



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Okla. Jury Sides With Operator In Royalty Deduction Dispute

By **Michael Phillis**

Law360 (July 11, 2019, 6:53 PM EDT) -- After a two-week trial, an Oklahoma jury has unanimously rejected accusations by 11 oil and gas royalty owners that Range Resources Corp. made improper deductions from its royalty payments, according to a Wednesday judgment confirming the verdict.

The judgment cements a March verdict that cleared the company of allegations it made "sham" transactions to reduce the amount of money it had to pay royalty owners. Well operators typically can't deduct costs incurred to transform the raw gas into a so-called marketable product. The royalty owners accused the company of making deductions from their royalty payments before the gas at issue had reached that stage.

The fact that a jury verdict was actually issued in a gas royalty deduction dispute is notable since they typically end in settlements, according to Richard B. Noulles of GableGotwals, who represented Range Resources.

"This is a significant issue in that respect. It is really the first time a case such as this, to my knowledge, has gone to a jury trial. It is significant that a jury in Caddo County, Oklahoma, found in favor of the oil company," Noulles told Law360.

The costs incurred to improve already marketable products can be deducted from the amount paid to royalty owners in certain circumstances, according to court documents.

The 11 royalty owners of the 13 wells at issue asked for a judgment notwithstanding the verdict in May. That request was denied.

"Once the jury found that the gas was a marketable product near the wells, that Range sold the gas near the wells, and that Range paid royalties without deducting the costs necessary to create the marketable product or to deliver it to the buyer; Range satisfied any burden of proof it had under the law," the company said in a court document defending the verdict.

According to court documents, the royalty owners said the sales of the supposedly marketable gas weren't really sales. Instead, the sales contracts were agreements "that were for providing services to create a marketable product."

"The jury completely rejected this argument and theory as a matter of fact," the company said.

Range Resources said the sham transaction claim was based on an improper assumption. A marketable product does not necessarily mean a product that is ready to be sold on an interstate pipeline, it said. When the gas was sold near the wells, "there was a competitive market for that gas at those locations," which met the requirement, the company said. Costs that can't be deducted generally come from gathering, compressing, dehydrating and other expenses necessary to make the gas marketable.

According to GableGotwals, the royalty owners in the case had opted out of a previous class action settlement. Although only 13 wells were at issue in this case, Range was accused of carrying out the scheme across 9,000 wells in the state. The royalty owners said the amount deducted totaled \$150

million.

A representative for the royalty owners did not immediately return a request for comment.

The royalty owners are represented by Allan DeVore and Jandra Cox of Devore Law Firm PLC, John W. Garland of Pain & Garland and Brett D. Sanger of B.D. Sanger PLLC.

Range Resources is represented by Richard B. Noulles, Graydon Dean Luthey Jr. and Bradley W. Welsh of GableGotwals, Jeremy E. Brown of McCalla Brown Patel LLP and Jeffrey C. King and Jamie L. Bryan of K&L Gates LLP.

The case is Slatten et al. v. Range Resources Corp. et al., case number CJ-2013-133, in the District Court of Caddo County in the State of Oklahoma.

--Editing by Adam LoBelia.

All Content © 2003-2019, Portfolio Media, Inc.