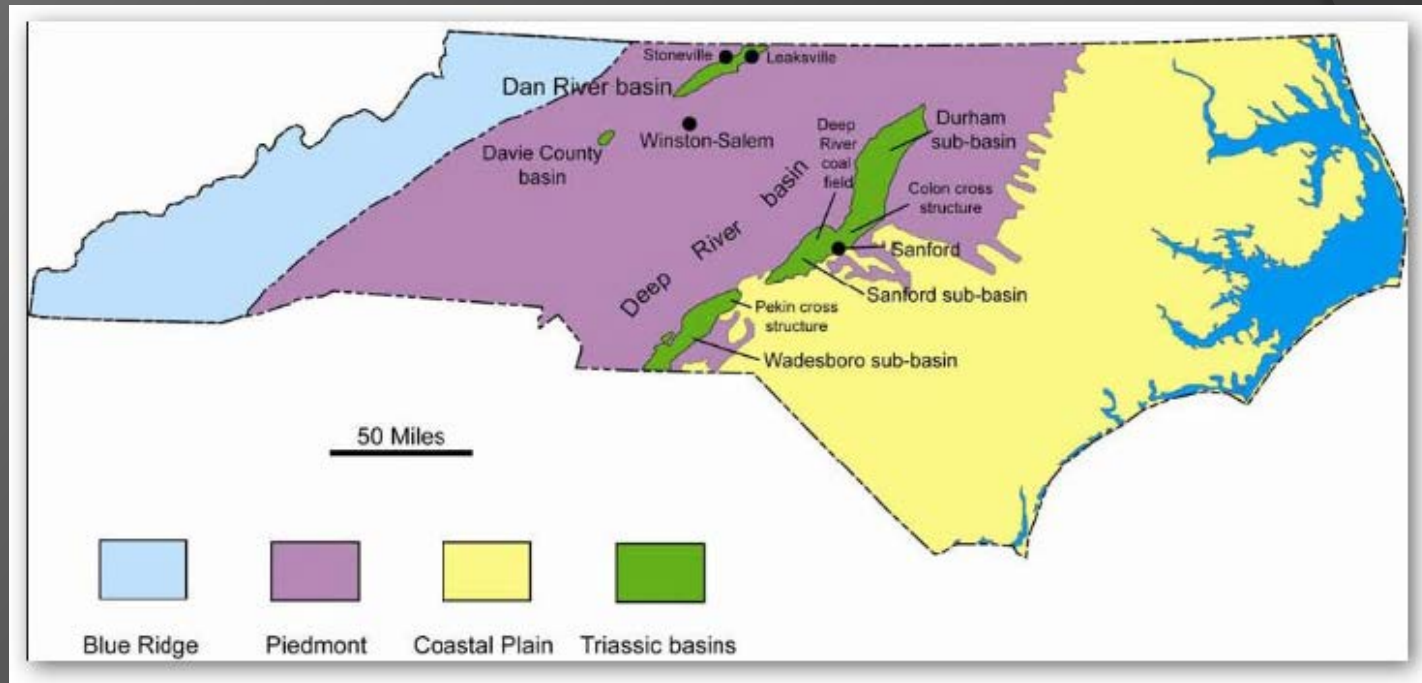


A LAND RECORDS VIEW OF MINERAL RIGHTS IN NORTH CAROLINA



North Carolina Secretary of State
Land Records Management Program
Thomas W. Morgan, PLS, Land Records Manger
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What is Real Property?

- Real Property refers to the interest, benefits, and rights inherent in ownership of real estate.
- Said rights are restricted for use within the limit of title of the granting document (the Boundary).
- Real Property is the land, buildings, structures, improvements, and permanent fixtures on the land.

Ownership:

- The right of one or more persons to possess and use a thing to the exclusion of all other persons.



Title:

- Legal Evidence of ownership.



Estate:

- The degree, quantity, nature, and extent of interest which a person has in real and personal property.

Rights:

- A Claim or title to or interest in anything whatsoever which is enforceable by law.

Rights and Interest reserved by the Sovereign (the State of North Carolina) from a Land Grant

- To Tax
- To take by eminent domain
- To conserve resources
- To regulate use and entry (zoning)
- Conservation of historic artifacts
- Apply the laws of the State
- Navigation of air and water
- ETC.

Rights and Interests granted by the Sovereign (the State of North Carolina) to a grant of land.

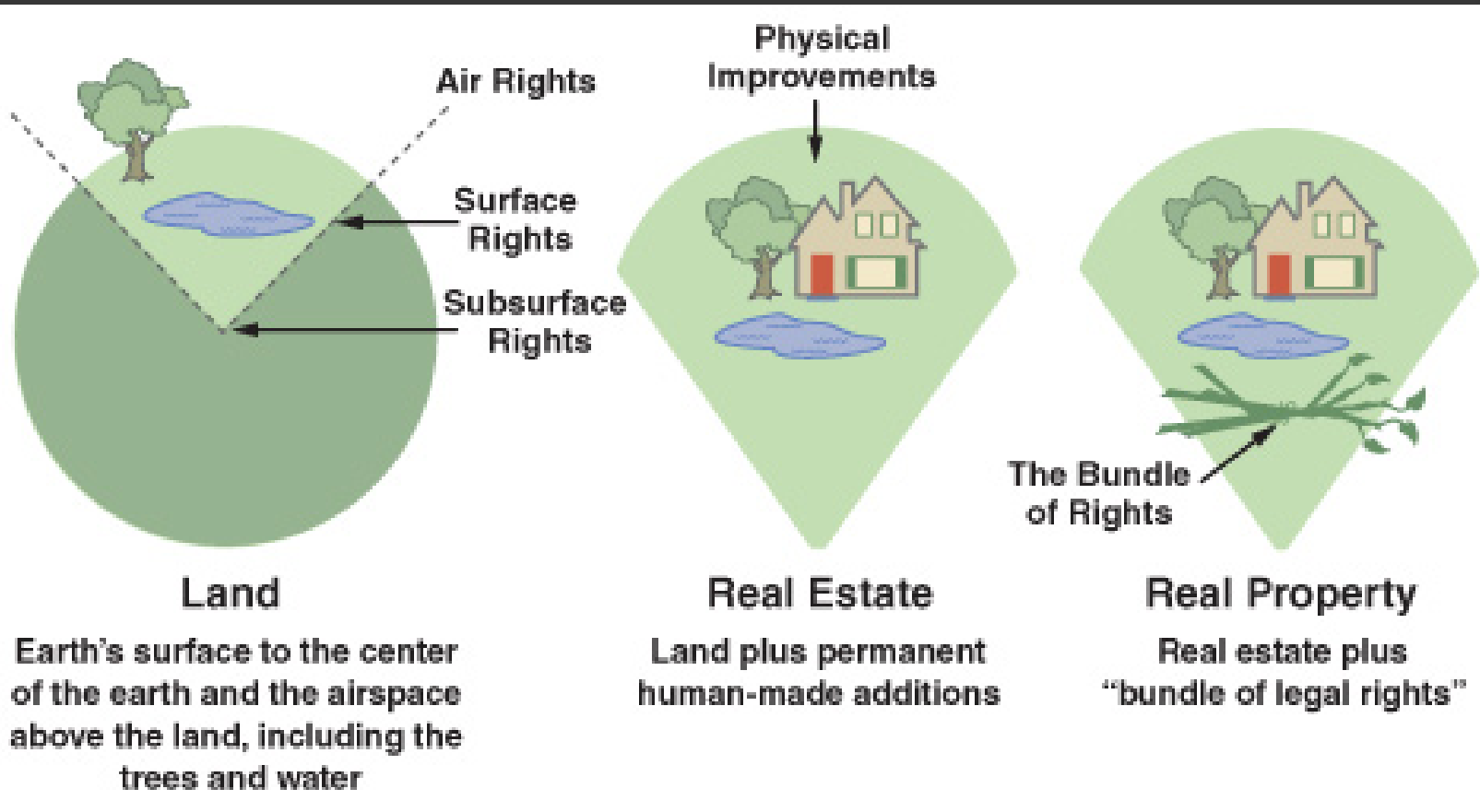
- Six basics (Bundle of Right) associated with ownership of an Estate:
 - 1. Right to use,
 - 2. Right to sell,
 - 3. Right to lease or rent,
 - 4. Right to enter or leave,
 - 5. Right to give away,
 - 6. Right to refuse to do any of these.

