



## Ohio Court Limits Horizontal Offsite Drilling

### CASE LAW UPDATE: OIL & GAS DRILLING

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A trial court in Harrison County, Ohio has permanently enjoined two companies from hydraulically drilling on a property to recover offsite oil and gas because their mineral rights do not reserve such drilling rights. *Jewett Sportsmen & Farmers Club, Inc. v. Chesapeake Exploration, LLC*, Case No. CVH-2011-0113 (Jan. 17, 2012). The defendants, Chesapeake Exploration, LLC and Buckeye Energy, LLC, are successors-in-interest to the mineral rights reserved by North American Coal Company (“North American”). In 1959, North American deeded the 177-acre property to the Jewett Sportsmen & Farmers Club (“Club”) with a reservation for certain mineral rights. The defendants had already commenced operations on the Club’s property to install two drill pads when the Club sued to enjoin their operations.

While the court held in an earlier decision that the defendants had a right to drill for oil and gas directly below the property on which the mineral rights were held (“Property”), it reached a different conclusion regarding drilling from the Property to reach oil and gas horizontally on adjacent properties (“Adjacent Properties”). The court focused on language in the 1959 deed which provided that the mining company had the “privileges of mining and removing through and under said described premises other coal, oil, gas or other minerals.” The court held that “through and under” meant that drilling for offsite oil and gas had to occur and remain at all times beneath the surface of the Property. Due to the fact that the oil and gas were going to be horizontally drilled from Adjacent Properties and recovered on the surface of the Property, the court concluded that the horizontal offsite drilling went beyond the “through and under” rights reserved under the deed.

In other words, the court held that the “through and under” language did not allow the defendants to bring the oil and gas from the Adjacent Properties to the surface on the Property. In turn, the court concluded that horizontal offsite drilling was not authorized and permanently enjoined such drilling by the defendants.<sup>1</sup>

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<sup>1</sup> Refer to *Jewett Sportsmen & Farmers Club, Inc. v. Chesapeake Exploration, LLC*. To read more about the case, see the article by Alison Grant, “Judge’s ruling limits shale developer’s drilling rights,” published in *The Plain Dealer* on March 16, 2012