

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DASA INVESTMENTS, INC.,

Plaintiff,

v.

ENERVEST OPERATING, L.L.C.; ENERVEST  
ENERGY INSTITUTIONAL FUND XIII-A, L.P.;  
ENERVEST ENERGY INSTITUTIONAL FUND  
XIII-WIB, L.P.; ENERVEST ENERGY  
INSTITUTIONAL FUND XIII-WIC, L.P.;  
ENERVEST, LTD.; AND SM ENERGY  
COMPANY

Defendants.

Case No. 6:18-CIV-083-SPS

*(Removed from District Court of LeFlore County,  
State of Oklahoma, Case No. CJ-18-25)*

**NOTICE OF PROPOSED SETTLEMENT,  
MOTION FOR ATTORNEYS' FEES, AND FAIRNESS HEARING**

*A court authorized this Notice. This is not a solicitation from a lawyer.*

***If you belong to the Settlement Class and this Settlement is approved, your legal rights will be affected whether you act or not.*** Read this Notice carefully to see what your rights and options are in connection with this Settlement.<sup>1</sup>

- On October 30, 2019, the Court preliminarily approved a Settlement in the above-captioned litigation (the "Litigation") between DASA Investments, Inc. ("Plaintiff"), on behalf of itself and all others similarly situated, and Defendants EnerVest Operating, LLC; EnerVest Energy Institutional Fund XIII-A, L.P.; EnerVest Energy Institutional Fund XIII-WIB, L.P.; EnerVest Energy Institutional Fund XIII-WIC, L.P.; and EnerVest, Ltd. (the "EnerVest Defendants"), and Defendant SM Energy Company ("SM," and, together with the EnerVest Defendants, the "Defendants"). Capitalized terms not otherwise defined in this notice shall have the meanings attributed to those terms in the Settlement Agreement referred to below.
- SM has agreed to pay \$1,000,000.00 in cash and the EnerVest Defendants have agreed to pay \$7,000,000.00 in cash (the total amount of \$8,000,000.00 in cash payments being referred to herein as "Gross Settlement Fund") and the EnerVest Defendants have made other non-monetary agreements ("Future Benefits") which are estimated by Plaintiff to have a net present value of at least \$7,000,000.00, in settlement of all claims alleged in the Litigation. In exchange, the Settlement Class shall release any Released Claims (as defined below in the Answer to Question No. 2) the Releasing Parties may have against the Released Parties (as defined below in the Answer to Question No. 2). The Gross Settlement Fund, less Plaintiff's Attorneys' Fees, Litigation Expenses, any Case Contribution Award awarded by the Court, other costs approved by the Court, and the amount of money attributable to Class Members who elect to exclude themselves from the

<sup>1</sup> This Notice summarizes and is qualified in its entirety by the Stipulation and Agreement of Settlement ("Settlement Agreement") and the documents referenced therein, which set forth the terms of the Settlement. Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. A copy of the Settlement Agreement is available at [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com)

Settlement or are otherwise excluded from the Settlement Class (the “Net Settlement Fund”), will be distributed to Class Members who qualify for a distribution.

- The Settlement Class definition and exceptions are listed below in Question No. 5: “**How do I know whether I am part of the Settlement Class?**” and Question No. 6: “**Are there other exceptions to being included?**”
- Defendants do not believe they paid statutory interest incorrectly, paid proceeds untimely, or violated any laws, and deny any liability and all allegations of wrongdoing asserted. Plaintiff and Defendants disagree on the amount of damages, if any, that could have been recovered if the Settlement Class prevailed on any of its claims at trial. In addition, Defendants do not agree that it would be appropriate to certify the claims asserted by Plaintiff on behalf of the Settlement Class in a contested class action.
- Counsel for Plaintiff (“Plaintiff’s Counsel”) intend to seek an award of attorneys’ fees up to \$3,200,000.00 to be paid from the Gross Settlement Fund. Plaintiff’s Counsel have been litigating this case for nearly one and a half years without any payment whatsoever, advancing hundreds of thousands of dollars in labor and expense. Plaintiff’s Counsel will also request reimbursement of the expenses they have incurred in connection with the prosecution of this Litigation, and will incur through final distribution, which will not exceed \$350,000.00 and will be paid from the Gross Settlement Fund. In addition, Plaintiff intends to seek a Case Contribution Award of up to \$75,000.00 to be paid from the Gross Settlement Fund for Plaintiff’s representation of the Class.
- In reaching the Settlement, Plaintiff and Defendants have avoided the uncertainty, cost, and time of a contested class certification proceeding and trial. Plaintiff has agreed to the Settlement to avoid the risk that the Settlement Class could not be certified in a contested class action and that some or all of the claims of the Settlement Class against Defendants could be dismissed.

