

IN THE SUPREME COURT OF OHIO

JOHN D. WALKER, JR. : Case No. 14-0803

Appellee, : Appeal from the Monroe County
Court of Appeals, Seventh Appellate District
(Case No. CA 402)

v. :

PATRICIA J. SHONDRICK-NAU, :
Executrix of the Estate of John R.
Noon, and Successor Trustee of the :
John R. Noon Trust :

Appellant. :

MEMORANDUM IN SUPPORT OF JURISDICTION
AS *AMICUS CURIAE*
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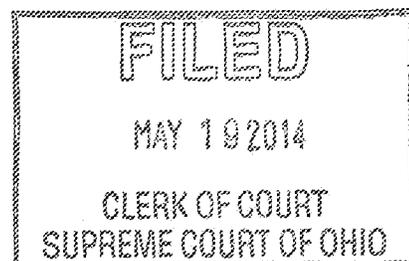


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I. THIS CASE IS OF PUBLIC OR GREAT GENERAL INTEREST

This case involves issues of law relevant to thousands of Ohio residents and conflicting claims of ownership to thousands of acres of valuable oil, gas and other mineral rights located in Ohio pursuant to an application of the Ohio Dormant Mineral Act, R.C. 5301.56 (the “DMA”). Although the Court has granted jurisdiction for review of two other matters involving Ohio’s DMA, the specific issues in those cases are more narrowly tailored.¹

In addition to the two matters pending before the Court, there are at least eleven other DMA cases currently pending on appeal in the Seventh District Court of Appeals,² one case pending in the Fifth District Court of Appeals,³ and one case pending in the Sixth Circuit Court of Appeals.⁴ Moreover, the United States District Court for the Southern District of Ohio, in *Corban v. Chesapeake Exploration, L.L.C., et al.* Case No. 2:13-CV-246, just certified two additional questions involving the DMA to this Court. One of the questions certified in *Corban* is the following:

Does the 2006 version or the 1989 version of the ODMA apply to claims asserted after 2006 alleging that the rights to oil, gas, and other minerals automatically vested in the surface land holder prior to the 2006 amendments as a result of abandonment?

The district court correctly identified that the courts of common pleas are split on this critical issue and the only Ohio appellate court to consider it has been internally inconsistent.⁵

¹ See *Dodd v. Croskey*, 7th Dist. Harrison No. 12-HA-6, 2013-Ohio-4257 (discretionary appeal accepted, 2013-173) and *Chesapeake Exploration, L.L.C. v. Buell*, S.D. Ohio Case No. 2:12-CV-916 (discretionary appeal accepted, 2014-0067).

² See list of cases set forth in the Appendix at Tab I.

³ *Wendt v. Dickerson*, Tuscarawas C.P. No. 12-CV-20135 (Feb. 21, 2013).

⁴ *McLaughlin v. CNX Gas Co.*, N.D. Ohio No. 5:13-CV-1502 (Dec. 13, 2013).

⁵ See *Opinion and Order* dated May 14, 2014, issued in *Corban v. Chesapeake Exploration, L.L.C., et al.*, Case No. 2:13-CV-246, at 10-12, filed on May 16, 2014 in Ohio Supreme Court Case No. 2014-0804.

Thus, there is little question that the issues encompassed in this case involving R.C. 5301.56 and how the statute operates are of great general interest.

With the exception of *Dodd v. Croskey*, all of the pending appellate matters and the vast majority of DMA cases pending in courts of common pleas, involve claims advocated by surface owners that the severed mineral rights underlying their property were forfeited by holders of the same due to “automatic vesting” under the 1989 version of R.C. 5301.56 (the “1989 DMA”).⁶ These claims and interpretation of the 1989 DMA should be rejected. As discussed below, the current statute provides clarity, a procedure by which a mineral interest may be deemed abandoned and vested, and accomplishes its limited purpose. Although Chesapeake’s own interest has inevitably landed on both sides of the issues in dispute, due to the amount of acreage it has under lease, applying the current law in currently filed quiet title actions is the correct course. A limited exception would be if the owners of the surface had taken some action before June of 2006 to acquire title to the mineral rights under the 1989 DMA. *Infra at 10-11.*

The competing theories concerning which version of the law applies, and whether the 1989 DMA provides for “automatic vesting,” has created chaos and stymied oil and gas leasing and development which in turn adversely impacts the public policy of the State of Ohio to encourage the exploration and development of oil and gas. When landowners have competing claims of ownership of the mineral rights either leases cannot be taken, or some form of contingent agreement must be put in place with both parties pending an eventual resolution of the matter. The competing claims to ownership of mineral interests under the DMA have resulted in uncertainty, delay and complications in development. Chesapeake urges the Court to exercise jurisdiction over at least the propositions of law discussed herein.

