

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

MARY KATHERINE HARRIS, on)	
behalf of herself and all persons or)	
entities similarly situated,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 6:19-cv-00355-SPS
)	
CHEVRON U.S.A., INC., ET AL.,)	
)	
Defendants.)	

ORDER ON CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

The Court adopts and incorporates the definitions set forth in the Settlement Agreement that has been entered into between the Plaintiff, on behalf of herself and as representative of the Settlement Class, and Defendants, and which has been filed with the Court for purposes of seeking approval of the same (the "Settlement Agreement"). The capitalized terms in this Order have the same meaning as given to them in the Settlement Agreement, unless this Order defines the term differently, in which case the definition used in this Order controls.

The Court has considered the Settlement Agreement and has preliminarily approved the proposed class settlement by entry on this same date of this Court's Order Preliminarily Approving Class Settlement, Approving Form of Notice to Class Members, and Setting Date for Settlement Fairness Hearing ("Preliminary Approval Order");

This Court has been asked to certify the Settlement Class, as a class action for

settlement purposes only;

The Court has reviewed the record in this matter in the context of this case being resolved by settlement rather than trial, and has found that good cause is present in this lawsuit for the findings and other matters set forth below; and

The Court concludes that certification of the Settlement Class is appropriate,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Court has jurisdiction over the persons and entities who are putative members of the Settlement Class and Defendants and has jurisdiction over the subject matter of this action;

2. The Court finds the Settlement Class should be certified for the purposes of proceeding with the Settlement. The Settlement Class is:

All persons who are or were royalty owners in Oklahoma wells where Defendants (Chevron U.S.A. Inc., Pure Partners, L.P., Union Oil Company of California, Chevron Midcontinent, L.P., Four Star Oil & Gas Co., and McFarland Energy, Inc. (including their affiliated predecessors and affiliated successors)) are or were the operator (or a working interest owner who marketed its share of gas and directly paid royalties to the royalty owners) from production from December 1, 2009 to the date judgment is signed. The Class claims relate to royalty payments for gas and its constituents (such as residue gas, natural gas liquids, helium, nitrogen, or drip condensate).

Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendants, their affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) the claims of royalty owners to the extent covered by arbitration clauses or prior settlement agreements, if any, still in effect at the time suit was filed herein; (6) overriding royalty owners and others whose interest was carved out from the

lessee's interest; (7) royalty owners who had already filed and still had pending lawsuits for underpayment of royalties against Defendants as of September 1, 2017; (8) royalty owners only to the extent they take gas in-kind, if any; and, (9) royalty owners only to the extent receiving "Blanchard" payments (payments by Defendants of proceeds received from other working interest owners who marketed their own share of gas).

3. The Court finds the above-defined Settlement Class satisfies all prerequisites of Federal Rule of Civil Procedure 23 for certification of a settlement class:

a. Numerosity. Plaintiff has demonstrated "[t]he class is so numerous that joinder of all members is impracticable." FED. R. CIV. P. 23(a)(1). The Tenth Circuit has not adopted a set number as presumptively sufficient to meet this burden, and there is "no set formula to determine if the class is so numerous that it should be so certified." *Trevizo v. Adams*, 455 F.3d 1155, 1162 (10th Cir. 2006). Whether a class satisfies the numerosity requirement is "a fact-specific inquiry" that district courts have "wide latitude" when determining. *In re Cox Enters., Inc.*, No. 12-ML-2048-C, 2014 WL 104964, at *3 (W.D. Okla. Jan. 9, 2014) (quoting *Trevizo*, 455 F.3d 1155, 1162 (10th Cir. 2006)); *Chieftain Royalty Co. v. XTO Energy, Inc.*, No. CIV-11-29-KEW, 2018 WL 501656, at *2 (E.D. Okla. Jan. 18, 2018) (same). Here, the Settlement Class consists of thousands of royalty owners. Therefore, the Court finds the numerosity prerequisite is met.

b. Commonality. Plaintiff has also demonstrated "[t]here are questions of law or fact common to the class" in relation to the proposed Settlement Class. FED. R. CIV. P. 23(a)(2).

