

**IN THE CIRCUIT COURT
FOR THE SECOND JUDICIAL CIRCUIT
WAYNE COUNTY, ILLINOIS**

AMY J. POLLARD, JAMES D. POLLARD,)
PATRICIA S. POLLARD, CAROLYN S. LEGG,)
TERRY J. LEGG, JOHN B. MASTERSON,)
PAULA L. MASTERSON, NIKKI R. CARTER,)
JEREMY L. CARTER, CHERYL A. EDMISON,)
NOEL E. EDMISON, PATRICIA L. VAUGHAN,))
and JOSHUA S. VAUGHAN, on behalf of)
a Class of Persons Similarly Situated,)

Plaintiffs,)

Case No. L_____)

vs.)

PAT QUINN, Governor of the State of)
ILLINOIS, and MARC MILLER, Director of)
the Illinois Department of Natural Resources,)

Defendants.)

**CLASS ACTION COMPLAINT FOR INVERSE CONDEMNATION AND
DAMAGES**

Plaintiffs, on their own behalf and on behalf of a class of persons similarly situated, by their attorneys, CHRISTOPHER & TAYLOR by Rodney V. Taylor, George W. Tinkham, and Morris Lane Harvey, for their Complaint against Defendants, state as follows:

PARTIES

1. Amy J. Pollard, is a resident and owner of oil and gas mineral rights in Wayne County, Illinois.
2. James D. Pollard and Patricia S. Pollard, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.
3. Carolyn S. Legg and Terry J. Legg, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.

4. John B. Masterson and Paula L. Masterson, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.

5. Nikki R. Carter and Jeremy L. Carter, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.

6. Cheryl A. Edmison and Noel E. Edmison, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.

7. Patricia L. Vaughn and Joshua S. Vaughn, are residents and owners of oil and gas mineral rights in Wayne County, Illinois.

8. Defendant, Pat Quinn, who is the Governor of the State of Illinois.

9. Defendant, Marc Miller, who is the Director of the Illinois Department of Natural Resources.

BACKGROUND

10. Hydraulic Fracturing has been utilized in the Illinois Basin (the “Basin”) since the 1950’s without any safety, environmental or economic issues and horizontal drilling has been used in the Basin for at least the last decade, with the same success.

11. Horizontal drilling and fracking have been safely conducted in many other states, among them Michigan, North Dakota and Indiana. In Indiana, horizontal wells have been successfully implemented without issue on the campuses of University of Southern Indiana, a campus of over 10,000 students, and Indiana State University, a campus of over 12,000 students and within the city of Terre Haute Indiana, a city with over 61,000 residents. Horizontal drilling and fracking at these campuses and within the city limits of Terre Haute have been completed without harm to person or property.

12. In the last decade, horizontal drilling and fracking of wells in North Dakota and other states has allowed the United States to nearly become oil independent.

13. Based on the success of oil development in North Dakota, oil operators came to the Illinois Basin to horizontally drill and hydraulically fracture for oil and gas in the geological formation known as the New Albany Shale. The New Albany Shale predominates throughout southern Illinois and contains significant quantities of oil and gas. This geological formation is similar in makeup to that found in North Dakota and the source of the oil discovery in that State.

14. Operators developed areas of leasing interest in Wayne, White, Hamilton, Clay, Edwards, and Lawrence counties (the “Counties”) in Illinois containing over a million acres and involving thousands of mineral rights owners. Leases were obtained by those operators and in the process expending over one hundred million dollars.

15. After thousands of acres of land were leased and millions of dollars expended, Defendants denied oil and gas drilling permits to oil and gas mineral rights owners seeking to develop the New Albany Shale formation with the use of horizontal drilling and hydraulic fracturing methods. This denial by the Defendants adversely affected oil and gas mineral rights owners. The failure of Defendants to issue permits for horizontal drilling and hydraulic fracturing is a taking of property without just compensation.

16. Plaintiffs bring this action on behalf of a class comprising all owners of oil and gas mineral rights in the New Albany Shale of Wayne County in the areas of leasing interest and who have been denied the right to develop their property through the use of horizontal drilling and hydraulic fracturing.

The class is believed to exceed 1,000 persons, such that joinder of all members is impracticable. There are questions of law or fact common to the class, which common

questions predominate over questions affecting only individual members. The representative parties will fairly and adequately protect the interest of the class.

17. The Fifth Amendment to the United States Constitution provides “nor shall private property be taken for public use, without just compensation.”

18. Article I, Section 15 of the Illinois Constitution provides as follows:

RIGHT OF EMINENT DOMAIN

Private property shall not be taken or damaged for public use without just compensation as provided by law. Such compensation shall be determined by a jury as provided by law.

19. Additionally, Section 12 of the Illinois Constitution provides:

RIGHT TO REMEDY AND JUSTICE

Every person shall find a certain remedy in the laws for all injuries and wrongs which he received, to his person, privacy, property, or reputation. He shall receive justice by law, freely, completely and promptly.

