

WEST VIRGINIA CODE: §37B-1-3

§37B-1-3. Definitions.

As used in this article:

“Consenting Cotenant” means a tenant in common, joint tenant, or parcener having an interest in the mineral property who consents in writing to a lawful use of the mineral property through a bona fide lease made in an arms-length transaction.

“Nonconsenting Cotenant” means an owner who for any reason chooses not to consent to a lawful use of the mineral property agreed to by the consenting cotenants owning, cumulatively, at least an undivided three-fourths interest in and to the mineral property.

“Operator” means any owner of at least an undivided three-fourths interest of the right to develop, operate and produce oil, natural gas, or their constituents, and to appropriate the oil, natural gas, or their constituents produced therefrom.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof.

“Post-production expense” means an expense or cost subsequent to production including, but not limited to, an expense or cost related to severance taxes, pipelines, surface facilities, telemetry, gathering, dehydration, transportation, fractionation, compression, manufacturing, processing, treating or marketing of oil or natural gas and their constituents.

“Prorata share” means the allocation of revenues and costs attributable to the lawful use of a mineral property that is calculated based on the proportion that the net acreage of such ownership interest bears to the total net acreage in the mineral property, in a development or production unit that includes, all or part of, that mineral property.

“Royalty owner” means any owner in place of oil or natural gas and their constituents, owners of oil or natural gas leasing rights, and owners vested with any leasehold estate less than 25 percent of the total, to the extent that the owners are not an operator as defined in this section. A royalty owner does not include a person whose interest is limited to: (A) A working interest in a wellbore only; (B) overriding royalties; (C) nonparticipating royalty interests; (D) nonexecutive mineral interests; or (E) net profit interests.

“Unknown or unlocatable interest owner” means a person vested with a present ownership interest in the oil or natural gas and their constituents in place in a mineral property whose present identity or location cannot be determined from:

- (A) A reasonable review of the records of the clerk of the county commission, the sheriff, the assessor, and the clerk of the circuit court in the county or counties in which the interest is located, and includes unknown heirs, successors and assigns known to be alive;
- (B) A reasonable inquiry in the vicinity of the owner's last known place of residence;
- (C) A diligent inquiry into known interest owners in the same tract; and
- (D) A reasonable review of available Internet resources commonly utilized by the industry.