

Litigation Update:

LANDMAN Edition



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Appalachian Land Institute April 2, 2026



AAPL

Powering The Profession



Topics

Wrongful Pooling/Unitization

Bad Faith Pooling/Unitization

Under or Over Payment of Royalties

Minerals Underlying Roadways

WARNING

**THIS PRESENTATION
CONTAINS SOME
GENERALIZATIONS**

THERE ARE EXCEPTIONS TO THESE GENERALIZATIONS



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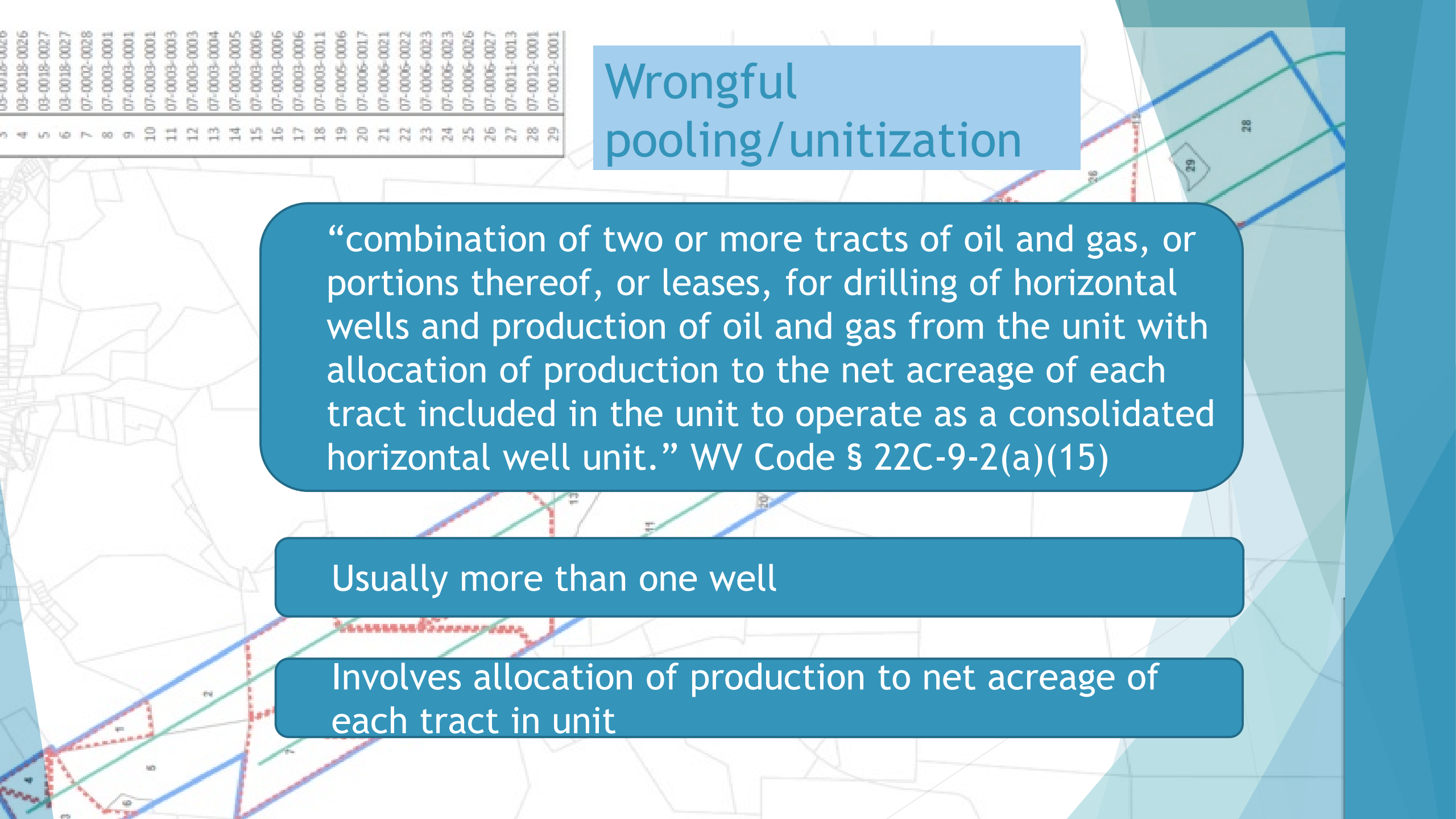




CHEATING

Who plays Tommy Norris' father in Landman.

