

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

CHIEFTAIN ROYALTY COMPANY,

Plaintiff,

v.

Case No. CIV-011-177-D

SM ENERGY COMPANY, et al.

Defendants.

**NOTICE OF PROPOSED PARTIAL SETTLEMENT, MOTION FOR ATTORNEYS' FEES,  
AND FINAL FAIRNESS HEARING**

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

***If you belong to the Class and this Settlement is approved, your legal rights will be affected whether you act or not.*** Read this Notice carefully to see what your rights and options are in connection with this Settlement.<sup>1</sup>

- On September 1, 2015, the Court preliminarily approved a partial Settlement in the above-captioned litigation (“Litigation”) between Plaintiff, Chieftain Royalty Company (“Plaintiff”), on behalf of itself and the Class, and EnerVest Energy Institutional Fund XIII-A, L.P., EnerVest Energy Institutional Fund XIII-WIB, L.P., EnerVest Energy Institutional Fund XIII-WIC, L.P., EnerVest Operating, L.L.C. (collectively “EnerVest”) and FourPoint Energy, LLC (“FourPoint”), (EnerVest and FourPoint are collectively referred to as the “Settling Parties”).<sup>2</sup> Capitalized terms not otherwise defined in this Notice shall have the meanings attributed to those terms in the Settlement Agreement referred to below.
- The Settling Parties have agreed to pay \$52,000,000.00 in cash (“Settlement Cash Amount”) in settlement of all Class claims that relate to gas and its constituents marketed by SM and the Settling Parties from certain Oklahoma wells through August 1, 2015. In addition, the Settling Parties have agreed that for three years they will continue to follow the methods described in the Settlement Agreement for computing royalties paid to Class Members with respect to the Class Wells and with respect to the Settling Parties’ ownership shares of production from those wells, including the Settling Parties’ non-deduction of certain expenses. In exchange, the Class shall release the Released Claims (as defined below in the Answer to Question No. 2) it has asserted and pursued against the Released Parties (as defined below in the Answer to Question No. 2). The \$52,000,000.00 cash payment, plus interest on the funds in escrow, is referred to herein as the “Settlement Fund.” The Settlement Fund, less attorneys’ fees, expenses, Case Contribution Award and other costs approved by the Court (the “Net Settlement Fund”), will be distributed to Class Members.
- The Class definition is listed below in Question No. 5: **“How do I know whether I am part of the Class?”**
- Plaintiff and the Settling Parties disagree on the amount of damages, if any, that could have been recovered if the Class prevailed on each claim at trial. The Settling Parties do not believe they paid royalty incorrectly or violated any laws, and deny all allegations of wrongdoing asserted.
- Counsel for Plaintiff (“Class Counsel”) intends to seek an award of attorneys’ fees of 40% of the Settlement Cash Amount, plus interest earned at the same rate earned by the Class on the Settlement Fund. Class Counsel have been litigating this case for over four years without any payment whatsoever, advancing millions of dollars in labor and expense. Class Counsel will also request reimbursement of the expenses they have incurred in connection with the prosecution of this Litigation, and will incur through final distribution, which will not exceed \$900,000.00, plus interest earned at the same rate earned by the Class on the Settlement Fund. In addition, Plaintiff intends to seek a Case Contribution Award for its representation

<sup>1</sup> This Notice summarizes and is qualified in its entirety by the Stipulation and Agreement of Settlement (“Settlement Agreement”), which sets forth the terms of the Settlement. Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. A copy of the Settlement Agreement is available at [www.chieftain-enervest.com](http://www.chieftain-enervest.com).

<sup>2</sup> Insofar as the Litigation relates to the EnerVest-FourPoint Properties, SM Energy Company (“SM”) is a Released Party under the Settlement Agreement and a named beneficiary of all the protections, safeguards and other benefits provided under the Settlement Agreement; however, SM is not a party or signatory to the Settlement Agreement as the Settling Parties alone (in such proportions as they have agreed to among themselves, and as successors in interest to SM) are delivering the settlement consideration that is required in order to obtain the releases and other benefits provided for in the Settlement Agreement. Nothing in this Settlement Agreement is intended to compromise, settle or release any claims the Settlement Class has against SM as to wells and leases other than those that SM sold and assigned to certain of the EnerVest entities, who in turn assigned an interest in the acquired wells to FourPoint.

of the Class, which will not exceed one percent (1%) of the Settlement Cash Amount. The costs of administration, distribution, notification and other fees referenced in paragraph 1.1 of the Settlement Agreement will also be paid out of the Settlement Cash Amount. These administration costs are separate and apart from, and do not include, Class Counsel’s litigation expenses.

