

plan, the ordinance provided for an expedited seven-day permitting pathway. Without the surface owner's written consent, a more expensive 120-day pathway applied. Plaintiffs argued this permitting scheme violated (1) their due process rights by inappropriately delegating the County's permitting authority to the private owners of surface rights, who could arbitrarily withhold their signatures unless their demands were met and thereby exercise control over how mineral rights owners use and enjoyed their property rights; and (2) their equal protection rights by imposing, via distinct permitting pathways, disparate treatment on similarly situated permit applicants. The court of appeal rejected both arguments. Concerning the due process claim, the court reviewed a longstanding line of U.S. Supreme Court cases as well as California cases to identify "[t]he most important factors in analyzing the constitutionality of an ordinance that transfers some authority to private property owners... (1) the amount and type of control transferred; (2) whether the private property owners' action or inaction produces results that are binding on the other property owner; and (3) the presence or absence of standards dictating how that control must be exercised." Ultimately, the court saw no due process violation because, under the permitting scheme, the surface owner lacked final control over how the mineral owner uses its rights. If the surface owner did not agree to a site plan, for instance, the details of how the oil and gas operator would conduct its operations on the land had not been determined. The binding decisions with respect to how the land was used rested with the County in its adjudication of the permit application. Nor was the 120-day pathway such an onerous burden as to offend due process by delegating too much power to the surface owner. Concerning the equal protection claim, plaintiffs contended the ordinance created two groups of split-estate mineral owners: those who had obtained their surface owner's signatures on permit applications, and those who had not. The court acknowledged that applicants who had obtained the surface owner's consent were treated more favorably. The County, however, had a rational basis for deciding that the availability of an expedited seven-day pathway would promote cooperation between split-estate owners and reduce conflicts. Reducing conflicts was a legitimate government purpose justifying the disparate treatment of split-estate mineral owners and did not amount to a violation of equal protection.

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