



Dormant Mineral Act (DMA) cases pending before the Ohio Supreme Court

CASE	ISSUES	STATUS
<i>Albanese v. Batman</i> , Sup. Ct. Ohio No. 2015-0120	<p>Propositions of law</p> <ol style="list-style-type: none"> The 1989 DMA was prospective in nature and operated to have a severed oil and gas interest “Deemed abandoned and vested in the owner of the surface” if none of the savings events enumerated in ORC Section 5201.56(B) occurred in the twenty (20) year period immediately preceding any date in which the 1989 DMA was in effect. The act of recording an out-of-state will is not a title transaction. 	Issue #1 stayed pending decision in <i>Walker</i> .
<i>Carney v. Shockley</i> , Sup. Ct. Ohio No. 2015-0235	<p>Proposition of law</p> <ul style="list-style-type: none"> The 1989 DMA contained a rolling look-back period, such that any severed mineral interests were deemed abandoned and vested in the owner of a surface estate if no savings event occurred within any twenty-year period. 	Stayed pending <i>Eisenbarth</i> .
<i>Corban v. Chesapeake Exploration, L.L.C.</i> , Sup. Ct. Ohio No. 2014-0804	<p>Certified questions of state law</p> <ol style="list-style-type: none"> Does the 2006 version of the 1989 version of the Ohio DMA 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? Is the payment of a delay rental during the primary term of an oil and gas lease a title transaction and “savings event” under the Ohio DMA? 	Oral argument was held May 6, 2015.
<i>Dahlgren v. Brown Farm Properties LLC</i> , Sup. Ct. Ohio No. 2014-1655	<p>Propositions of law</p> <ol style="list-style-type: none"> The 2006 amendment of Ohio’s “dormant mineral” statute was remedial in nature and intended to apply to facts occurring before its enactment. In suits filed after June 30, 2006 (the effective date of the amendment), courts should apply the new version of the statute, rather than the old version. Under the 1989 version of Ohio’s “dormant mineral” statute, the twenty year dormancy period is measured from the date suit was commenced to determine title to the minerals. 	Stayed pending <i>Walker</i> and <i>Corban</i> .
<i>Eisenbarth v. Reusser</i> , Sup. Ct. Ohio No. 2014-1767	<p>Propositions of law</p> <ol style="list-style-type: none"> The 1989 version of DMA was prospective in nature and operated to have a severed oil and gas interests “deemed abandoned and vested in the owner of the surface” if none of the savings events enumerated in ORC 5301.56(B) occurred in the twenty (20) year period immediately preceding <u>any date</u> in which the 1989 DMA was in effect. Assuming, <i>arguendo</i>, that the 1989 DMA operated on a “fixed” twenty (20) year look-back period from the date of enactment, an oil and gas lease is not a “title transaction” within the meaning of ORC 5301.47(F) and appellees’ interest has nonetheless been abandoned. 	Briefing complete. Oral argument to be held Nov. 17, 2015.

<p><i>Farnsworth v. Burkhardt</i>, Sup. Ct. Ohio. No. 2014-1909</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 1989 version of the R.C. 5301.56 (former DMA) was prospective in nature, division (B) applies to any 20-year period that elapses while the former DMA was in effect. 2. A claim to preserve filed and recorded under division H(1)(A) of the current version of R.C. 5301.56 (current DMA) does not have the same effect as a claim filed and recorded under division B(3)(e) of the current DMA. 	<p>Stayed pending Eisenbarth and Dodd.</p>
<p><i>Lipperman v. Batman</i>, Sup. Ct. Ohio No. 2015-0121</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 1989 DMA was prospective in nature and operated to have a severed oil and gas interest “Deemed abandoned and vested in the owner of the surface” if none of the savings events enumerated in ORC Section 5201.56(B) occurred in the twenty (20) year period immediately preceding any date in which the 1989 DMA was in effect. 2. The act of recording an out-of-state will is not a title transaction. 3. XTO Energy, Inc. and Phillips Exploration, Inc. have no standing to appear in this case. 	<p>Issue #1 held for decision in Walker.</p>
<p><i>Shannon v. Householder</i>, Sup. Ct. Ohio No. 2014-1209</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 1989 version of the DMA does not apply after the effective date of the 2006 version of the DMA. 2. In order for a mineral interest to vest under the 1989 version of the DMA, the surface owner must take some action in order to establish abandonment prior to the effective date of the 2006 DMA. 3. The 2006 DMA operates retrospectively and applies to severed mineral interests created before its effective date. 	<p>Stayed pending Walker.</p>
<p><i>Swartz v. Householder</i>, Sup. Ct. Ohio No. 2014-1208</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 1989 version of the DMA does not apply after the effective date of the 2006 version of the DMA. 2. In order for a mineral interest to vest under the 1989 version of the DMA, the surface owner must take some action in order to establish abandonment prior to the effective date of the 2006 DMA. 3. The 2006 DMA operates retrospectively and applies to severed mineral interests created before its effective date. 	<p>Stayed pending Walker.</p>
<p><i>Taylor v. Crosby</i>, Sup. Ct. Ohio No. 2014-1886</p>	<p>Proposition of law</p> <ol style="list-style-type: none"> 1. The 1989 DMA is prospective in nature and operates using a rolling application of the phrase, “preceding twenty years.” 	<p>Stayed pending Walker.</p>
<p><i>Thompson v. Custer</i>, Sup. Ct. Ohio No. 2015-0195</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 2006 version of the DMA is the only version of the Act to be applied after its June 30, 2006 effective date. 2. The 1989 version of the DMA impliedly required some form of implementation before finally settling the subsurface owners’ and surface owners’ competing mineral interests, either by recorded abandonment claim permitting the subsurface owner to challenge its validity or by appropriate court proceedings to confirm that abandonment. 	<p>Stayed pending Walker.</p>

