

1 Juli E. Farris (CSB No. 141716)
2 jfarris@kellerrohrback.com
3 KELLER ROHRBACK L.L.P.
4 801 Garden Street, Suite 301
5 Santa Barbara, CA 93101
6 Telephone: (805) 456-1496
7 Facsimile: (805) 456-1497

A. Barry Cappello (CSB No. 037835)
abc@cappellonoel.com
CAPPELLO & NOËL LLP
831 State Street
Santa Barbara, CA 93101-3227
Telephone: (805)564-2444
Facsimile: (805)965-5950

6 Robert J. Nelson (CSB No. 132797)
7 rnelson@lchb.com
8 LIEFF CABRASER HEIMANN &
9 BERNSTEIN, LLP
10 275 Battery Street, 29th Floor
11 San Francisco, CA 94111-3339
12 Telephone: (415)956-1000
13 Facsimile: (415) 956-1008

Lead Trial Counsel

12 *Class Counsel*
13 *(additional counsel listed at signature)*

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

18 KEITH ANDREWS, an individual, et al.,
19 Plaintiffs,
20 v.
21 PLAINS ALL AMERICAN PIPELINE,
22 L.P., a Delaware limited partnership, et al.,
23 Defendants.

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

**STATUS REPORT AND REQUEST
FOR DEADLINES AND
PROCEDURES REGARDING
SETTLEMENT DISTRIBUTION TO
FISHER AND PROPERTY CLASSES**

Judge: Hon. Philip S. Gutierrez

25
26
27
28

1 **A. Introduction**

2 Class Counsel submits this Status Report to apprise the Court regarding the status
3 of settlement distributions to members of the Fisher Class and Property Class. As of
4 July 31, 2023, the date previously specified for initial distribution (Dkt. 982), the
5 Settlement Administrator completed payments to 570 Verified Property Claimants and
6 Designated Recipients and 529 Verified Fisher Claimants and Designated Recipients as
7 of July 31, 2023. *See* Declaration of Genevieve Pierce, (filed concurrently), (“Pierce
8 Decl.”) ¶ 10. Consistent with the Plans of Distribution, deficiencies (such as lack of Tax
9 ID information), have since been resolved for 80 additional Fisher Claims and 251
10 Property Claims that were timely filed, and these claims have been paid. *Id.* ¶¶ 11–12.
11 In addition, approximately 140 timely-filed Fisher claims¹ for which additional
12 procedures were required to establish the appropriate recovery have been validated and
13 are now scheduled for payment. After completing these payments, approximately \$12
14 million will remain in the Fisher Net Settlement Fund and approximately \$6 million will
15 remain in the Property Net Settlement Fund. Plaintiffs seek guidance from the Court for
16 further distribution of these remaining funds, and to resolve three remaining issues.

17 *First*, both Fishers and Property Class members have submitted a number of new
18 claims received after the October 31, 2022, deadline. Pierce Decl. ¶ 14. *Second*,
19 Claimants in each group continued to provide documents to cure deficiencies in pending
20 claims after the initial July 31, 2023, distribution deadline. Given the balance of
21 remaining funds available in each of the Net Settlement Funds, Class Counsel would
22 like to pay all Verified Claims that were submitted and for which deficiencies have been
23 cured as of March 29, 2024. *Third*, both Plans of Distribution state that a Notice of
24 Rejection will be issued to those whose claims cannot be verified, with the opportunity
25 to be heard by the Court if the Settlement Administrator cannot resolve the dispute. Dkt.
26 979. Although Class Counsel do not believe that many claimants will seek to avail

27 ¹ This figure includes light boat claims and crew share claims which required additional
28 procedures.

1 themselves of this process, Class Counsel seek to establish a procedure and deadlines
2 for doing so.

3 Accordingly, Class Counsel is concurrently submitting a proposed order to
4 establish a schedule for all remaining payments and procedures consistent with the
5 Court-approved Plans of Distribution. Class Counsel has conferred with Counsel for
6 Plaintiffs and Defendants have not objected to Class Counsel's proposal. Class Counsel are
7 available for a status conference should the Court find it advisable.

8 **B. Status of Claims Process.**

9 **1. The Claims Administrator has paid all Timely Verified Claims.**

10 On September 20, 2022, this Court granted Final Approval of the Settlement of
11 this Action and Plaintiffs' Motion for Approval of Plans of Distribution for the Fisher
12 Class and Property Class. Dkts. 978 (Settlement), 979 (Plans of Distribution).

