

A historical map of Texas showing land grants from Spanish and Mexican eras. The map features various names of landowners and grants, such as 'REYNOSA VIEJA', 'Los Topobitos', 'Santa Ana', 'Agostadero del Garco', and 'La Blanca'. A red banner with the text 'Mineral Rights FAQs' is overlaid on the left side of the map.

# Mineral Rights FAQs

## **Q: What types of records does the Texas General Land Office hold?**

A: The General Land Office keeps the files of the primordial land grants in Texas. That is, we hold the records of the first land grants awarded by Spain, Mexico, the Republic of Texas, and the state of Texas. Between 1850 and 1852, the state of Texas subjected the Spanish and Mexican land grants in South Texas to a process of confirmation or validation. Once the Legislature confirmed the grants, the Land Office issued a patent to officially sever the land from sovereignty, thereby foregoing all claims to the property. Our office does not hold records of how these original settlers disposed or conveyed their tracts. These records are usually found in the County Deed Records of the county in which the tracts are located. The County Deed Records are kept in the Office of the County Clerk.

## **Q: How were minerals granted?**

A: Spanish and Mexican land grants did not include ownership of minerals found on the land. Minerals were reserved for the Spanish crown and for subsequent governments that succeeded it. Unless a grant expressly stated the government's intention to convey the minerals, it was understood that the government reserved the mineral interests for itself. In 1866, a provision in the State Constitution changed this long-standing rule and released all mineral interests to existing surface owners. In practical terms, the landowner with complete claim to the land found on the Spanish and Mexican land grants of South Texas was the owner of the minerals at the effective date of the Constitution of 1866.

## **Q: Who has the rights to the minerals?**

A: A landowner who owns both land and minerals can choose to separate or sever the two estates. An owner can sell the minerals and retain the surface or, more commonly, sell the surface and reserve the minerals or a portion thereof. In Texas, oil and gas are considered minerals. Determination of the ownership of a mineral interest requires an examination of the deed and lease records affecting such a claim.

## **Q: I'm a descendant of an original grantee; do I have a claim to the minerals?**

A: Being a descendant of an original grantee, in and of itself, does not imply ownership of any mineral interest. As noted above, original grantees of Spanish and Mexican land grants in South Texas did not own the minerals on their land. If they or their descendants still owned the land at the effective date of the 1866 Constitution, they became at that time the owners of the mineral estate on the land. The mineral interest could then be conveyed or reserved by the owner. The conveyances, transfers, reservations, and leases of the mineral interest are part of the chain of title relied on to establish who has a claim to the mineral estate today.

**Disclaimer:** nothing herein constitutes legal advice and you are encouraged to seek independent counsel of your choosing as to your rights and/or obligations related to the title to land and/or minerals.