Rights and Interests in Real Property

(surveyors role)

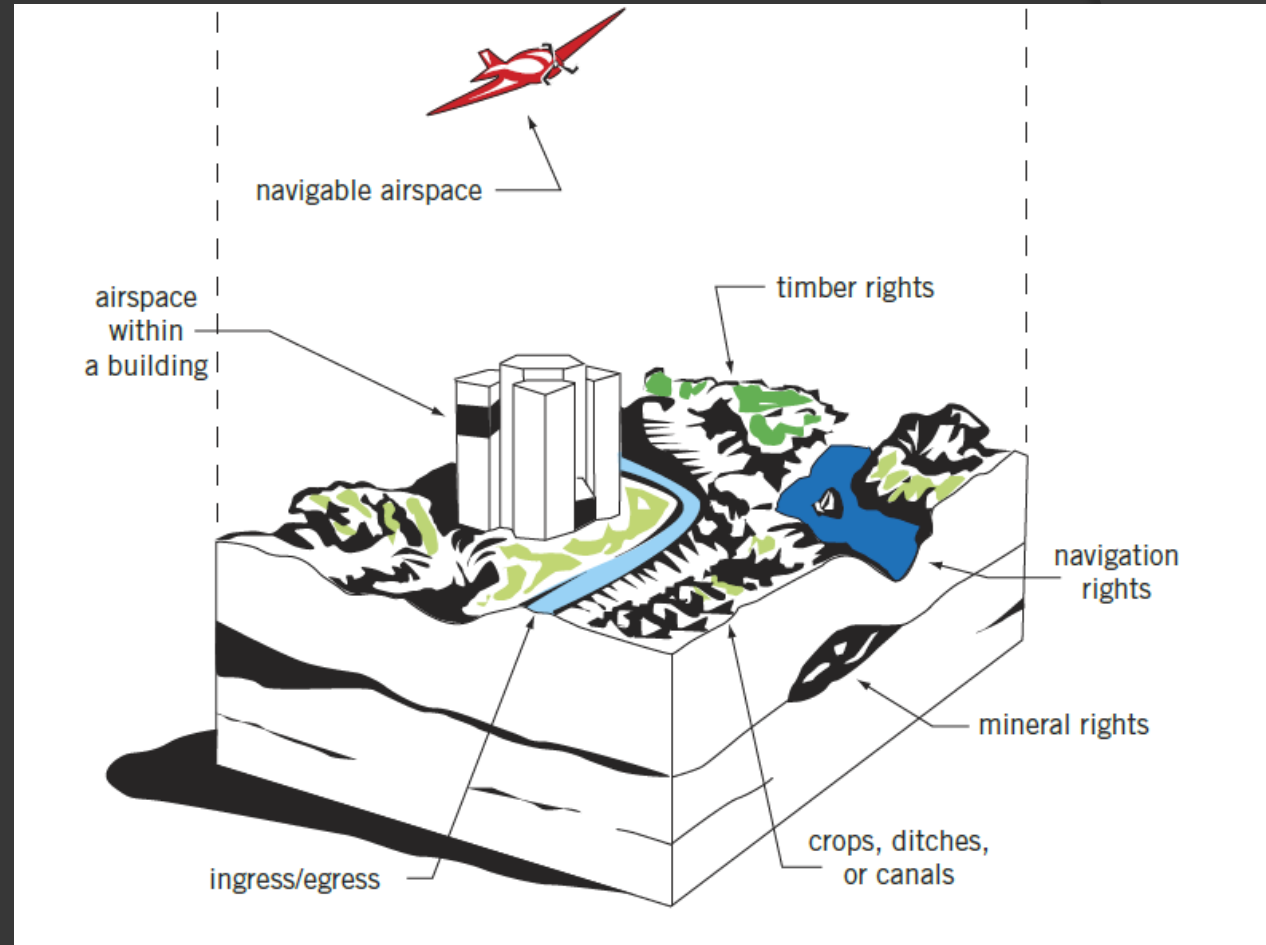
- ⦿ The original surveyor establishes the boundary on the ground between rights granted to individuals.
- ⦿ The surveyor does not create or grant said rights.
- ⦿ Once rights in a property are granted within a defined boundary any change in said boundary must meet the legal standards for effecting such change.

The Fee Estate



Rights and interests can be disconnected from the primary or fee simple surface Estate

- Public Trust rights - air and water navigation.
- Individual rights can be conveyed or passed on to another separately.



NC Statutes .

- ⦿ An Instrument affecting real property must be in writing. (§ 22-2)
- ⦿ The holder in legal or equitable title:
 - Can transfer all or part of the property, (§ 22-2)
 - Can transfer some rights, (§ 39-6.4)
 - Can restrict or modify use. (§ 22-2)
- ⦿ Only the rights of those executing the document with proper notarization are affected. (§47-14(d))
- ⦿ The instrument must be filed in the Register of Deeds office in the county where the property is located. (§47-18(a))

The transfer of rights may create additional Estates.

