

It's What's Under the Surface that Counts *(Or Is It the Surface that Counts?)*

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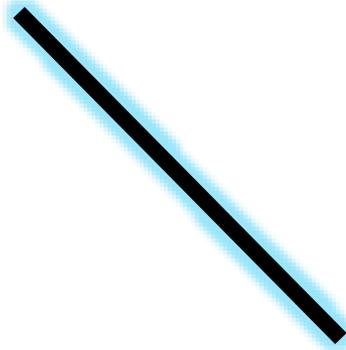
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What does oil and gas production have to do with land development?



- ◆ Split Surface and Mineral Estates
- ◆ Notification Requirements to Mineral Owners and Leasehold Owners
- ◆ Surface Use Agreements
- ◆ Development Application

Split Surface and Mineral Estates



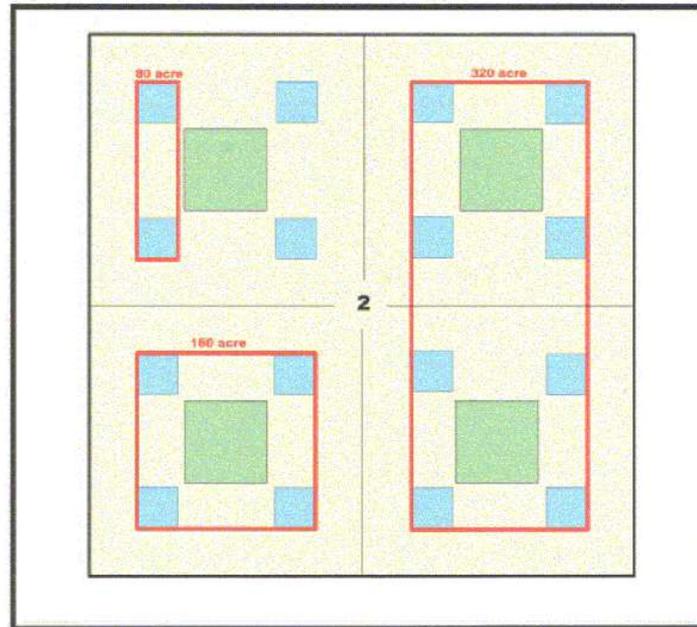
- ▶ Land developers often do not own the minerals underlying their land
- ▶ Estates severed long before the land developer acquires the land
- ▶ Oil and gas rights often already leased to an oil and gas company
- ▶ Law requires that surface owner provide access to minerals

Notification Requirements



- ▶ Law requires developer to notify mineral estate owner/lessee of development application
 - (§24-65.5-103, Colorado Revised Statutes)
- ▶ Oil and gas companies can file objections to development application with the local jurisdiction
- ▶ In the Greater Wattenberg Area of Colorado, there are specified drilling locations (“GWA windows”)

GWA Windows



COGCC, April 1999

LEGEND



400' X 400' GWA Drilling Window



800' X 800' GWA Drilling Window



Designated Areas Within Drilling And Spacing Units
(see waiver requirement in GWA Policy)

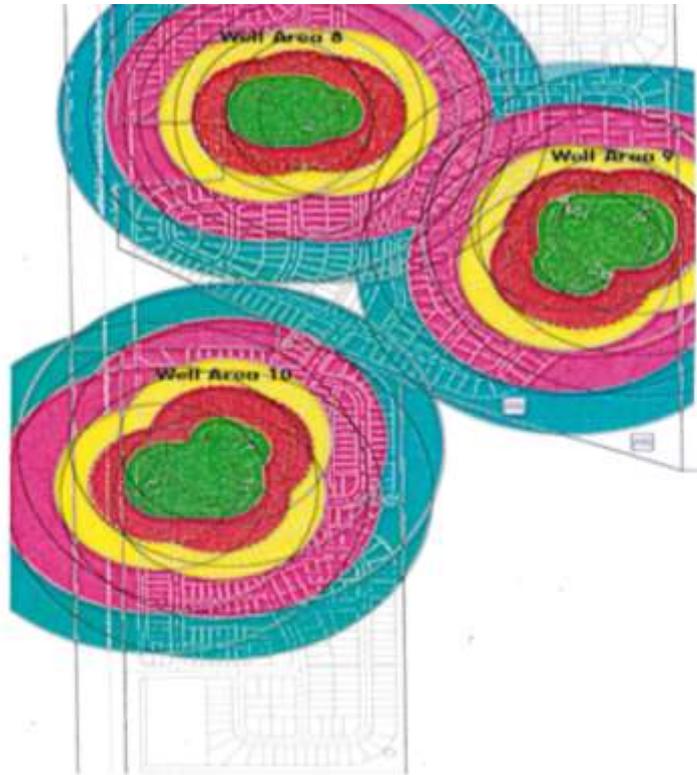
GWA SECTION ILLUSTRATION

Source: Colorado Oil and Gas Conservation Commission ("COGCC")

Location, Location, Location...

Question: Why do oil and gas surface locations matter to land developers?

Answer: Lost lots due to setback distance requirements from oil and gas facilities



700 lot development project with 3 Oil and Gas Operation Areas

Legend

Green	150'	Setback
Red	350'	Setback
Yellow	500'	Setback*
Pink	750'	Setback
Blue	1000'	Setback



Well Setbacks Colorado

*Setback from wells and production facilities in Colorado

Surface Use Agreements



- ▶ Land developer and oil company can negotiate a private contract, Surface Use Agreement (“SUA”)
- ▶ SUA defines:
 - Oil and Gas Operation Area (“OGOA”) locations
 - Access routes
 - Pipeline locations

DEAL!

We have a Surface Use Agreement

- ▶ So, the process is now finished, right?
- ▶ *Not so fast!* Back to the local jurisdiction...



Development Application

- ▶ *The local jurisdiction still must approve development application...*



- ▶ Local jurisdictions may not approve Surface Use Agreement's setback distances, and may have greater setback requirements than the state (COGCC)
- ▶ Local jurisdictions require open space within the subdivision and often do not allow oil and gas setback areas to count

The Local Jurisdiction Approves...



SUCCESS!

You now have a
platted subdivision

A Few Recommendations:



- ▶ Record agreements or memorandum of agreements against the property with clerk and recorder
- ▶ Provide agreements to future homebuyers
- ▶ Place informational signs on property noting oil and gas locations

THANK YOU!

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