- In reaching the Settlement, Plaintiff and the Settling Parties have avoided the uncertainty, cost and time of a trial and Plaintiff has agreed to the Settlement to avoid the risk of the dismissal of some or all of the claims of the Class against the Settling Parties.
- Further information regarding the Settlement and this Notice may be obtained by contacting Class Counsel: Nix, Patterson & Roach, LLP, 205 Linda Drive, Daingerfield, Texas 75638; Telephone: 903-645-7333, Attn: Chieftain-EnerVest Settlement. Please reference the Chieftain-EnerVest Settlement if you write or call.

**YOUR LEGAL RIGHTS AND OPTIONS**

<b>You Do Not Need To Take Further Action To Participate In The Settlement</b>	If the Settlement is approved, you do not need to take any further action to participate in the Settlement and receive a payment. The portion of the Net Settlement Fund to which you are entitled will be calculated as part of the administration of the Settlement.
<b>Exclude Yourself (by November 9, 2015 at 5 p.m. CST)</b>	If you do not wish to be a member of the Class, you <i>must</i> exclude yourself (as described below in Answer to Question No. 13 and in the Settlement) and you <i>will not</i> receive any payment from the Settlement Fund. You cannot bring or be part of another lawsuit or arbitration against any of the Released Parties based on any Settled Claims unless you exclude yourself from the Class.
<b>Object (by November 9, 2015 at 5 p.m. CST)</b>	If you do not exclude yourself, but you wish to object to any part of the Settlement or fees and expenses requested by Class Counsel and Plaintiff, you may (as discussed below in Answer to Question No. 18 and in the Settlement) write to the Court about your objections.
<b>Attend the Final Fairness Hearing (to be held on November 30, 2015 at 1:30 pm CST)</b>	If you have submitted a valid and timely written objection to any aspect of the Settlement or the fees and expenses requested by Class Counsel and Plaintiff to the Court, you may (but do not have to) attend the Final Fairness Hearing and present your objections to the Court at that hearing (as described below in Answer to Question No. 22 and in the Settlement).
<b>Do Nothing</b>	If you are a Class Member and do nothing, you will be bound by the terms of the Settlement as set forth in the Settlement, will be bound by the release of the Released Parties, will receive your portion of the Net Settlement Fund, and will not be able to bring or pursue any Released Claims in any other lawsuit or arbitration. It is your responsibility to familiarize yourself with the Settlement Agreement and all other documents relevant to the Settlement, which can be found at <a href="http://www.chieftain-enervest.com">www.chieftain-enervest.com</a> .

- **These rights and options—and the deadlines to exercise them—are explained in this Notice and in the Settlement Agreement. Please note that the date of the Final Fairness Hearing—currently scheduled for November 30, 2015—is subject to change without further notice. If you plan to attend the hearing, you should check with the Court and [www.chieftain-enervest.com](http://www.chieftain-enervest.com) to be sure no change to the date and time of the hearing has been made.**
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to Class Members only if the Court approves the Settlement and that approval is upheld on appeal, if any are filed.

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## **BASIC INFORMATION**

### **1. Why did I get this Notice?**

You are being sent this Notice because you may be a member of the Class in the Litigation as described herein. The Settling Parties' records reflect that you have been paid royalties on natural gas and its constituents produced from the Class Wells. This Notice is not intended to be, and should not be construed as, an expression of any opinion with respect to the merits of the allegations in the Petition and Complaints filed in the Litigation. This Notice explains the claims being asserted in the Litigation, explains the Settlement, explains your right to remain a member of the Class (see Answer to Question No. 12), and explains your right to opt out of the Class and be excluded from the Settlement (see Answer to Question No. 13).

The Court caused this Notice to be sent to you because, if you fall within this group and are not otherwise excluded from the Class, your rights will be affected and you have a right to know about the proposed Settlement, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, after any objections and appeals are resolved, the Court-appointed Settlement Administrator will cause payments to be made to Class Members.

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

The Court in charge of this Litigation is the United States District Court for the Western District of Oklahoma. The entity prosecuting this Litigation on behalf of the Class is called the "Plaintiff" and the companies it is suing are called the "Defendants." This case, also called the "Litigation," is known as *Chieftain Royalty Company v. SM Energy Company, et al.*, Case No. CIV-011-177-D. While this Litigation was pending, Defendant SM sold the Class Wells to EnerVest, who in turn sold a percentage interest in the Class Wells to FourPoint. As such, the Settling Parties - in addition to Plaintiff - have an interest in resolving this Litigation. However, SM - the original Defendant - is not a participant in this Settlement, and the Class' claims against SM related to the wells SM still owns will continue to be prosecuted.

