

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

JOHN CECIL,  
on behalf of himself and all others similarly situated,  
Plaintiff,

vs.

BP AMERICA PRODUCTION COMPANY (f/k/a  
Amoco Production Company) (including BP Amoco  
Corporation, ARCO, BP Exploration, Inc., BP  
Corporation North America, Inc., and BP Energy  
Company),

Defendant.

Civil Action No. 16-CV-00410-KEW

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION**

*A court authorized this Notice. This is not a solicitation from a lawyer.*

***If you belong to the Settlement Class and this Settlement is approved, your legal rights will be affected.*** Read this Notice carefully to see what your rights and options are in connection with this Settlement. <sup>1</sup>

Because you may be a member of the Settlement Class in the Litigation captioned above and described below (“the Litigation”), the Court has directed this Notice to be sent to you. Defendant BP America’s (“Defendant” or “BP America”) records show payment to you of royalties on natural gas and its constituents (including helium, residue gas, natural gas liquids, nitrogen, and drip condensate) produced from well(s) in Oklahoma that BP America operated or, as non-operator, BP America separately marketed the gas and its constituents. Capitalized terms not otherwise defined in this Notice shall have the meanings attributed to those terms in the Settlement Agreement referred to below and available at [www.cecil-bp.com](http://www.cecil-bp.com).

This Notice generally explains the claims being asserted in the Litigation, summarizes the Settlement, and tells you about your rights to remain a Class Member or to timely and properly submit a Request for Exclusion (also known as an “opt out”) so that you will be excluded from the Settlement. This Notice provides information so you can decide what action you want to take with respect to the Settlement before the Court is asked to finally approve it. If the Court approves the Settlement and after the final resolution of any objections or appeals, the Court-appointed Settlement Administrator will issue payments to eligible Class Members, without any further action from you.

This Notice describes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

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<sup>1</sup> This Notice is a summary of the terms of the Settlement Agreement in this matter. Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. A copy of the Settlement Agreement is available for free at [www.cecil-bp.com](http://www.cecil-bp.com). The terms, conditions, and definitions in the Settlement Agreement qualify this Notice in its entirety.

The Settlement Class in the Litigation consists of the following individuals and entities:

All persons or entities, except as specifically excluded below, who are or were royalty owners in wells located in Oklahoma which had production during any portion of the time period from January 1, 1985 through and including December 31, 2017, where Defendant BP America Production Company (including its affiliated predecessors and affiliated successors) is or was the operator (or a working interest owner) who marketed its share of gas as to production before January 1, 2018. The claims in this matter relate to royalty payments for gas and its constituents (such as residue gas, natural gas liquids, helium, nitrogen, or drip condensate).

Excluded from the Class are: (1) United States agencies and Indian tribes and allottees; (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) the claims of royalty owners to the extent their claims are covered by prior settlement agreements, if any, releasing claims as to all or part of the Class Period, but only to the extent such prior settlements fully released the claims of such royalty owner(s) that would be released by this proposed class settlement as to the Class Wells, Released Parties, and Released Claims (the intent being that this Settlement be and remain effective as to any claims not already released by any such prior settlement agreements); (5) overriding royalty owners and others whose interest was carved out from the lessee's working interest; (6) officers of the Court in this case; (7) persons or entities that the Court determines Plaintiff's Counsel are prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (8) any publicly traded company and their affiliated entities that produces, gathers, processes or markets gas; and (9) royalty owners who are suing in their individual capacities only for the alleged underpayment or nonpayment of royalties in *Watts, et al. v. BP America Production Company*, Case No. C-2001-73 in the District Court for Pittsburg County, Oklahoma.<sup>2</sup>

If you are unsure whether you are included in the Settlement Class, you may contact the Settlement Administrator at:

*Cecil-BP Settlement*  
c/o JND Class Action Administration, Settlement Administrator  
P.O. Box 91344  
Seattle, WA 98111  
1-888-593-6798

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

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<sup>2</sup> The Plaintiffs in the *Watts v. Amoco* case as of the date hereof are: Ronald W. McGee, as Trustee of Watts Ranch, LLC; Nora Ann Watts Enis; Judy R. Durant; Johnye L. Barnes; the Estate of Clara Joann Smith; and the C&J Wilcox Family Trust.

## **I. General Information About The Litigation**

The Litigation seeks damages for Defendant's alleged underpayment of royalties to the royalty owners in the Class described above on Oklahoma wells where Defendant (or a predecessor or affiliate of Defendant) is or was the operator or, as a non-operator, Defendant (or a predecessor or affiliate of Defendant) separately marketed gas.