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>You Do Not Need To Take Further Action To Participate In The Settlement</b>	If the Settlement is approved, you do not need to take any further action to participate in the Settlement and receive a payment. The portion of the Net Settlement Fund to which you are entitled will be calculated as part of the administration of the Settlement.
<b>Exclude Yourself (by March 6, 2020 at 5 p.m. CT)</b>	If you do not wish to be a member of the Settlement Class, you <i>must</i> exclude yourself (as described below in Answer to Question No. 13 and in the Settlement) and you <i>will not</i> receive any payment from the Settlement Fund. You cannot bring or be part of another lawsuit or arbitration against any of the Released Parties based on any Released Claims unless you exclude yourself from the Settlement Class.
<b>Object (by March 6, 2020 at 5 p.m. CT)</b>	If you do not exclude yourself and you wish to object to any part of the Settlement, the attorneys’ fees or litigation costs requested by Plaintiff’s Counsel, or the Case Contribution Award requested by Plaintiff, you must (as discussed below in Answer to Question No. 18 and in the Settlement Agreement) file an objection with the Court and provide written notice of your objection to the Settlement Administrator, Plaintiff’s Counsel, and Defendants’ Counsel.
<b>Attend the Final Fairness Hearing (to be held on March 23, 2020 at 2:00 p.m. CDT)</b>	If you have submitted a valid and timely written objection to any aspect of the Settlement, the attorneys’ fees or litigation expenses requested by Plaintiff’s Counsel, or the Case Contribution Award requested by Plaintiff, you may (but do not have to) attend the Final Fairness Hearing and present your objections to the Court at that hearing (as described below in Answer to Question No. 22 and in the Settlement Agreement).

<b>Do Nothing</b>	If you are a Class Member and do nothing, you will be bound by the terms of the Settlement as set forth in the Settlement Agreement and the documents referenced therein, will be bound by the release of and agreement not to sue the Released Parties, will receive your portion of the Net Settlement Fund (if any), and will not be able to bring or pursue any Released Claims in any other lawsuit or arbitration. It is your responsibility to familiarize yourself with the Settlement and all other documents regarding the Settlement that can be found at <a href="http://www.DASA-EnerVest-SMEnergy.com">www.DASA-EnerVest-SMEnergy.com</a>
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- **These rights and options — and the deadlines to exercise them — are explained in this Notice and in the Settlement Agreement. Please note that the date of the Final Fairness Hearing — currently scheduled for March 23, 2020 — is subject to change without further notice. If you plan to attend the Final Fairness Hearing, you should check the Court’s docket or [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com) to be sure no change to the date and time of the hearing has been made.**
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to Class Members only if the Court approves the Settlement and that approval is upheld in any appeals that may be filed.

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## **BASIC INFORMATION**

### **1. Why did I get this Notice package?**

You are being sent this Notice because you may be a member of the Settlement Class in the Litigation as described herein. Payment history records reflect that you have received payments from Defendants (or someone paying proceeds on Defendants' behalf) for oil and gas production proceeds from oil and gas wells in Oklahoma during the Claim Period (as defined in the Settlement Agreement and in the answer to Question No. 2). This Notice is not intended to be, and should not be construed as, an expression of any opinion with respect to the merits of the allegations in the Second Amended Complaint ("Complaint") filed in the Litigation. This Notice explains the claims being asserted in the Litigation, explains the Settlement, explains your right to remain a member of the Settlement Class (see Answer to Question No. 12), explains your right to opt out of the Settlement Class and be excluded from the Settlement (see Answer to Question No. 13), and explains your right to object to the Settlement (see Answer to Question No. 18).

The Court caused this Notice to be sent to you because, if you fall within this group and are not otherwise excluded from the Settlement Class, your rights will be affected and you have a right to know about the proposed Settlement, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, after any objections and appeals are resolved, the Court-appointed Settlement Administrator will cause payments to be made to Class Members in accordance with the Settlement Agreement.

This Notice package describes the Litigation, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this Litigation is the United States District Court for the Eastern District of Oklahoma. The entity prosecuting this Litigation on behalf of the Class is called the "Plaintiff" and the companies it is suing are called the "Defendants." This case, also called the "Litigation," is known as *DASA Investments, Inc. v. EnerVest Operating, LLC, et al.*, Case No. 6:18-cv-083-SPS.

