

EQT Says Decade-Old Settlement Bars \$40M Gas Royalty Fight

By **Morgan Conley**

Law360 (September 3, 2020, 8:41 PM EDT) -- EQT Corp. has urged a federal judge to block oil and gas royalty owners from pursuing over \$40 million in damages from the driller in state court, arguing a decade-old settlement bars them from pursuing claims EQT trespassed on their mineral estate.

The company asked a West Virginia federal court Wednesday to enjoin a group of royalty owners led by Marcus Huey from pursuing trespass allegations. The company told the court the royalty owners bringing the state court action are parties to a 2010 agreement that bars any member of the settlement class from asserting claims released under their deal.

According to the motion, the royalty owners accuse EQT in West Virginia state court of making improper royalty payments and taking improper deductions for oil and gas produced under a lease in northern West Virginia.

The suit seeks over \$40 million in damages and includes claims of breach of contract and breach of contractual duty of good faith and fair dealing. It accuses EQT of trespassing on the royalty owners' mineral estate, alleging that a failure to "maintain operations going back to the 1980s" means it forfeited the lease.

A final order approving the settlement, signed in April 2010, says EQT paid \$25 million to settle the class' claims that it improperly paid royalties by deducting post-production expenses or paying a standard royalty amount annually regardless of what was produced under the lease, known as a "flat rate lease."

The royalty owners bringing the state court suit were part of a flat-rate subclass, according to the motion.

EQT told the court it petitioned the state court to grant summary judgment in its favor on the claims related to the trespass allegations, informing the court the settlement in the federal proceedings bars the claims that the lease was terminated.

According to Wednesday's motion, the royalty owners owned up to being class members whose lease falls under the agreement, but fought the notion their claim is barred, saying that because they aren't seeking to terminate the lease — they are arguing the lease was "automatically" terminated due to nonproduction— their claim is viable.

The state court rejected EQT's motion for summary judgment in mid-August without explanation, the company said in the motion urging the federal court to enjoin the state court action.

Counsel for EQT declined to comment Thursday. Counsel for the royalty owners didn't immediately respond to requests for comment Thursday.

EQT is represented in the federal suit by Jennifer Hicks from Babst Calland Clements & Zomnir PC and Lauren Varnado from McKool Smith PC.

The royalty owners are represented in the state court litigation by John F. McCuskey of Shuman McCuskey & Slicer PLLC. Counsel information for the federal case was not immediately known.

The suit is the Kay Company, LLC et al v. EQT Production Company et al, case number is 2:06-cv-00612, in the U.S. District Court for the Southern District of West Virginia.

--Editing by Philip Shea.