

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

**CHIEFTAIN ROYALTY COMPANY and
JACK LANCET,**)

Plaintiffs,)

v.)

QEP ENERGY COMPANY,)

Defendant.)

No. CIV-11-212-R

**DECLARATION OF MICHAEL BURRAGE IN SUPPORT OF
CASE CONTRIBUTION AWARDS, ATTORNEYS' FEES AND EXPENSES**

I, Michael Burrage, under oath, state as follows:

1. I am a royalty owner in several wells in Oklahoma.
2. I am a member of the Class certified by the Court because I own an interest in the Coblentz L MS Class Well.
3. I have vast experience in Oklahoma class actions as a judge, class counsel, and defense attorney. I have practiced law in Oklahoma since 1974. I have personally entered into many contingent fee agreements with putative class representatives in class actions, including in royalty owner underpayment litigation. As such, I am very familiar with the Oklahoma contingent fee market for class actions in general, and for royalty owner litigation in particular. For the same reasons, I am also familiar with the usual Oklahoma incentive awards provided to class representatives, which are somewhat higher for royalty owner class representatives.
4. Due to my experience and knowledge of reasonable attorneys' fees in common fund class actions in Oklahoma, I have served as an expert witness on the subject in oil and gas class

actions in both state and federal court. For example, I served as an expert witness on attorneys' fees in *Hill v. Marathon Oil Company*, a royalty underpayment class action in which this Court awarded a fee of 33 and 1/3% just last year. *See* Case No. CIV-08-37-R, Doc. No. 233 at ¶¶ 22-23 (W.D. Okla. Oct. 3, 2012). I also filed a declaration in a similar case, *Hitch Enterprises, Inc. v. Cimarex Energy Co.*, supporting class counsel's one-third fee request. In my declaration, I noted the typical fee award in similar cases in Oklahoma ranges between 33 and 1/3% and 40%.

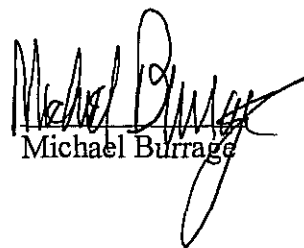
5. I have discussed the case and Settlement with Class Counsel. I also have reviewed the Notice and other case documents available on the settlement website. Based on my review of these materials and discussions with Class Counsel, and relying upon my experience as a royalty owner and attorney in Oklahoma, I fully support the Settlement and Class Counsels' request for attorneys' fees, case contribution awards and expenses.
6. I believe Class Counsel achieved an extraordinary and unprecedented Settlement in this case. The \$115 million cash portion of the Settlement alone recovers substantially more than 100% of the Class past royalty owed. In addition, Class Counsel achieved unprecedented Future Benefits on the Class's behalf having a present value of at least \$40 million according to QEP's own engineering expert. QEP agreed to change its entire royalty payment methodology for all Class Wells and any future wells on the Class Leases and Class Force Pooled Royalty Interests. These benefits will continue for the life of the Leases regardless of their assignment or transfer. Such benefits immediately increase the value of all Class Leases and Class Force Pooled Royalty Interests. To my knowledge, no other royalty payment settlement has included such outstanding class benefits. For these reasons, I fully support approval of the Settlement.

7. I also support Class Counsels' fee request for 33 and 1/3% of the total Settlement value. From my personal experience (which includes, among other things: (a) personally entering into contingent fee agreements in numerous class actions in Oklahoma state and federal court, (b) examining dozens of such agreements as an expert witness on attorneys' fees in Oklahoma, (c) serving as a federal judge in Oklahoma, and (d) reviewing court awards of common fund percentages in oil and gas class actions in Oklahoma), I know that the typical range of contingent fee agreements in oil and gas class action litigation in Oklahoma is between 33 and 1/3% and 40%.
8. I believe the 33 and 1/3% fee request is particularly reasonable in this case given the extraordinary settlement benefits achieved by Class Counsel. I believe it is appropriate to base this percentage on the total Settlement value of \$155 million and pay the entire fee from the cash proceeds of the Settlement. Even after deducting attorneys' fees and expenses, the Class will recover more than 100% of their past royalty underpayments. The Class will also receive future increases in royalty payments that have a net present value of at least \$40 million. Class Counsel also successfully negotiated additional benefits in the Settlement to ensure Class Members receive these increased royalty payments. First, QEP agreed to file a notice of their new royalty payment methodology in the land records in every county in which a Class Lease is located. Second, QEP agreed that the new royalty payment methodology will be employed for the life of the Class Leases. Third, QEP agreed to allow Class Representative Chieftain Royalty Company to conduct a bi-annual audit at QEP's expense to ensure QEP's compliance with its future royalty payment methodology. And, finally, QEP agreed to submit any future disputes regarding the implementation of its new royalty payment methodology to