### **2. What is the Litigation about?**

The Litigation seeks damages for Defendants' alleged failure to pay statutory interest on payments made by Defendants (or on behalf of Defendants) outside the time periods set forth in the Production Revenue Standards Act, 52 Okla. St. §570.1, *et seq.* (the "PRSA") for oil and gas production proceeds from oil and gas wells in Oklahoma. Specifically, in its Complaint, Plaintiff alleges that Defendants: (1) failed to pay or delayed payment of statutory interest on payments made outside the time periods set forth in the PRSA or any applicable statute or contract; (2) underpaid statutory interest due under the PRSA or any applicable contract; (3) awaited a demand prior to paying statutory interest under the PRSA; (4) misrepresented and/or omitted the amount of statutory interest owed; and (5) are liable to Class Members for breach of duties under the PRSA, actual fraud, constructive fraud, deceit, unjust enrichment/disgorgement, accounting, punitive damages, and injunctive relief.

Defendants expressly deny all of Plaintiff's factual and legal allegations. Defendants also expressly deny all of Plaintiff's allegations that they have done anything wrong, breached any duties under the PRSA, committed any type of fraud, been deceitful, or been unjustly enriched. Defendants also deny they are liable to Plaintiff or any of the Class Members for any of the claims and allegations in the Litigation or that it would be appropriate to award any type of damages, an accounting, or injunctive relief. Defendants further deny it would be appropriate to certify a contested class based on the facts and claims at issue in the Litigation.

The Court has made no determination with respect to any of the parties' claims or defenses.

A more complete description of the Litigation, its status, and the rulings made in the Litigation are available in the pleadings and other papers maintained by the United States District Court for the Eastern District of Oklahoma, located at 101 North 5th Street, Muskogee, Oklahoma 74401, in the file for Case No. 6:18-CV-0083-SPS. Some of the relevant pleadings are additionally located on the website found at [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com). Should you have questions regarding the status, rulings, or issues in the Litigation, such questions can be submitted as set forth below.

If the Court enters a final order approving the Settlement, all Class Members, on behalf of the “Releasing Parties,” will release any “Released Claims” they have against the “Released Parties.” This means that if you remain a member of the Settlement Class, any and all claims related to underpaid and unpaid interest for payments made during the Claim Period will be released and discharged.

**“Claim Period”** means any time up to and including October 31, 2019.

**“Released Claims”** means all claims and damages asserted in the Second Amended Complaint (statutory, contract, tort, equitable, punitive, and other relief), and all claims arising out of or related to unpaid statutory interest for payments on Oklahoma oil or gas production made or issued at any time prior to November 1, 2019, and all claims that could have been asserted in any forum or venue related to unpaid statutory interest under the Production Revenue Standard Act, 52 Okla. St. §570.1, *et seq.* (the “PRSA”), whether known or unknown, whether at law or in equity, or under any statute, and including any and all relief and remedies, except for claims excluded from the scope of Released Claims, as described in the paragraph below. The release of Released Claims will be effective as against a Settlement Class Member without regard to whether a Settlement Class Member actually received a payment from the Net Settlement Fund and without regard to whether any payment received was correctly determined.

Released Claims do not include: (a) claims related solely to underpaid or unpaid royalties for which payments were not made or issued by a Defendant prior to November 1, 2019, and any statutory interest owed thereon, and (b) claims for breach of obligations to Settlement Class Members to develop Oklahoma oil and gas leases and failure to prevent offset drainage.

**“Released Parties”** means the EnerVest Defendants and SM, as well as their respective past, present, and future subsidiaries and affiliates (entities which own an interest in any EnerVest Defendant or SM, or in which any EnerVest Defendant or SM owns an interest), and any and all of their past, present, and future officers, directors, employees, general partners, members, managers, agents, attorneys, board members, successors, assigns, and consultants. Additionally, “Released Parties” includes all non-operator co-working interest owners in wells for which a Defendant acted as operator and remitted payments of proceeds on behalf of the non-operator working interest owners at any time prior to November 1, 2019.

