

TIPS FOR NEGOTIATING GAS LEASES

Fort Worth Association of
Legal Professionals

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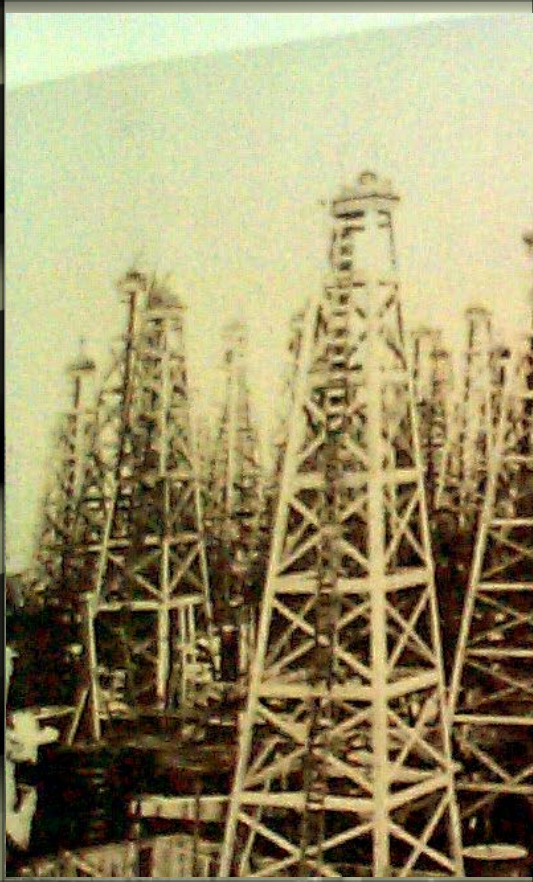
- Partner—Whitaker, Chalk, Swindle & Sawyer, LLP
- University of Texas School of Law, 1972
- Civil Practice / Transactional Attorney
 - **Business and Corporate Law**
 - **Real Estate Law**
 - **Oil & Gas Leases**
 - **Homeowner Associations**
- Past Chair of Tarrant County Bar Assn Real Estate Section (3 terms)
- Moderator of Barnett Shale Seminars in 2004 & 2005, and speaker at Barnett Shale Symposia in 2006 & 2007, and Barnett Shale Expo 2008
- Member of American Assn of Professional Landmen (AAPL) & Fort Worth Assn of Professional Landmen (FWAPL)
- Instructor for TCU Petroleum Land Practices Program
- Chairman, City of Fort Worth Commercial Board of Adjustment

Oil & Gas Law at Whitaker Chalk



- Mineral Leases
- Surface Use Agreements
- Title Opinions
- Mediation & Arbitration
- Litigation
- Municipal Compliance
- Condemnation for Pipelines
- Ad Valorem Tax Issues
- Asset Protection Strategies





TIPS FOR NEGOTIATING GAS LEASES

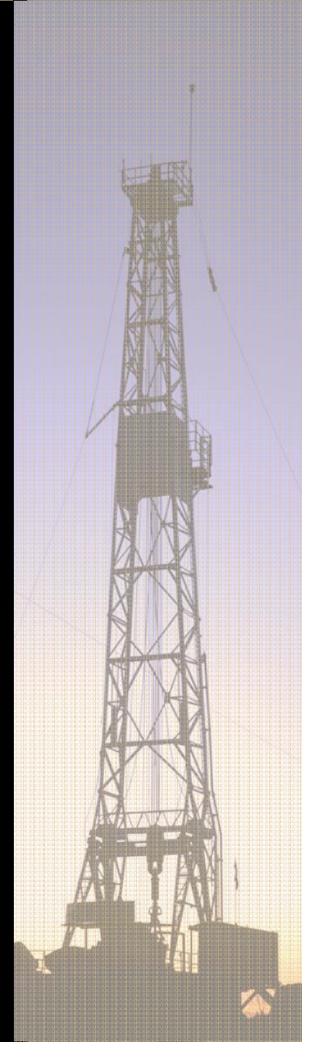
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Topics to Be Discussed:

1. Overview of Barnett Shale
2. Oil & Gas Law basics
3. Tips for Negotiating an O&G Lease
4. Key Terms of an Urban O&G Lease
5. Trends in Leases
6. Trends in Drilling & Production

Comments, Questions & Answers

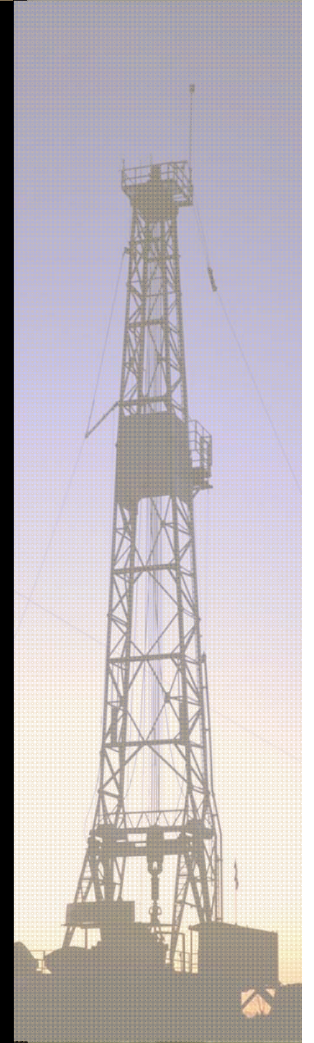




PART I. OVERVIEW OF BARNETT SHALE

1. BARNETT SHALE IS:

- a layer of rock, not a "pocket" of oil or gas
- about 7,500 to 9,000 ft deep
- about 400 to 600 ft thick





PART I. OVERVIEW (continued)

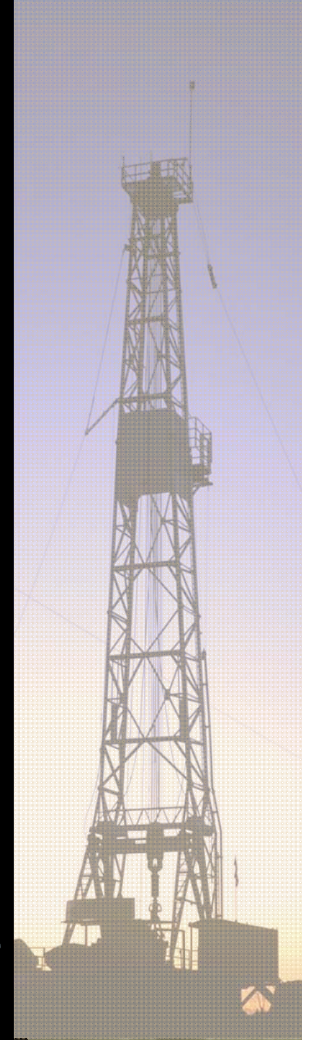
- 1st well by Mitchell Energy in 1981 in Wise Co. (C.W. Slay #1)
- 1st horizontal well in 1997, unsuccessful
- late 1990s – hydraulic fracturing
- 2002 -- horizontal drilling refined
- price increases in natural gas





PART I. OVERVIEW (continued)

- In 2000: 186 Barnett Shale wells
- In Jan. 2008: 7,170 wells
+ 4,350 permitted sites
- Currently about 600 producing wells inside Fort Worth city limits

