

## Dormant Mineral Act Update



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In 1959, Joseph Shepherd, John Shepherd, and Keith Shepherd inherited a tract of land in Union Township, Belmont County, Ohio, and in 1962, the Shepherds sold the surface and coal rights to Seaway Coal reserving the oil and gas. Eventually, the Tribetts became owners of the surface of the lands at issue, attempted to claim the minerals under the procedures outlined in the 2006 Dormant Mineral Act (DMA), and when unsuccessful, filed an action for Quiet Title and Declaratory Judgment in the Belmont County Court of Common Pleas.

On September 29, 2014, the Seventh District Court of Appeals affirmed the Belmont County Court of Common Pleas decision granting summary judgment in favor of Tribett (in part) and denying the summary judgment motion proposed by Shepherd. Shepherd appealed to the Supreme Court of Ohio. The Supreme Court originally issued a stay pending the outcome of *Walker v. Shondrick-Nau* and other 1989 Dormant Mineral Act cases. On February 10, 2016, the Supreme Court of Ohio lifted the stay, sua sponte, on the legal issues of:

- (1) whether the 1989 Dormant Mineral Act violates the Ohio Constitution; and
- (2) whether the 1989 Dormant Mineral Act is subject to the 21-year statute of limitations. „

The Supreme Court's decision to lift the stay in *Tribett* and place it on a normal track could be an indication that the Court will hold off deciding the issues before it in the other DMA cases until it decides

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the Ohio Constitutional issue. Currently, there have been five cases argued before the Court (*Corban v. Chesapeake*; *Walker v. Shondrick-Nau*; *Eisenbarth v. Reusser*; *Albanese v. Batman*; and *Lipperman v. Batman*) and several more cases accepted but not yet argued.

As of the writing of this post, oral arguments have not yet been scheduled in *Tribett*. If the Supreme Court is holding off deciding other DMA cases until the Ohio Constitutional issue is resolved, the Dormant Mineral Act decisions we have all been anxiously awaiting may not come until late 2016.