



You Paid for the Title Opinion, Now What Do You Do With It?

By Susan J. Alfson, President
Alfson Energy Land Services

Originally published as part of a manual for the Rocky Mountain Mineral Law Foundation's
Special Institute on Title Examination
September, 2007

Topical Index

- I. Introduction
- II. Revisiting Some Basics
- III. Help! The Rig is Standing by: Business Risks vs. Legal Requirements
 - a. When to Demote a Drillsite Requirement to a Division Order Requirement
 - b. Financial risk analysis: determining what's really at stake
- IV. When to Demote a Drillsite Requirement to a Division Order Requirement
- V. Financial Risk Analysis: Determining What's Really at Stake
- VI. To Waive or Not to Waive, That is the Question (with Apologies to Shakespeare)
- VII. When a Curative Instrument Doesn't Cure: Revisiting Company Practices
- VIII. In an Abundance of Caution: When the Title Attorney Leaves You Scratching Your Head
- IX. What do You Mean, I Could Lose my Job? The Importance of Understanding What the Title Attorney is Telling You
- X. Best Practices

I. Introduction

Title curative is simply the process of correcting a deficiency in the title to real property. In the context of the oil and gas industry these deficiencies surface when:

- a landman's title memorandum uncovers a problem during leasing, or
- an oil and gas attorney identifies a deficiency or *risk* during examination of a land abstract in preparation for the drilling of a well or payment of production royalties.

Defects in the chain of title can be as straight forward as correcting the misspelling in the name of a party in interest, or as intricate as resolving discrepancies in ownership along a shifting river bank, or commissioning the probate of a deceased mineral owner's estate. Because *to err is human*, there is no limitation on the types or complexity of issues that arise during examination of chains of title. While some title issues lend themselves to ready solutions, others may require the involvement of legal counsel or resolution through court or administrative adjudication. Each curative requirement presents a potential risk to the operator of a drilling program. Some risks are minimal in their impact or remote in probability; others are sufficiently serious — in both impact and probability — to delay the drilling of a well until the matter is resolved. .

There have been a number of papers published previously on title curative, some general and others specific to certain jurisdictions. All of these have something of value to offer to the landman or legal practitioner charged with responsibility for curative. An addendum has been included at the end of this paper listing a number of these articles and where they can be found. There are also addenda containing information on statutes applicable to curative matters by state, links to helpful Internet sites, and information on whether counties in various oil-producing western states have public records that can be searched on the Internet.

The purpose of this paper is to: (a) provide practical approaches to evaluating requirements that need to be addressed while managing available time; and (b) address issues that create particular and serious challenges during the curative process, that tax the ability of the landman, title attorney and others to complete curative requirements timely and successfully. Some of these issues involve policies or practices within the operating company, itself.

II. Revisiting some basics.

In almost all circumstances involving curative the enemy is *time*. There has likely been an appeal made by others in this forum to provide the title attorney with as much time as possible to adequately prepare the title opinion. On the other side of the equation, drilling programs involve too much money to allow title issues to be resolved while a rig is standing by.

Aggressive drilling schedules mean that pressure is brought to bear on landmen by their management and engineering departments. Often there is insufficient time remaining for the landman to manage the curative requirements, once the title opinion is complete. Unfortunately, this scenario can be a prescription for costly errors.

Whether drillsite, division order or combined, the title opinion needs to be thoroughly reviewed by the landman when it's received from the title attorney. The next step should involve the creation of some type of project plan from which the landman can manage all curative activities from that point forward.

At a minimum, the project plan should contain a brief summary of all title requirements, a priority rating of each requirement, a required due date (if there's not a date certain, then a projected date for completion), and an actual completion date for each requirement. It's also helpful to have an area to track work status and enter comments. If there are several people involved in completing curative work, the project plan should also contain a data field indicating who has responsibility for completing each task.

Figure 1 on the following page shows a portion of a sample project plan developed for managing curative requirements.

Drill Site	Div Ord	waived	Due	Target	Actual
1		✓	7/20/05		7/20/05
2	1		9/30/05	7/30/05	8/2/05
3	3		2/15/06	11/1/05	11/21/05
4			Advisory Only		
5			Advisory Only		
6	1		9/1/05	9/1/05	8/27/05
7	2		11/1/05	8/15/05	9/15/05
7	3		11/1/05	8/15/05	9/15/05
8	1		9/1/05	8/15/05	8/21/05
9	3		tdb		

figure 1: Project Plan for Curative

Once the project plan is drafted, it is helpful to classify requirements by identifying those that are: (a) critical, (b) necessary, (c) temporarily waivable, and (d) waivable.¹ Waiving requirements is discussed in more detail later in this paper.

Prioritizing requirements in the project plan is different from the prior discussion on classification in that it adds in the element of time. A critical requirement that needs to be satisfied before royalty payments can be made to a lessor will have a lower priority number than a necessary requirement that has to be completed before the well is spud.

When the project plan is complete the landman should give some thought to those individuals within the land organization that should be provided with a copy of the plan. It needs to be distributed to anyone with responsibility for satisfying any of the requirements, but it may also be helpful to provide a copy to the division order group — especially if there are division order requirements being addressed in the plan.

The following discussion addresses practical approaches to coping with challenges presented by curative requirements. Several examples, derived from real curative situations, are used to illustrate points in the discussion. Any identifying details have been modified or eliminated.

III. Help, the rig is standing by! Business risks vs. legal requirements.

The landman and title attorney are presented with their greatest ordeal when the operator is ready to move a rig on location and title examination or curative is not complete. In the interest of establishing as large a presence as possible, as quickly as possible, operators often do not allow time during the initial leasing phase for negotiating with disinclined mineral owners, small interests or for locating absentee mineral owners. In addition, thorny title problems, such as unprobated estates that leave title in the decedent, are typically not addressed at the time of leasing. Generally, the oil company is not prepared to finance drilling at the leasing stage without additional geologic and seismic support; consequently, there is a reluctance to fund

¹ In her paper *Curing Title Defects Pursuant to Title Opinions*, AAPL **The Landman** Jan/Feb 1993, Nicola L. Maddox provides the following definitions for these classifications:

critical requirements – “those ... that must be resolved to the satisfaction of the examining attorney or the consequences will be severe in terms of either miscalculated ownership interests or the addition or deletion of certain parties to the ownership tabulation.”

Necessary requirements – “those ... that should be resolved prior to the conduct of the operation and can be done within the practical parameters of time and expense.”

Temporarily waivable requirements – “those ... that can be temporarily waived pending the outcome of the proposed operation as they are relatively low risk and will only be resolved if the drilling operation is successful.”

expensive title curative until drilling becomes certain. When engineering, geology and finance are ready to move forward, the landman and title attorney often find themselves with little time to address complex, time-consuming, and critical title issues.

The title opinion, if it is combined, will identify which requirements are specific to drillsite issues and which need to be satisfied for division order purposes. In either a combined title opinion or a drillsite title opinion it is possible under certain conditions to demote a drillsite title requirement to a division order requirement.

a. When to demote a drillsite requirement to a division order requirement.

Any circumstance wherein certainty of title cannot be identified will appear in the title opinion as a requirement to be satisfied BEFORE drilling is commenced. The title attorney relies on the business acumen of the client to determine whether to assume the risk of unresolved title requirements or delay drilling until the risk is mitigated. If the threat to expected financial gain is too great for the operator, the drilling program should be delayed until the matter can be resolved. The challenge for the operator is determining that point at which *the risk becomes too great*. It is the responsibility of the landman charged with curative duties to present the case to the decision makers, providing sufficient information to allow an informed decision to be made. In most situations, it is not the nature of the present risk but the impact to the operator that is determinative. For example, while an unprobated estate conjures up a serious impediment, if the interest represented by the estate is only a small fraction of the revenue ownership picture, the decision to demote this requirement may be an easy one.