⁶ R.C. 5201.56 was originally enacted on March 22, 1989. The statute was amended effective June 30, 2006, which is the version of the statute in effect at the time Plaintiff filed his action for quiet title in 2012.

II. STATEMENT OF THE CASE AND FACTS

This matter involves a dispute over ownership of severed mineral rights underlying two parcels of real property totaling approximately 42.226 acres located in Noble County, Ohio (the “Property”). The record in this case reflects the following undisputed facts.

A. Title History for the Mineral Estate

1964 – Defendant John R. Noon acquired fee simple title to the Property by Deed. *See* Deed Book 122, Page 567 of the Noble County Recorder’s Office.

July 26, 1965 – Noon conveyed the surface estate of the Property via Quit Claim Deed, which expressly reserved the underlying mineral rights. The reservation language states, in pertinent part:

Excepting and reserving to the Grantor [John Noon], his heirs, successors and assigns, all coal, oil and gas and all other minerals underlying the premises together with all the easements rights and privileges therein which Grantor, his heirs successors or assigns ***.

See Deed Book 122, Page 568.

1970 – The surface estate of the Property was conveyed twice via two separate Warranty Deeds. Both Warranty Deeds specifically recited the prior reservation language contained in the July 26, 1965 Quit Claim Deed, above, and referenced the book and page number of the reservation. *See* Deed Book 133, Page 686 and Deed Book 134, Page 183.

1977 – The surface estate was conveyed by Warranty Deed, which also specifically recited the prior reservation language contained in the July 26, 1965 Quit Claim Deed, and referenced the book and page number of the reservation. *See* Deed Book 144, Page 878.

May 14, 2009 – Plaintiff John D. Walker acquired title to the surface of the Property via a Fiduciary Deed. *See* Official Record Book 165, Page 872.

B. Dormant Mineral Act Proceedings

The proceedings involving Mr. Walker’s claim to ownership of the mineral interest pursuant to R.C. 5301.56 occurred as follows:

December 2, 2011 – Mr. Walker sent a notice of abandonment of the severed mineral interest to Mr. Noon under the 2006 version of the DMA. *See* Official Record Book 195, Page 508.

January 10, 2012 – Mr. Noon responded to Mr. Walker’s notice by timely filing an affidavit and claim to preserve the mineral interest within the 60 day limitation under R.C. 5301.56(H). *See* Official Record Book 195, Page 834.

April 27, 2012 – Mr. Walker filed a complaint for quiet title and for a declaratory judgment adverse to Mr. Noon’s severed mineral interest underlying the Property based exclusively upon the superseded 1989 version of the DMA. *See* Plaintiff’s Complaint.

C. Lower Court Proceedings

After the close of pleadings the parties filed cross-motions for summary judgment. On March 20, 2013, the Noble County Court of Common Pleas issued a decision granting summary judgment in favor of the Plaintiff, and denying Mr. Noon’s motion. In finding in favor of Plaintiff, the trial court applied the 1989 DMA and concluded that the three surface transfers in 1970 and 1977 did not qualify as title transactions under R.C. 5301.56(B)(3).

Mr. Noon timely appealed to the Seventh District Court of Appeals.⁷ On April 3, 2014, the appellate court affirmed the trial court’s decision, holding that: (i) “in order for the mineral interest to be the ‘subject of’ the title transactions” for purposes of R.C. Section 5301.56(B)(3), the grantor must actually convey or retain that interest; (ii) the 1989 version of the DMA controls over the 2006 version of the DMA; and (iii) the state constitutional concerns (due process and retroactivity) regarding the application of the 1989 version of the DMA need not be addressed.

III. ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law No. I: The 2006 version of R.C. 5301.56 controls in the DMA proceedings and quiet title action initiated by Plaintiff after 2006.

and

Proposition of Law No. II: To establish a mineral interest as actually vested in the surface owner under the 1989 version of the DMA, the surface owner must have taken some action to establish abandonment prior to June 30,

⁷ During the pendency of the appeal, Mr. Noon passed away. A motion for substitution of parties was granted by the appellate court on January 8, 2014, thereby substituting the Appellant, Patricia Shondrick-Nau, as the real party in interest for purposes of this appeal.

