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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GILBERT H. COULTER and
ELIZABETH S. LEIGNOR,
individually and as representative
plaintiffs on behalf of persons or
companies similarly situated,

Plaintiffs,

v.

ANADARKO PETROLEUM CORPORATION,

Defendant.

Case No. 98-1413-WEB

DEFENDANT'S ANSWER AND COUNTERCLAIMS

As its Answer to Plaintiffs' Petition, Defendant States as Follows:

1. Defendant admits the allegations of paragraphs A, B, and C of the petition.
2. Defendant admits the allegations of paragraph D of the petition, on the assumption that paragraph D's reference to a nonexistent "paragraph 5" of the petition is intended by plaintiffs as a reference to paragraph E of the petition, but defendant does not know whether additional class representatives may be necessary, or whether subclasses and additional representatives for those subclasses will be required, and to that extent, or to the extent plaintiffs do not intend their reference to "paragraph 5" of the petition to be a reference to paragraph E of the petition, defendant denies the allegations of paragraph D of the petition.

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3. Defendant admits the allegations of paragraph E of the petition, except that defendant asserts that, to the extent this is an appropriate case for a class action, the Court will need to define the scope of the class and of any subclasses, and will need to determine appropriate class or subclass representatives, and to that extent defendant denies the allegations of paragraph E of the petition.

4. Defendant admits the allegations of the first and second sentences of paragraph F of the petition. Defendant admits the allegations of the third sentence of Paragraph F of the petition, except that defendant asserts that, to the extent this is an appropriate case for a class action, the Court will need to define the scope of the class and of any subclasses, and will need to determine appropriate class or subclass representatives, and to that extent defendant denies the allegations of the third sentence of Paragraph F of the petition.

5. Defendant admits the allegations of paragraph G of the petition.

6. Defendant admits the allegations of paragraph H of the petition, except that defendant denies that injunctive relief is appropriate against defendant, and except that defendant asserts that a class (or subclasses) should not be certified under Rule 23(b)(2) to the extent that a class should be certified under Rule 23(b)(1), and to that extent defendant denies the allegations of paragraph H of the petition.

7. Defendant admits the allegations of paragraph I of the petition, except that defendant asserts that a class (or subclasses) should not be certified under Rule 23(b)(3) to the extent that a class should be certified under Rule 23(b)(1), and to that extent defendant denies the allegations of paragraph I of the petition.

8. Defendant denies the allegations of paragraph J of the petition.

9. Defendant admits the allegations of the first sentence of paragraph K of the petition, except to the extent that they state or imply that defendant has improperly deducted costs from the royalty payments made to plaintiff or to the plaintiff class, and to that extent defendant denies the allegations of the first sentence of paragraph K of the petition. Defendant admits the allegations of the second sentence of paragraph K of the petition.

10. Defendant denies the allegations of paragraph L of the petition.

11. Defendant admits the allegations of the first sentence of paragraph M of the petition, except to the extent that plaintiff seeks to impose upon defendant an obligation greater than that created by the governing leases and by Kansas law, and to that extent defendant denies the allegations of the first sentence of paragraph M of the petition. Defendant denies the allegations of the remaining sentences of paragraph M of the petition.

12. Defendant denies the allegations of Paragraphs N and O of the petition.

By Way of Affirmative Defense, Defendant States as Follows:

13. The claims of plaintiffs and of any plaintiff class are barred by principles of estoppel, quasi-estoppel, and waiver.

14. The claims of plaintiffs and of any plaintiff class are barred by the statute of limitations, under the doctrine of laches, or under other such principles of law or equity.

15. Pursuant to the governing oil and gas leases, in order to prevent unjust enrichment of plaintiffs or of any plaintiff class, defendant is entitled to assert and does assert, as an offset, "pure defense," and/or recoupment, that amount, including interest, which defendant is

obligated to refund to third parties, to reimburse them for pass-throughs of ad valorem taxes held improper by the Federal Energy Regulatory Commission or by the courts.

By Way of Counterclaim, Defendant States as Follows:

16. Defendant incorporates by reference, as if fully set out herein, those allegations of plaintiffs' petition which defendant has admitted in its answer above, and all the allegations of defendant's answer above and affirmative defenses above, as if fully set out herein.

17. Gilbert H. Coulter and Elizabeth S. Leighnor, the named plaintiffs in these proceedings, were at the times relevant to these counterclaims owners of mineral interests governed by oil and gas leases with defendant and received royalty payments from defendant pursuant to those leases.

18. Defendant brings these counterclaims against the named plaintiffs pursuant to Fed. R. Civ. Proc. 23, as representatives of a class, the "counterclaim defendant class," which class consists of all those persons described in Paragraph 19, below.

19. The counterclaim defendant class is defined as all persons who are part of the plaintiff class, if any, certified by the Court in this case pursuant to plaintiffs' class claims. Defendant incorporates by reference the allegations in plaintiffs' petition with respect to the plaintiff class and the propriety of plaintiffs' claims being heard as a class action, except to the extent that those allegations have been specifically denied in defendant's Answer, above.

20. The Federal Energy Regulatory Commission and the federal courts have ordered defendant to make refunds to third parties to reimburse those third parties for pass-throughs of State ad valorem taxes assessed against plaintiffs and the counterclaim defendant class. See,

e.g., *Public Service Company of Colorado v. Federal Energy Regulatory Commission*, 91 F.3d 1478 (D.C. Cir. 1996).

21. By virtue of the reimbursement orders described in Paragraph 20, above, defendant has overpaid royalties to plaintiffs and to the counterclaim defendant class, and plaintiffs and the counterclaim defendant class have accordingly been unjustly enriched in an amount exceeding \$3.6 million.

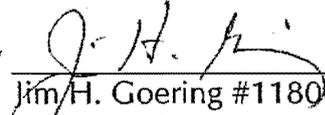
22. Defendant's counterclaims arise out of the selfsame oil and gas lease transactions which are the subject matter of the claims made against defendant by plaintiffs, individually and as representatives of the plaintiff class. Like those claims of plaintiffs and of the plaintiff class, defendant's counterclaims involve the amount of royalties properly owing to plaintiffs and to the plaintiff class under these leases. Defendant's counterclaims are so related to the claims of plaintiffs and of the plaintiff class as to form part of the same case or controversy under Article III of the United States Constitution. The Court has diversity jurisdiction over defendant's counterclaims pursuant to 28 U.S.C. § 1332, and also has supplemental jurisdiction over defendant's counterclaims pursuant to 28 U.S.C. § 1367.

23. Wherefore defendant prays for judgment on its counterclaims, awarding defendant an amount, with interest sufficient to fully compensate defendant for the amount by which plaintiffs and the counterclaim defendant class have been unjustly enriched and/or have been overpaid, and/or which defendant has recouped or will recoup from royalty payments paid or to be paid by defendant to plaintiffs and to members of the counterclaim defendant class.

24. Defendant further prays for all such further relief as may be just and equitable.

Respectfully submitted,

By



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Certificate of Service

I certify that copies of this Defendant's Answer and Counterclaims were sent via U.S.

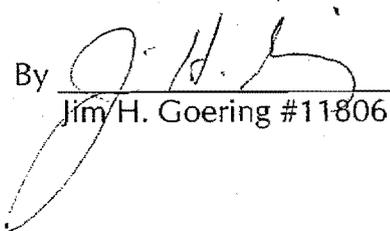
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on this 25th day of November, 1998.

By



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