1. Robert Duval
2. Kurt Russell
- ✓ 3. Sam Elliot
4. Steven Lang



Wrongful pooling/unitization

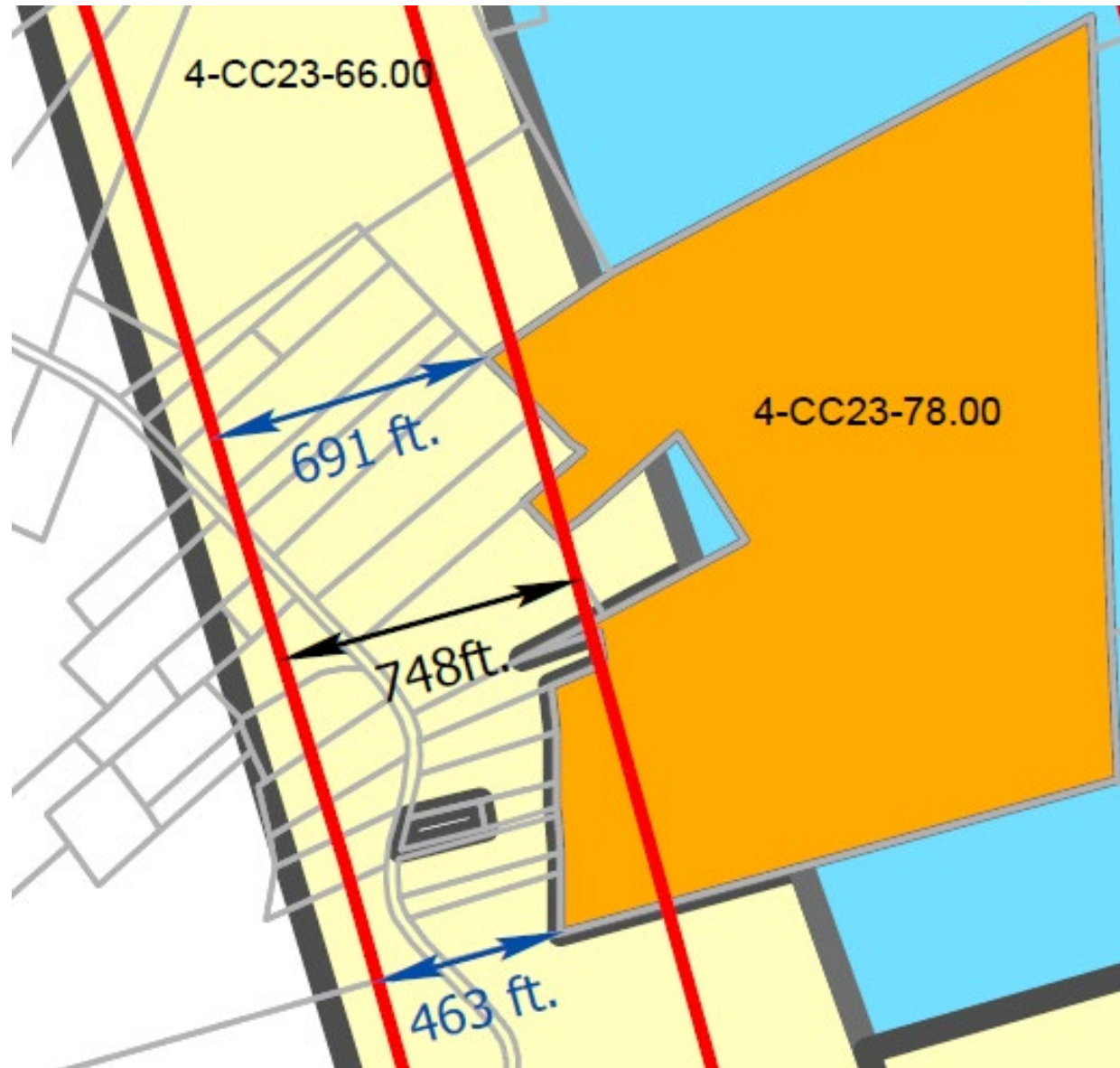
“combination of two or more tracts of oil and gas, or portions thereof, or leases, for drilling of horizontal wells and production of oil and gas from the unit with allocation of production to the net acreage of each tract included in the unit to operate as a consolidated horizontal well unit.” WV Code § 22C-9-2(a)(15)

