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Supreme Court Holds Drilling Across Tracts not Trespass

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On May 19, 2017, the Texas Supreme Court held in a unanimous decision in *Lightning Oil Co. v. Anadarko E&P Onshore, LLC* that an oil and gas operator does not commit trespass when, after obtaining consent from the surface estate owner of a neighboring tract, it drills into the neighboring tract's surface and through the tract's subsurface in order to access minerals in which the operator has an interest. In so holding, the Court affirmed the concept in Texas law that absent an express grant in a lease, the surface estate owner, and not the mineral estate owner, controls the subsurface earth beneath a tract.

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