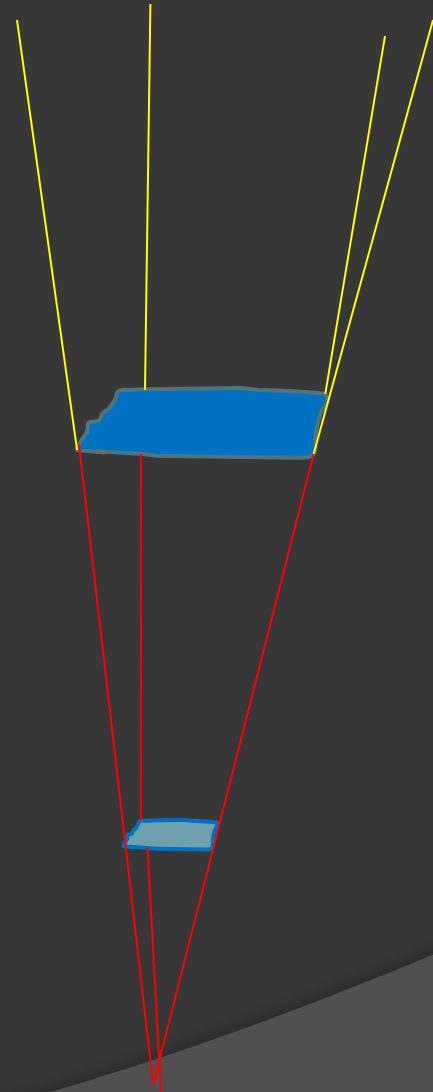
- Once an Estate is transferred it can only be modified by the holder of the Estate or by an action of Law.
- In the case of a subsurface right, if said right has been transferred, a subsequent division of the surface right will not modify the subsurface Estate.

Land can be divided in many different ways.

- ① We typically think of land ownership rights being confined by a boundary at the surface of the earth.
- ② We know that the boundary can be subdivided vertically in to lots or tract of land.
- ③ But we rarely think of subdividing horizontally into layers.

Vertical Boundaries

- Vertically the bounded area starts at the center of the earth with zero area and radiates outwardly gaining area until it intersects with the surface of the earth. Then theoretically extends into the air space above the earth. Hence the statement “I own from heaven to hell”.



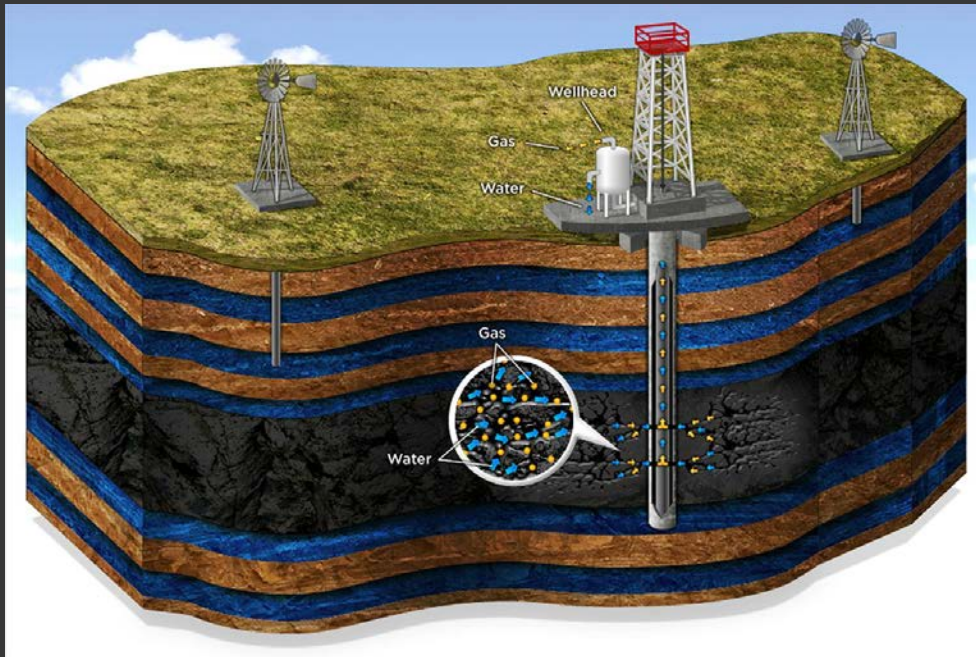
Horizontal boundary

- Can divide the ownership like a layer cake.

Underground (mineral rights)

Or

Above ground
(condominium)



