



HOW TO PROFIT FROM YOUR MINERAL RIGHTS

Mineral rights can be a very valuable – and profitable – property interest if you know how to utilize them. Mineral rights can refer to oil and gas, but can include other valuable substances like gold, silver, coal, and even sand, gravel and clays. For the purposes of this paper, we are going to focus on oil and gas. There are many ways to acquire mineral rights including by purchasing property or through inheritance from a friend or family member. Private ownership of minerals creates an opportunity for wealth creation and preservation that can help you and your family reach your financial goals.

Top Tips to Profit from your Minerals

1. **Know what you own.** If possible, make sure that you know your mineral rights holdings.
2. **Be active.** Do not ignore documents sent to you by a company or the State Oil & Gas Conservation Commission.
3. **Educate yourself.** The more you know about the process the better your results will be.
4. **Negotiate.** The company offer is not set in stone. If something is important to you, ask for it.
5. **Know who you are dealing with.** Do some checking with other mineral owners or local attorneys.
6. **Protect your interest.** No matter how nice and trustworthy the company person looks, their job is to make money for their company.

In Colorado and Wyoming, landowners can “split” the surface and the mineral pieces of a property. Lawyers refer to these separate pieces as “estates.” What this means for a mineral rights owner is that the individual that is farming or ranching on the ground may or may not own the minerals underneath the ground. Since mineral ownership can pass to different individuals as part of inheritance, people can own mineral rights in a state or county that they have never visited.

If you are in this situation and are contacted by a company offering to buy or lease your mineral rights, it might be easy to dismiss the call or letter as a mistake. However, the law typically requires oil and gas companies to research the title history and contact mineral owners prior to developing the minerals under a piece of property. Companies that buy mineral rights also usually review the title history prior to making an offer. If you are contacted by one of these companies, it is important to check your own records and request the title documents or information that led them to you. If you find that you own the minerals, congratulations! Now you get to decide what to do next.

Your options

If you have mineral rights, you have several options available to help you profit from them. These include: 1) leasing the minerals; 2) selling all or a portion of the minerals; and 3) participating in development of the minerals.

Option 1: The Oil & Gas Lease

If you own mineral rights, oil and gas companies will contact you with an offer to lease your minerals if they are planning to develop the area. You can also approach oil and gas companies with an offer to lease your minerals under certain circumstances. If you decide to lease your minerals, remember that

you will retain ownership over the minerals. The lease allows the company to develop your minerals in return for compensation. At the end of the lease term, the company leaves, and you are free to lease the minerals to a different company.

An oil and gas lease is divided into two terms – the primary term and the secondary term. The primary term refers to the initial period in which the company is required to drill a well or otherwise develop the property. If the company does not drill or develop the property during this period, they lose their rights to develop the property and you are free to lease the property to another company. The company should compensate you for the exclusive right to develop the property with an upfront cash bonus payment. Once the well is drilled and begins producing oil and gas, the lease enters the secondary term which usually extends for “as long as oil and gas can be commercially produced” or some similar language. During the secondary term, the oil and gas company compensates the mineral owner by paying a royalty (usually expressed in a percentage) on the volume of oil and gas produced by the well. For example, an oil and gas lease could offer a bonus of \$5,000.00 per acre for a five-year primary term, with a 15% royalty once the well(s) start to produce oil and gas. The actual size of the bonus payment and your royalty check will depend on the number of mineral acres you own and the size of the drilling unit that is formed by the oil and gas company. Also remember that nothing is set in stone. Decide what is important to you and don’t be afraid to negotiate with the oil and gas company.

INTERNET RESOURCES FOR MINERAL OWNERS

MINERALOWNERSFORUM.COM – A GREAT RESOURCE SITE FOR MINERAL OWNERS

[COLORADO OIL AND GAS CONSERVATION COMMISSION](#) – PUBLIC RECORDS AND REGULATORY FILINGS FOR COLORADO

[WYOMING OIL AND GAS CONSERVATION COMMISSION](#) – PUBLIC RECORDS AND REGULATORY FILINGS FOR WYOMING

The oil and gas lease can contain other terms and conditions that could affect your royalty, bonus payments or even rights under the lease. If this is your first time leasing minerals, or if you see things in the lease that you don’t understand, contact an attorney specializing in oil and gas to explain the terms to you. It should not cost much, and this is a case where spending a few dollars up front can save lots of stress and frustration down the road.