A practical example involves an actual situation where no less than fifteen unresolved estates threatened to hold up a drilling schedule for an operator. Figure 2 on the following page shows a profile of several of the estates. Note that the following information is included in the profile:

- Deceased party;
- State of residency at the time of death;
- Type of documentation available for the decedent (e.g., death certificate, LWT, affidavit of heirship, etc.);
- Risk represented by leaving the requirement unresolved during drilling (shown as *maximum at risk*);
- Putative heir(s) for the estate;
- Lease status of the interest;
- A summary of the Title Opinion requirement.

Also note that in two instances in figure 2 there is more than one decedent involved in a chain.

Estates and Probable Heirs		X = need					✓ = have	Requirement
		Death Certificate (certified)	Last Will and Testament	Affidavit of Death and Heirship	Letters Testamentary or Letters of Administration	Final Determination of Probate Proceedings certified by the XXX County District Court	Determination of Heirs or devisees ... and of interests in Property	
Estate of Bitty Gean (died in Arkansas)					✓			maximum at risk: 0.00%
heir	Merry Sue as administrator of the Estate of Bitty Gean, OGL dated 6-2-2004, recorded 1617/252							<u>Requirement:</u> Have XXX County District Court certify the Letters of Administration for Merry Sue issued by a foreign court.
Estate of Kitty Diamond (died in California)					✓			maximum at risk: 0.00%
heir	Irma Gales, aka Cissy Irma Gales, OGL dated 4-20-2004; recorded 1598/77							<u>Requirement:</u> Examine Dist Ct. Case #02_Z34 to determine if XXX Co. certified Letters of Administration issued by a foreign court. If not, petition court to certify.
Estate of Oscar Oscar (died in Arizona)		X	✓				X	maximum at risk: 0.156250%
Estate of Eufalia A. Oscar (died in Arizona)		X	X	✓			X	
heir	Buster Oscar							<u>Requirement:</u> Will need an attorney to petition the XXX County District Court to initiate probate on behalf of an heir; can be done for both Oscar and Eufalia jointly.
heir	Cuetsee Oscar Weebler							
Estate of Duggard G. Jasmine III (died in Florida)		X	X				X	maximum at risk: 0.572918%
heir	Krilla Souser, OGL dated 4-20-2004; recorded 1598/74							<u>Requirement:</u> Will need an attorney to petition the XXX County District Court to initiate probate on behalf of an heir.
heir	Dandee C. Jasmine, Jr., OGL dated 10/27/2000; recorded 1238/420.							
Estate of Rilla Nita Toots (died in Arizona)		X	✓	✓			X	maximum at risk: 0.312501%
Estate of Jed R. Toots (died in Arizona)		X	✓	✓				
Estate of Ditsey Lalley Toots (died in Arizona)		X	X	✓				
heir	Eppie Toots Mustee, OGL dated 7-9-2004; recorded 1635/385							<u>Requirement:</u> Will need an attorney to petition the XXX County District Court to initiate probate on behalf of an heir; can be done for Rilla, Jed and Ditsey jointly. (have copies of death certificates for all 3, but not certified)
heir	Jazy Toots Roop (quit claimed all interest to Eppie Toots Mustee)							
Estate of Chipster Hoochit (died in Illinois)		X	✓				X	maximum at risk: 0.260417%
heir	Polly Jersey Hoochit, OGL dated 6/7/2000; recorded 1197/456							<u>Requirement:</u> Will need an attorney to petition the XXX County District Court to initiate probate on behalf of an heir (Polly); Note: LW&T leaves 100% of estate to Polly, conditioned upon her survival; diminishes risk on this interest since lessor was Polly.
Estate of Emrath Foozler (died in Colorado)		X	✓	✓			X	maximum at risk: 0.260416%
heir	Cozee Boots, OGL dated 6/5/2000; recorded 1208/490							<u>Requirement:</u> Will need an attorney to petition the XXX County District Court on behalf of an heir to have Determination made; Note: LW&T leaves 100% of estate to her two children (Cozee Boots and J. Waldo Foozler), conditioned upon their survival; diminishes risk on this interest since lessors were Cozee and Waldo.
heir	J. Waldo Foozler, OGL dated 6/5/2000; recorded 1208/487							

figure 2: Unprobated Estates Profile

Once the profile was completed a risk analysis was prepared to determine the severity of the threat to the operator's revenue position in the proposed well.

b. Financial risk analysis: determining what's really at stake

In preparing the risk analysis, the landman needs to identify the interests of all the parties, leased and unleased, claiming to be beneficiaries of the unprobated or partially probated estates. For purposes of this discussion, *partially probated estates* are: (a) those for which probate proceedings have begun but not closed, and (b) those that were closed in a jurisdiction foreign to that where the land/interest is located. At this stage all such parties are *putative* (i.e., presumed, reputed or alleged) heirs or devisees.

Next, the net revenue interest of each party needs to be calculated. The landman also needs to make a min-max assessment of risk. The maximum risk is the easiest to determine as it is always the complete failure of a putative interest expressed as 100% of the NRI.

The minimum risk is a subjective reduction of the maximum risk. It involves the landman making some intuitive or educated deductions. Any documentation that the landman has in-hand, to support the claim of a party, helps to reduce the risk. The more reliable the document, the greater the reduction in risk. For example, an affidavit of death and heirship signed by a person with broad and continuous knowledge of the decedent's personal and business affairs gets high marks for credibility. Even higher marks would be accorded a properly executed and attested last will and testament produced by the decedent's attorney. Bear in mind that until a determination is made by a court of competent jurisdiction, neither of these documents is indisputable. Less reliable would be an affidavit of death and heirship signed by the decedent's neighbor who moved to the area six months before the decedent's death. The comment: "*Mom always liked me best. She told me she was leaving everything to me,*" (wink, wink) communicated by the claimant in a phone conversation with the landman gets no marks at all. This is not to say that discussion of the matter with the claimant(s) lacks credibility. The landman will have to exercise judgment as to how reliable the information is and how much weight to accord the claimants' word. Personal statements are the most difficult types of support to rate and the landman may want to disregard them entirely. The higher the credibility rating of the supporting evidence, the lower the minimum risk score.

Following the creation of the Unprobated Estate Profile shown in figure 2, the next step was to conduct an analysis of the risk of failure presented by each claimant in the various estates and then combine the risks to create a total risk picture for the company, should it elect to drill before addressing the probate issues outlined by the title attorney.

At the end of the analysis of the fifteen estates, assuming worst case – that 100% of the protective leases failed – the maximum risk to the operator presented by the failure of the protective leases was slightly more than 0.021 or two percent. However, there were two

putative interests that were unleased. The operator elected to reduce all fifteen probate requirements to division order requirements and proceed with drilling the well as soon as the unleased interests were leased.

An abbreviated version of the actual risk analysis applied to the profile in figure 2 is shown on the next page as figure 3. Note that the data has been divided into tracts of land and all interest owners in each tract are shown on the analysis. Those that do not prevent a threat are shown to have "ownership supported by title".