2006. In all cases where a surface owner failed to take such action to acquire the mineral interest, only the 2006 version of the DMA can be used to obtain relief.

Propositions of Law I and II are closely related and should be considered together.

A. The Current Law Applies to this Quiet Title Action Filed in 2010

The Seventh District Court of Appeals erred in applying the 1989 DMA along with the concept of “automatic vesting” to decide the proceedings and quiet title action initiated by Plaintiff. In reaching its decision, the court did not address the purpose of the DMA, Ohio’s public policy abhorring forfeiture, or the fact that the 2006 DMA amended and repealed sections of the 1989 DMA specifically because the prior version of the statute was ambiguous.

1. The Purpose of the DMA is Effectuated by Applying the Current Version of the Statute

The purpose of the Marketable Title Act, which includes the DMA, is expressly set forth in R.C. 5301.55, which provides:

Sections 5301.47 to 5301.56, inclusive, of the Revised Code, shall be liberally construed to effect **the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title** as described in section 5301.48 of the Revised Code, subject only to such limitations as appear in section 5301.49 of the Revised Code.

Id. (Emphasis added.)

The DMA is not directed at “automatically” reuniting a severed mineral interest with the owner of the surface at the first opportunity of inactivity for any twenty-year period as surface owners have argued. Instead, the DMA is actually neutral regarding whether mineral rights are held by a person who owns the surface or whether the rights are held by another person. The problem is not who owns the mineral rights, but rather how to maintain a clear title record as to their ownership, so that those mineral rights can be developed. The Seventh District’s decision in *Dodd v. Croskey, supra*, is in accord with the significance of this issue. The court held that if one

holder files a proper claim to preserve within 60 days of a notice of intent to abandon being served under the DMA, it does not matter whether a savings event occurred during the preceding twenty years before the notice because the act of filing the claim to preserve accomplishes the purpose of the statute. *Id.* at ¶ 34. The title record will reflect the owner of the mineral interest. Likewise, if the holder does not timely file a claim to preserve within 60 days, the purpose of the DMA is also fulfilled. In either circumstance, an instrument clarifying ownership of the mineral interest will be filed of record with the county recorder.

The conclusion of automatic vesting under the 1989 DMA reached by the Seventh District in this matter directly undercuts the purpose of the statute. It creates a situation where a transfer of ownership in the mineral rights can occur outside the record chain of title and therefore the title record cannot be relied upon. Moreover, when the legislature amended R.C. 5301.56 to correct its ambiguities and clarify the procedures, *infra*, it did the opposite of endorsing or affirming a concept of an “automatic” loss of the mineral rights by a holder and transfer of the same to the owner of the surface.

2. Applying the 1989 DMA and Automatic Vesting in Favor of Plaintiff Effects a Forfeiture of Appellant’s Private Property Rights, which the Law Abhors

The Seventh District’s holding that the 1989 DMA applies in the manner it found strips away the Appellant’s property rights and awards them to Plaintiff for no sound reason. Ohio’s DMA was not intended to create forfeitures of severed mineral interests at every opportunity. In fact, the law abhors forfeiture and such results should be avoided. *Ohio Dept. of Liquor Control v. Sons of Italy Lodge 0917*, 65 Ohio St.3d 532, 534 (1992), quoted at *Sogg v. Zurz*, 121 Ohio St.3d 449, 2009-Ohio-1526 (10th Dist.) at ¶ 9

The procedures under the 2006 DMA provide notice to the holder of the mineral interest

and allow the holder to protect that interest against a claim of abandonment by a surface owner. It is these private property rights that are expressly protected by the Ohio Constitution's directive that "[p]rivate property shall ever be held inviolate[.]" Ohio Const., Art. I §19. This concept is self-explanatory, but this Court has affirmed these property rights stating, "The right of private property is an *original* and *fundamental* right, existing anterior to the formation of government itself." *City of Norwood v. Horney*, 110 Ohio St.3d 353, 2006-Ohio-3799 at ¶ 36. (Emphasis sic.) "Ohio has always considered the right of property to be a fundamental right. *** There can be no doubt that the bundle of venerable rights associated with property is strongly protected in the Ohio Constitution and must be trod upon lightly, no matter how great the weight of other forces." *Id.* at ¶ 38.