13 Consistent with the Plans of Distribution, the Settlement Administrator has reviewed all
14 claims and supporting documentation in support thereof, determined the current number
15 of Verified Claims, issued notice of deficiency to claimants whose submissions could
16 not be verified, and reviewed supplemental materials submitted by Claimants, in order
17 to identify Verified Claims for payment. Pierce Decl. ¶¶ 4–8.

18 On May 18, 2023, Class Counsel requested that the Court extend the deadlines to
19 distribute funds to Verified Claimants to July 31, 2023, which the Court approved (Dkt.
20 982), in order engage in additional outreach to claimants whose claims appeared
21 deficient, many of which could be easily cured. Since that Order was entered, Class
22 Counsel have communicated with roughly 300 Fisher Claimants and more than 400
23 Property Claimants who had received a Notice of Deficiency as of May 2023, or
24 contacted Class Counsel for assistance, in order to provide guidance for completing
25 claims and curing deficiencies. Consistent with the Plans of Distribution, the Settlement
26
27
28

1 Administrator and Class Counsel have also taken additional efforts to resolve any
2 remaining claims for each group, as described below.²

3 **2. Fisher Class Status**

4 Pursuant to the Court-approved Plan of Distribution for the Fisher Class (“Fisher
5 Plan of Distribution,” or “FPD”), Dkt. 955-1, the Settlement Administrator, together
6 with consultants at the Fontana Group, determined the Distribution Share amount for
7 each Fisher Claimant, based on the damage analysis originally provided by Professor
8 Peter Rupert and Landings Records provided by the California Department of Fish &
9 Wildlife (“CDFW”). FPD ¶ 46.

10 The FPD also permits Claimants “who are not identified in the CDFW Landing
11 Records [to] timely submit Claims and provide other documentation for evaluation to
12 the Settlement Administrator,” *Id.* ¶ 4, and allows the Settlement Administrator to
13 implement additional procedures to verify claims. *Id.* ¶¶ 48–49. Accordingly, where
14 Claimants were not identified in the CDFW Landing Records, the Fontana Group
15 calculated Distribution Shares using additional records supplied by Claimants—such as
16 contracts, income records, and declarations from crew and captains—and CDFW
17 Landing Records from the primary vessel or license holder with whom the unidentified
18 crew or vessel worked in order to calculate a distribution share for each vessel or crew
19 member seeking a claim.

20 Outreach to claimants (and news of the initial settlement distribution) also
21 inspired submission of new claims by individuals who previously received notice, as
22 well as additional efforts by class members to resolve deficiencies. As of March 28,
23

24 ² To date, the Settlement Administrator and collaborating accountants have expended
25 more than 11,000 hours, and nearly \$1.2 million in administrative fees and costs, to
26 evaluate and verify claims, assist claimants with completing their claims, and to
27 communicate with Fisher and Property Class claimants. *See* Declaration of Genevieve
28 Pierce, at ¶¶ 19–20. Additional fees and costs will be incurred to complete the
distributions. Class Counsel has also committed roughly 2,500 hours to these efforts
since final approval of the settlement. (Class Counsel does not seek additional
compensation for work they have performed to implement the settlement.)

1 2024, 872 Fisher claims have been submitted, 609 of which have been paid to Verified
2 Fisher Claimants and Designated Recipients. Pierce Decl. ¶¶ 5, 10–12. In total,
3 approximately \$89 million has been distributed to the Fisher Class to date. *Id.* ¶ 13.
4 More detailed review and verification has been conducted for approximately 140
5 additional claims, totaling approximately \$15 million, for which CDFW Landing
6 Records were not initially available, the majority of which are now scheduled for
7 payment. Approximately 89 timely submitted claims remain on hold for which
8 deficiencies have not yet been cured, so they cannot be verified, or because competing
9 claims have been made for the same vessel or license, or death, divorce or other
10 circumstances require additional efforts to determine apportionment or identify the
11 successor in interest.³ Pierce Decl. ¶¶ 17–18. Once a deadline for curing deficiencies is
12 established by Order of this Court, the Settlement Administrator expects to pay the
13 remaining timely-filed Verified Claims that are scheduled for payment within 30 days
14 of the entry of the Order. After all timely filed and verified claims that are scheduled for
15 payment have been paid and anticipated costs for settlement administration through
16 completion of the claims process are reserved, approximately \$12 million will remain
17 available for distribution in the Fisher Net Settlement Fund.

