

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

JEFFERY CARLOS HALE, ETC.,)	
)	
Plaintiff,)	Case No. 1:10CV00059
)	
v.)	ORDER CERTIFYING CLASS
)	
CNX GAS COMPANY, INC., ET)	By: James P. Jones
AL.,)	United States District Judge
)	
Defendants.)	

Before the court are Defendant CNX Gas Company LLC’s Objections to the Magistrate Judge’s Class Certification Report and Recommendation (ECF No. 281), Torch Oil & Gas Company’s Objections to the Magistrate Judge’s Report and Recommendation (ECF No. 280), and Buckhorn Coal Company, Commonwealth Coal Corporation and Harrison-Wyatt, LLC’s Objections to Magistrate Judge Sargent’s Report and Recommendations of June 5, 2013 (ECF No. 279) (collectively, “Objections”), which Objections have been fully briefed and argued. Based upon my de novo consideration of the matters to which the Objections were directed, it is **ORDERED** as follows:

1. The Objections are DENIED;

2. The magistrate judge's Report and Recommendations (ECF No. 272) are ACCEPTED, provided that the class definition is modified as set forth below herein;

3. The Motion for Class Certification, Appointment of Class Counsel, and Appointment of Class Representative (ECF Nos. 76 and 173) is GRANTED and this action is hereby certified as a class action pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure;

4. The class certified (the "Class") is defined as follows:

Each person, or their successors-in-interest, who has been identified by CNX Gas Company, LLC, or its predecessors ("CNX") as the unleased owner of gas estate interests in a tract included in a force-pooled coalbed methane gas ("CBM") unit operated by CNX in Buchanan, Russell, and/or Tazewell County, Virginia, and whose ownership of the coalbed methane gas attributable to that tract has been further identified by CNX as being in conflict with a person or persons identified by CNX as owning coal estate interests and not gas estate interests in the tract, according to filings made by CNX with the Virginia Gas and Oil Board ("the Board") and/or according to orders entered by the Board pursuant to CNX's filings.

The Class excludes (a) CNX; (b) any person who serves as a judge in this civil action and his or her spouse; (c) any gas estate owner who has entered into a written agreement with a purported coal estate owner settling alleged conflicting claims of CBM ownership between them, provided, however, that this exclusion does not extend to those interests or rights of any such gas estate interest owner regarding lands, CBM units, CBM royalties, and/or CBM proceeds that are not expressly covered and settled by any such settlement agreement; and (d) any gas estate owner who has received a judicial determination of ownership regarding alleged conflicting claims of CBM ownership, provided, however, that this exclusion does not extend to those interests or rights of any such gas estate interest owner

regarding lands, CBM units, CBM royalties, and/or CBM proceeds that are not expressly covered and settled by any such judicial determination.

5. Jeffrey Carlos Hale is appointed as Class representative; and

6. The following law firms are appointed jointly as Class counsel: Lieff Cabraser Heiman & Bernstein, LLP; Daniel Coker Horton & Bell, P.A.; Glubiak Law Office; Barrett Law Group, P.A.; and White Law Office.

ENTER: September 30, 2013

/s/ James P. Jones
United States District Judge