Plaintiff John Cecil ("Plaintiff") alleges that BP America breached an implied covenant to market, breached the underlying leases, breached an alleged fiduciary duty, violated RICO, and committed fraud with respect to royalty payments for gas and its constituents (including helium, residue gas, natural gas liquids, nitrogen and condensate).

These claims are premised on a variety of allegations, including but not limited to the allegations that Defendant (or a predecessor or affiliate of Defendant): (1) made various deductions and reductions from royalty payments that should not have been made by deducting direct and indirect fees for marketing, gathering, compression, dehydration, processing, treatment, and other similar services before the gas and its constituents (including helium, residue gas, natural gas liquids, nitrogen, and drip condensate) was a "marketable product"; (2) did not pay royalty, or underpaid royalty, on gas that was used off the lease premises or in the manufacture of products; (3) did not pay royalty, or underpaid royalty, on drip condensate that dropped out of the gas stream; (4) failed to provide to royalty payees all of the information required by statute; and, (5) made affiliate sales.

Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation. The Court has made no determination with respect to any of the parties' claims or defenses. A more complete description of the Litigation, its status, and the rulings made in the Litigation are available in the pleadings and other papers maintained by the United States District Court for the Eastern District of Oklahoma, located at 101 North 5th Street, Muskogee, Oklahoma 74401, in the file for Case No. 16-CV-00410-KEW.

## **II. The Settlement, Attorneys' Fees, Litigation Expenses, Case Contribution Award, And The Settlement Allocation And Distribution To The Class**

On September 5, 2018, the Court preliminarily approved a Settlement in the Litigation between Plaintiff, on behalf of himself and the Settlement Class, and Defendant. This approval and this Notice are not an expression of opinion by the Court as to the merits of any of the claims or defenses asserted by any of the parties to the Litigation, or of whether the Court will ultimately approve the Settlement Agreement.

In settlement of all claims alleged in the Litigation,<sup>3</sup> Defendant has agreed to pay One Hundred Forty-Seven Million Dollars (\$147,000,000.00) in cash ("Gross Settlement Fund"), plus Defendant implemented new procedures and policies for calculating and paying royalty with respect to production on Class Wells (the "Past Benefits"), the value of which will be estimated by Plaintiff's expert. Defendant has also agreed to maintain these procedures and policies with respect to production on Class Wells for at least the next 7 years, which Plaintiff estimates has a net present value of no less than \$35,000,000 (the "Future Benefits").

In exchange for the payment noted above and other consideration outlined in the Settlement Agreement, the Settlement Class shall release the Released Claims (as defined in the Settlement Agreement available for

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<sup>3</sup> The Settlement also resolves the following lawsuits: *Chockley v. BP America Production Co.*, Case No. CJ-2002-84 in the District Court for Beaver County, Oklahoma; and *Chieftain Royalty Co. v. BP America Production Co.*, Case No. 16-cv-444-JH in the U.S. District Court for the Eastern District of Oklahoma (the "Additional Litigation").

review and download at [www.cecil-bp.com](http://www.cecil-bp.com)) against the Released Parties (as defined in the Settlement Agreement). The \$147,000,000.00 cash payment, plus the Past and Future Benefits is referred to as the “Gross Settlement Value.” The Gross Settlement Fund, less reasonable Plaintiff’s Attorneys’ Fees, Litigation Expenses, any Case Contribution Award, and other costs approved by the Court (the “Net Settlement Fund”), will be distributed to Class Members.

Co-Lead Counsel for Plaintiff (“Plaintiff’s Counsel”) intends to seek an award of attorneys’ fees of not more than 40% of the Gross Settlement Value. Plaintiff’s Counsel, Reagan Bradford and Mark Lanier of The Lanier Law Firm and Rex Sharp and Barbara Frankland of Rex A. Sharp, P.A., have been litigating this case as Co-Lead Counsel without any payment whatsoever, advancing hundreds of thousands of dollars in expenses. At the Final Fairness Hearing, Plaintiff’s Counsel will also seek reimbursement of the Litigation Expenses incurred in connection with the prosecution of this Litigation and that will be incurred through final distribution of the Settlement, which amount will not exceed \$1,600,000.00, to be paid out of the Gross Settlement Fund. In addition, Plaintiff intends to seek a Case Contribution Award for representation of the Class, which amount will not exceed \$450,000.00, to compensate Plaintiff and class representatives in the Additional Litigation for their time, expense, risk and burden as serving as Class Representatives.

