

FILED

IN THE DISTRICT COURT OF STEVENS COUNTY, KANSAS

2008 FEB 28 AM 11:42

KOLEEN HOSKABEL
CLERK OF THE DIST. COURT
NB
STEVENS CO. KS

Opal Littell and Jerry Rider, co-trustees)
of the Opal Little Family Trust, and)
Bonnie Beelman, individually and as representative)
Plaintiffs on behalf of persons or concerns)
similarly situated,)
))
Plaintiffs,)
))
v.)
))
Oxy USA, Inc.,)
))
Defendant.)
))
v.)
))
The Wallace B. Roderick Revocable Living Trust,)
Trustee Wallace B. Roderick, on behalf of itself)
and all others similarly situated,)
))
Intervenor.)

Case No. 98-CV-51

(Pursuant to Chapter 60)

OBJECTOR/INTERVENOR'S BRIEF IN SUPPORT OF MOTION TO SEVER THE GATHERING DEDUCTION CLAIM FROM THE OTHER CLAIMS OR, IN THE ALTERNATIVE, CONTINUANCE OF THE FINAL APPROVAL HEARING ON THE (OVERBROAD) PROPOSED SETTLEMENT

Objector/Intervenor moves for the Gathering Deduction claims to be severed from the Non-Gathering Deduction claims, or in the alternative, a continuance to conduct some discovery on the Non-Gathering Deduction claims to enable Objector/Intervenor to present a detailed and thorough objection at the final approval hearing.

1. The Court Should Sever The Gathering Deduction Claims From The Non-Gathering Deduction Claims

K.S.A. 60-221 provides: "Any claim against a party may be severed and proceeded with separately." Of course, this Court also has the inherent power to control the handling of this case.

The Gathering Deduction Claims have already proceeded through class certification, merits discovery, and trial. The "other claims" are just getting started. The Gathering Deduction Claims should be separately settled or judgment rendered on the trial, neither of which would or should affect the completely different and separate Non-Gathering Claims. This would permit the Non-Gathering Claims to proceed in an orderly fashion through class certification, discovery, and trial, all without holding up the Gathering Deduction Claims for concluding a settlement or proceeding on appeal after a judgment.

2. Absent A Severance, A Continuance Should Be Granted.

Additional time and discovery is necessary because Plaintiffs have admitted that they have conducted no investigation or discovery on the Non-Gathering Deduction claims and have no idea as to their value. Although a value was given by OXY as to the Gathering Deduction claims, no value was presented with respect to all of the other claims being released in this proposed settlement.

The discovery for just the Gathering Deduction claims alone took years, so it is not unreasonable to ask for a 90-day extension of time in which to conduct discovery on all of the additional claims that have not yet had discovery conducted.

In addition, this Court did not even sign the Class Notice until January 22, 2008, and actual notice was not given or received until days or perhaps a week after that date. That left

only 30-days in which to make an objection (and intervene) and a scant 45 days in which to analyze the proposed settlement and prepare for an objection trial on the legitimacy of releasing all of the Non-Gathering Deduction claims. Objector/Intervenor submits this is far too quick to be consistent with due process under the circumstances.

WHEREFORE, Objector/Intervenor prays that either (1) the final approval hearing for the proposed (overbroad) settlement be continued and set in June or July, or (2) the Gathering Deduction class be severed from the Non-Gathering claims and resolved as Gathering Deduction Class Counsel and OXY see fit.

Respectfully submitted,



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Certificate of Service

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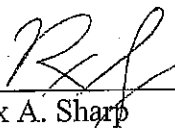
the original to:

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Hugoton, KS 67951

courtesy copy to:

Honorable Tom R. Smith
District Judge
200 E. 6th St.
Hugoton, KS 67951

on this 25th day of February, 2008.



Rex A. Sharp