



Mineral Rights Integration Information Sheet

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Idaho has seen increased interest from companies seeking to drill for oil and gas. Ownership of mineral rights (including oil and gas rights) and how those resources can be extracted is often complicated.

Oil and gas resources have the potential to be pooled in a large geologic formation below the surface, with a patchwork of different mineral ownership interests. The legal principle of correlative rights establishes that each mineral right owner has a reasonable opportunity to capture the resource under his or her property, in a share equal to the size of their land in proportion to the size of the underlying geological formation that contains oil or gas.

Oil and gas mineral rights are divided into units over Idaho's geography for the purposes of ensuring proper spacing of the wells, which ensures the proper extraction of resources while protecting correlative rights. Idaho's Oil & Gas Conservation Commission (Commission) in accordance with state law (Idaho Code § 47-321), has set the standard drilling unit of land at 640 acres for natural gas and 40 acres for oil.

Idaho requires an operator developing oil and gas resources to pay production royalties to the mineral owners in these established drilling units, on a pro rata basis according to the number of net mineral acres held by each owner in the unit. Pro rata means that every shareholder gets an equal proportion for each share he or she owns. This is called integration provision. It is contained in Idaho law ([Title 47-322](#)) to ensure all mineral owners are appropriately compensated for production of their minerals.

What happens if within the patchwork of mineral owners some want to drill and others do not? Or perhaps mineral owners or their heirs can't be located? Most oil producing states require integration, which allows those who want to drill for resources to move forward while making sure other mineral rights owners in the drilling unit get their fair share financially.

If Idaho's proposed rules are approved, and after good faith negotiations, it would take a 55% majority of mineral owners wanting to drill in order to apply for an Integration Order with the Commission.

The integration process begins with the well operator submitting an application to the Commission for an Integration Order. All unleased mineral rights owners in the drilling unit are given notice of when and where the Commission will hear the integration application.

Here is how the process works. Once the application is received, the Commission holds a hearing, listening to testimony from the applicant and unleased mineral rights owners in the drilling unit. The Commission then decides whether or not to grant the integration application. If it is granted the Commission will provide options for the unleased mineral rights owners. Integration Orders will contain three options for the mineral owner, with a specified time period from the date the order is signed to select one of the options. Commission orders may have variances on a case-by-case basis, but these are the most common options:

- 1) **Lease** – This can be done by signing a lease with the operator (applicant) under terms agreed on by both parties. It can also be done by signing a commission approved lease which limits the negotiating terms.
- 2) **Participate as a Working Interest Owner** – This can be done by signing an operating agreement between the operator and mineral owner, known as a Joint Operating Agreement. The mineral owner will receive their full mineral portions (royalties) for their acres, minus costs of production. They must pay a portion of the costs of drilling and completion upfront.
- 3) **Elect Non-Consenting Working Interest Owner** - Under this option, the mineral rights owner will receive the traditional 1/8th royalty. The remaining royalty will have a drilling penalty of 300% because expense money is not put upfront. There are no expenses for this mineral owner if the well is not productive.
- 4) **Deemed Leased** – By electing not to participate within the Commission's designated time frame, a mineral interest owner will be deemed leased, given 1/8th royalty, and receive a bonus payment based on the highest bonus paid in that unit.

Mineral Rights Integration Frequently Asked Questions

Q. How do I find out if I own the mineral rights to my property?

A. In the State of Idaho, mineral rights are considered part of the sale with the surface rights unless they have been specifically reserved or separated. You can make a trip to your county assessor's office and look for the mineral estate on the property. If the document shows a reserve by the previous owner it means you do not own the mineral rights. If the document shows a reserve on the Idaho Department of Lands or federal patent lands, you do not own the mineral rights. If you own the mineral rights no reservation will be shown against the property.

Q. What if there are different owners for the surface rights and the mineral rights?

A. This is called a split estate. Let's say Sam owns the surface and mineral rights to his property, then sold just the surface rights to his brother Fred. Fred may build a house and live on the property, but since Sam retained his mineral rights, Sam is the person an oil and gas company will approach to sign an oil and gas lease.

Q. A company has approached me about drilling a well in my section. What options do I have?

A. If you are both the surface rights and mineral rights owner, you have three basic options: 1) voluntarily negotiate a mineral lease agreement with the company, 2) request to participate in the well, or 3) in the absence of an agreement, be subject to an integration hearing process before the Idaho Oil and Gas Conservation Commission.

Q. Do I need a Surface Agreement?

A. If you own the surface rights and the drilling company wants to cross your property, or if they want to put the well on your property, you will need a Surface Agreement.

Q. I've been told that our minerals are being integrated. What does that mean?

A. Integration is a process used to ensure the orderly development of the crude oil and natural gas resources in the State of Idaho. It also ensures that mineral rights owners within a specific drilling area or unit receive a portion of the money that results from wells.

When a mineral owner cannot be located or the mineral owner chooses not to participate or sign a lease agreement, the operator may apply for integration through the Commission. The Commission decides if the drilling may move forward or not. If it does move forward the mineral owner will have 15-days to decide on one of four options: acquire a lease, participate as working owner interest, elect a non-consenting working interest owner path, or be deemed leased.

Q. How do I know the cash bonus and conditions that are being offered are fair?

A. The terms and conditions of mineral lease agreements are negotiable and terms and prices paid vary based on geographical regions. Although many factors influence the price paid, generally the value of the mineral rights is relative to the potential for resource development in that area. It is always a good practice to check with neighbors and friends who hold mineral rights, real estate agents with knowledge of mineral rights and individuals within the oil and gas industry to compare what cash bonuses are being offered. There are also many mineral lease internet forums that might be helpful.

Q. I don't own the mineral rights to my property and a company wants to drill on my land. Can I stop them? What are my options?

A. It is not uncommon for part or all of the mineral ownership to have been severed from the surface ownership at the time of the land sale. In the State of Idaho, the mineral rights are dominant over the surface rights. State law requires that surface owners must allow a reasonable portion of their land to be used for drilling and production. It gives the mineral rights holder reasonable access but the developer or operator has obligations of reasonable accommodation. The exception to this is if there is a "No Surface Occupancy" agreement with the mineral development company. The surface rights owner can use this to restrict the oil and gas company from using all (or a certain portion) of the land for drilling operations. However, it may not prevent exploration on the property.

Q. I have inherited mineral rights. How do I transfer the royalty payments over to me?

A. Send a self-explanatory, certified letter to the well operator and include the following information:

- A copy of the death certificate or other relating documents.
- A copy of the Last Will and Testament.
- If the estate was probated through the courts, then send a copy of the Final Decree, Court Order or an Affidavit of Heirship.
- A list of the legal names, addresses and tax identification numbers of the heirs who are to receive royalties.

The operator may require additional information.

Q. I have purchased a piece of property and the mineral rights were included. How do I transfer the royalty payments over to me?

A. Send a self-explanatory letter to the operator and include the following information:

- A copy of the deed showing that mineral ownership was transferred during the land sale.
- The legal name, address and tax identification number of the entity who is to receive the royalties.

Q. How often does the Idaho Gas & Oil Conservation Commission meet?

A. The Commission meets every other month, generally on the third Thursday of the month, in Boise. Exact meeting times and dates can be found on the Commission's web page at <http://www.idl.idaho.gov/oil-gas/commission/index.html>.