

IN THE DISTRICT COURT OF GRANT COUNTY, KANSAS

COOPER CLARK FOUNDATION and
PHILLIP FINK, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

Oxy USA, Inc.,

Defendant.

Case No. 2016-CV-39

LEAD CASE

Consolidated with:

Case No. 2016-CV-17
(Haskell County)

and

Case No. 2016-CV-13
(Morton County)

and

Case No. 2017-CV-3
(Grant County)

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

A court authorized this Notice. This is not a solicitation from a lawyer.

***If you belong to the Settlement Class and this Settlement is approved,
your legal rights will be affected.¹***

Because you may be a member of the Settlement Class in the Litigation captioned above and described below (“the Litigation”), the Court has directed this Notice to be sent to you. Defendant Oxy USA, Inc.’s (“Defendant”) or its successor’s records show payment to you of royalties on natural gas and its constituents (including helium, residue gas, natural gas liquids, nitrogen, condensate, and drip condensate) produced from a well in Kansas.

This Notice describes the Litigation, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Settlement Class in the Litigation consists of the following individuals and entities:

All royalty owners in Kansas wells: (a) where Oxy USA, Inc. was the operator (or as a non-operator, separately marketed gas); (b) who were paid royalties for production of Gas, NGLs, or Helium from July 1, 2007 to April 30, 2014; and (c) whose gas was marketed under (i) the Gas Processing Agreement for the Amoco Hugoton Jayhawk Plant, between Amoco Production Company and Oxy USA, Inc., dated June 15, 1998, as amended, (ii) the Gathering and Processing Agreement

¹ Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. The Settlement Agreement can be accessed at www.cooper-oxy.com. Capitalized terms not otherwise defined in this Notice shall have the meanings attributed to those terms in the Settlement Agreement.

between Oxy USA, Inc. and Regency Midcon Gas, LLC dated December 1, 2004, as amended, (iii) the Gathering and Processing Agreement between Oxy USA, Inc. and Regency Midcon Gas, LLC dated September 1, 2003, as amended, and (iv) the Processing Agreement between Oxy USA, Inc. and Duke Energy Field Services, LP dated as of August 1, 2005, as amended.

Excluded from the Class are: (1) the Office of Natural Resources Revenue, formerly known as the Mineral Management Service (Indian tribes and the United States); (2) all presiding judge(s) together with their immediate family members; (3) Oxy USA, Inc., its affiliates, its predecessors-in-interest, and their respective employees, officers, and directors; and (4) any publicly traded company or its affiliated entity that produces, gathers, processes, or markets gas.

If you are unsure whether you are included in the Settlement Class, you may contact the Settlement Administrator at:

Visit: www.cooper-oxy.com
Call Toll-Free: 1-888-921-1530
Or write to: *Cooper-Oxy Settlement*
c/o JND Class Action Administration, Settlement Administrator
P.O. Box 91345
Seattle, Washington 98111

**TO OBTAIN THE BENEFITS OF THIS PROPOSED SETTLEMENT,
YOU DO NOT HAVE TO DO ANYTHING.**

I. General Information About the Litigation

Plaintiffs Cooper Clark Foundation and Philip Fink (“Plaintiffs”) allege in the Litigation that Oxy USA, Inc. breached an implied covenant to market in the underlying leases by taking deductions from royalties and not basing royalty payments on the highest arms’-length sales price.

Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation. The Court has made no determination with respect to any of the parties’ claims or defenses. A more complete description of the Litigation, its status, and the rulings made in the Litigation is available in the pleadings and other papers maintained by the District Court of Grant County, Kansas, located at 108 S. Glenn, Ulysses, KS 67880, in the file for Case No. 2016-CV-39.

II. The Settlement, Attorneys’ Fees, Litigation Expenses, Case Contribution Award, And The Settlement Allocation And Distribution To The Class

On September 29, 2021, the Court preliminarily approved a Settlement in the Litigation between Plaintiffs, on behalf of themselves and the Settlement Class, and Defendant. This approval and this Notice are not an expression of opinion by the Court as to the merits of any of the claims or defenses asserted by any of the parties to the Litigation, or of whether the Court will ultimately approve the Settlement Agreement.

