

IN THE DISTRICT COURT OF GARVIN COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA }
GARVIN COUNTY } SS:
FILED
DEC 17 2024
AT _____ O'CLOCK _____ M.
LAURA LEE, Court Clerk
BY _____ DEPUTY

Wake Energy, LLC, on behalf of itself and all)
others similarly situated,)
)
Plaintiff,)
)
v.) Case No. CJ-2024-267
)
)
Devon Energy Production Company, L.P.,)
)
Defendant.)

**CLASS COUNSEL'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
APPROVAL OF REIMBURSEMENT OF LITIGATION EXPENSES AND
ADMINISTRATION, NOTICE, AND DISTRIBUTION COSTS**

Class Counsel¹ respectfully file this Memorandum in Support of Class Counsel's Motion for Approval of Reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and hereby move this Court for entry of an Order approving Class Counsel's request for reimbursement of expenses incurred in successfully prosecuting and resolving this Litigation in an amount not to exceed \$39,000.00 (the "Expense Request") - *i.e.*, the amount set forth in the Notice.² Additionally, Class Counsel respectfully move the Court for approval of reimbursement of Administration, Notice, and Distribution Costs in an amount not to exceed \$130,000.00. In support thereof, Class Counsel respectfully shows the Court as follows:

¹ All capitalized terms not otherwise defined herein shall have the meaning given to them in the September 30, 2024 Settlement Agreement, a copy of which is attached as Exhibit 1 to the *Memorandum of Law in Support of Plaintiff's Unopposed Motion to Certify the Settlement Class for Settlement Purposes, Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice and Set Date for Final Approval Hearing* that was filed on October 17, 2024.

² Class Counsel's Expense Request does not include Administration, Notice, and Distribution Costs associated with effectuating the Settlement. In the Notice, Class Counsel stated they would request approval of Administration, Notice, and Distribution Costs associated with effectuating the Settlement.

INTRODUCTION

These requests are fair and reasonable, and, therefore, Class Counsel respectfully request that they be approved. Class Counsel have obtained a substantial recovery for the benefit of Class Members, which consists of a cash payment of \$2,000,000.00 (the “Gross Settlement Fund”) to compensate the Settlement Class for past damages. The \$2,000,000.00 Gross Settlement Fund is an outstanding recovery for Class Members.

To achieve this recovery for the Class, Class Counsel were required to expend out-of-pocket expenses that were necessary and reasonable for the prosecution of this action. Class Counsel now seek reimbursement of those reasonable expenses, in an amount not to exceed \$39,000.00. To date, Class Counsel have advanced \$24,705.51³ in prosecuting and resolving this case. *See* Class Counsel Declaration at ¶ 64. In addition to these expenses, Class Counsel may incur additional expenses between now and the Final Approval Hearing. *See id.* As such, at the hearing, Class Counsel may seek reimbursement for expenses incurred after the date of this filing, not to exceed \$39,000.00. *Id.* In addition, Class Counsel reserve their right to make additional expense requests following the Final Approval Hearing. However, in no event will Class Counsel’s expense request exceed the \$39,000.00 stated in the Notice. Because the Expense Request is fair and reasonable, and for the reasons set forth below, the Expense Request should be granted.

To facilitate the settlement, provide notice, and distribute funds, Notice to the Settlement Class stated Class Counsel would request approval of Administration, Notice, and Distribution Costs associated with effectuating the Settlement to be paid from the Gross Settlement Fund. *See* Settlement Administrator Declaration at Exhibits A-C. These costs will include those of the Settlement Administrator JND. As with the Litigation Expenses, Class Counsel only seek approval

³ All expense calculations contained herein are through November 30, 2024.

of payment of Administration, Notice, and Distribution Costs actually incurred and not to exceed \$130,000.00.

FACTS & PROCEDURAL BACKGROUND

In the interest of brevity, Class Counsel will not recite the background of this Litigation. Instead, Class Counsel respectfully refer the Court to the Final Approval Memorandum, Class Counsel Declaration, the pleadings on file, and any other matters of which the Court may take judicial notice, all of which are incorporated fully herein. *See* 12 O.S. § 2202 (court may take judicial notice of “adjudicative facts” that are “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”).

ARGUMENTS & AUTHORITIES

I. The Request for Reimbursement of Litigation Expenses is Reasonable and Should be Approved.

Oklahoma’s class action statute provides “the court may award . . . nontaxable costs that are authorized by law or by the parties’ agreement.” *See* 12 O.S. § 2023(G)(1). Class Counsel respectfully request reimbursement of Litigation Expenses that have been and may be advanced or incurred by Class Counsel in prosecuting and resolving this Litigation. *See* Class Counsel Declaration at ¶¶ 64-66. Class Counsel set forth in the Class Notices that they would seek up to \$39,000.00 in reimbursement of expenses. *See* Settlement Administrator Declaration at Exhibits A-C. To date, Class Counsel’s out-of-pocket expenses are \$24,705.51. *See* Class Counsel Declaration at ¶¶ 64. All of these expenses were reasonably and necessarily incurred by Class Counsel and are directly related to their prosecution and resolution of this Litigation. *Id.* The costs include routine expenses related to copying, court fees, postage and shipping, phone charges, legal research, and travel and transportation, as well as expenses for experts, document production and review, which are typical of large, complex class actions such as this.