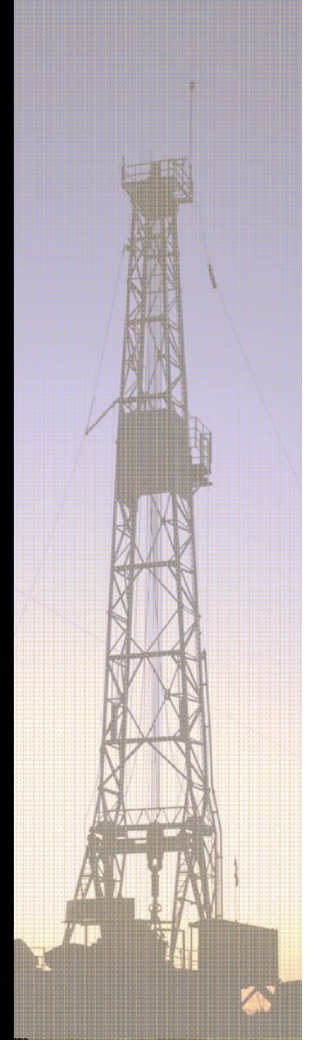




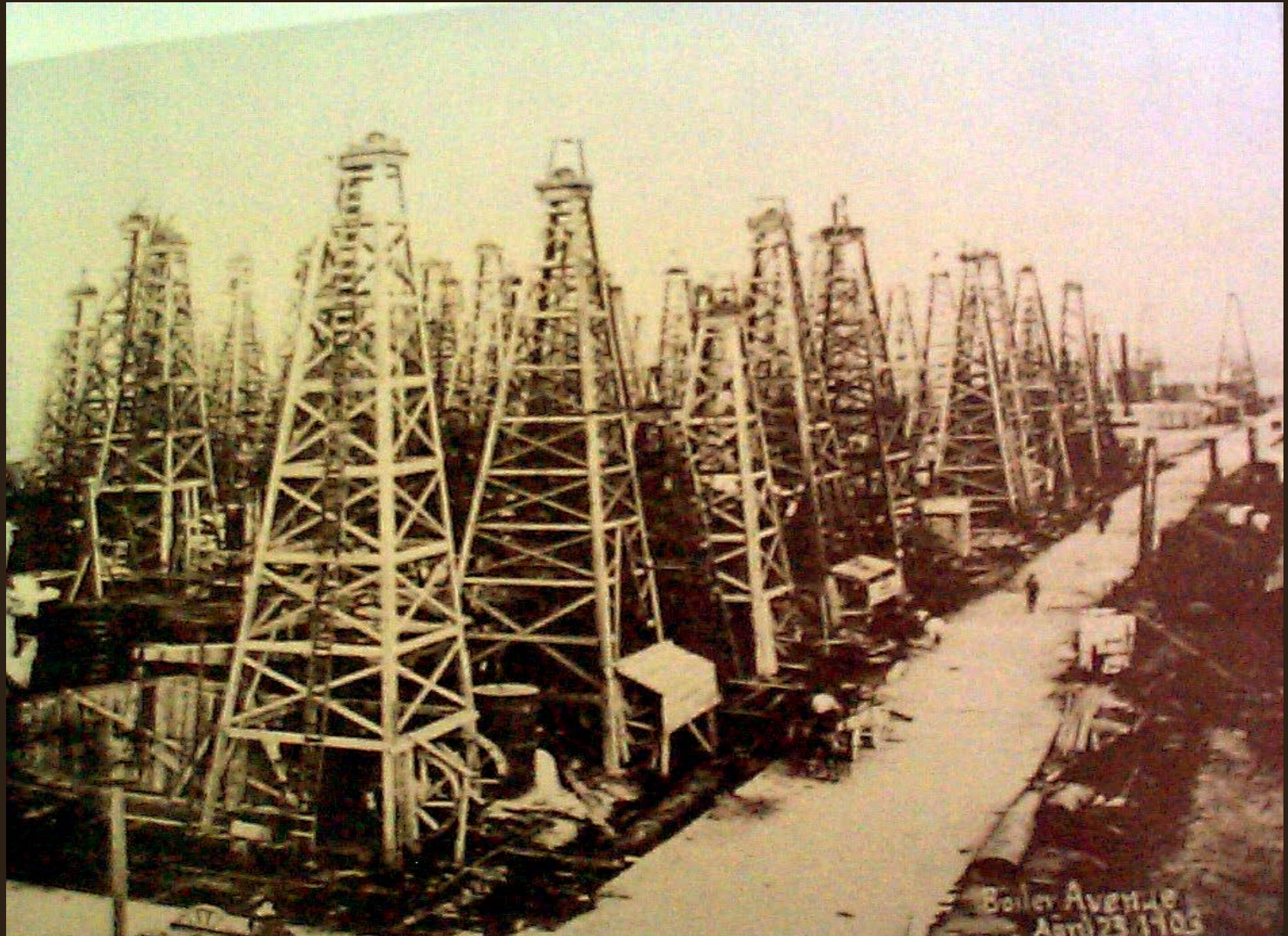
WHITAKER CHALK

PART I. OVERVIEW (continued)

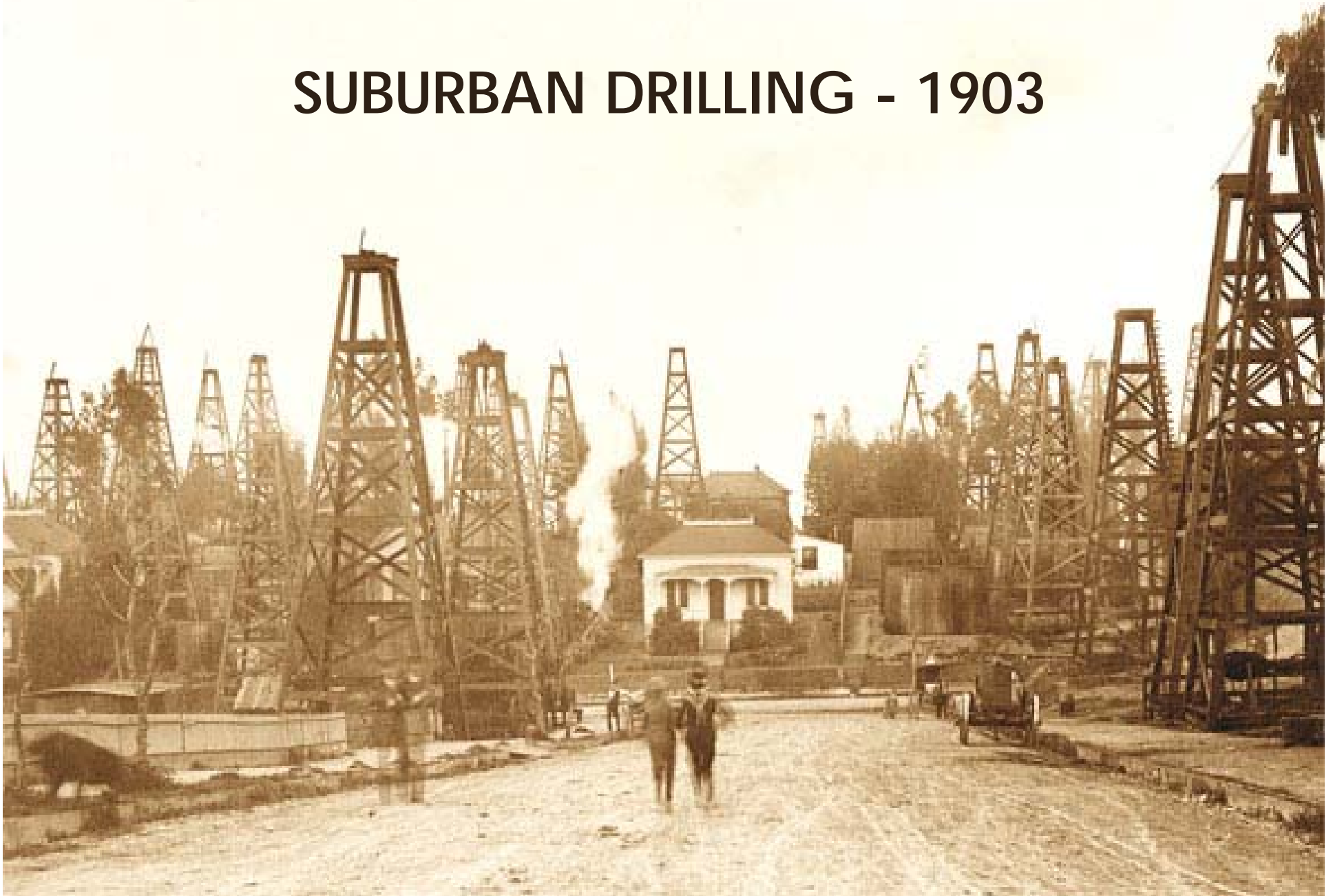
2. URBAN DRILLING IS NOT NEW



URBAN DRILLING - 1903



SUBURBAN DRILLING - 1903



URBAN DRILLING - 2008



SUBURBAN DRILLING - 2008

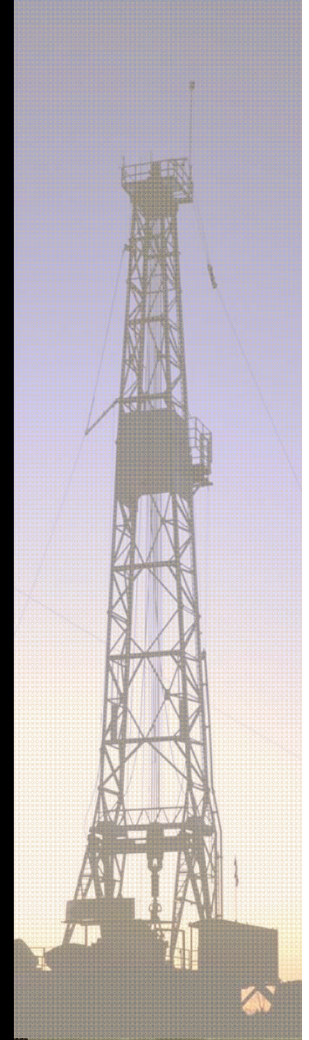




PART I. OVERVIEW (continued)