Status	Lessor	NRI	At Risk		Comments
			Min	Max	
Tract 1					
Unleased	Buster Oscar	1.041667%	1.041667%	1.041667%	(1) unleased interest, would reduce to 0.156250% if leased at 15% royalty;
Unleased	Cuetsee Oscar Weebler	1.041667%	1.041667%	1.041667%	(2) Heirs of the Estate of Oscar Oscar and Eufalia A. Oscar; w ord of Buster as supporting documentation
Tract 2					
1	AAA, et vir OGL dated 12/23/2003	4.375000%	0.000000%	0.000000%	ow nership supported by title
2	BBB, single man, OGL 4-20-2004	1.250000%	0.000000%	0.000000%	ow nership supported by title
3	CCC, et ux, OGL dated 6/5/2000	0.781250%	0.000000%	0.000000%	ow nership supported by title
4	DDD, et ux, OGL dated 6/5/2000	0.781250%	0.000000%	0.000000%	ow nership supported by title
5	EEE, et ux, OGL dated 8-18-2004	0.781250%	0.000000%	0.000000%	ow nership supported by title
6	FFF, a married man, OGL dated 1/21/2004	0.781250%	0.000000%	0.000000%	ow nership supported by title
7	GGG, et ux, OGL dated 8-18-2004	0.781250%	0.000000%	0.000000%	ow nership supported by title
8	HHH, et ux, OGL dated 8-18-2004	0.781250%	0.000000%	0.000000%	ow nership supported by title
9	III, et ux, OGL dated 4-20-2004	0.625000%	0.000000%	0.000000%	ow nership supported by title
10	Krilla Souser, OGL dated 4/20/04	0.312501%	0.312501%	0.312501%	Heirs of the Estate of Duggard G. Jasmine, III; w ord of K Souser is only supporting documentation
11	Dandee C. Jasmine, Jr. OGL dated 10/27/2000	0.260417%	0.260417%	0.260417%	
Tract 3					
12	Merry Sue, admin of the est. of Bitty Gean, OGL dated 6-2-2004	0.312501%	0.000000%	0.000000%	No risk assessed as probate complete, only Letters of Adm need to be certified in state w here interest located.
13	Eppie Toots Mustee, OGL dated 7-9-2004	0.312501%	0.312501%	0.312501%	Heir of the estates of Rilla Nita Toots, Jed R. Toots and Daisey Lalley Toots along w ith Jazzy Toots Roop w ho quiclaimed all her interest to Eppie. Have Affidavit of Heirship on all 3 decedents signed by Eppie.
Tract 4					
14	JJJ, a widow, OGL dated 6/7/2000	0.260417%	0.000000%	0.000000%	ow nership supported by title
15	Polly Jersey Hootchit, widow, OGL dated 6/7/2000	0.260417%	0.085938%	0.260417%	Heir of the Estate of Chipster Hootchit; have LWT from atty of decedent signed 6 mos before DOD
Tract 5					
16	Crimpsey M. Bilgo, sw, OGL dated 6/5/2000	0.130208%	0.065104%	0.130208%	Heirs of the Estate of Ezradine Mipps Bilgo; have copy of LWT from CD
17	Coollest Dude Bilgo, sm, OGL dated 6/5/2000	0.130208%	0.065104%	0.130208%	(son)
Tract 6					
18	Popsaline Trumpledour, a widow, OGL dated 5-26-2004; recorded 1607/1736	0.729166%	0.109375%	0.729166%	Heir of the Estate of N. Axel Ormstergorgon; have LWT from decedent's atty and affidavit of heirship from business partner
at risk on this tract					
			0.109375%	0.729166%	
Total NRI on leased interests					
		13.645836%			
Total NRI on unleased interests					
		2.083334%			
At Risk on Leased Interests					
		1.080732%	1.875002%		
Maximum At Risk on All					
		3.294274%	4.218752%		Note: this example does not include all estates in the original case

figure 3: Risk Analysis

This type of risk analysis tool is invaluable to the landman who undertakes the management of handling complex curative projects. Here, it is illustrative of risk presented by certain types of curative requirements in the following section it will be introduced again as a decision tool for determining the suitability of waiving a requirement.

III. To waive or not to waive, that is the question.

Title attorneys know that their clients will waive some curative requirements ... they just hope that the client will waive THE requirement that *would be nice to have but is not essential*. At times it seems to the landman that there is an unspoken game afoot in which the title attorney's objective is to identify every nit-picky nugget that can be ferreted out of the abstract and then diabolically describe them all as requirements of equal significance. While it's appealing to believe that this might be the case, the title attorney has an obligation to raise every potential threat, no matter how small, to the attention of the client. It's the client's responsibility to exercise informed judgment on the significance of any threat to the client's business operations.

For the landman, understanding how to evaluate the significance of requirements is as essential as knowing how to resolve them. The process of this evaluation should not be taken lightly because the consequence of doing so can result in a negative impact on the operator's investment. A case in point is securing releases of oil and gas leases that have not been released of record but are beyond their primary term. It is tempting to ignore a requirement to release oil and gas leases that should have been released twenty, thirty or even forty years ago; however, the greater the amount of acreage included in the old lease the greater the cause for concern. It has been common practice for many operators to file affidavits of production that describe only the lease lands included in the spacing unit for a producing well. Even intervening oil and gas leases are no assurance that a prior lease is not producing. When all attempts to secure a release of an aged lease, or affidavit of non-production, fails, only an affidavit of an actual inspection of the lands described by the aged lease provides assurance that the lands are not held.

The new technology that enables an operator to drill under a lease from a pad location on another lease more than a mile away presents an unforeseen title challenge. In the former example a surface inspection would be useless. In the absence of a Pugh clause or other language of limitation, it is becoming more useful than ever before to include the entire lease acreage description in the exhibits when affidavits of production are filed — to serve as notice to third parties that the operator intends the well to hold the entirety of the leased lands no matter how far away from the surface plant. It is important to emphasize that many state statutes do not require a description of the leasehold acreage affected by the production in such an affidavit, only the drillsite description for the producing well. In Colorado, for example, the exhibit need only contain a list of the leases by lessor name and recording data. While meeting this minimum requirement will save money in recording fees it may only assure that the affidavit is indexed in the public records against the quarter-quarter on which the well is

located. Including a description of the leasehold lands included in the spacing unit is slightly better for public notice purposes and represents only a minimal increase in recording costs, if any. *Best practice* would be inclusion in the exhibit of the full leasehold description for each affected lease. While this could represent higher recording costs in the short term, if the operator continues to work the area it will very likely move to other leasehold lands associated with the same leases. The operator will then have to pay for a title attorney to insert a requirement to determine if any of the lands under the new title opinion are held by production; and then pay additional for someone to do the title examination to make that determination. In the long term, the operator may be better served from a cost stand-point to undertake the *best practice*.

So, when would waiving a requirement to obtain a release of an oil and gas lease taken in 1956 be appropriate? The answer is “sometimes.” We’re back to the risk assessment. If the 1956 lease was taken by an entity that never assigned it to anyone, is no longer in business, and appears from the state records to never have drilled a producing well anywhere near the lease, the risk is diminishing significantly and a waiver may be acceptable to the operator. It would be even better if a subsequent lessee drilled on the acreage in 1967, P&A’d the well and released the intervening lease.

There is no hard rule about what can be waived. The answer is “it depends.” What it depends on is the ability of the landman to evaluate: (a) the financial risk of waiving the requirement and (b) the probability that the waiver would be the wrong thing to do. The process for determining whether to waive a requirement should take into account the following:

- Has all the reasonably obtainable information about the circumstances (that led to the requirement) been discovered and evaluated?
- What is the financial impact to the operator’s interest if the requirement is waived and shouldn’t have been?
- Does the evaluation of the requirement and the associated information indicate that the probability of a problem is low? Why?
- Has the matter been thoroughly discussed with the appropriate decision maker(s) in the operator’s organization (e.g., Land, Exploration, Finance, etc.)?
- Is there agreement on how to proceed?
- Has the decision and its outcome been documented and placed in the company records?

Notwithstanding the foregoing discussion, there are some requirements that should never be waived — primarily, requirements dealing with strangers to the chain of title and uncertainty of ownership. Some may present a threat of such significance to the operator’s financial position that they need to be resolved prior to drilling. For requirements of lesser impact the same risk analysis process should be used — not to demote the requirements but to waive them.

