

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

Chieftain Royalty Company,)
)
 Plaintiffs,)

v.)

Case No. CIV-11-212-R

QEP Energy Company,)
(including affiliated predecessors and)
Successors))
)
 Defendant.)

Declaration of Barbara A. Ley in Support and Agreement of Settlement

I, Barbara A. Ley, declare as follows:

1. I am the shareholder and President of Barbara A. Ley, A Professional Corporation, an Oklahoma City based accounting and consulting firm. The firm, founded in 1989, specializes in oil and gas related matters in addition to other areas of practice. I am a Certified Public Accountant licensed to practice in Oklahoma and Texas. I have also earned the credentials of "Certified Information Technology Professional" (CITP) and "Certified in Financial Forensics" (CFF) awarded by the American Institute of Certified Public Accountants. I have over 30 years of public accounting experience and am experienced in petroleum and forensic accounting. I have been employed as an expert witness in numerous cases involving underpayment of royalty. Barbara A. Ley, A Professional Corporation, is compensated for my time in this matter at an hourly rate of \$295. Further details of my qualifications are shown on the attached Ex. A.

2. The Settlement provides a benefit with a calculated present value of at least \$155 million: \$115 million in cash and binding changes to QEP's royalty payment methodology that have a minimum present value of \$40 million as calculated by QEP. According to public data, my personal knowledge and information provided to me by Class Counsel, this Settlement represents the second largest Class Action royalty underpayment settlement in Oklahoma history and one of the largest in the country. The \$115 million cash portion of the Settlement alone provides a recovery of more than two and a half times the Class' past principal royalty underpayment during the entire claim period, which I estimated to be \$43.5 million. If QEP had been successful at trial in limiting damages to the 5 years immediately preceding the filing of the lawsuit in late February, 2011, the Class claim could have been limited to \$20.4 million in actual royalty principal underpayment according to my calculations. The Class Members will recover more than 100% of the past royalty principal underpayment they are allegedly owed after the requested attorneys' fees and expenses are deducted.

3. Through the discovery process QEP provided detailed accounting records that showed the amount paid to royalty owners from October 1992 through March 2012. Of the 2,129 Class Wells, approximately 45% of the wells were operated by QEP and in the remaining approximate 55% of the wells QEP was a non-operator who separately marketed gas. The claim period goes back to 1988. QEP also provided certain detailed accounting records showing how gas was marketed and what costs were incurred for midstream services – gathering, compression, dehydration, treating and processing. I used this data to assist in determining what midstream service fees were charged to

royalty owners. For the early period before October 1992, records were limited, but I was able to estimate what midstream service fees were charged to royalty owners using a combination of QEP records, public production records and monthly index pricing. Also, for months after March 2012, I estimated royalty underpayments on wells producing in March of 2012 based on the reasonable assumption that QEP continued the same royalty payment practices that occurred in prior years and I assumed March 2012 production and royalty underpayment remained constant through the end of 2012. QEP provided some additional paid history for wells which began production after March 2012. I incorporated the new wells into the March through December 2012 calculations. I continued to refine my estimates of royalty owner underpayments through the mediation process and even afterwards as new data became available to me. The ultimate result of my work shows a claimed royalty underpayment principal amount totaling \$43.5 million after giving credit to QEP for some leases which allowed certain costs to be deducted.

4. Because of the availability of monthly royalty owner payment data during much of the time period, I am able to allocate the underpaid royalty claim to a reasonable degree of accuracy among Class Wells both in dollar amount and the month in which the underpayment occurred. I concur with the recommendation that the \$115 million cash settlement fund (after deduction of all fees and expenses allowed by the Court) be allocated among Class Wells based on the Plaintiff's calculation of the monthly royalty underpayment to each Class Well and when that underpayment occurred. Interest on the calculated monthly underpayment by well was calculated utilizing statutory 12% interest compounded annually beginning July 1, 1989. Using this methodology I was able to

allocate to each well a proportionate part of the \$115 million cash payment after first excluding the requested amount of fees and expenses. The assumed fees and expenses that I deducted totaled \$53,791,667.00 and fell into the following categories: (1) one-third of \$155 million to Class Counsel as attorneys' fees; (2) Class Representative Incentive fee of \$775,000.00; and (3) \$1,350,000.00 in litigation expenses, including a reserve for future litigation expenses associated with distribution. I understand that a well-by-well listing with applicable allocation percentages has been attached to the Stipulation and Settlement Agreement as Exhibit 2 and that it has also been made available separately on the litigation website. I will be able to run a well-by-well allocation based on the final fees and expenses awarded by the Court.