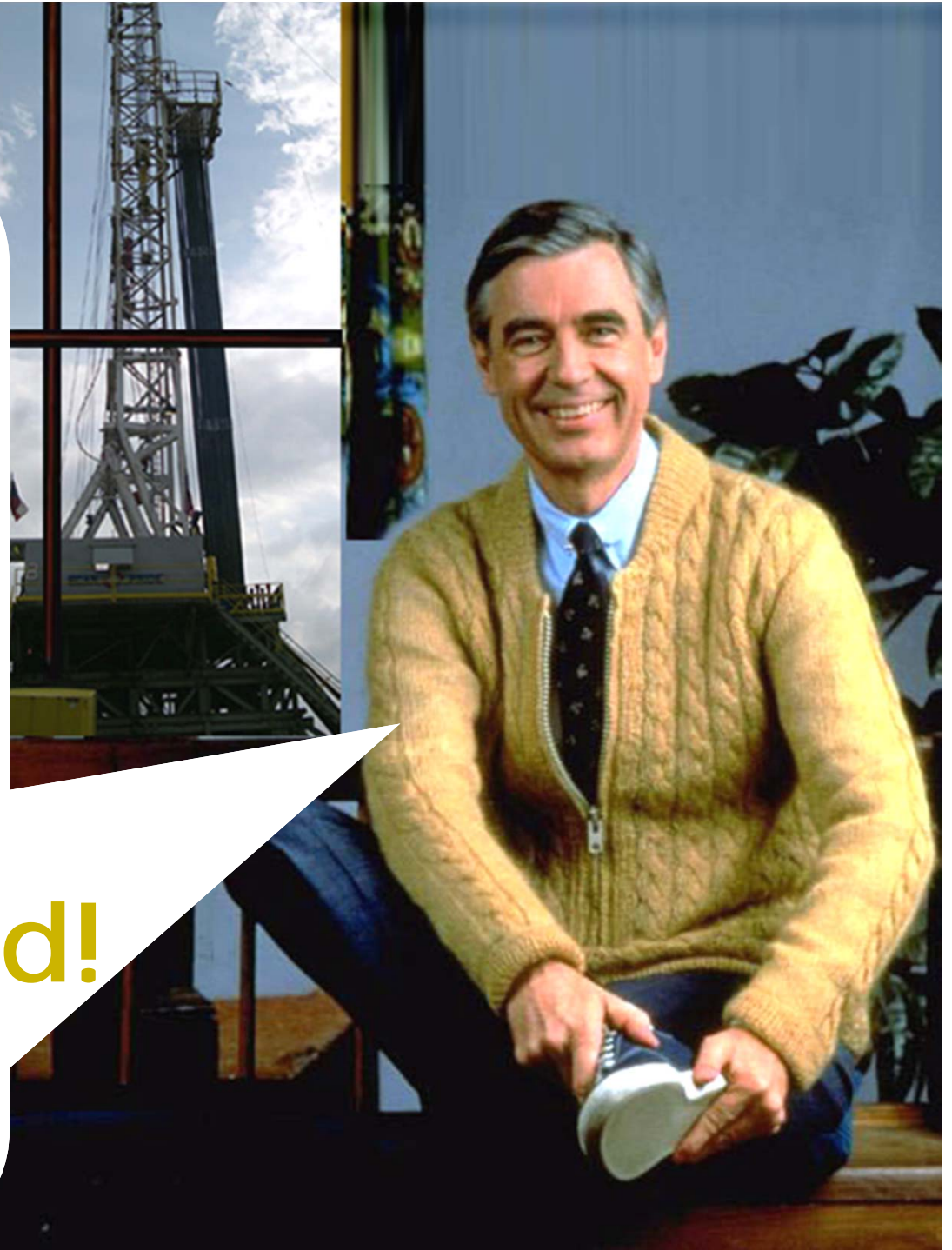
3. BARNETT SHALE HAS A HUGE IMPACT ON LOCAL ECONOMY (Perryman Report, March 2008)

- \$8.2 Billion per year
(8.1% of gross product)
- 83,823 jobs & growing
(8.9% of total)
- 7.8% of personal income



Mr. Rogers says:

It's a
beautiful
day in the
Barnett
Shale
Neighborhood!





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PART I. OVERVIEW (continued)

4. BARNETT SHALE IS EVERYWHERE IN TARRANT COUNTY

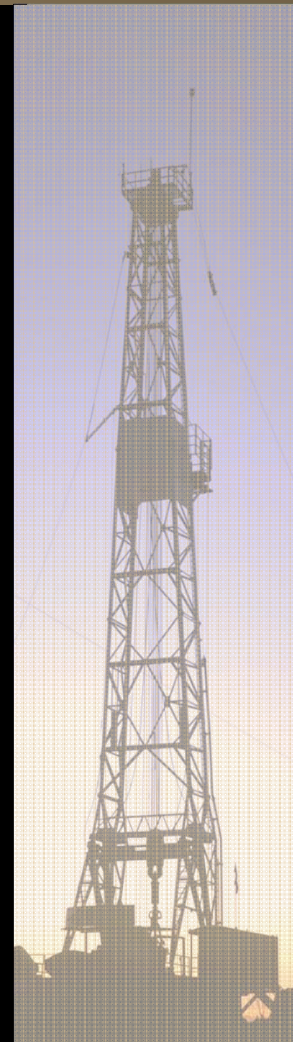




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J.R. Ewing says:

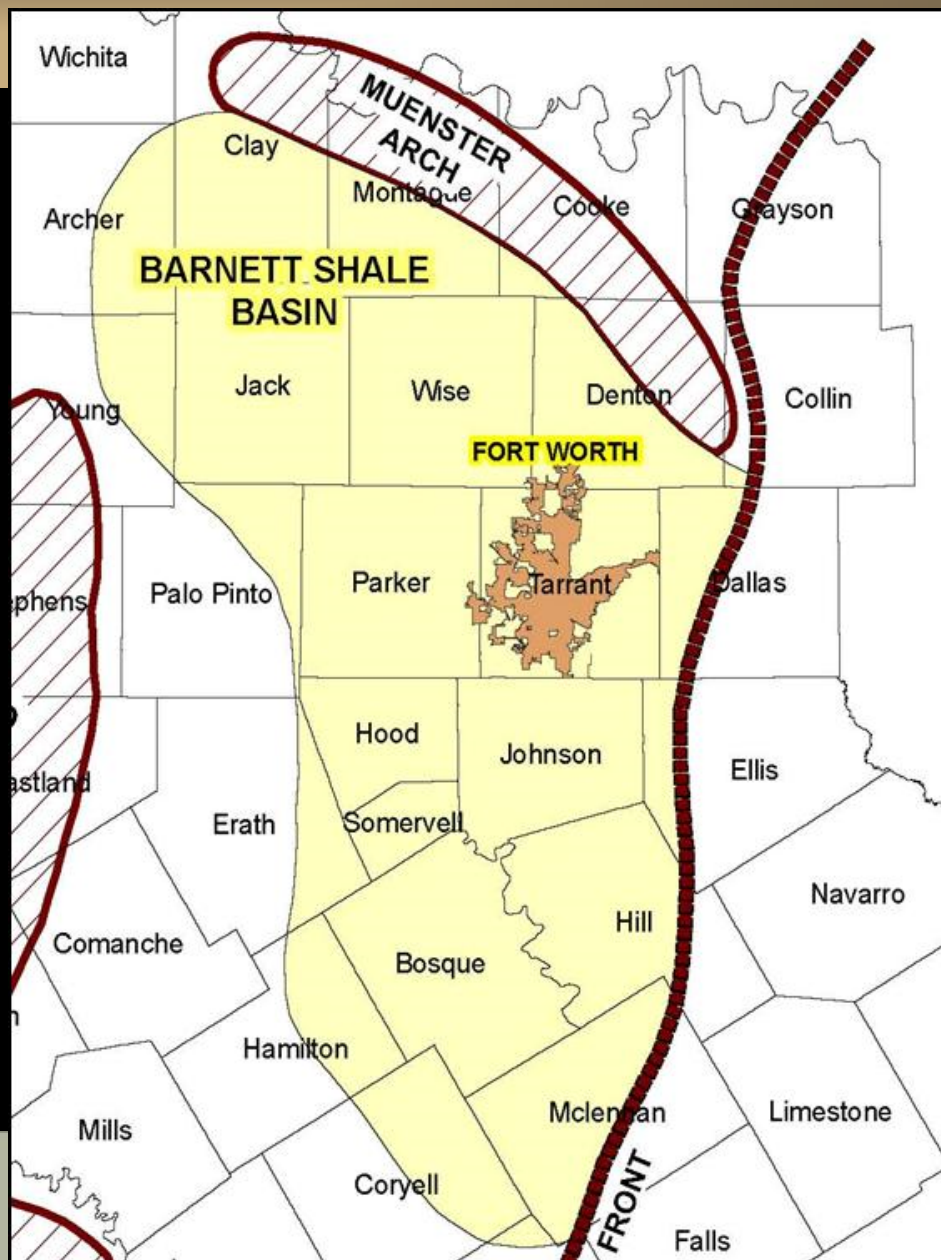
Dallas has
Barnett
Shale, too!





