

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>ROGER A. SALVATORA, et al.,</b>	)	
	)	Civil Action No. 2:19-cv-01097
Plaintiffs,	)	
	)	Hon. Cynthia Reed Eddy
v.	)	Hon. William S. Stickman IV
	)	
<b>XTO ENERGY INC.,</b>	)	
	)	
Defendant.	)	

**NOTICE OF PENDING CLASS ACTION AGAINST XTO ENERGY FOR  
ALLEGEDLY UNDERPAYING ROYALTIES**

**IF YOU HAVE RECEIVED ROYALTY PAYMENTS FROM XTO ENERGY INC. AT ANY TIME AFTER APRIL 27, 2018, PLEASE READ THIS NOTICE CAREFULLY. THIS LAWSUIT MAY AFFECT YOUR RIGHTS, AND YOU HAVE A CHOICE TO MAKE.**

**TO:** ALL MEMBERS OF THE SETTLEMENT CLASS IN *MARBURGER v. XTO ENERGY INC.*, Civil Action No. 2:15-cv-00910 (W.D.Pa.) (OR PEOPLE WHO RECEIVED THEIR ROYALTY INTEREST FROM SUCH SETTLEMENT CLASS MEMBERS), (i) WHO RECEIVED ANY ROYALTY PAYMENTS FROM XTO ENERGY INC. (“XTO”) AFTER APRIL 27, 2018, UNDER AN OIL AND GAS LEASE MODIFIED BY THE *MARBURGER* SETTLEMENT AND (ii) WHOSE GAS WAS OR IS GATHERED ON THE JEFFERSON, FORWARD OR AK STEEL GATHERING SEGMENTS OF THE MOUNTAIN GATHERING SYSTEM IN BUTLER COUNTY, PENNSYLVANIA.

► In *Marburger v. XTO Energy Inc.*, the landowners/royalty interest owners had signed oil and gas leases with a Phillips company. They claimed that XTO could not deduct any post-production expenses from their gas royalty payments. Under the 2018 settlement approved by the Court, XTO is permitted to deduct post-production costs from royalties, including “all costs from and after the wellhead to the point of sale ... incurred in connection with the sale of such production ...” Plaintiffs in this case believe that XTO has been taking unreasonably high deductions from royalty payments for processing gas and for gathering gas and thereby underpaying royalty amounts due under the oil and gas leases. This lawsuit seeks to recover XTO’s alleged excessive charges for processing gas and gathering the gas.

XTO disagrees with Plaintiffs’ claims. XTO believes it has complied with the terms of the oil and gas leases because the costs paid by XTO and deducted from royalty payments are consistent with the market.

► This lawsuit was filed on behalf of those members of the *Marburger* class (or their successors in interest) who received one or more royalty payments from XTO after the *Marburger* settlement and whose gas was gathered by Mountain Gathering’s Jefferson, Forward or AK Steel gathering segments in Butler County. It was also filed on behalf of holders of royalty interests in Phillips’ oil and gas leases that contain a “market enhancement” clause or their successors in interest. The Court has allowed this lawsuit to go forward as a class action. You are receiving this

notice because Plaintiffs believe from records that you were a member of the *Marburger* class action or are a successor in interest who qualifies to be in this lawsuit.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<b>DO NOTHING</b>	<b>Stay in this lawsuit. Await the outcome. You cannot sue XTO separately for the claims asserted in this lawsuit.</b> If you do nothing, you will be bound by the judgment and will share in any benefits, if any, that may come from the trial of this case. You, however, give up any right to sue XTO separately for the claims asserted in this lawsuit.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this lawsuit. Keep the right to sue XTO on your own and at your own expense.</b> If you ask to be excluded and then any benefits are awarded at trial, you will not share in them. But you keep any rights to sue XTO separately for the claims asserted in this lawsuit.

▶ Your options are explained in this Notice. To ask to be excluded, you must act so that your exclusion is **postmarked by January 8, 2024**. See page 5.

▶ This Notice is only a summary. The significant pleadings and Court Orders are available for review at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/).

**1. Why did I receive this Notice?**

An Order of the United States District Court for the Western District of Pennsylvania (the “Court”) dated October 4, 2023 approved this Notice and directed that it be sent to each person listed in ECF No. 185-1 at pp. 1-6. If you also had a Phillips oil and gas lease that had a market enhancement clause, you may receive a separate Notice related to that lease. The final outcome of this lawsuit has not been decided. Plaintiffs continue to litigate it.

