

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

FILED

SEP 06 2018

PATRICK KEANEY
Clerk, U.S. District Court

By _____
Deputy Clerk

MCKNIGHT REALTY CO., on behalf of
itself and all others similarly situated,

Plaintiff,

v.

Case No.: CIV-17-308-KEW

BRAVO ARKOMA, LLC; and BRAVO
NATURAL RESOURCES, LLC,

Defendants.

**ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPROVING FORM OF NOTICE TO CLASS MEMBERS,
AND SETTING DATE FOR SETTLEMENT FAIRNESS HEARING**

This matter came on for hearing on the 6th day of September 2018, on the Plaintiff’s motion for preliminary approval of the proposed settlement between the Plaintiff and Settlement Class and Defendants. The terms in the Settlement Agreement, and all other capitalized terms in this order, are given and used with the same meanings as the meanings given to them in the Settlement Agreement that the parties have filed in the captioned case, unless this order specifically assigns a different meaning to any term. The referenced Settlement Agreement will be referred to in this Order as the “Settlement Agreement.” The parties additionally seek approval of the form of Notice of Settlement and setting the date for Settlement Fairness Hearing.

The Court, after reviewing the pleadings on file in this cause, hearing arguments of counsel and being fully and sufficiently advised, after specifically making a preliminary review of the Settlement Agreement among Plaintiff and Defendants finds that the Plaintiff’s Motion should be, and is hereby, granted.

THEREFORE, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. The Settlement Agreement appears to provide terms within the range of being fair, reasonable, and adequate to the Settlement Class, and should be preliminarily approved by the Court.

2. The Court further finds that a Settlement Fairness Hearing should be held before the Court on December 21, 2018 at 9:30 Am. at the United States District Courthouse for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma 74401. Evidence and arguments will be presented in support of final approval of the Settlement Agreement in accordance with Rule 23 and at which evidence and arguments will be heard in support of Settlement Class Counsel's request for fees, litigation expenses, and an incentive award for the Class Representative. At the Settlement Fairness Hearing, the Court may, among other matters:

(a) consider any proper and timely filed opt-outs, timely objections to the proposed settlement, and timely objections to the request by the Class Representative and Settlement Class Counsel for fees and litigation expenses, and an incentive award for the Class Representative, only if such opt-outs or objections comply with the requirements set forth in the Notice of Settlement and this order;

(b) make further findings and orders concerning certification of the Settlement Class for settlement purposes, whether the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class, and whether it should therefore be finally approved by the Court as required by Rule 23;

(c) make findings concerning whether the request by the Class Representative and Settlement Class Counsel for fees and litigation expenses, and for an incentive award for the Class Representative, to be awarded from the common fund in this case, is fair and reasonable;

(d) enter a Final Judgment as provided for in the Settlement Agreement;
and

(e) consider any other matters properly brought before the Court concerning the Class Lawsuit and the proposed settlement.

3. The forms of the Notice of the proposed settlement referenced in **Exhibits D-1 and D-2** of the Settlement Agreement, will adequately inform the members of the Settlement Class of the scope and effect of the proposed settlement, as well as their rights related thereto. Therefore, the Court approves the proposed Notice forms provided for in **Exhibits D-1 and D-2** to the Settlement Agreement.

4. The manner of providing notice of the proposed settlement to putative members of the Settlement Class should, as provided in the Settlement Agreement, be accomplished by: (1) mailing the revised proposed Notice, **Exhibit D-1** to the Settlement Agreement, by first class mail as soon as reasonably possible to those putative members of the Settlement Class for whom names and mailing addresses have been identified; (2) publishing the Notice attached as **Exhibit D-2** to the Settlement Agreement, as further described in the Plan of Notice in the Settlement Agreement as soon as reasonably possible (or if the newspaper does not publish daily, the first publication date thereafter); and, (3)

mailing the proposed Notice and other documents to the state attorneys general as soon as reasonably possible.

