil and gas fields developed before mineral deeds became common, or because geological formations are particularly unfavorable to the accumulation of oil and gas deposits. Separate ownership of mineral interests tends to

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<sup>11</sup> Estimate made by Pottawatomie County abstractors. Their estimate was based on the number of books recording mineral deeds. There are 257 books of "Miscellaneous Records" with over 600 pages in each book. It was estimated that 90 percent of the recordings in these books were for mineral deeds, but about 50 percent of the recordings represented resales of the same interest. It is likely that one individual will own a number of separate mineral deeds.

<sup>12</sup> Glassmire, Samuel J., *Oil and Gas Leases and Royalties*, Thomas Lord Book Company, 2nd., 1938, pp. 312.

be concentrated in areas that have been affected by extensive wildcat activity or oil development booms. However, development or production in one oil sand does not preclude developments in the other sands. Nor do unfavorable geological reports or even the drilling of dry holes always condemn the land for purposes of oil and gas production. Apparently every landowner feels that there is oil or gas on his property, and landbuyers frequently share this optimism. It is probable that in most land transfers in the State consideration is given by the buyer, the seller, or both, to present or prospective values of mineral interests.

### Price Paid for Mineral Rights

Prices paid for mineral rights vary widely. In areas where chances for oil discovery are relatively small, 25 to 50 cents per royalty acre is a common price. The price ranges upward, however, to \$1,000 or more per royalty acre in localities where there is oil production or where prospects for discovery are thought to be good.

Two questions regarding the value of mineral rights were asked of 600 land buyers in 1941 and 1942. The first was, "How much do you think all mineral rights on this property are worth?" The second was, "What value did you place on the share of mineral rights transferred?"<sup>13</sup> Answers to the first question averaged \$4.95 per acre on 74,631 acres of land, ranging from \$15.33 per acre in Payne County to \$2.53 in Craig County. Answers to the second question averaged \$1.58 per acre and ranged from \$5.16 in Payne County to only 26 cents per acre in Craig County.<sup>14</sup>

Most buyers admitted placing a value on the minerals they received. It appears that if the land were leased for minerals and therefore was yielding a return, the value placed on the mineral rights was higher than if there were only a hope that royalties could be sold or the land leased later on.

The data show that in the eight counties the land buyers attributed an average of 8.5 percent of the entire purchase price to the value of mineral rights. In Payne County, 19.2 percent of the purchase price was attributed to mineral rights; while in Alfalfa County land buyers admitted attributing only 1.0 percent of the purchase price of the land to mineral rights.

More than 14 percent of all buyers reporting said that the

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<sup>13</sup> There is a market for mineral rights in most sections of the State and many individuals make a business of buying and selling these rights. Such markets give landowners a basis for evaluating the mineral rights on their own land.

<sup>14</sup> The smaller amounts given in the answers to the second question are accounted for by the fact that in many land sales only fractional interests in the mineral rights are transferred to the buyer.

mineral rights under their land were worth at least 75 percent of the price paid for the land. About 4 percent of the buyers believed the minerals to be worth all the land cost them, and about 34.9 percent reported that they considered the mineral rights valueless.

#### **The Influence of Mineral Rights on Land Prices**

From the above it appears that the hope, or fear, of oil discovery influences land owners and land buyers in all parts of the State in setting a price on land and in stipulating the proportion of the mineral rights to be transferred. As one old-time "wild catter" said in an interview, "Every landowner in Oklahoma thinks he's got oil on his place, regardless of what test wells show." Information obtained on questionnaires to land buyers support the belief that most land buyers also evaluate the mineral rights before they buy. Fewer than 2 percent of the buyers reported that the mineral value was not even considered.

Moreover, real estate dealers reported in interviews that some landowners will not sell their land, except at an exorbitant price, unless they are allowed to retain a portion of the mineral rights. They also reported that some prospective buyers will not even consider a place unless they can get all the mineral rights. The proportion of the mineral rights to be transferred is frequently a bone of contention between buyer and seller, and the sale is concluded only after much bargaining over this point. However, there are those who are eager to buy just the surface because of the relatively low price for which it may be obtained.