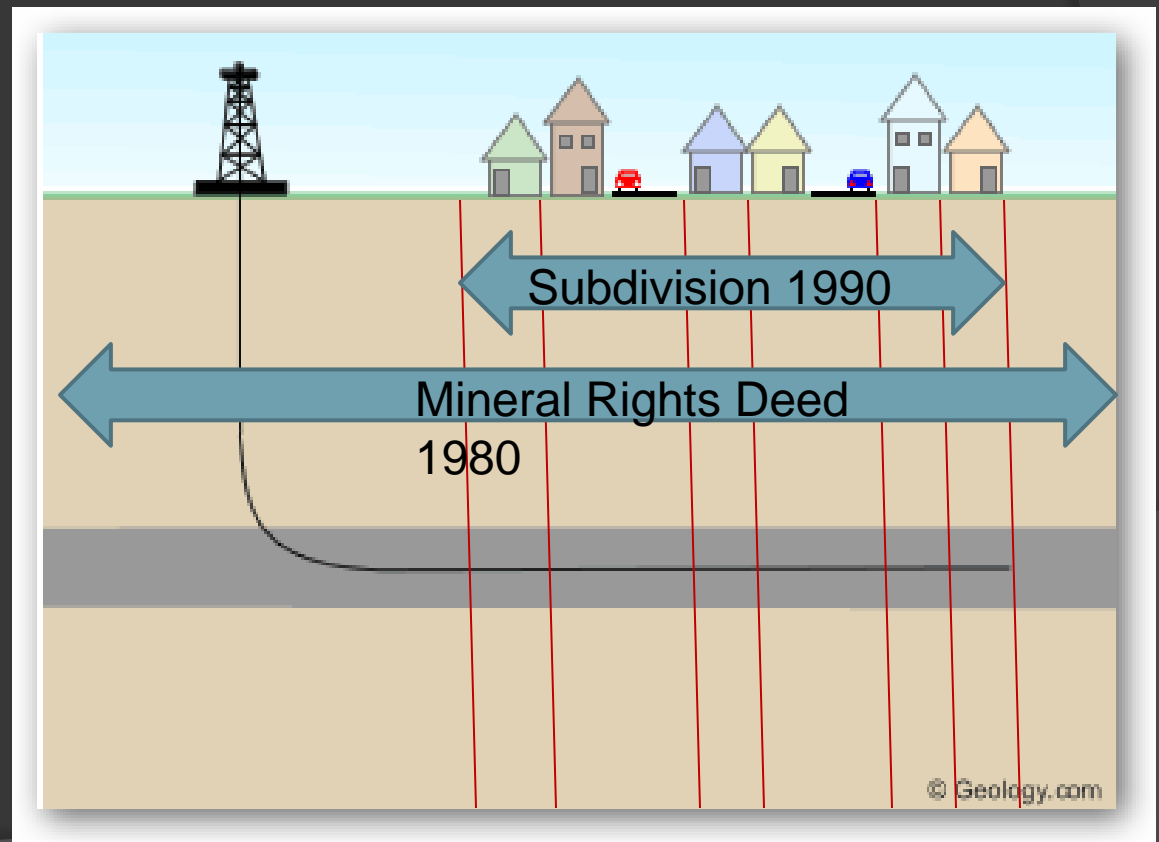
Division of Estates

- The Subsurface Estate was deeded in 1980, the Surface Estate was subdivided and sold in 1990.

If the deed to one of the lots does not mention the mineral rights deed can the lot owner claim the mineral rights?

Probably Not.

Caveat emptor
(Buyer Beware)



§ 46-4. Surface and minerals in separate owners; partitions distinct.

- ⦿ When the title to the mineral interests in any land has become separated from the surface in ownership, the tenants in common or joint tenants of such mineral interests may have partition of the same, distinct from the surface, and without joining as parties the owner or owners of the surface;
- ⦿ *The owners of a mineral right may petition the court for a Partition (a division) with out involving the surface owners.*

Relationship Between Surface & Sub-Surface Estate

The sub-surface estate has:

- ⦿ Dominance of surface estate
- ⦿ Reasonable use of surface Estate
 - Accepted and prevailing method of mining of the particular mineral
 - The rules for lateral and subjacent support apply, however there is inconsistent case law about the protection of residences and residential water supplies.
 - Any particular rights may be waved or reserved by the grantor.

Ref: Theodore A (Ted) Feitshans, Department of Agricultural & Resource Economics, NC State University Jan. 8, 2013

Mineral:

- **§ 74-49. Definitions.** (6) "Minerals" means soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.
- The definition is interpreted to include Oil and Gas.

Transfer of a Right

- A Mineral Right Deed must meet the same standard of construction that a deed transferring the total estate or the surface estate.

Under case law, an Instrument of Conveyance must contain the following:

- ⦿ 1. a competent grantor,
- ⦿ 2. an existing grantee capable of taking title,
- ⦿ 3. a granting or conveyance clause,
- ⦿ 4. an identifiable description of the property to be insured,
- ⦿ 5. the requisite execution and "seal" of the grantor,
- ⦿ 6. satisfactory acknowledgment by a notary or authorized officer, and
- ⦿ 7. delivery to and acceptance by the grantee.

North Carolina Real Estate Transactions, Author: Nancy Ferguson
<https://www.agentxtra.net/extranet/SingleSource/content/StateLaw/NorthCarolina/NorthCarolina.htm>

Is there any thing special about a Mineral Deed? “NO”

- A transfer must Identify intent of the Grantor (what is intended to be transferred) and the limits of the grant.

Can a mining company use one mineral claim to access another mineral claim?

- ⦿ A Mineral Claim does not include the right to access to or from another property.
- ⦿ The same instrument that creates the Mineral Claim can also include access easements or other rights.

Is there a different standard for a Lease?

- ⦿ North Carolina property rights created by lease are governed by the same legal principles applicable to ownership. *See State v. Allen, 216 N.C. 621, 5 S.E.2d 844, 845 (1939)*
- ⦿ Even mineral rights leases create interest in real estate governed by principles of law applicable to land (*citing Piney Oil & Gas Co. v. Allen, 235 Ky. 767, 32 S.W.2d 325, 326 (1930)*).
- ⦿ A lessee as tenant takes and holds his term in the same manner as any other. (*citing Brown et al v Cranberry Iron & Coal co 1894*)

The protection of the surface right holder's water supply has been strengthened for Oil and Gas development. (NC GS 113-421)

- It shall be presumed that an oil or gas developer or operator is responsible for contamination of all water supplies that are within 5,000 feet of a wellhead that is part of the oil or gas developer's or operator's activities.

Rebuttal of Presumption

- ⦿ The oil / gas operator/developer must prove:
 - ⦿ 1. the contamination was preexisting or
 - ⦿ 2. the surface owner refused pre drilling water test or
 - ⦿ 3. the water supply is greater than 5000 ft of the well head or
 - ⦿ 4. the contamination was not the result of the drilling activity.

§ 113-421

- Conditions precedent, notice provisions, or arbitration clauses included in lease documents that have the effect of limiting access to the superior court in the county in which the oil or gas well is located are void and unenforceable.

While the oil and gas right holder has the right investigate the site:

- He must provide certified mail 14 days notice to the surface owner before entering the property. (see NC GS 113-420(a) for requirements)

Notice Required for Land-Disturbing Activities

- Certified mail notice of 30 days is required for any land disturbing activities. (See NC GS § 113-420 for requirements)

How long is a Mineral Deed good for?

- Theoretically once a right is transferred it stays transferred unless there are limiting terms specified in the deed.

Just like the
Dinosaur,
once gone it
stays gone.



Voluntary or involuntary transfer of rights.

- ⦿ Rights acquired can not be diminished except by an action of law or by an action or inaction of the title holder.
 - An action of law such as **eminent domain** can take rights from the fee holder of said rights without the fee holder agreeing.
 - A fee holder may transfer, restrict, or divide his rights with a written document stating his intent, and identifying the boundary to the rights.
 - Or
 - Though inaction he may lose said rights.
Adverse Possession or Statute of Limitations
(abandonment)

§ 1-42. Possession follows legal title; severance of surface and subsurface rights.

- ⦿ Adverse Possession Claims between Surface rights and Sub-surface can not be perfected under the normal requirements for proving the ripening of said claim.
- ⦿ In addition to the normal requirements for Adverse Possession. A claimant holding surface or sub-surface owners must also file annually a brief notice of intent in the office of the Register of Deeds. (see NC GS 1-42)

Can a mineral right estate be deemed abandoned?

