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Representative Plaintiffs*

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

18 GREY FOX, LLC a California limited
liability company, et al.

19 Plaintiffs,

20 v.

21 PLAINS ALL AMERICAN PIPELINE,
L.P., et al.,

22
23
24 Defendants.

Case No. 2:15-cv-04113-PSG-JEMx

**[PROPOSED] PLAN OF
ALLOCATION**

1 **I. Background**

2 1. This document describes the Plan of Allocation for the Settlement
3 Class, as defined in the Settlement Agreement executed on March 26, 2024
4 between Plaintiffs and Settling Parties in the above-captioned case (“Settlement
5 Agreement” or “Settlement”). This document may also be referred to as the “Plan”
6 or “Allocation Plan.”

7 2. The Settlement provides that Defendants shall pay \$70 million (the
8 “Settlement Amount” or “Settlement Fund”), in exchange for a full release of
9 claims alleged on behalf of the Class in this litigation. The Settlement Fund shall be
10 administered by the Settlement Administrator.

11 3. As set forth in paragraphs 2.25, 6.2, and 7.1 of the Settlement
12 Agreement, portions of the Settlement Fund shall be used to pay certain costs and
13 fees prior to determining a net amount that is available for distribution, to include:

- 14 a. Fees and Costs Awards, subject to Court approval;
15 b. Service Awards to Class Representatives, subject to Court
16 approval; and
17 c. Costs of Notice and Administration of Settlement, including fees
18 and expenses of the Settlement Administrator and experts consulted for purposes of
19 administration, as well as the costs of generation and mailing checks, fees, and
20 costs of escrow, if any.

21 d. A temporary construction easement fund (“TCE Fund”), up to
22 \$2,000,000, payable to Class Members or their successors following Preliminary
23 Settlement Approval, the balance of which shall revert to the Settlement Fund upon
24 the Effective Date and be payable pursuant to this Plan of Allocation.

25 4. The net amount available for distribution will depend upon the final
26 amounts for the items listed above. The mechanics of this Allocation Plan are not
27 dependent upon the amount available for distribution.
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1 5. The Allocation Plan utilizes real property records previously obtained
2 by Plaintiffs’ real property expert, Landmark Research Group, to identify Class
3 Properties. Each Property’s share of the Settlement (an “Allocation Share”) shall be
4 distributed directly to the Property’s owner as detailed below, without requiring the
5 submission of claim forms.

6 **II. Definitions**

7 6. The capitalized terms used in this Plan of Allocation have the same
8 meaning as defined in the Settlement Agreement, unless otherwise indicated.
9 Additional terms are defined below.

10 7. “Allocation Share” means the share allocated to each Class Property
11 pursuant to this Plan of Allocation.

12 8. “APN Number” means the assessor’s parcel number assigned to a
13 property.

14 9. “ATC Fund” – see “Settlement Fund.”

15 10. “ATC Property” is a Class Property subject to a Right-of-Way
16 agreement with a clause providing that the right-of-way automatically terminates
17 upon the Grantee’s failure to “operate,” “maintain,” and/or “use” the pipeline, or
18 any combination thereof.

19 11. “Base Payment” refers to the per-Property uniform payment of
20 \$50,000.

21 12. “Base Payment Fund” – see “Settlement Fund.”

22 13. “Class Property” or “Property” means a property meeting the
23 description in the “Settlement Class” definition in the Agreement.

24 14. “Classwide Fund” – see “Settlement Fund.”

25 15. “Net Settlement Fund” – see “Settlement Fund.”

26 16. “Payee” means the person(s) who own a Class Property as of the Opt-
27 Out Deadline (as defined in the Agreement).
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1 17. “Settlement Administration” means actions carried out by JND Legal
2 Administration in its capacity as Settlement Administrator.

3 18. “Settlement Fund” means the non-reversionary Settlement Amount,
4 plus all interest and accretions thereto less the other amounts payable from the
5 Settlement Fund as specified herein.

6 a. “TCE Fund” refers to the portion of the Settlement Fund, up to
7 \$2,000,000, reserved for temporary construction easements.

8 b. “Net Settlement Fund” means the amount available for
9 distribution to the Class, after deduction of the costs and expenses permitted by the
10 Settlement Agreement. For purposes of this Plan, the Net Settlement Fund is further
11 segregated into three funds:

12 i. “Base Payment Fund” is the sum of all Base Payments.

13 ii. “ATC Fund” is equal to one-third of the Net Settlement
14 Fund, and is distributed to the ATC Properties.