Usually more than one well

Involves allocation of production to net acreage of each tract in unit

Wrongful pooling/unitization

- ▶ Haughtland lease
- ▶ Granting clause: “TO HAVE AND TO HOLD the said premises for the sole and only purpose of testing, drilling and operating for oil and gas and of storing in any underlying strata therein”
- ▶ Unitization clause: “Lessee is hereby granted the right to pool and unitize the Onondaga, Oriskany or deeper formations under all or any part of the land described above”



Wrongful pooling/unitization

- ▶ Lease removed from unit
- ▶ Record “Declaration of Allocation Well”
- ▶ Method of royalty calculation changed

Tract	CLAT in Tract (ft)	% CLAT
Allocation Area	914	3.8%
Nick Ballato Southeast	23,355	96.2%
Total	24,269	100.00%

Wrongful pooling/unitization

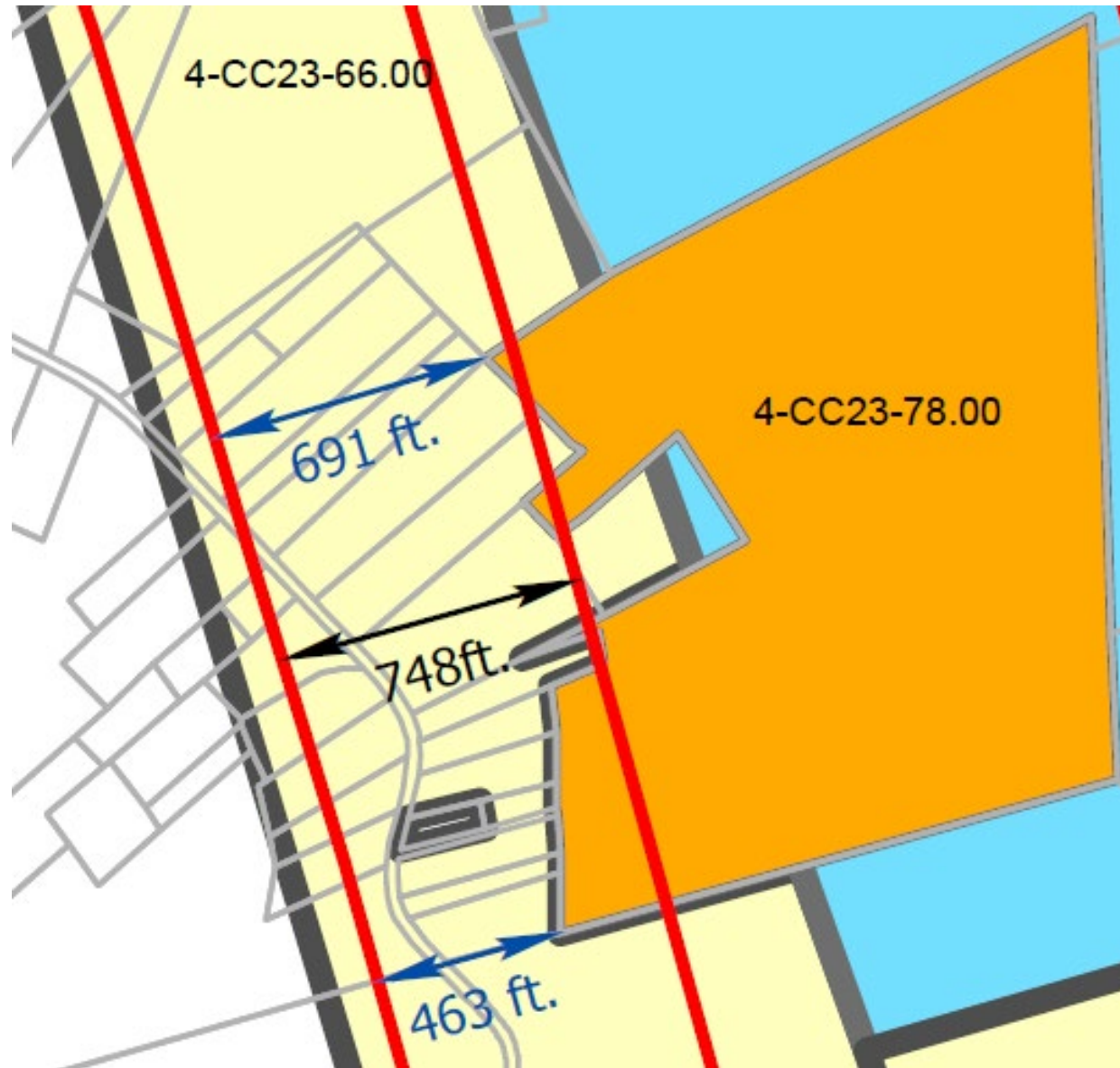
- ▶ Lawsuit filed
- ▶ Request to shut-in wells (denied)
- ▶ Request to escrow all revenue from wells (denied)
- ▶ Alternate damages calculation - 1/8 royalty on 100% of the revenue from both wells
 - ▶ Nearly 50,000' of lateral
 - ▶ Over 200 properties in units
 - ▶ Over 4 BCF of gas; 361,000 bbls of oil through June, 2024

