



West Virginia Surface Owners' Rights Organization

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**Surface owners staunchly oppose SB 686 regarding longwall mining.
We call it the “Forced surface subsidence bill.”
It is sometimes called the “cotenancy bill for coal”,
But it is very different from the cotenancy statute that passed for oil and gas.**

The issue it addresses is when the coal company has leases from 75%, but not all, of the owners of a single tract of a coal seam, and the owners of the other 25% either will not sign, will not sign for what the coal company is offering, or are missing, unknown or abandoning.

SB 686 will let the coal companies force longwall mining under the surface, and that WILL cause surface subsidence affecting foundations, brick walls, water wells, ponds, etc., and even ruin any smaller coal seams above the seam that is longwalled.

•SB 686 is not necessary.

- Coal companies can work with cotenants that have signed leases to bring partition suits to buy out the holdout owners.
- For missing, unknown and abandoning cotenants, a petition can be filed in Circuit Court pursuant to W.Va. Code article 55-12A-1 et seq., “Lease and Conveyance of Mineral Interests Owned by Missing or Unknown Owners or Abandoning Owners.”

•MOST IMPORTANTLY, The cotenancy statute for oil and gas says that if it is used by a well driller, the surface may not be disturbed unless the driller gets consent of the surface owner. SB 686 does not have that provision, and so the coal company can do the longwall mining under a surface owner without getting consent (or paying the surface owners what the consent is worth to the coal company).

•Yes federal and state laws require the surface owner to be compensated but it is limited to:

- For surface damage and water wells: “Correct any material damage . . . to the extent technologically and economically feasible . . .”
- For structures and facilities, the owners can choose either, “the amount of the cost to repair the damage but not to exceed 120% of the pre-mining value. . .” or the surface owner can get “the diminution in value”.
- There are NO payments for the hassle of dealing with foundation, brick walls, driveway repairs, or water well problems, or for lost wages or attorneys’ fees, and there is currently a case in the W.Va. Supreme Court over the statute of limitations where the coal company would only pay for two years of damage if the surface owner waived all damages from future subsidence – and subsidence can go on for years.