



Handling Overlooked Mineral Interests of Deceased Owners

For many years, most individuals held title to their assets in either their name individually or as joint tenants with right of survivorship, often with their spouse. Upon the death of the individual title holder or of both joint tenants, the assets were distributed to the designated beneficiaries named in their Will through a probate proceeding.

In these probate estates, it was not uncommon to overlook one or two small mineral interests in the probate inventory, but the Final Decree often stated that 'later discovered' property still passed to the designated beneficiaries. If a mineral interest was discovered at a later date, a copy of the Final Decree from the probate was filed in the county clerk's office where the discovered mineral interest was located.

Today, substantially fewer estates are probated. More families utilize revocable living trusts or transfer-on-death or payable-on-death registrations to hold title to their assets, thereby avoiding probate.

So, the challenge becomes what to do with newly discovered mineral interests on estates that are not probated? Beneficiaries have needed a workable, affordable solution and, until recently, there was not one under Oklahoma law.

In order to help alleviate this problem, Trust Company of Oklahoma initiated legislation that was passed by the Oklahoma Legislature in 2010. This legislation provides for an Affidavit of Death and Heirship that can be used to pass the ownership of the severed mineral interests to the heirs at law if there is not a Will or to those named as beneficiaries in the Will, as long as the Will was not probated. For the Affidavit of Death and Heirship to be applicable, the total value of this personal property and severed mineral interests titled in the decedent's name cannot exceed \$20,000.

Even with diligent estate planning, small mineral interests are often discovered long after someone is deceased. Now families have a simple, cost-effective method of transferring ownership to the proper beneficiaries. If you are in need of help with your family's mineral interests, our oil and gas professionals are ready to help. [f](#)



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