The executor's checklist for mineral rights

Minerals are the asset in an estate inventory most likely to be listed as "oil and gas interests, value unknown," and the one most likely to still be sitting in the decedent's name ten years later. The reason is not difficulty. It is that nobody handed the executor a sequence. This is the sequence.

What does an executor have to do about mineral rights?

Find every instrument that shows what the decedent owned, confirm it in the county records, tell each operator about the death, choose the title path the state requires, establish a date-of-death value for basis, search every unclaimed property fund, watch the deadlines that run against estates, and then let the heirs decide together whether to keep or sell. Ten steps, below, in order.

The ten steps

1. Gather the paper. Deeds and mineral deeds, division orders, royalty check stubs, 1099-MISC forms from operators (box 2, royalties), county ad valorem statements on producing minerals, old leases, and letters from companies offering to buy. A single check stub or 1099 is enough to start: it names the operator, the decimal interest, and the property. If the paper is a shoebox, our free shoebox review will inventory it from photographs.

2. Confirm ownership in the county records. Minerals are real property. For each county, search the grantor and grantee indexes under the decedent's name and the names of the people the decedent inherited from. Many interests were never deeded to the decedent at all; they still sit in a parent's or grandparent's name, which changes the title path in step 4. Our page on finding out whether you own mineral rights covers the free searches state by state.

3. Notify every operator. Send each operator a written notice of death with a copy of the death certificate and ask three things: what interest the decedent held, whether any money is in suspense, and what documents the operator will accept to transfer pay status. Our letter generator produces the notice and the enclosure checklist. Operators will not release suspended money or re-issue checks until they have it.

4. Choose the title path the state requires. This is where estates stall. The rules differ by state, and a few are worth knowing before the first call to the attorney:

State	What transfers marketable title to severed minerals
Oklahoma	A recorded affidavit of death and heirship supports marketable title only after 10 years of record (16 O.S. 67). Before that, buyers and examiners want a probate. Summary administration under 58 O.S. 245 is available for estates of $300,000 or less, or where the decedent has been dead more than 5 years or lived out of state.
Texas	A recorded affidavit of heirship is prima facie evidence after 5 years of record (Estates Code 203.001). The small estate affidavit cannot pass non-homestead real property, so minerals usually mean an affidavit plus time, a muniment of title, or a probate.
North Dakota	Probate, formal or informal, with a deed of distribution recorded in each county. The collection affidavit reaches personal property only.
Kansas	A determination of descent in district court (K.S.A. 59-2250) once the decedent has been dead six months, or a probate. The small estate affidavit does not transfer real estate.
Louisiana	A judgment of possession, or a small succession affidavit where the estate is $125,000 or less. Louisiana recognizes no affidavit of heirship for immovables. See Louisiana succession and mineral rights.
Colorado	A personal representative's deed, order of distribution, or decree of heirship (C.R.S. 15-12-1301). An affidavit of heirship is only prima facie evidence after 20 years of record.
Wyoming	Summary distribution for estates up to $400,000 including mineral interests (W.S. 2-1-205), otherwise probate.
New Mexico	Probate with a recorded personal representative's deed in each county; out-of-state estates need ancillary proceedings.

Where the decedent lived in one state and owned minerals in another, expect an ancillary proceeding in the mineral state unless that state offers a shortcut. Our transfer inherited minerals page walks the paths in more detail, and we have an attorney in every

state we buy in if the estate needs one.

5. Establish the date-of-death value. Inherited minerals get a stepped-up basis to fair market value at death. Without a documented value, the heirs pay capital gains on the whole sale price later. A mineral appraisal with a retrospective effective date does this; so does a written valuation from a buyer, if it shows its work. Do this before anyone sells.

6. Search every unclaimed property fund. Operators that cannot find an owner send the money to the state after a dormancy period of three to five years. Search the unclaimed property site of every state where the decedent owned minerals, under every spelling of the name, and in Oklahoma also search the Corporation Commission's Mineral Owners Escrow Account. Our unclaimed royalties hub links each state's search.

7. Watch the deadlines that run against an estate. Oklahoma pooling orders give 20 days from the date of the order to elect, and they are mailed to the decedent's last address. Dormant mineral statutes in North Dakota, Kansas, Ohio, and Indiana can extinguish unused severed minerals after 20 years unless a statement of claim is recorded; Illinois uses a court process against unknown owners. Lease offers and purchase offers carry their own dates. None of these pause for probate.

8. Decide together: keep, sell, or split. One deed from the estate is cleaner and usually worth more than six fractional deeds from six heirs later. If some heirs want cash and some want to keep, read selling your share before anyone signs. If the estate is the seller, settling the estate covers court approval and documentation.

9. Get the number in writing, with the math. Any buyer's offer to an estate should show which wells, what decline, what price deck, and what happens if title turns up different from what was described. Our preliminary offer does that in writing within two business days and holds for 7 days while the family and the attorney look at it.

10. Record, distribute, and close the file. Record the instrument that completes the title path, send each operator the recorded copy with a new W-9 and address for every heir, and keep a one-page summary in the estate file: county, legal description, operator, decimal, and where the money goes now. The next generation will thank you.

What Berlin does for estates

We value the estate's interests off the actual wells and county records, in writing, free. If the decision is to sell, we prepare every document, coordinate with the estate's attorney, and pay all closing costs. If the minerals are stuck behind a missing probate from a prior generation, we coordinate and pay for that on a committed deal, including ancillary probates. If the right answer is to keep, we say so and hand you documentation that closes the file cleanly. Attorneys and CPAs can start on our professionals page; there are no referral fees in either direction.

Can I give this checklist to a client?

Yes. Download the PDF, print it, or link to this page. It is general information from a mineral buyer, not legal advice, and the state table is a starting point for a conversation with counsel, not a substitute for one.

General information from a mineral buyer, not legal advice. Call or text Stephen Clayman at 918-984-1645, or see berlinroyalties.com/executor-mineral-checklist/ for the linked resources. Free to copy and hand to clients with attribution.