IV. When a curative instrument doesn't cure: revisiting company practices.

Not all curative instruments are equal. Many of them clearly resolve the issue identified in the title opinion requirement; and, when put of record, serve to ensure that the requirement won't be raised in a subsequent title when the operator embarks on an offset or in-fill drilling program. Other instruments masquerade as curative solutions, but are only appropriate for an interim measure. These necessitate more final and conclusive action at a later time (e.g., before drilling commences). A prime example of this is the affidavit of death and heirship, much prized by field landmen. This affidavit, signed by a disinterested third party "well acquainted" with a decedent is used to support the purchase of protective leases from putative heirs or devisees in a case where, in the absence of probate, title to a mineral interest remains in the name of a deceased party. The affidavit is usually in a form similar to figure 4 below.

AFFIDAVIT OF DEATH AND HEIRSHIP

STATE of _____)
) ss
 COUNTY of _____)

_____ of _____, _____, CO _____, of lawful age, being first duly sworn states:

That the statements hereinafter set forth, including answers to questions, constitute a true and correct and complete statement of the family history of the person hereinafter named as "decedent" and of the estate of such decedent.

1. Name of the decedent: _____
2. Date of death: _____
3. Place of death: _____
4. Marital Status at time of death: _____
5. The decedent left a Living Trust Last Will and Testament None Other: _____
6. The decedent's estate was not probated was probated in _____ (State).
7. During his/her lifetime, the decedent was married to only the following individuals:

NAME OF SPOUSE	DATE OF DEATH	PLACE OF DEATH

8. Decedent had no children from his/her marriage to _____;
9. Decedent had the following children from his/her marriage to _____:

NAME OF CHILD	ADDRESS	AGE	GENDER	D.O.B

10. _____ (child) died at the age of _____ without spouse or children, natural or adopted.
11. Decedent had no children by adoption.

Affiant states that he/she was well acquainted with the financial condition of the decedent and knows that the decedent died solvent and that all debts of the estate were paid. Affiant further states that he/she was a _____ (relationship e.g, business associate, neighbor, social acquaintance, etc.) and friend of the decedent's for more than _____ years and knew the decedent well.

Further affiant sayeth not.

 (insert name), Affiant

Subscribed and sworn to before me this _____ day of _____, 2007.

 Notary

My commission expires: _____ residing at: _____

Figure 4: Affidavit of Death and Heirship

While an affidavit of death and heirship can provide useful information, it does not transfer title and it should not be considered conclusive evidence of the outcome of a proper proceeding to transfer title to the property. When then, should it be used? It is useful as a preliminary document in the curative process prior to a final determination by a court of competent jurisdiction. It can also be useful in supporting payment of a lease bonus for protective oil and gas leases taken from putative heirs or devisees.

During times when the oil and gas industry was not as financially profitable, many operators adopted a practice of paying lessor production royalties based on affidavits of death and heirship, in the absence of probate. The rationalization being that the royalties at risk were not significant enough to justify the cost of probate curative ... especially for small interests. This has proven to be a dangerous practice for some operators. In one example, a prospective lessor helped the field landman by providing information on the unprobated estate of her deceased brother. The information was used to draft an affidavit of death and heirship that was signed by a friend of the family. The affidavit represented that the decedent was widowed, died intestate and without surviving children. The cooperative sister, as the apparent sole heir of the decedent under the laws of intestate succession, signed an oil and gas lease on the decedent's interest and accepted the bonus payment. Shortly thereafter the lessee/operator successfully completed a producing well on the leased lands and began making royalty payments to the sister. Within the year, and shortly before her death, the sister, titling herself *as personal representative for the estate of* [her brother], but without apparent benefit of court approval, conveyed the decedent's interest to her three children. Over the next five years the operator continued to develop the field. When the operator began preparation for a new drillsite that included more of the mineral interest owned by the decedent, the title attorney urged that the decedent's estate be formally probated so that title was transferred through a final determination. Thankfully, the operator had begun devoting more time and attention to title curative. At the request of the title attorney, examination of the public records in the District Court was undertaken. This revealed that the decedent had been married twice. The first marriage, which had produced a child, ended in divorce in the 1940s and record of the marriage dissolution was filed in the public records at the time. Without too much effort, the adult child of the first marriage was located living in Ohio, married and with adult children of his own. This case is still being resolved.

There are many motivations for signing a document, not all of them honorable. In the previous example, the probability that the decedent's sister was unaware of her brother's first marriage, which lasted fourteen years and produced a child, is remote. It is also unlikely that the operator will be able to recover the incorrectly attributed royalties paid to the sister and her children. Further, the decedent's son is not apt to forego his right to the previously paid royalties.

It is tempting to dismiss this case as an aberration; however, it is only one of a half-dozen similar situations being resolved on behalf of clients at the time of this writing — all of them relying on

affidavits of death and heirship to pay production royalties to putative heirs of unprobated estates.

Reevaluating company practices related to the curative process — and particularly blanket (or standing) waivers — should be undertaken every year or so in light of changes in: (a) the company's operations and economic projections, (b) the industry, (c) the legal climate, (d) statutes or regulatory rulings, and (e) previous experiences. *Best practice* would advocate that the land department develop documented procedures for handling curative issues and would also provide for periodic review of the process.

V. *In an abundance of caution* – when the title attorney leaves you scratching your head.

The phrase "... in an abundance of caution, the client should ..." is all too familiar to the landman charged with clearing curative issues. It could almost be tagged as the mantra of the title attorney. It is typically applied to situations where some uncertainty, giving rise to a potential threat in the title, is so remote that it may border on the improbable. The landman may even read the requirement once, twice, three times trying to comprehend why the matter is even included in the title opinion in the first place. What was the title attorney thinking! Unfortunately for the hopeful landman, *in an abundance of caution* is not lawyer-speak for "waive this requirement" and should not be considered as such.

The message the title attorney is conveying to the client is: (a) the attorney has made one or more assumptions that need to be validated by the client; or (b) that some element in the title chain is not certain. Intervening events, such as passage of time, direction of case law, lack of a prior challenge, continuous acceptance of consideration (e.g. royalty payments) based on one of several interpretations by one or more parties in interest, etc. would suggest that it might not need to be taken as seriously as other requirements; however, *something about this situation is not certain* and the opening for a challenge to the title has not been closed.

A typical example might read as follows:

There appears of record, a transfer of operating rights in an oil and gas lease dated December 5, 1995 from Jodie Jean Shmaatz Oil Producers, Inc. to Breezy BobO's Gas-O-Rama, L.L.C., of all of assignor's interest in Lots 3 through 6 and 9 through 11 of Section 14, T0N,R0W, limited to the zones "below the base of the Iles Mesaverde formation as found at a depth of 7,492 feet, and above the base of the Mesaverde formation, as found at a depth of 8,799 feet in the Shrub Federal #0 well, or the stratigraphic equivalent of such measured depths."

The formation limitations cited above, being below the base of the Iles formation and above the base of the Mesaverde, do not effectively describe any formations based on the stratigraphic data submitted by the client to the undersigned. *In an abundance of caution*, the client should obtain and file with the BLM a correction of said transfer of operating rights to reflect the correct formations subject to the transfer.

In the above scenario, the title attorney was unable to equate the specific formation limitations to geologic data provided by the client to help the attorney ascertain the integrity of the interest assigned. Since it created uncertainty for the title attorney, it is likely that others may become similarly confused. In point of fact, the description in question may be accurate but the client has not satisfied the attorney that it is and therefore the attorney is going to assume an ambiguity and include a requirement that the ambiguity be removed by correcting the assignment. The client is being called on to correct the problem — or exercise its judgment as to whether there is a problem at all. In either case the client should not just waive this out of hand.

The preceding discussion notwithstanding, the author would like to appeal to title attorneys to refrain from overusing *in the abundance of caution* language — including its various disguises, *it would behoove the client, or for greater certainty of title* and the like. The following example from a title opinion causes landmen to roll their eyes into the backs of their heads.

In an abundance of caution, the client should make or cause to be made an examination of the records of XXX County to insure that no documents were omitted by World's Greatest Abstractors-R-U's in the preparation of the abstract of title.