**“Releasing Parties”** means DASA and all Settlement Class Members who do not timely and properly submit a Request for Exclusion from the Settlement Class, and who are not otherwise excluded from the Settlement Class by order of the Court, as well as the predecessors, successors, heirs, assignors, and assignees, as well as any past, present, and future officers, employees, general partners, members, managers, agents, consultants, servants, etc. of DASA and any and all such Settlement Class Members who do not timely and properly submit a Request for Exclusion from the settlement, and who are not otherwise excluded from the Settlement Class by order of the Court, without regard to whether a member of the Settlement Class actually received a payment from the Net Settlement Fund and without regard to whether any payment received was correctly determined. All members of the Settlement Class who do not timely and properly submit Requests for Exclusion and who are not otherwise excluded from the Settlement Class by order of the Court and their heirs, successors, and assigns will be enjoined by the Court in the Judgment from filing or prosecuting Released Claims.

### **3. Why is this case a class action?**

In a class action, one or more plaintiffs sue on behalf of people who have similar claims. All of the individuals and entities on whose behalf the plaintiff is suing are class members. One court resolves the issues for all class members, except for those who choose to exclude themselves from the class. Here, United States District Court Magistrate Judge Steven P. Shreder is presiding over the Litigation.

### **4. Why is there a Settlement?**

The Court has not reached a final judgment as to whether the Settlement Class could be certified as a contested class action or that Plaintiff has proven or can prove its claims against the Released Parties. It would likely take

several more years before a contested class certification proceeding and trial on the merits could be held, final judgment entered, and appeals exhausted. Instead, Plaintiff and Defendants have agreed to the Settlement in order to resolve the Litigation. In reaching the Settlement, both sides have avoided the risk, cost, and time of a trial, and Plaintiff has avoided any further delay in resolving the Litigation. In addition, as with any litigated case, Plaintiff would face an uncertain outcome if this Litigation went to trial. On the one hand, a trial could result in a verdict greater than the Settlement. However, Defendants have asserted many defenses, and a trial could result in a judgment in favor of Defendants on class certification and liability or a verdict lower than the Settlement Amount that Plaintiff has obtained, or even no recovery at all for Plaintiff and the Class Members. Based on these factors and others, Plaintiff and Plaintiff's Counsel believe the Settlement is best for all Class Members.

#### **5. How do I know whether I am part of the Settlement Class?**

The Settlement Class consists of the following individuals and entities, subject to the exceptions listed in the answer to Question No. 6 below:

All non-excluded persons or entities who received working interest, royalty, and/or overriding royalty payments from a Defendant (or a predecessor of a Defendant) for oil and/or gas proceeds related to wells located in Oklahoma at any time prior to November 1, 2019 ("Owners").

#### **6. Are there other exceptions to being included?**

The persons or entities excluded from the Class are: (1) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (2) Commissioners of the Land Office of the State of Oklahoma ("CLO"); (3) publicly traded oil and gas companies and their affiliates; (4) persons or entities that Plaintiff's counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct, including, but not limited to, Charles David Nutley, Danny George, Dan McClure, Kelly McClure Callant, and their relatives; (5) officers of the court; and (6) Owners who are entitled to O&G Proceeds from an Oklahoma Well of less than \$10.00 for a calendar year pursuant to Okla. Stat. tit. 52 § 570.10(B)(3)(a).

Also, you are not a Class Member if you exclude yourself from the Settlement Class by submitting a valid and timely Request for Exclusion in accordance with the requirements set forth in this Notice and in the Settlement. The procedure for requesting exclusion from the Settlement Class is described below in the Answer to Question No. 13.

#### **7. I am still not sure whether I am included.**

If you are still not sure whether you are included, you can ask for help, which will be provided to you at no cost. You can call the Settlement Administrator at 1-844-924-0849 or write to the following address:

*DASA-EnerVest-SM Energy Settlement*  
c/o JND Class Action Administration, Settlement Administrator  
P.O. Box 91232  
Seattle, WA 98111-9332

### **THE SETTLEMENT BENEFITS – WHAT YOU RECEIVE**

#### **8. What does the Settlement provide?**

In consideration of the Settlement, the EnerVest Defendants have agreed to pay \$7,000,000.00 in cash and SM has agreed to pay \$1,000,000.00 in cash. In addition, commencing within the later of (i) 6 months after execution of the Settlement Agreement or (ii) 30 days after the date a judgment approving the Settlement becomes Final and Non-Appealable, the EnerVest Defendants will (1) implement new procedures and policies reasonably calculated to accomplish the payment of statutory interest to Owners in Oklahoma without awaiting a demand for such statutory interest, and will maintain such procedures (or other policies and procedures reasonably calculated

to accomplish the same result) unless or until there is a change in the law; and (2) take steps reasonably calculated to comply with Oklahoma law regarding the exercise of due diligence and the conduct of meaningful searches to locate Owners. (hereinafter, "Future Benefits") See the Settlement Agreement for full details. While Defendants have not analyzed and take no position regarding the value of these Future Benefits, Plaintiff estimates these Future Benefits have a net present value of at least \$7,000,000.00.

