

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

No. D-0101-CV-2003-02310

PHILLIS IDEAL and COLLINS PARTNERS, LTD.,
Plaintiffs,
vs.
BP AMERICA PRODUCTION COMPANY,
Defendant.

TO: All owners of royalty and overriding royalty interests, which burden the Defendant's working interests in the units, leases, and wells which are now or have been productive of coal bed methane gas from the Fruitland coal formation underlying New Mexico lands, whether now or formerly owned or operated by Defendant, except for those individuals or entities who elected to opt out of the Class pursuant to the August 6, 2010 or October 2, 2012 notices that were sent to prospective Class Members pursuant to the orders of the First Judicial District Court.

If you elected to opt out of the Class after receiving the August 6, 2010 or October 2, 2012 notices, you have no right to participate in or object to this proposed settlement.

Also excluded from the Class are (a) the Defendant and its affiliates; (b) the United States of America; (c) the State of New Mexico; (d) all Indian Nations and Tribes; (e) all individual Native American or Indian lessors; (f) the Florance Limited Company, the M.J. Florance Trust No. 2, the Florance A. Florance Trust and their successors and assigns under the Settlement Agreement and Release dated April 25, 2000.

If you are a Prior Owner of a Subject Royalty Interest now held by a Current Owner during the Class Period but you are not a current owner of the Subject Royalty Interest you will be afforded a reasonable opportunity to make a claim for distribution of Net Settlement Amount attributable to the time you were an owner, even if the current owner of your previously held royalty or overriding royalty interest opted out of the Class provided that you did not relinquish your right to recover royalty underpayments during the time of your ownership when you passed title of your royalty interest to the successor.

ADDITIONAL NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

DATED: MARCH 20, 2015

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY A LAWSUIT PENDING IN THIS COURT.

A NEW MEXICO COURT AUTHORIZED THIS NOTICE. IT IS NOT A SOLICITATION FROM A LAWYER.

I. THE PURPOSE OF THIS ADDITIONAL NOTICE OF CLASS ACTION

The purpose of this Notice is to inform you of a proposed settlement of the claims against the above-named Defendant BP America Production Company ("Defendant BP") and your rights to share in the possible settlement recovery proposed in this lawsuit.

On August 6, 2010, a Class Notice was mailed to potential members of the Class explaining that the Court had certified this case as a class action. That notice explained that each potential member of the Class could remain a member of the Class or could request to be excluded from the Class ("opt out"). On October 2, 2012, supplemental notice was also sent to additional Class Members. Members of the Class who received the Class Notice mailed on August 6, 2010 or October 2, 2012 and who **did not** request to opt out are "Class Members".

Subject to court approval, the Class and Defendant BP have agreed to enter into a Settlement Agreement that will settle all claims and allegations the Class has asserted against Defendant BP, with the exception of the "Reserved Claims".

Defendant BP does not admit any wrongdoing or liability on its part. The settlement is a compromise of disputed claims and allegations. The settlement does not mean that Defendant BP is responsible or liable for the claims the Class has asserted.

This Additional Notice of Class Action and Proposed Settlement advises you of your rights and options with regard to the settlement.

II. BASIC TERMS OF THE SETTLEMENT

The Class Representatives, Class Counsel and Defendant BP have now agreed to a proposed settlement of the class action.

Consideration

Subject to Final Approval after the Final Approval of Settlement Hearing (see below), the Class and Defendant BP have agreed to settle the Class's claims against Defendant BP, excluding the Reserved Claims (see below), for the sum of \$65.4 million (the "Settlement Amount"). The Settlement Amount consists of \$55 million in "New Settlement Funds" and approximately \$10.4 million in Prior Settlement Funds which were already paid to Same as Fed Class Members, without obtaining approval of the District Court during the pending lawsuit as "prior period adjustments" made in 2013 and credited as partial payment of the Settlement Amount.

Each Current Owner and certain Prior Owners of the Class Members' royalties and overriding royalties for CBM from the Fruitland formation in the San Juan Basin during the Class Period who did not opt out of the Class and whose portion of the Net Settlement Amount as calculated herein is equal to ten dollars or more will be eligible to receive a distribution from the Net Settlement Amount. As used herein, "Final Approval" means that the Court Approval has become final, either by exhaustion of any time for a member of the Class who has properly and timely objected to the Stipulation and Settlement to appeal the Court Approval, with no appeal being filed, by completion of any appeals filed by members of the Class which appeals have been resolved favorably, or, if there are no objections to the Settlement, by the District Court's entry of the Final Order.

Allocation for the Net Settlement Amount

The Court must approve a Plan of Allocation for the Net Settlement Amount. However, under the Plan submitted by Class Counsel, deductions will be made from the Settlement Amount of court-approved Class Representative's incentive awards, Class Counsel's attorneys' fees and New Mexico gross receipts taxes (as approved by the District Court), reimbursement of Class Counsel of all actual expenses of the Action (as approved by the District Court), any other approved costs and expenses of Plaintiffs and all appropriate taxes, if any, assessable on the Settlement Amount or any portion thereof. The remaining amount available for distribution is referred to as the "Net Settlement Amount." Class Counsel propose to allocate the Net Settlement Amount as follows:

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The following definitions apply to the Plan of Allocation:

- a. "CBM" means coal seam or coalbed methane gas produced only from the Fruitland formation in the San Juan Basin in New Mexico during the Class Period. "CBM" shall not be construed to include natural gas produced from the Fruitland Sands formation.
- b. "Class Period" means the period from January 1, 1989 to the date of Preliminary Approval.
- c. "Current Owner" means a Class Member who, according to Defendant BP's accounting records, owned the Subject Royalty Interest as of January 2015. In the case of wells that have been plugged and abandoned during the Class Period, however, the royalty revenue deck applicable to the final month of gas production from that well, subject to fair inquiry and correction, shall be used to identify the Current Owner.
- d. "Eligible Class Member" means any Current Owner or Prior Owner who is entitled to receive a payment from the Net Settlement Amount under the Plan of Allocation. As described further below, the Plan of Allocation assumes that any payment will be made only to the Current Owner of a Class Member's royalties and overriding royalties for CBM from the Fruitland formation in the San Juan Basin during the Class Period who did not opt out of the Class absent a determination that a Prior Owner is entitled to a portion of such payment.
- e. "Net Settlement Amount" means the Settlement Amount less Class Representative's incentive awards, Class Counsel's attorneys' fees and New Mexico gross receipts taxes (as approved by the District Court), reimbursement of Class Counsel of all actual expenses of the Action (as approved by the District Court), any other approved costs and expenses of Plaintiffs and all appropriate taxes, if any, assessable on the Settlement Amount or any portion thereof.
- f. "New Settlement Funds" means the portion of the Settlement Amount paid by Defendant BP in the amount of Fifty-Five Million Dollars (\$55 million). The New Settlement Funds will serve as the funds from which all Class Representative fees, attorneys' fees, litigation costs and expenses, applicable gross receipts taxes and the Eligible Class Members' shares of Net Settlement Amount will be paid.
- g. "Prior Owner" means a Class Member who owned the Subject Royalty Interest prior to the Current Owner during the Class Period but who is not now a Current Owner of the Subject Royalty Interest.
- h. "Prior Settlement Funds" means the sum of approximately Ten Million Four Hundred Thousand Dollars (\$10.4 million) Defendant BP already remitted to Same as Fed Class Members, without obtaining approval of the District Court during the pending lawsuit as "prior period adjustments" made in 2013 and credited as partial payment of the Settlement Amount. Those payments were the subject of a partial summary judgment entered in this case in favor of the Class by the District Court on November 5, 2014. Approximately \$10.4 million payment of the Prior Settlement Funds represented a retroactive payment of a principal amount equal to 100% of the deductions taken plus interest for the period of December 1997 to 2006.
- i. "Settlement Amount" means the total sum of \$65.4 million consisting of the combined Prior Settlement Funds and the New Settlement Funds.
- j. "Subject Royalty Interests" means royalty and overriding royalty interests of the Class Members for CBM produced from the Fruitland formation in the San Juan Basin in New Mexico during the Class Period. The Class Period means the period from January 1, 1989 to the date of Preliminary Approval.
- k. "Subject Royalty Obligations" means obligations arising from those leases, assignments or other agreements of the Class Members containing the terms of the royalty and overriding royalty interests that burden oil and gas leases held by Defendant BP in the San Juan Basin in New Mexico that produce CBM, including without limitation, any obligations express or implied relating to the calculation, disclosure, payment or remittance of royalties.

Classification and allocation of Net Settlement Amount among Eligible Class Members

In structuring this Plan of Allocation, Class Counsel have taken into account that the facts underlying the Class's claims have had different economic consequences for different Eligible Class Members. The Plan of Allocation takes into account the assessment of Class Counsel that the relative merits and aggregate value of the Class Claims are common but not identical. For example, in terms of both applicable legal principles and relevant factual circumstances, the strengths and weaknesses of the Same-as-Fed Claims as described below differ from those of the non-Same-As-Fed ("Standard Royalty") claims. Moreover, on December 22, 2014 the District Court entered judgment in favor of BP excluding all Class's claims arising before December 22, 1997. *See* Order Granting Judgment on Class's Allegations of Fraudulent Concealment. That ruling like other substantive rulings in the case would have dictated the claims at trial, but would have been subject to appeal. Therefore, the value of all pre-December 22, 1997 claims and damages must be discounted to reflect the relative strength of those claims at the time of Settlement. In addition, the Class's claims involve different ranges of possible recoveries. Class Counsel propose that the following classifications should govern the distribution of the Net Settlement Amount:

- a. Certain Eligible Class Members possess overriding royalty interests subject to assignments containing provisions stating that payments shall be made on the same basis as royalties are calculated and paid to the United States of America. Royalties paid to the United States of America are subject to the deduction of certain downstream costs which the government allows to be taken by producers. Those royalty interests are referred to herein as "Same-as-Fed" or "Same-as-Fed Claims." The Eligible Class Members possessing Same-as-Fed Claims are referred to herein as "Same-as-Fed Eligible Class Members." Same-as-Fed Eligible Class Members are those Class Members identified by Defendant BP and Class Counsel as having Same-as-Fed royalty interests.
- b. Certain of the Same-as-Fed Class Members received payment of the Prior Settlement Funds in 2013.
- c. For those Eligible Class Members who possess royalty or overriding royalty interests which are not Same-as-Fed, those Eligible Class Members face uncertainty of the outcome should this litigation have proceeded concerning the applicability of the marketable condition rule, as well as certain disputed issues of fact which the jury is required to decide. Under the market condition rule, the Class claimed that BP was not allowed to take any deductions for costs necessary to place CBM into a condition and location specified by the interstate pipelines. These Eligible Class Members will be identified as the "Standard Royalty Eligible Class Members."
- d. Certain Eligible Class Members possess Subject Royalty Interests from which deductions were taken to place the CBM into marketable condition before December 22, 1997. These Eligible Class Members include both Same-as-Fed and Standard Royalty Class Members. Because the Court dismissed the pre-December 1997 claims and all damages attributable to those claims, then those claims and damages should be reduced to reflect the different risk faced by Eligible Class Members possessing those claims.

Allocation of the Net Settlement Amount between the categories of Eligible Class Members

As a general proposition, Class Counsel propose that the distribution of the Net Settlement Amount will be allocated proportionally among the Eligible Class Members subject to a number of key exceptions that account different risks potentially faced by the different classifications set forth above.

