

What effect does bankruptcy have on oil and gas leases?

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It is an understatement to say these are trying times in the oil and gas industry.

There are multiple reports in the news that predict we have not hit bottom and that our state will be uniquely affected. While oil and gas companies, contractors and service companies have industry insiders to rely on, many individual mineral owners might find themselves without resources or direction, wondering what effect these proceedings will have on the benefits they've come to expect under oil and gas leases.

Here's some helpful information for those who have executed these leases, who are faced with persistent negative news about the companies holding the leases.

It is important to note that, if a company is considering bankruptcy, it could take various forms. Chapter 7 and Chapter 11 are the two most common types of business bankruptcy.

In the first, business typically ceases and a trustee takes control of all assets, including the business's oil and gas leases, with any eye toward liquidation. However, in Chapter 11 bankruptcy proceedings, the company generally remains in control of its assets and develops a plan of reorganization, often with the goal of remaining in business after its debts are restructured. While Chapter 11 may be ultimately more favorable to the mineral owners, one can take comfort that current payments and leases are not necessarily in jeopardy in either case.

In a bankruptcy proceeding, the bankruptcy trustee or Chapter 11 debtor in possession is only ultimately entitled to property of the bankruptcy debtor, which generally would not include royalties payable to mineral owners. Likewise, in Oklahoma, oil and gas leases typically survive the bankruptcy. This means royalty payments frequently continue, virtually uninterrupted, after a bankruptcy case has been filed and the leases may continue to be developed for the benefit of all notwithstanding the bankruptcy.

Obviously, this downturn has been difficult for many in our state. Hopefully, these facts will provide a mineral owner with some comfort that, even in these times, the payments they have come to rely on under existing oil and gas leases will not automatically be affected adversely by a leaseholder's bankruptcy. It's certainly worth investigating more before you assume these benefits will disappear.