



Real Property

Class 15



Duties of Support to Adjacent Property Owners

- **"Subjacent support"**
 - Subterranean owner cannot take an action that will damage the ability to make a reasonable use of the property above
- **"Lateral Support"**
 - (duty to avoid making uses that will damage neighbor's reasonable use of her land)
- **Strict liability** for damage to neighboring land
 - Liability for damages to neighboring structures only if there is negligence

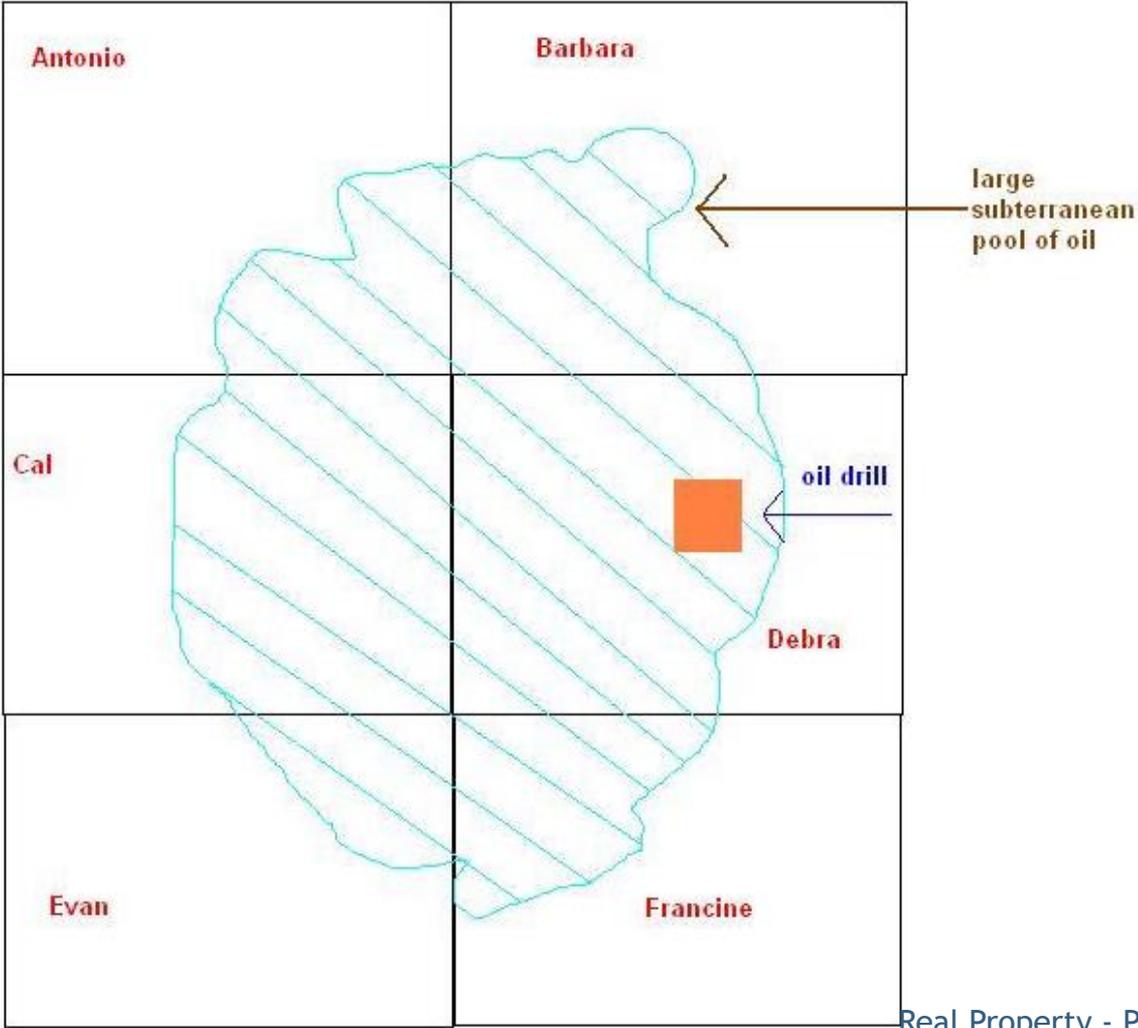


Natural Resources

- General Rule: The owner of the property above a natural resource owns the underground resource
- Fugitive resources (e.g., oil)
- Anybody may access the resource and take as much of it as possible, so long as they access it from their own property.
- Caveats:
 - The access must not interfere with the subterranean space belonging to someone else
 - The digger will be **strictly liable** for damage to any other person's land that is caused by negligent drilling



Oil Field Example



Water Rights

- **Watercourses**
- **"Riparian rule"**
 - (mostly in areas where water is plentiful)
 - A "riparian" (owner of property adjoining a watercourse) owns the right to that watercourse and no one can interfere with that water right.
- **"Prior Appropriation Rule"**
 - (mostly in areas where water is scarce)
 - The state owns and apportions the right to watercourses.