Option 2: Selling all or a portion of your minerals

You also have the right to sell all or a portion of your mineral rights to a prospective buyer. There are companies that specialize in purchasing mineral rights from individuals. The most important thing to remember with a mineral sale is that you are not retaining any ownership in the portion you sell. Once you finalize the sale, you are no longer the mineral owner and the purchasing company or individual will have all the rights of a mineral owner, including the right to a lease bonus (if the property is not already leased) and any royalties that may be paid out from the property. That said, there are many circumstances where it may make sense to sell all or a portion of your mineral rights.

Since you are selling – rather than leasing – your mineral rights, you should take the time to research and learn about the company or individual you will be selling the mineral rights to. Check with friends and neighbors to see if they have had any experience with the company. An internet search can be helpful but look for sites that specialize in mineral owners. Don’t be afraid to call a local attorney in the area where the mineral rights are. Even if you don’t need representation, they may be able to give you a little information about the company. The

company's competitors can also be a source of information for a mineral owner, with the added benefit that they might be interested in your minerals as well and could be willing to make you an offer.

Your mineral rights are a valuable property interest. You should treat them in the same way you would if you were selling your home. If you are contacted with an offer, research competitors and reach out to them to see if they may be interested as well. The more potential buyers you have, the better position you will be in to negotiate a good deal for your minerals. Also take the time to do some research on how valuable the area could be. Just like in a hot housing market, certain areas can become "hot" for mineral development and can command premium prices. You don't want to be in a situation where you sold your mineral rights for \$10,000, only to realize a few months later that you could have sold them for \$100,000 just by doing a little research.

Tips for selling your minerals

1. Make sure the sale is part of a financial plan
2. Educate yourself on the value of your minerals
3. Know who you are dealing with and invite competition

How to Profit from your Mineral Rights

Once you have settled on a company and initial purchase price, there are more things to consider. Just like when you sell a home, the company will conduct a final review of the title and your ownership of the minerals. Think of this like a house inspection. They will want to make sure that you own the interest being conveyed and that there are no defects in the title. If they find problems, the purchase price may be adjusted at closing to reflect the change in value. Instead of a contract to purchase, the transfer of minerals is usually accomplished

through a mineral deed. Read the deed very carefully or retain an attorney to help you through the transaction. Once the deed is signed, there are very limited options for going back and undoing the transaction.

One more important note – if you have a mortgage on your property, your mortgage will likely attach to the mineral rights when they are sold! You may be able to get your mortgage lender to release the mineral rights, but they will probably want some compensation for doing so. If you acquired your mineral interests through the purchase of a home, you need to carefully review your mortgage documents to determine what rights were included with the property. An attorney can help you with this process and would be recommended in this situation.

You do not have to sell all of your mineral rights. In this respect, selling your mineral rights is much different from selling a house. You can agree to sell any portion of your mineral rights. For example, it is possible to sell half of your interest in a parcel of land and retain the other half. In this situation, you would still retain half of the mineral rights including the right to a bonus and royalty payments depending on the term of the lease (if one existed). Selling half of your mineral rights would allow you to receive a cash payment, while still preserving some of your income from the royalties on half of the property.

What are some possible circumstances where it would make sense to sell mineral rights? Your mineral rights are valuable property that can be exchanged for cash in a time of need. The number of situations is nearly infinite but can include necessities like medical costs or tax obligations, life events like a wedding or starting a business or estate planning and gifts/donations. An attorney and financial professional can help you work through the complexities of a mineral rights sale, but there are a few things to remember if you decide to go it alone.

First, make sure the sale of your mineral rights is part of a financial plan for your future and helps accomplish your financial goals. Taking the first offer for mineral rights because you need cash now is a sure way to trouble. Second, educate yourself on what your minerals rights are worth. If you have larger mineral holdings, there are companies that specialize in appraisal and valuation of mineral rights. If you have smaller mineral holdings, there are internet forums and resources for mineral owners to help you estimate a value for your minerals. Look for oil and gas development activity (drilling new wells, applications for permits to drill or news of discoveries) around your property and whether there has been recent leasing or drilling activity as these can be signs that your property value is higher. Third, make sure you are dealing with a reputable company. The free market is your friend in this regard. If you are contacted with an offer to sell your minerals, reach out to other companies to see if they may be interested as well. You can find out about the original company that made you the offer with the added benefit of maybe receiving a better offer or setting off a bidding contest!