VI. “What do you mean I could lose my job?”: the importance of understanding (oops!) appreciating what the title attorney is telling you.

Title attorneys do not take their jobs lightly and neither should landmen tasked with curing the problems the attorney exposes. The attorney understands only too well the legal risks inherent in broken or ambiguous chains of title and is trained to ensure, as comprehensively as possible, that the client is made aware of the nature of the risks. The client's responsibility is to ensure that the risks are mitigated.

Pressure from all sides notwithstanding, this is not the place in the landman's career to take a gamble. That is better left for Friday night poker games and weekends in Las Vegas. The author is aware of one sorrowful incident where a seasoned landman was invited by her employer to pursue a career in an unrelated field when a title requirement she waived resulted in a significant financial loss to her company. It seemed innocuous enough, she'd done it *many* times before on the same type of requirement — and, there had never been a problem!

Title curative is fraught with more opportunities for serious failure than any other aspect of land work. And, there are often hefty financial penalties to the operator when such failures come to pass. Understanding a title requirement means (1) acknowledging the gravity of the problem, (2) identifying the reasonably foreseeable repercussions, and (3) weighing the potential consequences. Managing to a plan, classifying for significance, assigning priorities and assessing risk are tools that offer the landman a means and method for coping with timing, resources, and threats. The landman also needs the means to fix the problems so that the risk is mitigated to

the satisfaction of the company. While some problems may require additional involvement of legal counsel or necessitate taking, or causing others to take, legal action there are many that can be repaired through negotiation of curative instruments designed to address the problem at hand. Figure 5 presents some of the most commonly used remedial documents. Also included are several documents that are not necessarily curative in nature but are the basis for common title opinion requirements and, if not filed properly, can give rise to future curative events.

Document	Description
Communitization Agreement	Evidences approval by the U.S. government, Department of the Interior, to the state mandated spacing orders for a commercial oil and gas well that contains federal acreage within the drillsite spacing unit.
Consent to Pool	Evidences the agreement of one or more parties-in-interest to an executed Declaration of Pooling or Pooling Agreement previously placed of record.
Corporate Mergers & Name Changes	Provides public notice of changes in the name or status of a corporation.
Correction Documents	Corrects mistakes and/or ambiguities in any type of document that is already of record. Where mistakes or ambiguities are complicated, care should be taken in drafting the recitals of the correction document to clearly explain who, what and why the document is being corrected.
Death Certificate	When placed of record, evidences the death of an interest owner for various title-related purposes. In the case of a life estate, it services to evidence vesting of executory rights and the right to receive proceeds in the remaindermen.
Declaration of Interests in a Pooled Unit	An agreement among parties in interest in a commercially-producing pooled unit as to their respective interests in the unit where ambiguity exists because of natural changes in topography (e.g., change in the course of a river, etc.) or otherwise.
Extension of Oil and	Used in situations where only the term, and possibly minor provisions, of the original oil and gas lease is being changed

Document	Description
Gas Lease	because lessee's operations have been insufficient to extend the lease beyond its primary term. If material provisions of the original oil and gas lease have been renegotiated, the superior curative document is a top lease or new oil and gas lease.
Pooling Agreement	Evidences compliance with state-mandated well spacing orders by consolidating smaller fee interests into a pool.
Probate	To transfer title from an estate, probate documents should be placed of record e.g., letters, deeds of distribution.
Protective Oil and Gas Leases	Taken to cover interests claimed by individuals or entities who do not have record title or whose record title is ambiguous. Also used to ensure full leasehold coverage when multiple parties have conflicting claims of ownership.
Quit-Claim Deed	Used to convey title to interests that may or may not exist or to confirm or repair title when ambiguities exist as a result of prior conveyances.
Quiet Title Action	A judicial action to resolve complicated title issues (e.g., adverse possession issues, overlapping claims, strangers to title, and condemnation issues, etc.). The final ruling should be placed of record as evidence of title ownership as determined by the court.
Powers of Attorney	Evidence of the authority of one party to act on behalf of another in specific legal matters or to conduct all business matters on behalf of a individuals unable or unwilling to act on their own.
Ratifications	Evidence that a party in interest by title, grant of authority, or act of law confirms and adopts the specific act of another party in interest (e.g., Execution of an oil and gas lease, mortgage, assignment, etc.) without altering the terms of the original act.

Document	Description
Release of Deed of Trust	Provides public notice of the satisfaction of debt.
Release of Oil and Gas Lease	Provides notice that a lessee or assignee or other party in interest relinquishes any further interest or claim in all or part of an oil and gas lease.
Grant of Authority	Formal or policy documents granting limited or unlimited signature authority to an individual to act on behalf of an entity.
Statement of Authority	Evidences the authority of a trust to convey and own property.
Stipulations of Interest	Without words of grant and cross-conveyance, clarifies the understanding of two or more parties as to their individual interests in certain lands to correct ambiguities of record. With words of grant and cross-conveyance, corrects ambiguities or incorrect prior conveyances among two or more parties; or amends ownership interests due to natural changes in topography.
Subordination Agreement	Protects an ownership interest from encumbrances of higher priority.
Sundry Notice	Provides evidence of the completion of a commercial well sufficient to hold a federal lease beyond its term.
Top Lease	Provides evidence of the intent of a lessor to grant leasehold rights beginning at a future time certain under the conditions that (1) the underlying lease expires or is terminated by its lessee and (2) the top lessee pays full consideration within a defined period of time.

Document	Description
<p>Affidavits</p> <p>Affidavits are many and varied. They can be used for providing notice to the public of matters pertaining to age; gender; birth; military service; marital status; residency; death; familial relationships; heirship; identity; possession of real property. Affidavits can also provide notice of the nature of a legal entity; identity or authority of officers of corporations; identity and authority of members of partnerships, L.L.C.s, joint ventures, and trusts; and other matters. Several frequently used types of affidavits are listed below.</p>	
Affidavit of Extension of Oil and Gas Lease	Provides public notice that operator believes a lease is extended beyond its primary term under the provisions of the lease.
Affidavit of Heirship (aka Affidavit of Death and Heirship)	Provides record notice that an interest is claimed to have been transferred by death to the putative heirs or devisees of a decedent without the benefit of probate. Affidavits of Heirship do not convey title.
Affidavit of Identity	Corrects inconsistencies in a party's name as it appears in the public record.
Affidavit of Joint Tenancy	Affirms the existence of a joint tenancy at the time of death of one of the joint tenants and evidences the passing of the interest of the joint tenant by operation of death.
Affidavit of Address Change	Provides formal notice of a lessor's change of address from that shown on an oil and gas lease or on a division order.
Affidavit of Possession	Provides evidence that a lessor who owns the surface of the leased lands remains in possession of the surface and that the lands are not being occupied by a stranger who could assert a claim by adverse possession.
Affidavit of Production	In compliance with statutory requirements, provides public notice that a commercial well has been completed, the drillsite location of the well, and the oil and gas leases extended beyond their primary terms by production.

Document	Description
Affidavit of Non-production	Provides evidence that certain leases/lands are not being held by production.
Affidavit of Surface Inspection	Evidences the presence or absence of oil and gas operations following a physical inspection of described land.

Figure 5: Commonly Used Curative Documents

Each area of the country will have its own versions for many of these documents, so sources in the area where the landman is working should be consulted for standard forms. There are also resources listed in the addenda to this paper where various editions of these instruments can be found.

There are two areas in particular that are somewhat outside the title opinion, itself, that seem to be ripe for serious problems for both the title attorney and the landman. One has to do with the foundation from which the title opinion is built and the other with follow-up and aftercare.

