

CONFERENCE GOALS

Collective

Relevant Agreements

Exploration and Seismic Agreements
Drilling Agreements
Farmouts & Carried Interest Transactions
Processing & Refinancing Agreements
Master Service Agreements
Joint Operating Agreements
Production Contracts
Restructuring Contracts
Choice of Entity & Lien Questions
Operator Liens

How Defined: Geothermal energy is energy captured as a result of the natural, internal, heat stored in rock and fluid produced within the Earth. TX categorizes geothermal energy as a mineral....

General Application of TX Law to Systems that Need Enhancement through Hydraulic Fracturing

The Categorization as a Mineral and the Similarities with O&G

The Categorization as a Mineral and the Differences with O&G

- Flow of the Resource/Mineral
- Value of Resource
- Source of Resource
- Energy State of Resource
- Storage of Resource



Application: Sword & Shield

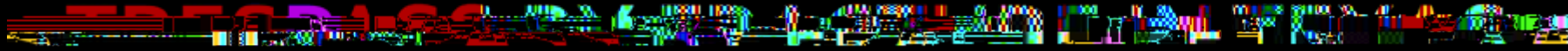
- If Rule of Capture applies:

A subsurface trespass by frac action may be precluded; HOWEVER, Arguably, another could drain migrated thermal energy (via frac) from a lawful well OR ruin well as a result of drainage from a lawful well b/c **drainage is not actionable**

- If Rule of Capture does not apply:

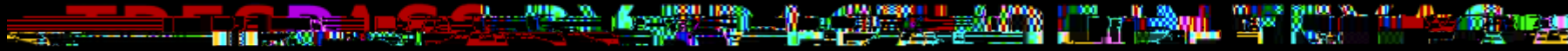
Drainage could be an actual harm/subsurface trespass by frac an actionable tort; HOWEVER, migration of thermal energy would not effect ownership AND damages available if well ruined as a

RULE OF CAPTURE & SUBSURFACE



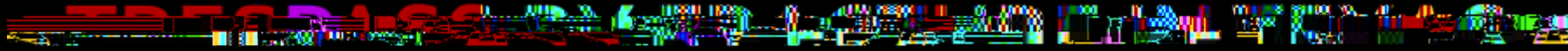
Subsurface

RULE OF CAPTURE & SUBSURFACE



The TX Supreme Court in *Garza*,

RULE OF CAPTURE & SUBSURFACE



First Impression: Does it Apply?

- *Murchinson*: Natural gas injected for storage remains personal property of injecting party
Meaning: Not subject to capture *even if* gas migrates beneath neighboring tracts
Legal distinction: Tangible ownership,

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Examples

Forecast

- Big Picture: Forest through the trees
- Litigation Road Map/Flux
 - Know detours
 - Identify forks
 - Stay the course
 - Reroute the journey

What can we Do?

- Anticipate: 1) when and why O&G precedent may likely apply to geothermal energy litigation; 2) when and why it may not; and 3) the affect this could have on your time, energy, & money.
- Can't control the facts; can't control the filing of lawsuits against your company.
- We **can** anticipate the facts and their application to the law. We **can** begin implementing your war strategy before a battle ever even begins.

DEANS LYONS

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