- The Real Property Marketable Title Act (General Statute Chapter 47B) is designed to re-unify Abandoned Rights.
- However 47B-3 Has a number of exceptions:
 - Such marketable record title shall not affect or extinguish the following rights:
 - **(5) Rights of any owners of mineral rights.**

US Supreme Court affirms States right to revert unused or abandoned Interests.

- The United States Supreme Court affirmed, stating, “[f]rom an early time, this Court has recognized that States have the power to permit *unused or abandoned* interests in property to revert to another after the passage of time.” *Id.* at 526, 70 L. Ed. 2d at 749 (emphasis added)

(Continued)

- ⦿ The Supreme Court “has never required the State to compensate the owner for the consequences of his own neglect. . . . It is the owner’s failure to make any use of the property – and not the action of the State – that causes the lapse of the property right; there is no ‘taking’ that requires compensation.”
- ⦿ *Kevin Patrick Rowlette and Others V State of North Carolina, NO. COA06-1036, NORTH CAROLINA COURT OF APPEALS Filed: 19 February 2008*

Can a Mineral, Oil or Gas Right be legally declared abandoned in North Carolina.

- Statutes 1-42.1 through 1-42.9 set the criteria that define the durations and lack of action on the part of the Ancient Mineral Claim holder that would extinguish said claim.
- These statutes with the possible exception of 1-42.9 are county specific.

1. If not in actual course of being mined or in the adverse possession of another and
2. If not listed for ad valorem tax for a period of ten (10) years prior

- ⦿ (a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land **and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another**, or that the record title holder of any such oil, gas or mineral interests **has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of ten (10) years prior** to January 1, 1965 (continued) (emphasis added)
- ⦿ § 1-42.1. *Certain ancient mineral claims extinguished in certain counties.*

3. If the holder of the surface had an unbroken chain of title of record to the surface estate for 50 (30) prior to the statute date.

- ⦿ any person, having the legal capacity to own land in this State, who has on September 1, 1965 **an unbroken chain of title of record to such surface estate of such area of land for fifty (50) years or more, and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate** as provided in the succeeding subsections of this section, **subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments** of which such chain of record title is formed.
- ⦿ § 1-42.1. *Certain ancient mineral claims extinguished in certain counties.*

4. If the subsurface right have been severed for more than 50 (30) years prior to the specified date of the statute.

- ⦿ (b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interests in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which **was executed or recorded fifty (50) years or more prior to September 1, 1965,**
- ⦿ *§ 1-42.1. Certain ancient mineral claims extinguished in certain counties.*

If 1-4 are true then oil, gas or mineral interests are hereby **declared to be null and void and of no effect whatever at law or in equity**

- ⦿ And such oil, gas or mineral interests are hereby **declared to be null and void and of no effect whatever at law or in equity**
- ⦿ *§ 1-42.1(b). Certain ancient mineral claims extinguished in certain counties.*

However: the interest may be preserved by recording a Notice within 2 years:

- Provided, however, that any such fee simple oil, gas or mineral **interest may be preserved and kept effective by recording within two** (2) years after September 1, 1965, a notice in writing duly sworn to and subscribed before an official authorized to take probate
- *§ 1-42.1(b). Certain ancient mineral claims extinguished in certain counties.*

And Mineral interest must be listed or taxes.

- ⦿ (d) All oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership **must be listed for ad valorem taxes and notice of such interest must be filed in writing in the manner provided by G.S. 1-42.1(b)** and recorded in the local registry in the book provided by G.S. **1-42 within two years** from September 1, 1967, **to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner.**
- ⦿ § 1-42.1(d). *Certain ancient mineral claims extinguished in certain counties.*

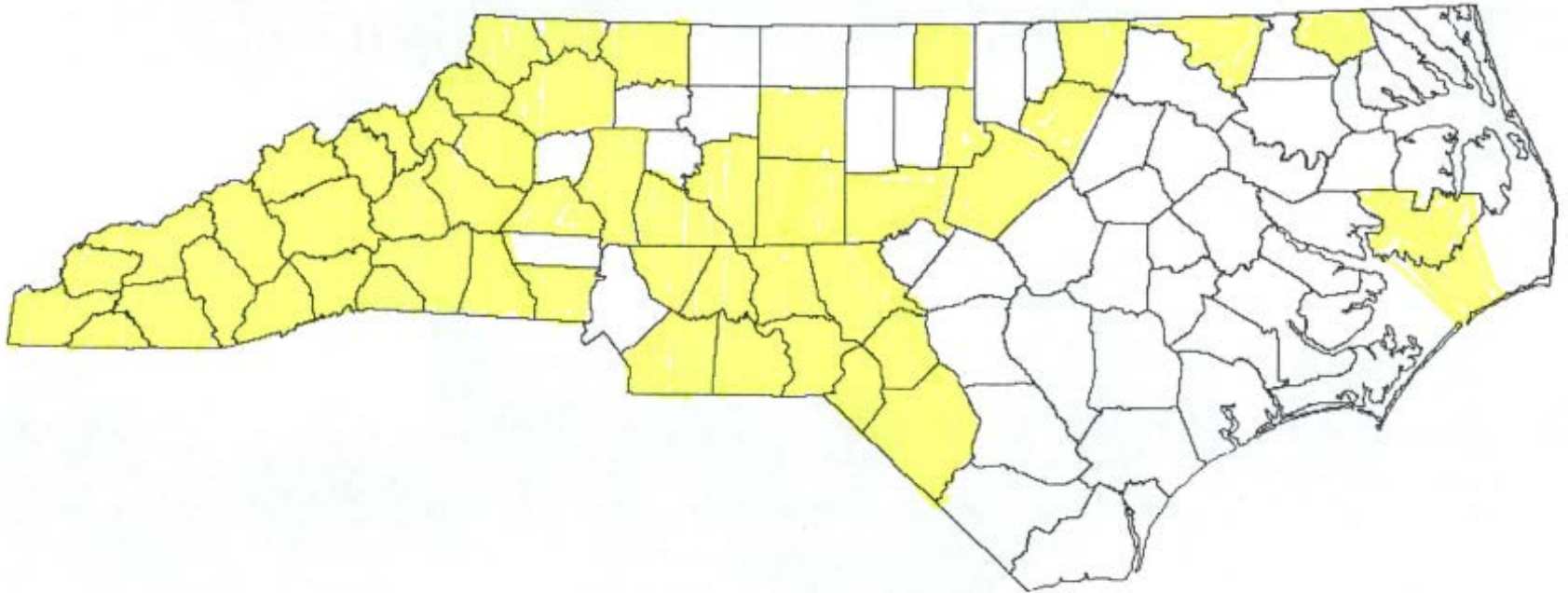
But what happens if the county did not follow due process i.e. the county does not publish the public notice in the paper for 4 weeks in a row.

