



FARM, RANCH, AND LAND

Expert advice on negotiating mineral rights

Using the TREC *Addendum for Reservation of Oil, Gas, and Other Minerals* can be hard to understand and explain to your clients. In Texas, the ownership of the oil and gas can be partially or totally severed from the ownership of the surface of the property. When there is a partial or total severance, the owner of the oil and gas (the mineral owner) has the right to use the surface of the property to explore for and develop his mineral estate. The addendum refers to this right as “surface rights,” which confuses buyers and many lenders.

Completing the form can also be confusing and difficult to explain. The addendum is to be attached only if the sellers are reserving any interest in the oil, gas, and other minerals. If the addendum is not attached to the contract that the buyer’s agent presents to the seller’s agent, the seller’s agent must attach it. In that instance, the addition of the addendum to the proposed contract becomes a counteroffer to the buyer.

— **Celia Flowers**, attorney and owner
of East Texas Title Companies

Celia Flowers will present this topic and more during her Sept. 7 session, “Access to the Surface of Property for Oil and Gas Activities—Dispelling of Many Myths,” at the 2012 Texas REALTORS® Conference in San Antonio.

