



ATTORNEYS AT LAW

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Ohio Supreme Court Issues Ruling in *Dodd v. Croskey* Clarifying the 2006 Dormant Mineral Act

On June 18, 2015, the Ohio Supreme Court issued a unanimous decision in *Dodd v. Croskey* regarding certain procedural requirements under Ohio's 2006 Dormant Mineral Act ("2006 DMA"). In its decision, the Court held that a "claim to preserve" timely filed by a mineral interest holder in response to a surface owner's notice to abandon is sufficient to preserve the severed mineral interest regardless of whether a "savings event" occurred within the 20 years prior to receipt of the surface owner's notice of abandonment. Though this case only involved interpretation of the 2006 DMA, it will be followed by several other opinions further clarifying the 2006 DMA and application of the statute as originally enacted in 1989.

In reaching its decision in this case, the Court stressed that under the 2006 DMA the mineral interest holder has 60 days from the date that notice was served by the surface owner asserting abandonment in which to file *either* a "claim to preserve" the mineral interest which complies with requirements of O.R.C. § 5301.56(C) *or* to file an affidavit that identifies a savings event as defined by O.R.C. § 5301(B)(3) which has occurred within 20 years of the surface owner's notice. Further, the Court pointed out that the 2006 DMA allows for a "claim to preserve" to serve two functions – *either* as a savings event which would interrupt any applicable 20-year period of dormancy *or* as a response to a surface owner's notice of abandonment. An affidavit filed pursuant to the 2006 DMA must include certain information, including the nature of the mineral interest preserved, recording information of the instrument creating the interest, and language that the mineral holder intends to preserve the oil and gas interest. The Court held that, as the affidavit in *Dodd* was a "claim to preserve" which contained statutorily-required content and was timely filed within 60 days of the surface owner's notice, it preserved the severed mineral interests regardless of whether any "savings events" occurred within the 20 years prior to the surface owner's notice.

For a copy of the Slip Opinion described above, or to further discuss how application of the Dormant Mineral Act may impact your operations in the Utica, please contact the authors listed below.



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