Wrongful pooling/unitization

- ▶ Unitization as a method of production vs. royalty calculation
- ▶ “Confusion of Goods Theory” (Texas law)
 - ▶ Ability to distinguish between injected and native gas produced from storage field
 - ▶ Ability to ascertain volume and nature of hydrocarbons produced from Haughtland tract vs other 200+ properties in unit



- ▶ Application for involuntary unit to include eastern portion of tract



Wrongful pooling/unitization

- ▶ Haughtland argues lack of “good faith efforts to obtain pooling rights”
- ▶ Urges Commission to require evidence of “market rates”

What is the actual age gap between Billy Bob Thornton and Sam Elliot

1. 9 years
- ✓ 2. 11 years
3. 14 years
4. 18 years

Wrongful pooling/unitization

- ▶ Commission approves new unit (2/13/2025)
- ▶ Sufficient evidence of “good faith efforts”
 - ▶ 2 emails with specific offers of acreage bonus
 - ▶ Testimony about a third offer
- ▶ Rejects necessity of “market rates” evidence
- ▶ Commission declines to rule on whether lease authorizes Marcellus production

Wrongful pooling/unitization

- ▶ Trial court grants summary judgment
9/29/25
 - ▶ Lease authorizes drilling and production from all formations
 - ▶ No damages from paperwork error
 - ▶ No damages otherwise
 - ▶ Ignores “Confusion of Goods Theory”



Wrongful pooling/unitization

- ▶ W. Va. Intermediate Court of Appeals (“ICA”) affirms Commission order 11/12/2025
- ▶ “Good faith” not defined by statute; “intangible and abstract quality”
- ▶ Commission did not abuse discretion; absence of evidence of “bad faith”
- ▶ Now on appeal to WV Supreme Court (briefing starts April 15)



Wrongful pooling/unitization

- ▶ District Court summary judgment order on appeal to Federal Fourth Circuit
- ▶ Unitization as method of production
- ▶ Confusion of Goods Theory



Wrongful pooling/unitization

- ▶ Other challenges to pre-application “good faith efforts”
- ▶ Hull-Wright v. Arsenal
 - ▶ ICA 1/16/26 opinion reversing Commission order; insufficient explanation of basis for order
- ▶ Oak Hall v. Antero (pending at ICA)

Operations in what oil basin serves as the primary backdrop for Landman?