The Court must approve the Allocation Methodology and Initial Plan of Allocation, which describe how the Settlement Administrator will allocate the Net Settlement Fund to each Class Member. A general description of that process is: Plaintiff’s Counsel will first allocate the Net Settlement Fund proportionately to each Class Well<sup>4</sup> with due regard for: (i) the production BP America marketed on behalf of itself and/or others; (ii) the amount and date of claimed royalty underpayment to Class Members; (iii) the time period when the claimed underpayment occurred; and (iv) the distribution of small amounts that would exceed the cost of the distribution. Thereafter, subject to approval by the Court, the Settlement Administrator will allocate the Net Settlement Fund for each Class Well among all Class Members in that Class Well based on their royalty decimal interest in that Class Well using the royalty payment information described in paragraph 3.3 of the Settlement Agreement.

The distribution to current 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 interfamily transfers, it was the intent that the heir, devisee or transferee receive the right to receive payment for claims based on past production.

The Net Settlement Fund will be distributed by the Settlement Administrator within 7 months after the Effective Date of the Settlement. The Effective Date requires the exhaustion of any appeals, which may take a year or more after the entry of Judgment. The Settlement may be terminated on several grounds, including if the Court does not approve or materially modifies the terms of the Settlement. If the Settlement is terminated, the Litigation will proceed as if the Settlement had not been reached.

This Notice does not and cannot set out all the terms of the Settlement Agreement, which is available for review and download at [www.cecil-bp.com](http://www.cecil-bp.com). This website will eventually include this Class Notice, a preliminary Class Well list, the Initial Plan of Allocation, and the Plaintiff’s Counsel’s application for Attorneys’ Fees, Litigation Expenses, and Case Contribution Award. You may also receive information about the progress of the Settlement by visiting the website at [www.cecil-bp.com](http://www.cecil-bp.com), or by contacting the Settlement Administrator at the address set forth above.

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<sup>4</sup> Paragraph 1.5 of the Settlement Agreement defines “Class Wells”.

### III. Class Settlement Fairness Hearing

The Final Fairness Hearing will be held on November 19, 2018 beginning at 2:00 p.m. CST, before the Honorable Kimberly E. West, U.S. Magistrate Judge for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma. Please note that the date of the Fairness Hearing is subject to change without further notice. You should check with the Court and [www.cecil-bp.com](http://www.cecil-bp.com) to confirm no change to the date and time of the hearing has been made.

At the Fairness Hearing, the Court will consider: (a) whether the Settlement is fair, reasonable, and adequate; (b) any timely and properly raised objections to the Settlement; (c) the Allocation Methodology; (d) the Initial Plan of Allocation; and (e) the application for Plaintiff's Attorneys' Fees and Litigation Expenses and Case Contribution Award for Plaintiff relating to his representation of the Class.

**A CLASS MEMBER WHO WISHES TO PARTICIPATE IN THE SETTLEMENT AND DOES NOT SUBMIT A VALID REQUEST FOR EXCLUSION DOES NOT NEED TO APPEAR AT THE FINAL FAIRNESS HEARING OR TAKE ANY OTHER ACTION TO PARTICIPATE IN THE SETTLEMENT.**

### IV. What Are Your Options As A Class Member?

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

By taking no action, your interests will be represented by Plaintiff as the Class Representative and Plaintiff's 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 Plaintiff's Counsel believe that the Settlement is in the best interest of the Class, and, therefore, they intend to support the proposed Settlement at the Final Fairness Hearing. As a Class Member, if you are entitled to a distribution pursuant to the Allocation Methodology and Final Plan of Allocation, you will receive your portion of the Net Settlement Fund and will be bound by the Settlement Agreement and all orders and judgments entered by the Court regarding the Settlement. If the Settlement is approved, unless you exclude yourself from the Settlement Class, neither you nor any other Releasing Party will be able to start a lawsuit or arbitration, continue a lawsuit or arbitration, or be part of any other lawsuit against any of the Released Parties based on any of the Released Claims during the Class Period.

#### B. You May Submit a Request for Exclusion to Opt Out of the Settlement Class

If you do not wish to be a member of the Settlement Class, then you must exclude yourself from the Settlement Class by mailing by certified mail, return receipt requested, a Request for Exclusion to the Settlement Administrator to be received by **October 26, 2018, at 5 p.m. CDT**. Your Request for Exclusion must state your name, address, telephone number, and contain your notarized signature. It must also include the following:

(a) A statement that you want to exclude yourself from the Settlement Class in *Cecil v. BP America*, Case No. 16-CV-00410-KEW, U.S. District Court for the Eastern District of Oklahoma, and that you understand it will be your responsibility to pursue any claims you may have, if you so desire, on your own and at your expense.

(b) A description of your interest in an Oklahoma well (or wells) where Defendant, including its predecessors or affiliates, is or was the operator or, as a non-operator, Defendant separately marketed gas, including the well name, well number, county in which the well is located, and the owner identification number.

