CHAPTER 47-31
SUBSURFACE PORE SPACE POLICY

47-31-01. Policy.

Undivided estates in land and clarity in land titles reduce litigation, enhance comprehensive management, and promote the security and stability useful for economic development, environmental protection, and government operations.

47-31-02. Pore space defined.

In this chapter "pore space" means a cavity or void, whether natural or artificially created, in a subsurface sedimentary stratum.

47-31-03. Title to pore space.

Title to pore space in all strata underlying the surface of lands and waters is vested in the owner of the overlying surface estate.

47-31-04. Conveyance of real property conveys pore space.

A conveyance of title to the surface of real property conveys the pore space in all strata underlying the surface of the real property.

47-31-05. Severing pore space prohibited.

Title to pore space may not be severed from title to the surface of the real property overlying the pore space. An instrument or arrangement that seeks to sever title to pore space from title to the surface is void as to the severance of the pore space from the surface interest.

47-31-06. Transactions allowed.

Leasing pore space is not a severance prohibited by this chapter.

47-31-07. Application.

This chapter does not affect transactions before April 9, 2009, that severed pore space from title to the surface estate.

47-31-08. Mineral and pore space estates - Relationship.

In the relationship between a severed mineral owner and a pore space estate, this chapter does not change or alter the common law as of April 9, 2009, as it relates to the rights belonging to, or the dominance of, the mineral estate.

47-31-09. Injection of substances to facilitate production of oil, gas, or other minerals.

1. This chapter may not be construed to limit the rights or dominance of a mineral estate to drill or recomplete a well under chapter 38-08. Injection or migration of substances into pore space for disposal operations, for secondary or tertiary oil recovery operations, or otherwise to facilitate production of oil, gas, or other minerals is not unlawful and, by itself, does not constitute trespass, nuisance, or other tort.
2. This section and chapter 38-08 may not be construed to impair the obligations of any contract for use of the surface estate for disposal operations, provided the contract was entered before the effective date of the unit approved by the commission pursuant to sections 38-08-09 through 38-08-09.17, and provided the disposal well is located within the unit area of the approved unit.
3. This section and chapter 38-08 may not be construed to allow the operator of a disposal well where the contract has expired after the effective date of the unit approved by the commission pursuant to sections 38-08-09 through 38-08-09.17 to claim the surface owner should not be compensated as if the new contract for the disposal well on which the contract has expired had been entered after the effective date of the approved unit.

4. The owner of the surface estate upon which the surface location of a disposal well is located does not lose, and may not be deemed to have lost, a claim for trespass, nuisance, or other tort if the operator of the disposal well commences or continues operations of the disposal well in violation of subsections 2 or 3.