**2. What is this case about?**

XTO produces gas under oil and gas leases signed with a Phillips company. When it calculates the amount of the royalties, XTO has the right under the Final Order in *Marburger* to deduct post-production costs including “all costs from and after the wellhead to the point of sale ... incurred in connection with the sale of such production ...” Those post-production costs include gathering (moving the gas from the well to a processing plant) and processing (separating the gas into (i) residue gas that can be used in homes and (ii) natural gas liquids).

This lawsuit seeks to recover the deductions from royalty payments that the Plaintiffs content are unreasonable and excessive. The Third Amended Complaint, which describes Plaintiffs’ claims in more detail is available for your review at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/).

### Plaintiffs' claims

XTO owns a company called "Mountain Gathering" that provides gathering and processing services. XTO entered into a contract with Mountain Gathering to gather and process the gas produced under your lease and the leases of all class members. Plaintiffs claim that, under that contract, XTO requires Mountain Gathering to take all of the class members' gas at the wells and transport the gas to a processing plant that is also owned by Mountain Gathering. Plaintiffs also claim that, under the contract, XTO also requires Mountain Gathering to process all of the gas produced under the oil and gas leases.

Plaintiffs contend that XTO deducts Mountain Gathering's gathering and processing charges from the proceeds it receives for your gas when it calculates your royalties. The class members contend that Mountain Gathering's charges are unreasonably high, and XTO deducts those excessive amounts for processing and gathering the gas produced under the class members' oil and gas leases with Phillips. This lawsuit seeks to recover the excessive amounts XTO deducted for processing and gathering when it paid royalties to the class. The Third Amended Complaint is available for your review at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/).

### XTO's response

XTO contends that the costs it deducted were reasonable, supported by the costs to provide such services, comparable to the costs charged by other companies, and allowed by the oil and gas leases. XTO contends that prior to entering into each of its gathering and processing contracts in Butler County, XTO requested and received bids from a number of companies. XTO contends it analyzed those bids and chose the bid that had the lowest fee and provided the level of service that XTO needed to ensure that it could drill and fully flow wells (instead of delaying drilling or shutting in wells after they were drilled). XTO contends that each year it reviews its Butler County gathering and processing contracts to ensure they reflect rates that are consistent with the market.

XTO maintains that it does not deduct post-production costs from all royalty payments and only deducts costs allowed by the oil and gas leases, which is determined by an individual review of each lease.

XTO's Answer to the Third Amended Complaint is available for your review at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/).

### **3. Who is in the Class?**

If (i) you were in the Marburger settlement class (or received a royalty interest from such a person), (ii) you received one or more royalty payments from XTO after April 27, 2018, and (iii) if your gas was gathered on Mountain Gathering's Jefferson, Forward or AK Steel gathering segments, you may be a member of the Class.

The full class definition for the processing and gathering claim, which also lists certain people who are excluded from the class, can be found at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/). For clarity, the gas wells on the Jefferson, Forward and AK Steel gathering segments are identified on [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/).

Please note that the Court can modify who is in the Class as the case moves forward. As a Class Member, you will be bound by the result of any trial of the lawsuit and any rulings issued by the Court, unless you timely submit an exclusion request, as described below.

The named plaintiffs who represent the Class with respect to the processing and gathering overcharge claim are Roger A. Salvatora, Sandra E. Salvatora, D&M Marburger Family Enterprises, L.P., Heasley's Nurseries, Inc., and Rodney L. Lang and Bonita A. Lang (the

“Plaintiffs”). The Plaintiffs have a duty to act in the best interests of the Class and have been deemed adequate representatives by the Court.

**4. What if I remain in the Class?**

If you remain in the class, you will be bound by any judgment (for or against the class members) and will not be able to sue XTO for any claim asserted in this case. If a jury finds that XTO breached your oil and gas lease by deducting excessive costs or costs incurred after the product obtained marketable form, you will be entitled to damages less your share of any Court-approved costs, expenses, incentive awards and attorneys’ fees. If you remain in the Class, you will **not** have to pay money out of your pocket to pursue the claims certified by the Court; those amounts will be paid from any recovery. The lawyers for the Class do not get paid unless they get money for you. If the jury finds that XTO did not breach your oil and gas lease by deducting excessive costs or costs after the product obtained marketable form, you are bound by the jury’s verdict and will not be able to sue XTO for those claims.

