Energy Company Defends Judge Accused of Impropriety

STEVE SZKOTAK, Associated Press

RICHMOND, Va. (AP) — An energy company is defending an assistant attorney general who a federal judge said has been assisting it and another company in a battle with southwest Virginia landowners over natural gas royalties.

U.S. Magistrate Judge Pamela Meade Sargent made the assertion in an opinion in early June recommending that the landowners' claims against EQT Production Co. and CNX be certified as a class action with tens of millions of royalty payments at stake.

The judge cited emails between the assistant attorney general, Sharon Pigeon, and attorneys for the Pittsburgh-area energy companies.

In a brief filed in response, an attorney for EQT wrote: "The magistrate judge's comment about the messages is just a gratuitous personal observation not relevant to the motions. But, in addition to being irrelevant, the comment is also wrong."

The response was filed last week in U.S. District Court in Abingdon.

The judge's comments have become an issue in the governor's race because Attorney General Ken Cuccinelli is the Republican nominee, and his campaign has received more than $100,000 from Consol Energy, of which CNX is a subsidiary.

Cuccinelli has rejected "in the strongest possible terms" the suggestion that Consol donations have swayed his office's handling of the case.

Democratic Sen. Phillip P. Puckett, whose district includes the southwest counties where the coalbed methane has been drilled, is seeking an investigation of the attorney general's office to determine whether it violated any laws or ethics rules.

The state inspector general's office confirmed it has heard from Puckett but declined further comment.

Puckett has been criticized by Republicans because he is an officer in an Abingdon bank that holds nearly $30 million in gas royalties. He has acknowledged he stands to gain financially by the bank's holding those funds in escrow. Puckett did not return a telephone message left by The Associated Press.

In defending Pigeon, who advises the Virginia Gas and Oil Board, EQT attorney Wade W. Massie echoed statements by Pigeon's bosses that she had a narrow interest in the case: defending the Virginia Gas and Oil Act.

"It is a legitimate, indeed critical, function of the attorney general to defend state statutes against attacks of invalidity," Massie wrote.

Sargent, however, made it clear that Pigeon's counsel went beyond constitutional issues, based on her analysis of the emails.

"Shockingly," she wrote, "these emails show that the Board, or at least Pigeon, has been actively involved in assisting EQT and CNX with the defense of these cases, including offering advice on and providing information for use on the Motions before the court."

Don Barrett, attorney for the landowners, has accused the Gas and Oil Board and Pigeon of being "stooges" for the gas companies.

The complicated dispute dating back more than a decade involves thousands of wells the companies drilled in southwest Virginia to remove methane gas from coal seams. The landowners argue they were cheated out of nearly $30 million or more of royalties by the EQT and CNX.

The Virginia Gas and Oil Board ultimately granted conditional leases and placed royalties in an escrow account until the dispute could be settled.

Attorneys for the landowners are also seeking punitive damages.

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