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## U.S. Mineral Rights and Leasing

### Module 1: Basic Ownership Rules

**Description:** This module explains private ownership of minerals, the Rule of Capture and the issues with the Rule of Capture, it describes what the Doctrine of Correlative Rights is, the importance of conservation laws and ownership theories.

### Module 2: Mineral Estate Characteristics

**Description:** This module describes what it means to have a Fee Simple Absolute mineral estate, how mineral estates are severed, and the rights of the mineral estate. It also gives an overview of leasing rights, explains how the mineral estate is the dominant estate, having implied use of the surface, through the use of the Accommodation Doctrine.

### Module 3: Minerals Ownership of US Lands

**Description:** This module shows the how the nation's land was originally divided. Next, this module covers the difference between "Federal land" states and "state lands" states. The US was divided using two different methods of measurement, the metes and bounds survey method and the rectangular survey system, and this module explains the differences between those. The distribution of federal lands is described, showing how land was conveyed to homesteaders, military vets, natives, railroads, state governments or sold and how the patents were granted. The way these lands were divided and distributed has large implications for oil and gas and this module explains why that is.

### Module 4: Joint Ownership

**Description:** This module explains why mineral estates may have a large number of joint owners. There are different ways a mineral estate can be divided when owned by multiple parties, so, this module breaks down each way into easy to understand descriptions. It describes how undivided mineral estates work. How concurrent joint ownership is implemented and its three types: tenancy in common, joint tenancy, and tenancy by the entirety. It also covers successive joint ownership, including life estates and others.

### Module 5: Other Ownership Issues

**Description:** Not all minerals are included in severed estates. This module explains what types of minerals can be included. What is considered surface substances vs. minerals? It covers the breakdown



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of where the surface stops and the minerals begin. Also, this explains that when a mineral estate is severed and sold, part of the mineral interest can be withheld. This small portion is called a non-participating royalty interest (NPRI). There is an explanation of executive rights after a severance, who makes the decisions and why. This module touches on the issues of adverse possession and the rights those claims have. Finally, it describes what kind of restrictions on development rights one may come across.

## Module 6: Mineral Interest Types and Uses

**Description:** This module provides examples of conveyances and subdivisions of a mineral estate over time. It describes joint working interests and joint operating agreements which govern the partnering of oil and gas companies. It explains overriding royalty interest. It also compares different royalty types: NPRI, lease royalty, and overriding royalty. Furthermore, this module explains net profits interest, farmouts, and production payments.

## Module 7: Lease Granting and Habendum Clauses

**Description:** This module gives a background of leasing. It explains where the term "Producer's 88" came from and why it is important to oil and gas leases. It goes over what a lease conveys and explains how a lease identifies the parties and the effective date. The lease is further explored with the granting section, which includes: consideration, words of grant, minerals and developments rights included, the property description, and the Mother Hubbard clause. It wraps-up with relating what the Habendum clause in an oil and gas lease is, including descriptions of the primary term, the secondary term, and paying quantities.

## Module 8: Lease Royalty Clause

**Description:** The first part of this module explains oil royalties and the different details that go into an oil royalty such as: taking in kind, determining market price, and the quality and location differentials to benchmark prices. The next part describes gas royalties and everything that goes into calculating it, such as: valuing gas at "the well," common "post production" requirements to market gas, gathering and compression, treatment and processing (including types of processing contracts), and deductions for post-production costs. It then covers the deductions for production taxes. Lastly, this module explains royalty statements.

## Module 9: Delay Rentals and Pooling

**Description:** This module explains the proportionate reduction clause which is important to know to



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understand that the Lessor's royalty payment amount. Also, in this module, is the delay rental clause: why it is used, the implied covenants to perform work, when delay rental payments are paid, and paid-up leases. Next is the surrender clause, explaining how the Lessee can surrender their portion and be relieved of obligations. This module goes in-depth into the pooling clause including: when and why it is needed, the drilling/spacing requirements, a pooling example, the calculation of net revenue interests in a pooled unit, the complications caused by the presence of a NPRI, partially-leased tracts, compulsory/forced pooling and the common compulsory-pooling participation options.

## Module 11: Other Common Leasing Provisions

**Description:** Starting off, this module covers the vertical and horizontal Pugh clauses and the retained acreage clause. Next it goes into detail about the savings clauses, including: the dry hole clause, the shut-in gas royalty clause, the continuous operations clause, the cessation of production clause, and the force majeure clause. It describes the warranty clause, subrogation clause, equipment removal clause, and the assignment clause. This module also examines surface use provisions and restrictions along with surface use agreements. Then, it explains the issues caused by variations in lease terms that are in the same tract or unit. Lastly, it covers community leases, seismic agreements with lease options, lease extension options, and top leasing.

## Module 12: Federal Onshore Leasing

**Description:** This gives an overview of federal onshore acreage and list agencies that manage the surface of federal acreage. It explains the role of the Bureau of Land Management, which manages onshore mineral rights. It continues with showing how the BLM coordinated with other federal agencies that manage surface acreage. Next, this module describes the types of acreage that is generally closed to leasing. There are federal mandates that prescribe land protection and use (FLPMA and MLA) and Resource Management Plans. It continues with explaining the leasing process. Then shows how BLM's changed interpretations of federal mandates have negatively impacted oil and gas. It delves into the new advent of the restrictive Master Leasing Plans and gives an example this using the Moab Master Leasing Plan.

## Module 13: Federal Offshore Leasing

**Description:** It begins with defining the territorial waters and the Exclusive Economic Zone and continues with explaining the differences of state and federal waters. It describes what the federal Outer Continental Shelf (OCS) is and the areas of the OCS that are closed to leasing (the majority). Next this module explains the Five-Year Leasing Programs. It continues by providing detail about the western and central



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Gulf of Mexico, including: the development to date, exploration and development's movement into deeper water, subsea completions and floating platforms. We then move north to the Alaskan Outer Continental Shelf and see the cancelled sales of the past, the story of the Chukchi Sea and Beaufort areas, and finally take a look at the Cook Inlet. Lastly, it explains the offshore leasing process and about leasing in state waters.

## Module 14: Conveyances and Assignments

**Description:** This module begins with an overview of transfer types and methods. It continues with conveyances, including: Required elements and common provisions, minerals vs. royalty conveyances, warranty deeds and quitclaim deeds, delivery and acceptance, and the use of bank/sight drafts. It follows up with explaining recording and recording statuses. Then, it wraps up with a description of assignment of lease-related interests.

## Module 15: Title Opinions and Title Issues

**Description:** This module examines the purpose and scope of a title opinion, the lease purchase title opinion, the drilling title opinion, and the division order title opinion and division orders. It then gives examples of title defects and title exposures. Next this module explains the Duhig Rule, its origin and purpose. Finally, it finishes with curative work, curative instruments, and curative statutes.

## Module 16: Land-Related Roles and Organizations

**Description:** This final module moves into explaining who landmen are and their duties along with The American Association of Professional Landmen (AAPL). It describes the roles of attorneys and Lease and Title Analysts, and their duties, along with The National Association of Lease and Title Analysts (NALTA). Finally, it includes an overview of Division Order Analysts and their duties, along with The National Association of Division Order Analysts (NADOA).