**5. Is there any money for the Class now?**

No. No trial has occurred, and the Court has made no findings about liability. This Notice tells you that you may be a member of the Class and that your rights may be affected by this Lawsuit. There is no guarantee that the judgment in favor of the Class may be entered or that the Court will award the Class any money or other relief.

**6. Who are the lawyers for the Class?**

The Class is represented by Class Counsel, who are:

David A. Borkovic  
Jones, Gregg, Creehan & Gerace  
20 Stanwix Street, Suite 1100  
Pittsburgh, PA 15222

Telephone: 412-261-6400

Facsimile: 412-261-2652

Email: [dab@jgcg.com](mailto:dab@jgcg.com)

Mr. Borkovic was the lawyer for the Class in the *Marburger* case and is experienced in oil and gas class actions. He has been elected by his peers to Best Lawyers in America and Pennsylvania Super Lawyers.

**7. Do I need my own lawyer?**

You do not need to hire your own lawyer to pursue the claims certified by the Court because Class Counsel is representing the members of the Class. If you wish, you may consult with your own lawyer concerning your rights in the lawsuit, but any use of your own lawyer will be at your own expense.

**8. How will Class Counsel be paid?**

If Class Counsel obtains benefits for the Class, Class Counsel will ask the Court to decide the amount of Class Counsel’s reasonable attorneys’ fees, costs and expenses, an amount that will be deducted from the recovery.

**9. What if I exclude myself from the Class?**

If you exclude yourself from the Class, you will retain your right to sue XTO separately for the claims asserted in this lawsuit, but you will have to retain your own attorney to pursue your claim. You may also exclude yourself if you do not want to sue XTO. If you exclude yourself,

you will not be bound by any judgment entered in this case, either positive or negative for the class.

**10. How do I exclude myself from the Class?**

Any request to be excluded must be in writing and signed. You may send a letter addressed to Class Counsel, whose address is in No. 6, above, with a copy to Strategic Claims Services, 600 N. Jackson Street, Suite 205, Media, PA 19063 asking to be excluded from the Class. The letter must contain your name and address, the name of this case (*Salvatora v. XTO Energy Inc.*), must request to be excluded from the class, be dated, and be signed in ink. If you are a joint party to the oil and gas lease, all parties to the lease must join in the exclusion request. Either mail the letter to Class Counsel at the above address with a copy to Strategic Claims Services or fax the letter to Class Counsel at 412-261-2652 and to Strategic Claims Services at 610-565-7985. **In order to be effective, your exclusion request must be POSTMARKED by JANUARY 8, 2024.**

If you have both an oil and gas lease that was part of the *Marburger* settlement and a separate oil and gas lease with a Phillips company that contains a Market Enhancement clause and you want to be excluded, you must specify whether you want to be excluded from one or both classes. If you have a separate oil and gas lease with a Phillips company that contains a Market Enhancement clause, you should receive another Notice that is related to that oil and gas lease.

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

You have three ways of getting further information: You may contact Class Counsel at the telephone number, email address, and address above. You may also consult the significant pleadings, other papers and Court Orders on the internet at [www.strategicclaims.net/xtoenergy/](http://www.strategicclaims.net/xtoenergy/). You may also consult the pleadings and other papers in this lawsuit at the United States District Court for the Western District of Pennsylvania at the Joseph F. Weis, Jr., United States Courthouse, Grant Street, Pittsburgh, PA 15219, during regular business hours.

**DO NOT CONTACT THE COURT, THE CLERK'S OFFICE, XTO OR XTO'S LAWYERS ABOUT THIS LAWSUIT.**

THIS DOES NOT RESTRICT YOU FROM CONTACTING XTO REGARDING YOUR ONGOING BUSINESS RELATIONSHIP WITH THEM, INCLUDING BUT NOT LIMITED TO INQUIRING ABOUT THE STATUS OF A ROYALTY CHECK, CHANGES OF OWNERSHIP, PAYMENT PREFERENCES OR OTHER NOTICES REQUIRED BY YOUR LEASE.

Dated: October 4, 2023.

By Order of the Court

*Salvatora v. XTO Energy Inc*  
c/o Strategic Claims Services  
600 N. Jackson Street, Suite 205  
Media, PA 19063

**IMPORTANT LEGAL NOTICE – PLEASE FORWARD**