20. Section 735 ILCS 30/10-5-65 of the Illinois Code, provides as follows:

In cases of inverse condemnation, when a condemning authority is required by a court to initiate condemnation proceedings for the taking of real property, the court rendering judgment for the property owner and awarding just compensation for the taking shall determine and award or allow to the property owner, as part of that judgment or award, further sums as will, in the opinion of the court, reimburse the property owner for the owner's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred by the property owner in those proceedings.

21. Ownership of oil and gas mineral rights has no value unless those minerals can be legally extracted. Before an owner can legally extract these minerals, the owner must receive a permit from Department of Natural Resources.

22. Plaintiffs who own oil and gas mineral rights or their lessees have been denied permits to carry out planned horizontal drilling and fracking operations on their respective leasing areas. Therefore, Plaintiff landowners who have leased their oil and gas rights have not received any royalty revenue from the leases because of the lessee's inability to obtain permit approval for horizontal drilling and fracking.

**COUNT I
VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED
STATES CONSTITUTION**

23. Plaintiffs incorporate by reference each of the foregoing paragraphs, as if fully set forth herein.

24. Plaintiffs are the owners of private property (oil and gas mineral rights) located in Wayne County in an area of oil exploration development.

25. Because Defendants have refused and continue to refuse to issue permits allowing horizontal drilling and hydraulic fracturing, Plaintiffs' private property has been taken without just compensation in violation of the Fifth Amendment of the United States Constitution.

WHEREFORE, Plaintiffs respectfully request judgment in their favor and against the Defendants, awarding them:

- a) Compensatory damages in an amount in excess of \$50,000; and
- b) Such other relief as they may be entitled to receive.

**COUNT II
VIOLATION OF ARTICLE 1, SECTION 12 OF THE ILLINOIS CONSTITUTION
RIGHT TO REMEDY AND JUSTICE**

26. Plaintiffs incorporate by reference each of the foregoing paragraphs, as if fully set forth herein.

27. Plaintiffs are the owners of private property (oil and gas mineral rights) located in Wayne County in an area of oil exploration development.

28. Because Defendants have refused and continue to refuse to issue permits allowing horizontal drilling and hydraulic fracturing, Plaintiffs' private property has been taken without just compensation in violation of the Fifth Amendment of the United States Constitution and in violation of Article I, Section 15 of the Illinois Constitution.

WHEREFORE, the Plaintiffs respectfully request judgment in their favor and against the Defendants, awarding them:

- a) Compensatory damages in an amount in excess of \$50,000; and
- b) Such other relief as they may be entitled to receive.

COUNT III
VIOLATION OF ARTICLE I, SECTION 15 OF THE ILLINOIS CONSTITUTION

29. Plaintiffs incorporate by reference each of the foregoing paragraphs, as if fully set forth herein.

30. Plaintiffs are the owners of private property (oil and gas mineral rights) located in Wayne County in an area of oil exploration development.

31. Because Defendants have refused and continue to refuse to issue permits allowing horizontal drilling and hydraulic fracturing, Plaintiffs' private property has been taken without just compensation in violation of Article I, Section 15 of the Illinois Constitution.

WHEREFORE, the Plaintiffs respectfully request judgment in their favor and against the Defendants, awarding them:

- a) Compensatory damages in an amount in excess of \$50,000;

- b) Attorneys' fees and costs; and
- c) Such other relief as they may be entitled to receive.

**COUNT IV
INVERSE CONDEMNATION PURSUANT TO ILLINOIS COMPILED
STATUTES SECTION 735 ILCS 30/10-5-65**

32. Plaintiffs incorporate by reference each of the foregoing paragraphs, as if fully set forth herein.

33. Plaintiffs are the owners of private property (oil and gas mineral rights) located in Wayne County in an area of oil exploration development.

34. Because Defendants have refused and continue to refuse to issue permits allowing horizontal drilling and hydraulic fracturing, Plaintiffs' private property has been taken without just compensation.

WHEREFORE, the Plaintiffs respectfully request judgment in their favor and against the Defendants, awarding them:

- a) A finding of inverse condemnation and an order mandating the Defendants to condemn the oil and gas mineral rights;
- b) Compensatory damages in an amount in excess of \$50,000;
- c) Attorneys' fees and costs; and
- d) Such other relief as they may be entitled to receive.

REQUEST FOR JURY TRIAL

Plaintiffs respectfully request a trial by jury of twelve on all counts of their complaint.

AMY J. POLLARD, JAMES D. POLLARD, CAROLYN S. LEGG, TERRY J. LEGG, JOHN B. MASTERSON, PAULA L. MASTERSON, NIKKI R. CARTER, JEREMY L. CARTER, CHERYL A. EDMISON, NOEL E. EDMISON, PATRICIA L. VAUGHAN and JOSHUA S. VAUGHAN, Plaintiffs, for themselves and a Class of persons similarly situated.

By: _____
Rodney V. Taylor

By: George W. Tinkham

By: Morris Lane Harvey

RULE 222 CERTIFICATION AND VERIFICATION OF PLEADINGS

Under penalties as provided by law, pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the allegations set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true. Furthermore, the amount of money damages sought from Defendants in this lawsuit exceed \$50,000.00.

By: _____
Rodney V. Taylor