The Settlement, if approved, will result in the dismissal of the Second Amended Complaint against Defendants and the release by all Class Members of all the Released Claims the Releasing Parties may have against the Released Parties, as defined above in Answer to Question No. 2. The Net Settlement Fund will be distributed to the Class Members who are not excluded from the Settlement Class in accordance with the provisions of the Allocation Methodology and Plan of Allocation, which is explained below in the Answer to Question No. 9.

### **9. How much will the cash portion of my payment be?**

The Net Settlement Fund shall be allocated to Class Members on the following basis:

With the Court's approval, Plaintiff's Counsel shall, subject to Court approval, allocate the Net Settlement Fund to individual Class Members who are participating in the Settlement proportionately based on the amount of statutory interest owed on the original underlying payment that allegedly occurred outside the time periods required by the PRSA, with due regard for the production date, the date the underlying payment was made, the amount of the underlying payment, the time periods set forth in the PRSA, any additional statutory interest that Plaintiff's Counsel believes has since accrued, and the amount of interest or returns that have accrued on the Class Member's proportionate share of the Net Settlement Fund during the time such share was held in the Escrow Account. This allocation is subject to modification by Plaintiff's Counsel and final approval by the Court.

**If you have questions about the tax consequences of participating in the Settlement, you should consult with your own tax advisor.**

### **10. How can I get a payment?**

If you do **not** exclude yourself pursuant to the procedure set forth in Answer to Question No. 13 below, **YOU DO NOT NEED TO TAKE ANY ACTION WHATSOEVER** to receive your portion of the Net Settlement Fund (if any).

### **11. When would I get my payment?**

Payment to Class Members is contingent on several matters, including the Court's approval of the Settlement and that approval becoming final and no longer subject to any appeal to any court, as set forth more specifically in paragraph 1.14 of the Settlement Agreement.

The Net Settlement Fund will be distributed by the Settlement Administrator as soon as reasonably possible after final approval has been obtained for the Settlement and any appeals are exhausted. The Settlement Agreement specifies deadlines for distributing the Net Settlement Fund. Any appeal of final approval could take well in excess of one year. It is not anticipated that any meaningful interest will accrue on the Net Settlement Fund. The Settlement will terminate if the Court does not approve the terms of the Settlement or if a Judgment approving the Settlement is reversed on appeal. If the Settlement terminates, the Litigation will proceed as if the Settlement had not been reached.

You may receive information about the progress of the Settlement by visiting the website at [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com), or by calling 1-844-924-0849 or writing to: *DASA-EnerVest-SM Energy Settlement*, c/o JND Class Action Administration, Settlement Administrator, P.O. Box 91232, Seattle, WA 98111-9332.



**12. What is the effect of my remaining in the Settlement Class?**

Unless you exclude yourself from the Settlement Class, if the Settlement is approved, you will be a Class Member. As a Class Member, you will receive any portion of the Net Settlement Fund allocated to you and will be bound by all orders and judgments entered by the Court regarding the Settlement. If the Settlement is approved, you will not be able to sue, continue to sue, or be part of any other lawsuit against any of the Released Parties concerning any of the Released Claims.

**13. How do I get out of the Settlement and not release my claims?**

To get out of the Settlement, you must exclude yourself from the Settlement Class. To exclude yourself from the Settlement Class, you must submit a written statement by certified mail, return receipt requested, to the United States District Court for the Eastern District of Oklahoma, Defendants' Counsel, Plaintiff's Counsel, and the Settlement Administrator. Your written statement must state that you want to be excluded from the Settlement Class in *DASA Investments, Inc. v. EnerVest Operating, LLC et al.* In addition to the other information specified in the rest of this answer, your statement must include your name, address, telephone number, and notarized signature, and must be received no later than March 6, 2020 at 5 p.m. CT.