18 **3. Property Class Update**

19 Pursuant to the Court-approved Plan of Distribution for the Property Class
20 (“PPD”), Dkt. 951-2, the Settlement Administrator utilized distribution information
21 supplied by personnel at Landmark Research Group, based on the damage analysis
22 provided by expert Randall Bell, to determine the proportional share of the Property
23 Settlement Fund for each Verified Claimant. PPD ¶ 2. As of March 28, 2024, 1,269
24 Property claims have been submitted, 1,181 of which have been verified, and a total of
25 approximately \$23 million has been paid to Property Claimants. Pierce Decl. ¶ 5. Of the
26 remaining claims, 294 Property claims (273 of which were timely submitted), remain
27

28 ³ One of the claims has been withdrawn.

1 deficient or unverified despite Notices of Deficiencies and the extensive outreach efforts
2 of Class Counsel.⁴ Pierce Decl. ¶¶ 17–18. All timely filed and verified Property claims
3 without deficiencies have been paid, with approximately \$6 million available for
4 distribution in the Property Net Settlement Fund, after anticipated costs for settlement
5 administration through completion of the claims process are reserved.

6 **C. Proposed Resolution of Late Claims.**

7 Both Property and Fisher Claimants have continued to submit claims well after
8 the October 31, 2022, deadline. As of March 28, 2024, the Settlement Administrator
9 has received 71 Fisher Claims and 67 Property Claims that are otherwise valid, but
10 remain unpaid because they were received after the October 31, 2022, deadline. Pierce
11 Decl. ¶¶ 14–15. These claims have been placed on hold subject to Court approval.

12 These claimants maintain that their delay was justifiable (*e.g.*, they assert that
13 they received claim forms late or not at all, or were prevented by illness from submitting
14 claims in a timely manner). While Class Counsel believe that notice was adequate and
15 timely in each instance, Class Counsel nonetheless take the position that distribution of
16 proceeds to Verified Claimants who are otherwise entitled to them is an appropriate use
17 of the additional funds, given the amounts still available. At the same time, because the
18 proportional share of each settlement award depends in part upon the number of
19 claimants participating in the settlement, the distribution amounts cannot be made final
20 until the pool of Verified Claims is final.

21 Class Counsel recommend that unpaid late claims filed as of March 29, 2024, that
22 are otherwise valid and without deficiencies be deemed timely and approved for
23 payment from the remaining funds available for payment in each of the respective Net
24 Settlement Funds, after all timely filed Verified Claims have been paid and sufficient
25 funds are reserved to cover the remaining anticipated settlement administration costs
26

27 ⁴ To date, three claims appear ineligible or invalid, based upon review by the Settlement
28 Administrator of the materials submitted.

1 and resolve contested claims (as indicated below). The Settlement Administrator is
2 confident that all remaining timely and late-filed Verified claims can be processed and
3 paid within 90 days of the date the Court enters the proposed scheduling Order.

4 Similarly, as a result of delayed responses to outreach efforts and news of the
5 initial distribution, claimants in each Settlement Class continue to submit additional
6 materials to the Settlement Administrator and Class Counsel, in an effort to cure pre-
7 existing deficiencies to previously submitted claims. For the reasons stated above, so
8 that the pool of claimants can be made final, Class Counsel recommend that, as with late
9 claims, the Court direct that the Settlement Administrator consider claims for which
10 deficiencies are cured on or before March 29, 2024, to be deemed timely and approved
11 for payment.⁵

12 Class Counsel further recommend that, except as specified above, any claims that
13 are submitted or remain deficient after March 29, 2024, be deemed untimely and
14 handled as Rejected Claims, as indicated below.

15 **D. Schedule and Process for Rejected Claims.**

16 Claims that the Settlement Administrator determines to be untimely, deficient or
17 otherwise ineligible or invalid, based upon review of the materials submitted, will
18 receive a Rejection Notice, consistent with the Plans of Distribution. FPD ¶ 52, PPD ¶
19 48 (those whose claims are rejected “will have the opportunity to seek Court review of
20 the Settlement Administrator’s rejection.”). The Distribution Plans do not establish any
21 specific deadlines or process for submission and review of such objections.

22 Although Class Counsel do not believe that many claimants will seek to avail
23 themselves of this process, the Settlement Administrator and Class Counsel anticipate
24 that some claimants will seek Court review of the Settlement Administrator’s rejection.

25 _____
26 ⁵ Class Counsel and the Settlement Administrator are presently in communication with a
27 small number of claimants who, within the past 60 days, have advised that they are
28 actively engaged in providing records to cure deficiencies in their claim files. With the
Court’s permission, the Settlement Administrator will continue to accept records from
this small group of claimants until April 30, 2024.