The Net Settlement Amount will be allocated across three categories of Settlement Class Members. The Net Settlement Amount shall be allocated among (i) the Same-as-Fed Eligible Class Members with pre-December 1997 damages; (ii) the Standard Royalty Eligible Class Members with pre-December 1997 damages; and (iii) the Standard Royalty Eligible Class Members with post-December 1997 damages based on their proportionate actual damages from improper deductions. Moreover, an Eligible Class Member may be entitled to allocations for both Same-as-Fed and Standard Royalty, if they possess both such royalty interests. To perform this allocation, Class Counsel and the Settlement Administrator propose that:

- a. Pre-December 1997 Same-as-Fed. For the Same-as-Fed Eligible Class Members with damages for the pre-1997 period, they will be entitled to a discounted proportionate payment from the Net Settlement Amount based on the dollar amount of the principal amount of the deductions taken plus a time weighting factor from their royalties in excess of the deductions that would be permitted under the Same as Fed methodology in effect from CBM gas to make the CBM gas marketable over the dollar amount plus interest of the total deductions from the royalties and overriding royalties for CBM gas to make the CBM gas marketable from all Eligible Class Members. That ratio will then be applied to determine each Eligible Class Member's proportionate share of the Net Settlement Amount. The discount rate to be applied to the calculation will be 80% reflecting the District Court's previous dismissal of those claims.
- b. Post-December 1997 Same-as-Fed. With respect to the Same-as-Fed Class Members who received Prior Settlement Funds in 2013, they will not receive any additional settlement distributions for the post-1997 portion of the Class Period.

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- c. Pre-December 1997 Standard Royalty. The Standard Royalty Eligible Class Members with damages for the pre-1997 period, will be entitled to a discounted proportionate payment from the Net Settlement Amount based on the dollar amount of the principal amount of the deductions taken plus a time weighting factor from each Eligible Class Member's royalties and overriding royalties for CBM gas to make the CBM gas marketable over the dollar amount plus interest of the total deductions from the royalties and overriding royalties for CBM gas to make the CBM gas marketable from all Eligible Class Members. That ratio will then be applied to determine each Eligible Class Member's proportionate share of the Net Settlement Amount. The discount to be applied to the calculation will be 80% reflecting the District Court's previous dismissal of those claims.
- d. Post-December 1997 Standard Royalty. The Standard Royalty Eligible Class Members with damages for the post-1997 period, will be entitled to a undiscounted proportionate payment from the Net Settlement Amount based on the dollar amount of the principal amount of the deductions taken plus a time weighting factor from each Eligible Class Member's royalties and overriding royalties for CBM gas to make the CBM gas marketable over the dollar amount plus interest of the total deductions from the royalties and overriding royalties for CBM gas to make the CBM gas marketable from all Eligible Class Members. That ratio will then be applied to determine each Eligible Class Member's proportionate share of the Net Settlement Amount.

Procedures for identifying Eligible Class Members and resolving potential disputes between Current Owners and Prior Owners

All Current Owners are Eligible Class Members and entitled to receive a portion of the Net Settlement Amount to the extent the amount calculated per the above calculations exceeds ten dollars. Prior Owners are not Eligible Class Members absent a determination that a Prior Owner is entitled to receive a portion of the Current Owner's payment under the Plan of Allocation. Those Class Members who are Prior Owners will be afforded a reasonable opportunity to object to the distribution of the Net Settlement Amount to the Current Owners and to present a claim against the proposed distribution to the Current Owners. Moreover, Prior Owners will be afforded a reasonable opportunity to make a claim for distribution of Net Settlement Amount attributable to the time they were an owner if the Current Owner of their previously held royalty or overriding royalty interest opted-out of the Class.

- a. The default distribution to Current Owners described above is based on the following assumptions: (a) that few sales of royalty and overriding royalty interests occurred during the Class Period, (b) that where sales did occur, the parties generally and typically intended for the buyer to receive payment for past claims, and (c) that where interests passed through inheritance, devise or intra family transfers, it was the intent that the heir, devisee or transferee receive payment for past claims. Based on the assumptions set out in clauses (a), (b) and (c), the Current Owners should be considered Eligible Class Members entitled to all settlement payments allocable to their respective Subject Royalty Interests for the entire Class Period absent a determination that a Prior Owner is entitled to receive payment under the Plan of Allocation. A Current Owner or other distributee who is not entitled to receive payments for past claims and who receives a distribution of Settlement proceeds pursuant to the Plan is Ordered by the District Court to in turn make payment to the party entitled to receive such proceeds.
- b. Prior Owners shall have 30 days from March 20, 2015 -- the date that this Settlement Notice was mailed -- to submit in writing to the Settlement Administrator their intention to dispute the distribution of the settlement payment from a particular Subject Royalty Interest solely to the Current Owner along with information sufficient to identify the Subject Royalty Interest and the legal basis for the objection, including proof that they did not relinquish their right to recover royalty underpayments during their time of ownership when they passed title to their royalty interest to their successor. If no objection to the payment to a Current Owner is received within that time period, then upon Final Approval, the Current Owner shall receive payment of the settlement amounts allocated to the Subject Royalty Interest as an Eligible Class Member.

If a proper and timely objection is received from a Prior Owner, the amount of the Net Settlement Amount at issue between the Prior and Current Owners shall be kept in escrow in the Escrow Account until the issue is resolved. Unless the Prior and Current Owner negotiate a mutually-agreed resolution to any such dispute, a Special Master will be appointed by the Court to resolve the dispute between the Current and Prior Owner regarding payment on the Subject Royalty Interest.

