Do I Own the Mineral Rights UNDER the Property I Just Bought?

Starting in April 2013, the FDIC has begun to reserve mineral, oil and gas rights in any real property it conveys in the US. This new policy applies to all FDIC owned residential and commercial property except for: 1) Condominium units; 2) Real property valued under $50,000.00.

The FDIC's closing instructions will have an addendum addressing the reservation requirement and require the deed to contain the reservation.

The FDIC has also prepared a special warranty deed, guidance and form addendum which can all be found at the ALTA website. If a buyer wishes to purchase the mineral rights from the FDIC they may do so but a specific price must he negotiated for the rights separate from the rest of the real property.

In addition to the mineral rights reservation, for rural properties the FDIC will also reserve the right for ingress and egress and mineral removal. They will also enter into leases or other sale agreements, and if drilling occurs the surface owner will be able to negotiate a settlement to have the surface remediated after production of minerals is complete. For urban areas these extra rights will be specifically negotiated with the buyer if and when a producer wishes to attempt to develop the minerals.

WHAT DOES THIS MEAN TO ME?

Mineral Rights In General:

Mineral rights are also known as subsurface rights, that is, the rights to the natural resources lying below the earth's surface. Any transfer of land may be accomplished with or without the transfer of the subsurface rights.

When you buy a piece of land, you may not be buying what's under it. United States law distinguishes surface rights from mineral rights, Surface rights include the right to build or farm on the land while mineral rights include the right to mine the property.

Minerals are subject to the same rights of ownership, possession, and alienation as any other land. A conveyance of land without any exception or reservation of the minerals thereon carries with it the minerals as well as the surface of the land. The United States is one of the very few nations that allow private ownership of underground mineral resources. When reserved the owner of the mineral rights can then enter into contracts and agreements to mine and extract the minerals which may or may not include royalty payments to the surface owners.

Ordinarily, the term "mineral" is considered to include almost anything of value found under the earth's surface. However, the term ordinarily does not include commonplace materials such as soil, sand, gravel, clay and water.

There are basically two types of minerals: "minerals in place" and "minerals that are migratory".

Minerals in place are those minerals which are relatively fixed and permanent.

Minerals that are migratory, (fugacious), have a physical nature which permits them to flow from here to there, such as oil and gas.

Mineral rights owners don't need surface owner permission to mine or lease to a mining company: The law grants them "reasonable use" of the surface, though they have to accommodate surface use as well. Buyers beware if the mineral rights owner's agreement specifically states that, for example, he can remove minerals at any time by any means, regardless of the effect on the surface.

Oil and gas are part of the land until they are removed. Their owner has the absolute right to drill for them but must confine operations to their land and can claim them only so long as they remain in the property, but if they escape into other land, the owner of the land under which they had first accumulated can no longer assert any rights over them.

Once mineral rights are severed from the surface they run separately and are not followed when the surface is conveyed.

SOURCE: ALTA | Randy Sierra