15 iii. “Classwide Fund” is equal to the Net Settlement Fund
16 less the Base Payment Fund and the ATC Fund, and is distributed to all Class
17 Properties.

18 19. “Settlement Website” means the dedicated website maintained by the
19 Settlement Administrator at www.LasFloresPipelineSystemSettlement.com.

20 **III. TCE Fund**

21 20. Pursuant to section 5.5 of the Agreement, the Settling Parties will
22 provide Class Counsel with the scope of anticipated work and shall update Class
23 Counsel with any material updates to that plan.

24 21. The Settlement Administrator, in consultation with Class Counsel,
25 shall distribute the TCE Fund (up to \$2,000,000) subsequent to Preliminary
26 Settlement Approval and Sable’s contribution of the Initial Payment to the
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1 Settlement Fund to compensate Class Members or their successors for the
2 Temporary Construction Easements.

3 22. The parties will work in good faith to ensure that all Property owners
4 are compensated in a timely manner for any work performed, including work
5 related to valves and their aboveground appurtenances. Should timely payment
6 require payments exceeding that allocated to the TCE Fund prior to the Effective
7 Date, the Settling Parties will meet and confer in good faith with Class Counsel
8 regarding increases to the portion of the Settlement Fund allocated to the TCE
9 Fund. Likewise, to the extent the scope of repair and valve-related work is not
10 finalized as of the Initial Distribution and/or Final Distribution dates, the
11 Administrator and Class Counsel are authorized to reserve additional reasonable
12 amounts for compensation related to this work prior to making either Distribution.

13 **IV. Allocation Share Calculation**

14 23. Each Property's Allocation Share is the sum of the Base Payment, its
15 Classwide Payment, and, for an ATC Property, its ATC Payment.

16 **A. Base Payment**

17 24. Each Property shall be allocated a Base Payment of \$50,000.

18 25. The sum of all Base Payments shall be referred to as the Base Payment
19 Fund.

20 **B. Classwide Payment**

21 26. Each Class Property shall be allocated a Classwide Payment, which is
22 the product of the Property's Classwide Allocation Percentage and the Classwide
23 Fund.

24 27. Each Property's Classwide Allocation Percentage is the quotient of its
25 severance and permanent easement value and the total severance and permanent
26 easement values for all Properties.

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1 28. Plaintiffs’ real estate appraisal experts, Landmark Research Group,
2 determined severance and permanent easement values for each Property. Using
3 mass appraisal techniques, appraisals of representative properties along the
4 Pipeline, and reviews of scores of comparable sales, Landmark calculated a price
5 per acre for the thirteen property types present along the Pipeline.¹

6 29. Each Class Property’s permanent easement value is the product of the
7 price per acre value for its category, the area of its permanent easement, and a
8 factor of 90% (which reflects the ability to use the easement area).

9 30. Severance damages are the damages to the remainder of the property
10 as a result of the taking. This loss is expressed as a uniform, Classwide percentage
11 of the property values, and is attributable to the market’s pricing of the presence of
12 the subject pipeline on the Class Properties relative to those without it, particularly
13 in light of the Spill, the publicized record of substandard operation and
14 maintenance, and the attendant and ongoing shutdown. Each Property’s severance
15 value is the product of the price per acre for its category, the property’s total
16 acreage, and the Classwide severance percentage. However, a Property that receives
17 a new aboveground valve station, and whose right-of-way does not already permit
18 such stations, shall receive a 1.2 multiplier on the Classwide severance percentage.

19 **C. ATC Payment**

20 31. All ATC Properties shall also receive an ATC Payment, which is the
21 product of its ATC Allocation Percentage and the ATC Fund.

22 32. Each ATC Property’s “ATC Allocation Percentage” is the quotient of
23 its severance and permanent easement value and the total severance and permanent
24 easement values attributable to the ATC Properties.

25 _____
26 ¹ The thirteen categories are: (1) Field/Row Crops, (2) Dry Land/Waste Land, (3)
27 Tree Crops/Orchards, (4) Vineyards, (5) Mountainous, (6) Grazing, (7)
28 Conservation, (8) Coastal Shelf, (9) Hollister Ranch, (10a) Inland SFR with acreage
– High, (10b) Inland SFR with acreage – Medium/Low, (11) SFR – Without
Acreage, (12) New Cuyuma Valley – Field/Row Crops, (13) Mountainous – with
Improvements.