Your written statement must be sent to:

<b>The Court:</b>	<b>The Settlement Administrator:</b>
Clerk of the Court United States District Court for the Eastern District of Oklahoma 101 North 5 <sup>th</sup> Street Muskogee, Oklahoma 74401	<i>DASA-EnerVest-SM Energy Settlement</i> c/o JND Class Action Administration, Settlement Administrator P.O. Box 91232 Seattle, WA 98111-9332

and

<b>Plaintiff's Counsel:</b>	<b>Defendant's Counsel:</b>
Patrick M. Ryan, OBA No. 7864 Jason A. Ryan, OBA No. 18824 Paula M. Jantzen, OBA No. 20464 <b>Ryan Whaley Coldiron</b> <b>Jantzen Peters &amp; Webber PLLC</b> 400 N. Walnut Ave. Oklahoma City, OK 73104	Guy S. Lipe <b>Vinson &amp; Elkins L.L.P.</b> 1001 Fannin Street, Suite 2500 Houston, Texas 77002-6760
Michael Burrage, OBA No. 1350 <b>Whitten Burrage</b> 512 N. Broadway Ave, Suite 300 Oklahoma City, OK 731023	Jay P. Walters <b>Gable Gotwals</b> One Leadership Sq., 15 <sup>th</sup> Floor 211 N. Robinson Oklahoma City, OK 73102-7101
	J. Kevin Hayes Pamela S. Anderson <b>Hall, Estill, Hardwick, Gable, Golden &amp; Nelson, P.C.</b> 320 South Boston Avenue, Suite 200 Tulsa, OK 74103

**To be effective, your written Request for Exclusion must be RECEIVED at the above addresses no later than March 6, 2020 at 5 p.m. CT.** You cannot exclude yourself on the website, by telephone, facsimile, or by e-mail. The letter must be signed by you under oath and acknowledged by a Notary Public. In the letter, you must identify your interest in any wells for which you have received payments from Defendants or anyone making payments on Defendants' behalf, including the name, well number, county in which the well is located, and the owner identification number. Any such letter also should state generally:

Dear Judge, I want to exclude myself from the Settlement Class in *DASA Investments, Inc. v. EnerVest Operating, LLC et al.*, Case No. 18-cv-0083-SPS, United States District Court for the Eastern District of Oklahoma. I understand it will be my responsibility to pursue any claims I may have, if I so desire, on my own and at my expense.

**If you do not follow these procedures—including meeting the date for exclusion set out above—you will not be excluded from the Settlement Class, and you will be bound by all of the orders and judgments entered by the Court regarding the Settlement, including the release of claims.** You must exclude yourself even if you already have a pending case against any of the Released Parties based upon any Released Claims.

If you validly request exclusion as described above, you will not receive a Distribution, you cannot object to the Settlement, and you will not have released any claim against the Released Parties. You will not be legally bound by anything that happens in the Litigation. You will also not participate in any distribution of the Net Settlement Fund. Do not request exclusion if you wish to participate in the Settlement.

**14. If I don't exclude myself from the Class, can I sue the Released Parties for the same thing later?**

No. Unless you exclude yourself from the Settlement Class in connection with the Litigation, you (and any other Releasing Parties) give up any right to sue any or all of the Released Parties for any Released Claims. If you have a pending lawsuit or arbitration against Defendants or any of their officers and/or directors or any other Released Parties, speak to the lawyer representing you in that case immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit or arbitration against any of the Released Parties.

**15. If I exclude myself, can I get money from this Settlement in connection with the Litigation?**

No. If you exclude yourself from the Settlement Class, you may be able to sue, continue to sue, or be part of a different lawsuit or arbitration against the Released Parties, but you will not receive any money from the Settlement discussed in this Notice.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in the case?**

The law firms of (a) Ryan Whaley PLLC and (b) Whitten Burrage represent the Plaintiff and all other Class Members in this Litigation. These lawyers are called Plaintiff's Counsel. You will not be charged directly by these lawyers. If the Court authorizes it, these lawyers will be paid in accordance with the Answer to Question No. 17 below. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers be paid?**

Plaintiff's Counsel intends to seek an award of attorneys' fees up to \$3,200,000.00 to be paid out of the Gross Settlement Fund. Plaintiff's Counsel has been litigating this case for approximately two years without any payment whatsoever. At the Final Fairness Hearing, Plaintiff's Counsel will also seek reimbursement from the Gross Settlement Fund of the expenses incurred in connection with the prosecution of this Litigation, and which will be incurred through final distribution of the Settlement, which amount will not exceed \$350,000.00. Plaintiff intends to seek Case Contribution Awards relating to its representation of the Settlement Class, taking into account Plaintiff's time, effort, risk, and burden, up to \$75,000.00.