Option 3: Participate in the development of the minerals

As a mineral owner, you have the right to participate in the development of your minerals. This is commonly referred to as taking a “working interest” in the wells. Instead of leasing the minerals to a company and collecting the bonus and royalty payments, being a working interest owner means that you share in the costs and profits from the well based on the proportional size of your mineral ownership. For a simple example, if your mineral acreage represented 10% of a drilling unit, you would be responsible for 10% of the costs of drilling and operating a well, but also entitled to 10% of the profits from the well. Horizontal well drilling costs in the Wattenberg Field in Colorado can run from \$5 - \$7 million per well, so a 10% ownership would require the mineral owner to pay \$500,000 - \$700,000 per well drilled. If the well made \$60,000 per month in net revenue, the mineral owner would be entitled to \$6,000 per month.



The main document in a participating interest is the Joint Operating Agreement (JOA). The JOA, like the oil and gas lease, describes the respective rights and responsibilities of the parties conducting development operations. The simple example above is far from the actual reality of a JOA. Participating in a well places you in a similar position of the oil and gas company, complete with tax, regulatory, title and other costs and responsibilities. The special risks and responsibilities associated with a participating interest require more knowledge of the oil and gas industry. For this type of ownership interest, we recommend retaining an attorney and financial professional specializing in oil and gas matters.

Severance of the mineral estate when selling real property

If you own real property in Wyoming or Colorado, it is possible to sever the mineral estate when you sell or transfer the property. Doing so means that you retain your ownership of the minerals under the land in the transaction. Severing the minerals can be done in a few ways. First, you can transfer the mineral rights into a separate entity, such as an LLC, removing them from the subsequent land transaction entirely. This process involves establishing an entity and then executing a mineral deed to transfer the mineral rights into the LLC. The mineral rights are then the property of the LLC and managed accordingly. Second, you can add a reservation clause that excepts the minerals from the land transaction. The reservation language in the deed would specifically exclude the transfer of the oil, gas or other minerals, from the transaction and keep them for the

party selling the property. An attorney can help you draft the reservation clause. These methods can help you maintain ownership over minerals, even if you do not wish to retain the surface of the land.

The mineral rights under some farms and ranches in Colorado and Wyoming can be worth a great deal of money! Even if you have decided to set up subdivisions on your property, you can still retain the mineral rights and benefit from mineral development. There have been several cases recently where a subdivision developer did not sever the mineral rights when the subdivision lots were sold off, missing out on millions of dollars in value. In most cases, the new subdivision owners did not know the mineral rights were included with their new house until the landman from the oil and gas company contacted them with a leasing offer. If you are a homeowner that has found yourself in this position, consider yourself lucky! You will receive the benefits of mineral ownership instead of the developer.

Summary

Mineral rights are valuable property interests that can be a major source of wealth for individuals and families across the country. Just like any other income-producing asset, mineral rights need to be properly managed as part of a comprehensive financial plan. If you own mineral rights, you have several options available to you that will help you profit from the value in the minerals. These include leasing or selling the mineral rights or participating in the development of the minerals as a working interest owner. If you decide to lease, talk with your neighbors to see what kind of terms are being offered. Do not be intimidated by the oil and gas company – you do not have to take their first offer. Determine what is important to you and negotiate with the company accordingly. If you decide to sell all or a portion of your mineral rights, make sure that the sale is part of a financial plan to help you achieve your goals. Learn about the value of your mineral interests and research the company that is offering to purchase your minerals. Invite some competition by contacting multiple companies. If you decide to participate in the development of the minerals, carefully review the terms of the Joint Operating Agreement and know how to protect yourself and your interests in the process.

In 2016, oil and gas extraction accounted for \$162.1 billion in economic activity – approximately 1% of the U.S. total.

U.S. Bureau of Economic Analysis

Why Kinney Law Office?

Kinney Law Office specializes in working with mineral owners, from governments to subdivision owners, to protect their interests and help them profit from their mineral ownership interests. We understand the petroleum development process and can use the same tools and tactics that the oil and gas companies use in negotiating for our clients. The oil and gas companies have a team of professionals working for them – shouldn't you? We can offer the same professional capabilities to mineral interest owners. If you are new to the mineral development process, we will take the time to explain the process and help you be comfortable with your options. If you are an experienced investor, we will work with you to achieve your financial goals with a mineral transaction. [Call us today to find out how you can profit from your mineral interests!](#)



Call to find out how we can help you



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