

DISTRICT COURT CITY AND COUNTY OF DENVER,
COLORADO
1437 Bannock Street
Denver, CO 80202

Plaintiffs: WINSTON DINES, CHARLES EATON, DANA
IVERS, PHELPS OIL AND GAS, LLC, MELISSA CLARKE
CRICHTON AND CRISTY HEDGPETH, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

v.

Defendant: BERRY PETROLEUM COMPANY, LLC, a
Delaware Limited Liability Company.

Attorneys for Plaintiffs and The Class

Lance F. Astrella, Co. Bar No. 5183
Astrella Law P.C.
1801 Broadway, Suite 1600
Denver, CO 80202
Phone: (303) 292-9021
Fax: (303) 296-6347

George A. Barton, Mo. Bar No. 26249
Stacy A. Burrows, Ks. Bar No. 21310
Law Offices of George A. Barton, P.C.
4435 Main Street, Suite 920
Kansas City, MO 64111
Phone: (816) 300-6250
Fax: (816) 300-6259

▲ COURT USE ONLY ▲

Case Number: 2012CV7762

Courtroom: 376

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
WITH BERRY PETROLEUM COMPANY**

TO: THE MEMBERS OF THE CONDITIONALLY CERTIFIED CLASS

PLEASE READ THIS NOTICE CAREFULLY, YOUR LEGAL RIGHTS MAY BE AFFECTED.

THIS IS NOT A LAWSUIT BY THE DEFENDANT AGAINST YOU.

**THIS IS AN OFFICIAL NOTICE OF A CLASS ACTION SETTLEMENT THAT HAS BEEN
REACHED WITH BERRY PETROLEUM COMPANY THAT IS BEING SENT TO YOU
PURSUANT TO A COURT ORDER.**

**THIS NOTICE OF CLASS SETTLEMENT DOES NOT REQUIRE YOU TO DO ANYTHING.
PLEASE FEEL FREE TO CONSULT WITH YOUR OWN ATTORNEY AND TAX ADVISOR
CONCERNING THIS NOTICE.**

1. WHY YOU SHOULD READ THIS NOTICE

This Notice has been sent to you to inform you about the proposed settlement of the class action lawsuit captioned above (“the Lawsuit”) that has been brought on behalf of certain royalty owners, including overriding royalty owners, who have received royalty payments from Berry Petroleum Company, LLC, a Delaware Limited Liability Company (“Berry”), on Hydrocarbons (including natural gas, condensate or natural gas liquids extracted therefrom) produced from Berry wells in the State of Colorado.

You are being sent this Notice because Berry’s records indicate that you have been paid for Colorado Hydrocarbon production by Berry. This notice is being sent to you to inform you that the Court in the Lawsuit has conditionally certified the Berry Class and has preliminarily approved the class action settlement. The Court has appointed the Plaintiffs as Class representatives for the Berry Class and Plaintiffs’ attorneys as counsel for the Berry Class (“Class Counsel”).

This Notice describes the nature of the Berry Lawsuit, the terms of the proposed Class Settlement, the procedure for potential class members to comment on, or object to, the proposed Class Settlement, notifies you that the Judge hearing the case, Honorable Herbert L. Stern, III, will hold a hearing to decide whether to finally approve the Class Settlement on September 26, 2014 at 1:30 p.m. in Courtroom 376 of the District Court for the City and County of Denver, Colorado, located at 1437 Bannock Street, Denver, Colorado 80202, and notifies you of your rights to Opt Out of the Berry Class and some factors to consider in making your decision concerning whether to remain in or Opt Out of the Berry Class.

2. THE LAWSUIT

Plaintiffs, on behalf of themselves and all other similarly situated royalty payees, filed the Lawsuit against Berry on December 28, 2012, in the District Court for the City and County of Denver, Colorado. The Lawsuit seeks monetary and declaratory relief against Berry for a class of Hydrocarbon royalty payees whose leases, overriding royalty agreements, and other royalty agreements do not expressly authorize the deduction of costs incurred by Berry to make the Hydrocarbons marketable.