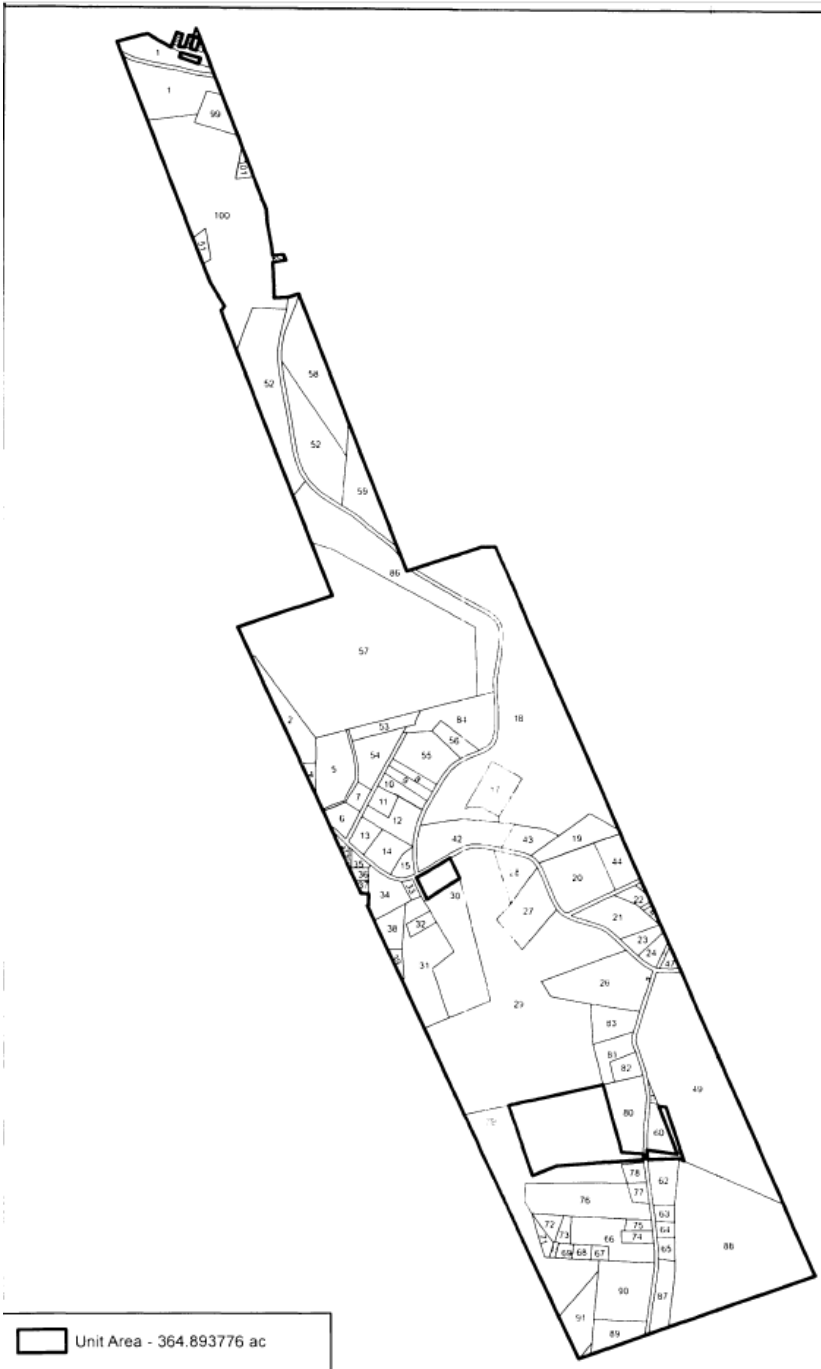
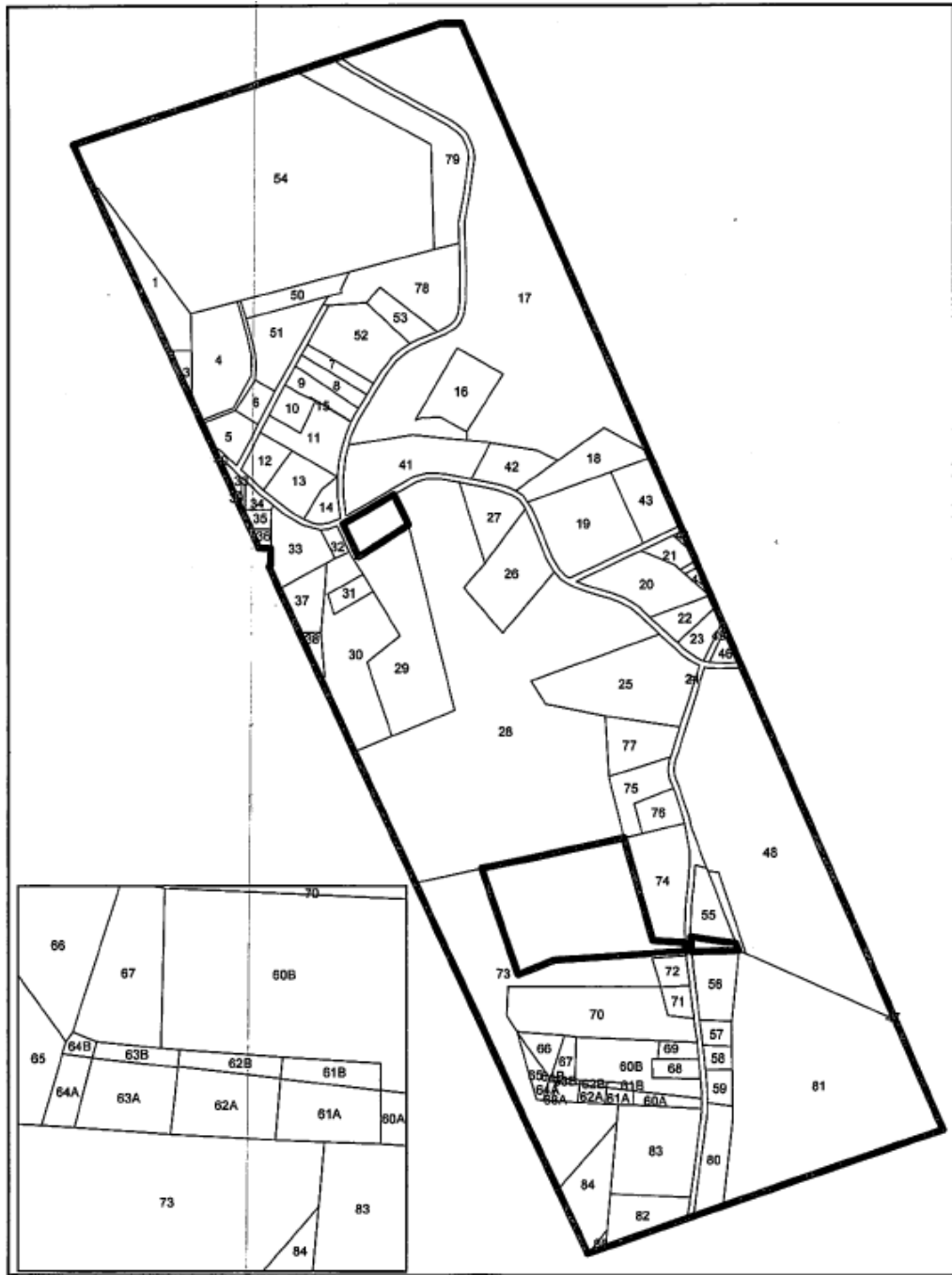
1. Eagle Ford
- ✓ 2. Permian
3. Barnett
4. East Texas

