

State

States join lawsuit in constitutionality case

Texas and Louisiana challenge windfall tax

CHEYENNE, Wyo. — A federal judge allowed Texas and Louisiana to join in a lawsuit challenging the constitutionality of the federal windfall profits tax on oil and took under advisement a motion by the U.S. government to dismiss the suit.

The Independent Petroleum Association of America filed the suit last year on behalf of 12,000 independent oil producers and 2.5 million property owners who receive royalties on oil production.

U.S. District Judge Ewing T. Kerr Monday gave attorneys for both sides 30 days to file sup-

plemental briefs on the motion for dismissal.

Kerr also allowed the states of Louisiana and Texas to join the suit amid claims Texas would lose \$300 million per year because of the tax.

The windfall profits tax is applied to added revenues reaped by oil producers as a result of the government's decision to decontrol gradually domestic oil prices.

The tax was enacted in March 1980 and is expected to raise \$227 billion in revenue over the next 10 years.

Mountain States Legal Foundation Attorney Gale Norton, arguing on behalf of the states, said Louisiana and Texas were challenging the tax's

constitutionality because nearly one-half of the geographical area of Alaska is exempt from the tax.

"If half the state of Texas was exempted from the tax, I doubt we'd be here today," Assistant Texas Attorney General Stuart Fryer told Kerr.

Fryer said Texas is losing an estimated \$300 million in revenue annually because the tax discourages production on stripper wells — wells that produce less than 10 barrels a day — and other marginal production wells.

Fryer said energy is the dominant industry in Texas, and any adverse effects felt by the energy industry affect the entire population because of

lost state revenues.

The IPAA also contends those required to pay the tax are being forced to bear a "disproportionate" tax burden.

IPAA attorney Harold Scoggins said the windfall tax was enacted with a "minimum level of rationality," as part of a program designed to increase U.S. energy production but having just the opposite effect.

He said the windfall tax was "the largest tax of any kind ever imposed by Congress" and said it amounted to a "seizure" of property.

Government attorney Robert Baker, however, said the windfall tax is "one of the most beneficial

and important acts ever passed by Congress" and that any problems with it should be addressed by Congress, not the courts.

Baker also said the government opposed intervention by the states because states do not pay taxes and cannot be granted relief in a tax case.

Baker said Texas and Louisiana were acting as "volunteers for a very small but influential group of its citizens."

Kerr, in granting the motion to intervene, said: "The modern policy seems to be, 'Everybody is entitled to be heard.' That's probably what's cluttering up the courts today, but that's the policy."

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200	1 in 200	1 in 200	1 in 200
300	1 in 300	1 in 300	1 in 300
400	1 in 400	1 in 400	1 in 400
500	1 in 500	1 in 500	1 in 500
600	1 in 600	1 in 600	1 in 600
700	1 in 700	1 in 700	1 in 700
800	1 in 800	1 in 800	1 in 800
900	1 in 900	1 in 900	1 in 900
1000	1 in 1000	1 in 1000	1 in 1000

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State law tossed out by judge

HOUSTON — A federal judge has declared unconstitutional a state law which allows police to file criminal charges against people who refuse to identify themselves to law enforcement officials.

U.S. District Judge Woodrow Seals made his ruling Monday in a 1979 case involving a Lufkin man arrested by Houston police in 1975.

"Individuals stopped by the police merely on the basis of suspicion have a right not to be arrested, a right to remain silent and, as a corollary, a right not to be arrested if they choose to remain silent," Seals said.

In November 1975 Lufkin attorney Gilbert Manley Spring was arrested by Houston police after he was accused by some women the officers said had been charged previously with prostitution.

Spring refused to identify himself to police and was arrested. He was convicted in municipal court in March 1976 and fined \$100. His appeals through the state courts were unsuccessful, but he remained out of jail because Seals had stayed the sentence.

AT&T plan for service criticized

AUSTIN — The president of Harte-Hanks Communications Inc. said Tuesday private companies will be forced out of the electronic information service market if American Telephone and Telegraph and its telephone company affiliates are allowed to enter the market with "cozy relationships" such as one proposed for a six-month Texas trial.

Robert Marbut told a Public Utility Commission hearing examiner his company, one of the state's leading newspaper publishers, is considering entering the electronic information service market, but probably will not do so if Southwestern Bell and AT&T are permitted to go ahead with plans for a six-month trial of such service in Austin.

The Texas Daily Newspaper Association is asking the PUC to order the telephone company to stop all preparations for the electronic information service trial, which would involve about 700 residences and businesses.

TDNA attorneys during two days of hearings have meticulously introduced and explained more than 50 documents they say show Bell has provided AT&T with information, personnel, customer lists and credit information it would not make available to other firms entering the electronic information service market.

"Once we found out about this trial, and about this relationship where AT&T is going to be an electronic publisher with inside information they had, there is no reason for us to want to get into this market until the ground rules are made clear," Marbut said.

Marbut said it would be a kamikaze effort for a private company to compete against an AT&T-Southwestern Bell alliance, and said, "As chief executive officer of a company, I don't like those kind of missions."

"What they are wanting to do in this trial is anti-competitive, and if they are allowed to do it, the trial will give them an unfair advantage."