<p><i>Tribett. v. Shepherd</i>, Sup. Ct. Ohio No. 2014-1966</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 2006 version of the DMA is the only version of the DMA to be applied after June 30, 2006 (the effective date of said statute), because the 1989 version of the DMA was not self-executing. 2. To establish a mineral interest as “deemed abandoned” under the 1989 version of the DMA, the surface owner must have taken some action to establish abandonment prior to June 30, 2006. In all cases where a surface owner failed to take such action, only the 2006 version of the DMA can be used to obtain relief. 3. Interpreting the 1989 version of the DMA as “self-executing” violates the Ohio Constitution. 4. The 2006 version of the DMA is the only version of the DMA to be applied after June 30, 2006, the effective date of said statute. 5. Interpreting the 1989 version of the DMA as “self-executing” violates the Ohio Constitution. 6. A severed oil and gas mineral interest is the “subject of” any title transaction which specifically identifies the recorded document creating that interest by volume and page number. 7. Irrespective of the savings events in R.C. 5301.53(B)(3), the limitations in R.C. 5301.49 can independently bar a claim under the DMA. 8. If a court applies the 1989 version of the DMA in a lawsuit filed after June 30, 2006, the 20-year look-back period shall be calculated starting on the date a complaint is filed which first raises a claim under the 1989 version of the DMA. 9. A claim brought under the 1989 version of the DMA must have been filed within 21 years of March 22, 1989 (or, at the very latest, March 22, 1992), or such claim is barred by the statute of limitations in R.C. 2305.04. 	<p>Stayed pending <i>Walker</i>.</p>
<p><i>Walker v. Shondrick-Nau</i>, Sup. Ct. Ohio No. 2014-0803</p>	<p>Propositions of law</p> <ol style="list-style-type: none"> 1. The 2006 version of the DMA is the only version of the DMA to be applied after June 30, 2006, the effective date of said statute. 2. To establish a mineral interest as “deemed abandoned” under the 1989 version of the DMA, the surface owner must have taken some action to establish abandonment prior to June 30, 2006. In all cases where a surface owner failed to take such action, only the 2006 version of the DMA can be used to obtain relief. 3. To the extent the 1989 version of the DMA remains applicable, the 20-year look-back period shall be calculated starting on the date a complaint is filed which first raises a claim under the 1989 version of the DMA. 4. For purposes of R.C. 5301.56(B)(3), a severed oil and gas mineral interest is the “subject of” any title transaction which specifically identifies the recorded document creating that interest by volume and page number, regardless of whether the severed mineral interest is actually transferred or reserved. 5. Irrespective of the savings events in R.C. 5301.56(B)(3), the limitations in R.C. 5301.49 can separately bar a claim under the DMA. 6. The 2006 version of the DMA applies retroactively to severed mineral interests created prior to its effective date. 	<p>Oral argument held June 23, 2015.</p>

Wendt v. Dickerson,
Sup. Ct. Ohio No. 2014-2051

Propositions of law

1. The 2006 version of the Ohio DMA controls the vesting of title in a surface owner who did not make a claim for the mineral interests before the 2006 enactment.
2. The 1989 version of the Ohio DMA did not provide mineral owners with the due process of law required under the state and federal Constitution.

Stayed pending *Walker*.

This information is not intended to constitute, and is not a substitute for, legal or other advice. Each circumstance should be considered and evaluated separately and in consultation with legal counsel.

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