

Rancher Smith owns the title to a two section ranch known as Blackacre. Rancher Smith does not own any of the mineral estate. The federal government retained the mineral interests which are subject to an oil and gas lease held by Big O production. The land north of Blackacre is held by Mr. Jones as fee owner of the surface and mineral estate, which is subject to an oil and gas lease to R and P Production. The remainder of the lands surrounding Blackacre are federal surface and federal minerals controlled by the Bureau of Land Management.

Rancher Smith proposes to lease Blackacre to Big J Power Company to build and operate a facility for the permanent sequestration of CO₂, including the right to store and remove. This lease includes the right to construct and operate necessary surface facilities and injection wells and monitoring facilities. The CO₂ to be sequestered originates at Big J's electrical plant located approximately 100 miles from Blackacre. The CO₂ will be delivered to Blackacre by means of a pipeline to be owned and constructed by Big J Power. Smith does not claim to possess the right to authorize the use of CO₂ for recovery of any other mineral. In addition to a

lease payment, Smith has asked for a contract provision completely indemnifying him against any and all claims that could arise by virtue of Big J Power's activities.

1. Does Smith have the authority and the right to enter into the lease?
2. What federal and state regulations would apply?
3. As Smith's attorney, what form of indemnification would you require?
4. What other parties may possess rights which may be impacted by this transaction?