

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No: 19-CV-00495-DDD-NRN

JOLLEY POTTER RANCHES ENERGY CO., LLC,  
On behalf of itself and all others similarly situated,

Plaintiff/Counter Defendant

v.

TEP ROCKY MOUNTAIN, LLC

Defendant/Counter Claimant

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**NOTICE OF CLASS ACTION**

THIS IS AN OFFICIAL NOTICE SENT TO YOU UNDER COURT ORDER FROM THE  
HONORABLE DANIEL D. DOMENICO, U.S. DISTRICT COURT JUDGE, TO:

The class of all royalty owners under oil and gas leases (and their successors and assigns) who received royalty payments for one or more production months during the period August, 2011 to December, 2020 from non-federal oil and gas leases in Garfield County, Colorado, which, as of December 31, 2020, were owned in whole or part by TEP Rocky Mountain LLC, and whose production was gathered on the Grand Valley Gathering System; and *excluding* from such class (1) NYSE or NASDAQ listed entities (together with their subsidiaries and affiliates) engaged in oil and gas exploration and production, and (2) any person or entity to the extent that their interest is derived from the following leases:

(A) that certain Oil and Gas Lease, dated July 20, 2005, with Mary Anne Bosely, et al, as lessors, whose memorandum is recorded at Reception No. 680846 in the records of the Clerk and Recorder of Garfield County, Colorado;

(B) that certain Oil and Gas Lease, dated May 9, 2006, with Jonathon H. Wellendorf et ux, as lessors, whose memorandum is recorded at Reception No. 697889 in such records;

(C) that certain Oil and Gas Lease, dated April 14, 2002, with Theo Ertl, as Trustee for the Jann Ertl Trust, under Trust dated January 25, 1964, as lessor, whose lease is recorded at Reception No. 610354 in such records;

(D) that certain Memorandum of Oil and Gas Lease, dated November 1, 2011, with The Ranch at Parachute, LLC, as lessor, which is recorded at Reception No. 811051 in such records;

(E) that certain Oil and Gas Lease, dated June 7, 2006, with Pavillion Land Development, LLC, as lessor, whose lease is recorded at Reception No. 701520 in such records;

(F) that certain Oil and Gas Lease, dated April 27, 1998, with NationsBank of Texas, N.A., Agent for the First Church of Christ, Scientist Agency #1221900 as lessor, whose lease is recorded at Reception No. 531029 in such records; and

(G) that certain Oil and Gas Lease, dated December 5, 1997, with Colorado National Bank as Trustee of the Ann F. Dickerson Irrev. T/A Family Trust as lessor, whose lease is recorded at Reception No. 517758 in such records.

The above-described persons are called “the Plaintiff Class.” Overriding royalty interests are not included in the Plaintiff Class.

**THIS NOTICE CONTAINS INFORMATION ABOUT YOUR RIGHTS AS A MEMBER OF THE PLAINTIFF CLASS. PLEASE READ CAREFULLY.**

You are being sent this Notice because you appear to be a member of the Plaintiff Class. This Notice explains the nature of the lawsuit.

**TO PARTICIPATE IN THIS CLASS ACTION LAWSUIT,  
YOU DO NOT HAVE TO DO ANYTHING.**

**SUMMARY OF THE LITIGATION**

The Plaintiff, Jolley Potter Ranches Energy Co., LLC (“Plaintiff”) filed this action in the United States District Court for the District of Colorado on February 19, 2019, against TEP Rocky Mountain, LLC (“Defendant”) and filed an Amended Complaint on March 29, 2019. In the Amended Complaint, Plaintiff alleged that Defendant had underpaid royalty payments in a variety of ways, including:

- (1) Taking unreasonable deductions based on affiliate charges;
- (2) Taking unreasonable deductions for residue gas firm transportation charges;
- (3) That Defendant breached its duty to prudently market residue gas; and
- (4) That Defendant failed to pay royalties for residue gas on the best reasonably available terms for gas marketed downstream of the White River Hub.

These claims, which are identified as Claims Two, Three, Six, and Seven in Plaintiff’s Amended Complaint, are referred to as the “Class Claims.”

The Class Claims concern royalty payments made by Defendant to the members of the Plaintiff Class for production during the period August 2011 to December 2020 (“the Class Period”).

Plaintiff is asking the Court to find that Defendant is liable for underpayment of royalties, for an order requiring Defendant to properly account for royalty payments and requiring Defendant to pay all improperly withheld or underpaid amounts into the registry of the Court for distribution to the Plaintiff Class.

In its Answer to the Amended Complaint, Defendant has denied underpaying royalties in the manner asserted by the Class Claims. Defendant has also raised other defenses to the Class Claims, including that the claims are barred or limited by two prior class-action settlement agreements. Defendant has also asserted a counterclaim for additional ad valorem taxes, which is contingent upon the Plaintiff Class recovering on any of the Class Claims.