In geographic areas where the industry has been active for a number of years, operators are building internal libraries of title abstracts and title opinions. As a result, it is common practice to order complementary abstracts (including lands adjacent to and/or partially overlapping a prior abstract) and supplemental abstracts (covering records filed since the date of a prior abstract to the present). From one or more of these, the title attorney is asked to prepare a supplemental title opinion, which updates a prior title opinion — not always prepared by the same attorney. Title attorneys seem to be fairly willing to grant the equivalent of full faith and credit to their colleagues' work. Title attorneys are being asked more frequently to provide title opinions based on not one or two prior documents but several. The more prior documents involved the uglier and more ungainly the task becomes.

A case in point is illustrated by the spreadsheet on the following page that was created to help a landman see the gaps in the compilation of supporting documents from which a title attorney was asked to render a supplemental title opinion. It should be noted that the well for which the opinion was being created was being drilled to a third formation (frmtn 3).

Title Opinions dated 4/20/1988, 5/6/1988, 5/30/1989, and 5/23/1991 are cited in the 8/21/1999 TO as source material but abstracts used in preparation of those TO's were not provided to the Attorney who prepared the 8/21/1999 TO or to Stigurd Suaveson who prepared the 8/23/07 Supplement. Please note that the 6 original TOs did not cover all depths.

Title Opinion dated 2/2/1995 states that the materials examined in preparation of the TO were the abstracts shown (in the column below the heading) + prior Title Opinions (see above)

Stigurd Suaveson's TO dated 8/23/2007 states that it is based on the supplemental abstracts shown (in the column below the heading) + the 8/21/1999 Title Opinion

Stigurd Suaveson's TO dated 8/23/2007 states that the author of the 2/21/1999 TO recites that he relied only on the BLM records for preparing the TO as to Lot 2 and not an examination of the records in the County.

**Abstract and Title Opinion Coverage: Hope-it-Happens #7-17
Township 0 South, Range 0 West Section 17: Lots 1, 2, 8, 9, NWNE, SE (E/2)**

Summary	Known Abstract Coverage						Title Opinions (cited in TO dated 8/21/1999)						8/21/99 Surf to Frmnt 2 *	1/23/07 Surf to Frmnt 2 *	ISSUE: TOs appear to be based on incomplete Abstract Coverage and rely on prior TO's in the absence of Abstracts	Lot
	Bubba's Abstract # 6072	Bubba's Abstract # 2082-A	Bubba's Abstract # 6073	Bubba's Abstract # 6064	Bubba's Abstract # 6471	4/20/88 Below Frmnt 1 ±	5/6/88 Below Frmnt 1 ±	5/30/89 Below Frmnt 1 ±	5/23/91 Surf to Frmnt 1	5/23/91 Surf to Frmnt 1	5/23/91 Surf to Frmnt 1	5/23/91 Surf to Frmnt 1				
	Abstract Coverage for above TO's: Unknown															
Lot 1	Incept to 10/19/94												Incept to 10/19/94 to 3/31/06			Lot 1
Lot 2	12/4/87 to 3/31/06	12/4/87 to 10/18/94											12/4/87 to 10/18/94	10/18/94 to 3/31/06	Missing Abstract Data: Incept to 12/4/87 for all depths & 12/4/87 to 10/18/94 below Frmnt 1	Lot 2
Lot 8	Incept to 3/31/06		Incept to 10/19/94										Incept to 10/19/94 to 3/31/06			Lot 8
Lot 9	Incept to 3/31/06		Incept to 10/19/94										Incept to 10/19/94 to 3/31/06			Lot 9
NWNE	Incept to 3/31/06												Incept to 10/19/94 to 3/31/06			NWNE
E½SE	2/3/88 to 3/31/06			2/3/88 to 10/3/94									2/3/88 to 10/3/94	10/3/94 to 3/31/06	Missing Abstract Data: Incept to 2/3/88 surface to base of Frmnt 1	E½SE
W½SE	2/3/88 to 3/31/06			2/3/88 to 10/3/94									2/3/88 to 10/3/94	10/3/94 to 3/31/07	Missing Abstract Data: Incept to 2/3/88 surface to base of Frmnt 1	W½SE

* Title Opinions to a depth in Formation 2 are limited, by the materials examined by the TO Attys, to the depths stated in the Title Opinions based on footages in named wells previously drilled.

± Title Opinions below the base of Formation 1 did NOT include leasehold ownership or ORRI for formations from the surface to the base of Formation 1.

figure 6: Title Document Support Analysis

Undoubtedly the landman thought she was saving her company money and time by making use of the prior title documents. Actually, she cost her company both time and money, to say nothing of the headaches created for the title attorney. It took the attorney much longer than usual to render the title opinion, when completed it was over 500 pages long and contained over 180 requirements — atypical for this area. The attorney augmented his normal disclaimers as spectacularly as he dared. The curative project plan is over 100 pages long. It is estimated that at least 30% of the requirements might be eliminated with full abstract coverage. In the landman's defense, there were so many documents it was hard to figure out what might be missing. In this case the company elected to order additional abstracts.

The second issue to be discussed is a troublesome one. Time after time, title attorneys will request that when certain curative documents are obtained they be submitted to the attorney for review and possible modification of the title opinion. There does not seem to be a good record of follow through by title attorneys provided with such curative documents nor by their clients, who should be clamoring for assurance from the attorney that the attorney's conclusions in the original title opinion are valid — particularly if the possible consequence of the curative is a change in ownership or in interest that affects production payments.

VII. Best Practices

In closing this discussion, the author would like to urge landmen, who have responsibility for managing title curative for their companies, to consider adopting best practices that ensure the undertaking and completion of curative activities provides the greatest benefit possible to the operating company. These best practices will also yield an additional benefit to title attorneys and landman that will have subsequent responsibility for title examination and curative in the same areas at a future date. There are also some best practices included below that apply to title attorneys.

1. *Best practice:* implement documented procedures for handling curative issues including periodic review of the process and the company practices.
2. *Best practice:* utilize classification, prioritization, project plans and risk analysis to correctly identify impacts to the operator and assist in managing curative activities.
3. *Best practice:* involve the necessary parties from within the operating company in decisions concerning the waiver or demotion of curative requirements.
4. *Best practice:* document decisions made concerning waiver or demotion, including the date of the decision, the parties involved and a brief statement of the issues.
5. *Best practice:* include the full land description for affected leases in exhibits to affidavits of production.
6. *Best practice:* place curative documents that repair or clarify chain of title issues in the public records in the county where the lands are located. While having such documents in-house provides the operator with evidence that the requirement has been satisfied,

failing to put such documents of-record will ensure that the same requirements will be repeated in future drilling projects involving the same lands.

7. *Best practice:* properly resolve or cause the resolution of unprobated estate issues.
8. *Best practice:* refrain from using blanket waivers; circumstances change. Every requirement in the title opinion deserves at least some consideration.
9. *Best practice:* the title attorney is not finished when the title opinion is provided to the client. He or she should expect to participate in any discussion with the client where to have the title attorney's input would be valuable and necessary.
10. *Best practice:* refrain from requesting a supplemental title opinion based on prior title opinions where the abstract(s) for the prior title opinion(s) is not available.
11. *Best practice:* a comprehensive abstract covering a larger drillsite spacing unit will be more useful and efficient for the title attorney than several abstracts covering smaller units under the same lands — and ultimately for the person doing the curative work.
12. *Best practice:* title attorneys should follow-through on reviewing curative documents that are provided to them, under instructions in the title opinion, and modify the title opinions accordingly. This should also be done in a timely manner.
13. *Best practice:* the landman managing curative should ensure that the title attorney reviews any curative documents obtained that change the ownership or the interest reflected in the title opinion. And, require that the title opinion be modified as indicated.
14. *Best practice:* title attorneys should be asked to review any substantive curative documents for requirements classified as *critical* to insure that they produce the desired outcome.
15. *Best practice:* be careful not to create future curative events by filing incomplete, incorrect, or ineffective curative documents of record.

