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## Split Estate

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### Split Estate

In split estate situations, the surface rights and subsurface rights (such as the rights to develop minerals) for a piece of land are owned by different parties. In these situations, mineral rights are considered the dominant estate, meaning they take precedence over other rights associated with the property, including those associated with owning the surface. However, the mineral owner must show due regard for the interests of the surface estate owner and occupy only those portions of the surface that are reasonably necessary to develop the mineral estate.

Best Management Practices
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The BLM's split estate policy only applies to situations where the surface rights are in private ownership and the rights to development of the mineral resources are publicly held and managed by the Federal government.

For more information about how the surface and subsurface estates became separated and how the BLM manages split estate, please view the following slide show:

**Split Estate: Private Surface/Public Minerals—What Does it Mean to You?** [PDF](#) | [PowerPoint](#)

### Split Estate and Land Management Policy

The BLM manages the public lands, including the Federal mineral estate, to enhance the quality of life for present and future generations of Americans, under a mandate of multiple use as described in the [Federal Land Policy and Management Act](#). The [Mineral Leasing Act](#) guides the land use planning, leasing, bonding, operations and reclamation associated with all development of Federal oil and natural gas resources.

Various laws granted land patents to private individuals but reserved the mineral rights to the Federal Government. The BLM must comply with the provisions of the laws under which the surface was patented. However, many of those laws do not identify the rights of the surface owner in split estate mineral development situations. To better define the rights of the private surface owner, the BLM revised the Onshore Oil and Gas Order Number 1 and issued the Oil and Gas Gold Book in 2007.

For more information about the rights, responsibilities, and opportunities afforded the BLM, oil and gas lessee/operator, and the surface owner, please view the following brochure. The brochure may also be available in your local BLM office.

Split Estate Brochure: **Rights, Responsibilities, and Opportunities** [PDF](#) | [Word](#)



### Split Estate – Cultural Resource Requirements

The BLM often receives an Application for Permit to Drill (APD) for oil and natural gas development on split estate lands. Before the BLM approves the application, the BLM must determine if the development is going to affect cultural resources located on the surface. Professional archaeologists typically conduct a cultural resource survey by walking on the private surface and looking for cultural artifacts. Depending on what the survey finds, the proposed location of the well or other facilities may be modified to avoid damaging important cultural resources belonging to the surface owner.

For more information about what the BLM's must do to comply with the National Historic Preservation Act and the rights, responsibilities, and opportunities afforded the BLM, the oil and gas lessee/operator, and the private surface owner, please view the Split Estate brochure:

*Cultural Resource Requirements on Private Surface – Federal Minerals for Oil and Gas*

*Development* below. The brochure may also be available in your local BLM office.

Split Estate Brochure: **Cultural Resource Requirements on Private Surface – Federal Minerals for Oil and Gas Development** [PDF](#)

### Onshore Oil and Gas Order No. 1 – Split Estate Requirements

Onshore Oil and Gas Order Number 1 lays out the requirements necessary for the approval of any proposed oil and gas development on those leases. When it was modified in 2007, Onshore Order No. 1 gave private surface owners additional rights.

For more information about the rights, responsibilities, and opportunities afforded the BLM, the oil and gas lessee/operator, and the surface owner under Onshore Oil and Gas Order No. 1, please click on the following link:

[www.blm.gov/wo/st/en/prog/energy/oil\\_and\\_gas/Onshore\\_Order\\_no1.htm](http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/Onshore_Order_no1.htm)

**BLM Sends Report on Split Estate Issues to Congress**

In the Energy Policy Act of 2005, Congress ordered a report reviewing current policies and practices that the BLM uses in managing oil and natural gas resources in split estate situations. Congress directed the BLM to consult with affected property owners, representatives of the oil and gas industry, and other interested parties while completing the review to consider how best to facilitate reasonable access for Federal oil and gas activities and minimize impacts to privately owned surface. The BLM transmitted this report to Congress in December of 2006.

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**Reference Links****Energy Policy Act, Section 1835 - Split Estate**[PDF](#) | [Word](#)**Gold Book text on Split Estate (2007)**[PDF](#) | [Word](#)**IM 2003-131 Split Estate**[PDF](#) | [Word](#)**IM 2007-021 Split Estate Leasing and Planning**[PDF](#) | [Word](#)

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