5. The Notice documents provided for in **Exhibits D-1** and **D-2** to the Settlement Agreement, and the method of notification to the Settlement Class set forth herein and in the Plan of Notice provided for in the Settlement Agreement, constitute the best notice practicable under the circumstances. Such forms of notice constitute due and sufficient notice of the Settlement Agreement and the proposed class settlement, and of the time, date and place of the Settlement Fairness Hearing, and constitutes due and sufficient notice for all other purposes, in accordance with all applicable statutory and state and federal constitutional requirements and other law, to all persons legally entitled to receive such notice.

6. Settlement Class Counsel shall cause to be filed *under seal* with the Court a declaration of mailing reflecting the names, addresses, and date of mailing of the form of Notice attached to the Settlement Agreement as **Exhibit D-1**, the date of the mailing to the state attorneys general, and shall also cause to be filed affidavits or declarations of publication of the form of Notice attached to the Settlement Agreement as **Exhibit D-2**, prior to the Settlement Fairness Hearing, to verify that notice by mailing and publication have been accomplished pursuant to this order and the Settlement Agreement.


7. Each person who wishes to appear at the Settlement Fairness Hearing in person or through separate counsel to object to the fairness, reasonableness or adequacy of the Settlement Agreement, or any provision thereof, or the amount of Settlement Class Counsel's requested fees and litigation expenses, or the incentive award requested for the

Class Representative, shall be required to timely file with the United States District Court Clerk for the Eastern District of Oklahoma so that the Court and all counsel of record will know that a timely objection has been made by 5:00 p.m. on November 19, 2018, a written objection which shall contain the following:

- (a) A heading referring to Case No. 17-CV-00308-KEW, and to the United States District Court for the Eastern District of Oklahoma;
- (b) A reasonably detailed statement of each objection;
- (c) The objector's current address and telephone number;
- (d) The objector's notarized signature; and
- (e) Identification of the objector's interest in Class Wells by identifying each Class Well and objector's Operator-assigned owner or royalty number.

8. The Court further finds that an objector who fails to follow the specified procedure for objecting to the settlement or the requests for fees, expenses, or incentive award, as set forth above, shall not be permitted to raise or pursue an objection at the Settlement Fairness Hearing, and such failure shall constitute waiver of any objection to the Settlement Agreement or right to appeal. Furthermore, any objector who does not appear, either in person or by counsel, at the Settlement Fairness Hearing to present his, her or its objections shall be deemed to have waived the right to object, and any such non-compliant objection by such person will be deemed withdrawn and of no effect.

Dated this ___ day of September, 2018.


KIMBERLY E. WEST
U.S. MAGISTRATE JUDGE

APPROVED:

THE LANIER LAW FIRM

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COUNSEL FOR DEFENDANTS

EXHIBITS:

Exhibit D-1: Long form of Notice (for mailing purposes)

Exhibit D-2: Shorter form of Notice (for publication purposes)

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

MCKNIGHT REALTY CO., on behalf of
itself and all others similarly situated,

Plaintiff,

v.

Case No.: CIV-17-308-KEW

BRAVO ARKOMA, LLC; and BRAVO
NATURAL RESOURCES, LLC,

Defendants.

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

**SENT TO YOU UNDER COURT ORDER FROM THE HONORABLE
KIMBERLY E. WEST, U.S. MAGISTRATE JUDGE, TO:**

All persons who are royalty owners in Oklahoma wells where Bravo Arkoma LLC or Bravo Natural Resources, LLC (including their affiliated predecessors and affiliated successors) are or were the operator (or a working interest owner, which marketed its share of gas and directly paid royalties to the royalty owners).

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 company or its affiliated entities that produces, gathers, processes, or markets gas; and, (5) royalty owners only to the extent receiving "Blanchard" payments.

More information can be found on the website established for communications about this settlement: www.bravosettlement.com. The website includes a list of Class Wells that are affected by, and subject to, this Settlement as well as the entire Settlement Agreement with its exhibits (the "Settlement Agreement"). Capitalized terms in this Notice have the meaning given to them in the Settlement Agreement.

