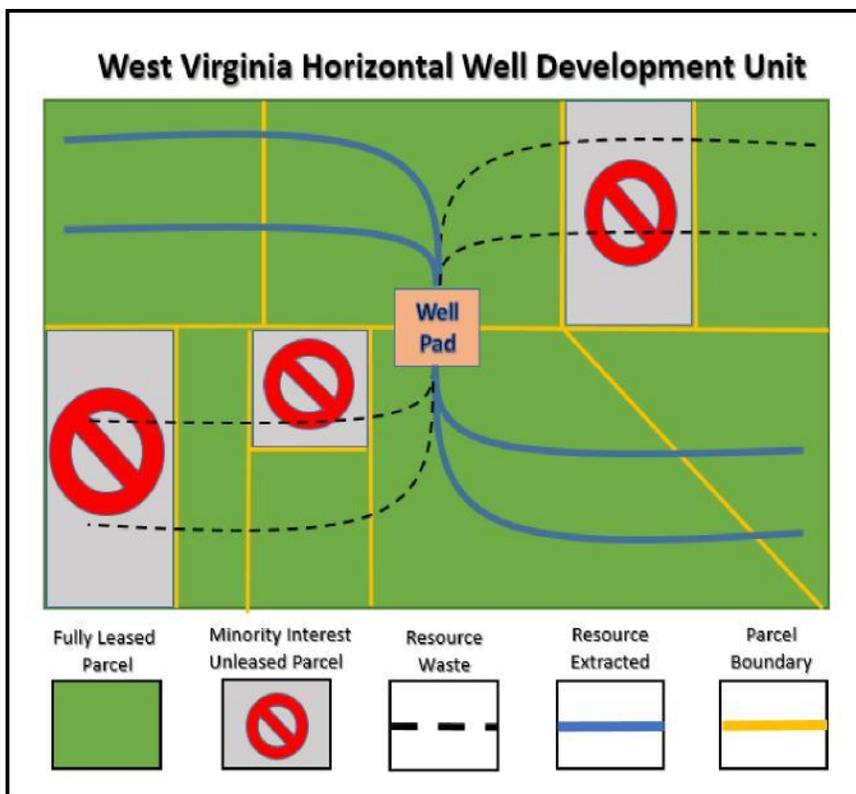


Mineral Extraction Efficiency: Co-tenancy

West Virginia is the only major O&G producing state that allows a single minority interest owner of jointly owned property to prevent all other interest owners from drilling on the property. Co-tenancy legislation is a viable solution and would provide significant economic benefits for individuals and communities across the state and prevent the waste of valuable resources.

Modern O&G Production: Horizontal drilling and hydraulic fracturing enables O&G resources in shale rock to be produced economically throughout the U.S. From a single well pad, numerous wells are drilled vertically toward the shale resource lying a mile or more below the land's surface. Each well bore is gradually steered into a horizontal position and drilled laterally for distances of 5000 feet or longer. To develop shale resources, O&G companies enter leases with mineral owners to form Development Units.



The Development Unit: Numerous parcels of land typically form a horizontal well Development Unit. Most often, mineral interests beneath **each parcel** of land consist of anywhere between one and **hundreds of individuals** who own the mineral rights. These mineral owners are co-owners, or **cotenants**.

The Problem: It is very difficult, and sometimes impossible, for O&G companies to obtain leases with 100% of the mineral owners before development can begin. The diagram illustrates how a single co-tenant with even a small minority interest can impede development of an entire Unit, or significant portions of the Unit.

The Consequence: Mineral owners are denied the opportunity to have their O&G

resources developed when a **minority, or even just one**, of the co-tenants in their own parcel's mineral interest refuse to lease, or are not locatable. Sometimes development may occur by reconfiguring the Unit in a less efficient manner, but this approach defies O&G conservation by leaving resources stranded in place indefinitely.

The Solution: Every major O&G producing state, **except West Virginia**, has laws that allow resource development to proceed without requiring every mineral owner to have a lease. **An equitable solution for WV is a co-tenancy law allowing development to begin when 75% of the interests in each parcel of the Development Unit are under lease.** Under proposed co-tenancy legislation, every mineral owner in the Development Unit would be compensated in proportion to their ownership interest. In fact, co-tenancy is consistent with Article 9 of WV's O&G Conservation statute which seeks to prevent the wastefulness of stranded resources.

Benefits of Co-tenancy

- > **Economic Growth:** Modernizing WV's O&G development laws through co-tenancy will attract billions of dollars *more* in capital investment from the O&G industry, spur job growth, boost state/local tax revenues and provide personal income to mineral owners.
- > **O&G Conservation:** Co-tenancy honors the tenets of Article 9 in WV's O&G Conservation statute by promoting efficient extraction of shale resources and preventing resource waste.
- > **All Co-tenants would be Compensated:** *Every* co-tenant in *every* parcel within a Development Unit -- including minority unleased owners, holdouts and majority leased owners -- would be compensated for their proportionate share of the mineral interest they own.
- > **Majority Rules:** Resource development can begin when 75% of co-tenants in every parcel included in a Development Unit have leased or sold to the operator.

Mineral Extraction Efficiency: Frequently Asked Q&As

- 1. Why is there a need for co-tenancy legislation?** Currently, in WV a single co-tenant with even a small minority interest can impede development of an entire Unit, or significant portions of the Unit. It is very difficult, and sometimes impossible, for O&G companies to obtain mineral leases with 100% of the mineral owners in a Development Unit. Mineral ownership can often be divided into hundreds of owners and one interest can prohibit development against the wishes of all other interests. **Co-tenancy legislation allows all mineral owners, leased or unleased, to receive their portion of compensation based on individual mineral ownership.**
- 2. What does co-tenancy have to do with mineral extraction efficiency?** Co-tenancy alleviates the Development Unit from being configured in an *inefficient* manner to accommodate fractional, *minority interest* mineral owners who refuse to lease, or are not locatable. Inefficient Development Unit configurations leave O&G resources stranded in place indefinitely, and perhaps forever, which means this valuable resource is wasted. Co-tenancy upholds tenets of Article 9 of WV's O&G Conservation statute by promoting efficient resource extraction and preventing resource waste.
- 3. Are unleased mineral owners treated fairly under co-tenancy legislation?** Yes, unleased mineral owners would receive full payment for their portion of mineral interest ownership.
- 4. How is co-tenancy different from pooling?** Under co-tenancy, a *majority* of the mineral rights beneath *each and every parcel* of land in a Development Unit must be under lease for development to move forward. Pooling requires that a majority of mineral interests in the *overall* Development Unit be under lease. In other words, there is no minimum lease requirement for *every* parcel. For example, under pooling legislation (and in contrast to co-tenancy legislation), an individual owning 100% of the mineral rights beneath a single parcel could be pooled into the Development Unit without having leased their interest.
- 5. Are there any O&G producing states that do not have co-tenancy?** There are three states today that do not have co-tenancy laws: West Virginia, Wisconsin and Ohio. However, there is no shale development in Wisconsin. Ohio allows for pooling, a different approach to addressing efficient resource extraction but one that provides operators with an adequate solution to the minority cotenant holdout who wishes to prevent development. Unfortunately, WV stands alone as the only state without an efficient solution to developing its vast shale resources.