binding arbitration at QEP's expense. These benefits ensure Class Members receive increased royalty payments without the need for additional, time consuming and expensive litigation in the future. To my knowledge, no such benefits have been achieved in any other royalty underpayment class settlement. Awarding attorneys' fees based on the total value of the Settlement benefits achieved in this case will serve to encourage class counsel to go the extra mile to obtain similar future benefits on behalf of royalty owners in future litigation.

9. I also support Class Counsels' request for a case contribution award of 0.5% of the settlement in the aggregate to the Class Representatives, with Chieftain Royalty Company receiving the majority of the award. From my experience as class counsel and an expert witness in similar cases in Oklahoma, case contribution awards of 1% are typical in similar cases. Given the two Class Representatives' substantial contribution of time and resources to the excellent Settlement achieved in this case, I believe an award of 0.5% in the aggregate is fair and reasonable. I also find that Chieftain Royalty Company's willingness to conduct bi-annual audits of QEP's future royalty payment methodology on behalf of the Class for the indefinite future particularly warrants the case contribution awards requested in this case.

On April 18, 2013, I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.


Michael Burrage

Other Documents

[5:11-cv-00212-R Chieftain Royalty Company v. QEP Energy Company](#)

U.S. District Court

Western District of Oklahoma[LIVE]

Notice of Electronic Filing

The following transaction was entered by Beckworth, Bradley on 4/25/2013 at 10:12 AM CDT and filed on 4/25/2013

Case Name: Chieftain Royalty Company v. QEP Energy Company

Case Number: [5:11-cv-00212-R](#)

Filer: Chieftain Royalty Company
Jack Lancet

Document Number: [138](#)

Docket Text:

[DECLARATION by All Plaintiffs Declaration of Michael Burrage in Support of Case Contribution Awards, Attorneys' Fees and Expenses. \(Beckworth, Bradley\)](#)

5:11-cv-00212-R Notice has been electronically mailed to:

Barry C Bartel bcbartel@hollandhart.com, intaketeam@hollandhart.com, jacrosslingsang@hollandhart.com

Brad E Seidel bseidel@npraustin.com, monatucker@nixlawfirm.com

Bradley Earl Beckworth bbeckworth@nixlawfirm.com, dwhatley@nixlawfirm.com, shannon@nixlawfirm.com, shelley@nixlawfirm.com, susanwhatley@nixlawfirm.com

David N Smith dneilsmith@mac.com, tracyrector.nixlaw@me.com

Jeffrey J Angelovich jangelovich@npraustin.com, bethgoodman@nixlawfirm.com, ncameron@npraustin.com

John F Shepherd jshepherd@hollandhart.com, intaketeam@hollandhart.com, jacrosslingsang@hollandhart.com

Lisa P Baldwin lbaldwin@npraustin.com, ncameron@npraustin.com

Max C Tuepker mtuepker@tuepker.com, tuepkeroffice@tuepker.com

Michael B Angelovich , Sr mangelovich@npraustin.com, ncameron@npraustin.com, tdean@npraustin.com

Patranell Britten Lewis plewis@barneslewis.com, jrabon@barneslewis.com, lbeebe@barneslewis.com, lrosales@barneslewis.com

Robert N Barnes rbarnes@barneslewis.com, jrabon@barneslewis.com, lbeebe@barneslewis.com, lrosales@barneslewis.com

Susan R Whatley susanwhatley@nixlawfirm.com, shannon@nixlawfirm.com

5:11-cv-00212-R Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1041971380 [Date=4/25/2013] [FileNumber=2503702-0
] [4b62e8e6661b62fcd16ba43f8d2e1cdbf2fb4dfe68f280b5b6c8309447236ba4360
e09affdbc6400ab09c0af3eecec2fcfae604320e2bad9eea9ec8ac8cd5db0]]