

DISTRICT COURT, LA PLATA COUNTY,
COLORADO
Court Address: 1060 E. 2nd Ave., Durango, CO 81301
Phone Number: (970)247-2304

Plaintiff(s): RICHARD PARRY, LINDA PARRY,
EVELYN L. PAYNE, and DAVID G. GROBLEBE,
individually and as representative Plaintiffs on behalf of
persons similarly situated, (94CV111)

(Consolidated with other cases as 94CV105)

v.

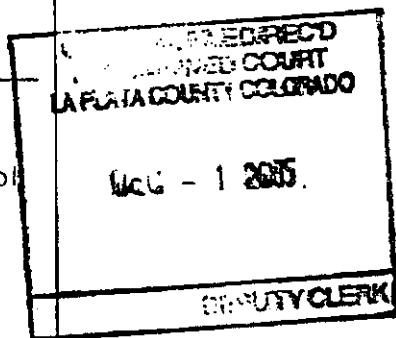
Defendant(s): AMOCO PRODUCTION COMPANY, a
Delaware corporation

Attorney or Party Without Attorney:

G.R. Miller
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ROBBINS, LLC
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and of counsel:

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▲ COURT USE ONLY ▲

Case Number: 94CV105

Div.:

Ctm.:

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO
DETERMINE CLASS STATUS**

COME NOW Plaintiffs and respond to Defendant's Motion to Determine Class Status as follows:

1. Amoco opposed the Motion to Intervene and Confirm Inclusion in Parry Class, which was filed on May 30, 2005, because it believed the goal of the Motion was to include Lemon Ranches, Ltd., in the class:

- a. In its Response to the Motion, Amoco stated that Movants were attempting to have the "opt-outs" of Lemon Ranches, Ltd., "set aside" and presented arguments as to why such relief should not be granted. (Defendant's Response to Motion to Intervene and Confirm Inclusion in Plaintiff Class, filed June 17, 2002);
- b. In its Reply to the Motion, Amoco stated that "[t]he second part of the subject motion involves the request to set aside the prior exclusion requests filed with this Court by the entity, Lemon Ranches, Ltd." (Defendant's Reply to Plaintiffs' Response to Motion to Intervene and Confirm Inclusion in Plaintiff Class, filed July 20, 2002);
- c. In the last sentence of Paragraph 6 of its pending Motion, Amoco acknowledges that in the Response which it filed on June 17, 2002, it noted that there had been no "evidence" or "rationale" presented as to why the Lemon Ranches, Ltd. opt-out should "now be set aside."

2. When this Court considers Amoco's claim that its Order, dated July 25, 2002, did not address that issue of whether the opt-out of Lemon Ranches Ltd. should be set aside, it should be aware of the following events, all of which transpired after the entry of such Order:

- a. Instead of showing Lemon Ranches, Ltd., as an "opt-out" in the database it provided Class Counsel on or about May 24, 2004, Amoco treated that entity as a recovering class member. (See Exhibit A to the Stipulation, filed on October 21, 2004, for a description of that database.) (Before the July 25, 2002 Order, Lemon Ranch Ltd. appeared on Amoco's master opt-out list dated April 17, 2002).
- b. Pursuant to the Agreed Order with Respect to Notice Procedures, dated June 10, 2005, a "Report on Status of Class Action and Explanation of Method Being Utilized to Calculate Refunds Owed to Members of Subclass 2 and 3" was mailed to "all recovering members of the Plaintiff Class."

(Paragraph 1.A. of Agreed Order with Respect to Notice Procedures, dated June 10, 2005.) As shown on Exhibit F to Plaintiffs' Unopposed Motion for Entry of an Agreed Order with Respect to Notice Procedures, filed June 9, 2005, and again on Exhibit F to Affidavit of Mailing, dated June 22, 2005, Lemon Ranches, Ltd. was considered to be (and was mailed notice as) a "recovering" class member.

- c. As required by Paragraph C.1 of the Order Preliminarily Approving Settlement Agreement, Approving Form of Notice and Scheduling Fairness Hearing, filed October 31, 2005, Amoco provided Class Counsel the names and addresses of each "Settlement Class Member," so that notice of the settlement could be mailed to them. (Pursuant to Paragraph 1.40 of the Stipulation and Settlement Agreement, a "Settlement Class Member" means "all members of the Plaintiff Class, except Opt-out Claimants," and Paragraph A.1 of the above preliminary order incorporates such definition by reference.) When it complied with said order, defendant included Lemon Ranches, Ltd., on the "Settlement Class Member" list, which it provided to Class Counsel. Thus, Lemon Ranches, Ltd., appears on page 78 of Exhibit A to Affidavit of Mailing, dated November 17, 2005, as having been mailed the recent settlement notice.
- d. In the Preliminary Distribution Schedule, which it prepared and filed herein on October 31, 2005, Defendant again showed Lemon Ranches, Ltd., as a recovering class member.

4. As is demonstrated by the above facts, at all times subsequent to the entry of this Court's Order on July 15, 2002, the parties have treated Lemon Ranches, Ltd., as a member of the plaintiff class.

Respectfully submitted,

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By: _____



G. R. Miller - #8406

Attorneys for Plaintiffs and Plaintiff Class

CERTIFICATE OF SERVICE

I hereby certify that on this day of December , 2005, I mailed a true and correct copy of the above and foregoing **PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO DETERMINE CLASS STATUS**, postage prepaid and properly addressed, to the following persons:

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