Plaintiffs claim that Berry, in its calculation and payment of royalties: (1) has deducted or adjusted certain charges for costs it should not have deducted including, but not limited to, fees for gathering, compressing, dehydrating, and delivering the Hydrocarbons to a commercial market; (2) failed to pay interest on the improperly withheld royalties as a result of the improperly taken deductions that Berry reimbursed the royalty owners; (3) failed to pay royalties on the condensate that was recovered from the natural gas stream at various stages of the gathering, transportation and processing of the natural gas; and (4) failed to pay royalties on the natural gas liquids that were entrained within the natural gas stream produced by Berry in Garfield County. Specifically, Plaintiffs assert that Berry should have paid Plaintiffs and the Class royalties on all the Hydrocarbons produced from the wells that Berry operated in Colorado and Berry should not have deducted any costs incurred between the wellhead and the location where the gas was in a condition to be sold at the commercial market. Berry denies all Plaintiffs’ claims and any wrongdoing.

Since the case was filed in December 2012, the parties have engaged in extensive discovery and investigation of the claims at issue. The discovery has consisted of extensive information and documents concerning the royalty agreements under which the Hydrocarbons involved in this case are produced, the number and location of the wells involved, the movement of the gas from the various wellheads to the mainline transmission pipelines, the activities for which the gathering, dehydration and compression charges were applied, the prices paid for the Hydrocarbons produced by Berry and sold by another entity, and data regarding the monetary and volumetric amounts of the costs.

A more complete description of the Lawsuit, its status, and rulings made in the case are available in the complete file kept by the Court. Alternatively, should you have any questions regarding the status, rulings or issues in the lawsuit, such questions can be asked in writing to Class Counsel at the addresses provided in Paragraph 10.

3. THE MEMBERS OF THE CLASS

The class of Berry royalty owners, which has been conditionally certified by the Court pursuant to C.R.C.P. 23(b)(3) (“Berry Class”), is defined in the Complaint as follows:

All persons and entities (the “Class”), including their respective successors and assigns, to whom Berry Petroleum has paid royalties or overriding royalties (collectively, “Royalties”) on Natural Gas, including Natural Gas liquids extracted therefrom after it is severed from the wellhead (“Natural Gas”), produced by Berry Petroleum Company, LLC from wells located in the State of Colorado since December 1, 2006 pursuant to leases, overriding royalty agreements or other agreements which do not expressly authorize the deduction of costs incurred to market such gas after it is severed from the wellhead in the calculation of royalties (“Royalty Agreements”). The defined Class excludes: (a) the United States; (b) the state of Colorado; (c) Chevron USA, Inc.; (d) any person or entity who has been a working interest owner in a well located in Colorado and on whose behalf Berry Petroleum paid royalties on Natural Gas produced by Berry Petroleum in Colorado since September 17, 2006; and (e) Berry Petroleum and its affiliates, and its respective employees, officers and directors.

You are being sent this Notice because you appear to be a royalty or overriding royalty owner who is a member of the Berry Class. This Notice explains the general basis of the lawsuit, some background and finally provides you with information regarding your right to Opt Out (as defined in Section 7) of this proposed settlement.

4. THE CLASS SETTLEMENT

The proposed Class Settlement provides monetary relief for the post-wellhead expenses, interest on the cost reimbursements made to the royalty owners by Berry, and the Hydrocarbons produced and sold by Berry in Colorado. All eligible Class Members who have not opted out of the Class will receive their pro-rata distribution of the Settlement Fund, which is \$2,400,000, less any proportionate reduction for any timely received opt-out requests, before the deduction of Court-awarded attorneys’ fees, expenses, and class representative payments. As a result of the differences in the production characteristics, part of the Settlement Fund will be allocated pro-rata among those Class Members who have received production from Garfield County and part of the Settlement Fund will be allocated pro-rata among the Class Members who have received royalty payments on production from Yuma County.

The Proposed Settlement also provides for an increase of the Settlement Class Members’ future royalty payments for production in Garfield County. Under the proposed Settlement, for its Garfield County production, Berry and its successors in interest, beginning with the production month of May 2014, for full compensation for royalties on all Hydrocarbons extracted pursuant to Royalty Agreements in Garfield County, shall pay the Settlement Class Members 108% of the royalty amounts as they are currently calculated.