The parties have engaged in the pretrial discovery process, which has involved the exchange of information of thousands of documents regarding Defendant’s operations, and the parties’ contentions and legal theories. On April 8, 2022, the Plaintiff filed a Motion for Class Certification, and Defendant opposed that motion. Thereafter, in January 2023, the United States District Court for the District Court of Colorado conducted a hearing on the Plaintiff’s motion. On February 14, 2023, United States Magistrate Judge Gordon P. Gallagher granted in part and denied in part the Plaintiff’s motion. Thereafter, on September 21, 2023, United States District Judge Daniel D. Domenico, adopted Magistrate Judge Gallagher’s decision, in substantial part, and granted the Plaintiff’s Motion for Class Certification.

### **ELECTIONS BY MEMBERS OF THE PLAINTIFF CLASS**

If you are a member of the Plaintiff Class, you have a choice whether to (a) participate in this lawsuit by remaining a member of the Plaintiff Class or (b) decline to participate in this lawsuit by excluding yourself as a member of the Plaintiff Class. Either of these two choices will have its consequences, which you should understand before making your decision:

**If you wish to participate in this lawsuit, you are not required to do anything at this time.** If this case results in a court judgment that is favorable to the Plaintiff Class, you would be entitled to share in the benefits of that favorable judgment. If the parties enter into a settlement at some time in the future, and the Court approves that settlement, you would then become entitled to receive the benefits provided by the settlement, if any. In return, you would be barred from pursuing any of the claims settled in the lawsuit against Defendant. If you exclude yourself from membership in the Plaintiff Class, you will not be entitled to participate in the benefits of any settlement or Court judgment.

If you elect to remain a member of the Plaintiff Class, you will not have to advance any money to cover attorney fees and other expenses in the lawsuit, but if the lawsuit is

successful through settlement or court ruling, the Court may then order that reasonable attorney fees and other expenses of the lawsuit be deducted from the amount recovered by the Plaintiff Class, prior to distribution to class members. In other words, attorney fees and expenses of the lawsuit will be paid only if the lawsuit is successful, and if so, will be paid only out of the amount recovered.

If you wish to be excluded from this lawsuit, you must complete the attached "Election of Exclusion from the Plaintiff Class" form and return it to "Clerk of the Court," by U.S. mail at 901 19th St. Denver, Colorado 80294-3589 such that it is received by no later than **45 days after mailing [May 13, 2024]**. If you elect to be excluded, you will not be entitled to any potential benefits that may be provided by this lawsuit but will be free to pursue any claims that you might have against Defendant on your own and at your own expense.

### **ADDITIONAL INFORMATION**

Any questions you may have about the matters in this Notice **should not** be directed to the Court or the Office of the Clerk, but may be directed by telephone or in writing to one of the following Class Counsel:

David G. Seely, Esq.  
Ryan K. Meyer, Esq.  
Fleeson, Gooing, Coulson, & Kitch, L.L.C.  
P.O. Box 997  
Wichita, Kansas 67201-0997  
Telephone: (316) 267-7361  
Fax: (316) 267-1754

Nathan A. Keever, Esq.  
744 Horizon Court, Suite 300  
Dufford Waldeck  
Grand Junction, CO 81506  
Telephone: (970) 241-5500

You may view copies of significant documents filed in this case by accessing the following Web Sites: [www.fleeson.com](http://www.fleeson.com); <https://www.dwmk.com>

**PLEASE DO NOT CONTACT THE JUDGE OR THE CLERK ASKING FOR INFORMATION.**

BY THE COURT  
Daniel D. Domenico, U.S. District Court Judge

Dated [insert]

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FOR THE DISTRICT OF COLORADO

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**ELECTION OF EXCLUSION FROM THE PLAINTIFF CLASS**

**Please Read the Notice of Class Action Enclosed with this Election**

The undersigned has read the Notice of Class Action regarding this matter and **DOES NOT** wish to remain a member of the Plaintiff Class described in that Notice. The undersigned understands that by executing this election of exclusion, they will **NOT** be entitled to share in any judgment or settlement that may be obtained in this Class Action lawsuit.

***Required Information:***

Printed Name: \_\_\_\_\_ Date \_\_\_\_\_

Current Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

By: \_\_\_\_\_

(Signature and title, if applicable)

***Optional Information:***

Excluded TEP Owner Numbers: \_\_\_\_\_

If you wish to exclude yourself from the Plaintiff Class, you must complete and return this form to the following address by no later than 45 days after the Notice of Class Action and this form were mailed to you on March 29, 2024:

Clerk of the Court  
901 19th St  
Denver, CO 80294-3589