

Kinkade Family Farm

Testimony for HB 100 133rd Ohio Legislature

To the Chairman and Members of the Committee,

The current version of the Dormant Mineral Act 5301.56 has created much confusion, increased litigation, and further stressed the finances of many Ohio landowners due to unclear directives. County courts in the Marcellus Shale area have been inundated with multiple court cases arguing the rules of the ODMA. The courts continue to rule one way this week, and another the next on the specific rules of the ODMA due to the obscure wording of the law.

In 1998 when my Mother added her children's names to the property deed she was told that the mineral reservation on her deed was null and void due to the twenty six years that had passed with no actions having been taken by the mineral holder since the inception of the reservations in 1914 and 1922. Per the DMA in place in 1989 the mineral rights were returned to the surface owner after twenty years of inactivity. Per the ORC 5301.56 once those twenty years had passed with no activity by the mineral owner, the minerals vested in the surface owner.

In 2011 we were told that as a precaution we should file a Notice of Abandonment per the DMA amended in 2006. We reviewed the new rules, searched the County Recorders Office for all deeds pertaining to the property, searched the probate recorders for wills and estate records, searched the internet via Ancestry.com to locate potential heirs, sent certified letters to potential heirs, and published the Notice of Abandonment in the local newspaper as required by the rules outlined in amended Dormant Mineral Act. At the end of the required sixty day period, the Belmont County Recorder notated on the applicable deeds that the minerals were abandoned.

In 2012 we signed an oil and gas lease with Rice Energy. In the second quarter of 2013 Rice Energy validated our mineral ownership and affirmed the lease.

In 2016 the Ohio Supreme Court ruled that the 1989 DMA was not self-executing do to the wording of the law. Those of us who were told that the minerals had reverted to the surface owner due to the passage of the twenty year dormancy, were now told we must adhere to the 2006 amended version of the DMA. Luckily, we had already complied with that requirement and were in the clear, or so we thought.

In mid-2017 we discovered that Rice Energy had signed leases with purported heirs of the original mineral holder from 1914. We had received no notice from Rice Energy that they believed there to be any problem with our lease or mineral ownership, nor did we receive notice that they were signing people to the minerals under our property. After some months of attempting to contact Rice Energy, the representative from Rice told us that our Notice of Abandonment wasn't valid because we had not performed Due Diligence via an internet search to locate heirs of the hundred year old mineral reservation. We had performed that search and had proof of that. No amount of evidence that we provided including our Quiet Title Action changed the actions of Rice Energy.

We are now in litigation with Rice Energy and the purported heirs of the abandoned minerals. To date we have spent tens of thousands of dollars and have yet to have this decided in the court of law.

The gas and oil companies have used to their advantage the ambiguous language of the Dormant Mineral Act. They are able to hold the royalty payments that are due the mineral owners under the guise that the Ohio DMA must first be decided in each case before they will pay out the royalties.

For many of the families in Ohio the cost of litigation prevents them from pursuing and rectifying these injustices. The continuous change in judicial opinions from one case to the next due to the lack of clarification and clear guidance in the law undermines the very essence of what the original intent of the Ohio Dormant Mineral Act was designed to do.

Many of the purported heirs reside outside of the State of Ohio. Income that should be benefiting Ohioans and the State of Ohio are enriching the coffers of other states.

Ohio landowners and mineral holders alike need clear concise language in the Dormant Mineral Act Amendment. House Bill 100 provides those necessary revisions.

I hope that you will vote to move House Bill 100 forward for the good of the people of Ohio.

Thank you for your time and consideration.

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