Data on 2,148 land sales involving 290,401 acres show that nearly three times as much per acre was paid for land with all the mineral rights as was paid for land with none of the minerals. When half the mineral rights were included in the sale, the price was about three-fourths as much as for the unencumbered land. (Table I. Price differences between land with none of the minerals, with half, or with all minerals varied from county to county, but in all counties considerable less was paid for land when none of the mineral rights were obtained.

In two of the counties, Pontotoc and Craig, a higher average price per acre was paid when only half the mineral rights were included than when all were included in the transfer. It has been suggested that retention of some portion of the oil and gas rights by the seller indicates that he believes the mineral rights are of considerable value and therefore is inclined to ask a somewhat higher price for the land. In Craig

**TABLE I.—Prices Paid for Farm Land When Varying Interests in The Mineral Rights Were Conveyed; Eight Counties in Oklahoma, 1941 and 1942.\***

County	Number of Sales	Acres	Average Size Tract (Acres)	Total Consideration (Dollars)	Price per Acre (Dollars)	Assessed Valuation per Acre** (Dollars)
<b>All Mineral Rights Conveyed</b>						
Texas	261	61,989	238	822,571	13.27	6.89
Jackson	146	21,017	144	618,094	29.41	10.77
Alfalfa	174	23,578	136	1,242,845	52.71	18.20
Grady	194	23,412	121	830,940	35.49	13.94
Payne	90	10,416	116	274,966	26.40	13.74
Pontotoc	97	14,120	146	188,143	13.32	9.23
Craig	233	21,472	92	416,776	19.41	13.63
Choctaw	227	18,732	83	182,448	9.74	7.26
<b>Total</b>	<b>1,422</b>	<b>194,736</b>	<b>137</b>	<b>4,576,783</b>	<b>23.50</b>	<b>10.96</b>
<b>Half the Mineral Rights Conveyed</b>						
Texas	59	15,875	269	174,000	10.96	7.57
Jackson	45	5,989	133	143,700	23.99	9.16
Alfalfa	24	3,275	136	116,389	35.54	13.16
Grady	80	9,272	116	218,635	23.58	11.32
Payne	61	7,188	118	180,629	25.13	12.40
Pontotoc	100	10,822	108	185,280	17.12	9.13
Craig	25	3,107	124	65,749	21.16	17.01
Choctaw	63	6,898	109	64,655	9.37	7.76
<b>Total</b>	<b>457</b>	<b>62,426</b>	<b>137</b>	<b>1,149,037</b>	<b>18.41</b>	<b>10.03</b>
<b>No Mineral Rights Conveyed</b>						
Texas	10	11,380	114	54,900	4.82	4.19
Jackson	1	88	88	300	3.41	6.09
Alfalfa	1	160	160	750	4.69	4.50
Grady	72	6,165	86	63,813	10.35	9.13
Payne	44	4,429	101	52,640	11.89	9.10
Pontotoc	136	10,586	78	111,224	10.51	8.83
Craig	1	71	71	420	5.92	8.00
Choctaw	4	360	90	2,000	5.56	4.70
<b>Total</b>	<b>269</b>	<b>33,239</b>	<b>124</b>	<b>286,047</b>	<b>8.61</b>	<b>7.05</b>

\* Based on those sales of land which transferred all, exactly half, or none of the mineral rights. There were, of course, many land sales which transferred other fractional shares of the mineral rights.

\*\* Taken from ownership and assessed valuation maps prepared by the Oklahoma Agricultural Experiment Station, the Oklahoma Tax Commission, and the Works Progress Administration from county records in 1937.

County, coal is the principal known mineral and the extent of the coal deposits is pretty well known. If all mineral rights are transferred under such circumstances, it probably means that coal in paying quantities is not present and that the land is bought purely for its agricultural value. If half the mineral rights are retained, it is likely that both parties to the transaction know approximately what the deposits are likely to yield and the land is bought for the mineral value in addition to its use for agricultural purposes.

