





# 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:

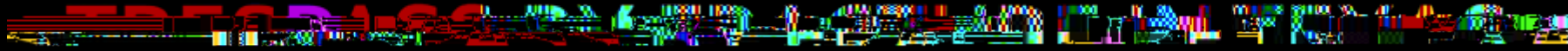
A subsurface trespass by frac action may be precluded; HOWEVER, Arguably, another could drain migrated thermal energy (via frac) from a lawful well OR ruin well as a result of drainage from a lawful well b/c **drainage is not actionable**

- 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

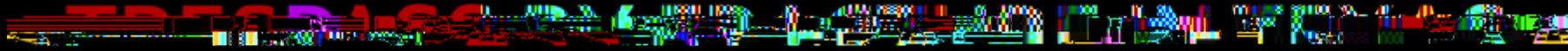


# RULE OF CAPTURE & SUBSURFACE



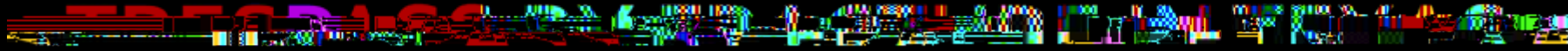
Subsurface

# 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,

# USION CONIC

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

Katherine H. Stenn



DALLAS

Republic Center | 325 N. Sam Houston Pkwy. Suite J500 | Dallas, TX 75201

P 214.965.8500 F 214.965.8505

100/200/200

SMITH, TX 77002

713.236.7735 | 713.236.7712

[www.deanslyons.com](http://www.deanslyons.com)