Despite the complexity, engaging in title curative work can be some of the most rewarding on the land side of the oil and gas industry. For those who love a challenge, curative provides all the convolutions and brain-teasers of a satisfying puzzle and the twists, sub-plots, blind alleys, red-herrings and surprise endings of a great detective story. At its best, curative title work offers the motivated landman and title attorney limitless challenges that can have the most rewarding outcomes.

Acknowledgements — the author would like to acknowledge the input and assistance of the following people: Lisa Sweeney for research and development of the addenda; Jennifer Williams, Martha Overby, Rick Feger, Terry Hill and Scott Petitmermet for an assist on the curative document table and for their great ideas on content; and Peg Anderson for proof-reading and formatting support.

Publications

AAPL Publications:

Bertrand, Carolyn T and Daniel G. Fournerat. "Louisiana Title: Acquisitive Prescription Demystified." *The Landman*, January/February 1997.

Danielson, Gregory R. "Liability Associated with Federal Record Title Leaseholder Rights." *The Landman*, July/August 1995.

Dowd, Timothy C. "Common Title Issues: An Oklahoma Perspective." *The Landman*, September/October 1999.

Dugas II, Clifton M. and Daniel G. Fournerat. "Louisiana Title Warranties." *The Landman*, January/February 1999.

Ensley, Linda. "Negotiating Title Defects." *The Landman*, September/October 1999.

Fournerat, Daniel G. "Louisiana Titles: The Race to Record." *The Landman*, May/June 1997.

Harris, Richard W. "Quiet Title Actions: The Swiss Army Knife of Litigation." *The Landman*, July/August 2002.

Hogwood, Terry E. "Anatomy of a Title Opinion." *The Landman*, January/February 1998.

Lindley, Laura. "Liability Associated with Federal Record Title Leasehold Rights." *The Landman*, July/August 1995.

Littleton, Don H. "Parallel O&G Leasehold Title Chains on State Leases." *The Landman*, January/February 1997.

Maddox, Nicola L. "Curing Title Defects Pursuant to Title Opinions." *The Landman*, January/February 1993.

Myles, John L. "Bankruptcy from the Title Examiner's Prospective." *The Landman*, July/August 1997.

Noblin Jr., W.C. "The Landman and the Title Examiner – Are They Unequally Yoked?" *The Landman*, March/April 1993.

Richardson, N. Craig. "Louisiana Titles: The Pugh Clause." *The Landman*, May/June 1998.

Snell III, George A. "Title Examination of Fee Lands Part I." *The Landman*, September/October 1997.

Snell III, George A. "Title Examination of Fee Lands: The Effect of Recording – Is it Constructive Notice? Part III." *The Landman*, January/February 1998.

Snell III, George A. "Title Examination Refresher (Part I)." *The Landman*, July/August 1995.

Snell III, George A. "Title Examination Refresher (Part II)." *The Landman*, September/October 1995.

Snell III, George A. "Due Diligence Title Review." *The Landman*, November/December 1994.

RMMLF Publications:

Bate, Richard H. "Use of Curative Statutes, Statutes of Limitation, Marketable Title Acts and Absent Mineral Owner Statutes." *Mineral Title Examination II*, April 1982.

Case, Randall M. "Tax Deeds and Defendable Titles." *Rocky Mt. Min. L. Inst.*, vol. 22, 1976.

Detton, David K., Richie D. Haddock, and Alan T. Pettie. "Execution, Acknowledgment, and Recordation of Documents or Whose Thumbprint is on My Deed?" *Rocky Mt. Min. L. Inst.*, vol. 31, 1985.

Gallinger, John L. "Unquiet Titles: Practical Solutions to Common Oil, Gas and Coal Title Problems." *Mineral Title Examination II*, April 1982.

Garver, Patrick J. and Patricia J. Winmill. "Medicine for Ailing Mineral Titles: An Assessment of the Impact of Adverse Possession, Statutes of Limitation, and Dormant Mineral Acts." *Rocky Mt. Min. L. Inst.*, vol. 29, 1983.

Harris, Janet N. "Analyzing and Curing Title Requirements in Oil and Gas Title Opinions or 'What's That Fly Doing in My Soup?'" *Rocky Mt. Min. L. Inst.*, vol. 31, 1985.

Hill, Robert P. and Richard H. Bate. "Curing Title Defects." *Mineral Title Examination III*, February 1992.

Howe, Sheryl L. "Business Aspects of Curing Title in the 1990s." *Land and Permitting*, January 1994.

Knutson, Rodney D. "Defunct Companies That Hold Record Title to Mining Properties: Problems and Solutions." *Rocky Mt. Min. L. Inst.*, vol. 24, 1978.

Lear, Philip Wm. "Lurking Title Problems: Snares for the Unsuspecting Federal Oil and Gas Lease Title Examiner." *Rocky Mt. Min. L. Inst.*, vol. 15, 1969.

Moran, John R. "Title Problems Created by Easements Public Domain Rights of Way and Government Reservations." *Rocky Mt. Min. L. Inst.*, vol. 2, 1956.

Moulton, Fred. "Avoiding and Curing Ambiguity in Mineral and Royalty Conveyances and Reservations." *Rocky Mt. Min. L. Inst.*, vol. 3, 1957.

Wentworth, E.J. "The Title Examiner and His Opinions As Viewed By The Landman Curative." *Mineral Title Examination*, November 1977.

Other Relevant Publications:

Bauer, Sharon A. and Wm. E. Bauer, CPL. *Landman's Field Manual, Sample Reports Forms and Procedures*. Houston Texas: K & J Publishing Company, 1982.

Bauer, Wm E., edit. *The Land and Right of Way Encyclopedia, Volume One and Two*. Houston, Texas: K & J Publishing Company, 2000.

Hohmann, Neil. *Source Book for Professional Landmen*. Shreveport, Louisiana: Quick Chain, Inc., 1983.

Lowe, John S., Owen L. Anderson, Ernest E. Smith, and David E. Pierce. *Forms Manual to Accompany Cases and Materials on Oil and Gas Law*. St. Paul, Minnesota: West Group, 2004.

Mosburg, Lewis, G., Jr. *Landman's Handbook on Petroleum Land Titles*. Fort Worth, Texas: Institute for Energy Development, 1976.

Rippetoe, Gary D. *Landman's Training Manual, Sample Contracts Agreements and Procedures*. Houston, Texas: K & J Publishing Company, 1998.

Rocky Mountain Mineral Law Foundation. *Landman's Legal Handbook – A practical Guide to Mineral Leasing 3d ed*. Denver, Colorado: Rocky Mountain Mineral Law Foundation, 1977.

Pertinent State Statutes

STATES	AK	AZ	CO	CA
Title Transfer				
- Conveyance: General	34-15	33-4	38-30-105	AB 594
- Tax Sale: General	29.45.300s	48-1596	39-11-110	
--- Redemption	29.45.470			1832
- Probate Code: General	Title 13	Title 14-3	Title 15	
- Foreclosure: General	34.45.005	33-725	38-38-101	1277
- Adverse Possession	9-45	12-525		Probate Code
Recording				
- General	40-17	11-480	38-35-109	
Oil and Gas				
- Leasing: General	38-05-132 --		38-43	
--- Terms of Lease	38-05-184	27-272	38-30-107.5	
- Releasing: General		33-707	38-42-104	
- Royalties: General	38.05.135	27-234	34-60-118.5(2)	
--- Penalties			34-60-118.5(4)	
- Commission: General	31.05.005	27-514	34-60-104 Mod: HB07-1341	AB 2778
--- Authority/Powers		27-515		
Abandonment				
- Abandoned Minerals	38.05.265			SB 483
- Abandoned Property	34-45	44-300s	38-13	AB 1854