**If you do not follow these procedures—including mailing the Request for Exclusion so that the Settlement Administrator receives it by the deadline set out above—you will not be excluded from the Settlement Class, and you will be bound by all of the orders and judgments entered by the Court regarding**

**the Settlement, including the release of claims.** You must exclude yourself even if you already have a pending case against any of the Released Parties based upon any Released Claims during the Class Period. You cannot exclude yourself on the website, by telephone, facsimile, or by e-mail. If you validly request exclusion as described above, you will not receive any distribution from the Net Settlement Fund, you cannot object to the Settlement, and you will not have released any claim against the Released Parties. You will not be legally bound by anything that happens in the Litigation.

**C. You May Remain a Member of the Settlement Class but Object to the Settlement, Allocation Methodology, Initial Plan of Allocation, Plaintiff's Attorneys' Fees, Litigation Expenses, or Case Contribution Award**

You have the right to remain a Class Member but still object to the proposed Settlement and any terms thereof. To object to the Settlement, Allocation Methodology, Initial Plan of Allocation, and/or application for Plaintiff's Attorneys' Fees or reimbursement of Litigation Expenses or Case Contribution Award to Plaintiff, you must file your written statement with the Court.

Your written objection statement must contain:

- (a) A heading referring to *Cecil v. BP America*, Case No. 16-CV-00410-KEW and to the United States District Court for the Eastern District of Oklahoma;
- (b) A statement as to whether the objector intends to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, providing the name, address, email address, and telephone number of counsel;
- (c) A detailed statement of the specific legal and factual basis for each and every objection;
- (d) A list of any witnesses the objector wishes to call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Local Rules of the Court);
- (e) A list of and copies of any exhibits the objector may seek to use at the Final Fairness Hearing;
- (f) A list of any legal authority the objector may present at the Final Fairness Hearing;
- (g) The objector's name, current address, current telephone number, and all royalty owner identification numbers with Defendant (or other operator);
- (h) The objector's signature executed before a Notary Public;
- (i) Identification of the objector's interest in wells where Defendant, including its predecessors or affiliates, is or was the operator or, as a non-operator, Defendant separately marketed gas (by well name, payee well number, and county in which the well is located) during the Class Period; and
- (j) If the objector is objecting to any portion of Plaintiff's Attorneys' Fees, Litigation Expenses, or Case Contribution Award, the objector must specifically state the portion of Attorneys' Fees, Litigation Expenses, and/or Case Contribution Award (whichever applies to the objection) that he/she believes is fair and reasonable and the portion that is not.

Any Class Member that fails to timely file the written objection statement and provide the required information will not be permitted to present any objections at the Final Fairness Hearing.

**Your written objection must be timely filed with the Court at the address below no later than 5 p.m. CDT on October 26, 2018:**

Clerk of the Court  
United States District Court for the Eastern District of Oklahoma  
101 North 5th Street  
Muskogee, Oklahoma 74401

**UNLESS OTHERWISE ORDERED BY THE COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT (OR ANY PART THEREOF) AND WILL NOT BE ALLOWED TO PRESENT ANY OBJECTIONS AT THE FINAL FAIRNESS HEARING.**

**D. You May Retain Your Own Attorney to Represent You at the Final Fairness Hearing**

You have the right to retain your own attorney to represent you at the Final Fairness Hearing. If you retain separate counsel, you will be responsible to pay his or her fees and expenses out of your own pocket.

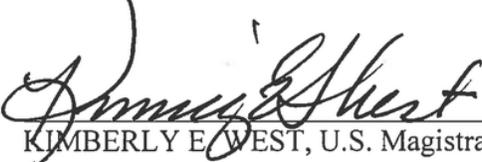
**V. Availability of Filed Papers And More Information**

This Notice summarizes the fifty-page Settlement Agreement, which sets out all of the terms. You may obtain a copy of the Settlement Agreement with its exhibits, as well as other relevant documents, from the settlement website for free at [www.cecil-bp.com](http://www.cecil-bp.com), or you may request copies by contacting the Settlement Administrator as set forth above. In addition, the pleadings and other papers filed in this Action, including the Settlement Agreement, are available for inspection in at the Office of the Clerk of the Court, set forth above, and may be obtained by the Clerk's office directly. The records are also available on-line for a fee through the PACER service at [www.pacer.gov/](http://www.pacer.gov/).

If you have any questions about this Notice, you may consult an attorney of your own choosing at your own expense or Class Counsel.

**PLEASE DO NOT CONTACT THE JUDGE OR THE COURT CLERK ASKING FOR INFORMATION REGARDING THIS NOTICE.**

DATED this 5th day of September, 2018.

  
KIMBERLY E. WEST, U.S. Magistrate Judge