### **2. What is this lawsuit about?**

The Litigation seeks damages for the alleged underpayment of royalties to the royalty owners in the Class described below on the Class Wells operated by SM and/or the Settling Parties in Oklahoma or on Oklahoma wells where SM and/or the Settling Parties, as non-operator, separately marketed gas. Plaintiff alleges SM and/or the Settling Parties made various deductions and reductions from royalty payments that should not have been made, including, but not limited to, the

following: (1) deducting direct and indirect fees for marketing, gathering, compression, dehydration, processing, treatment, and other similar services before gas was “marketable;” (2) not paying royalty on wellhead gas that was used off the lease premises or in the manufacture of products; and (3) not paying royalty on condensate that dropped out of the gas stream.

SM and the Settling Parties deny Plaintiff’s claims, and deny any liability to Plaintiff and to any members of the Class. SM and the Settling Parties contend that royalties were calculated and paid in conformity with the terms of the leases and as required by law, that any costs factored into the computation of royalties were not necessary to make the production a marketable product, and that SM and the Settling Parties calculated and paid royalties properly, without taking any improper deductions.

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 Western District of Oklahoma, located at 200 NW 4<sup>th</sup> Street, Oklahoma City, Oklahoma 73102, in the file for Case No. CIV-011-177-D and some of the relevant pleadings are additionally located on the website found at [www.chieftain-enervest.com](http://www.chieftain-enervest.com). Should you have questions regarding the status, rulings or issues in the Litigation, such questions can be submitted as set forth below.

## **Release**

If the Court enters a final order approving the Settlement, all Class Members, on behalf of themselves, their personal representatives, heirs, executors, administrators, trustees, successors and assigns, will release any “Released Claims” they have against the “Released Parties.” This means that if you remain a member of the Class, any and all claims related to the Class Wells that you have against the Released Parties for claims made on behalf of the Class will be released and discharged.

“**Released Claims**” include all claims associated with the marketing of, and the calculation, reporting and payment of royalty on, gas and its constituents (including, but not limited to, helium, residue gas, natural gas liquids, nitrogen and condensate) during the Claim Period for each Class Well. The Released Claims and allegations specifically include all claims that a Class Member could make with regard to the following allegations: (1) that SM and the Settling Parties underpaid royalty as a result of direct or indirect deductions from (or factoring such costs into) royalty associated with marketing, gathering, transporting, compressing, dehydrating, treating, blending, processing, including plant and compressor fuel, and similar services with respect to gas and its constituents produced from the Class Wells; (2) that SM and the Settling Parties improperly paid royalty based on proceeds received from sale of the gas and gas constituents produced from the Class Wells under “percentage of proceeds” (“POP”), “percentage of index” (“POI”), or similar contracts; (3) that SM and the Settling Parties underpaid royalty on gas and gas constituents produced from the Class Wells by not paying royalty on gas used in operations, gas used for gas plants, and gas used in the manufacture of products (“fuel gas”); (4) that SM and the Settling Parties failed to pay or underpaid royalty on drip gas, condensate or other substances that separated from the gas stream in the gathering system, gas plant or other facilities with respect to gas and gas constituents produced from the Class Wells; (5) that SM and the Settling Parties underpaid royalty by not paying royalty on the full value (before deduction of any costs) of residue gas, natural gas liquids or other products that were part of the gas stream produced from the Class Wells; (6) that SM and the Settling Parties misled Class Members in monthly royalty payments as to, among other things, the amount and nature of deductions from royalty on gas and gas constituents produced from the Class Wells; (7) that SM and the Settling Parties violated their alleged fiduciary duties to the Class Members; (8) that SM and the Settling Parties failed to provide all of the information -required by the Oklahoma Production Revenue Standards Act (PRSA) on monthly check stubs, and otherwise failed to comply with the PRSA; (9) that SM and the Settling Parties failed to make diligent efforts to secure the best terms available for the sale of gas and its constituents; (10) that SM and the Settling Parties failed to account to Class Members for the full value of the production, including all deductions and reductions from the value of production; (11) that affiliate or self-dealing transactions of SM and/or the Settling Parties violated the rights of the Class Members; and (12) that as a result of SM’s and the Settling Parties’ actions with respect to the Class Wells, SM and the Settling Parties are liable to Class Members for breach of contract, tortious breach of contract, breach of fiduciary or quasi-fiduciary duty, actual fraud, constructive fraud, deceit, conversion, conspiracy, unjust enrichment/disgorgement, accounting, punitive damages, statutory interest and penalties under the PRSA or otherwise, and fees (attorney fees, expert fees and other litigation costs) under the PRSA. The Released Claims also include all other legal theories sounding in tort, contract or otherwise that, based on the facts alleged in the Petition and subsequent Complaints in the Litigation (as the same have been amended from time-to-time), could have been asserted against SM and/or the Settling Parties as to the Class Wells and as to the period of time covered by the Claim Period, except to the extent described in the next paragraph.