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Barnett Shale Counties



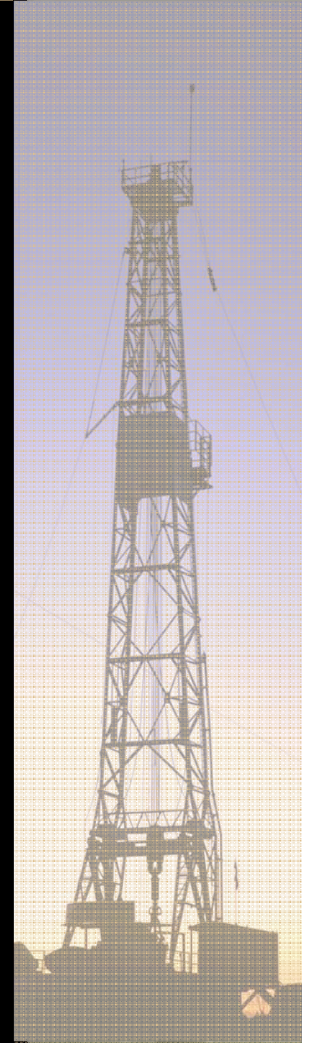


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PART I. OVERVIEW

5. BARNETT SHALE DRILLING

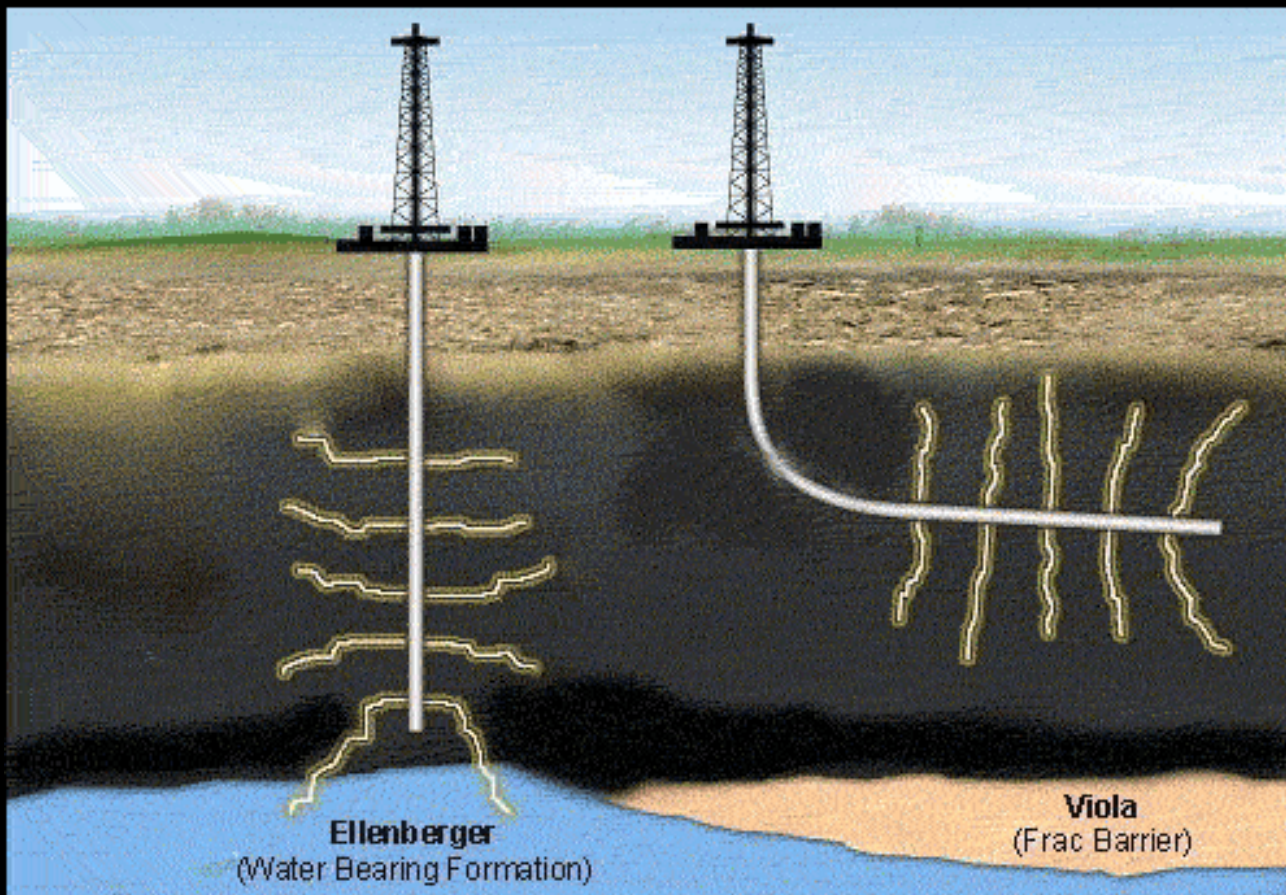
Jed Clampitt, famous for
“shotgun” drilling method





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Barnett Shale Drilling Basics



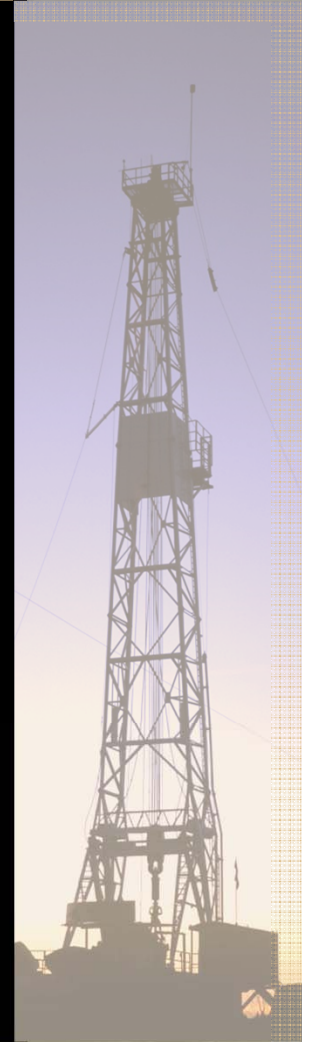
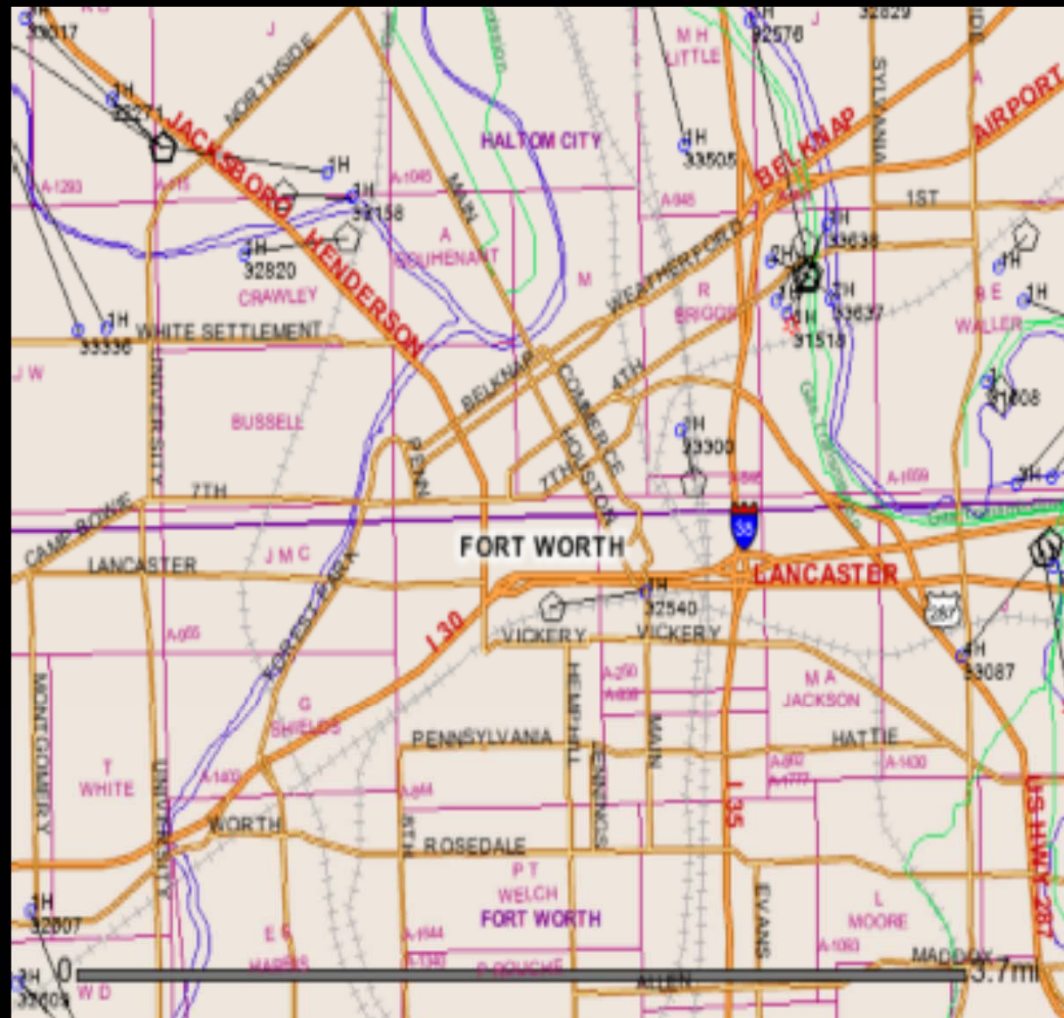
VERTICAL WELL

