



**Let's give surface owners the option to purchase
any interest in the minerals under their land
that is sold at a tax sale!
Pass S.B. or H.B. .**

What is the problem?

Nearly everyone thinks that separation of ownership of the surface from ownership of the minerals was a bad idea. Surface owners get no royalty (or lease signing bonus if the minerals are not leased yet) yet have the burden of the well site being placed on them. They have no incentive to cooperate with the drilling of gas wells even though the burden of the well site and access road falls on them. An attorney lobbyist for the Independent Oil and Gas Association, and the West Virginia Oil and Natural Gas Association told an Interim Committee of the W.Va. Legislature in January, 2009, “[I]t would be much easier for everybody if there was a unification of the surface and the underlying oil and gas. It would be much easier for the industry. It would be much better for the owners.”

The proposed legislation reverses the trend to separate ownership in one small way – by giving surface owners a chance to own any interests in the minerals under their land if any of those interests are sold for unpaid property taxes.

Here is how the process works now:

1. If a mineral owner does not pay the property taxes on their interest in the minerals, then their interest in the minerals is sold at a tax sale on the courthouse steps. (This happens frequently because mineral interests are much more likely to be owned in “heirship” in small fractions that get stuck in the names/addresses of deceased heirs so that the tax bills are lost or overlooked as generations pass away.)

2. A notice of the tax sale is published in the newspaper in the name of the mineral interest owner. (The surface owner is unlikely to know the name of the heirship mineral interest owner, and so really has no opportunity to find out about the sale – and it would be impossible for the sheriff to do a title search for every tract to find the names and addresses of the surface or living mineral owners.)

3. The person that purchases the mineral interest at the tax sale then does have to check courthouse records etc. and find out who the living owner or owners of the mineral interest are, and notify them of their right to “redeem” and get their property back by paying the right to pay the back due taxes and costs of the sale and title work etc. (A few others, like mortgage trustees, can also redeem -- but not surface owners.)

4. If no mineral owner redeems the mineral interest then, after a period of time, the purchaser at the tax sale gets a deed and owns the mineral interest.

What can we do to give surface owners a chance to purchase the minerals beneath their land?

•Our bill requires the person who purchased the mineral interest at the tax sale (who already has to do a title search to find out who all of the minerals owners are) to also check the surface tax maps available in every county, and send a notice to the name and address on the tax ticket for the surface tracts(s) above the mineral interest tracts.

•The surface owner or owners would then be allowed to pay the tax sale purchaser twice the money the purchaser already has put into the purchase (up to an extra \$3000). The surface owner would then step into the tax sale purchaser's shoes. That way purchasers still have incentive to bid at the tax sales, and the living mineral interest owners (or their family) can still redeem. But if the minerals are not redeemed, then our bill allows the surface owner to finish the process and get a deed to the mineral interest underlying his or her surface land.