



## Cover-All Provisions in Mineral Deeds and Lease Assignments

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An oil and gas lease or other instrument conveying or assigning a mineral interest must adequately describe the lands affected by the instrument. A clause commonly included in oil and gas leases to ensure the coverage of contiguous strips of land that may otherwise not be covered by the instrument's legal description of the subject lands is called a "cover-all" clause, also known as a "Mother Hubbard" clause or an "all-inclusive" clause. Such a clause declares the parties' intent to include all lands and interests therein contiguous to or appurtenant to the described lands owned or claimed by the lessor. These provisions appear most frequently in mineral leases; however, they are also sometimes found in conveyances of mineral ownership interests. Courts generally uphold cover-all provisions if the intent of the parties can be adequately determined by the facts.

Problems arise where there is any ambiguity as to the parties' intent. Such problems usually arise in a conveyance of mineral ownership interests; however, ambiguities can also exist in leasehold estates. Generally, courts hold mineral leases to the same scrutiny as mineral deeds, and the critical issue in either instance is determining the intent of the parties who signed the instrument. Although an accurate description of the lands is crucial, in some instances even a lack of specificity as to the location of the subject lands can be made effective if the parties' intent can be determined through interpretation and, if necessary, extrinsic evidence. For example, a provision that covers "all of the grantor's property in a certain county" would usually be upheld because the extent of that property interest could be ascertained by an examination of the county records.

When problems do arise, they usually center on the wording of the cover-all clause, the placement of the clause in the instrument, and the ability to ascertain the lands purportedly covered by the cover-all clause. For example, this leaves open the question of the extent to which undescribed lands would be subject to an instrument purporting to cover interests within its geographic location. Cover-all clauses are most commonly used in situations where some question may exist as to the adequacy and accuracy of a particular legal description to include relatively small tracts of land adjacent to the described lands. Beyond that, cover-all clauses are not highly regarded by the courts, the function of the clause being considered primarily to insure that all the land owned by the grantors in the tract particularly described will pass by the conveyance despite any error in the metes and bounds description.

As for larger tracts of land that may or may not be contiguous with the described lands, courts look to the intent of the parties to the conveyance. There does not appear to be any Colorado case law or statutory law that directly addresses this question in the context of mineral conveyance or lease assignment, and so there is a degree of uncertainty regarding how a Colorado court would interpret such provisions. The question has been addressed most directly by the Texas Supreme Court in *Smith v. Allison*, 301 S.W.2d 608 (Tex. 1956), which concluded from a consideration of an entire deed that the intention of the parties was to convey only that land particularly described and any strips or small tracts that might have been contiguous or been said to constitute a part of the described tracts, and that the clause did not serve to convey a quarter section of land not described in the deed. It is less clear whether the majority opinion left open the possibility that, where an instrument is ambiguous, a cover-all provision could serve to include more than small, contiguous strips of land if such an intent is shown by the language of the instrument and/or extrinsic evidence.

There does not appear to be much in the way of case law where a court has used a catch-all provision to assign or convey considerably more land than that specifically described in the instrument. In the absence of a quiet title decree issued by a Colorado court having jurisdiction over the subject lands, it is not possible to state with any certainty whether any particular instrument would assign an interest in an oil and gas lease covering a large tract of land not specifically described in the instrument. While blanket descriptions are generally upheld in situations where a grantor's interests can be ascertained in some manner (such as recorded deeds of title), this is often not the case where an assignment or conveyance attempts to describe the subject interests and then inserts some form of catch-all provision to supplement the listed interests.

For more information regarding cover-all provisions and their interpretations, please contact [Craig M. Berube](#).