

FILED - CLERK
U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

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BY _____

UNITED STATES OF AMERICA)
)
v.) No. 9:02CR34
) (Hon. Ron Clark)
JOHN ALLEN WHEELER)

**AMENDED PROPOSED ORDER ON RECEIVER'S MOTION FOR
RETURN OF PROPERTY OR VALUE THEREOF AND MOTION FOR
IMPOSITION OF CONSTRUCTIVE TRUST**

The Motion of Robb Evans, Receiver, for Return of Property or Value Thereof and Motion for Imposition of Constructive Trust, and Motion for Judgment on the Pleadings ("Motions") came on for hearing September 20, 2005, Linda Candler, Esq. appearing for the Receiver, Robb Evans. Notice having been provided to all interested parties, and proof of service being established for all parties except Brent Haynes, the Court, having reviewed the Motion, and any responses or oppositions presented thereto, rules as follows:

IT IS HEREBY ORDERED:

1. The Receiver's Motion is granted. This Court directs the repayment of the cost of the improvements identified in the Receiver's Motion and underlying documents, totaling \$1,048,881.19, to be paid by the beneficiaries of those improvements, i.e., the Wheeler family.
2. If repayment cannot be made in cash or pursuant to a repayment agreement with the Receiver, the Court directs that a lien be placed on the property, up to the cost of the improvements, with said lien to attach to the Wheeler ownership

interests only, and not the mineral rights held by the heirs of the seller of the property as identified in the Deed of Sale dated November 2, 1943. The Receiver shall record a lis pendens against the Hanna and Wheeler family interest in the property.

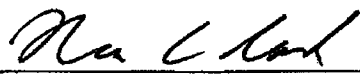
3. The Receiver shall serve Brent Haynes with notice of the Receiver's Motion, and this Proposed Order, and provide proof of valid service to the Court. This Order shall take effect against Brent Haynes ^{14 calendar days R.C.} ~~only~~ after he has been served ^{and} ~~and~~ ^{so he R.C.} has ^{R.C.} ~~had~~ an opportunity to respond, should he choose to do so. The Order is effective against the interests of all other interested parties who have been served and who received notice of the hearing as of the date signed.

4. All payments due from Pinnacle Energy Group LLC for mineral rights held by Frances Hanna or her assigns or beneficiaries pursuant to a lease dated January 31, 2003 and recorded March 12, 2003, shall be paid to the Receiver, including all funds currently held in trust by Pinnacle Energy Group LLC. The Court assigns the value of those mineral rights and any royalties therefrom to the Receiver until the amount claimed by the Receiver is satisfied.

5. The Receiver is authorized to ratify and continue the mineral lease with Pinnacle Energy Group LLC until the amount of this judgment is paid in full, or if a settlement is reached with the Wheeler family, until settlement of all claims of the Receiver against the Wheeler family and the ranch located at Route 1, Box 2140, Nacogdoches, Texas.

6. The Court orders the imposition of a constructive trust over the real property and improvements located at Route 1, Box 2140, Nacogdoches, Texas, in the amount of \$1,048,881.19, until such amount (or an amount as agreed) is paid to the Receiver, but excluding the mineral rights owned by the Davis heirs pursuant to the Deed of Sale dated April 3, 1944 and the Deed of Sale dated November 2, 1943.

Dated: 10/19/2005


RON CLARK, JUDGE
UNITED STATES DISTRICT COURT

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of 18 years and am not a party to the within action or proceeding. I am employed by Robb Evans & Associates, LLC, located at 11450 Sheldon Street, Sun Valley, CA 91352-1121, Telephone: (818) 768-8100; Facsimile: (818) 768-8802.

On September 22, 2005, I served the foregoing document described as [AMENDED PROPOSED] ORDER ON RECEIVER'S MOTION FOR JUDGMENT ON THE PLEADINGS [RE RECEIVER'S MOTION FOR RETURN OF RECEIVERSHIP PROPERTY OR COST THEREOF AND MOTION FOR IMPOSITION OF CONSTRUCTIVE TRUST] on the interested parties in said action, as follows:

SEE ATTACHED SERVICE LIST

- (By Mail) I caused such envelope with postage thereon, fully prepaid, to be placed in the United States mail. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal service on that same day with postage thereon fully prepaid at Sun Valley, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit. Executed on September 22, 2005, at Los Angeles, California.
- (By Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee. Executed _____, at Sun Valley, California.
- (By Facsimile) I caused said document to be sent via facsimile. Executed on _____, at Sun Valley, California.
- (By Federal Express/Express Mail) I caused said document to be sent via Federal Express / Express Mail for next business day delivery. Executed on _____ at Sun Valley, California.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am an employee in the offices of an officer of this Court at whose direction the service was made.



JUDI S. EHRLICH

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