

ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



Federal Judge Approves \$22 Million Settlement of Royalty Class Action Litigation

On March 17, 2011, United States District Judge Sean J. McLaughlin approved a settlement that could be worth more than \$22 Million between Range Resources and a class of over 25,000 landowners/lessors. Judge McLaughlin then issued an Order of Court amending the impacted leases in accordance with the settlement.

In the case styled *Frederick, et al. v. Range Resources – Appalachia, LLC*, the members of the Plaintiff class initially alleged that Range had improperly deducted post-production costs from royalty payments in violation of Pennsylvania’s Guaranteed Minimum Royalties Act (“GMRA”). However, the Pennsylvania Supreme Court clarified the GMRA last spring in its long-awaited *Kilmer v. Elexco Land Company* opinion, 990 A.2d 1147 (Pa. 2010), holding that certain post-production costs could be deducted. The Plaintiffs then amended their Complaint to instead allege that Range had incorrectly calculated past royalty payments by, among other things, categorizing marketing fees and transportation charges as post-production costs.

Last year, the parties entered into a preliminary settlement which, pursuant to the Federal Rules of Civil Procedure, required Court approval. In a twenty-six page opinion, Judge McLaughlin approved the settlement, concluding that its terms were fair, adequate and reasonable.

The settlement calls for upfront payments of \$1.75 million to the Plaintiff class members to address the Plaintiffs’ allegations related to past royalty payments. The settlement also requires an amendment of the applicable leases by imposing agreed upon caps on the amount of future post-production cost deductions. The parties estimate the value of this portion of the settlement could exceed \$20 million. Judge McLaughlin called this approach to settlement, “‘innovative’ in that it provides the class with a tangible monetary benefit that could not have been achieved even if the class had been successful at trial.” Plaintiffs only sought a recovery based on past royalty payments in the lawsuit and not a future post-production costs. The settlement permitted the parties to resolve this potential future conflict without further litigation.

Range issued a statement last summer in support of the settlement, calling it good for both royalty owners and for Range, citing its “predictability moving forward.”

The *Frederick* settlement suggests that, in light of last year’s widely publicized *Kilmer* decision, both gas producers and lessors may be better able to resolve any remaining disagreements over the manner in which royalty payments are calculated to the mutual benefit of both groups.

For more information regarding the *Frederick* decision and issues relating to oil and gas litigation, contact Kevin K. Douglass at (412) 394-6562 or kdouglass@bccz.com or Stephen A. Antonelli at (412) 394-5668 or santonelli@bccz.com.

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