Moreover, the Expense Request is consistent with other litigation expense awards in Oklahoma state and federal courts. *See, e.g., Farrar Oil Company v. Conoco Inc., et al.*, CJ 2000-356, Garfield County, Oklahoma (approving Class Counsel's request for reimbursement of \$170,780.59 in litigation expenses); *Sacket v. Great Plains Pipeline Co.*, CJ-2002-70, Woods County, Oklahoma (approving reimbursement of \$350,000 in litigation expenses); *Drummond v. Range Resources Corp.*, CJ-2010-510, Grady County, Oklahoma (approving reimbursement of \$641,852.06 in litigation expenses); *Fitzgerald Farms, LLC v. Chesapeake Operating, LLC*, CJ-2010-38, Beaver County, Oklahoma (approving reimbursement of \$310,000 in litigation expenses); *DDL Oil & Gas, LLC v. Diversified Production, LLC*, CJ-2019-17, Blaine County, Oklahoma (approving \$100,000 in litigation expenses).⁴ Therefore, the Expense Request should be granted because it is fair and reasonable.

II. The Request for Approval of Administration, Notice, and Distribution Costs is Reasonable and Should be Approved.

In the Notice to the Settlement Class, Class Counsel stated they would request approval of Administration, Notice, and Distribution Costs associated with effectuating the Settlement to be paid from the Gross Settlement Fund. *See* Settlement Administrator Declaration at Exhibits A-C. These costs will include those of the Settlement Administrator JND. As with the Litigation Expenses, Class Counsel will only seek approval of payment of Administration, Notice, and

⁴ The Eastern, Western, and Northern Districts of Oklahoma have approved similar amounts in other royalty actions. *See, e.g., Kernan v. Casillas Operating, LLC*, Case No. 18-CIV-107-JD (W.D. Okla. January 3, 2023) (awarding litigation expenses up to \$200,000.00) (Dkt. No. 123); *White Family Minerals, LLC v. EOG Resources, Inc.*, Case No. 19-cv-409-RA W (E.D. Okla. November 12, 2021) (awarding litigation expenses up to \$100,000.00) (Dkt. No. 60); *Donald D. Miller Revocable Family Trust v. DCP Operating Co., LP, et al.*, No. CIV-18-0199-JH (E.D. Okla. June 29, 2021) (awarding litigation expenses up to \$200,000.00 and notice, administration, and distribution expenses up to \$300,000.00) (Dkt. No. 97); *Hay Creek Royalties, LLC v. Roan Resources, LLC*, Case No. 19-CV-177-CVE-JFJ (N.D. Okla. April 28, 2021) (awarding past litigation expenses of \$263,586.63) (Dkt. No. 74); *Reirdon v. Cimarex Energy Co.*, No. 6:16-cv-113-KEW (E.D. Okla. Dec. 18, 2018) (awarding \$174,191.50 in past litigation expenses and future expenses up to \$250,000.00) (Dkt. No. 104); and *Reirdon v. XTO Energy Inc.*, No. 6:16-00087-KEW (E.D. Okla. Jan. 29, 2018) (awarding \$223,056.78 in past litigation expenses and future expenses up to \$300,000.00) (Dkt. No. 125).

Distribution Costs actually incurred, and in no event will their request exceed the amount of \$130,000.00. Such costs for the necessary administration, notice, and distribution have frequently been approved in analogous cases. *See, e.g. DDL Oil & Gas, LLC v. Diversified Production, LLC*, CJ-2019-17, Blaine County, Oklahoma (Sept. 18, 2023 Order awarding costs up to \$250,000.00); *White Family Minerals, LLC v. EOG Resources, Inc.*, Case No. 19-cv-409-RA W (E.D. Okla. November 12, 2021) (awarding costs up to \$150,000.00) (Dkt. No. 60); *Donald D. Miller Revocable Family Trust v. DCP Operating Co., LP, et al.*, No. CIV-18-0199-JH (E.D. Okla. June 29, 2021) (awarding costs up to \$300,000.00) (Dkt. No. 97); *McClintock v. Enterprise Crude Oil, LLC*, No. CIV-16-136-KEW (E.D. Okla. March 26, 2021) (awarding costs up to \$225,000.00) (Dkt. No. 121); *Reirdon v. Cimarex Energy Co.*, No. 6:16-cv-113-KEW (E.D. Okla. Dec. 18, 2018) (awarding costs up to \$250,000.00) (Dkt. No. 104); *Reirdon v. XTO Energy Inc.*, No. 6:16-00087-KEW (E.D. Okla. Jan. 29, 2018) (awarding costs up to \$300,000.00) (Dkt. No. 125). The request is fair and reasonable, is in line with similar awards, and, as a result, should be granted by the Court.

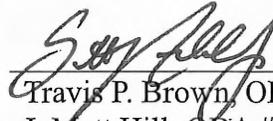
CONCLUSIONS

For the foregoing reasons, Class Counsel respectfully request the Court (1) award the Expense Request of \$24,705.51, *plus* any additional amount Class Counsel actually incur after the filing of this Memorandum, not to exceed the noticed amount of \$39,000.00, and (2) approve payment of Administration, Notice, and Distribution Costs in an amount not to exceed the amount of \$130,000.00.

Respectfully submitted,

Dated: December 17, 2024.

By:



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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2024, a copy of the forgoing was mailed to the following counsel:

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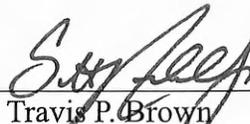
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