1 A copy of each proposed Notice is attached. *See* Attachments 1–2. Class Counsel
2 propose that claimants be given 30 days from the date the Notice is issued to submit
3 their objections in writing, via certified mail, to the Settlement Administrator. If the
4 Settlement Administrator is unable to resolve the objections within 30 days of
5 submission, Class Counsel will present the objections and any response or
6 recommendation to the Court for a final decision. FPD ¶ 58, PPD ¶ 54. Class Counsel
7 also propose that 1% of the gross amount of each Settlement Fund (\$1.8 million of the
8 Fisher Fund and \$460,000 of the Property Fund), plus accrued interest, be reserved in
9 order to address contested claims or any final adjustments. Any funds remaining after
10 contested claims are resolved will be distributed as residual funds, consistent with the
11 Plans of Distribution, and as indicated below.

12 **E. Schedule for Disposition of Residual Funds.**

13 Class Counsel will request a status conference for approval of a plan for
14 distribution of the remainder of the Net Settlement Funds, and resolution of any
15 remaining objections to Rejected Claims, 45 days after the deadline for objection to the
16 Notice of Rejection, or as soon as practicable thereafter, consistent with the Plans of
17 Distribution. Dkt. 951-1, ¶ 87 (Fisher), 951-2 ¶ 68 (Property). Counsel will submit a
18 status report addressing these topics two weeks in advance of the hearing date.

19 **F. Proposed Schedule**

20 Class Counsel proposes the following adjusted schedule for completion of the
21 Plan of Distribution for the Fisher Class and Property Class, which is also included in
22 the concurrently filed proposed Order:

23

24 Extended Deadline for submission of claims	March 29, 2024
25 Deadline for resolution of deficiencies, except those already in process	March 29, 2024

26

1	Final deadline for resolution of deficiencies already in process	April 30, 2024 (30 days after deadline above)
2		
3	Distribution for remaining timely-filed Verified Claims scheduled for payment	(30 days after entry of this Order)
4		
5	Notices of Rejection of Claim issued	(30 days after entry of this Order)
6	Deadline for written objection to Rejection of Claim	(30 days after Notice is issued)
7		
8	Distribution for late-filed and all remaining Verified Claims	(90 days after entry of this Order)
9		
10	Submission to Court of unresolved objections to Rejection of Claim	(Two weeks before status conference)
11		
12	Status conference regarding Rejected Claim objections and recommendations for distribution of residual funds	45 days after deadline for written objections to Notice of Rejection of Claim, or as soon as practicable thereafter; Status Report from Class Counsel and Settlement Administrator to be submitted two weeks in advance of hearing.
13		
14		
15		

18 Dated: April 3, 2024

Respectfully submitted,

KELLER ROHRBACK L.L.P.

By: /s/ Juli E. Farris

Juli E. Farris (CSB No. 141716)
Matthew J. Preusch (CSB No. 298144)
Alison Chase (CSB No. 226976)
KELLER ROHRBACK L.L.P.
801 Garden Street, Suite 301
Santa Barbara, CA 93101
Telephone: (805) 456-1496

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Lynn Lincoln Sarko
(Admitted Pro Hac Vice)
Gretchen Freeman Cappio
(Admitted Pro Hac Vice)
Michael D. Woerner
(Admitted Pro Hac Vice)
Daniel Mensher
(Admitted Pro Hac Vice)
Laura R. Gerber
(Admitted Pro Hac Vice)
KELLER ROHRBACK L.L.P.
1201 Third Ave, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900

Elizabeth J. Cabraser (CSB No. 083151)
Robert J. Nelson (CSB No. 132797)
Nimish Desai (CSB No. 244953)
Wilson M. Dunlavey (CSB No. 307719)
LIEFF CABRASER
HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956.1000

Class Counsel

A. Barry Cappello (CSB No. 037835)
Leila J. Noël (CSB No. 114307)
Lawrence J. Conlan (CSB No. 221350)
David L. Cousineau (CSB No. 298801)
CAPPELLO & NOËL LLP
831 State Street
Santa Barbara, CA 93101-3227
Telephone: (805) 564-2444
Facsimile: (805) 965-5950

Lead Trial Counsel

CERTIFICATE OF SERVICE

I, Juli Farris, hereby certify that on April 3, 2024, I electronically filed the foregoing with the Clerk of the United States District Court for the Central District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

/s/ Juli Farris

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT 1

PLAINS OIL SPILL SETTLEMENT
C/O JND LEGAL ADMINISTRATION
P.O. BOX 91450
SEATTLE, WA 98111
www.PlainsOilSpillSettlement.com

APO

[MONTH] [DAY], 2024

[CLAIMANT NAME]
[ADDRESS LINE 1]
[ADDRESS LINE 2]
[CITY], [STATE] [ZIP CODE]