**OBJECTING TO THE SETTLEMENT, PLAN OF ALLOCATION, ATTORNEYS' FEES AND EXPENSES, AND PLAINTIFF'S CASE CONTRIBUTION AWARD**

**18. How do I tell the Court that I do not like any aspect of the Settlement?**

If you are a Class Member and you do not exclude yourself, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve the Settlement, Allocation Methodology, Plan of Allocation, request for Plaintiff's attorneys' fees or reimbursement of Litigation Expenses, or Case Contribution Award to Plaintiff. To object, you must send a written statement to the Court, Plaintiff's Counsel, and Defendants' Counsel saying that you object to the proposed Settlement. You must include in your written statement:

- (a) a heading referring to *DASA Investments, Inc. v. EnerVest Operating, LLC et al.*, Case No. 18-cv-0083-SPS, United States District Court for the Eastern District of Oklahoma;
- (b) a statement as to whether you intend to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, counsel must be identified by name, address and telephone number (this statement must also comply with the requirement stated in Answer to Question No. 22 below);
- (c) a detailed statement of the specific legal and factual basis for each and every objection;
- (d) a list of any witnesses you wish to call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent you desire to offer expert testimony and/or an expert report, any such evidence must fully comply with the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Local Rules of the Court);
- (e) a list of and copies of any exhibits you may seek to use at the Final Fairness Hearing;
- (f) a list of any legal authority you may present at the Final Fairness Hearing;
- (g) your name, current address, current telephone number, and all owner identification numbers with Defendants;
- (h) your signature executed before a Notary Public;
- (i) identification of your interest in wells from which you have received payments made by or on behalf of Defendants (by well name, payee well number, and county in which the well is located) during the Claim Period and identification of such payments by date of payment, date of production, and amount; and
- (j) if you are objecting to any portion of the Plaintiff's attorneys' fees or Litigation Expenses sought by Plaintiff's Counsel on the basis that the amounts requested are unreasonably high, you must specifically state the portion of Plaintiff's attorneys' fees and/or Litigation Expenses you believe is fair and reasonable and the portion that is not.

**Your written objection must be filed with the Court and served on Plaintiff's Counsel and Defendants' Counsel by certified mail, return receipt requested, and received at the addresses below no later than 5:00 p.m. CT on March 6, 2020:**

**By the above date and time, your written objection must be ON FILE with the Court:**

Clerk of the Court  
United States District Court for the Eastern District of Oklahoma  
101 North 5th Street  
Muskogee, Oklahoma 74401

**And, by the same date and time, copies of your written objection must be served and received by counsel at the addresses below:**

Plaintiff's Counsel:	Defendant's Counsel:
Patrick M. Ryan, OBA No. 7864 Jason A. Ryan, OBA No. 18824 Paula M. Jantzen, OBA No. 20464 <b>Ryan Whaley Coldiron</b> <b>Jantzen Peters &amp; Webber PLLC</b> 400 N. Walnut Ave. Oklahoma City, OK 73104	Guy S. Lipe <b>Vinson &amp; Elkins L.L.P.</b> 1001 Fannin Street, Suite 2500 Houston, Texas 77002-6760
Michael Burrage, OBA No. 1350 <b>Whitten Burrage</b> 512 N. Broadway Ave, Suite 300 Oklahoma City, OK 731023	Jay P. Walters <b>Gable Gotwals</b> One Leadership Sq., 15 <sup>th</sup> Floor 211 N. Robinson Oklahoma City, OK 73102-7101
	J. Kevin Hayes Pamela S. Anderson <b>Hall, Estill, Hardwick, Gable, Golden &amp; Nelson, P.C.</b> 320 South Boston Avenue, Suite 200 Tulsa, OK 74103

**UNLESS OTHERWISE ORDERED BY THE COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE PROPOSED SETTLEMENT AND THE APPLICATION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES AND CASE CONTRIBUTION AWARD AND WILL NOT BE ALLOWED TO PRESENT ANY OBJECTIONS AT THE FINAL FAIRNESS HEARING.**

**19. What's the difference between objecting and excluding myself?**

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you are a Class Member. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself from the Settlement Class, you have no basis to object, because the Settlement no longer affects you. If you do not exclude yourself from the Settlement Class, you will remain a member of the Settlement Class and will be bound by the terms of the Settlement Agreement (including the release contained therein) and all orders and judgments entered by the Court regarding the Settlement regardless of whether the Court accepts or denies your objection.

