

Federal Judge Rejects Landowners' Claims That Pipelines on Leasehold Cannot Transport Gas from Neighboring Lands Without Separate Right-of-Way Agreement¹

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Judge Matthew W. Brann of the United States District Court for the Middle District of Pennsylvania, in *Walls v. Repsol Oil & Gas USA, LLC*, granted a motion to dismiss and rejected claims brought by landowner-lessors under an oil and gas lease asserting that the lessee was precluded under the lease from laying pipelines on their lands.² The landowners alleged that the lessee needed a separate right-of-way agreement to transport natural gas from lands outside the production unit in which their lease was unitized. The Court disagreed. In dismissing the claims, the Court found that the plain language of the lease gave the lessee the right to lay pipelines and transport gas from other lands.

A. Factual Background

In 2002, William M. Walls, James J. Oakes, and Francis X. Oakes (“Landowners”) entered into an oil and gas lease with Victory Energy Corporation (“Lease”), which was subsequently acquired by Repsol Oil and Gas USA, LLC (“Repsol”).³ Thereafter, Repsol unitized and pooled the Lease acreage into a natural gas production unit known as the Chicken Hawk Unit.

In October 2019, Repsol began constructing a pipeline on the Landowners’ property, which would transport natural gas from not only the Chicken Hawk Unit, but also foreign gas from other properties not unitized and pooled with the Lease acreage. After beginning construction on the pipeline, Repsol and the Landowners entered into negotiations for a separate pipeline easement but those negotiations were terminated in November 2019 after the Landowners rejected Repsol’s offers. Repsol nonetheless continued the installation of the pipeline and completed the same in December 2019.

B. Procedural Background and Issues

On March 12, 2020, the Landowners filed a one-count complaint against Repsol in the Court of Common Pleas of Tioga County, Pennsylvania, seeking a declaratory judgment. They alleged that (1) the construction and installation of the pipeline was not authorized by the Lease, and they never gave Repsol any other rights to construct the same, and (2) that the Lease did not

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² *Walls v. Repsol Oil & Gas USA, LLC*, No. 4:20-CV-00782, 2020 WL 5502151 (M.D. Pa. 2020).

³ *Id.* at *1.

grant Repsol the right to transport foreign gas from units not containing any Lease acreage or from non-neighboring lands, and Repsol therefore violated the terms of the Lease.⁴ On May 13, 2020, Repsol removed the suit to federal court asserting federal diversity jurisdiction and filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief could be granted.

C. Lease Language at Issue

The Lease contained the following clause granting Repsol the rights of:

[d]rilling, producing, and otherwise operating for oil and gas and their constituents, including the right to conduct geophysical, seismic and other exploratory tests, and of laying pipe lines, and building tanks, roads, stations, and electric power lines, houses for valves, meters, regulators and other appliances, with all rights and privileges necessary, incident to or convenient for the operation of this land alone and cojointly [sic] with neighboring lands.⁵

The Court found the plain language of the Lease unambiguous and therefore ascertained the intent of the parties from the written Lease. The Court found that “Plaintiffs agreed to a contract granting the lessee (now Repsol) authority to perform a set number of tasks, including ‘laying pipe lines.’”⁶ Furthermore, the Court explained that beyond the aforesaid enumerated rights, the Landowners granted Repsol “all other rights and privileges necessary, incident to or convenient for” the operation of the Lease acreage and neighboring lands.⁷ Stated another way, the Court said that “only the rights and privileges not specifically enumerated in the Lease must be ‘necessary, incident to or convenient for’ the operation of the land.”⁸ As a result, the Court granted Repsol’s motion to dismiss.

D. Implications of Decision

Though this district court case is not precedential, it provides insight into one court’s interpretation of pipeline rights that are often incident to an oil and gas lease. Here, the *Repsol* Court found the granting clause permitted the lessee the right to lay pipelines on the Lease lands, without restriction or limitation. The Court concluded that only the “catch-all” rights *not expressly delineated* in the granting clause were limited to those “necessary, incident to or convenient for” the operation of the Lease acreage. Under that finding, the Court permitted foreign gas, *i.e.*, gas not produced from the Lease acreage or lands pooled therewith, to pass through pipelines constructed by the lessee on the leased premises.

⁴ *Id.*

⁵ *Id.* at *6.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at *7.