The proposed dispute resolution procedure will be as follows: Within 30 days of Final Approval of the Settlement Agreement, the Prior Owner shall submit to the Special Master and Current Owner, through the Settlement Administrator, any documentary evidence the Prior Owner intends to rely on to show entitlement to a payment from the Net Settlement Amount on the Subject Royalty Interest, along with a brief (no more than 10 pages) setting forth the Prior Owner's position. Within 30 days after that, the Current Owner shall submit any documentary evidence it intends to rely upon to the Prior Owner and Special Master, through the Settlement Administrator, along with a brief (no more than 10 pages) setting forth the Current Owner's position. Within 60 days, the Special Master will recommend, based on the documentary evidence presented, whether the Prior Owner has shown by a preponderance of the evidence that he or she is an Eligible Class Member entitled to a payment from the Net Settlement Amount and, if so, the amount of such payment. Either party may appeal the determination of the Special Master to the District Court, limited solely to the record before the Special Master. If there is such appeal, the determination of the District Court will be final and non-appealable. The cost of the Special Master will be deducted from the proceeds of the Net Settlement Amount due on the Subject Royalty Interest at issue. If the parties elect to use an alternative dispute resolution procedure, they will bear the costs of such alternative procedure.

- c. Prior Owners may make a claim for distribution of Net Settlement Amount if the Current Owner of their previously held royalty or overriding royalty interest opted-out of the Class. The list of opt-outs will be posted on the website maintained by the Settlement Administrator at www.BPCBMsettlement.com. Such Prior Owners shall have 30 days from March 20, 2015 -- the date that this Settlement Notice was mailed -- to submit in writing to the Settlement Administrator their intention to make a claim on the settlement payments that would have gone to the Current Owner had the Current Owner not opted-out of the Class along with information sufficient to identify the Subject Royalty Interest and the legal basis for their claim, including proof that they did not relinquish their right to recover royalty underpayments during their time of ownership when they passed title to their royalty interest to their successor.
- d. The Plan of Allocation shall be enforceable by action in the District Court. In no event shall the Class Representatives, Class Counsel or those working under their direction, Class Administrator, Class Counsel's damages expert, Mr. Francis, Defendant BP or counsel for Defendant BP or those working under their direction (i) have any obligation or liability of any nature whatsoever to the party ultimately determined to be entitled to receive such proceeds, or (ii) have any obligation or liability of any nature whatsoever to, or be a proper party to any action by, any party claiming it did not receive proceeds it was entitled to receive.

The obligations imposed by the Plan of Allocation on a person that receives a distribution to which he or she is not entitled are in addition to the indemnity obligations imposed by paragraph 1.17 of the Settlement Agreement.

Compensation to Class Members -- Method of Distribution

- a. The Settlement Agreement and this Plan of Allocation were approved by the District Court at the Preliminary Approval Hearing. Once Final Approval occurs, the Class Counsel and the Settlement Administrator shall distribute the Net Settlement Amount among the Eligible Class Members pursuant to the calculations set forth above. The distribution shall be based on the total amount of Net Settlement Amount remaining subject to any reserve amount determined by the District Court for the payment of future administrative expenses.
- b. All distributions made hereunder shall be by check or draft sent to the last known address of the Eligible Class Member. All such checks shall remain payable for 180 days from mailing of payment. The Settlement Administrator is entitled to rely on the address and identification information provided by Defendant BP in identifying Class Members, and may, but is not required to, make any additional investigation it deems prudent to identify the location to which any payment is to be sent.
- c. Each settlement check issued by the Settlement Administrator shall include a legend on the back of the check stating that:

By endorsing this Distribution Check, payee represents and warrants that the payee is or was the owner of the Released Claims hereby released, has not assigned or otherwise transferred the Released Claims to anyone else, and will indemnify the Class Representatives, Class Counsel for the Class Members and Defendant BP against a claim by anyone else as the owner of that Released Claim.

The Settlement Administrator will provide to Class Counsel and Defendant BP copies of the endorsements on the distribution checks.
- d. Within a reasonable period of time after making distributions, the Settlement Administrator shall provide Class Counsel, Defendant BP and the District Court a report, in the form of an electronic spreadsheet, reflecting the distribution by amount paid, owner number, owner name and owner address. The Settlement Administrator shall also file with the District Court an Affidavit of Mailing reflecting said distributions.

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Future Royalties

After Final Approval by the District Court, the CBM Royalty Deductions (meaning costs incurred prior to the gas being acceptable into the interstate pipeline including gathering, field transportation, marketing fees, compression, decompression, dehydration, processing or treatment, fuel (plant and pipeline) and Natural Gas Processor's tax) and taken before the remittance of all non same as fed royalties and overriding royalties due to the Class Members by Defendant BP shall be subject to the following terms:

- A. Defendant BP shall eliminate all deductions from the calculation, payment and remittance of all royalties and overriding royalties due on CBM production to the Class Members by Defendant BP for: (1) gathering fees (including gathering, field transportation, marketing fees, compression, decompression, dehydration, processing, treatment and natural gas processor's taxes) and fuel for company-operated gathering systems; and (2) third-party gathering fees (including gathering, field transportation, marketing fees, compression, decompression, dehydration, processing, treatment and natural gas processor's taxes);
- B. Notwithstanding the provisions of Paragraph A. above, based on Defendant BP's representation that the majority of the CBM at issue is processed through the Val Verde and Milagro treatment plants and that the current contracts with the Val Verde and Milagro plants expire no earlier than 2019, Defendant BP will have the right to continue to deduct pipeline fuel and plant fuel charges Defendant BP incurs on CBM production, in the form of its existing contractual third-party fuel charges and volumetric reductions for fuel;
- C. Notwithstanding the provisions of Paragraph A. above, and subject to Class Counsel's right to conduct reasonable due diligence with the cooperation of Defendant BP into the CBM wells moving through conventional gas processing plants other than the Blanco plant, Defendant BP will have the right to continue to deduct third-party charges for the extraction of NGLs attributable to CBM production at the non-Blanco plants and Defendant BP will have the right to deduct the previously agreed upon *Steven J. Abraham, et al., v. BP America Production Company*, U.S.D.C. -- NM case no. CIV-09-961 WDS/KBM ("*Abraham*") settlement [specifically Section 3 "Reduction of Processing Cost Royalty Deduction" in the Abraham Settlement Agreement] processing costs related to the Blanco plant (about 8.1 cents per gallon);
- D. These payment methodology changes shall be effective for the January 2015 production month. Defendant BP shall fully implement the Future Royalty Methodology by January 1, 2016. If for any reason Defendant BP fails to make the prior period adjustments when due, it will also pay applicable interest under the Proceeds Payment Act;
- E. All Class Members whose leases, overriding royalty instruments or assignments require that royalties be computed and paid on the same basis as royalties are paid to the United States of America (the Same as Fed Method) shall be unaffected by the Future Royalty Methodology. Such Same as Fed royalty owners should be paid pursuant to Defendant BP's obligations for the calculation of such royalties and overriding royalties as provided under federal law;
- F. Defendant BP shall implement this Future Royalty Methodology in accordance with the provisions set forth in subsection D. above, and will employ this Future Royalty Methodology until the earliest of the following:
 - (i) the Court of Appeals for the State of New Mexico issues an opinion ruling on the deductibility or non-deductibility of any or all of the CBM Royalty Deductions for which the New Mexico Supreme Court denies certiorari; or
 - (ii) New Mexico Supreme Court issues an opinion ruling on the deductibility or non-deductibility of any or all of the CBM Royalty Deductions; or
 - (iii) the fifth anniversary of the date of Final Approval of this settlement by the District Court.
- G. Provided that Defendant BP fully complies with the provisions of the Future Royalty Methodology set forth above, during the subject 5 year period, unless an intervening final New Mexico appellate opinion decides the deductibility or non-deductibility of any or all of the CBM Royalty Deductions, then Defendant BP shall not be liable to the Class regarding the propriety of the CBM Royalty Deductions being taken during the period that the Future Royalty Methodology applies, except as provided in subsection D. above. Likewise, Defendant BP shall not assert that the Future Royalty Methodology is binding upon the Class for any time period other than expressly provided herein. Provided that Defendant BP fully complies with the provisions of the Future Royalty Methodology set forth above, the parties understand and agree that there will be no retroactive changes or adjustments to payments made in accordance with the Future Royalty Methodology specified herein;
- H. If pursuant to subsections F (i) and (ii), above, one of those events occurs before Defendant BP has fully implemented the Future Royalty Methodology, then Defendant BP agrees that it will nevertheless comply with and make the prior period adjustments pursuant to the Future Royalty Methodology for the time period before those events occur; and
- I. All of BP's obligations regarding the Future Royalty Methodology shall be binding upon BP's successors-in-interest.

Unclaimed Distributions

Any distribution check that is not cashed within 180 days of mailing may be deemed unclaimed by the Settlement Administrator of the Funds. The Settlement Administrator shall make timely report of the amount of such unclaimed distributions to Class Counsel and the District Court. Subject to further order of the District Court, the Settlement Administrator shall, no later than 240 days after mailing of the initial distribution checks, distribute unclaimed funds among the Eligible Class Members who did receive and cash their distributions. The distribution of unclaimed settlement amounts will be allocated to each Eligible Class Member by multiplying the unclaimed settlement amount by the distribution amount of each Class Member who did cash their distribution checks divided by the total distribution amounts of all Class Members who did cash their distribution checks.

If, after such supplemental distribution, any sums remain, the Settlement Administrator shall make report to the District Court and Class Counsel and seek further direction, including the *cy pres* of the remaining funds.

Compensation to Class Counsel -- Method of Distribution

In connection with the Final Approval of Settlement Hearing, Class Counsel will apply to the Court for an award of attorneys' fees incurred in prosecuting the Class Claims against Defendant BP, including all services rendered through the Final Approval of Settlement Hearing. Any award of attorneys' fees for Class Counsel shall be paid out of the New Settlement Funds. Class Counsel's fees shall not exceed thirty-three and one-third percent (33 1/3%) of the Settlement Amount (\$65.4 million), plus applicable New Mexico gross receipts taxes thereon. In addition to attorneys' fees, Class Counsel may apply to the Court for the reimbursement of their reasonable out-of-pocket litigation costs and expenses incurred through the Final Approval. All such litigation costs and expenses shall be paid from the New Settlement Funds. All fees and expenses paid to Class Counsel must be approved by the Court.

The amount of attorneys' fees and reimbursement of the expenses advanced by Class Counsel will be decided by the Court. This amount shall reduce the Settlement Funds that will be used to pay the members of the Settlement Class.

Class Representative Incentive Award -- Method of Distribution

At the Final Approval of Settlement Hearing, Class Counsel may apply to the Court for a fee not to exceed \$125,000 to be paid from the Settlement Amount to each of the Class Representatives, Phillis Ideal and Michael Collins Partners Ltd. The incentive awards must be approved by the Court.

Releases

In exchange for receipt of the Settlement Amount and the other provisions contained in the Settlement Agreement, and subject to the other terms of the Settlement Agreement, upon the later to occur of Final Approval, expiration of the time for the Parties to exercise their termination rights without the Parties exercising their termination rights and deposit by Defendant BP of the Settlement Amount into the Escrow Account, the Class Representatives and each Class Member shall be conclusively deemed to have fully, finally, completely, irrevocably, unconditionally and forever released and discharged Defendant BP from liability on and for all of the Released Claims. Such release will be effective as of the date of Final Approval.