In exchange for the benefits received by the Settlement Class, Berry will be released from any and all claims the Settlement Class Members may have against Berry based on Berry's calculation, payment and reporting of royalties on Hydrocarbons produced by Berry from Garfield and Yuma Counties.

Upon final Court approval, all members of the Class will receive the benefits of the Class Settlement and will be bound by the resulting Order in the Lawsuit barring them from bringing any claim against Berry related to the royalty calculations which are covered by the Settlement Agreement. Each Class Member will receive payment of a portion of the Settlement Fund as described in this section. If you sell or transfer your interest, the new owner or transferee also will be entitled to receive, and will be bound to accept payment of, future royalties calculated in accordance with the future payment method described herein for production in Garfield County.

5. THE COURT HAS PRELIMINARILY APPROVED THE CLASS SETTLEMENT

The Court has preliminarily approved the proposed Class Settlement. This does not mean that Plaintiffs would be successful if the case went to trial. The Court has made no final determination as to the merits of the Lawsuit.

6. REMAINING A MEMBER OF THE BERRY CLASS AND DISTRIBUTION OF THE SETTLEMENT FUND

If you choose to remain a Berry Class member, you do not need to take any action whatsoever. The Class representatives and Class Counsel will represent your interests as a member of the Berry Class. You will not be charged for their services or costs, other than as may be deducted from any award, as approved by the Court. However, you will be bound by the judgment and final disposition of the Berry Lawsuit, and you may receive a distribution check for your share of the Settlement Fund after the Final Approval date of the Class Settlement (as defined in the Settlement Agreement), all appeals have been exhausted, and all applicable time periods for appeal have expired. Distribution of each Class Member's allocated share of the Settlement Fund will be made by check mailed to the same address to which this Settlement Notice was sent. Excluded from this Class Settlement are claims arising out of any mathematical mistakes by Berry concerning volumes, price, value or decimal interest when calculating royalty payments arising from Berry's or its successor in interest's production of natural gas in Colorado.

7. REQUESTING TO BE EXCLUDED FROM THE BERRY CLASS

You may elect to be excluded from the Berry Class ("Opt Out"). If you elect to be excluded from the Berry Class, you will not be bound by the judgment and final disposition of the Berry Lawsuit. You will retain, and will be free to pursue, any claims you may have on your own behalf against Berry. Berry will be free to assert any defenses or counterclaims it may have against you. You should consult with your own attorney, at your sole cost, regarding your rights as well as any defenses and counterclaims available to Berry as to your claims. To be excluded from the Berry Class, you must provide a written election to be excluded from the Berry Class to Stacy Burrows, one of Class Counsel, at 4435 Main Street, Suite 920, Kansas City, Missouri 64111. Please include the following information on the written Opt-Out request form: (1) Your name, address and telephone number; (2) Your Berry Petroleum Company owner number (if you know it); (3) and a statement that you want to be excluded from the Berry Class Settlement. Your Opt-Out request letter must be mailed first class, postage pre-paid, postmarked on or before September 1, 2014. You cannot Opt Out of only part of the Settlement.

8. CLASS COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES

At the Final Approval Hearing, the Court will determine the reasonable amount of attorneys' fees and expenses to be awarded to Class Counsel. Class Counsel will make application to the Court for an award of attorneys' fees, and for reimbursement of out-of-pocket expenses incurred on behalf of the Class, to be paid from the Settlement Fund. Class Counsel's application for an award of attorneys' fees will be for an amount which is approximately one-third of the estimated value of the total economic benefit bestowed on the Class, including past and prospective relief.

9. CLASS REPRESENTATIVES' REQUEST FOR INCENTIVE AWARDS

At the Final Approval Hearing, the Court will determine whether to make incentive awards to the six Class Representatives who have prosecuted this Class Action on behalf of the Class. The total amount of the incentive awards which will be requested by the Class Representatives will not exceed the sum of Sixty Five Thousand Dollars (\$65,000), for all of the Class Representatives combined.

