WEST VIRGINIA CODE: §37B-1-6

§37B-1-6. Surface use.

(a) When any tract of mineral property where an interest in the oil or natural gas in place is owned by a nonconsenting cotenant is used or developed pursuant to §37B-1-4 of this code, in no event shall drilling be initiated upon, or other surface disturbance occur, without the surface owner's consent regardless of whether such surface owner possesses any actual ownership in the mineral interest: Provided, That this subsection shall not require surface owner consent for tracts on which surface disturbance does not occur or tracts otherwise subject to an existing surface use agreement, oil and gas lease which includes surface use rights, or other valid contractual arrangement in which the owner has granted rights to the operator to use the surface for horizontal drilling or any other use for which this article is used.

(b) Except as specifically described in subsection (a) of this section, nothing contained in this chapter is intended to alter in any way, and this chapter shall not diminish or increase, the rights of the owners of the surface overlying the minerals developed in this state. Except as specifically described in subsection (a) of this section, in enacting this chapter in 2018, it is the intention of the Legislature to leave unchanged the common law of this state as it relates to the mineral owner's right to utilize the surface for the extraction of minerals.

WV Legislature