

Fracking Report

May 2014 Volume 1, Issue #1

5th Circuit Panel Vacates Summary Judgment, Remands To Decide Intervenor's Status

NEW ORLEANS — A unanimous Fifth Circuit U.S. Court of Appeals panel ruled May 7 that an Eastern District of Texas judge lacked jurisdiction over an assignment of rights dispute among natural gas well operating companies because a nondiverse intervenor destroyed subject-matter jurisdiction; the panel vacated a summary judgment order and remanded the lawsuit with instructions to determine if the intervenor is an indispensable party. **SEE PAGE 4.**

Wyoming Supreme Court Defines Trade Secrets, Remands Fracking Fluid Disclosure Case

CHEYENNE, Wyo. — The Wyoming Supreme Court issued a unanimous opinion March 12 vacating a lower ruling that the components of hydraulic fracturing fluid are exempt from disclosure as trade secrets and instructing the lower court to apply the federal definition of trade secrets to review a Wyoming Oil & Gas Conservation Commission order denying requests for disclosure of the chemicals in the fluid; the mandate issued March 28. **SEE PAGE 5.**

Order To Produce Seismic Data Affirmed; Water Well Suit Fact Discovery Ends May 23

SCRANTON, Pa. — Phase 1 fact discovery in a lawsuit in the U.S. District Court for the Middle District of Pennsylvania alleging contamination of residential water wells with hydraulic fracturing chemicals closes May 23; a motion by the natural gas extraction company defendants for reconsideration of an October 2013 order to produce seismic data and open hole logs was denied in January. **SEE PAGE 7.**

Louisiana Appeals Panel Rules Plaintiffs Lack Standing To Seek Restoration Damages

LAKE CHARLES, La. — A unanimous Third Circuit Louisiana Court of Appeal panel on May 7 affirmed summary judgment against surface estate owners seeking damages from oil and natural gas operators for allegedly failing to restore the surface estate; the panel applied the subsequent purchaser doctrine and concluded that the plaintiffs lack standing to seek damages for alleged injuries before they purchased the subject land. **SEE PAGE 10.**

Legacy Oil Pollution Claims Dismissed Without Prejudice In Louisiana Federal Court

NEW ORLEANS — Defense motions to dismiss were granted in part on April 22 with leave to amend in a well field legacy contamination lawsuit pursued by landowners in the U.S. District Court for the Eastern District of Louisiana. **SEE PAGE 12.**

Oklahoma Class Plaintiffs Appeal Dismissal Of Claims For Waste Hauling Pollution

DENVER — Class action representatives of an Oklahoma action alleging fly ash and produced water contamination filed an appellant brief April 21 in the 10th Circuit U.S. Court of Appeals seeking reversal of an order denying remand under the local controversy exception to the Class Action Fairness Act of 2005 or, alternatively, vacating summary judgment for defendants for failing to state a claim. **SEE PAGE 15.**

Texas Supreme Court Remands Attorney Fee Award Dispute Arising From Royalty Suit

AUSTIN, Texas — The Supreme Court of Texas issued a *per curiam* opinion on April 25 remanding an attorney fee dispute with instructions for the trial court to develop a record sufficient to calculate attorney fees with the lodestar method; the disputed attorney fees are from a lawsuit to enforce an assignment of working interests in oil and natural gas producing wells. **SEE PAGE 18.**

Natural Gas Operator Held Liable To Indemnify Driller For Contamination Litigation

COLUMBUS, Ohio — A natural gas operating company sued by a drilling company with which it contracted to spud wells in West Virginia is liable under the drilling contract to reimburse settlement and litigation costs for a related well-water contamination lawsuit naming both companies as defendants, the presiding U.S. District Court for the Southern District of Ohio judge ruled April 16. **SEE PAGE 19.**

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