

DR Region

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Judge lacked jurisdiction to order well plugged

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MILLERSBURG — A Holmes County judge did not have jurisdiction when he ordered an oil and gas well plugged.

The June 4 opinion was issued by the Fifth District Court of Appeals, to whom oil and gas producers Thomas Whitney and Donald Ridgeway appealed following a ruling made by Common Pleas Judge Robert Rinfret, who found the

well was "inactive."

Rinfret's decision was the culmination of a civil lawsuit filed by property owners Darrell and Dortha Helms. The lease with Ridgeway and Whitney entitles them to signing bonuses and the better part of royalties paid by deep drilling into the shale.

With signing bonuses in southeastern Ohio reaching \$7,000 an acre, the financial gain is great for the holder of a property's mineral rights, said attorney Thom White, who

initially represented the Helmses and said many landowners are tidying up old claims to avoid problems in the future.

The well, drilled in 1918, is known as Crider No. 4 and had been used by Whitney and Ridgeway to produce oil and gas from 1976-2009, according to court records. To that point, and into 2010, royalty payments were made to the Helmses.

Production stopped in 2009 after a storm

knocked down a goat pen and disrupted electric power to the well, according to court records.

Conflict ensued about restoration of power, and Rinfret rejected the producers' claim the Helmses prevented attempts to restore power. While the higher court upheld Rinfret's decision in that matter, they accepted the defense argument it is the job of the Ohio Department of Natural Resources, and not the court, to consider if a well is inactive and, if so, order it plugged.

those in the oil and gas industry, but also landowners," said Eckinger.

In determining Rinfret lacked authority to declare the well inactive and lacked jurisdiction to order it plugged, those parts of the November ruling were vacated.

Robert Eckinger, attorney for Whitney and Ridgeway, said the opinion sets a precedent that will help to ensure future decisions are made only by ODNR.

"This is good news not just for my clients and

those in the oil and gas industry, but also landowners," said Eckinger. "The ODNR has experts who deal with these sorts of decisions on a regular basis, unlike a court of common pleas. Landowners will be better off having the most qualified individuals deciding whether a well should be plugged or given inactive status."

According to Eckinger, the appellate opinion,

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Plugged

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which cites several Ohio Revised Code sections and his own argument, "positions the chief (of the ODNR's Division of Oil and Gas Resource Management) as the sole initial decider of all issues related to the plugging of Ohio wells."

The opinion brought parties back to the common pleas court Tuesday, where Eckinger argued the Helmses have continued to prohibit access to allow Whitney and Ridgeway "the right to work on the well in a reasonable manner."

"My clients are fed up because this is how this all started," said Eckinger.

The Helmses, who appeared without legal representation, asked for a continuation of the hearing, which was granted by Rinfret.

In the meantime, Rinfret, without objection from the Helmses, authorized Ridgeway and Whitney to go onto the property to remove the antiquated derrick, which was used to drill the well nearly 100 years ago. He also said the two could work to perform general maintenance on the well.

"In my opinion, if you can work with them, it will be to your advantage if you can get it resolved and can start getting revenues from it," he told the landowners. "They're willing to get it going, running and get you some royalties."

Parties in the case will return to court Aug. 12.

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