ALERT

ENERGY & NATURAL RESOURCES

Federal Court Dismisses Challenge to WV Pooling Statute

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Energy Alert

(by **Robert Stonestreet** and **Austin Rogers**)

A federal court has dismissed a challenge to the validity of a West Virginia law authorizing pooling and unitization of oil and gas formations associated with Marcellus and Utica shale wells. The court concluded that the mineral owners who filed the suit lacked standing to bring their claims because they failed to allege an actual injury from the challenged law.

As reported in an *Alert* published on **February 1, 2024**, the Fourth Circuit Court of Appeals directed the lower court, Judge John Preston Bailey of the District Court for the Northern District of West Virginia, to resolve a pending lawsuit challenging the law, known as Senate Bill 694, enacted by the West Virginia Legislature in 2022. This includes a determination of whether the mineral owners established legal standing to challenge the law. The District Court had previously abstained from addressing the merits of the claims or the legal standing of the mineral owners.

Judge Bailey ruled that the mineral owners lacked legal standing for at least two reasons. First, the Court observed that the mineral owners did not allege that their mineral interests had been adversely affected by the challenged law, that they were subject to unitization under the law, or that their royalties were diminished in any way by the law. Second, the Court found no causal connection between the mineral owners' alleged injury and the enactment of the law. The Court noted that the mineral owners did not explain how the agency they sued, the West Virginia Oil and Gas Conservation Commission, was affecting their mineral interest "in any way" or that future enforcement of the law against them was "imminent."

If you have questions about this lawsuit or West Virginia law governing pooling and unitization, please contact either of the following attorneys to learn more: Robert Stonestreet at **rstonestreet@babstcalland.com** or 681.265.1364 or Austin Rogers at **arogers@babstcalland.com** or 681.265.1368.