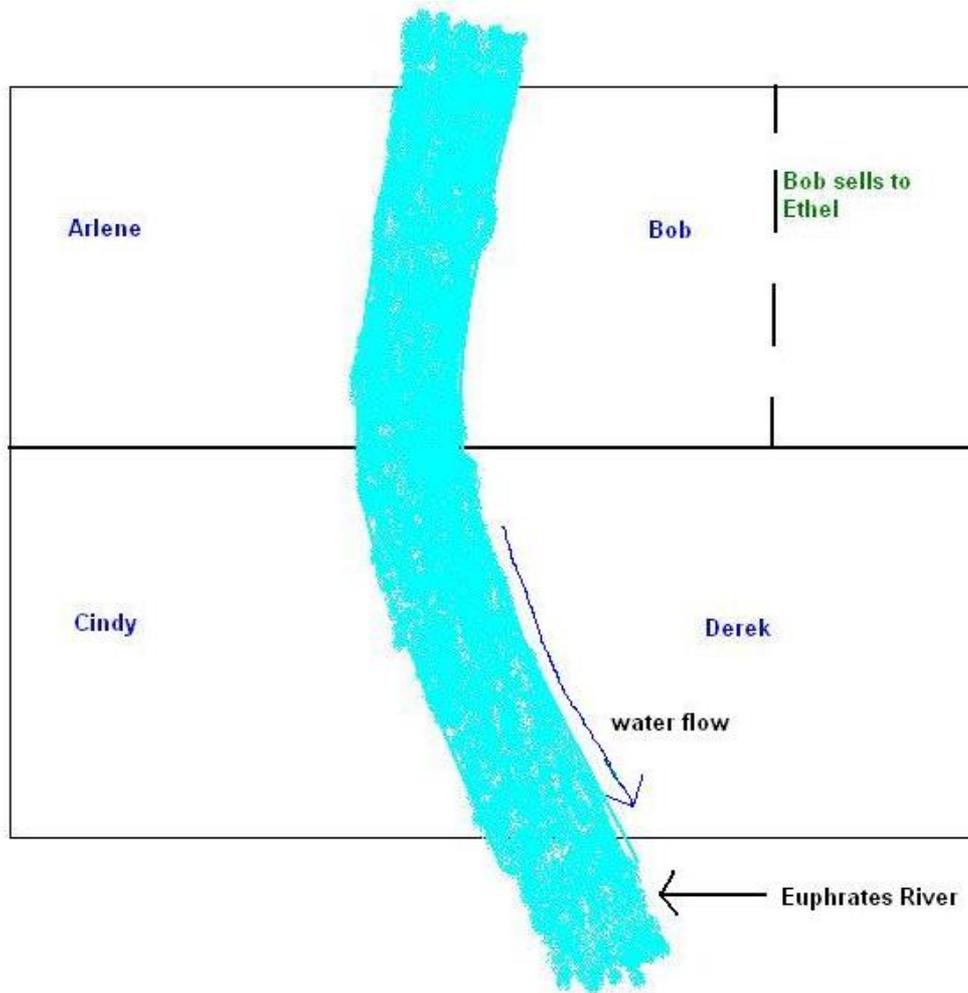


Water Rights (cont.)

- **Ground Water** (e.g., well water)
 - "Reasonable use" rule (most states)
 - Some states (those with plenty of water) do not cap the usage of well water
- **Surface Water**
 - **Usage:** belongs to the property owner
 - **Diverting harmful water onto another's property:**
 - **Natural Flow Rule:** Cannot divert harmful water onto another property
 - **Common Enemy Rule:** May divert harmful water onto another property
 - **Reasonable Use Rule:** In between the above 2 rules



Water Rights Example



QUIZ TIME!