STATES	LA	MT	ND	NM
Title Transfer				
- Conveyance: General		70-21	47-10	47-1-4
- Tax Sale: General	38.1637	15-17-122	57-20	7-38-65
--- Redemption	47.2183.1			
- Probate Code: General		72-3	Title 30.1	Chapter 45
- Foreclosure: General	48.872	71-1-222	35-22	39-5
- Adverse Possession			47-06-03	37-1-22
Recording				
- General	9.2941.1	70-21	47-19	14-8
Oil and Gas				
- Leasing: General		82-10-200s	38-11	19-10
--- Terms of Lease	30.806	82-1-200s		
- Releasing: General				
- Royalties: General	30.806	82-10-103	38-09-09	19-10-11
--- Penalties	30.136		47-16-39.1	
- Commission: General	31.121	2-15-3303	38-08-04	70-2-4
--- Authority/Powers	30.209		38-08-04	70-2-6
Abandonment				
- Abandoned Minerals			38.18.1-06	
- Abandoned Property	9.16s	70-9-803	47-30.1	7-8A

STATES	NV	OK	TX	UT
Title Transfer				
- Conveyance: General	10-133.110	58-429	5.001	57-1
- Tax Sale: General	32-361-5648 --	Title 68	Title 1-34	59-5-102
--- Redemption	32-361-620			
- Probate Code: General	12-136	Title 58	Probate Code	Title 75
- Foreclosure: General	Ch. 106, various	46-43	Prop Code: Title 5	59-2
- Adverse Possession	11.100s	16-72		
Recording				
- General	20-247	19-298	Title 3-12	17-21
Oil and Gas				
- Leasing: General	149.09	64-40564-285	NRC Title 02-52	65A-6-4
--- Terms of Lease				
- Releasing: General		46-15	41-40	
- Royalties: General	46-522.113	52-570	52.131	40-6-9
--- Penalties				
- Commission: General	46-514	52-288	NRC Title	40-6-4
--- Authority/Powers			02-53, 02-34	
Abandonment				
- Abandoned Minerals		84-271.1	03-89	67-4a-201
- Abandoned Property	120A		Prop Code Title 6	67-41-201

STATES	WY
Title Transfer	
- Conveyance: General	Title 34
- Tax Sale: General	
--- Redemption	
- Probate Code: General	Title 2
- Foreclosure: General	34-4-103
- Adverse Possession	34-1-112
Recording	
- General	36-1-102
Oil and Gas	
- Leasing: General	36-6
--- Terms of Lease	
- Releasing: General	
- Royalties: General	36-6-01
--- Penalties	
- Commission: General	30-5-103
--- Authority/Powers	30-5-014
Abandonment	
- Abandoned Minerals	34-24-17
- Abandoned Property	34-24

Internet Resources as of August 2007

LINKS	AK	AZ	CA	CO
Official State Site	www.state.ak.us/	www.azsos.gov/	www.ca.gov/	www.colorado.gov/
Secretary of State	www.commerce.state.ak.us/occl/	az.gov/webapp/portal/	www.sos.ca.gov/	www.sos.state.co.us/
Oil and Gas Commission	www.state.ak.us/admin/ogc/homeogc.shtml	www.azogcc.gov/ogcc_publicist.htm	www.energy.ca.gov/oil/index.html	oil-gas.state.co.us/
Association of Counties		www.azcounties.org/home/index.cfm	www.csa.ccounties.org/	www.ccionline.org/links.htm
Vital Records	www.hss.state.ak.us/dph/bvs/	www.azdhs.gov/vitalrcd/	www.dhs.ca.gov/hisp/chs/OVR/default.htm	www.cdph.state.co.us/certs/
BLM	www.blm.gov/ak/st/en.html	www.blm.gov/az/st/en.html	www.blm.gov/ca/st/en.html	www.blm.gov/co/st/en.html
Additional Misc. Links				
Official State Site	KS	LA	MT	ND
Secretary of State	www.accesskansas.org/index.php	www.louisiana.gov	mt.gov/	www.nd.gov/
Oil and Gas Commission	www.kssos.org/	www.sos.louisiana.gov/	sos.mt.gov/	www.nd.gov/sos/
Association of Counties	www.kcc.state.ks.us/conservation/index.htm	http://dnr.louisiana.gov/min/	bogcd.nrc.state.mt.us/	www.dmr.nd.gov/oilgas/
Vital Records	www.kansascounties.org/	www.lpgov.org/	maco.cog.mt.us/	www.nda.co.org/
BLM	www.kdheks.gov/vital/	www.dhh.louisiana.gov	dphhs.mt.gov	www.health.state.nd.us/vital/
Additional Misc. Links	www.blm.gov/nm/st/en.1.html		www.blm.gov/mt/st/en.html	blm.gov/mt/st/en/fo/north_dakota_field.htm
	Register of Deeds: www.ksrods.org/	LOGA: www.loga.la		NDRIN: http://www.ndrfin.com/
Official State Site	NM	NV	OK	TX
Secretary of State	www.nmwmexico.gov/	www.nv.gov/	www.ok.gov/	www.state.tx.us
Oil and Gas Commission	www.sos.state.nm.us/	sos.state.nv.us/	www.sos.state.ok.us/	www.sos.state.tx.us
Association of Counties	www.emnrd.state.nm.us/occd/	minerals.state.nv.us/	www.occ.state.ok.us/Divisions/OG/Og.htm	www.rrc.state.tx.us/divisions/Og/Og.html
Vital Records	www.nmcounties.org/counties.html	www.nvna.co.org/	www.oka.co.com/	www.county.org/
BLM	www.vitalrec.com/nm.html	health2k.state.nv.us/forms/formindex.htm	www.health.state.ok.us/program/vital/brec.html	www.dshs.state.tx.us/vs/default.shtml
Official State Site	www.blm.gov/nm/st/en.1.html	www.blm.gov/nv/st/en.html	www.blm.gov/nm/st/en.html	www.blm.gov/nm/st/en.1.html
Secretary of State	UT	WY		
Oil and Gas Commission	www.uta.h.gov/	wyoming.gov/		
Association of Counties	sos.wy.state.wy.us/	sos.wy.state.wy.us/		
Vital Records	ogm.utah.gov/oilgas/	wogcc.state.wy.us/		
BLM	www.uacnet.org/	www.wyo-wcca.org/		
Additional Misc. Links	health.utah.gov/vitalrecords/	www.vitalrec.com/wy.html		
	www.blm.gov/ut/st/en.html	www.blm.gov/wy/st/en.html		
	Petrol Assoc of WY: www.pawyo.org/facts.html			

Top Producing Counties with Online Access to Public Records

	AK	AZ	CA	CO
<u>Searchable Counties:</u>	<i>Not Searchable</i>	Greenlee, La Paz, Navajo, Santa Cruz: www.thecountyrecorder.com Other Searchable Counties: Coconino, Gila, Graham, Pinal, Pinal, Yavapai, Maricopa	Kern: recorder.co.kern.ca.us/	Mesa: http://apps.mesacounty.us/ Garfield: http://www.garcoact.com/clerk/ Weld: http://icris.co.weld.co.us/icris/documentSearch.jsp
	KS	LA	MT	ND
<u>Searchable Counties:</u>	<i>Not Searchable</i>	<i>Unkown/Undetermined</i>	<i>Not Searchable</i>	Multiple Counties: www.ndrin.com
	NM	NV	OK	TX
<u>Searchable Counties:</u>	<i>Not Searchable</i>	Eureka: eurekacounty.net:1403/cgi-bin/diw200	Carter, Stephens, Osage, Grady, Garvin: www.okcountyrecords.com/ Creek: www.countyrecords.com/crcreek.html	Ector, Scurry, Midland, Upton: www.texaslandrecords.com/txlr/controller
	UT	WY		
<u>Searchable Counties:</u>	Uintah: www.co.uintah.ut.us/ Summit: www.summitcounty.org/records/recordation.html	<i>Not Searchable</i>		