5. QEP has done a calculation of the benefit to Class Member royalty owners associated with changes in royalty payment that QEP has agreed to implement starting with production month March, 2013. The future benefits will continue during the life of the leases currently in place. QEP calculated that future increases in royalty will result in a benefit to royalty owners which exceeds \$40 million on a discounted present value basis. QEP's claim is supported by detailed spreadsheet calculations and the affidavit of Scott Gutberlet, who is both an engineer and QEP's Vice President of Commercial and Technical Services. After completing a detailed review of QEP's calculations and assumptions (and suggesting several corrections and modifications that were mostly accepted by QEP as reasonable), I have verified the mathematical calculations based on QEP's assumptions and historic information that concludes that future increased royalty payments directly resulting from QEP's agreement to change its royalty payment

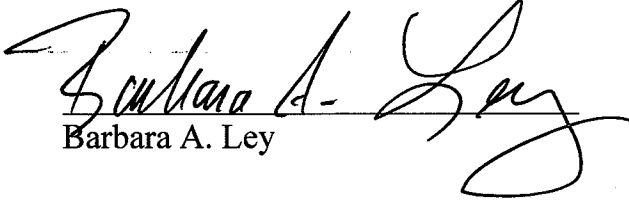
practices will result in at least a \$40 million benefit to Class Members on a discounted to present value basis. My suggestions that were not followed by QEP would have actually increased the benefit to Class Members. In fact, as Mr. Gutberlet mentions in his affidavit, QEP's calculations were run over a 30 year period. These calculations show that over the next 30 years the Class Members' benefits will continue to accumulate to the sum of over \$206 million (\$138 million on a discounted net present value basis) as production from current and future wells continues.

6. In performing my work in this case, I have consulted with and relied on the engineering opinions of Dan Reineke, a petroleum engineer who has worked along with me as an expert and consultant in this case.

7. In the future, QEP will be paying royalty on gas consumed as fuel off the lease in the gathering system and at the gas plant. For the first time, QEP will not deduct percentage-of-proceeds (POP) fees from royalty payments. QEP has agreed to not charge royalty owners for costs associated with gathering, compression, dehydration, and treating in the gathering system and at the gas plant. Although QEP has not agreed to every change that Mr. Reineke and I have suggested, QEP has agreed to many of them in this proposed settlement. To insure compliance with the new royalty payment methodology, QEP has agreed to undergo an initial compliance audit six (6) months after implementation and thereafter, bi-annually if requested to do so by Chieftain Royalty Company. These audits will be conducted by an outside public accounting firm and will be QEP's expense. This audit right is a benefit to the Class.

8. QEP has agreed that the future payment methodology will apply to all Class Members without regard to differences in lease language or status as a force pooled royalty owner. QEP has also agreed that the changes will apply to all present and future wells on the leases without regard to the location of the well or individual characteristics of any well. The future payment methodology is binding on QEP, as well as their successors and assigns.

9. I have also reviewed the proposed plan of allocation and distribution, which Class Counsel has submitted to the Court as part of its Proposed Final Approval Order. It is my opinion that the Plan of Allocation is fair, adequate, and reasonable, as it was formulated by competent Counsel with the assistance of experts and it compensates the Class Members in relation to their individual losses. Specifically, the Plan of Allocation starts with the well-by-well allocation I described in paragraph 4 above, allocating the Net Settlement Fund among the Class Wells based on a number of factors, including production, the relevant Claim Period, and the Class's royalty under payment claim attributable to each Well. From there, the Settling Parties will use the data Counsel obtained through its extensive information gathering campaign to distribute each Well's allocation to the Class based on each Class Member's royalty decimal interest. This straight-forward and logical Plan of Allocation is fair, adequate, and reasonable, and in the best interests of the Class.


Barbara A. Ley

Subscribed and sworn to before me this 3 day of May 2013.

[Seal]



My Commission Expires: 5-21-13
Chriss Shofner
Notary Public

My Commission No.:

9004347

Barbara A. Ley, CPA, CITP, CFF

- Office Address:** 6305 Waterford Boulevard, Suite 450
Oklahoma City, Oklahoma 73118
- Education:** Perry High School – 1973 Graduate
Ranked #1 in Graduating Class
- Oklahoma State University – Bachelor of
Science in Accounting – December 1976
Phi Kappa Phi – GPA 3.9/4.0
- Continuing Professional Education –
24 to 120 Hours each year from 1977 through present
- Profession:** Certified Public Accountant, holding permits to
practice in Oklahoma and Texas

Professional and Business History:

January 1989 – Present

President – Barbara A. Ley, A Professional Corporation, a full service accounting firm with 15 employees

- Accounting, Tax and Management Consulting services for businesses, individuals, trusts and estates.