This Notice of Settlement ("Notice") is given pursuant to the Order of the United States District Court for the Eastern District of Oklahoma (the "Court") in accordance with Rule 23 of the Federal Rules of Civil Procedure. The purpose of this Notice is to advise you:

- (a) This Court has conditionally certified this lawsuit as a class action for settlement purposes.
- (b) The Class Representative, Class Counsel, and Defendants: (1) Bravo Arkoma, LLC; and (2) Bravo Natural Resources, LLC (collectively “Bravo”) have entered into a Settlement Agreement that will become effective only after the court-approved Judgment is entered and becomes Final and Non-Appealable. The Settlement Agreement provides that Bravo shall pay the Settlement Class \$1,300,000.00, subject to the conditions and qualifications set forth in the Settlement Agreement, including reductions in the amount for Monies Payable to Opt-Outs under the terms of the Settlement Agreement (the “Settlement Proceeds”). The Settlement Proceeds is a gross amount before deduction of court approved Class Counsel Fees and Expenses, class representative incentive award, and Administration Expenses.
- (c) The Court will hold the Settlement Fairness Hearing to determine whether to finally approve the Settlement.

TO OBTAIN THE BENEFITS OF THIS PROPOSED SETTLEMENT, YOU DO NOT HAVE TO DO ANYTHING.

IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY IN ITS ENTIRETY. YOUR RIGHTS WILL BE AFFECTED BY THE LEGAL PROCEEDINGS IN THIS LAWSUIT.

I. SUMMARY OF THE CLASS LAWSUIT

This Class Lawsuit was filed in Oklahoma state court and removed to this Federal Court. The Class Representative on behalf of itself and similarly situated royalty owners asserted that Bravo underpaid royalties by taking deductions for fees and expenses relating to the midstream post-production costs of gathering, compression, dehydration, treatment, processing, and marketing and used fuel from the Class Wells without paying royalty on the volume of gas so used from January 1, 2014 through May 31, 2018. The Released Claims (as defined in ¶ 1.18 of the Settlement Agreement) include all claims that were or could have been asserted for underpayment of royalties on gas and gas constituents in connection with this Class Lawsuit. Bravo continues to deny all of the allegations of liability and damages and has asserted various defenses to the Class Representative’s Claims and to the certification of the Class. If the Settlement is approved, the Class Lawsuit will be dismissed with prejudice.

By giving this Notice, the Court is not expressing any opinion regarding the merits of either the Class Representative’s claims or Bravo’s defenses. Nothing contained in this

Notice should be construed as suggesting the Court's view as to which side might prevail should this matter proceed to class certification and trial on the merits.

II. CLASS CERTIFICATION

The Court entered an Order titled "Order for Preliminary Approval of Settlement" granting the Class Representative's Motion for Preliminary Approval of Settlement and conditionally certifying, for settlement purposes only, this Class Action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

In the Order for Preliminary Approval of Settlement, the Court defined the Settlement Class as described above and designated McKnight Realty Company as the Class Representative of the Settlement Class and appointed as Settlement Class Counsel:

Barbara Frankland Scott Goodger Ryan Hudson Rex Sharp REX A. SHARP, P.A. 5301 West 75 th Street Prairie Village, KS 66208	Reagan Bradford Mark Lanier THE LANIER LAW FIRM, P.C. 100 E. California Ave., Suite 200 Oklahoma City, OK 73104
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III. THE PROPOSED CLASS SETTLEMENT

After a thorough analysis of all claims and defenses, and after extensive negotiations, expert analysis, and a settlement conference conducted by Magistrate Judge West, the Class Representative on behalf of itself and the Settlement Class, Settlement Class Counsel, and Bravo have agreed to settle the Released Claims, subject only to Bravo's limited right to terminate the Settlement Agreement, final approval by the Court, and entry of a Final and Non-Appealable Judgment. The Court has preliminarily approved the Settlement for the purpose of giving this Notice and setting a Settlement Fairness Hearing.