Questions? Visit www.cooper-oxy.com or call toll-free at 1-888-921-1530

In settlement of all claims alleged in the Litigation, Defendant has agreed to pay Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) in cash (“Gross Settlement Fund”). In exchange for the payment noted above, the Settlement Class shall release the Released Claims against and with respect to the Released Parties. The Gross Settlement Fund, less Class Counsel’s Fees and Expenses, Administration Expenses, any case contribution awards to Class Representatives, and other costs approved by the Court (the “Net Settlement Fund”), will be distributed to Class Members.

Counsel for Plaintiffs (“Class Counsel”) intends to seek an award of attorneys’ fees of not more than 40% of the Gross Settlement Fund. Plaintiffs’ Counsel, Rex A. Sharp and Scott B. Goodger of Sharp Law, LLP, have been litigating the Released Claims in various courts without any payment whatsoever, advancing thousands of dollars in expenses, for almost a decade. At the Settlement Fairness Hearing, Plaintiffs’ Counsel will also seek reimbursement of expenses incurred in connection with the prosecution of the Released Claims, to be paid out of the Gross Settlement Fund. In addition, the Class Representatives intend to seek a Case Contribution Award for their representation of the Class, which amount will not exceed one percent of the Gross Settlement Fund, to compensate them for the time, expense, risk, and burden of serving as Class Representatives.

The Court must approve the Plan of Allocation and Distribution, which describes how the Settlement Administrator will allocate the Net Settlement Fund to each Class Well based on the production of each well compared to the total production volume. Thereafter, subject to approval by the Court, the Settlement Administrator will allocate the Net Settlement Fund for each Class Well among all Class Members in that Class Well based on their royalty decimal interest in that Class Well.

The Settlement Administrator will distribute the Net Settlement Fund within forty-five (45) days of the Settlement becoming Final and Unappealable. This Date requires the exhaustion of any appeals, which may take a year or more after the entry of Judgment. The Settlement may be terminated on several grounds, including if the Court does not approve or modifies the terms of the Settlement. If the Settlement is terminated, the Litigation will proceed as if the Settlement had not been reached.

III. Class Settlement Fairness Hearing

The Settlement Fairness Hearing will be held on December 8, 2021, beginning at 1:30 p.m., before the Honorable Bradley Ambrosier, District Court Judge of Grant County, Kansas, 108 S. Glenn, Ulysses, KS 67880. Please note that the date of the Settlement Fairness Hearing is subject to change without further notice. You should check www.cooper-oxy.com to confirm no change to the date and time of the hearing has been made.

At the Settlement Fairness Hearing, the Court will consider: (a) whether the Settlement is fair, reasonable, and adequate; (b) any timely and properly raised objections to the Settlement; (c) the Initial Plan of Allocation and Distribution; and (d) the application for Class Counsel’s Fees and Expenses and case contribution awards for Class Representatives relating to their representation of the Class.

A CLASS MEMBER WHO WISHES TO PARTICIPATE IN THE SETTLEMENT AND DOES NOT SUBMIT A VALID REQUEST FOR EXCLUSION DOES NOT NEED TO APPEAR AT THE SETTLEMENT FAIRNESS HEARING OR TAKE ANY OTHER ACTION TO PARTICIPATE IN THE SETTLEMENT.

IV. What Are Your Options As A Class Member?

A. You Can Participate in the Class Settlement by Doing Nothing

By taking no action, your interests will be represented by Plaintiffs as the Class Representatives and Class Counsel. The Class Representatives and Class Counsel believe that the Settlement is in the best interest of the Class, and, therefore, they intend to support the proposed Settlement at the Settlement Fairness Hearing. As a Class Member, if you are entitled to a distribution pursuant to the Plan of Allocation and Distribution, you will receive your portion of the Net Settlement Fund and will be bound by the Settlement Agreement and all orders and judgments entered by the Court regarding the Settlement. If the Settlement is approved, unless you exclude yourself from the Settlement Class, neither you nor any other Class Member that participates in the Settlement will be able to start a lawsuit or arbitration, continue a lawsuit or arbitration, or be part of any other lawsuit against any of the Released Parties based on any of the Released Claims.

B. You May Submit a Request for Exclusion to Opt Out of the Settlement Class

If you do not wish to be a member of the Settlement Class, then you must exclude yourself from the Settlement Class by mailing by certified mail, return receipt requested, a Request for Exclusion to the Settlement Administrator to be received by **November 23, 2021, at 5 p.m. CT**. Your Request for Exclusion must state your name, address, telephone number, email address, and contain your notarized signature. It must also include the following:

- (a) A statement that you want to exclude yourself from the Settlement Class in *Cooper Clark Foundation v. Oxy USA, Inc.*, Case No. 2016-CV-39, in the District Court of Grant County, Kansas, and that you understand it will be your responsibility to pursue any claims you may have, if you so desire, on your own and at your expense.
- (b) A description of your interest in a Kansas well (or wells) where Defendant was the operator or, as a non-operator, Defendant separately marketed gas, including the well name, well number, county in which the well is located, and the owner identification number.

