Class Action Recommended in Va. Coal-Gas Claim

STEVE SZKOTAK, Associated Press

RICHMOND, Va. (AP) — A federal magistrate judge recommended class-action status Wednesday for thousands of landowners in southwest Virginia who contend two energy companies cheated them out of tens of millions of dollars in royalty payments for natural gas they extracted from their properties.

U.S. Magistrate Judge Pamela Meade Sargent's recommendation now goes to a district judge in Abingdon for the final judgment on the proposed class action.

Sargent certified the class action claims of four of five landowners. They are among 10,000 or more landowners in a potential class action against EQT Production Co. and CNX Gas Co., Pittsburgh-area energy companies that have thousands of natural gas wells in Appalachia.

The companies have denied the allegations in the past.

CNX did not respond to The Associated Press, but EQT said in a statement: "We have reviewed the magistrate's recommendation and while we are pleased with some parts of the recommendation" others we take exception to.

They have two weeks to appeal.

One of the attorneys for the landowners called the opinion a "blowout win."

"It is a catastrophic defeat for these two major energy companies, which have been cheating these landowners and small royalty owners for decades, with impunity," Don Barrett said. He added that a district judge is all but assured of heeding Sargent's opinion, as he has done in other stages of the action.

Attorneys for the landowners allege EQT and CNX drilled thousands of wells in southwest Virginia's coal bed to remove methane gas without obtaining valid leases. They argued the mineral rights were held by the coal companies.

The Virginia Gas and Oil Board ultimately granted conditional leases and placed royalties in an escrow account because of conflicting claims. The royalties placed in the account amounted to one-eighth of net proceeds of the drilling.

Attorneys for the landowners said the state panel subjected the landowners to "an involuntary lease" and established a below-market royalty rate.

The Virginia Supreme Court, in a 2004 ruling, found that the methane gas is a "distinct mineral estate" from coal, concluding the landowners owned the rights to natural gas removed from their properties.

In her opinion, Sargent wrote, "Quite frankly, I am of the opinion that the Virginia Supreme Court has decided this issue."

Barrett estimated that the royalties held in escrow are approaching $30 million, but the wells are expected to remain in operation for years. Attorneys are also seeking punitive damages.

"This has been misconduct — flagrant misconduct — and bullying of these little people for decades," he said. "Now they have to pay."

The Bristol Herald Courier won a Pulitzer Prize for Daniel Gilbert's reporting on the mismanagement of natural gas royalties owed to landowners in Virginia.

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