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

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

Plaintiffs,)

vs.)

ANADARKO PETROLEUM CORPORATION,)

Defendant.)

Case No. 98-CV-40

**MEMORANDUM IN OPPOSITION TO ANADARKO'S MOTION
TO RECONSIDER DENIAL OF MOTION TO DECERTIFY THE CLASS**

COME NOW the plaintiffs, and in opposition to defendant Anadarko's Motion to Reconsider Denial of Motion to Decertify the Class, state as follows:

Wholly absent from Anadarko's motion to reconsider is any mention of the fact that Anadarko entered into a stipulation regarding class certification, upon which the Court and the plaintiffs relied by sending out notices to the Plaintiff class and preparing for trial on that basis. Anadarko also failed to mention that fact when presenting its motion to decertify the class, until reminded by the Court. (Trial Transcript Vol. 1, p. 4). Thus, Anadarko's initial motion was not only untimely, but was an improper attempt to circumvent an earlier stipulation.

Anadarko's motion to reconsider, like its motion to decertify, also lacks substantive merit.

Plaintiffs counsel have already explained to this Court in two other cases the glaring defects of the

producers' contrived argument regarding *Smith v. Amoco*, ___ Kan. ___, 31 P.3d 255 (September 21, 2001). See Memorandum in Opposition to OXY's Motion to Decertify Class, filed April 1, 2002 in *Littell v. OXY USA, Inc.*, Case No. 98 CV 51; and Plaintiffs' Memorandum in Opposition to Amoco's Motion to Decertify the Class, filed May 3, 2002 in *Youngren v. Amoco Production Company*, Case No. 89 CV 22. Plaintiffs will not burden the Court by repeating that discussion here, but incorporate those filings by reference.

Anadarko's secondary argument, regarding conflict of interest, is nothing more than a thinly-veiled threat: If the Court holds for the plaintiffs, Anadarko threatens to suddenly invoke the "four cents" royalty clause that Anadarko has completely disregarded for decades, in order to harm the small group of royalty owners whose leases contain that clause. There is no present conflict of interest, because the threatened conflict could arise only after the Court has decided the case adversely to Anadarko and then *if* Anadarko takes the threatened action. Moreover, Anadarko could not carry out its threat without breaching its duty of good faith and fair dealing. See *Kansas Baptist Convention v. Mesa Operating Ltd. Partnership*, 253 Kan. 717, 864 P.2d 204 (1993). There is no conflict of interest here.

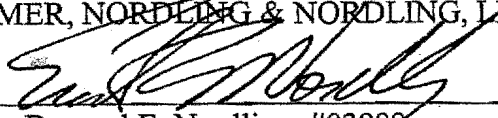
Anadarko's motion to reconsider offers nothing new. No change in the law. No newly-discovered evidence. No change of circumstances. Nothing that would warrant reconsideration.

Anadarko's motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 8th day of May, 2002, a copy of this MEMORANDUM IN OPPOSITION TO ANADARKO'S MOTION TO RECONSIDER DENIAL OF MOTION TO DECERTIFY THE CLASS was placed in the United States mail, first class postage prepaid, addressed to:

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