Some of the price difference indicated by Table I is probably due to differences in the quality of the land surface that was conveyed. Real estate dealers report that in general, except for small tracts being added to other holdings, only pasture and other lower grades of land are likely to sell without a substantial portion of the mineral rights. This statement appears to be confirmed by differences in the assessed values of the tracts, which by Oklahoma law apply only to the value of the surface rights.<sup>15</sup> The assessed value averaged considerably lower for tracts that were conveyed with none of the mineral rights than for tracts that were sold with half or more of the mineral rights (See Table I).

The indications are that buyers of the better quality land are more likely to want the land they buy to be unencumbered, or that they at least want a substantial portion of the mineral rights so they will be protected in case of oil discovery. Apparently they are willing to pay the price to receive this protection. Moreover, in buying the better quality land, which usually is higher in price, credit is more likely to be needed and lenders ordinarily require that the mortgagor have at least half the mineral rights.

In summary, then, it appears that part of the difference in price paid for land when varying proportion of the mineral rights are received must be attributed to variations in the quality of the land itself. However, much the difference in price seems to be due to the proportion of the mineral rights obtained by the purchaser, for the price differential between the various classes is much greater than the differences in quality indicated by the assessed values.

### Conclusions

This study has indicated some of the complications that may result when the mineral rights on a piece of land are separated from the fee-simple estate, and which need to be

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<sup>15</sup> Presumably, the real or speculative value of minerals (except coal) is not considered in arriving at the assessed value of land. "The statute in express language exempts from taxation on an ad valorem basis the mineral contents in land by providing that the gross production tax is to be substituted for all taxation for royalty interests in the land. It then logically follows that, if the royalty interest or mineral rights cannot be taxed when owned by a person or persons not owning the surface, it would be an anomaly to tax these undeveloped minerals when they constitute a part of the freehold or remain the property of the owner of the surface." (See "Do Tax Titles Convey Mineral Rights in Oklahoma," by Kenneth Wernimont; *The Journal*, Oklahoma Bar Association, Dec. 27, 1941, p. 1816 and sources cited therein).

Therefore, if we assume that the tax assessments are not grossly inequitable, assessed valuations may be taken as a rough index of the quality of the land for agricultural uses. This would not be true of lands that contain valuable coal deposits, however, because coal deposits are subject to separate ad valorem assessment if rights in the coal have been separated from surface interests in the land.

considered when buying farm real estate under existing conditions in Oklahoma.

When surface rights alone are bought, the purchaser risks having his property damaged, without compensation, in case oil or gas is discovered. In some areas this risk may be very small. If it is taken, the purchaser needs to determine what rights have been granted to the owners of the mineral interests, in addition to being assured that the title to the surface is good. Mineral deeds designed to convey oil and gas necessarily convey the right to use the surface in drilling for oil and gas and producing any that is found. The mere possibility that oil or gas producers will move in and interfere with his farming operations reduces the credit value of his land. Moreover, speculation involving the subdivision and sale of the mineral rights over which the surface owner has no control is likely to increase his abstracting costs and result in title clearance problems that will add to the cost of providing a clear title in the event he should wish to sell his interests in the surface.

Ownership of a portion of the mineral rights in addition to the surface rights provides some protection against the encroachment of oil and gas production. The owner has the benefit of a lower investment in land. At the same time, his investment in the farm is protected to the extent that he is entitled to participate in returns from oil or gas production. Even if oil or gas is not discovered, his share of the returns from oil and gas leases likely will offset or contribute materially toward the cost of keeping the abstract up-to-date and removing clouds on the title that might result from speculation in the mineral rights owned by other persons. If he has as much as 50 percent of the mineral rights, the credit value of his land probable is not appreciably reduced.

When a farmer buys high valued mineral rights along with surface interests in land, a large part of his investment is pure speculation in oil and gas development. Similarly, when a farmer owns mineral rights that can be sold at a high price he is speculating in oil and gas development if he fails to dispose of portions of his mineral interests that are not required to protect his investment in farming operations. Some investment in the mineral rights is justified as a protection against loss in the use or sales value of the land for agricultural purposes that would result from oil or gas development, but the alternatives are worthy of careful consideration. Investment in mineral rights may easily increase the total investment in land to the point where it cannot be carried by farming operations.