Who plays Tommy Norris' wife in Landman

- ✓ 1. Ali Larter
- 2. Demi Moore
- 3. Paulina Chavez
- 4. Kayla Wallace

Bad faith pooling/unitization

- ▶ Pooling rights exercised in “bad faith”
 - ▶ Question of fact
 - ▶ Sole reason to prevent a lease from expiring
 - ▶ Realistic plans to develop acreage
- ▶ Breach of duty of good faith and fair dealing vs. breach of lease
 - ▶ Exercise of contractual rights
- ▶ “Reasonably prudent operator”



Index	Tax ID
1	4-027-27
2	4-027-28
3	4-027-29
4	4-027-30
5	4-027-31
6	4-027-32
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97	4-027-123
98	4-027-124
99	4-027-125
100	4-027-126

Unit Area - 364.893776 ac

Billy Bob Thornton and Sam Elliot co-starred in what movie?

1. Gettysburg
2. Hi-Lo Country
3. The Desperate Trail
- ✓ 4. Tombstone

Minerals underlying roadways

▶ Public

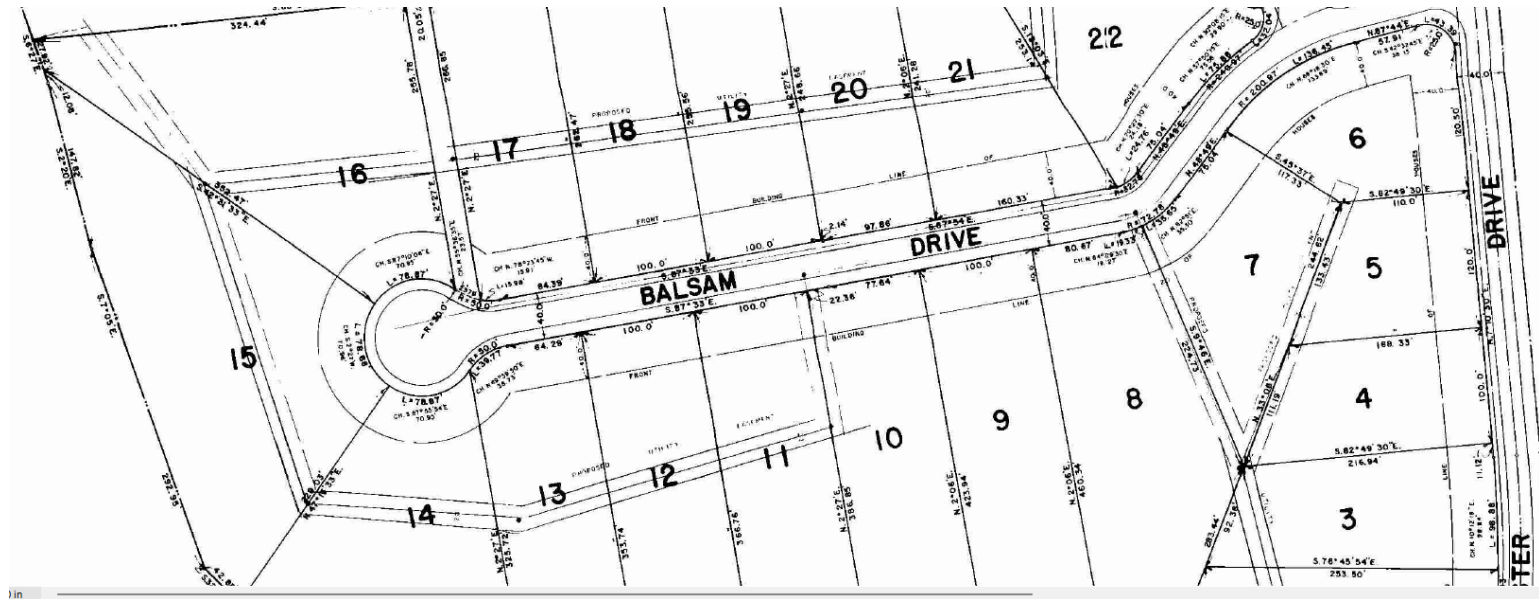
- ▶ State government in fee
- ▶ Non-government parties subject to easement