The Released Claims do not include any claims against SM related to the SM-Retained Properties, which are the subject of the ongoing Litigation. The Released Claims further do not include any allegations of underpayment or other claims with respect to royalty paid by third party operators (*i.e.*, operators other than SM and any of the Settling Parties) who marketed gas on behalf of SM and/or any of the Settling Parties. Plaintiff and members of the Settlement Class agree that SM and



the Settling Parties have no liability for any such claims. The Released Claims do not include any claims associated with production that occurs after August 1, 2015. The Released Claims also specifically do not include: (a) royalty payment adjustments made or to be made in the ordinary course of business; (b) claims that SM or the Settling Parties are obligated to make routine prior period adjustments for clerical or administrative errors concerning prices actually received, volumes actually sold or produced, or decimal interest designations of the type that historically have been addressed by SM or the Settling Parties by way of prior-period adjustments, but only to the extent that SM or the Settling Parties in fact received, or hereafter receive, a retroactive price, volume or value adjustment; (c) claims to money held in suspense by SM or the Settling Parties as of the release date; (d) claims that SM or the Settling Parties failed to comply with obligations to protect the Class Members from drainage; (e) and/or claims that SM or the Settling Parties breached obligations to the Class Members to develop Oklahoma oil and gas leases. "Class Claims" shall have the same meaning as "Released Claims."

**"Released Parties"** means SM, the Settling Parties, and all past and present parents, affiliates, directors, officers, employees, attorneys, agents, consultants, servants, stockholders, members, representatives, subsidiaries, predecessor entities of, and affiliated successor entities to SM and/or any of the Settling Parties. Released Parties shall also include the assignor of any Class Wells for which SM or the Settling Parties have assumed the assignor's liability for any alleged royalty underpayment, but only as to Class Claims with respect to such assigned Class Wells during the Claim Period. Other working interest owners in Class Wells also constitute Released Parties, but only to the extent SM or any of the Settling Parties marketed gas and its constituents and paid royalty on behalf of such other working interest owners during the Claim Period(s). No claims are released against other working interest owners to the extent of any gas that they separately marketed from Class Wells. No claims are released as to gas marketed for SM or the Settling Parties by third-party operators not affiliated with SM or the Settling Parties; however, the Settlement Class and all Class Members covenant not to sue the Released Parties for any alleged royalty underpayment with respect to such gas and its constituents marketed by others during the Claim Period for any Class Well. The Settlement Class does not release SM's or the Settling Parties' assignees in Class Wells for any claims occurring or arising after the Claim Period(s) for any well(s) so assigned to any assignee. Released Parties do not include any entity to whom SM or the Settling Parties have sold any of the Class Wells (and associated Class Leases and Class Force Pooled Royalty Interests) as to any claims occurring or arising after the Claim Period(s) for any Class Well(s) sold to any such entity. SM is only a Released Party to the extent necessary to release SM from the Released Claims related to the Class Wells comprising the EnerVest-FourPoint Properties. SM's inclusion in the term "Released Parties" is not intended in any way to release SM from any claims related to the SM-Retained Properties.

### **3. Why is this case a class action?**

In a class action, one or more plaintiffs sue on behalf of people who have similar claims. All of the individuals and entities on whose behalf the plaintiffs are suing are class members. One court resolves the issues for all class members, except for those who choose to exclude themselves from the class. Here, United States District Court Judge Timothy DeGiusti is presiding over the Litigation.

### **4. Why is there a Settlement?**

The Court has not reached a final judgment as to whether the Class has proved or can prove its claims against the Released Parties. It would likely take several more years before a trial on the merits could be held, final judgment entered, and appeals exhausted. Instead, Plaintiff and the Settling Parties have agreed to the Settlement in order to resolve the Litigation related to the Class Wells. In reaching the Settlement, both sides have avoided the risk, cost and time of a trial, and Plaintiff has avoided any further delay in resolving the Litigation as it relates to the Released Parties as to the Class Wells. In addition, as with any litigated case, Plaintiff would face an uncertain outcome if this Litigation went to trial. On the one hand, a trial could result in a verdict greater than the Settlement. On the other hand, SM and the Settling Parties have asserted many defenses, and a trial could result in a judgment in favor of SM and/or the Settling Parties or a verdict lower than the Settlement Amount that Plaintiff has obtained, or even no recovery at all for Plaintiff and the Class. Based on these factors and others, Plaintiff and Class Counsel believe the Settlement is in the best interest of all Class Members.