HORIZONTAL WELL



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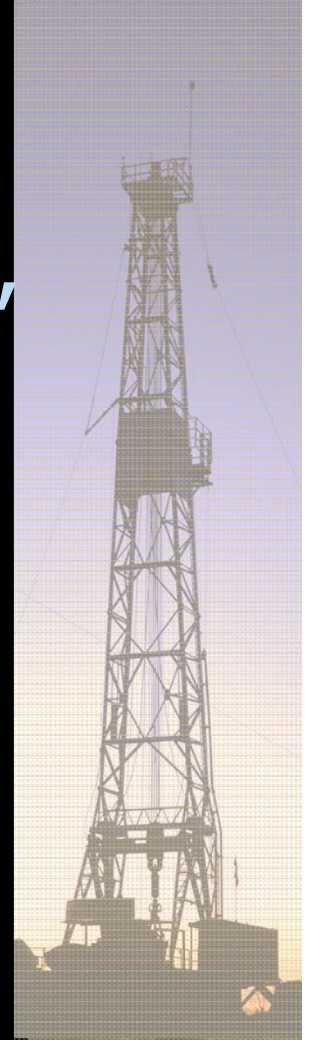
Drilling near Downtown Fort Worth





PART II. O&G LAW BASICS:

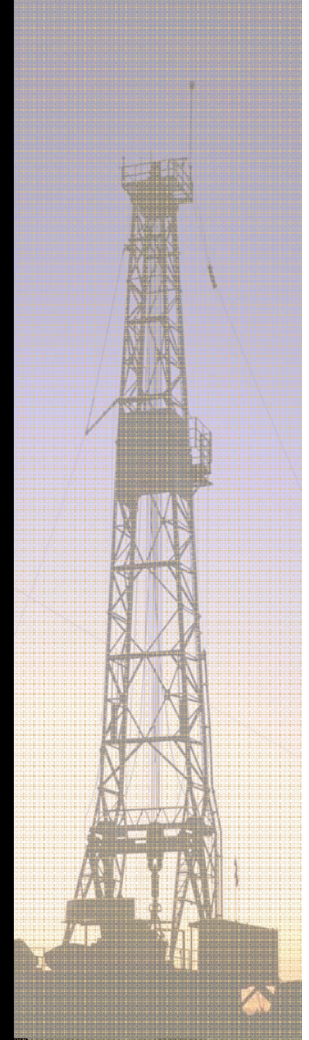
1. Minerals can be “severed” from “surface estate”
2. Mineral estate is “dominant” and surface estate is “servient”





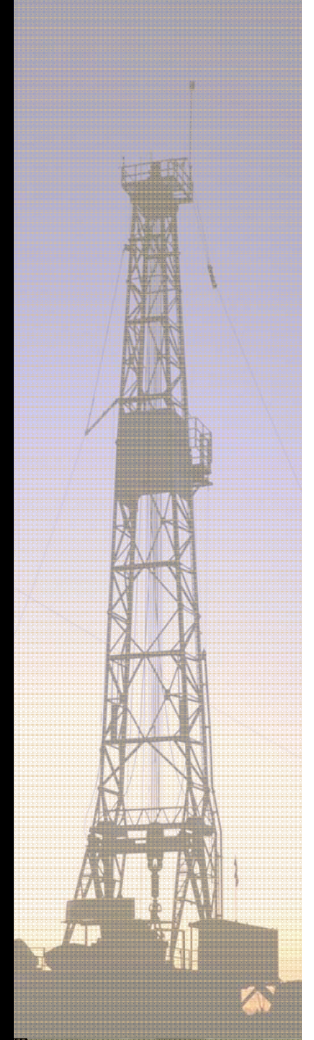
3. Rule of Reasonable Use: Mineral estate is entitled to “reasonable use” of the surface, such as for drilling, roads, pipes, water, etc.
4. Accommodation Doctrine: If proposed use of surface by mineral owner will substantially impair existing surface uses and the mineral owner has reasonable alternatives available, the mineral owner must accommodate the surface owner.

Getty Oil v. Jones, 470 SW2d 618 (Tex. 1971)





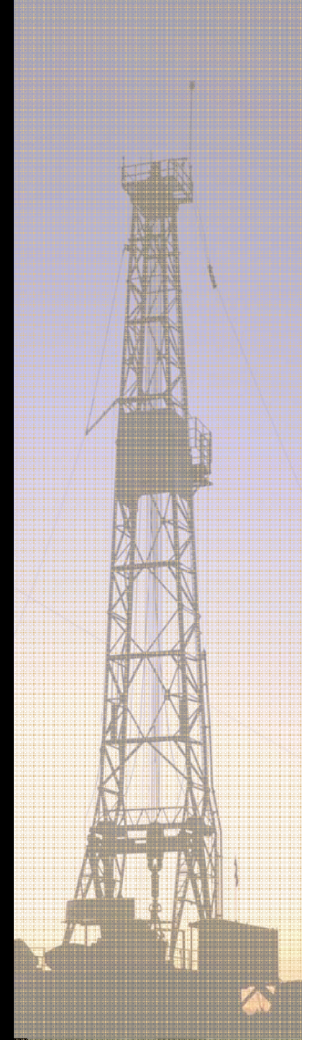
5. Rule of Capture: a well that is properly located may produce whatever comes out of that well hole, regardless of where it comes from underground.





6. Condemnation (Eminent Domain):

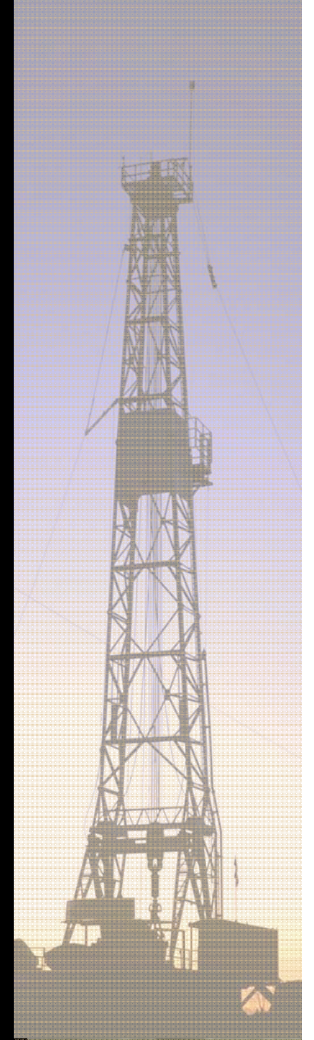
- is not allowed for leases
- is allowed for pipelines





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PART III. TIPS FOR NEGOTIATING A BARNETT SHALE LEASE FOR YOUR PROPERTY OR NEIGHBORHOOD





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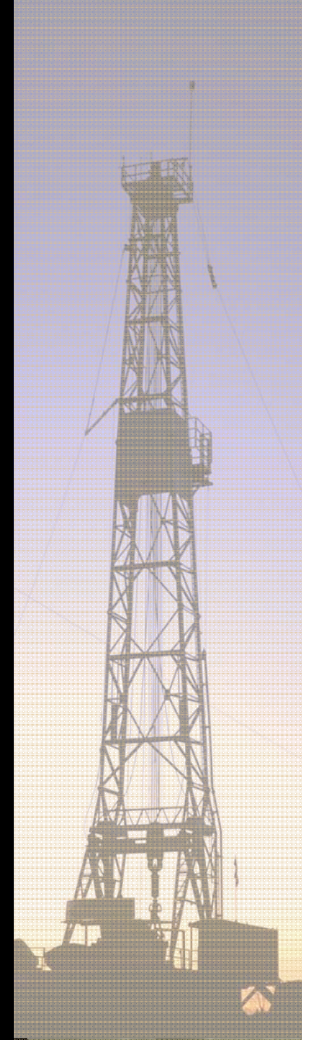
**DON'T SIGN
GAS LEASE
\$\$ YET \$\$**

WWW.RHNA.COM





1. Negotiate as a **group**, not individuals, to increase leverage.
 - organize quickly
 - treat it like a local election
 - **MORE ACRES = MORE LEVERAGE**
 - Group negotiation is a **Win-Win** process for owners & the gas company

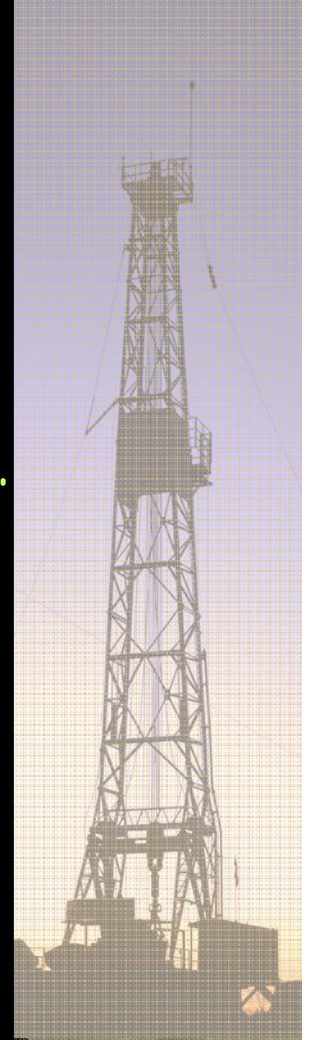




2. Use committee of knowledgeable members,
but recognize that owners make final decision for their own property.

3. Try to get competing offers.

Maybe ask for bids.