3. The Ambiguities in the 1989 DMA Were Addressed With the Amendments Made in 2006

In 2005, House Bill 288 was introduced to address the inadequacies of the 1989 DMA. As noted by the testimony of HB 288's sponsor, Mark Wagoner, "House Bill 288 removes the ambiguity of the existing statute [R.C. 5301.56] with a clear definition of when a mineral right is deemed abandoned."⁸ As further explained in a Report of the Natural Resources Committee, the major changes to the 1989 DMA were described as follows:

- 1) The 1989 DMA provided for the lapse to occur if no specified savings events took place within "the preceding twenty years." Questions arose as to whether the language meant the twenty years preceding enactment of the statute, the twenty years preceding commencement of an action to obtain the minerals, or any twenty-year period in the chain of title. To clarify this, the amendment provides that the effective period is the twenty years immediately preceding the filing of a notice;

⁸ See Sponsor Testimony of Mark D. Wagoner, Jr. presented to the House Public Utilities and Energy Committee on June 15, 2005, attached in the Appendix at Tab 2.

- 2) a definition of “minerals” and “mineral interest” are included in the amendment; and
- 3) a specific procedure for a surface owner to follow to obtain abandonment and vesting of a mineral interest is included in the amendment.

The Natural Resources Committee supports this amendment as a necessary clarification of the existing statute.⁹

These amendments were subsequently adopted and the “2006 DMA” became effective on June 30, 2006. The 2006 DMA clarified the procedure which in the 1989 DMA ambiguously referred to the time period to consider regarding if minerals can be “deemed abandoned” as only “within the preceding twenty years.” Moreover, the 1989 DMA did not plainly set forth the procedure for a surface owner to follow to actually obtain vesting of a severed mineral interest through an application of the law. On these points, the 2006 version of the DMA:

- clearly defines the twenty-year period by calculating it as being the twenty years immediately preceding the date when a notice of intent to abandon is served or published by the surface owner on the holder(s);
- sets forth a specific procedure for how a surface owner goes from taking a mineral interest which “has been deemed abandoned and vested” to actually transferring the mineral right and vesting the same in them; and
- requires additional instruments to be recorded by the surface owner in the county where the property is located thereby providing a title record that the mineral interest has been transferred to the owners of the surface.¹⁰

⁹ See Report of the Ohio Bar Association’s Natural Resources Committee, available online at www.ohiobar.org/NewsAndPublications/SpecialReports/Pages/StaticPage-313.aspx

¹⁰ See Legislative Service Commission Final Bill Analysis, H.B. 288 for a summary of the 2006 amendments to R.C. 5301.56. For the specific provisions defining the twenty-year period and procedure for a surface owner to obtain title to a severed mineral interest see R.C. 5301.56(B)(3).

See R.C. 5301.56. With a clearly defined twenty-year period and clarified procedure for how a mineral interest goes from being “deemed abandoned and vested” to actual vesting in the surface owner(s), there is a present statute in place which works and should be followed.

Nonetheless, the law is not being consistently applied. Surface owners seeking title to a severed mineral interest, including Plaintiff in this matter, typically first attempt to comply with the procedure set forth in the 2006 DMA by serving a notice of intent to abandon on the record mineral holders. When the holder(s) such as Mr. Noon in this matter timely respond to the notice by filing an affidavit or claim to preserve the mineral interest the purpose of the statute is accomplished, but the owners of the surface do not obtain title to the mineral interest as they are seeking.

Therefore, when following the 2006 DMA does not work for surface owners to secure title to the mineral rights, they then file a quiet title action seeking to have the court apply the 1989 DMA based upon the legal assertion that the mineral rights had transferred “automatically” to the owners of the surface by operation of the 1989 version prior to the enactment of the 2006 DMA. The automatic vesting interpretation of the 1989 DMA, which was upheld by the court in this matter, should be rejected as some common pleas courts within the Seventh District have done for the reasons discussed in these decisions. See *Dahlgren v. Brown Farm Properties, LLC*, Carroll C.P. No. 13-CVH-27445 (Nov. 5, 2013) (on appeal, Case No. 13-CA-0896) and *M&H Partnership v. Hines*, Harrison C.P. No. 12-CVH-0059 (Feb. 5, 2014) (on appeal, Case No. 14-HA-0004). See also *Gentile v. Ackerman*, Monroe C.P. Case No. 12-CV-110 (Jan. 14, 2014) (court applied 2006 DMA to decide case, but then reversed its holding in a subsequent decision and applied the 1989 DMA. Both decisions are on appeal, Case Nos. 14-MO-0004 and 14-MO-0005).