c. Typicality. Plaintiff has also shown "[t]he claims or defenses of the

representative parties are typical of the claims or defenses of the class” in relation to the Settlement Class proposed under the Settlement Agreement. FED. R. CIV. P. 23(a)(3).

d. Adequacy. Plaintiff and Plaintiff’s Counsel have demonstrated “[t]he representative parties will fairly and adequately protect the interests of the class” for the purposes of the proposed Settlement Class. FED. R. CIV. P. 23(a)(4). In addition, because the Court finds Plaintiff, Mary Katherine Harris, to be an adequate representative of the Settlement Class, and “Plaintiff’s Counsel” — The Lanier Law Firm (Reagan E. Bradford, Ryan K. Wilson, and Margaret E. Robertson), Rex A. Sharp, P.A. (Rex A. Sharp), and Garvin Agee Carlton, P.C. (Brett Agee) — to be adequate Class Counsel under Rule 23(a)(4) and (g)(1-4) for the Settlement Class, the Court hereby appoints Plaintiff as Class Representative; and Plaintiff’s Counsel as Settlement Class Counsel for the Settlement Class.

4. The Court also finds the requirements of Federal Rule of Civil Procedure 23(b)(3) are met in the context of this Settlement Class:

a. Predominance. Class Representative has shown “questions of law or fact common to the members of the [Settlement] Class predominate over any questions affecting only individual members.” FED. R. CIV. P. 23(b)(3); *see also*, *Naylor Farms, Inc. v. Chaparral Energy, L.L.C.*, 923 F.3d 779 (10th Cir. May 3, 2019) (affirming certification of royalty underpayment class action).

b. Superiority. Class Representative has also established the resolution of

the Litigation pursuant to the Settlement Agreement “is superior to other available methods for the fair and efficient adjudication of the controversy.” FED. R. Civ. P. 23(b)(3).

5. In sum, the Court finds the Settlement Class should be certified for the purposes of this proposed class settlement. The Settlement Class meets all certification requirements of Federal Rule of Civil Procedure 23. The Settlement Class is certified for settlement purposes only. In determining whether the requirements of Rule 23 have been satisfied for purposes of certifying the above class for settlement purposes, the Court has considered the fact of settlement and its impact upon the factors required for certification of the Settlement Class. Among other impacts of settlement, the Court need not inquire whether the case, if tried, would present intractable case management problems since the result of settlement is that there will be no trial. Because this case has been settled at this stage of the proceedings, the Court does not reach, and makes no ruling either way, as to the issue of whether the Settlement Class certified by agreement here for settlement purposes could have ever been certified in this case as a class for litigation purposes.

6. The Court approves Mary Katherine Harris as the Class Representative.

7. The Court further approves and appoints as Settlement Class Counsel the attorneys of record for Plaintiff in this action, namely The Lanier Law Firm (Reagan E. Bradford, Ryan K. Wilson, and Margaret E. Robertson), Rex A. Sharp, P.A. (Rex A. Sharp), and Garvin Agee Carlton, P.C. (Brett Agee).

8. The following findings are not as to the merits of the claims and defenses;

rather, the findings represent the Court's determination that the requisites for proceeding as a class action, for settlement purposes only, pursuant to applicable federal law, have been satisfied at this stage of the proceedings. The findings are expressly conditional upon and subject to final approval of the settlement as set forth in the Settlement Agreement. If, for any reason, the settlement set forth in the Settlement Agreement between the Parties is not finally approved according to its terms, all of the findings set forth in this Order shall be deemed withdrawn, shall have no further force or effect, and shall not be used for any purpose whatsoever. Nothing in this Order shall give rise to any collateral estoppel effect regarding the requirements for class certification in any other proceeding in which any Party to this litigation is a party.

9. As set forth in the Preliminary Approval Order, the Court finds that the Notice of Settlement and the Plan of Notice to be given to members of the Settlement Class constitutes the best notice practicable under the circumstances, constitutes valid, due, and sufficient notice to all members of the Settlement Class, and complies fully with applicable laws of the United States, the Oklahoma Constitution, and any other applicable laws.

Dated this 19th day of November, 2019.



Steven P. Shreder
United States Magistrate Judge
Eastern District of Oklahoma