

FLEESON, GOOING, COULSON & KITCH, L.L.C.  
 125 North Market, Suite 1600  
 P.O. Box 997  
 Wichita, Kansas 67201-0997  
 Telephone (316) 267-7361

**FILED**  
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 KOLEEN HEGGKABEL  
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 STEVENS CO. KS

IN THE TWENTY-SIXTH JUDICIAL DISTRICT  
 DISTRICT COURT, STEVENS COUNTY, KANSAS  
 CIVIL DEPARTMENT

OPAL LITTELL and CHERRY RIDER, )  
 co-trustees of the Opal Littell )  
 Family Trust, and BONNIE BEELMAN, )  
 individually and as representative )  
 plaintiffs on behalf of persons )  
 or concerns similarly situated, )  
 )  
 Plaintiffs, )  
 v. )  
 )  
 OXY USA INC., )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. 98-CV-51

**PLAINTIFFS' SUPPLEMENTAL MEMORANDUM IN SUPPORT OF  
 MOTION FOR CLASS CERTIFICATION**

By filing its Motion to Consolidate for a Limited Purpose, defendant OXY has abandoned its position that there are no common issues of law or fact affecting its own royalty owners. Accordingly, plaintiffs' motion for class certification should be granted forthwith.

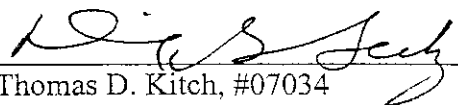
When arguing that plaintiffs' motion for class certification should be denied, OXY told the Court that: "An analysis of Plaintiffs' Claims Reveals That There Are No Common Questions of Law or Fact and That Individual Issues Predominate Over Any Potentially Common Ones." (Defendant's Brief in Opposition to Plaintiffs' Motion and Memorandum In Support of Class Certification, at p. 32). OXY also argued at length that whether gas is marketable was a highly individualized question that could not possibly be decided with respect to all of OXY's gas, much

less all gas in the Hugoton Field. (*E.g., id.* at pp. 33-34). *See also*, Affidavit of Douglas Burton, at p. 3 (issue of marketability “requires a complex and particularized investigation” and “would require over one and one-half years of court time.”).

Just a few months later, in stark contrast, OXY now asserts that “common issues” regarding the marketability of gas are present in three separate lawsuits: “Thus, in all three of these actions the common issues . . . are present.” (Motion to Consolidate, at pp. 2-3). Surprisingly, OXY now suggests that these common issues can and should be decided simply and quickly by summary judgment.

OXY takes this new and inconsistent position simply because it apparently serves its interests to do so. Although plaintiffs strenuously oppose consolidation at this late date, OXY cannot have it both ways. By seeking consolidation based on the existence of common issues, OXY has compromised its purported opposition to class certification. In light of OXY’s inconsistent conduct in this Court, plaintiffs’ motion for class certification should be granted without further delay.

FLEESON, GOOING, COULSON & KITCH, L.L.C.

By:   
Thomas D. Kitch, #07034  
Gregory J. Stucky, #09674  
David G. Seely, #11397  
125 North Market, Suite 1600  
P.O. Box 997  
Wichita, Kansas 67201

- and -

KRAMER, NORDLING & NORDLING, L.L.C.  
Bernard E. Nordling  
Erick E. Nordling  
209 East Sixth Street  
Hugoton, Kansas 67951

Telephone (316) 544-4333

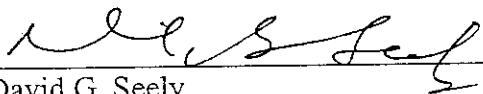
Attorneys For Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of February, 2001, I served a copy of the foregoing Plaintiffs' Supplemental Memorandum in Support of Motion for Class Certification by mailing same, postage prepaid and properly addressed to:

Kerry McQueen  
SHARP, MCQUEEN, MCKINLEY, DREILING & TATE, P.A.  
419 N. Kansas  
P.O. Box 2619  
Liberal, KS 67905-2619

James C. T. Hardwick  
Donald L. Kahl  
T. Lane Wilson  
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.  
320 South Boston Avenue, Suite 400  
Tulsa, Oklahoma 74103-3708

  
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David G. Seely