The basic terms of the Settlement Agreement between the Settlement Class and Bravo (that the Court is being asked to approve) are as follows:

1. Bravo, as that term is defined in the Settlement Agreement, will pay the sum of \$1,300,000.00 (subject to adjustments set forth in the Settlement Agreement) to the Settlement Class as a full, complete, and final settlement of all Released Claims as to all Released Parties during the Released Period, all as more specifically defined in the Settlement Agreement. Bravo shall not be liable to the Settlement Class, the Class Representative, or Settlement Class Counsel for any other costs, expenses, or fees.

2. Bravo and the Class Representative agree that the Settlement Proceeds, subject to adjustments for opt-outs, shall be for the benefit of the Settlement Class, subject to the court-approved awards of Class Counsel Fees and Expenses, a class representative incentive award, and Administration Expenses.
3. When Bravo deposits the Settlement Proceeds into the McKnight Settlement Account, the Settlement Class and Class Representative shall be deemed to have fully, finally, and forever released, relinquished, and discharged Bravo and the Released Parties for all Released Claims.
4. Bravo has asserted and continues to assert many defenses to the Class Representative's and Settlement Class' claims and contentions. Bravo expressly asserts its defenses have merit and that it has no liability to the Settlement Class or the Class Representative.

IV. DISTRIBUTION OF NET SETTLEMENT AMOUNT TO CLASS MEMBERS

Class Counsel will ask the Court to (i) award Class Counsel an attorney's fee in an amount to be determined by the Court, but not to exceed forty percent of the Settlement Proceeds; (ii) award the Class Representative a fee in an amount to be determined by the Court but not to exceed two percent of the Settlement Proceeds; and (iii) reimburse Class Counsel from the Settlement Proceeds for all reasonable litigation expenses they have paid, including expert and consulting fees and other litigation expenses in amounts to be provided to the Court, and Administration Expenses advanced before the Settlement is finally approved. If the Court approves this request, these amounts will be deducted from the Settlement Proceeds before Distribution Checks are mailed to the Class from the Net Settlement Amount.

Generally, the allocation of the Net Settlement Amount (as set forth in the "Plan of Allocation") shall be proportionately allocated among Class Members based upon their decimal interest in the royalty interests in each Class Well, and the volume of Bravo's gas produced from the owner's well from January 1, 2014–May 31, 2018. The Plan of Allocation is subject to Court approval. A draft of that the Plan of Allocation is attached to the Settlement Agreement as Exhibit A and is available on the website at www.bravosettlement.com

The distribution to Class Members described above is based on the following assumptions: (a) that very few sales of royalty interests have occurred during the specified time period; (b) that, where sales did occur, the parties intended for the buyer to receive payment for past claims; and (c) that, where royalty interests passed through inheritance, devise or interfamilial transfers, it was the intent that the heir, devisee or transferee receive the right to receive payment for claims based on past production. To the extent these

assumptions are not correct in relation to particular transfers of interests; the Court will be asked to order that the Class Member who receives payment shall in turn make payment to the proper party.

V. CLASS SETTLEMENT FAIRNESS HEARING

The Settlement Fairness Hearing will be held on _____, 2018 beginning at _____.m., in the United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, OK 74401.

A CLASS MEMBER WHO DOES NOT OPT OUT DOES NOT NEED TO APPEAR AT THE SETTLEMENT FAIRNESS HEARING OR TAKE ANY OTHER ACTION TO PARTICIPATE IN THE SETTLEMENT.

VI. WHAT ARE YOUR OPTIONS AS A CLASS MEMBER?

A. You Can Participate in the Proposed Class Settlement by Doing Nothing.

By taking no action, your interests will be represented by the Class Representative and Class Counsel. As a Class Member, you will be bound by the outcome of the Settlement, if finally approved by the Court. The Class Representative and Class Counsel believe that the Settlement is in the best interest of the Class, and, therefore, they intend to support the proposed Settlement at the Settlement Fairness Hearing.