"Defendant BP" means BP America Production Company, its current and former parents, their predecessors, affiliates, assigns, successors, subsidiaries and its members, partners, officers, directors, agents, representatives, and employees.

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“Released Claims” means all claims that were asserted in the Action or could have been asserted in the Action by the Class Members, whether arising from contract, tort, statute or in law or equity, with respect to the Subject Royalty Obligations burdening Defendant BP’s production, whether operated or non-operated, of CBM from the Fruitland formation in the San Juan Basin in New Mexico during the Class Period, other than the Reserved Claims, including acts, omissions, or failures to act related to the Action. Reserved Claims are excluded from Released Claims.

“Reserved Claims” means:

- A. Any and all claims against Defendant BP insofar as they apply to non-CBM (i.e. conventional) natural gas, oil or natural gas liquids produced from non-Fruitland formations in the San Juan Basin in northwestern New Mexico, including but not limited to the *Steven J. Abraham, et al., v. BP America Production Company*, U.S.D.C. -- NM case no. CIV-09-961 WDS/KBM (“*Abraham*”) settlement. All claims concerning conventional gas or hydrocarbons other than natural gas produced from the Fruitland formation are specifically excluded from this settlement and are not released. Also excluded from this settlement and not released are claims concerning natural gas produced from the Fruitland Sands formation;
- B. Any claims arising out of ordinary course of business mistakes and corrections of mathematical errors by Defendant BP for which Defendant BP may make prior period adjustments as may be necessary and appropriate in the ordinary course of business;
- C. Except for the Future Royalty Methodology provided in paragraph 3 of the Settlement Agreement, any claims arising from Subject Royalty Obligations burdening production of CBM from the Fruitland formation in the San Juan Basin after the Class Period;
- D. Any claims by Class Members regarding royalty or overriding royalty interests that burden oil and gas leases held by Defendant BP and producing CBM (whether operated and paid by BP or by third-parties) for which Defendant BP has not provided, with respect to such interests, names, addresses, current decimal ownership percentages, tax identification numbers, and volumes of CBM attributable thereto, and information reasonably necessary in order for the Settlement Administrator and Class Counsel may make an allocation to such interests pursuant to the Plan of Allocation; and
- E. Any claims arising out of the enforcement of the Settlement Agreement.

Dismissal With Prejudice

Pursuant to the Settlement, if approved, the Class will dismiss all Released Claims (but not the Reserved Claims) in the Action with respect to Defendant BP with prejudice, and such Order of Dismissal will extinguish any liability of Defendant BP with respect to such Released Claims.

III. YOUR OPTIONS

Each Class Member has three options:

1. You Can Do Nothing. If you choose this option, you don’t need to do anything. If you are a Current Owner you will receive a portion of the Net Settlement Amount as calculated above unless a Prior Owner timely disputes distribution of the payment as described above, at which time you will be provided with a procedure for resolving any dispute with the Prior Owner. If you are a Prior Owner and do nothing you will not receive any payment.
2. If You Are a Prior Owner, You Can Dispute Allocation of a Settlement Payment Solely to the Current Owner(s). This option applies only to Prior Owners. If you are a Prior Owner, you can object to allocation of a settlement payment solely to the Current Owner(s). Your instructions for disputing allocation of a settlement payment solely to the Current Owner(s) are explained in detail below. Objecting to allocation of a settlement payment will not constitute an objection to the Settlement itself.
3. You Can Object to the Settlement. You may file an objection to the Settlement. The instructions for filing an objection to the Settlement are explained in detail below. Your objection will not affect your entitlement to a portion of the Net Settlement Amount as calculated above.

Each Class Member **who did not receive** the August 6, 2010 or October 2, 2012 Class Notices has the additional option to opt out of this Class.

1. This option applies only to members of the Class who did **not** receive a copy of the Class Notice of class certification mailed on August 6, 2010 or October 2, 2012. If you did not receive that notice (and Class Counsel’s records do not show that you were mailed the Class Notice), and wish to be excluded from the Class and the Settlement, you may submit a request to opt out of the Class and the Settlement. If you request to be excluded, you will have no right to object to the settlement or to distribution of Net Settlement Amount to Current Owners.
2. If you did **not** receive a copy of the Class Notice of class certification mailed on August 6, 2010 or October 2, 2012 and want to be excluded from the Class, you must inform Class Counsel (see below) of that fact by written letter or postcard postmarked no later than April 29, 2015. You must specify the name and address of the Class Member that elects to be excluded from the Class and certify that you did not receive the earlier August 6, 2010 or October 2, 2012 notices. However, if Class Counsel’s records show that you were mailed the Class Notice sent on August 6, 2010 or October 2, 2012, your request to opt out will not be valid.

If you are a Prior Owner, and the Current Owner of your previously held royalty or overriding royalty interest opted-out of the Class, you have an additional option.

1. You can make a claim for distribution of the Net Settlement Amount attributable to the time you were an owner. The list of opt-outs is posted on the website maintained by the Settlement Administrator at www.BPCBMsettlement.com.
2. Your instructions for making a claim for distribution a settlement payment where the Current Owner(s) has opted-out of the Class are explained in detail below.

IV. FINAL APPROVAL OF SETTLEMENT HEARING

A Final Approval of Settlement Hearing will be held at **9:00 a.m. on May 14, 2015**, before the Honorable Francis Mathew, in his courtroom at the First Judicial District Court, Santa Fe County, New Mexico, which is located at 225 Montezuma Ave., Santa Fe, New Mexico 87504. The purpose of the hearing is to determine:

- (1) Whether the Settlement is fair, adequate and reasonable and whether the Settlement Agreement will be approved;
- (2) Whether the Court should enter a Final Order approving the Settlement, dismissing with prejudice and on the merits the Released Claims against Defendant BP, and releasing the Released Claims against Defendant BP;
- (3) Whether the Court should approve the applications of Class Counsel for payment of attorneys’ fees, costs, and expenses;
- (4) Whether the Court should approve the applications of Class Representatives for payment of incentive fees for serving as Class Representatives; and
- (5) Any other matters raised or addressed by the Court.