▶ Private

- ▶ Adjacent landowners “centerline” rule absent express carve-out
- ▶ *MacCorkle v. City of Charleston*, 105 W. Va. 395 (1928)

Minerals underlying roadways

- ▶ Clinton Hills Neighborhood in Ohio County
- ▶ Developer created company in 1965; HOA created in 1967
- ▶ Maps of subdivided parcels note that Developer “does hereby dedicate to public use” the designated roadways



Minerals underlying roadways

- ▶ Trustee of developer records “disclaimer” in 1992
 - ▶ “has no interest, legal or equitable, in any of the lots or other property” in the neighborhood
- ▶ Developer dissolves in 1993
- ▶ Remaining owners of Developer assign all “review authority” to HOA
 - ▶ No mention of roads

Minerals underlying roadways

- ▶ Operators lease individual parcels from 2009 through 2019
- ▶ 2 pooled units formed in 2019
- ▶ 3 wells drilled and completed in 2020 that traverse the neighborhood



Minerals underlying roadways

- ▶ HOA files declaratory judgment action in 2024
- ▶ Seeks declaration that it owns the approximately 9 acres of roadways in fee
 - ▶ Adverse possession
 - ▶ Assignment from developer
- ▶ Does not name or notify individual lot owners or oil and gas lessees
- ▶ Court grants request as unopposed

Minerals underlying roadways

- ▶ Association threatens operator with lawsuit for failing to lease roads
- ▶ Demands damages for trespass
 - ▶ Value of oil and gas extracted
 - ▶ Less reasonable production costs if “innocent” or “good faith” trespass

Minerals underlying roadways

- ▶ Association files lawsuit in June, 2025
- ▶ Operator removes to Federal Court
- ▶ Seeks ruling that State Court declaratory judgment order is void

What is the lowest seed of the 2026 men's final four teams?

1. 1
2. 2
- ✓ 3. 3
4. 4

Non-payment of royalties

- ▶ W. Va. Code 37C-1-3 (2018) (production from horizontal wells)
- ▶ Interest penalty of prime rate plus 2% on unpaid royalties (compounded quarterly)
- ▶ Substitute for recovery of pre-judgment interest (annual rate set by WV Supreme Court)?
- ▶ Also applies to under-payment (miscalculation; improper post-production deductions)
 - ▶ February 24, 2026 Order by Judge Bailey, N.D. W. Va. (Tennant v. Southwestern Energy Company, et al.)

Overpayment of royalties

- ▶ Lease governs first
- ▶ Mistake of fact vs. mistake of law
 - ▶ Wrong decimal interest
 - ▶ Incorrect property
 - ▶ Validity of mineral title

What was the lowest seeded men's team in the 2025 final four?

- ✓ 1. 1
- 2. 2
- 3. 3
- 4. 4

What was the lowest seeded women's team in the 2025 final four?

1. 1

✓ 2. 2

3. 3

4. 4

How many feet of completed lateral crossed Haughtland's lease?

- ✓ 1. 914'
0%
- 2. 812'
0%
- 3. 790'
0%
- 4. None of the above
0%

How many slides have we gone through during this presentation (excluding this one)?

- 1. 25
0%
- 2. 30
0%
- 3. 35
0%
- ✓ 4. 40
0%

Leaderboard

Position	Participants	Score

Total Participants: 0

Average Score: 0



THANK

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