

US judge OKs class actions in Va. lawsuits seeking natural gas royalties from energy cos.

By Associated Press, Updated: Tuesday, October 1, 12:32 PM

RICHMOND, Va. — A federal judge has certified a handful of lawsuits as class actions accusing two energy companies of cheating southwest Virginia residents out of tens of millions of dollars in royalty payments for natural gas drilled on their land.

The lead attorney for the landowners said Tuesday he will ask for a summary judgment in the case and a full financial accounting from the companies for the thousands of wells they drilled in Virginia's coalfields region to capture the methane gas from coal seams.

"This is a body blow to the defendants," said Don Barrett, an attorney for the landowners who filed the initial lawsuits. "It's a wake-up call to them."

U.S. District Judge James P. Jones, ruling from Abingdon, accepted the recommendations Monday of a magistrate judge who concluded in June that the lawsuits should move forward as class actions.

CONSOL Energy Inc., the Pittsburgh-area parent of CNX Gas Co., said in a statement it disagreed with the finding and was weighing its options. EQT Production Co. said it would appeal a portion of Jones' ruling.

In arguing against class-action status last month, the energy companies said they had heeded state law and had done nothing wrong. Their lawyers argued that the individual claims are too diverse and complicated to be handled as a class and that class-action litigation would not provide resolution for these individual cases.

The dispute involves \$30 million in disputed company payments that have been put in an escrow account and other claims by landowners who maintain the companies shortchanged them for the drilled natural gas by unreasonable deductions for post-production costs and other expenses.

In its statement, CONSOL said it has paid millions of dollars into the escrow fund, as directed by state law. "CONSOL Energy continues to support efforts to release those funds," the company said.

EQT said it would appeal to the 4th U.S. Circuit Court of Appeals over Jones' decision to overturn the

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magistrate's recommendation on post-production deductions, disagreeing that those claims can be resolved on a class basis.

Barrett is a Mississippi attorney who has successfully taken on the tobacco industry and is now turning his sights to the national food industry over what he says is the misbranding of food. He said he'll press EQT and CNX to disclose its business dealings with landowners in southwest Virginia.

"Now they have to go back and tell us what they've taken out of the ground, exactly every penny that was spent for expenses and so on, and why it was reasonable," he said in an interview Tuesday. "They can't do it. The burden is on them."

If that's the case, he said, "Our experts can go back and figure out what the best price was for natural gas at that particular time and that's what they owe."

Barrett estimated that the class actions will encompass thousands of landowners, and that the escrow account doesn't fully represent all the disputed payments.

"We're going to find that the money put in escrow is not nearly what should have been put in escrow," he said. "What's in escrow is not half of it."

At the center of the disputed claims is the question of who owns the gas: coal companies or individual property owners who what point to a 2004 Virginia Supreme Court ruling to support their claim.

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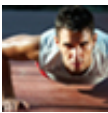
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