

By: Miller of Erath

H.B. No. 834

A BILL TO BE ENTITLED

AN ACT

relating to reporting ownership of mineral interests severed from the surface estate and the vesting of title by judicial proceeding to certain abandoned mineral interests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Property Code, is amended by adding Chapter 30 to read as follows:

CHAPTER 30. VESTING OF TITLE TO ABANDONED MINERAL INTEREST IN SURFACE OWNER

Sec. 30.001. APPLICABILITY. This chapter does not apply to a mineral interest owned by a governmental entity.

Sec. 30.002. DEFINITIONS. In this chapter:

(1) "Abandonment" means the termination of the use of a mineral interest by the owner of the interest.

(2) "Interest in the surface" means a fee interest, whether conditional or not, from which a mineral interest has been severed.

(3) "Mineral interest" means an interest in oil, gas, or other minerals in place that is severed from the ownership of an interest in the surface and includes a fee interest, whether conditional or not, life estate, estate for years, remainder interest, reversion, possibility of reverter, right of entry, executory interest, leasehold interest, royalty interest, executive right, or other present possessory interest, future

1 interest, equitable interest, or concurrent ownership interest.

2 (4) "Surface owner" means a person who has concurrent
3 or sole legal right or title to a present interest in real property
4 from which a mineral interest has been severed, except the holder of
5 a leasehold interest or an estate for years.

6 (5) "Use of a mineral interest" means:

7 (A) production of minerals under the interest;

8 (B) conduct of operations for injection,
9 withdrawal, storage, or disposal of water, gas, or other fluid
10 substances in connection with the interest;

11 (C) payment by the interest's owner of rentals or
12 royalties for the purpose of delaying or enjoying the use of the
13 interest;

14 (D) unitization or pooling of the interest for
15 production purposes with another tract on which the use is carried
16 out;

17 (E) production from a common vein or seam, in the
18 case of coal or other solid minerals, by the owners of two or more
19 mineral interests;

20 (F) payment of taxes on the interest by the
21 owner; or

22 (G) any other use authorized by the instrument
23 creating the interest.

24 Sec. 30.003. REPORT OF OWNERSHIP OF MINERAL INTEREST. (a)
25 A person who owns a mineral interest on September 1, 2009, must,
26 before September 1, 2010, file a report with the county clerk of
27 each county in which part of the interest is located. A person who

1 acquires or creates a mineral interest after September 1, 2010,
2 must file a report with the county clerk of each county in which
3 part of the interest is located before the first anniversary of the
4 date the person acquires or creates the interest.

5 (b) The report must be subscribed and acknowledged in the
6 same manner as required for a deed and must contain:

7 (1) the name of the person claiming the interest;

8 (2) the date the person acquired or created the
9 interest;

10 (3) a legal description of the interest; and

11 (4) a general description of the nature of the
12 interest.

13 Sec. 30.004. RECORDING OF REPORTS. (a) A county clerk may
14 charge the same filing fee for recording a report under Section
15 30.003 as authorized for recording a deed.

16 (b) Each county clerk shall maintain a public record of
17 reports filed under Section 30.003 separately from other records in
18 the clerk's office. The clerk shall maintain the record in the same
19 manner as required for deeds.

20 Sec. 30.005. PRESUMPTION OF ABANDONMENT ON FAILURE TO
21 REPORT. (a) An owner of a mineral interest who fails to file a
22 report as required by Section 30.003 is presumed to have abandoned
23 the interest, and title to the interest is presumed to belong to the
24 surface owner.

25 (b) A mineral interest is not abandoned if the owner of the
26 interest files a report under Section 30.003 before the court
27 renders a judgment under Section 30.006 declaring the interest

1 abandoned.

2 Sec. 30.006. JUDICIAL PROCEEDING. (a) A surface owner may
3 file a petition for declaratory judgment in the district court of
4 the county in which the real property is located, requesting the
5 court to declare a mineral interest abandoned.

6 (b) Except as provided by Section 30.005, the court may
7 declare a mineral interest abandoned only if the abandonment has
8 lasted for 10 years or more. The 10-year period does not begin to
9 run before September 1, 2009.

10 Sec. 30.007. NOTICE OF PROCEEDING. In an action for
11 declaratory judgment under Section 30.006, citation shall be issued
12 to the last known owner or owners of the abandoned mineral interest
13 as shown by the official records of the county clerk of the county
14 in which the property is located and shall be served in accordance
15 with the Texas Rules of Civil Procedure.

16 Sec. 30.008. VESTING OF TITLE. (a) If a court declares a
17 mineral interest abandoned, title to the interest vests in the
18 owner or owners of the surface interest from which it was severed,
19 with each owner taking the same share and the same type of ownership
20 in the mineral interest as the person has in the surface.

21 (b) A person who acquires title to a mineral interest in an
22 abandonment proceeding under this chapter may record, in the same
23 manner as a deed, a certified copy of the judgment as evidence of
24 title.

25 SECTION 2. This Act takes effect September 1, 2009.