



## MINERAL RIGHTS MANAGEMENT BY PRIVATE LANDOWNERS

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If you own land within a region in which fossil fuels (coal, petroleum, or natural gas) are thought to exist, you probably will be called upon to make several decisions regarding the disposition of whatever rights you have in these subsurface resources. When such a situation occurs, you may say "yes" or "no," or you may try to bargain over the details, but you cannot escape making some kind of a decision.

As a private landowner, you will be faced with risks and uncertainties in the management of your subsurface rights. The following is a summary of strategies that can help you reduce these risks and enable you to make wiser decisions regarding the mineral rights in your land holdings.

**Know what mineral rights you own in each tract of land.** These rights quite likely will vary from tract to tract. Keep an accurate, up-to-date

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list of the tracts you own, together with the subsurface rights still included with the title to your surface rights. You may need professional legal help in preparing this list.

**If your land lies in an area where strip mining of coal is a possibility, try to find out the depth of overburden and the thickness of coal seams.** If your land is under exploration permit or coal lease, the company may be willing to give you this information. This information may be available for some localities from the state geological department or from publications of the

U.S. Geological Survey. You might consider including clauses regarding such information in any future exploration permit or coal lease on your land. In some cases it might pay you to hire a competent drilling firm to make a survey of your coal seams.

**Avoid making hasty decisions.** Before making any decision regarding the mineral rights in your land, get all the relevant information you can. Find out what your neighbors have been offered for mineral leases or mineral deeds and what they decided to do. Discuss your particular problem with your attorney, tax consultant, banker, Production Credit Association and Federal Land Bank Association manager and County Farmers Home Administration supervisor.

**When you can no longer delay making a decision, think through the probable outcomes of each possible decision before making a choice.** Carefully list the benefits and disadvantages of each alternative course of action, based on all the information and professional advice you have been able to get.

**Notify the holder of any mortgage against your land before you sign any coal lease, oil and gas lease, or mineral conveyance.** The mortgage holder has an interest in your land that must be protected. Many mortgages stipulate that income from mineral leases shall be used to retire the mortgage debt.

**Ask anyone who contacts you for a coal lease, oil and gas lease, exploration agreement, or mineral deed for bank references and other credentials.** Check these credentials and references before signing any document. Some brokers and lease scouts may not be at liberty to divulge the name of the company for which they are working, but will take the leases in their own names and subsequently assign them to their employer. Bank references will be all you have to go on in such cases. The majority of brokers and company landmen are honest, capable people, who are trying to do a good job for their companies. This includes driving just as hard a bargain with you as they can, but it does not include perpetrating funds. Occasionally, you may be contacted by a broker or independent speculator who engages in sharp practices or even fraud. For example, beware of the broker who attempts to buy mineral rights in the same land for which he has just acquired a mining or drilling lease from you.

**Do not allow any seismograph or geophysical survey crew to operate on your land, except in accordance with a written exploration agreement or mining lease.** A written agreement is necessary to document your assent to the exploratory work if the coal rights are owned by the federal govern-

ment and to establish responsibility for damages resulting from the exploration work, not only to your surface rights, but also to property rights of others. You will be taking unnecessary risks if you grant oral permission for survey crews to operate on your land.

**Do not sign any proposed mining lease, oil and gas lease, or exploration agreement on your land until after you have discussed it with your attorney.** Your attorney may be able to point out clauses in such instruments that would be undesirable in your particular situation. He may be able to suggest alternative wordings for some clauses that would benefit you and that the prospective lessee might be willing to accept during the negotiations.

**Do not attempt to draft a mineral deed, royalty assignment, or deed to land containing a mineral or royalty reservation without competent legal assistance.** Drafting these instruments is a highly technical legal matter. Competent draftsmanship can avoid possible mistakes and the resulting disagreements and lawsuits later on.

#### COAL DEVELOPMENT BIBLIOGRAPHY AVAILABLE

A growing national demand for energy, decreasing reserves of natural gas and oil, and a growing public concern for environmental protection have made energy development a matter of great public interest in North Dakota. The Northern Great Plains area of North Dakota, Montana, South Dakota, and Wyoming contains vast coal reserves. Large-scale development of these coal reserves is either in the planning stages or already underway in all of the Northern Great Plains states; and community leaders are uncertain as to the implications for their constituents.

As an aid to those concerned with the economic and social issues posed by coal-energy development, researchers of the Agricultural Experiment Station have prepared a selected bibliography. The literature cited is directed at the coal-producing states of the western states with particular emphasis placed on the states of Montana, North Dakota, and Wyoming. Publications from the areas of law, engineering, and certain biological sciences, as well as economics, are included. Copies of the bibliography can be obtained by writing to the Department of Agricultural Economics, Agricultural Experiment Station, North Dakota State University, Fargo.