Services provided include:

- Consultation, litigation support and forensic accounting relating to:
 - fraud allegations
 - oil and gas joint interest billings
 - Class Action Certifications
 - oil and gas royalty owner issues
 - divorce proceedings
 - bankruptcy and insolvency issues
 - financial statement analysis
 - purchase and sale of business interests
 - damage calculations
 - insurance claims
 - class action litigation
- Auditing procedures
 - financial audits
 - agreed upon procedures

January 1989 – Present (continued)

- Court appointed accountant for various Chapter 7 & 11 bankruptcy cases.
- Tax planning and preparation for a wide variety of individuals, closely held businesses, trusts and estates and non-profit organizations.
- Clients include royalty owners, working interest owners, oil and gas operators and oil and gas service companies.

November 1986 – December 1988

Partner – Ley & Bartley, Certified Public Accountants

- Accounting, tax and consulting services were provided to individuals, financial institutions, businesses, trusts and estates.
- Performed agreed upon procedures on behalf of oil and gas operators and oil and gas service companies.

July 1983 – November 1986

President – Snipes & Ley, A Professional Corporation

- Provided accounting and tax services to a variety of individuals, financial institutions, businesses, trusts and estates.
- Clients included publicly held pipe and supply company, drilling funds and oil companies involved in drilling and operations, royalty owners and working interest owners.

January 1977 – July 1983

Peat Marwick, Mitchell & Co., Certified Public Accountants

- Senior Tax Manager (1983)
- Scheduling coordinator for tax department (1980-1982). Responsible for scheduling of staff of 20 professionals.
- Continuing Professional Education Director (1979-1982). Responsible for education of tax department of 35 professionals. Instructor of various professional education courses.
- Tax Manager (1981).
- Tax and Audit Senior (1978).
- Audit Staff (1977-1978).
- Clients included publicly traded oil companies and financial institutions, publicly traded supply companies, numerous drilling funds, oil and gas equipment partnerships, drilling rig operators, private oil and gas companies and wealthy individuals.

Professional Organizations & Activities

Oklahoma Accountancy Board

- Reappointed by Governor Mary Fallin for a five year term beginning July 1, 2012
- Appointed by Governor Brad Henry for a five year term beginning July 1, 2007

EXHIBIT A

- Chairman 2011-2012
- Secretary 2008-2009
- Vice Chair 2010-2011

National Association of State Boards of Accountancy

- CPA Licensing Examinations Committee 2009-2010
- Education Committee 2008-2009

American Institute of Certified Public Accountants

- Board of Examiners 2012-2014
 - Financial Oversight Group-2013-2014
- Board of Examiners State Board Committee 2010-2014
 - Chair 2012-2014
- AICPA Council Member 2006
- Virtual Grass Roots Panel 2005-2010
- Appointed member of the national Tax Practice Improvement Committee 2004-2007 and co-author of article on "Document Retention"
- CPA Exam item reviewer 2004
- Appointed three-year member of the national Tax Practice Guides Committee and author of the initial Oil and Gas Tax Practice Guide
- Member Management Consulting Services, Information Technology and Tax Divisions
- Oklahoma representative to National IRS/CPA Issues Meeting 2000
- Certified Information Technology Professional certification (CITP)
- Certified in Financial Forensics

Oklahoma Society of Certified Public Accountants

- Accounting Hall of Fame Inductee-2010
- Board of Directors 2002-2008
 - President 2006-2007
 - President Elect 2005-2006
 - Treasurer 2004-2005
 - Secretary 2002-2004
- Executive Committee 2002-2008
- Planning Committee 2005-2006
- Tax Committee Chair 1999-2001
- Nominating Committee 2000, Chair 2007, 2008
- Oklahoma Representative to Austin Service Center Focus Group
- Oklahoma Tax Commission Liaison (4 years)
- Various committees

Oklahoma Society of Certified Public Accountants Educational Foundation

- Board of Directors 2007-2008

Texas Society of Certified Public Accountants

Other Professional Activities:

- Oklahoma State University School of Accounting 2012 Distinguished Alumna Award

- Recognized by CPA Magazine as one of the Top 100 Most Influential Practitioners, December 2006
- Appointed member of Citizen and Legislative Task Force on Tax Reform 2002
- Provided analysis of proposed legislation in accounting and tax related areas for the Oklahoma Office of State Finance
- Served as Governor Frank Keating's appointee on The Citizens' Task Force on Taxation and as the Task Force's chairman of the Subcommittee on Estate Tax
- Co-Chairman on Business issues for Governor Keating's Task Force on Taxes
- Monitoring committee for "Taking Oklahoma's Business Tax Climate into the 21st Century" study sponsored by the Office of State Finance
- Speaker for various organizations, including Oklahoma City Chamber of Commerce, Tulsa Chamber of Commerce, Oklahoma Bar Association and various civic organizations
- On air commentary for radio and local television regarding accounting, financial and tax issues

Barbara A. Lev

Cases in which testimony was rendered:

1. In District Court of Texas County, State of Oklahoma
Brumley, et al. vs. Phillips Petroleum Company
Case No. CJ-2001-05
2. In Denver District Court, State of Colorado
H. Huffman and Co. vs. Evergreen Resources, Inc., et al.
Case No. 00CV-5941
3. In U.S. District Court for the Western District of Oklahoma, State of Oklahoma
Hazelwood Production and Exploration Co., LLC, et al. vs. Evergreen Resources,
Inc., et al.
Case No. CIV-99-1782-R
4. In U.S. District Court for the Western District of Oklahoma, State of Oklahoma
Switzer, et al. vs. Chevron, et al.
Case No. CIV-00-478-R
5. In the District Court of Garfield County, State of Oklahoma
Farrar Oil Company vs. Conoco Inc., et al.
Case No. CJ-2000-356-02
6. In the District Court of Washita County, State of Oklahoma
Nations Bank N.A., et al., vs. El Paso Natural Gas Company and Burlington
Resources Oil and Gas Company
Case No. CJ-97-68
7. In the District Court of Beaver County, State of Oklahoma
Lobo Exploration Company vs. Amoco Production Company
Case No. CJ-97-72
8. In the District Court of Beaver County, State of Oklahoma
Galen Bridenstine, et al. vs. Kaiser-Francis Oil Company, et al.
Case No. CJ-95-54
9. In the District Court of Oklahoma County, State of Oklahoma
Larry K. Killebrew, M.D., Inc., vs. Integris Health, Inc.; Baptist Healthcare of
Oklahoma, Inc.; and Stanley F. Hupfeld,
Case No. CJ-2000-3443-67
10. In the District Court of Oklahoma County, State of Oklahoma
In The Matter of The Guardianship of Robert Drew Bowers, an Incompetent person
Case No. P-81-2502-56

11. In U.S. District Court for the Western District of Oklahoma, State of Oklahoma
Lowry C. Smith, et al. vs. Apache Corporation
Case No. CIV-2004-206-T
12. In U.S. District Court for the Western District of Oklahoma, State of Oklahoma
A-Cross Ranch vs. Apache Corporation
Case No. CIV-2004-200-T
13. In the District Court of Caddo County, State of Oklahoma
Donna Lawrence vs. Cimarex Energy Co.
Case No. CJ-2004-391
14. The United States District Court Northern District of Texas
Donald M. Hill vs. Jupiter eSources, LLC, et al. vs. DMH & Associates, LLC
Case Number 3-05CV-1820P ECF
15. In the District Court of Oklahoma County, State of Oklahoma
Mikkelson Beef, Inc. vs. The State of Oklahoma ex rel. Department of
Transportation Case Number CJ-2005-782 and The State of Oklahoma ex rel.
Department of Transportation vs. Mikkelson Beef, Inc.
Case Number CJ-2005-2306
16. In the District Court of Washita County, State of Oklahoma
Linville Shockey, et al. vs. Chevron, et al.
Case No. CJ-2001-7
17. In the District Court of Caddo County, State of Oklahoma
Ivan J. Simmons, et al. vs. Anadarko Petroleum Corporation
Case No. CJ-2004-57
18. In the District Court of Washita County, State of Oklahoma
Bank of America vs. El Paso Natural Gas Company and Burlington Resources Oil
and Gas Company
Case No. CJ-2004-45
19. In the United States District Court, Western District of Oklahoma
Larry Switzer, et al. vs. Apache Corporation
Case No. CIV-04-0267 T
20. In the District Court of Caddo County, State of Oklahoma
James Wade, et al. vs. Citation Oil & Gas Corp., et al.
Case No. CJ-04-217
21. In the United States District Court, Western District of Oklahoma
J. C. Hill and Alice Hill, et al. vs. Kaiser-Francis Oil Company
Case No. CIV-09-07-R

