U.S. Judge Shocked by Va. Role in Lawsuit

STEVE SZKOTAK, Associated Press

RICHMOND, Va. (AP) — A federal judge has expressed shock that an assistant Virginia attorney general has been assisting two natural gas companies that are being sued by landowners who allege the companies bilked them out of natural gas royalties.

In an opinion issued Wednesday, U.S. Magistrate Judge Pamela Meade Sargent said the relationship was revealed in emails provided to the court by the plaintiffs in the case against EQT Production Co. and CNX Gas Co., two Pittsburgh-area energy companies.

The assistant attorney general, Sharon Pigeon, advises the Virginia Gas and Oil Board, which is not a defendant in the potential class action but has intervened in the dispute.

Sargent drew the connection between Pigeon and the energy companies in the written opinion, in which she recommended that the case be certified as a class action. At stake is tens of millions of dollars attorneys for the plaintiffs say is owed to thousands of landowners.

Within the 85-page decision, Sargent wrote: "Shockingly, 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."

Sargent did not elaborate on the contents of the emails.

The attorney general's office represents state government and elected officials and consumers in matters before state utility regulators and in other venues.

In response to a request from The Associated Press, the attorney general's office issued a statement addressing Sargent's opinion regarding Pigeon. It reads: "Our office's role is not to provide advice to any private party in this case. Our office intervened in the case for the limited purpose of defending the constitutionality of the Virginia Gas and Oil Act. Other issues in the case are matters between the plaintiffs and defendant gas operators."

EQT declined comment on Sargent's written comments, while CNX did not respond to telephone messages. The Gas and Oil Board, a division of the state Department of Mines, Minerals and Energy, referred questions to the attorney general's office.

The lead attorney for the landowners has been critical of the board for its oversight of the royalties paid by the two companies, and he seized on Sargent's written comments about Pigeon.

"The state of Virginia is supposed to be watching this," said Don Barrett, a Lexington, Miss., attorney. "They are stooges for CNX and EQT."

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 represented by Barrett and a team of lawyers in Abingdon 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 because of conflicting claims. State law allowed the board to pool royalties and spelled out a payment formula.

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 ruled in 2004 that the methane gas is a "distinct mineral estate" from coal, concluding the landowners owned the rights to natural gas removed from their properties.

Attorneys for the landowners are asking the federal court to recognize that right and get a full accounting of the royalties, among other requests. They are also seeking punitive damages.

Sargent's opinion Wednesday involved a recommendation to a federal judge in Abingdon that the case be certified as a class action representing the interests of thousands of landowners.

In a statement issued Thursday, EQT said: "We have reviewed the Magistrate's recommendation and while we are pleased with some parts of the recommendation, others we disagree with and plan to ask the judge to reject those parts of the recommendation."

CNX is a subsidiary of Consul Energy, which donated more than $85,000 to Attorney General Ken Cuccinelli's Republican candidacy for governor, according to the Virginia Public Access Project, which tracks money in politics.

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