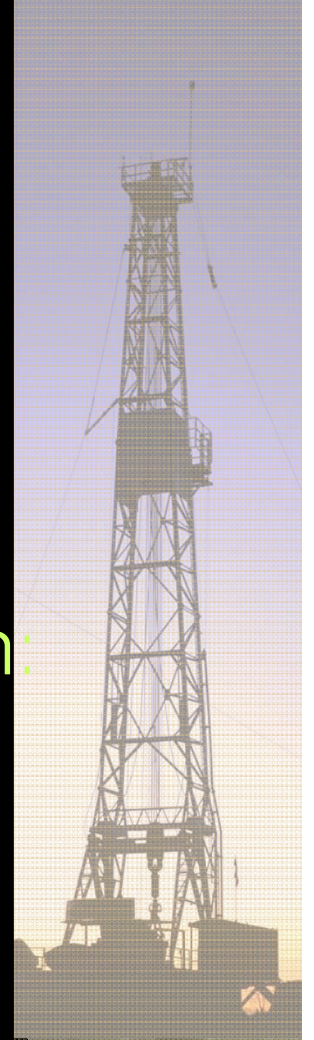


4. Use attorney as a consultant or negotiator beginning early in process (but not "My Cousin Vinnie").

- Be clear on who the client is

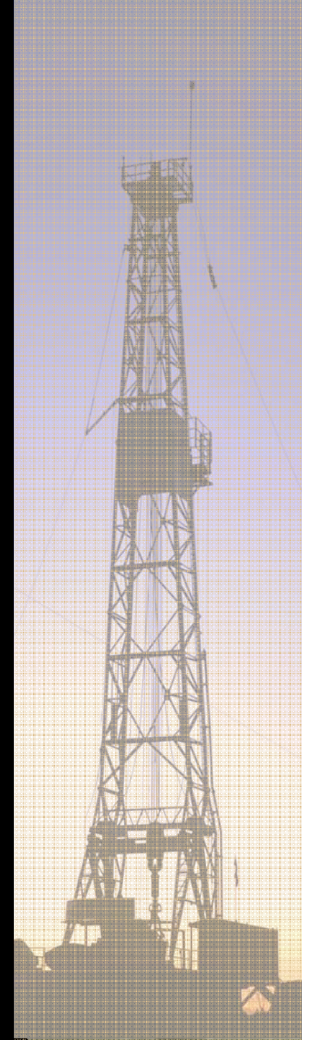
5. Communicate to your group often:

- educational meetings
- written messages
- celebrate the signing





6. Respect the right of owners to
NOT sign a gas lease





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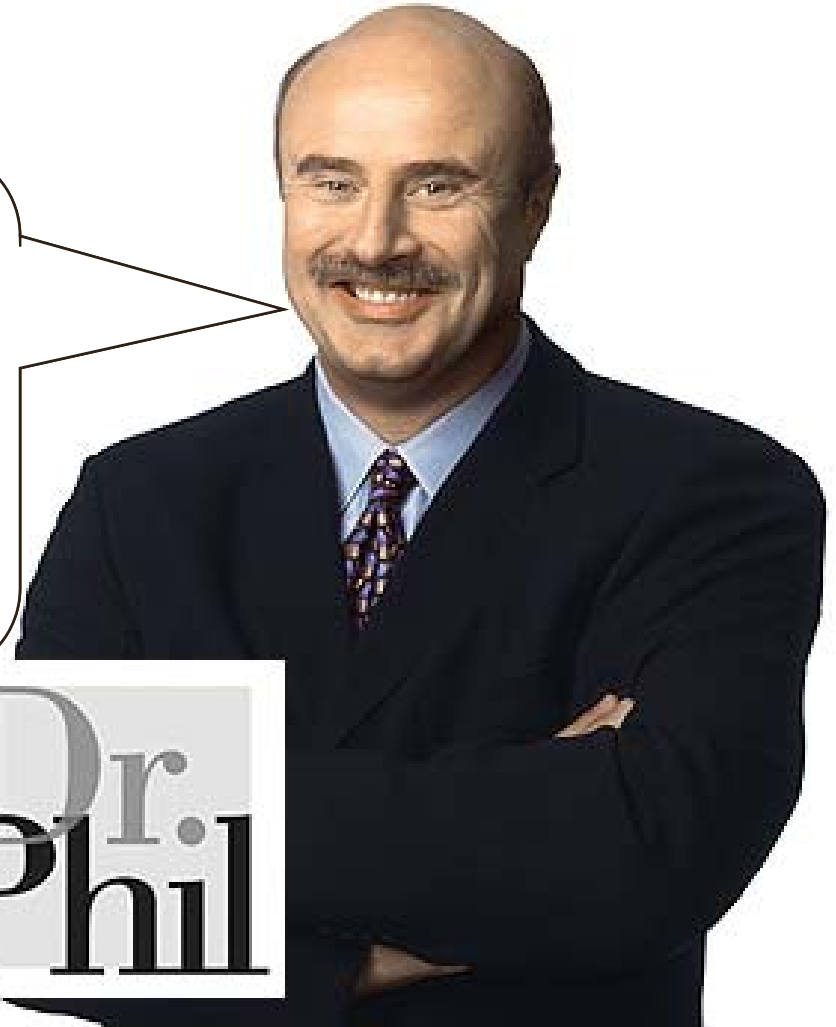




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Dr. Phil says:

**It's okay to
NOT sign a
lease!**



Dr.
Phil



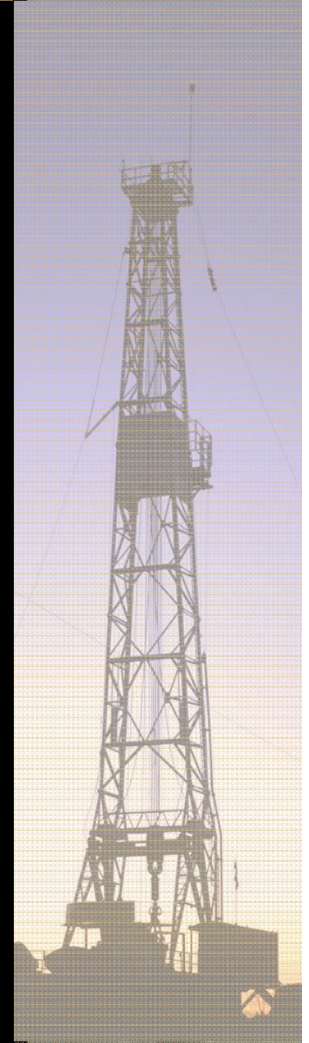
WHITAKER CHALK



7. Barney says:

***BE
PATIENT!***

Expect 2 to 6
months, or more.