Objections to the Settlement by members of the Class will be considered by the Court, but only if such Objections follow the “Instructions for Objecting to the Settlement” set forth below.

Attendance at the hearing is not necessary; however, members of the Class wishing to be heard orally in opposition to the Settlement must appear and must indicate in their written Objections their intention to appear at the hearing to be heard orally. See Instructions for Objecting to Settlement, below.

Class Members who want to share in the benefits of the Settlement do not need to appear at the hearing or take any other action to indicate their approval of the Settlement.

THIS NOTICE WAS MAILED ON MARCH 20, 2015.

The Final Approval of Settlement Hearing may be postponed or adjourned by the Court, without further notice to the Class.

At the conclusion of the Final Fairness Hearing on the Settlement, the Court may approve the Settlement, decline to approve the Settlement, or approve the Settlement with changes that the Class and Defendant BP must then agree upon, but without further notice to the Class.

V. INSTRUCTIONS FOR OBJECTING TO THE SETTLEMENT

If you want to object to the Settlement, here is what you **must** do:

(A) Prepare a written objection. The objection **must** contain:

- (1) Your full name, address, and daytime telephone number;
- (2) A detailed statement of your objection, including any legal or factual grounds you want the Court to consider; a copy of any document or other evidence you want the Court to consider with regard to the objection; if you want the Court to consider the opinion or testimony of any witnesses, you must include the name, address, and telephone number of the witness and a summary of his or her anticipated opinion or testimony;
- (3) A statement that you have not elected to opt out of the Class; and
- (4) Your Signature.

(B) Mail your objection, postmarked no later than April 29, 2015 to:

- (1) Class Counsel, Peifer, Hanson & Mullins, P.A., *Attn:* BP Settlement, P.O. Box 25245, Albuquerque, New Mexico 87125-5245; and
- (2) Defendant BP's Counsel, Mr. Scott Barker, Wheeler Trigg O'Donnell, LLP, 1801 California Street, Suite 3600, Denver, Colorado 80202-2617.

Note: If your objection is not postmarked on or before April 29, 2015 it may not be considered by the Court.

If you are not represented by a lawyer and want to appear and address the Court at the Final Fairness Hearing on the Settlement, you must file with the Clerk of the Court a "Notice of Intent to Appear" and mail a copy to Class Counsel and Defendant BP's Counsel at the above addresses no later than April 29, 2015.

You do not have to hire a lawyer to object, but you can if you want to. If you hire a lawyer, you are responsible for paying your lawyer. Your lawyer must file a notice of appearance with your objection, in compliance with this section. Your lawyer's notice of appearance must be filed with the Clerk of the Court no later than April 29, 2015 and must be served on Class Counsel and Defendant BP's Counsel at the addresses set forth below, postmarked no later than April 29, 2015. If you are not represented by a lawyer and want to appear and address the Court at the Final Fairness Hearing, you must file with the Court a Notice of Intent to Appear and serve Class Counsel and Defendant BP's Counsel at the below addresses no later than April 29, 2015.

If you or your lawyer intends to enter an appearance and address the Court, you and your lawyer are required to comply with all applicable New Mexico Court Rules. A Notice of Intent to Appear filed by you or your lawyer must include a copy of your objection.

VI. INSTRUCTIONS FOR DISPUTING ALLOCATION OF A SETTLEMENT PAYMENT SOLELY TO CURRENT OWNER(S)

This applies only to Prior Owners. If you want to dispute allocation of a settlement payment to a Current Owner on a Subject Royalty Interest for which you are a Prior Owner, here is what you **must** do:

(A) Send a notice of intention to dispute allocation of a settlement payment solely to the Current Owner(s) within 30 days from the date that this Settlement Notice is mailed, April 19, 2015, to submit in writing to the Settlement Administrator. The notice **must** include:

- (1) Your full name, address, and daytime telephone number;
- (2) Documents or other evidence sufficient to identify the Subject Royalty Interest as to which you were a Prior Owner, the dates of your prior ownership, the past royalty or overriding royalty to which you assert you are entitled, and the legal basis for the objection, including proof that you did not relinquish your right to recover royalty underpayments during your time of ownership when you passed title to your royalty interest to your successor; and
- (3) Your Signature.

(B) Mail your notice, postmarked no later than April 19, 2015 to:

- (1) The Settlement Administrator, BP America Settlement Administrator, c/o KCC Class Action Services, P.O. Box 40007, College Station, TX 77842-74007;
- (2) Class Counsel, Peifer, Hanson & Mullins, P.A., *Attn:* BP Settlement, P.O. Box 25245, Albuquerque, New Mexico 87125-5245; and
- (3) Defendant BP's Counsel, Mr. Scott Barker, Wheeler Trigg O'Donnell, LLP, 1801 California Street, Suite 3600, Denver, Colorado 80202-2617.

Note: If your notice is not postmarked on or before April 19, 2015 it may not be considered.

The Settlement Administrator will then send you and the relevant Current Owner(s) (if the Current Owner has not opted out) instructions for filing documents in support of or opposition to the objection. You must comply with the deadlines in the instructions (which are also set forth above). Neither you nor the Current Owner at issue need to hire a lawyer, but you can if you want to. If you hire a lawyer, you are responsible for paying your lawyer. If a Current Owner hires a lawyer, they are responsible for paying their lawyer.

