

SHARP, McQUEEN, McKINLEY,
DREILING & TATE, P.A.
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IN THE TWENTY-SIXTH JUDICIAL DISTRICT
DISTRICT COURT, STEVENS COUNTY, KANSAS
CIVIL DEPARTMENT

OPAL LITTELL and CHERRY RIDER,)	
co-trustee 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

ANSWER

Defendant OXY USA Inc. ("OXY") respectfully submits its Answer to the Petition of Plaintiffs Opal Littell and Cherry Rider, co-trustees of the Opal Littell Family Trust, and Bonnie Beelman (the "Petition"). Unless specifically stated otherwise herein, all of the allegations contained in the Petition should be deemed specifically denied. Subject to the foregoing, OXY answers the Petition as follows:

1. OXY is without sufficient information to form a belief as to the truth of the allegations contained Paragraph No. 1 of the Petition, and, therefore, denies the same.

2. OXY admits that it is incorporated in Delaware, that it is duly qualified to do business in the State of Kansas, and that, at the time of the filing of the Petition, it was transacting business

in Stevens County, Kansas. OXY denies the remaining allegations contained in Paragraph No. 2 of the Petition.

3. OXY admits that Bonnie Beelman is the lessee of at least one lease with respect to which OXY is the lessor. OXY further admits that it is the operator of at least one well with respect to which Bonnie Beelman is paid a royalty. OXY further admits that it, or a third party, operates at least one gathering system through which the production from a well in which Bonnie Beelman owns a royalty interest is gathered. OXY is without sufficient information to determine the truth of the remaining allegations contained in Paragraph No. 3 of the Petition, but, based on the information available to it, believes that those allegations may be false. Therefore, OXY denies the allegations contained in Paragraph No. 3 of the Petition, except as specifically set forth in this paragraph.

4. OXY denies the allegations contained in Paragraph No. 4 of the Petition, including the allegation that this action is properly brought pursuant to Kan. Stat. Ann. § 60-223 (199_).

5. OXY denies the allegations contained in Paragraph No. 5 of the Petition, and specifically denies that the class defined in that paragraph is properly certifiable by this, or any other, Court. OXY further denies that the Petition states any cause of action that could be litigated and/or tried as a class action under Kansas law.

6. OXY denies the allegations contained in Paragraph No. 6 of the Petition.

7. OXY denies the allegations contained in Paragraph No. 7 of the Petition.

8. OXY denies the allegations contained in Paragraph No. 8 of the Petition.

9. OXY denies the allegations contained in Paragraph No. 9 of the Petition.

10. OXY denies the allegations contained in Paragraph No. 10 of the Petition.

11. OXY admits that, from time to time, it takes into account certain post-production costs in calculating the proper amounts due on account of Plaintiffs' royalty. OXY denies the remaining allegations contained in Paragraph No. 11 of the Petition.

12. OXY denies the allegations contained in Paragraph No. 12 of the Petition, including the allegations contained in its subparts.

13. OXY denies the allegations contained in Paragraph No. 13 of the Petition.

14. OXY denies the allegations contained in Paragraph No. 14 of the Petition.

15. OXY denies the allegations contained in Paragraph No. 15 of the Petition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

The Petition fails to state a claim for which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Estoppel)

Upon information and belief, Plaintiffs are estopped to make the claims alleged in the Petition because, inter alia, they have signed Transfer Orders and/or Division Orders with OXY, or OXY's predecessors in interest, which authorize the royalty payments at issue in this action.

THIRD AFFIRMATIVE DEFENSE

(Waiver)

Upon information and belief, Plaintiffs have waived any right to make the claims they have asserted in this case by reason of their signing Transfer Orders and/or Division Orders and other conduct.

FOURTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

The claims of Plaintiffs are barred in part by the applicable statute of limitations.

FIFTH AFFIRMATIVE DEFENSE
(Laches)

Plaintiffs claims are barred by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE
(Failure to Join Indispensable Parties)

Upon information and belief, there are co-lessees and other working interest owners that are indispensable parties who Plaintiffs have failed to join.

SEVENTH AFFIRMATIVE DEFENSE
(Agreement)

Plaintiffs claims are barred by the terms of the written instruments creating their royalty interests.

EIGHTH AFFIRMATIVE DEFENSE
(Course of Dealing)

Plaintiffs' claims are barred because Plaintiffs' predecessors in interest, and Plaintiffs, engaged in a lengthy course of dealing under the written instruments creating their royalty interests which constituted both the proper interpretation of the applicable instruments and acquiescence in the manner by which royalty payments are calculated.

WHEREFORE, OXY prays that the Petition be dismissed and that it be awarded its costs incurred, including reasonable attorneys' fees, together with such other relief as the Court deems appropriate.

Respectfully submitted,

**SHARP, McQUEEN, McKINLEY,
DREILING & TATE, P.A.**

**THE ORIGINAL SIGNED
BY KERRY McQUEEN**

By _____

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and

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ATTORNEYS FOR DEFENDANT OXY USA INC.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the ____ day of January, 1999, he caused a true and correct copy of the above and foregoing Answer to be mailed, with postage fully prepaid thereon, to the following counsel for Plaintiffs:

Thomas K. Kitch
Gregory J. Stucky
Charles E. Millsap
David G. Seely
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P. O. Box 997
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and

Bernard E. Nordling
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209 East Sixth Street
Hugoton, KS 67951

and the original to:

Clerk of the District Court
Stevens County Courthouse
200 East 6th Street
Hugoton, KS 67951

**THE ORIGINAL SIGNED
BY KERRY McQUEEN**

Kerry McQueen, S.Ct. #06166