10. RIGHT TO OBJECT TO, OR COMMENT ON, THE PROPOSED CLASS SETTLEMENT

You may object to, or comment on, the proposed Class Settlement, including the requested attorneys' fees and the requested Class Representative incentive awards. All objections shall be in writing and must be filed on or before September 12, 2014 with this Court, at the following address: Clerk of the Court, District Court for the City and County of Denver, 1437 Bannock Street, Denver, Colorado 80202. Any such written objection or comment must include your full name, Berry owner number(s) (if known), address, telephone number, and should reference the case name and number for this Lawsuit. Any objection or comment must also be mailed to each of the following counsel, and postmarked on or before September 12, 2014:

Counsel for the Class:

George A. Barton
Stacy A. Burrows
Law Offices of George A. Barton, P.C.
4435 Main Street, Suite 920
Kansas City, MO 64111
Phone: (816) 300-6250
Fax: (816) 300-6259

Lance Astrella
Astrella Law P.C.
1801 Broadway, Suite 1600
Denver, CO 80202
Phone: (303) 292-9021
Fax: (303) 296-6347

Counsel for Berry:

Scott P. Sinor
Dorsey & Whitney LLP
1400 Wewatta Street, Suite 400
Denver, CO 80202

In addition, any written objection must include: (a) written statement of the position that the objector wishes to assert; (b) a written statement of the grounds for that objection; and (c) copies of any papers, briefs, or other documents the objector may submit in support of his or her position.

Objections not timely and properly asserted may be summarily denied at the Final Approval Hearing. Any Class Member who does not file objections in a timely manner may be foreclosed from raising an objection to such matters.

11. RIGHT TO APPEAR AT THE FINAL APPROVAL HEARING

Attendance at the Final Approval Hearing is not required, even if you timely and properly submit a written objection or comment. However, if you or an attorney of your choice would like to attend the Final Approval Hearing, you are welcome to attend the Hearing at your own expense. If you or your attorney wish to be heard at the Final Approval Hearing, you must file a notice of intent to appear at the Final Approval Hearing with the Court, at the above address, with reference to the case name and number for this Lawsuit, by September 12, 2014.

Your written notice of intent to appear at the Final Approval Hearing must also be sent to the Class Counsel, and to Counsel for Berry, at the address listed in Section 10 of this Notice. Any Class Member who does not file a timely notice of intent to appear at the Final Approval Hearing may be prohibited from participating at the Final Approval Hearing.

12. FINAL APPROVAL HEARING

A Final Approval Hearing will be held before the Honorable Herbert L. Stern, III on **September 26, 2014, at 1:30 p.m.** in Courtroom 376 of the District Court for the City and County of Denver, located at 1437 Bannock Street, Denver, Colorado. The purpose of the Hearing will be to finally determine whether the proposed Class Settlement is fair, reasonable and adequate, and whether a final judgment approving the Class Settlement should be entered. The amount of attorneys' fees and costs to be paid from the Settlement Fund to Class Counsel, and the amount of any incentive awards to the Class Representatives, will also be considered at the time of the Hearing. The Hearing may be continued or adjourned without further notice to the Class.

13. QUESTIONS ABOUT THE CLASS SETTLEMENT

Any questions which you may have about the Class Settlement should be directed to the Class Counsel, as identified in Section 10 of this Notice. Any written correspondence to the Class Counsel should reference the case name and identifying case number: *Dines, et al. v. Berry Petroleum Company, LLC*, Case No. 2012CV7762.

DO NOT WRITE OR TELEPHONE THE CLERK'S OFFICE with questions about this Notice or the Class Settlement.

14. IF YOU WANT TO INSPECT THE COURT FILE

The complaints, answers, pleadings, court orders and other documents for the Lawsuit, including the Settlement Agreement, have been filed with the Court and may be inspected and copied at the following address:

District Court for the
City and County of Denver
1437 Bannock Street, Room 38
Denver, CO 80202

PLEASE DO NOT CALL BERRY, THE COURT OR THE COURT CLERK