Stand(ing) in the Place Where You Live: Who Has Standing to Challenge DMA Abandonment After the Mineral Interest Changes Hands?

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If a surface owner records an affidavit of abandonment and a marginal notation under R.C. 5301.56, can a subsequent purchaser of the "abandoned" mineral interest still challenge whether the surface owner ever complied with the Ohio Dormant Minerals Act's (DMA) notice requirements? Two Ohio appellate districts have now given conflicting answers. But the problem runs deeper than an interdistrict split: the Seventh District's own articulation of its standing rule rests on a mischaracterization of its earlier precedent — destabilizing its own doctrine.

Artex Minerals, LLC v. Foraker

In 1944, the Martins severed an 80% mineral interest on a 43-acre Guernsey County parcel. That interest passed through a recorded chain of conveyances to Kingston Oil Corporation, which in 2023 conveyed all of its Ohio oil and gas assets — including the 80% interest — to Artex Minerals LLC.[1] Separately, in 2011-2012, the Forakers (surface owners) had invoked the DMA abandonment procedure: they published notice addressed to the original 1944 grantors, recorded an affidavit of abandonment, and had a marginal notation entered on the 1944 deed — without any showing in the record that they had searched for or attempted to serve Kingston, the then-current holder.[2] The trial court granted summary judgment for the Forakers, holding that the marginal notation defeated Artex's standing.[3]

The Fifth District reversed. In its July 16, 2026, decision in *Artex Minerals LLC v. Foraker*, the court held that R.C. 5301.56(H)(1)'s extension of challenge rights to a holder's "successors or assignees" confers standing categorically: because Artex derived its interest from Kingston (a statutory "holder"), Artex has standing to challenge the Forakers' compliance with section (E)'s notice requirement regardless of the marginal notation.[4] A recorded affidavit and marginal notation are, at most, "a cloud on the mineral-rights owner's … title" — not evidence of substantive validity.[5] Reasonable-diligence compliance remains an open question on remand, with the Forakers bearing the burden.[6]

Cardinal Minerals, LLC v. Miller

The Fifth District's *Artex* holding is squarely at odds with the Seventh District's reasoning in *Cardinal Minerals, LLC v. Miller*.[7] There, on substantially similar facts — a buyer acquiring a mineral interest after a marginal notation and affidavit of abandonment were already of record — the court held the buyer lacked standing because the heirs had nothing to convey: the 1922 severance deed had "ceas[ed] to be notice to the public of the existence of the mineral interest," and the interest "no longer existed in the public record" for purposes of transfer.[8] Critically, *Cardinal Minerals* rested on the **formal completeness of the record** — the marginal notation was entered; no preservation filings were timely made — not on any adjudicated finding that the surface owner had satisfied the Fonzi/Gerrity reasonable-diligence standard before publishing notice.[9] The court acknowledged that the heirs themselves could have sought a judicial declaration that the abandonment was invalid, but held that absent such a declaration, they (and thus their buyer) had no interest to transfer.[10]

Bednarz v. Henderson Family Enterprises

In *Bednarz v. Henderson Family Enterprises, Ltd.* (April 2026), the Seventh District purported to narrow *Cardinal Minerals*. The court restated the general rule — "[a] subsequent purchaser of an abandoned mineral right lacks standing to challenge the abandonment process when the record chain of title shows abandonment was complete before the transfers" — but held the bar inapplicable because the Hendersons' abandonment was ineffective for want of reasonable diligence in the search for holders and service of the notice of intent to abandon under the DMA.[11] Standing, the court reasoned, was preserved because "the abandonment was ineffective here," and therefore "our precedent in which the abandonment was proper and automatically effective does not apply."[12]

That framing mischaracterizes *Cardinal Minerals*. The *Bednarz* court describes *Cardinal Minerals* as involving an abandonment that "was proper and automatically effective" — as though the Seventh District in *Cardinal Minerals* had affirmatively adjudicated the Millers' compliance with R.C. 5301.56(E)'s notice requirements on the merits.[13] It did not. *Cardinal Minerals* recites that notice was served by publication and no preservation affidavits were filed, but nowhere does it determine whether the Millers exercised reasonable diligence in locating the Pfalzgraf heirs before resorting to publication.[14] The holding was a function of **the state of the record** — not a litigated finding that the underlying abandonment satisfied the substantive requirements of the DMA.

