

Many people contact the County Recorders office inquiring about suspected mineral ownership in North Dakota. As North Dakota law allows the “severing” of mineral interest (often called “mineral rights”) from “surface ownership”, the tracing of this ownership can become complex.

Documents affecting real property transactions are to be recorded in the office of County Recorder of the specific county containing the land. Each county records thousands of these documents each year, indexing them to the township, range, and section in which the land lies. Some counties also index these documents by “grantor” and “grantee”, or the names of the parties to the transaction.

Additionally, both surface and mineral ownership may be affected by a will, trust, divorce decree, or other documents that are often found filed in the Office of the Clerk of District Court. Copies of these documents should also be recorded with the County Recorder when they effectively transfer ownership.

It is important for owners of “severed” mineral interests to understand that State Law considers mineral interests to be “abandoned” if severed interests have not been “used” for a period of 20 years. The interest is considered “used” if activity regarding this interest has taken place, generally documented by the recording of a lease, mortgage, statement of claim, etc. If the mineral interest is abandoned, the surface owner can record a document taking possession of that interest.

For an individual wishing to research possible mineral interests, therefore, the only effective method is a thorough review of the recorded documents. This review CANNOT be conducted by a County Recorder – county officials can make copies of specific documents requested (for an appropriate fee), but may not conduct the research often necessary to identify the relevant documents. This research must be conducted by the individual themselves or a private land record researcher. Some records from some counties are available on the World Wide Web through a subscription service, www.mcvvault.com but in some cases, on-site review of the records will be necessary.

Occasionally there is mineral leasing or production activity on a particular parcel of land where some of the individuals with mineral interests could not be located. In these situations, State law allows the creation of a trust to receive the revenue associated with the activity. These trusts are created through court action, and since 2007, the County Treasurer has been designated as Trustee. Prior to 2007, the court would appoint a private individual or firm as trustee. Trustees are permitted to retain a portion of the trusts proceeds for their administrative costs. Once trust revenue has been held for three years, the revenue (and information regarding ownership) is turned over to the Unclaimed Property Division of the State Land Department. This State agency retains these revenues indefinitely and publishes information regarding their ownership to the World Wide Web, www.land.nd.gov