

<http://www.tddl.com/news.html>

Summary: Faulty cementing and high pressures during fracking resulted in contamination of dozens of wells and a complaint action by 43 households for “trespass, negligence, nuisance..., engaging in an ultra hazardous activity, fraudulent concealment, failure to warn, and negligent infliction of emotional distress.” Ohio Valley Energy settled in February 2011.

From <http://www.tddl.com/news.html>:

Gas-well ordeal finally ends well

By JOAN DEMIRJIAN

It took three years to reach a settlement and finally closure for residents impacted by a leak from a gas well drilled off English Drive in Bainbridge. According to the Ohio Department of Natural Resources, gas seeped into nearby water wells from the Ohio Valley Energy well and caused an explosion in December 2007 at the home of Richard and Thelma Payne on English Drive.

Residents who joined a lawsuit against the Austintown company now are being compensated for their inconvenience and suffering, according to Chardon attorney Dale Markowitz, who represented them. The case that was filed in Geauga County Common Pleas Court is officially settled, he said. Forty-three households were involved in the class-action suit, and a lump sum was given to the residents, who then split it. The amount the residents received is confidential, Mr. Markowitz said. Bainbridge Township, which joined the suit, is to receive \$50,000 for replacement of a water well and other expenses at its police station.

A separate amount was given to Mr. and Mrs. Payne, whose house on English Drive was lifted off its foundation by the explosion.

Ohio Valley Energy and other companies involved with the drilling also paid off Nationwide Insurance, which had the coverage on the Paynes' home.

Any right to recover the \$1 million for the waterline that was installed to serve those whose wells were impacted has been waived by Ohio Valley Energy.

"It was a good settlement for the clients," Mr. Markowitz said.

When he first heard about the explosion at the Payne house, he knew it had to be something to do with faulty drilling, he said. He has worked with gas and oil well leasing all over Northeast Ohio and helped with a number of regulations for drilling, he said. He worked with property owners with leasing for gas and oil wells.

"The neighborhood off Bainbridge Road has no homeowners organization, and Ohio Department of Natural Resources wasn't going to protect the people," Mr. Markowitz said. "Our firm has expertise in that area," he said.

"I knew these people needed a collective voice. So we got involved." Several attorneys from the firm of Thrasher, Dinsmore and Dolan in Chardon teamed up to represent the residents. They included Jared Flynn, Todd Hicks and David Ondrey, with Mr. Markowitz as the lead attorney.

Residents included those from English and Scotland drives, as well as Kingswood and Kenston Lake drives in the neighboring Kenston Lake subdivision.

"We knew people were affected down there, and we said let's see if we can help them," Mr. Flynn said.

A Bainbridge resident, Mr. Flynn said the length and time the gas remained in the aquifer was unusual. "The problem persisted for almost three years, and, during that time, quite a bit changed in the lives of many of our clients. Some people moved away, and some passed away," he said.

"I think it opened the state's eyes to the need for better regulations for gas and oil well drilling," Mr. Flynn said. "It highlighted people's awareness of drilling in residential areas."

In the case of the Ohio Valley Energy well, the drilling of the gas well allowed gas to migrate from deep below the surface to shallower shale formations where our clients obtained their fresh water from, through the use of their water wells. The gas leaked into the aquifer because of a poor cement job and the failure to vent the high-pressure gas, Mr. Flynn said.

More gas wells are going to be seen in the state and beyond as people find ways to develop more mineral rights, he said. Increased drilling is going to lead to more incidents unless regulations are adhered to and there are good drillers and operators complying with those regulations, he said. Mr. Markowitz went to officials at the Ohio Department of Natural Resources and convinced them that Ohio Valley Energy was not doing enough.

ODNR had issued orders to monitor the situation but was not taking action to order Ohio Valley Energy to put in a waterline.

"We brought Geauga County Commissioners, the Geauga County prosecutor, ODNR, the Geauga County Department of Water Resources and Ohio Valley Energy together for a meeting at the commissioners' offices and started getting it moving," Mr. Markowitz said of the waterline.

The Bainbridge Township zoning and fire departments worked tirelessly with residents, and state Sen. Timothy Grendell "helped us too," Mr. Markowitz said.

"If everyone had hired their own lawyers, it might not have turned out as it did," he said.

"And we spent a lot of time on what we weren't hired for, such as pursuit of the waterline," he said.

"In the end, Ohio Valley Energy did the right thing by settling and agreeing to waive the right to recover the cost of the waterline."

Scotland Drive resident Irv Mesmer, who was part of the suit with other residents, thanked Mr. Markowitz and his team. "They did everything they could, and, after three years, they got it. They did a good job," he said. "We dealt directly with Jared Flynn and Dale."

Mr. Mesmer recalled how he and his wife, Joanne, returned home from a vacation and saw trucks in the area. "It was the first we knew of it," he said of the gas leak and explosion.

He hopes the state will come up with more regulations for drilling in residential areas, he said.

"People in Columbus don't even know where Bainbridge is," Mr. Mesmer said. "I definitely think they have to be more careful. The state has to have better control."

Regarding the three-year ordeal, Mr. Mesmer said, "Thank goodness it's over."