- ◎ The board of county commissioners **shall publish a notice of this subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks** prior to September 1, 1967.
- ◎ § 1-42.1(d). *Certain ancient mineral claims extinguished in certain counties.*

Or if the county does not list mineral Interest
“Mineral interests shall be assessed for
property taxes, collected and foreclosed on as
authorized by NC GS 105.”

- Subsurface oil, gas and mineral interests shall be **assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105** of the General Statutes of North Carolina.

North Carolina Counties Names in the Ancient Mineral Extinguishment Acts.



An analysis of NC GS 1-42.1 through 1-42.9, Ancient Mineral claims extinguished in certain counties.

An analysis of NC GS 1-42.1 through 1-42.9 - Ancient Mineral claims extinguished in certain counties.

| NC GS Statute: | GS 1-42.1 Extinguish mineral claims 1965 | GS 1-42.2 Extinguish mineral claims 1971 | GS 1-42.3 Extinguish mineral claims 1974 | GS 1-42.4 Extinguish mineral claims 1977 | GS 1-42.5 Extinguish mineral claims 1982 | GS 1-42.6 Extinguish mineral claims 1981 | GS 1-42.7 Extinguish mineral claims 1979 | GS 1-42.8 Extinguish mineral claims 1982 | GS 1-42.9 Extinguish mineral claims 1983/1986 | GS 1-42.9 Extinguish mineral claims 2009 under 1-42.9 |
|--|--|---|--|--|--|--|--|--|---|---|
| # of years required for tax listing | 10 | 10 | 10 | 10 | not required | 10 | 10 | 10 | 5 | 5 |
| years of tax listing must be prior to: | 1/1/1965 | 1/1/1971 | 1/1/1974 | 1/1/1977 | | 2/1/1981 | 1/1/1979 | 2/1/1982 | 1/1/1983 1/1/1984 1/1/1986 | 1/1/2009 |
| claim age must be statutory(#) of years prior to date | 9/1/1965 | 9/1/1971 | 9/1/1974 | 9/1/1977 | 6/30/1982 | 7/1/1981 | 9/1/1979 | 9/1/1982 | 9/1/1983 9/1/1984 9/1/1986 | 10/1/2009 |
| Statutory Age of Claim | 50 | 50 | 50 | 50 | 30 | 50 | 50 | 50 | 30 | 30 |
| Session laws | SL 1965-1072 | SL 1971-235 SL 1971-855 | SL 1973-1435 | SL 1977-751 | SL 1981-329 | SL 1981-333 | SL 1979-343 | SL 1981-1391 | SL 1983-502 SL 1983-1794 | SL 2009-77 |
| 2 year period for reinstatement beginning | 9/1/1967 | 11/1/1971 | 11/1/1974 | 11/1/1977 | See note 6 (within 30 years) | 7/1/1981 | 11/1/1979 | 9/1/1982 | 9/1/1983 9/1/1984 9/1/1986 | 10/1/2009 |
| Notes- See Below | 1,2, | 1,2, | 1,2, | 1,2, | 6 | 1,2, | 1,2 | 1,2 | 1,2,3,4,5 | 1,2 |
| County | | | | | | | | | | |
| Alamance | | | | | | | | | | |
| Alexander | | | | | | | | | | |
| Alleghany | | | x | | | x | | | | |
| Anson | x | x | | | | | | | | |
| Ashe | | | | x | | | | | | |
| Avery | | | | | x | | | | | |

Notes 1

- Note 1: Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina.

Note 2

- Note 2: Within 2 years following the date listed in the statute any forfeitable rights under this statute must be listed for Ad Valorem taxes and a notice of this interest must be filed in writing and recorded in the local registry to be effective against the surface fee simple owner or creditors, etc.

Note 3

- Note 3: Applies to all counties that published a notice of the section in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to September 1, 1983, or January 1, 1986. It is not clear if this applied to all 100 counties or the 50 previously mentioned. (see session laws)

Cabarrus County Government January 6, 1986

Cabarrus county was not named in acts prior to 1-42.9 but apparently felt justified in participating at the time.

UPON MOTION of Commissioner Upright, seconded by Commissioner Payne and unanimously carried, the Board adopted the provisions relating to the extinguishment of ancient oil, gas and mineral claims as recommended by the North Carolina General Assembly and authorized the publication of a notice of the statute in the newspaper once a week for four consecutive weeks prior to January 1, 1986. Under the provisions of General Statutes 1-42.9 as amended, the owner of the surface lands will gain fee simple title to the subsurface rights, if the subsurface interests are not preserved by being listed for ad valorem taxes and recorded with the county register of deeds within two years of January 1, 1986.

Note 4 and Note 5

- Note 4: This Act does not revive any interest rendered ineffective under the provisions of GS 1-42.1 through GS 1-42.8
- Note 5: If a county failed to publish prior to September 1, 1983 but published prior to September 1, 1984 the 1984 date is substituted for 1983.