**20. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Fairness Hearing on **March 23, 2020, at 2:00 p.m. CDT**, at the United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma 74401. **Please note that the date of the Final Fairness Hearing is subject to change without further notice. If you plan to attend the hearing, you should check with the Court and [www.DASA-EnerVest-SM Energy.com](http://www.DASA-EnerVest-SM Energy.com) to be sure no change to the date and time of the hearing has been made.** At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. After the Final Fairness Hearing, the Court will decide whether to approve the Settlement, the Allocation Methodology, and the Plan of Allocation. The Court will also rule on the request for attorneys' fees and litigation

expenses by Plaintiff's Counsel and the request for Case Contribution Award for Plaintiff relating to its representation of the Settlement Class. We do not know how long it will take the Court to make these decisions.

### **21. Do I have to come to the hearing?**

No. Plaintiff's Counsel will answer any questions the Court might have for the Settlement Class. But you are welcome to come at your own expense. If you timely and properly file and serve an objection (see Answer to Question No. 18 above), you do not have to come to Court to talk about it. As long as you properly file and serve your written objection on time, it will be before the Court when the Court considers whether to approve the Settlement as fair, reasonable, and adequate. You also may pay your own lawyer to attend the Final Fairness Hearing, but attendance is not necessary. However, if you fail to timely and properly file and serve an objection, you will not be entitled to be heard at the Final Fairness Hearing regarding any objections.

### **22. May I speak at the hearing?**

If you are a Class Member who has not requested to be excluded from the Settlement Class, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *DASA Investments, Inc. v. EnerVest Operating, LLC et al.*" Be sure to include your name, address, telephone number, and signature. Your Notice of Intention to Appear must be received by the counsel listed in Answer to Question No. 18 and must be filed with the Clerk of the Court at the addresses in the Answer to Question No. 18 no later than **March 6, 2020** at 5 p.m. CT. You cannot speak at the Final Fairness Hearing if you exclude yourself from the Settlement Class.

If you object to the Settlement or any part thereof and you or your attorney wish to be heard at the Final Fairness Hearing, you must file a Notice of Intention to Appear as outlined above by the date specified for objections in the Answer to Question No. 18 in order to present your objection at the Hearing (see also Answer to Question No. 18 above).

## **IF YOU DO NOTHING**

### **23. What happens if I do nothing at all?**

If you do nothing and you are a Class Member, you will receive payment in connection with the Settlement as explained in response to Question No. 9 above if you are entitled to a distribution pursuant to the Allocation Methodology and Plan of Allocation, and you will be bound by the Settlement. Unless you exclude yourself from the Settlement Class, neither you nor any other Releasing Party will be able to start a lawsuit or arbitration, continue a lawsuit or arbitration, or be part of any other lawsuit or arbitration against any of the Released Parties based on any Released Claims.

## **GETTING MORE INFORMATION**

### **24. Are there more details about the Settlement?**

This Notice summarizes the Settlement. The complete terms of the Settlement are set out in the Settlement Agreement and the documents referenced therein and attached thereto. You may obtain a copy of the Settlement Agreement, as well as other documents, from the settlement website for free at [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com) or you may request copies by writing to DASA-EnerVest-SM Energy Settlement, c/o JND Class Action Administration, Settlement Administrator, P.O. Box 91232, Seattle, WA 98111-9332. If you elect to obtain copies from a source other than the free website, there may be a charge to you for copying and mailing such documents. The Settlement Agreement also is filed in *DASA Investments, Inc. v. EnerVest Operating, LLC et al.*, Case No. 18-cv-0083, United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma 74401, and may be obtained from the Clerk's office directly. Further information regarding the Litigation and this Notice may be obtained by contacting Plaintiff's Counsel at the address provided in the Answer to Question No. 18 above.

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

You can visit the website at [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com), where you will find answers to common questions about the Settlement plus other information to help you determine whether you are a Class Member and whether you are eligible for payment. You can also call 1-844-924-0849 toll free or write to DASA-EnerVest-SM Energy Settlement, c/o JND Class Action Administration, Settlement Administrator, P.O. Box 91232 Seattle, WA 98111-9332.

**INQUIRIES**

All inquiries concerning this notice or any other questions by Class Members should be directed to the Settlement Administrator as follows:

*DASA-EnerVest-SM Energy Settlement*  
c/o JND Class Action Administration, Settlement Administrator  
P.O. Box 91232  
Seattle, WA 98111-9332  
Toll Free: 1-844-924-0849  
Website: [www.DASA-EnerVest-SMEnergy.com](http://www.DASA-EnerVest-SMEnergy.com)

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

DATED: January 20, 2020

BY ORDER OF THE COURT