### **5. How do I know whether I am part of the Class?**

To see if you will receive money from the Settlement Fund, you first must determine whether you are a Class Member. The Class consists of the following individuals and entities, subject to certain exceptions:

All non-excluded persons or entities who are or were royalty owners in those Oklahoma wells acquired by one or more EnerVest and/or FourPoint entities from SM pursuant to a Purchase and Sale Agreement dated November 4, 2013, and where an EnerVest, FourPoint and/or SM entity is or was the operator (or, as a non-operator, an EnerVest, FourPoint and/or SM entity separately marketed gas). The Class Claims relate only to payment for gas and any of its constituents (e.g., helium, residue gas, natural gas liquids, nitrogen and condensate) produced from the Class Wells, and not to payment for gas and any of

its constituents produced from the SM-Retained Properties. The Class does not include overriding royalty owners or other owners who derive their interest through the oil and gas lessee.

The persons or entities excluded from the Settlement Class are: (1) agencies, departments or instrumentalities of the United States of America and the State of Oklahoma; (2) publicly traded oil and gas exploration companies and their affiliates; (3) persons or entities that Plaintiff's counsel is, or may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; and (4) officers of the Court.

#### **6. Are there other exceptions to being included?**

Yes. You are likewise not a Class Member if you exclude yourself from the Class by submitting a valid and timely request for exclusion in accordance with the requirements set forth in this Notice and in the Settlement. The procedure for requesting exclusion from the Class is described below in the Answer to Question No. 13.

#### **7. I am still not sure whether I am included.**

If you are still not sure whether you are included, you can ask for help, which will be provided to you at no cost. You can call the Settlement Administrator at 1-877-522-0448, or write to the following address:

*Chieftain-EnerVest Settlement*  
c/o Rust Consulting, Inc., Settlement Administrator  
PO Box 2405  
Faribault, MN 55021-9100

### **THE SETTLEMENT BENEFITS – WHAT YOU RECEIVE**

#### **8. What does the Settlement provide?**

In consideration of the Settlement, the Settling Parties have agreed to pay \$52,000,000.00 in cash. In addition, the Settling Parties have agreed that for three years they will continue to follow the methods described in the Settlement Agreement for computing royalties paid to Class Members with respect to the Class Wells and with respect to the Settling Parties' ownership shares of production from those wells, including the Settling Parties' non-deduction of certain expenses. See the Settlement Agreement for full details. The Settling Parties' agreement in that respect does not in any way release or compromise any claims the Class Members might have against the Settling Parties as to production from the Class Wells produced and sold after August 1, 2015, to the extent that Class Members contend that the described method of computing royalties fails to fulfill the obligations of the Settling Parties to those royalty owners.

The Settlement, if approved, will result in the dismissal of the Complaint as against the Released Parties as to the Released Claims and the release by all Class Members of all the Released Claims against the Released Parties, as defined above in Answer to Question No. 2 as to the Class Wells. The Net Settlement Fund will be distributed in accordance with the provisions of the Plan of Allocation, which is explained below in the Answer to Question No. 9, to the Class Members who do not timely request exclusion. The costs of administration, distribution, notification and other fees referenced in paragraph 1.1 of the Settlement Agreement will also be paid out of the Settlement Cash Amount.

#### **9. How much will the cash portion of my payment be?**

The Net Settlement Fund shall be allocated to each of the Class Wells and the royalty owners in Class Wells on the following basis:

With the Court's approval, the Settlement Administrator will first allocate the Net Settlement Fund proportionately to each Class Well based on the production marketed by SM and/or the Settling Parties on behalf of themselves and/or other well owners from the well, the amount and date of claimed royalty underpayment to Class Members for the well, and the time period when the claimed underpayment occurred. Thereafter, subject to review and approval by Class Counsel and the Court, the Settlement Administrator will allocate the Net Settlement Fund for each Class Well proportionately among all Class Members based on their respective royalty decimal interest in such well using SM's and/or the Settling Parties' July 2015 royalty pay deck (or a relatively recent and available royalty pay deck) or, in the case of Class Wells not currently operated by SM and/or the Settling Parties, the July 2015 or other reasonably current and available royalty pay deck to be obtained from the operator. The Settlement assumes that current royalty owner Class Members in Class Wells are entitled to receive the entire cash payment.