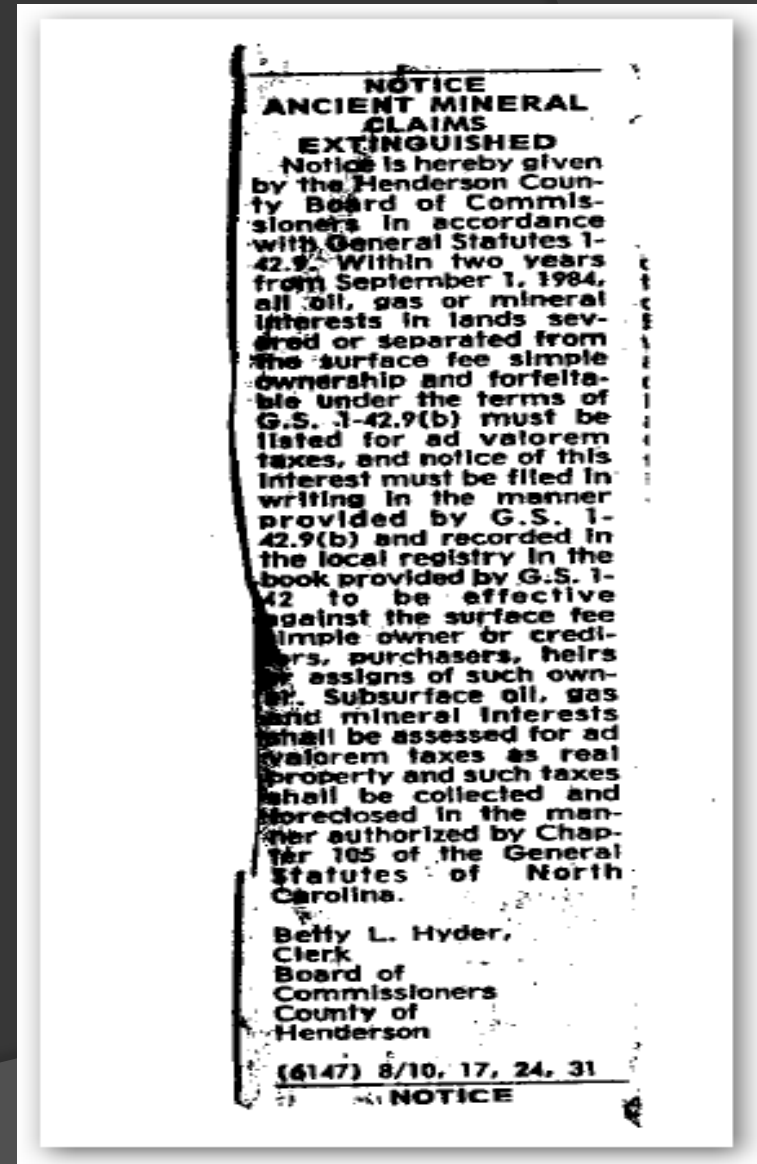
Note 6

- Note 6: Provided However that any such fee simple oil, gas, or mineral interest may be preserved and kept effective by recording within such 30-year period, a notice in writing that sets forth the nature of the interest .

Local Governments must follow due process.

Henderson County 1984

- Before the Act is valid with in a county, the County commissioners were required to post a public notice in the local news paper or a regional news paper that is widely distributed within the county for 4 consecutive weeks.



Davidson County 1985

20 The Dispatch, Lexington, N.C. / Wednesday, December 18, 1985

STATE OF
NORTH CAROLINA
COUNTY OF DAVIDSON
BEFORE THE
HONORABLE
BOARD OF
COMMISSIONERS
TAKE NOTICE:

Pursuant to the North Carolina General Statutes Section 1-42.9, the Davidson County Board of Commissioners does hereby publish "Ancient mineral claims extinguished; oil, gas and mineral interests to be recorded and listed for taxation."

(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, and that the record titleholder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of five years prior to January 1,

(d) within two years from January 1, 1986, all oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership and forfeitable under the terms of G.S. 1-42.9 (b) must be listed for ad valorem taxes, and notice of this interest must be filed in writing in the manner provided by G.S. 1-42.9 (b) and recorded in the local registry in the book provided by G.S. 1-42 to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina.

This the 27th day of November, 1985.

Davidson County Board
of Commissioners
Elizabeth G. Hargrave
Chairman

James F. Mock
Clerk Ex Officio
Nov. 27, Dec. 4, 11, 18, 1985

There may be another problem with government procedures.

- In order to preserve an Ancient Mineral rights holder is required to list said rights for ad valorem taxes.
- If County Government does not provide the facilities within the tax system to meet the statutory requirements for listing of separate rights, has the county followed due process?

Is the County Tax office required to list mineral rights for taxation?

- How do you place a tax value on minerals actively being mined

Versus.



- unexplored minerals



§ 105-302. In whose name real property is to be listed.

- (C)(11) When land is owned by one party and improvements thereon or special rights (such as **mineral**, timber, quarry, waterpower, or similar rights) therein are owned by another party, the parties shall list their interests separately unless, in accordance with contractual relations between them, both the land and the improvements and special rights are listed in the name of the owner of the land.

§ 105-303. Obtaining information on real property transfers; permanent listing.

- (b) (2) Persons whose duty it is to list real property under the provisions of G.S. 105-302 are relieved of that duty, but annually, during the listing period established by G.S. 105-307, these persons must furnish the assessor with the information concerning improvements on and **separate rights** in real property required by G.S. 105-309(c)(3) through (c)(5).

§ 105-309. What the abstract shall contain.

- ⦿ (c) Each tract, parcel, or lot of real property owned or controlled in the county shall be listed in accordance with the following instructions:
 - (5) If some person other than the owner of a tract, parcel, or lot shall own any buildings or other improvements thereon or separate rights (such as mineral, quarry, timber, waterpower, or other rights) therein, that fact shall be specified on the abstract on which the land is listed, together with the name and address of the owner of the buildings, other improvements, or rights.

§ 105-317. Appraisal of real property; adoption of schedules, standards, and rules.

- (b) (3) A separate property record be prepared for each tract, parcel, lot, or group of contiguous lots, which record shall show the information required for compliance with the provisions of G.S. 105-309 insofar as they deal with real property, as well as that required by this section.

§ 105-355. Creation of tax lien; date as of which lien attaches.

- ⦿ (A)(2) Taxes levied on improvements on or **separate rights** in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

Conclusions

- ⦿ Mineral rights are a separate estate once transferred.
- ⦿ The sub-surface rights has dominance over surface rights.
- ⦿ Subsequent division of the parent tract does not effect previously severed rights.
- ⦿ Ancient Mineral claims may be extinguished .
- ⦿ Counties must follow due process to prefect extinguishment.

An analysis of NC GS 1-42.1 through 1-42.9 - Ancient Mineral claims extinguished in certain counties.

| NC GS Statute: | GS 1-42.1 Extinguish mineral claims 1965 | GS 1-42.2 Extinguish mineral claims 1971 | GS 1-42.3 Extinguish mineral claims 1974 | GS 1-42.4 Extinguish mineral claims 1977 | GS 1-42.5 Extinguish mineral claims 1982 | GS 1-42.6 Extinguish mineral claims 1981 | GS 1-42.7 Extinguish mineral claims 1979 | GS 1-42.8 Extinguish mineral claims 1982 | GS 1-42.9 Extinguish mineral claims 1983/1986 | GS 1-42.9 Extinguish mineral claims 2009 under 1- 42.9 |
|---|---|---|---|---|---|---|---|---|--|--|
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| claim age must be statutory(#) of years prior to date | 9/1/1965 | 9/1/1971 | 9/1/1974 | 9/1/1977 | 6/30/1982 | 7/1/1981 | 9/1/1979 | 9/1/1982 | 9/1/1983 9/1/1984 9/1/1986 | 10/1/2009 |
| Statutory Age of Claim | 50 | 50 | 50 | 50 | 30 | 50 | 50 | 50 | 30 | 30 |
| Session laws | SL 1965- 1072 | SL 1971-235 SL 1971-855 | SL 1973- 1435 | SL 1977- 751 | SL 1981- 329 | SL 1981- 333 | SL 1979-343 | SL 1981- 1391 | SL 1983-502 SL 1983-1794 SL | SL 2009-77 |
| 2 year period for reinstatement beginning | 9/1/1967 | 11/1/1971 | 11/1/1974 | 11/1/1977 | See note 6 (within 30 years) | 7/1/1981 | 11/1/1979 | 9/1/1982 | 9/1/1983 9/1/1984 9/1/1986 | 10/1/2009 |
| Notes- See Below | 1,2, | 1,2, | 1,2, | 1,2, | 6 | 1,2, | 1,2 | 1,2 | 1,2,3,4,5 | 1,2 |
| County | | | | | | | | | | |
| Alamance | | | | | | | | | | |
| Alexander | | | | | | | | | | |
| Alleghany | | | x | | | x | | | | |
| Anson | x | x | | | | | | | | |
| Ashe | | | | x | | | | | | |
| Avery | | | | | x | | | | | |
| Beaufort | | | | | | | | | | |
| Bertie | | | | | | | | | | |
| Bladen | | | | | | | | | | |
| Brunswick | | | | | | | | | | |