22. In the United States District Court, Western District of Oklahoma
J. C. Hill and Alice Hill, et al. vs. Marathon Oil Company
Case No. CIV-08-37-R
23. In the United States District Court, Western District of Oklahoma
Billy B. Tucker, as Trustee of the Tucker Living Trust, et al. vs. BP America
Production Company
Case No. CIV-08-619-M
24. In the United States District Court, Western District of Oklahoma
Bill Fankhouser and Tim Goddard, et al. vs XTO Energy, Inc. f/k/a Cross Timbers
Oil Company
Case No. CIV-07-798-L
25. In the United States District Court, Western District of Oklahoma
Lois Foster, et al. vs Merit Energy Company
Case No. CIV-10-758-F
26. In the United States District Court, Western District of Oklahoma
Naylor Farms, Inc., et al. vs. Questar Exploration and Production Co.; GPM Gas
Corporation; Duke Energy Field Services, Inc., and DCP Midstream, L.P.
Case No. CIV-08-688-R
27. In the District Court of Canadian County, State of Oklahoma
In the Matter of the Estate of Clarence R. Wright, Jr.,
No. PB-2008-33
28. In the United States District Court, Western District of Oklahoma
Sherry Morrison, as Trustee, on Behalf of the Haar Family Trust, et al. vs.
Anadarko Petroleum Corporation
Case No. CIV-10-135-M
29. In the United States District Court, Western District of Oklahoma
Chieftain Royalty Company vs. QEP Energy Company
Case No. CIV-11-212-R
30. In the United States District Court, District of Kansas
Freebird, Inc. vs. Merit Energy Company
Case No. 10-1154-KHV-JPO
31. In the United States District Court, Eastern District of Oklahoma
Chieftain Royalty Company v. XTO Energy, Inc.
Case No. CIV-11-29-FHS
32. In the United States District Court, District of Kansas
Gene R. Eatinger vs. BP America Production Company
Case No. 07-CV-01266-JTM-KMH

33. In the United States District Court, Western District of Oklahoma
Jennifer McKnight and Scott McKnight vs. Linn Operating Inc.,
Linn Energy, LLC, Dominion Exploration Midcontinent, Inc. and
Dominion Oklahoma Texas Exploration & Production Inc.,
Case No. 10-CIV-00030-R
34. In the United States District Court, Western District of Oklahoma
Lois Foster v. Apache Corporation
Case No. CIV-10-573-HE
35. In the United States District Court, Western District of Oklahoma
Naylor Farms, Inc. and Harrel's LLC vs. Chaparral Energy, LLC
Case No. 5:11-cv-00634-HE
36. In the United States District Court, Western District of Oklahoma
Chieftain Royalty Company vs. SM Energy Company
Case No. CIV-11-177-D
37. In the United States District Court, District of Kearney County, Kansas
Wallace B. Roderick Revocable Living Trust Trustee Wallace B. Roderick, and
John W. Fitzgerald vs. Oxy USA Inc.
Case No. 08 CV 08
38. In the District Court of Washita County, State of Oklahoma
The Tipton Home, Trustee of the Glen Jones and Della Mae Jones Irrevocable
Family Trust, et al. vs. Burlington Resources Oil & Gas Company, L.P.
Case No. CJ-2011-11
39. In the District Court of Custer County, State of Oklahoma
Mel Jean Weber, as Personal Representative of the Estate of Tom Ruble, et al. vs.
Mobil Oil Corporation; ExxonMobil Oil Corporation; Mobil Exploration and
Producing North America Inc.;
Case No. CJ-2001-53
40. In the District Court of Grady County, State of Oklahoma
James A. Drummond and Chris Parrish vs. Range Resources Corporation, Range
Resources-Mid-Continent, LLC and Range Production;
Case No. CJ-2010-510

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 5/6/2013 at 10:21 AM CDT and filed on 5/6/2013

Case Name: Chieftain Royalty Company v. QEP Energy Company

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

Filer: Chieftain Royalty Company
Jack Lancet

Document Number: [149](#)

Docket Text:

[DECLARATION by All Plaintiffs Declaration of Barbara A. Ley in Support and Agreement of Settlement. \(Attachments: # \(1\) Exhibit A - Curriculum Vitae\)\(Beckworth, Bradley\)](#)

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

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Electronic document Stamp:

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80e81b8dcea9a595d6a25b26d74705f636d88902860947795be1650c90fd]]

Document description:Exhibit A - Curriculum Vitae

Original filename:n/a

Electronic document Stamp:

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