

Mineral owners go after producer

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A wave of royalty lawsuits against Chesapeake Energy Corp. is starting in South Texas' Eagle Ford Shale oil field, with mineral owners accusing the company of underpaying them and charging expenses that breached their contracts.

The cases echo previous lawsuits filed by mineral owners against Chesapeake in the Barnett Shale, a natural gas field in the Fort Worth area.

The Eagle Ford lawsuits are believed to be the first of their kind in the 400-mile field. There are at least four filed so far in McMullen, Dimmit and La Salle counties by longtime ranching families.

"You'll see a tidal wave of royalty suits coming up in the Eagle Ford," said Daniel Charest of the Burns Charest law firm in Dallas. He filed a lawsuit in McMullen County this month against the company. Oklahoma City-based Chesapeake did not respond to requests for comment.

South Texas courthouses are already a tangle of lawsuits as mineral owners and would-be mineral owners — often members of the same family — battled with each other. Those arguments have been about who owns what and about what percentage of minerals was really conveyed with a land sale that may have happened decades ago. At stake were millions of dollars and family relationships strained by the newfound wealth of the Eagle Ford, where the first well was drilled in 2008.

Now, mineral owners appear to be turning their legal wrath against oil and gas companies.

Oil prices are slumping — causing landowners to scrutinize their royalty statements — and there's a four-year statute of limitations in Texas for making a legal claim for breach of contract. (But some savvy mineral owners have lease provisions that set aside the four-year time limit.) While mineral owners often assume that their royalty payments are correct, Texas courts have made clear that they have the burden of discovering any problems and taking legal action.

"As you see oil prices having fallen in the last year, people will be looking in greater detail at their revenue statement," Charest said. "Where they may not have felt a pinch in the past, they're feeling a pinch now. It happened in the Barnett when gas prices went down. I think you'll see the same thing in oilrich plays in the Eagle Ford and Bakken."

A lawsuit filed by Charest on behalf of several members of the Dilworth family in McMullen County includes several allegations. Some of the key ones are that Chesapeake underpaid by basing the royalties on improper volumes and prices for oil, gas and natural gas liquids and that the company charged post-production costs for things such as moving products to market, which was not allowed under the terms of the lease. The family has mineral interests on 15,900 acres, with more than 85 producing oil and gas wells, on the Prince Ranch, the 76 Ranch and the Dilworth Ranch.

Burns Charest represented the Bass family of Fort Worth, one of the state's wealthiest families, in a lawsuit against Chesapeake over unpaid oil and gas royalties in North Texas. That case was settled late last year, in what the law firm called "a favorable, confidential settlement."

Three other law firms — Houston-based Christian, Smith and Jewell; Fort Worth's Circelli, Walter & Young; and Langley & Banack of San Antonio — together have filed three lawsuits that cover around 30,000 acres in Dimmit, La Salle and McMullen counties and include similar issues about royalty payments.

“We have evidence to show that they are charging expenses that they can't charge,” said Wes Christian of Christian, Smith and Jewell. “Basically, it's a duplication on a much larger scale of what's going on in the Barnett. This will be hundreds of millions of dollars over time.”

The lawsuits also name the Chinese National Offshore Oil Corp., which invested in Chesapeake's Eagle Ford acreage in 2010 as a drilling partner.

Christian said he expects more lawsuits against Chesapeake to follow. The consortium of law firms involved so far is looking at other operators in the region, too.

The Texas Supreme Court last year ruled in Chesapeake vs. Hyder, a Barnett Shale case, that Chesapeake could not deduct post-production costs from a lease that had language that shifted those costs to the company. The Hyder family won nearly \$1 million.

Chesapeake holds around 500,000 acres in the Eagle Ford, and at one time, it was the biggest acreage holder in South Texas — leasing 785,000 acres in the region.

Though Chesapeake would eventually sell off some South Texas acreage and let other mineral leases expire, it remains one of the largest companies operating in South Texas, where it produces an estimated 97,000 barrels of oil equivalent per day, a measure that includes oil, condensate and natural gas.

The Eagle Ford now produces around 1.2 million barrels of crude oil and other liquids daily, according to the U.S. Energy Information Administration.