VII. INSTRUCTIONS FOR OPTING OUT OF THE CLASS ACTION AND SETTLEMENT IF YOU DID NOT RECEIVE A COPY OF THE CLASS NOTICE OF CLASS CERTIFICATION MAILED ON AUGUST 6, 2010 OR OCTOBER 2, 2012

If you did **not** receive a copy of the Class Notice of class certification mailed on August 6, 2010 or October 2, 2012, and want to be excluded from the Class, you must inform Class Counsel of that fact by written letter or postcard postmarked no later than April 29, 2015 to Peifer, Hanson & Mullins, P.A., *Attn:* BP Settlement, P.O. Box 25245, Albuquerque, New Mexico 87125-5245. You must specify the name and address of the Class Member that elects to be excluded from the Class and certify that you did not receive the First Notice. However, if Class Counsel's records show that you were mailed the Class Notice sent on August 6, 2010 or October 2, 2012, your request to opt out will not be valid.

VIII. INSTRUCTIONS FOR MAKING A CLAIM IF YOU ARE A PRIOR OWNER, AND THE CURRENT OWNER OF YOUR PREVIOUSLY HELD ROYALTY OR OVERRIDING ROYALTY INTEREST OPTED-OUT OF THE CLASS

This applies only to Prior Owners where the Current Owner of your previously held royalty or overriding royalty interest opted-out of the Class. The list of opt-outs is posted on the website maintained by the Settlement Administrator at www.BPCBMsettlement.com.

To make a claim for distribution of the Net Settlement Amount attributable to the time you were an owner, here is what you **must** do:

- (A) Send a notice that you intend to make a claim on the settlement payments attributable to the time you were an owner that would have gone to the Current Owner had the Current Owner not opted-out by no later than April 19, 2015. The notice **must** include:
- (1) Your full name, address, and daytime telephone number;
 - (2) Documents or other evidence sufficient to identify the Subject Royalty Interest as to which you were a Prior Owner, evidence of your prior ownership (including your prior ownership ID number, a legal description of the property or wells in which you held a royalty or overriding royalty interest and evidence of the period of your prior ownership), information identifying the Current Owner who opted-out of the Class and proof that you did not relinquish your right to recover royalty underpayments during your time of ownership when you passed title to your royalty interest to your successor; and
 - (3) Your Signature.
- (B) Mail your notice, postmarked no later than April 19, 2015 to:
- (1) The Settlement Administrator, BP America Settlement Administrator, c/o KCC Class Action Services, P.O. Box 40007, College Station, TX 77842-74007;
 - (2) Class Counsel, Peifer, Hanson & Mullins, P.A., Attn: BP Settlement, P.O. Box 25245, Albuquerque, New Mexico 87125-5245; and
 - (3) Defendant BP's Counsel, Mr. Scott Barker, Wheeler Trigg O'Donnell, LLP, 1801 California Street, Suite 3600, Denver, Colorado 80202-2617.

Note: If your notice is not postmarked on or before April 19, 2015 it may not be considered.

Addresses of the Court and Counsel

The pertinent addresses of the Court, Class Counsel, and Defendant BP's Counsel are as follows:

Clerk of the Court	Class Counsel	Defendant BP
Clerk of the District Court for the First Judicial District Judge Steve Herrera Judicial Complex 225 Montezuma Ave. Santa Fe, NM 87501	John M. Eaves The Eaves Law Firm, P.A. 6565 Americas Parkway NE, Suite 200 Albuquerque, NM 87110 Telephone: (505) 888-4300 Charles Peifer Robert Hanson Matthew Hoyt Peifer, Hanson & Mullins, P.A. P.O. Box 24245 Albuquerque, NM 87125-5245 Telephone: (505) 247-4800 Derek V. Larson Sutin, Thayer & Browne, P.C. 6565 Americas Parkway, Suite 1000 Albuquerque, NM 87110 Telephone: (505) 883-2500 Mary E. Walta Mary E. Walta P.C. P.O. Box 32958 Santa Fe, NM 87594 Telephone: (505) 983-6269	Scott Barker Wheeler Trigg O'Donnell, LLP 1801 California Street, Suite 3600 Denver, Colorado 80202-2617

IX. WHAT IF I HAVE QUESTIONS?

If you have any questions or if you would like additional information about the case, please visit the website: www.BPCBMsettlement.com, which has links to the proposed settlement documents, or call the Settlement Administrator at 1-877-519-2627. You may also contact Class Counsel at either The Eaves Law Firm, P.A., 6565 Americas Parkway, NE, Suite 200, Albuquerque, NM 87110, or Peifer, Hanson & Mullins, P.A., P.O. Box 25245, Albuquerque, NM 87125-5245.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT BP OR DEFENDANT BP'S COUNSEL FOR INFORMATION. DEFENDANT BP'S COUNSEL, EMPLOYEES AND REPRESENTATIVES ARE NOT AUTHORIZED TO PROVIDE ANY INFORMATION ABOUT THE PROPOSED SETTLEMENT.

X. WHERE CAN I GET ADDITIONAL INFORMATION?

The Settlement Agreement, pleadings and other records in this case may be examined and copied at any time during the regular office hours of the Clerk of the First Judicial District Court, 225 Montezuma Street, Santa Fe, NM 87501. Please do not contact the Clerk of the Court for any purpose relation to this lawsuit, other than examination or copying of the record.

Any questions you have concerning the matters contained in this Notice (and any corrections or changes to your name or address) should not be directed to the Court, but should be directed in writing to any one of the Class Counsel at the addresses listed above. You may also telephone Class Counsel at (505) 247-4800. Please do not write or telephone the clerk of the Court.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK FOR MORE INFORMATION ABOUT THE SETTLEMENT OR THIS LAWSUIT.

DATED: February 4, 2015
BY ORDER OF THE COURT

[Signature on Order dated February 4, 2015]
/s/ Francis Mathew
THE HONORABLE FRANCIS MATHEW
DISTRICT COURT JUDGE