B. You May Opt Out of the Settlement Class.

If you do not wish to be a member of the Settlement Class, then you may opt out of the Class as set forth in ¶ 10.3 of the Settlement Agreement and summarized below. On or before November 19, 2018 at 5:00 p.m. Central time, your opt-out must be filed with the United States District Court for the Eastern District of Oklahoma.

Your opt-out must state the following:

(a) I do not want to be a member of the Settlement Class in *McKnight Realty Company v. Bravo Arkoma, LLC, et al.*, No. CIV-17-308-KEW, pending in the United States District Court for the Eastern District of Oklahoma. I understand it will be my responsibility to pursue any claims I may have, if I so desire, on my own and at my expense;

(b) My Bravo royalty identification number is # _____. I own royalty interest in the following Class Wells: [identify each Class Well by Well name]; and

(c) The opt-out member's signature acknowledged by a Notary Public.

C. You May Remain a Member of the Settlement Class but Object to the Proposed Settlement.

You have the right to remain a Class Member but still object to the proposed Settlement and any terms thereof under ¶ 10.3 of the Settlement Agreement. To object to the Settlement, on or before November 19, 2018 at 5:00 p.m. Central time, you must file with the Clerk of the Court for the United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, OK 74401, a written objection that contains the following information:

- (a) A heading referring to *McKnight Realty Company v. Bravo Arkoma, LLC, et al.*, No. CIV-17-308-KEW, pending in the United States District Court for the Eastern District of Oklahoma;
- (b) A reasonably detailed statement of each objection;
- (c) The objector's current address and telephone number;
- (d) The name, address, and telephone number of objector's counsel, if any;
- (e) The objector's owner identification number with Bravo and the identification by Well name for each Class Well in which objector owns a royalty interest;
- (f) The objector's notarized signature.

Any Class Member who fails to timely file such written statement or fails to provide the required information will be treated as if not filed at all. Any appeal by a valid and timely objector must comply with the Settlement Agreement, which includes a provision for the posting of an appeal bond.

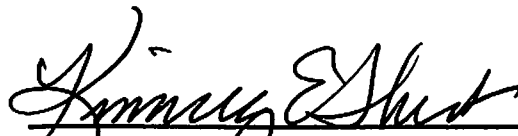
VII. CONDITIONS AND CONSEQUENCES OF NON-APPROVAL

If the Court does not enter an Order approving the Settlement or an appellate court disapproves the Settlement, then the Settlement shall become null and void and the case will proceed as though the Settlement Agreement was never entered into.

VIII. SCOPE OF NOTICE AND ADDITIONAL INFORMATION

This Notice contains only a summary of the Class Lawsuit and the proposed Settlement Agreement. The pleadings and other papers filed in this Action are available in the Office of the Clerk of the Court for the United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, OK 74401. You also may obtain a copy of the Complaint and Settlement Agreement, as well as any status updates on this case, from the following website: www.bravosettlement.com.

**PLEASE DO NOT CALL OR WRITE THE JUDGE OR
THE CLERK ASKING FOR INFORMATION.**


KIMBERLY E. WEST
U.S. MAGISTRATE JUDGE

IMPORTANT NOTICE OF CLASS ACTION SETTLEMENT
FROM THE HONORABLE KIMBERLY E. WEST, MAGISTRATE JUDGE
FOR THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA:

All persons who are royalty owners in Oklahoma wells where Bravo Arkoma LLC or Bravo Natural Resources, LLC (including their affiliated predecessors and affiliated successors) are or were the operator (or a working interest owner, which marketed its share of gas and directly paid royalties to the royalty owners).

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 company or its affiliated entities that produces, gathers, processes, or markets gas; and, (5) royalty owners only to the extent receiving "Blanchard" payments.

IF YOU ARE IN THE CLASS DEFINED ABOVE AND DID NOT RECEIVE IN THE MAIL A "NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION", THEN YOU SHOULD PROMPTLY OBTAIN A COPY OF THE NOTICE AND READ IT CAREFULLY AS IT IMPLICATES YOUR RIGHTS. Call the Settlement Administrator at 1-833-288-5306 or visit www.bravosettlement.com.