B. Neither Plaintiff nor His Predecessors Ever Acquired The Mineral Interest Under the 1989 DMA

The undisputed title record in this matter demonstrates that Plaintiff received his interest in the Property 2009. Moreover, deeds within the chain of title after the severed mineral estate was created in 1965 expressly reference the existence of the severed mineral estate. Therefore, the record title to the mineral interest from 1965 forward reflects the existence of the severed mineral estate and ownership of the same in Mr. Noon, his heirs, successors and assigns. Nothing was ever done by Mr. Walker, or his predecessors in title, prior to 2006 to seek a transfer of the mineral rights from Mr. Noon to the owners of the surface by an application of R.C. 5301.56. If Plaintiff's predecessors had taken action, such as filing a claim to quiet title prior to 2006, they may have obtained title to the mineral interest, but they did not. The ambiguous phrases "within the preceding twenty years" and "deemed abandoned and vested" under the 1989 DMA are not enough by themselves. *Infra* at 13-15.

The desire of Plaintiff and other surface owners filing DMA actions to have courts now go back and apply an ambiguous version of the statute to effect widespread forfeitures for thousands of acres of valuable property rights must be rejected. The legislature clarified the procedure under R.C. 5301.56 in a manner that does not apply any concept of an automatic transfer of property rights as surface owners are seeking. Now reviewing the 1989 DMA and declaring that it "automatically" transferred property rights from one person to another person (1-2 decades ago) does not make sense. Such a result is contradicted by the legislative intent and black letter law which protects private property rights and abhors forfeitures of the same.

If Plaintiff's predecessors in the surface title had taken action under the 1989 DMA, however, by filing a quiet title action they may have been able to utilize the presumption of the mineral rights being "deemed abandoned and vested" if they could show that none of the six

enumerated savings events occurred within the twenty years before the quiet title action was filed. Mr. Noon would have participated as a defendant and could have challenged the surface owner's claims. Under these circumstances, Mr. Walker's predecessors in title may have been able to effectuate a transfer and vesting of the mineral interest from Mr. Noon themselves. But, Mr. Walker's predecessors took no such action¹¹ and so there was no determination, transfer and vesting of the mineral rights from Mr. Noon to the owners of the surface. Hence, any action by Mr. Walker today pursuant to R.C. 5301.56 to acquire the mineral interest must be pursued in accordance with the current law and clarified procedures.

C. The Two Decisions Issued by the Seventh District Are Inconsistent

1. The Seventh District's Decision in *Dodd v. Croskey* is in Accord with Effectuating the Purpose of R.C. 5301.56

The Seventh District's decision in *Dodd* is currently being reviewed by this Court. Understanding that the matter will be fully briefed and argued to the Court, Chesapeake submits that the Seventh District correctly applied the 2006 DMA to a dispute between surface owners and holders of a severed mineral interest created in 1947. The court applied the 2006 DMA and determined that the filing of a claim to preserve a mineral interest, filed within 60 days of a notice of intent to declare a mineral interest abandoned, was sufficient to preserve the interest even where it had not been the subject of a title transaction for the previous twenty years. *Id.* at ¶¶ 28, 35-36.

Applying the 2006 DMA to the parties' dispute, the court recognized that if a holder steps forward per the procedure in the 2006 DMA, that is sufficient to preserve the mineral interest with the holders even if there was no specific action or event undertaken during the previous twenty years. This is the right result and is how the statute operates. The facts of the present case

¹¹ In point of fact, Mr. Walker's predecessors actually did the opposite—they executed deeds citing and reaffirming the mineral reservation created by Mr. Noon in 1965.

are consistent with the facts in *Dodd*. In the present case, the mineral interest was originally created in 1965. As in *Dodd*, Mr. Noon timely responded to Plaintiff's notice of intent to abandon. Appellee may argue that *Dodd* is inapplicable because the 1989 DMA was not argued by plaintiffs in that action, but that does not resolve the inconsistency in the Seventh District's decision in this matter regarding R.C. 5301.56.

2. The Seventh District's Decision in this Matter is Not in Accord with the Statutory Language or Purpose of the Dormant Mineral Act

The 1989 DMA did not automatically vest the mineral interest with Mr. Walker's predecessors in title. There is nothing in the 1989 DMA which provides for "automatic" vesting. Section (B)(1) of the 1989 DMA provides that under certain circumstances a severed mineral interest "shall be deemed abandoned and vested in the owner of the surface of the lands subject to the interest." The words "automatic" or "automatically" do not appear in the statute. The "deemed abandoned and vested" language is "less than conclusive" and is suggestive of providing standards, but not resolving any issue of ownership of the severed mineral interest. *Dahlgren* at 15. The *Dahlgren* court contrasted this language to portions of the Marketable Title Act which establish that certain unprotected rights are "null and void" or "extinguished" versus the DMA's language that the property rights shall be "deemed abandoned." *Id.* Considering that R.C. 5301.56 is codified as part of the Marketable Title Act, Plaintiff's interpretation of the 1989 DMA is irreconcilable with other provisions of the Marketable Title Act.

