



## Mineral Rights by Scott D. Abel

---

With the price of oil continuing to climb, and with the exploration for oil continuing in south west Manitoba, you may be wondering about mineral rights, and how to acquire them.

Title to real property includes both the right to occupy the surface, and the right to own and possess any minerals which may be located under the surface of the land. The title to your property is not just the surface, but that which is underlying the surface as well.

You must first determine whether you still own the mineral rights, and to do so, you must refer to the Certificate of Title for your property. The property, if located in a town or city, will refer to Lots, Blocks and Plans. The property, if it is farm property, will be a certain quarter of a certain section, township and range.

The Title will also refer to any exceptions to the title, one of which is commonly the mines and minerals, which were either retained by the Crown, or which were transferred to someone else.

As the right to the surface and the right to the minerals are two distinct rights, they can be sold or negotiated individually. That is, you could sell the land, being the surface rights, and retain the mineral rights. The land would be on one Certificate of Title, and the mineral rights would be on another.

Accordingly, if you wish to sell the mineral rights, or leave them to family members in your will, you are free to do so, as long as you have the title to those mineral rights.

As the surface rights and the mineral rights are two distinct sets of rights, oil companies must address both owners if they wish to drill on the property.

For the surface rights owner, the oil company will have to install a road to the pumpjack, and have the right to access the property for maintenance and repairs. As the surface owner, you are entitled to be compensated for the use of the land.

For the mineral rights owner, they are entitled to a percentage of the royalties from the production of the mineral rights which they own. That percentage will vary with the company doing the exploration, and will also vary as to whether expenses of production are deducted from the royalty.