This matters because *Bednarz*'s gloss suggested a tidy reconciliation: that the *Cardinal Minerals* standing bar applies only where the abandonment was substantively effective and does not apply where the surface owner failed the reasonable-diligence test. If that were an accurate reading, it would significantly ease the tension with the Fifth District's *Artex* decision, because both lines of authority would converge on the same principle: a successor's right to challenge turns on whether the abandonment was actually valid, not on the mere existence of a record-complete notation. But because *Cardinal Minerals* never made a substantive-validity finding, the narrowing rests on a case that does not stand for the proposition attributed to it.

Can't Get There from Here

After *Artex,* the result is at least two unresolved problems:

First, *Cardinal Minerals*'s actual holding — foreclosing a subsequent purchaser's standing based on the formally completed record, without any adjudication of reasonable diligence — remains just as difficult to square with *Artex*'s holding that a marginal notation is "at most a cloud on title" and does not defeat a successor's statutory right under R.C. 5301.56(H)(1) to challenge notice compliance.[15]

Bednarz's mischaracterization does not fix that conflict; it obscures it behind a distinction — adjudicated validity versus unadjudicated record completeness — that *Cardinal Minerals* itself never drew.[16]

Second, it is now unclear how the Seventh District would actually treat a fact pattern like *Cardinal Minerals*'s own — or like *Artex*'s — if presented again: would the court apply the literal *Cardinal Minerals* rule (formal record completion defeats standing) or the *Bednarz* gloss (only an adjudicated, substantively effective abandonment defeats standing)? *Bednarz* did not require the court to choose between those two versions, because the Hendersons' abandonment failed under either framework.[17] The Seventh District's DMA standing doctrine thus rests on a veritable house of cards.

The practical upshot is that producers, owners, and interested parties now face not only the interdistrict split between the Fifth District's categorical-standing rule (*Artex*) and the Seventh District's record-based bar (*Cardinal Minerals*), but also an unresolved internal ambiguity within the Seventh District's own case law. Both problems strengthen the case for the Ohio Supreme Court to grant its jurisdiction. In the meantime, any acquisition of a mineral interest in the shadow of a recorded DMA abandonment should be underwritten with full awareness that standing to challenge may turn on which district — and which version of that district's rule — ultimately governs.

For guidance on how these decisions may affect a pending transaction, existing mineral interest, or abandonment strategy, please contact the author or any attorney with FBT Gibbons' Oil, Gas and Minerals industry team.

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[1] *Artex Minerals LLC v. Foraker*, 2026-Ohio-2732, ¶¶ 1–9 (5th Dist.). A copy of the opinion can be found here.

[2] *Id.*, ¶¶ 3, 9–10.

[3] *Id.*, ¶¶ 4, 11.

[4] *Id.*, ¶¶ 19–22 (citing *Jefferis Real Estate Oil & Gas Holdings, LLC v. Schaffner Law Office*s, L.P.A., 2018-Ohio-3733, ¶ 31 (7th Dist.)).

[5] *Id.*, ¶ 17 (citing *Corban v. Chesapeake Exploration, L.L.C.*, 2016-Ohio-5796, ¶ 29 (plurality)).

[6] *Id.*, ¶ 23 (citing *Fonzi v. Brown*, 2022-Ohio-901, ¶ 21).

[7] *Cardinal Minerals, LLC v. Miller*, 2024-Ohio-3121 (7th Dist.)

[8] *Cardinal Minerals, LLC v. Miller*, 2024-Ohio-3121, 249 N.E.3d 868, ¶¶ 22–23 (7th Dist.).

[9] *Id.*, ¶¶ 30–31.

[10] *Id.*, ¶ 23.

[11] *Bednarz v. Henderson Fam. Enters., Ltd.*, 2026-Ohio-1297, ¶ 87 (7th Dist.) (citing *Ohio River Resources, LLC v. Westfall*, 2025-Ohio-2379, ¶ 66 (7th Dist.)).

[12] *Id.*, ¶ 88.

[13] *Id.* ("[O]ur precedent in which the abandonment was proper and automatically effective does not apply.").

[14] *Cardinal Minerals, LLC*, 2024-Ohio-3121, ¶¶ 7–8, 30–31. The court recites that notice was served by publication and no preservation affidavits were filed, but nowhere adjudicates whether the Millers satisfied the Fonzi/Gerrity reasonable-diligence standard before resorting to publication.

[15] *Artex Minerals LLC*, 2026-Ohio-2732, ¶¶ 19–21.

[16] *Cardinal Minerals, LLC*, 2024-Ohio-3121, ¶ 23.

[17] *Bednarz*, 2026-Ohio-1297, ¶ 88.

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