A preliminary list of Class Wells and their respective percentage allocations of the Net Settlement Fund is attached to the Settlement Agreement as Exhibit 2. The lists of Class Wells that may be generated in connection with this settlement process will not alter or override the definition of Class Wells in paragraph 1.7 of the Settlement Agreement. However, the Court may change the preliminary allocation attributed to any Class Well without further notice to the Class.

**If you have questions about the tax consequences of participating in the Settlement, you should consult with your own tax advisor.**

**10. How can I get a payment?**

If you do **not** exclude yourself pursuant to the procedure set forth in Answer to Question No. 13 below, **YOU DO NOT NEED TO TAKE ANY ACTION WHATSOEVER** to receive your portion of the Net Settlement Fund.

**11. When would I get my payment?**

Payment to Class Members is contingent on several matters, including the Court's approval of the Settlement and that approval becoming final and no longer subject to any appeal to any court, as set forth more specifically in paragraph 1.15 of the Settlement Agreement.

The Net Settlement Fund will be distributed by the Settlement Administrator as soon as reasonably possible after final approval has been obtained for the Settlement, including the exhaustion of any appeals. Any appeal of final approval could take well in excess of one year. It is not anticipated that any meaningful interest will accrue on the Net Settlement Fund. 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.

You may receive information about the progress of the Settlement by visiting the website at [www.chieftain-enervest.com](http://www.chieftain-enervest.com), or by calling 1-877-522-0448 or writing to: *Chieftain-EnerVest Settlement*, c/o Rust Consulting, Inc., Settlement Administrator, PO Box 2405, Faribault, MN 55021-9100.

**12. What is the effect of my remaining in the Class?**

Unless you exclude yourself from the Class, if the Settlement is approved, you will be a Class Member. As a Class Member, you will receive your portion of the Net Settlement Fund and will be bound by all orders and judgments entered by the Court regarding the Settlement. If the Settlement is approved, you will not be able to sue, continue to sue, or be part of any other lawsuit against any of the Released Parties concerning any of the Released Claims.

**13. How do I get out of the Settlement and not release my claims?**

To get out of the Settlement, you must exclude yourself from the Class. To exclude yourself from the Class, you must send a letter by mail to the Settlement Administrator stating that you want to be excluded from the Class in *Chieftain Royalty Co. v. SM Energy Company, et al.* Your letter must include your name, address, telephone number, and notarized signature, and must be received no later than 5 p.m. CST on November 9, 2015. Your letter must be sent to:

*Chieftain-EnerVest Settlement*  
c/o Rust Consulting, Inc., Settlement Administrator  
PO Box 2405  
Faribault, MN 55021-9100

**To be effective, your written request for exclusion must be RECEIVED at the above address no later than November 9, 2015 at 5 p.m. CST.** You cannot exclude yourself on the website, by telephone, facsimile or by e-mail. The letter must be signed by you under oath and acknowledged by a Notary Public. In the letter, you must identify your interest in any Class Well(s) by identifying each Class Well (by well name, SM, EnerVest, or FourPoint well number, and legal location). Any such letter also should state generally:

Dear Judge, I want to exclude myself from the Class in *Chieftain Royalty Co. v. SM Energy Company, et al.*, Case No. CIV-011-177-D, United States District Court for the Western District of Oklahoma. I understand it will be my responsibility to pursue any claims I may have, if I so desire, on my own and at my expense.

**If you do not follow these procedures—including meeting the date and time for exclusion set out above—you will not be excluded from the 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.

If you validly request exclusion as described above, you will not receive a Settlement payment, 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 this lawsuit. You will also not participate in any distribution of the Net Settlement Fund. Do not request exclusion if you wish to participate in the Settlement.

**14. If I don't exclude myself from the Class, can I sue the Released Parties for the same thing later?**

No. Unless you exclude yourself from the Class in connection with the Litigation, you give up any right to sue any or all of the Released Parties for any Released Claims. If you have a pending lawsuit or arbitration against SM and/or the Settling Parties or any of their officers and/or directors or any other Released Parties, speak to the lawyer representing you in that case immediately. You must exclude yourself from this Class to continue your own lawsuit or arbitration against any of the Released Parties with respect to the Class Wells.