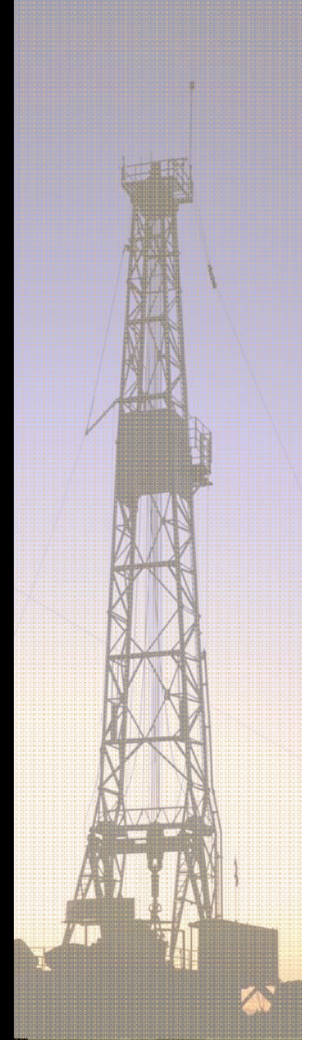




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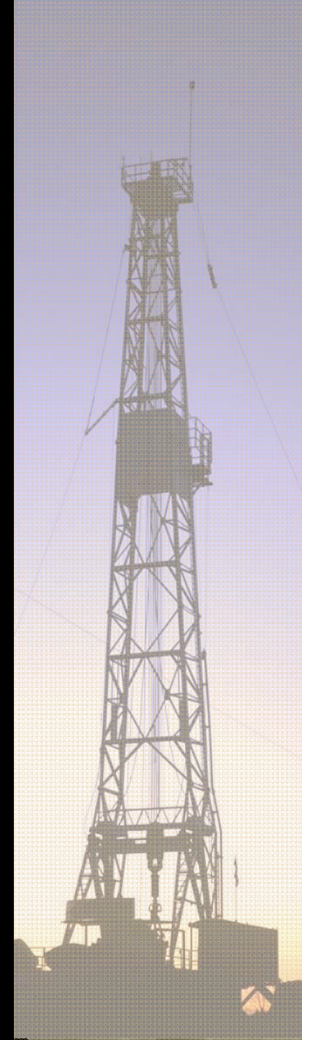
PART IV. KEY TERMS OF AN URBAN O&G LEASE

(this is not a complete list)





1. Bonus & royalty -- \$\$\$
2. Payment of bonus to middle of streets, alleys, etc.
3. What charges against royalty?
4. Subordination agreements





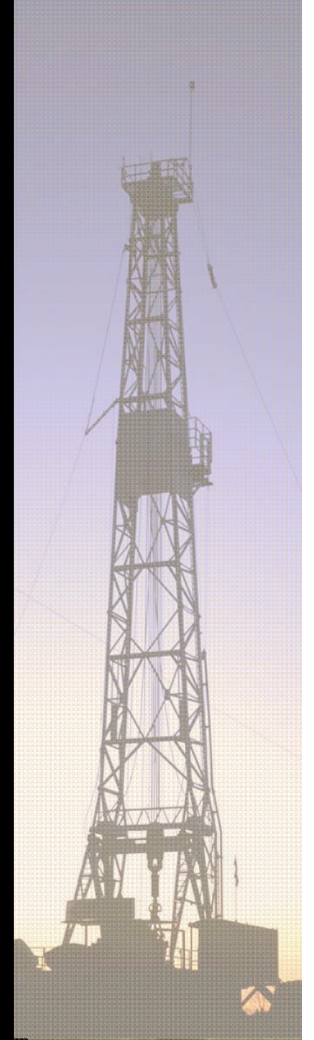
5. Location of drillsites, pipelines & compressors
6. Warranty of title
 - Owners should try to delete or limit the warranty
7. Extra \$\$\$ or benefits for groups
8. Get payment check at signing or within specified time, like 30 days





FORMS:

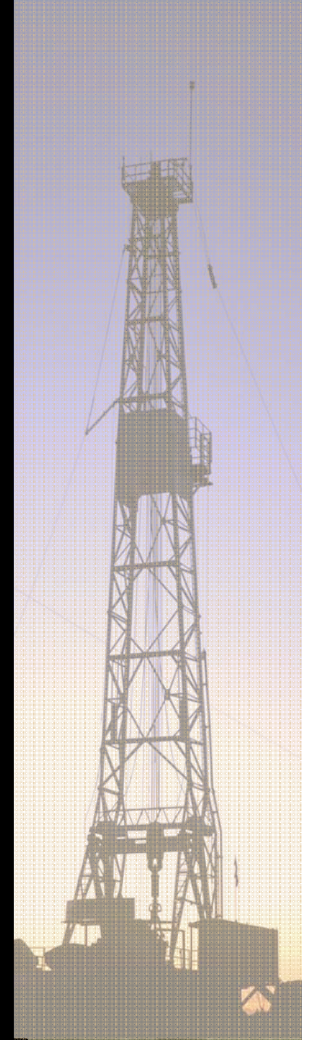
- "Standard" Lease Forms?
 - Make sure it is a LEASE and not a SALE
 - Every provision is negotiable
- Usual procedure: Printed form + addendum of special provisions or custom lease for the group
- Good sample language in forms used by cities and other public entities or lease forms on group websites





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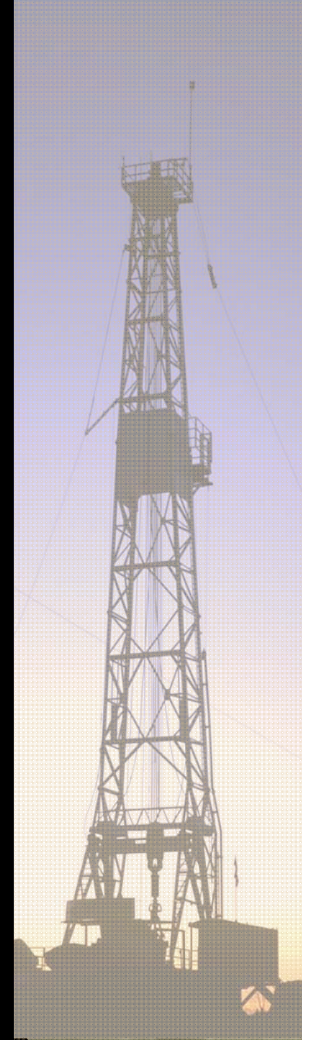
PART V: RECENT TRENDS ON LEASES





V. Recent Trends on Leases:

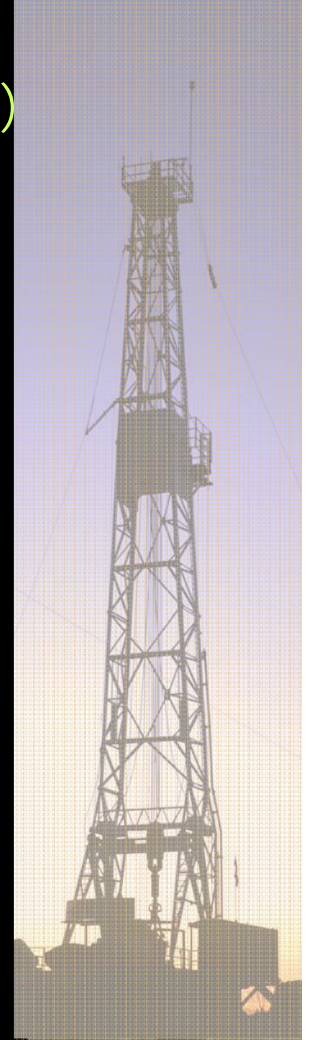
1. Financial & legal terms keep improving
 - a "land rush" for leases
 - second round of leasing
2. Tiered offers based on participation level of group
3. Gas companies using the groups to mutual advantage