1 33. Class Counsel have identified 183 properties in the Class, 83 of which
2 are also ATC Properties. Assuming no Properties are opted out of the Settlement,
3 Class Counsel estimate a minimum per-Property Allocation Share of \$50,150, with
4 a median of approximately \$90,000 and an average of \$230,000 (which in turn
5 reflects the broad range of property values within the Class).²

6 **V. Distribution of Allocation Shares**

7 34. Upon Preliminary Approval, the Settlement Administrator shall obtain
8 from Class Counsel a “Class Property List” that includes, for each Property, (1)
9 APN, (2) the owner(s) as indicated in official records, and (3) the owner’s mailing
10 address, which is presumptively the address on file with the relevant tax assessor
11 office. The Administrator shall make reasonable efforts to keep the Class Property
12 List updated should it learn of any transfers of ownership. Within 14 days of the
13 Opt-Out Deadline, the Administrator shall update the Class Property List to reflect
14 all owners as of the Opt-Out Deadline.

15 35. Within 14 days of the Effective Date of the Settlement, the Settlement
16 Administrator shall determine the Allocation Shares as described in this Plan. The
17 Administrator shall update the Class Property List to add, for each Property, the
18 Base Payment, Classwide Payment, ATC Payment (if applicable), and the total
19 Allocation Share.

20 36. Because the Settlement Fund will be paid in two installments of \$35
21 million each (the “Initial Payment” and the “Final Payment” as defined in the
22 Agreement), the Settlement Administrator, in consultation with Class Counsel, is
23 authorized to distribute Allocation Shares in two separate distributions if the
24 payment dates are not sufficiently close in time.

25 37. Within 21 days of the Effective Date, if only the Initial Payment has
26 been made and the Final Payment is not imminent, the Administrator shall
27 _____

28 ² These estimates are net of anticipated fees and costs described above. See ¶ 4;
Settlement Agreement, Article IV.3.

1 distribute each Property's pro rata share of the Net Settlement Fund available for
2 distribution (the "Initial Distribution").

3 38. In the event the Administrator and Class Counsel determine two
4 distributions are appropriate, within 7 days of the Final Payment date, the
5 Administrator shall distribute each Property's pro rata share of the Net Settlement
6 Fund available for distribution (the "Final Distribution").

7 39. All costs and expenses, including but not limited to the costs of
8 litigation awarded by the Court, Service Awards, the TCE Fund, and administrative
9 costs, shall be paid in full from the Initial Payment. Should the payments to Payees
10 be made in two distribution, the awarded attorneys' fees payable from the Initial
11 Payment shall equal the *pro rata* share of the awarded amount relative to the
12 amount available for distribution to Payees after payment of costs. For the
13 avoidance of doubt, should the Court award a percentage of the fund as attorney's
14 fees, this pro rata amount shall equal the fee percentage multiplied by the amount of
15 the Initial Payment available to distribute to Payees. The balance of the awarded
16 attorneys' fees shall be paid from the Final Payment promptly after once the Class
17 is permitted to draw upon the Letter of Credit.

18 40. For either the Initial Distribution or the Final Distribution, if a Payee is
19 entitled to distributions for more than one Property, the Settlement Administrator
20 may aggregate them into a single payment to the Payee.

21 41. Payments will be issued by check or may be transmitted electronically,
22 if requested by the Payee, subject to verification or additional procedures of the
23 Settlement Administrator.

24 42. The Settlement Administrator shall coordinate with Class Counsel and
25 Plaintiffs' experts at Landmark Research Group for purposes of maintaining the
26 Class Property List and calculating Allocation Shares. Landmark Research Group's
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1 reasonable fees and expenses for this consultation may be paid as an administrative
2 cost from the Settlement Fund.

3 **VI. Residual Funds**

4 43. Payments that are not claimed within 120 days after payment is issued
5 will be returned to the Net Settlement Fund.

6 44. To the extent that any part of the Net Settlement Fund remains
7 unclaimed for more than 180 days after the Settlement Administrator has
8 distributed all Allocation Shares, the Settlement Administrator shall distribute the
9 remainder pro rata to Payees.

10 **VII. Court Review**

11 45. All proceedings with respect to the determination, administration, and
12 processing of Allocation Shares, and the determinations of all controversies relating
13 thereto, including any disputed questions of law and fact, shall be subject to the
14 jurisdiction of the Court. All Class Members, on behalf of themselves and any
15 successors, expressly waive trial by jury (to the extent any such right may exist) and
16 any right of appeal or review with respect to the Court's determination of any such
17 disputes.

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