

# Virginia Attorney General Ken Cuccinelli's office distancing itself from emails

BY MICHAEL L. OWENS | BRISTOL HERALD COURIER | Posted: Friday, September 20, 2013  
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Virginia Attorney General Ken Cuccinelli's office is distancing itself from the staffer who in a series of emails appears to have advised energy company lawyers in their defense of an ongoing lawsuit over natural gas royalties in Southwest Virginia.

Senior Assistant Sharon Pigeon "was not writing the emails at the direction of anyone in Richmond," Cuccinelli spokesman Brian Gottstein wrote in a recent email to the Bristol Herald Courier.

Pigeon is now barred from further discussing with corporate lawyers their federal battle against regional landowners seeking gas royalties, Gottstein wrote, and her job of scrutinizing the cases' potential impact on Virginia's gas drilling laws has been handed to someone else.

Gottstein, in previous emails to the Herald Courier, noted that Pigeon is stationed six hours away from the AG's Richmond headquarters -- where her supervisors are -- with an office in Big Stone Gap in Wise County.

The AG spokesman, when asked Friday to clarify what working outside the Richmond headquarters had to do with the emails, replied that he will no longer answer the newspaper's questions because of the way it has covered the story.

"I'm not dealing with you anymore," he wrote.

Pigeon is the legal adviser to the Lebanon-based Virginia Gas and Oil Board, which oversees the state-mandated escrow account now holding at least \$30 million in disputed natural gas royalties. She swapped at least 52 emails from 2010 through 2012 with attorneys representing CNX Gas and EQT Production in their fight against regional landowners seeking those royalties.

A Herald Courier review of those emails shows that Pigeon suggested such courtroom tactics as combating a likely information request to discover other landowners owed royalties, as well as countering arguments against the amount of royalty proceeds they sought.

"Neither Attorney General Cuccinelli nor Ms. Pigeon's supervisors in Richmond had prior knowledge of the content of Ms. Pigeon's emails, but learned of them only after they became part of a discovery [court information request] dispute," Gottstein wrote.

The emails came to light in June after a federal magistrate judge presiding over the royalty battle noted shock over five emails Pigeon penned to corporate lawyers. A recent Herald Courier review of the case,

filed in U.S. District Court in Abingdon, uncovered dozens more messages.

Her electronic messages – and questions about the relationship between the state’s highest legal office and corporate energy lawyers -- have become a hot topic in the state’s gubernatorial race. Cuccinelli is the Republican candidate running against Democrat Terry McAuliffe.

Adding to the debate is the role that CNX parent company CONSOL Energy has as one of the top financial contributors to Cuccinelli’s campaign. The company has dropped \$140,044 into his campaign since he took over the AG’s office in 2010, according to campaign watchdog Virginia Public Access Project.

Cuccinelli defends Pigeon’s dealings with energy company lawyers as “overzealous” but in line with the common-interest legal doctrine allowing contact between attorneys representing different clients.

Legal experts agree that Pigeon’s contact with corporate lawyers is both ethical and legal.

“From the legal ethics point of view, as long as the interest of the two parties are aligned ... there’s nothing wrong,” said Professor George M. Cohen, corporate law expert with the University of Virginia School of Law.

In June, the attorney general said his office joined the court battle over natural gas royalties only to fight the constitutional challenges to the Virginia Gas and Oil Act, which is at the heart of the lawsuits.

Still, constitutional law expert Carl W. Tobias, of the University of Richmond School of Law, questions the contents of Pigeon’s emails and how they appear to offer legal help.

“It’s not in good judgment to be helping one side or the other,” Tobias said. “In this case, it’s sounding like she’s helping the defendants.”