**15. If I exclude myself, can I get money from this Settlement in connection with the Litigation?**

No. If you exclude yourself from the Class, you may be able to sue, continue to sue, or be part of a different lawsuit or arbitration against the Released Parties, but you will not receive any money from the Settlement discussed in this Notice.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in the case?**

The law firms of Barnes & Lewis, LLP and Nix, Patterson & Roach, LLP represent Plaintiff and all other Class Members in this Litigation. These lawyers are called Class Counsel. You will not be charged directly by these lawyers. These lawyers will be paid in accordance with the Answer to Question No. 17 below. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers be paid?**

Class Counsel intends to seek an award of attorneys' fees of 40% of the Settlement Cash Amount. Class Counsel has been litigating this case for over four years without any payment whatsoever. At the Final Fairness Hearing, Class Counsel will also seek reimbursement of the expenses incurred in connection with the prosecution of this Litigation, and which will be incurred through final distribution of the Settlement, which amount will not exceed \$900,000.00, to be paid out of the Settlement Cash Amount. Plaintiff intends to seek a Case Contribution Award relating to its representation of the Class, which amount will not exceed one percent (1%) of the Settlement Cash Amount. The costs of administration, distribution, notification and other fees referenced in paragraph 1.1 of the Settlement Agreement will also be paid out of the Settlement Cash Amount.

**OBJECTING TO THE SETTLEMENT, PLAN OF ALLOCATION, ATTORNEYS' FEES AND EXPENSES,  
AND PLAINTIFF'S CASE CONTRIBUTION AWARD**

**18. How do I tell the Court that I do not like an aspect of the Settlement?**

If you are a Class Member and you do not exclude yourself, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve the Settlement, the Plan of Allocation, the request for attorneys' fees and reimbursement of expenses, or the request for Case Contribution Award to Plaintiff. To object, you must send a written statement to the Court, Class Counsel, and Counsel for the Settling Parties saying that you object to the proposed Settlement. You must include in your written statement:

- (a) a heading referring to *Chieftain v. SM Energy Company*, et al., Case No. CIV-011-177-D and to the United States District Court for the Western District of Oklahoma;
- (b) a statement as to whether you intend to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, counsel must be identified by name, address and telephone number (NOTE: this statement must also comply with the requirement stated in Answer to Question No. 22 below);
- (c) a detailed statement of the specific legal and factual basis for each and every objection;
- (d) a list of any witnesses you may call at the Final Fairness Hearing, together with a brief summary of each witness' expected testimony;
- (e) a list of and copies of any exhibits you may seek to use at the Final Fairness Hearing;
- (f) a list of any legal authority you may present at the Final Fairness Hearing;
- (g) your current address;
- (h) your current telephone number;
- (i) your signature executed before a Notary Public; and
- (j) identification of your interest in Class Wells by identifying each Class Well (by well name, SM, EnerVest, or FourPoint well number, and legal location).



**Your written objection must be filed in and received by the Court and received in the hands of counsel for each party at the addresses listed below no later than November 9, 2015 at 5:00 p.m. CST:**

**By the above date and time, your written objection must be RECEIVED by and ON FILE with the Clerk of the Court:**

Clerk of the Court  
United States District Court for the Western District of Oklahoma  
200 NW 4<sup>th</sup> Street  
Oklahoma City, Oklahoma 73102

**And, by the same date and time, copies of your written objection must be RECEIVED in the hands of counsel:**

**Class Counsel:**

Robert Barnes  
Patranell Lewis  
BARNES & LEWIS, LLP  
720 NW 50<sup>th</sup> Street, Suite 200B  
Oklahoma City, OK 73118

Bradley E. Beckworth  
Jeffrey J. Angelovich  
NIX, PATTERSON & ROACH, LLP  
205 Linda Drive  
Daingerfield, Texas 75638

**Settling Parties' Counsel:**

Mark D. Christiansen  
McAFEE & TAFT  
A Professional Corporation  
10<sup>th</sup> Floor, Two Leadership Square  
211 N. Robinson Avenue  
Oklahoma City, OK 73102-7103

**UNLESS OTHERWISE ORDERED BY THE COURT, ANY 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 PROPOSED SETTLEMENT AND THE APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND CASE CONTRIBUTION AWARD AND WILL NOT BE ALLOWED TO PRESENT ANY OBJECTIONS AT THE FINAL FAIRNESS HEARING.**

**19. What's the difference between objecting and excluding myself?**

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you are a Class Member. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself from the Class, you have no basis to object, because the Settlement no longer affects you. If you do not exclude yourself from the Class, you will remain a member of the Class and will be bound by the terms of the Settlement Agreement (including the release contained therein) and all orders and judgments entered by the Court regarding the Settlement regardless of whether the Court accepts or denies your objection.