| | | | | | | | | | | | |
|------------|---|---|---|--|--|--|---|--|--|--|---|
| Buncombe | x | x | | | | | | | | | |
| Burke | | | x | | | | | | | | |
| Cabarrus | | | | | | | | | | | |
| Caldwell | | | x | | | | | | | | |
| Camden | | | | | | | | | | | |
| Carteret | | | | | | | | | | | |
| Caswell | | | | | | | | | | | |
| Catawba | | x | | | | | | | | | |
| Chatham | | | | | | | x | | | | |
| Cherokee | | | x | | | | | | | | |
| Chowan | | | | | | | | | | | |
| Clay | | | x | | | | | | | | |
| Cleveland | | | x | | | | | | | | |
| Columbus | | | | | | | | | | | |
| Craven | | | | | | | | | | | |
| Cumberland | | | | | | | | | | | |
| Currituck | | | | | | | | | | | |
| Dare | | | | | | | | | | | |
| Davidson | | x | | | | | | | | | |
| Davie | | | | | | | | | | | |
| Duplin | | | | | | | | | | | |
| Durham | x | x | | | | | | | | | |
| Edgecombe | | | | | | | | | | | |
| Forsyth | | | | | | | | | | | |
| Franklin | x | x | | | | | | | | | |
| Gaston | | | x | | | | | | | | |
| Gates | | | x | | | | | | | | |
| Graham | | | x | | | | | | | | |
| Granville | | | | | | | | | | | |
| Greene | | | | | | | | | | | |
| Guilford | x | x | | | | | | | | | |
| Halifax | | | x | | | | | | | | |
| Harnett | | | | | | | | | | | |
| Haywood | | x | | | | | | | | | |
| Henderson | | | x | | | | | | | | |
| Hertford | | | | | | | | | | | |
| Hoke | x | x | | | | | | | | | |
| Hyde | | | | | | | | | | | x |
| Iredell | | x | | | | | | | | | |
| Jackson | x | x | | | | | | | | | |
| Johnston | | | | | | | | | | | |

| | | | | | | | | | | |
|--------------|---|---|---|--|--|--|--|---|--|--|
| Jones | | | | | | | | | | |
| Lee | | | | | | | | | | |
| Lenoir | | | | | | | | | | |
| Lincoln | | | | | | | | | | |
| McDowell | | | x | | | | | | | |
| Macon | | | x | | | | | | | |
| Madison | | x | | | | | | | | |
| Martin | | | | | | | | | | |
| Mecklenburg | | | | | | | | | | |
| Mitchell | | | x | | | | | | | |
| Montgomery | x | x | | | | | | | | |
| Moore | | x | | | | | | | | |
| Nash | | | | | | | | | | |
| New Hanover | | | | | | | | | | |
| Northampton | | | | | | | | | | |
| Onslow | | | | | | | | | | |
| Orange | | | | | | | | | | |
| Pamlico | | | | | | | | | | |
| Pasquotank | | | | | | | | | | |
| Pender | | | | | | | | | | |
| Perquimans | | | | | | | | | | |
| Person | x | x | | | | | | | | |
| Pitt | | | | | | | | | | |
| Polk | | | x | | | | | | | |
| Randolph | | | x | | | | | | | |
| Richmond | x | x | | | | | | | | |
| Robeson | | x | | | | | | | | |
| Rockingham | | | | | | | | | | |
| Rowan | | x | | | | | | | | |
| Rutherford | | | | | | | | x | | |
| Sampson | | | | | | | | | | |
| Scotland | | x | | | | | | | | |
| Stanly | | | x | | | | | | | |
| Stokes | | | | | | | | | | |
| Surry | | | x | | | | | | | |
| Swain | x | x | | | | | | | | |
| Transylvania | x | x | | | | | | | | |
| Tyrrell | | | | | | | | | | |
| Union | x | x | | | | | | | | |
| Vance | | | | | | | | | | |
| Wake | x | x | | | | | | | | |

| | | | | | | | | | | |
|------------|---|---|---|--|--|--|--|--|--|--|
| Warren | x | x | | | | | | | | |
| Washington | | | | | | | | | | |
| Watauga | | | x | | | | | | | |
| Wayne | | | | | | | | | | |
| Wilkes | | | x | | | | | | | |
| Wilson | | | | | | | | | | |
| Yadkin | | | | | | | | | | |
| Yancey | | x | | | | | | | | |

Note 1: Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina.

Note 2: Within 2 years following the date listed in the statute any forfeitable rights under this statute must be listed for Ad Valorem taxes and a notice of this interest must be filed in writing and recorded in the local registry to be effective against the surface fee simple owner or creditors, etc.

Note 3: Applies to all counties that that published a notice of the section in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to September 1, 1983, or January 1, 1986. It is not clear if this applied to all 100 counties or the 50 previously mentioned. (see session

Note 4: This Act does not revive any interest rendered ineffective under the provisions of GS 1-42.1 through GS 1-42.8 **Note 5:** If a county failed to publish prior to September 1, 1983 but published prior to September 1, 1984 the 1984 date is substituted for 1983.

Note 6: Provided However that any such fee simple oil, gas, or mineral intrest may be preserved and kept effective by recording within such 30-year period, a notice in writing that sets forth the nature of the interest .

Comment: It would be very difficult to prove if all of the requirements for extinguishment of a mineral right were met. Historic tax records are only required to be preserved for years ending in a 0 and all counties may not be complying with this requirement. It would also be difficult to prove if the required public notification was done. With different time periods, different tax requirements the proving of a valid claim that did not do an additional filing may be imposable.