

Chesapeake Settlement Voided in Pennsylvania Natural Gas Royalty Dispute

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A federal court has vacated a 2021 settlement that awarded more than \$9 million to Pennsylvania landowners that alleged underpayment of royalties by Chesapeake Energy Corp.

The 2021 settlement, filed in the U.S. Bankruptcy Court for the Southern District of Texas, was reached following Chesapeake's Chapter 11 bankruptcy reorganization.

Lessors argued that the third-largest publicly traded U.S. natural gas producer chronically failed to honor so-called market enhancement clauses (MEC) in its lease agreements. The MECs prohibited Chesapeake from deducting certain post-production costs from royalty payments.

The 2021 settlement was meant to "end the abuse from Chesapeake and allow landowners to take a new lease with no deductions," said former Pennsylvania Attorney General (AG) Josh Shapiro at the time. Shapiro has since become governor. "This case is about standing up to powerful interests when they try to take advantage of people."

In the latest ruling earlier this month, however, the U.S. Court of Appeals for the Fifth Circuit said the bankruptcy court lacked authority to approve the settlement.

Upon emerging from bankruptcy in February 2021, Chesapeake "tested the limits of the bankruptcy court's post-confirmation jurisdiction by asking it to settle two pre-bankruptcy purported class actions covering approximately 23,000 Pennsylvania oil and gas leases," the latest ruling states. "The hitch is this: no proofs of claim were filed for class members, and every feature of the settlements conflicts with Chesapeake's Plan and Disclosure Statement."

The class actions were filed in 2013 and 2014, along with a separate lawsuit filed on similar grounds in 2015 by the Pennsylvania AG.

The Texas court in 2021 authorized a \$6.3 million settlement for landowners and nearly \$3 million for attorney fees to settle the two class action lawsuits. The plaintiffs in those cases, along with the AG, approved the settlement.

The Fifth Circuit's nullification of that agreement could now leave Chesapeake vulnerable to more legal action against it either by individual lessors or in the form of another class action, McKool Smith's John Sparacino, principal at the litigation firm, told NGI.

He explained that "some or all of these lessors believe that Chesapeake misinterprets the leases and short-pays the true royalty amount that is due and owing every month."

The settlement "was going to resolve those issues and essentially modify all of the various leases so that there was clarity and everyone was on the same page presumably as to how to calculate the going-forward royalties...That's now been overruled by the Fifth Circuit, and so any lessor out there presumably has and can bring a claim against Chesapeake that it continues to underpay royalties."

Chesapeake was the No. 2 seller of natural gas on a net volume basis in the United States in 2022, according to Federal Energy Regulatory Commission data.