**20. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Fairness Hearing on **November 30, 2015, at 1:30 p.m. CST**, at the United States District Court for the Western District of Oklahoma, 200 NW 4<sup>th</sup> Street, Oklahoma City, Oklahoma 73102. **Please note that the date of the Final Fairness Hearing is subject to change without further notice. If you plan to attend the hearing, you should check with the Court and [www.chieftain-enervest.com](http://www.chieftain-enervest.com) to be sure no change to the date and time of the hearing has been made.** At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them at that time. After the Final Fairness Hearing, the Court will decide whether to approve the Settlement and the Plan of Allocation. The Court will also rule on the request for attorneys' fees and expenses and request for Case Contribution Award for Plaintiff relating to its representation of the Class. We do not know how long these decisions will take.

**21. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court might have. But you are welcome to come at your own expense. If you timely and properly file and serve an objection (see Answer to Question No. 18 above), you do not have to come to Court to talk about it. As long as you properly file and serve your written objection on time, it will be before the Court when the Court considers whether to approve the Settlement as fair, reasonable and adequate. You also may pay your own lawyer to attend the Final Fairness Hearing, but attendance is not necessary. However, if you fail to timely and properly file and serve an objection, you will not be entitled to be heard at the Final Fairness Hearing.

**22. May I speak at the hearing?**

If you are a Class Member who has not requested to be excluded from the Class, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *Chieftain Royalty Company v. SM Energy Company, et al.*" Be sure to include your name, address, telephone number, and signature. Your Notice of Intention to Appear must be served on and received by the counsel listed in Answer to Question No. 18 and must be filed with the Clerk of the Court at the address in the Answer to Question No. 18 no later than **November 9, 2015 at 5 p.m. CST**. You cannot speak at the Final Fairness Hearing if you exclude yourself from the Class.

If you object to the Settlement or any part thereof and you or your attorney wish to be heard at the Final Fairness Hearing, you must file a Notice of Intention to Appear as outlined above in order to present your objection at the Hearing (see Answer to Question No. 18 above).

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing and you are a Class Member, you will still receive payment in connection with the Settlement and you will still be bound by the Settlement. Even if you receive no payment, you will not be able to start a lawsuit or arbitration, continue a lawsuit or arbitration, or be part of any other lawsuit or arbitration against any of the Released Parties based on any Released Claims unless you exclude yourself.

**GETTING MORE INFORMATION**

**24. Are there more details about the Settlement?**

This Notice summarizes the Settlement. The complete terms of the Settlement are set out in the Settlement Agreement. You may obtain a copy of the Settlement Agreement, as well as other relevant documents, from the settlement website for free at [www.chieftain-enervest.com](http://www.chieftain-enervest.com) or you may request copies by writing to *Chieftain-EnerVest Settlement, c/o Rust Consulting, Inc., Settlement Administrator, PO Box 2405, Faribault, MN 55021-9100*. If you elect to obtain copies from a source other than the free website, there may be a charge for copying and mailing such documents. The Settlement Agreement also is filed in *Chieftain Royalty Company v. SM Energy Company, et al.*, Case No. CIV-011-177-D, with the Clerk of the United States District Court for the Western District of Oklahoma, 200 NW 4<sup>th</sup> Street, Oklahoma City, Oklahoma 73102, and may be obtained from the Clerk's office directly. Further information regarding the Litigation and this Notice may be obtained by contacting Class Counsel at the address provided in the Answer to Question 18 above.

**25. How do I get more information?**

You can visit the website at [www.chieftain-enervest.com](http://www.chieftain-enervest.com), where you will find answers to common questions about the Settlement plus other information to help you determine whether you are a Class Member and whether you are eligible for payment. You can also call 1-877-522-0448 toll free or write to *Chieftain-EnerVest Settlement, c/o Rust Consulting, Inc., Settlement Administrator, PO Box 2405, Faribault, MN 55021-9100*.

**INQUIRIES**

All inquiries concerning this Notice or any other questions by Class Members should be directed to the Settlement Administrator as follows:

*Chieftain-EnerVest Settlement*  
c/o Rust Consulting, Inc., Settlement Administrator  
PO Box 2405  
Faribault, MN 55021-9100  
Toll Free: 1-877-522-0448  
Website: [www.chieftain-enervest.com](http://www.chieftain-enervest.com)  
Email: [info@chieftain-enervest.com](mailto:info@chieftain-enervest.com)

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

DATED: October 9, 2015

BY ORDER OF THE COURT



Enervest Settlement Administrator  
c/o Rust Consulting, Inc.  
PO Box 2405  
Faribault, MN 55021-9100

## IMPORTANT LEGAL MATERIALS



<<Name 1>>

<<Name2>>

<<Name3>>

<<Name4>>

<<Address1>>

<<Address2>>

<<City>> <<State>> <<Zip10>>

<<CountryName>>