If you do not follow these procedures—including mailing the Request for Exclusion so that the Settlement Administrator receives it by the deadline set out above—you will not be excluded from the Settlement Class, and you will be bound by all of the orders and judgments entered by the Court regarding the Settlement, including the release of claims. You must exclude yourself even if you already have a pending case against any of the Released Parties based upon any Released Claims. You cannot exclude yourself on the website, by telephone, facsimile, or by e-mail. If you validly request exclusion as described above, you will not receive any distribution from the Net Settlement Fund, you cannot object to the Settlement,

and you will not have released any claim against the Released Parties. You will not be legally bound by anything that happens in the Litigation.

C. You May Remain a Member of the Settlement Class but Object to the Settlement, Initial Plan of Allocation and Distribution, Plaintiffs' Attorneys' Fees, Litigation Expenses, or Case Contribution Award

You have the right to remain a Class Member but still object to the proposed Settlement and any terms thereof. To object to the Settlement, Initial Plan of Allocation and Distribution, and/or application for Class Counsel's Fees and Expenses or case contribution award to Plaintiffs, you must file your written statement with the Court.

Your written objection statement must contain:

- (a) A heading referring to *Cooper Clark Foundation v. Oxy USA, Inc.*, Case No. 2016-CV-39 and to the District Court of Grant County, Kansas;
- (b) A statement as to whether the objector intends to appear at the Settlement Fairness Hearing, either in person or through counsel, and, if through counsel, providing the name, address, email address, and telephone number of counsel;
- (c) A detailed statement of the specific legal and factual basis for each and every objection;
- (d) A list of any witnesses the objector wishes to call at the Settlement Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Kansas Rules of Civil Procedure and the Local Rules of the Court);
- (e) A list of and copies of any exhibits the objector may seek to use at the Settlement Fairness Hearing;
- (f) A list of any legal authority the objector may present at the Settlement Fairness Hearing;
- (g) The objector's name, address, email address, telephone number, and all royalty owner identification numbers with Defendant;
- (h) The objector's signature executed before a Notary Public;
- (i) A description of your interest in a Kansas well (or wells) where Defendant was the operator or, as a non-operator, Defendant separately marketed gas, including the well name, well number, county in which the well is located, and the owner identification number; and
- (j) If the objector is objecting to any portion of Plaintiffs' Attorneys' Fees, Litigation Expenses, or Case Contribution Award, the objector must specifically state the portion of Attorneys' Fees, Litigation Expenses, and/or Case Contribution Award (whichever applies to the objection) that he/she believes is fair and reasonable and the portion that is not.

Your written objection must be timely filed with the Court at the address below no later than 5 p.m. CT on November 23, 2021:

Clerk of the Court
District Court of Grant County, Kansas
108 S. Glenn
Ulysses, Kansas 67880

UNLESS OTHERWISE ORDERED BY THE COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE SETTLEMENT (OR ANY PART THEREOF) AND WILL NOT BE ALLOWED TO PRESENT ANY OBJECTIONS AT THE SETTLEMENT FAIRNESS HEARING OR ON APPEAL.

D. You May Retain Your Own Attorney to Represent You at the Settlement Fairness Hearing

You have the right to retain your own attorney to represent you at the Settlement Fairness Hearing. If you retain separate counsel, you will be responsible to pay his or her fees and expenses out of your own pocket.

V. Availability of Filed Papers And More Information

This Notice summarizes the Settlement Agreement, which sets out all of the terms. You may obtain a copy of the Settlement Agreement with its exhibits, as well as other relevant documents, from the settlement website for free at www.cooper-oxy.com, or you may request copies by contacting the Settlement Administrator as set forth above. In addition, the pleadings and other papers filed in the Litigation, including the Settlement Agreement, are available for inspection at the Office of the Clerk of the Court, set forth above. If you have any questions about this Notice, you may consult an attorney of your own choosing at your own expense or Class Counsel.

PLEASE DO *NOT* CONTACT THE JUDGE OR THE COURT CLERK ASKING FOR INFORMATION REGARDING THIS NOTICE.