The Seventh District erred based upon an incorrect construction of the word "vested," taken from the phrase "deemed abandoned and vested," which appears in both versions of the DMA. *Walker* at ¶¶ 39-40. The court's holding does not recognize, however, that the term "deemed" modifies both "abandoned" and "vested" *See Cravens v. Cravens*, 12th Dist. Warren No. CA-2008-02-033, 2009-Ohio-1733, at ¶ 63 (noting that statutory construction requires

phrases that use the conjunction “and” to be read together and not independently). Thus, under the 1989 DMA, a severed mineral interest may be “deemed vested” indicating that a surface owner must take additional action for the right to become “vested.” The phrase should not be read as “deemed abandoned” and “vested.” Hence, the phrase used in the statute does not effectuate an automatic transfer of the mineral interest.

Of course, if the legislature wanted to affirm an “automatic vesting” concept when addressing the ambiguities in the 1989 DMA it would have done so in 2006 but it did not. Instead, the legislature did the opposite and made it absolutely clear that there is no automatic transfer and vesting of a mineral interest in the surface owner. The legislature also made it clear that vesting of a mineral interest in the owner of the surface cannot occur outside the mineral title chain of record.

Moreover, Revised Code 5301.56 does not, nor can it, cause minerals to be used, developed, left idle, forgotten or remembered. Instead, the statute is only specifically directed at creating and facilitating a record chain of title which can be relied upon. *Supra* at 6. The DMA is neutral regarding whether mineral rights are held by a person who owns the surface or whether the rights are held by another person. The problem is not who owns the mineral rights, but rather how to maintain a clear title record as to who owns the mineral rights. The automatic vesting holding adopted by the Seventh District undercuts the purpose of the statute. It creates a situation where a transfer of ownership in the mineral rights can occur outside of the record chain of title and the record chain of title cannot be relied upon – in direct contravention of the legislative purpose of the Marketable Title Act of which the DMA is a part.

Proposition of Law No. III: The 2006 version of the DMA applies retrospectively to severed mineral interests created prior to its effective date.

The Seventh District erred in its analysis regarding the retrospective nature involving both versions of R.C. 5301.56. The court effectively found that the 1989 DMA applies retrospectively, to periods of time before its enactment, but the 2006 DMA cannot be applied retrospectively. Both versions of the DMA by their express terms, however, apply to a “preceding” twenty-year period and thus operate retrospectively.

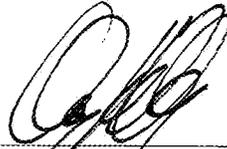
The only reasonable conclusion is that the legislature intended both versions to be applied in a retrospective manner if the statutes are to be applied at all. Applying the current law and procedures retrospectively to evaluate whether the severed mineral rights can be “deemed abandoned and vested” for the period in question is the proper interpretation of the statute and the correct course of action.

IV. CONCLUSION

Ohio courts have been inundated with lawsuits involving the interpretation and application of Ohio’s DMA set forth in R.C. 5301.56. The purpose of the DMA, as part of the Marketable Title Act, is to address a potential title problem which can result with severed mineral estates. When interpreted in view of its purpose, the 1989 and 2006 DMA can, and should, be applied in a consistent manner which is fair to all parties involved in these disputes so the title problem can be resolved. Resolving the potential title problem created by severed mineral estates, through a consistent application of R.C. 5301.56, advances the public policy of encouraging responsible oil and gas development within the state. Unfortunately, the statute has become unhinged from its purpose and is being used as an instrument to obtain widespread forfeitures of mineral rights from one group of persons having title to the severed mineral interest to another group of persons who now want to have title to the mineral interest.

For all the reasons discussed herein, Chesapeake urges the Court to exercise jurisdiction over this appeal.

Respectfully submitted,



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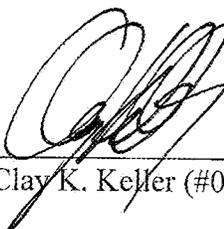
CERTIFICATE OF SERVICE

The undersigned certifies that on the 19th day of May 2014, a copy of the foregoing was served via regular U.S. Mail, postage pre-paid upon the following:

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