

# WEST VIRGINIA CODE: §55-12A-7

## **§55-12A-7. When special commissioner may convey title in mineral interest to surface owner; form of deed; final report of special Commissioner; unknown owners; transfer of funds; rulemaking.**

(a) (1) If an owner of any mineral interest leased under section six of this article remains unknown or missing, or does not disavow the abandonment, for a period of seven years from the date of the special commissioner's lease, the special or general receiver shall report the same to the court, whereupon the court shall enter an order naming those who then appear to be surface owners as additional parties and giving notice to them, pursuant to the West Virginia rules of civil procedure, of an opportunity to appear and present proof of ownership in fee of the surface estate. Upon a finding by the court of the present ownership in fee of the surface estate, the court shall (i) order the special Commissioner to convey to the proven surface owner, subject to the special commissioner's lease, the mineral interest specified in the motion, by a deed substantially in the form specified in subsection (b) of this section and (ii) order the special or general receiver to pay to the Oil and Gas Reclamation Fund established pursuant to §22-6-29 the funds which have accrued to the credit of the mineral interests specified in the motion to the date of his or her report after payment of all allowable fees, expenses and court costs, including special Commissioner's fees paid or to be paid in amounts determined by the court. After the date of the special Commissioner's deed, the surface owner grantee shall be entitled to receive all proceeds under the lease attributable to the mineral interests specified in the deed.

(2) If the boundaries of the mineral tract subject to the special Commissioner's lease encompass two or more surface tracts, a separate deed shall be made for the mineral interest underlying each surface tract. If a surface tract is owned by more than one person, the deed respecting that surface tract shall convey the mineral interest according to the surface estate and interest of each surface owner.

(b) The special Commissioner's deed may be made in the following form, or to the same effect:

This deed, made the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, between \_\_\_\_\_, special Commissioner, grantor, and \_\_\_\_\_, grantee,

Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by an order of the circuit court of \_\_\_\_\_ county, West Virginia, entered on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, in civil action no. \_\_\_\_\_ therein pending, to convey the mineral interest more particularly described below to the grantee,

Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the special commissioner's lease mentioned below, and further subject to all other liens and

encumbrances of record, that certain mineral interest in \_\_\_\_\_ county, West Virginia, more particularly described in the cited order of the circuit court as follows: (here insert the description in the order); and being (here specify "all" or "a portion") of the mineral interest described in that certain special commissioner's lease dated \_\_\_\_\_, 19\_\_\_\_, of record in the office of the clerk of \_\_\_\_\_ county, in \_\_\_\_\_ book \_\_\_\_\_, at page \_\_\_\_\_.

Witness the following signature.

\_\_\_\_\_

Special Commissioner

(c) Upon the delivery of the deed or deeds and the payment or payments as directed in subsection (a) of this section, the special commissioner shall make a final report to the court; and upon approval thereof, the court shall order the discharge of the special commissioner's bond.

(d) Prior to the delivery of the special commissioner's deed, no deed or will from a surface owner to another shall sever ownership of the surface as such from ownership of any benefits under this article. The provisions of any deed or will granting or reserving an interest purporting to create such a severance shall be void.

(e) The amendments to this section made during the 2020 regular session of the Legislature which provided for certain accumulated proceeds to be payable to the Oil and Gas Reclamation Fund, shall take effect July 1, 2020, and any funds shall be transferred that have been unclaimed for seven years or more after the date of the special Commissioner's lease whether or not the special Commissioner's lease was signed before or after the effective date of the amendments to this section.

(f) The Department of Environmental Protection may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to carry out the provisions of this section relating to transfer of funds to the Oil and Gas Reclamation Fund.