V. Recent Trends on Leases (continued)

4. Larger groups – “Megahoods”
-- even in downtown Fort Worth
5. More requests for bids

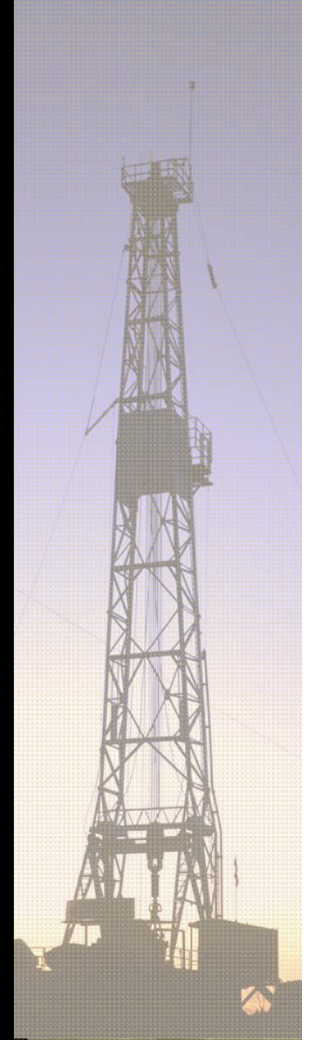




V. Recent Trends on Leases (continued)

6. Effect on real estate transactions

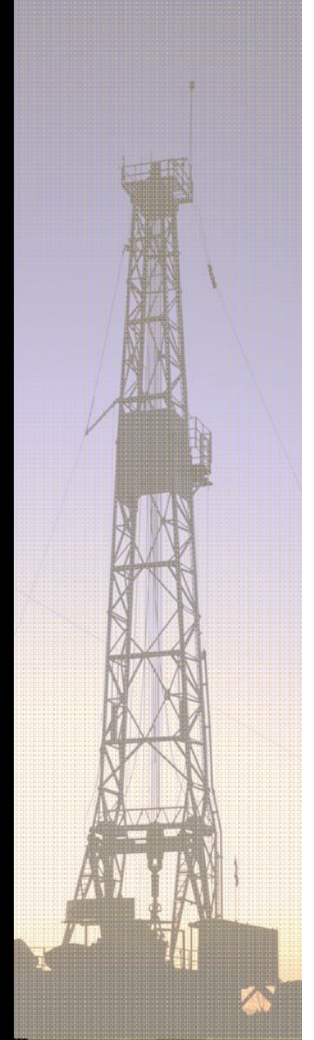
- residential
- commercial





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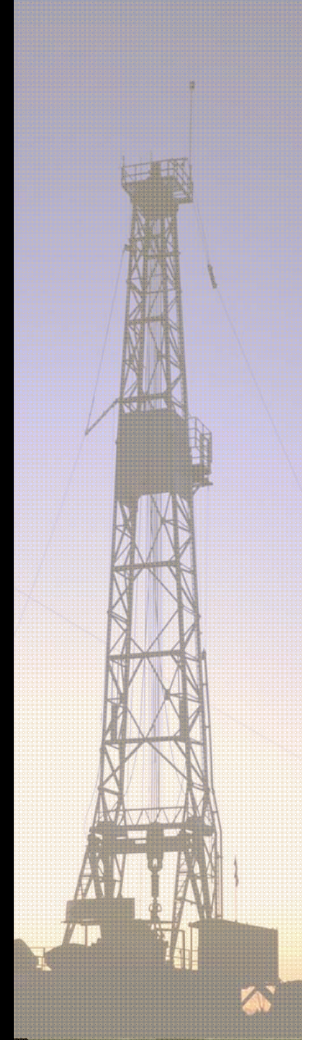
PART VI: RECENT TRENDS ON DRILLING AND PRODUCTION





VI. Recent Trends on Drilling & Production

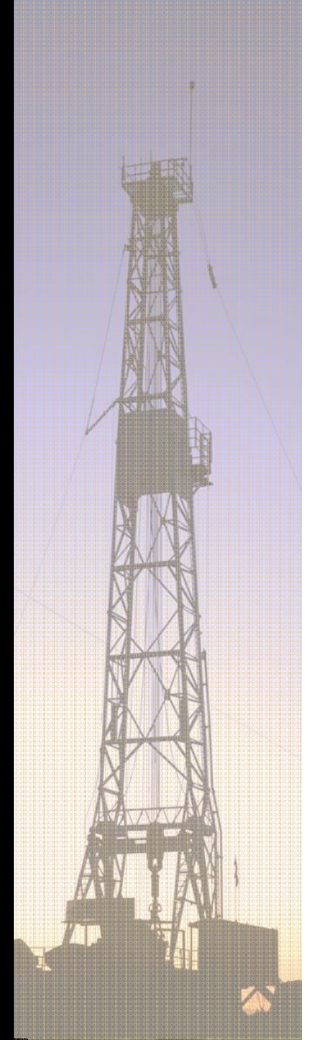
1. Drilling (for gas) inside Loop 820
2. Controversy over drill sites
 - Trinity River sites
 - 8th Ave site near hospitals
 - old shopping centers
 - hearings before City Councils
 - changes in city ordinances





VI. Recent Trends on Drilling & Production (continued)

3. Controversy over pipe lines
 - through private yards
 - eminent domain
 - possible use of street r-o-w

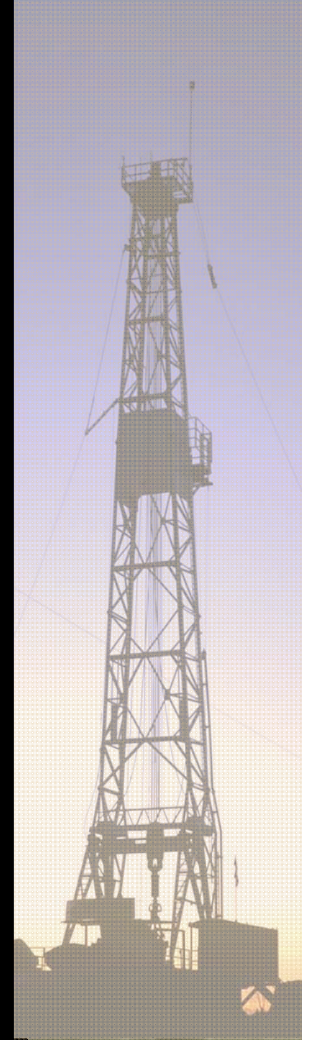




VI. Recent Trends on Drilling & Production (continued)

4. Improved technology:
 - better drilling techniques
 - "turnizontal" wells
 - longer underground laterals
 - up to 8,000 ft.
 - better fracturing techniques
 - simo-fracing

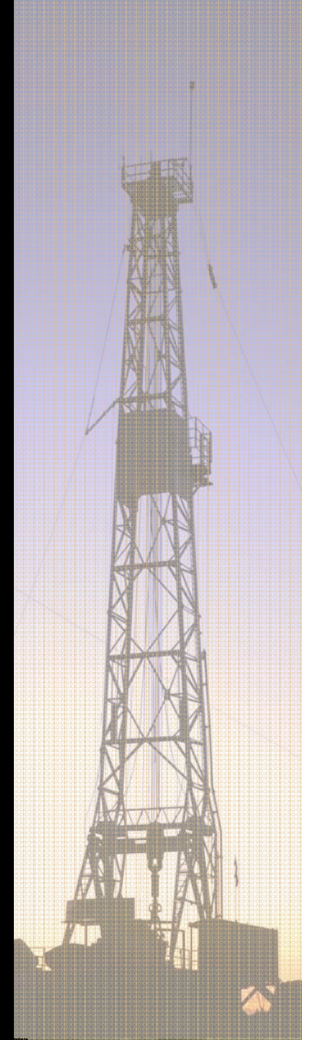
Result is higher quantity & percentage of gas being produced from each well





VI. Recent Trends on Drilling & Production (continued)

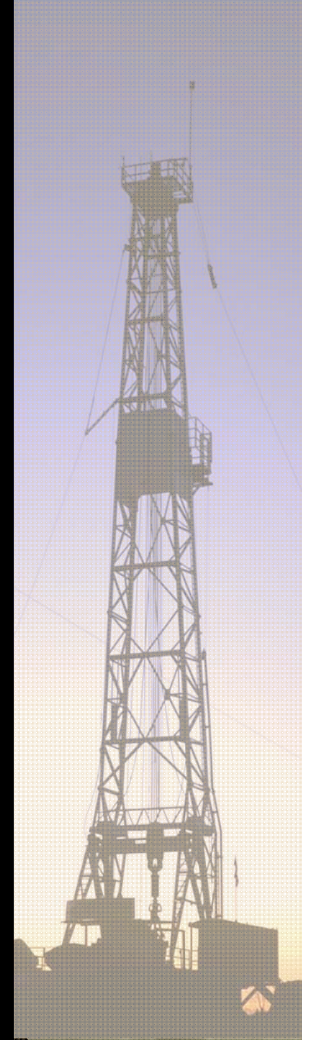
5. Continued uncertainty over water issues
 - Salt water disposal wells
 - Water recycling projects
 - Drought plans





VI. Recent Trends on Drilling & Production (continued)

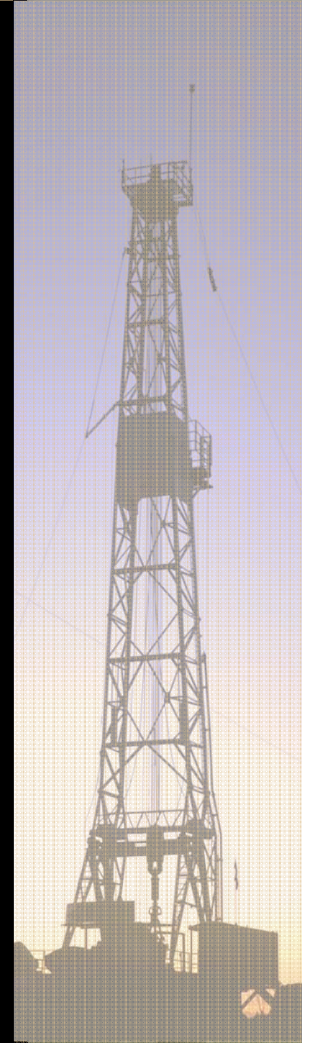
6. Drilling for Barnett Shale **oil** in Clay, Montague & Cooke Counties





Resources:

- www.rrc.state.tx.us -- maps
- www.fortworthgov.org
 - Public educational meetings by City of Fort Worth on last Thursday evening of each month
- www.fwlina.org – Fort Worth League of Neighborhood Associations
- www.bseec.org – Barnett Shale Energy Education Council (industry sponsored)
- www.BarnettShaleExpo.org – March 2008
- www.star-telegram.com – Barnett Shale Blog
- www.barnettshalenews.com – Powell Barnett Shale Newsletter
- Gas company websites





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