Claim ID No: [NAME NUMBER]«ClaimNumber»

RE: PLAINS OIL SPILL SETTLEMENT
FISHER CLASS NOTICE OF REJECTION

Dear [CLAIMANT NAME]:

You submitted a Fisher Class Claim Form for the class action settlement with the Plains All American Pipeline L.P. and Plains Pipeline L.P. defendants (“Plains”) related to the coastal oil spill in 2015, near Santa Barbara. Per the terms of the Settlement, the Fisher Class is defined as follows:

Commercial Fishers: All persons and businesses who owned or worked on a vessel that was in operation as of May 19, 2015 and that: (1) landed any commercial seafood in California Department of Fish & Wildlife (“CDFW”) fishing blocks 654, 655, or 656; or (2) landed any commercial seafood, except groundfish or highly migratory species (as defined by the CDFW and the Pacific Fishery Management Council), in CDFW fishing blocks 651-656, 664-670, 678-686, 701-707, 718-726, 739-746, 760-765, or 806-809; from May 19, 2010 to May 19, 2015, inclusive; and

Fish Processors: All persons and businesses in operation as of May 19, 2015, who purchased such commercial seafood directly from the Commercial Fishers and re-sold it at the retail or wholesale level.

OPTION A [Not a class member]:

Based on your claim submission, you do not meet the above Class definition. Accordingly, your claim has been determined ineligible.

OPTION B [deficient claim]:

Based on your claim submission, your claim has been determined ineligible because [insert as appropriate]:

You failed to provide sufficient documentation to verify your claim.

You failed to provide proof of ownership of the license or vessel at issue.

Your claim was submitted after the October 31, 2022, deadline and the full amount has already been paid, according to the instructions received as part of the timely submitted claim for the same license or vessel. If you believe you are entitled to some part of the proceeds for this claim, please contact the claimant to whom the payment was made.

If you are dissatisfied with this determination, you may provide the Settlement Administrator with a letter that details the reasons for your objection, referencing any documentation previously submitted in support of your claim. If we are unable to resolve the dispute after further review, it will be submitted to the Court for final determination.

Your letter must be mailed to the address below by certified mail, within 30 days of the date of this Notice of Rejection.

Sincerely,

SETTLEMENT ADMINISTRATOR
Plains Oil Spill Settlement
info@PlainsOilSpillSettlement.com

ATTACHMENT 2

#46083

PLAINS OIL SPILL SETTLEMENT
C/O JND LEGAL ADMINISTRATION
P.O. BOX 91450
SEATTLE, WA 98111
www.PlainsOilSpillSettlement.com

APO

[MONTH] [DAY], 2023

[CLAIMANT NAME]
[ADDRESS LINE 1]
[ADDRESS LINE 2]
[CITY], [STATE] [ZIP CODE]

Claim ID No: [NAME NUMBER]«ClaimNumber»

RE: PLAINS OIL SPILL SETTLEMENT
NOTICE OF REJECTED CLAIM

Dear [CLAIMANT NAME]:

You submitted a Property Class Claim Form for the class action settlement with the Plains All American Pipeline L.P. and Plains Pipeline L.P. defendants (“Plains”) related to the coastal oil spill in 2015, near Santa Barbara. Per the terms of the Settlement, the Property Class is defined as follows:

Residential beachfront properties on a beach and residential properties with a private easement to a beach where oil from the 2015 Santa Barbara oil spill washed up, and where the oiling was categorized as Heavy, Moderate or Light, as identified in Exhibit 14 to Plaintiffs’ renewed motion in ECF 300-3.

OPTION A [Not a class member]:

Based on your claim submission, you do not meet the above Class definition. Accordingly, your claim has been determined ineligible.

OPTION B [deficient or duplicate claim]:

Based on your claim submission, your claim has been determined ineligible because [insert reason below].

You failed to provide sufficient documentation to verify your claim.

You failed to provide proof of ownership of the property at issue.

Your claim was submitted after the October 31, 2022, deadline and the full amount has already been paid, according to the instructions received as part of a timely submitted claim for the same property. If you believe you are entitled to some part of the proceeds for this claim, please contact the claimant to whom the payment was made.

#46084

If you are dissatisfied with this determination, you may provide the Settlement Administrator with a letter, by certified mail, that details the reasons for your objection, referencing any documentation previously submitted in support of your claim. If we are unable to resolve the dispute after further review, it will be submitted to the Court for final determination.

Your letter must be mailed to the address below by certified mail, within 30 days of the date of this Notice of Rejection.

Sincerely,

SETTLEMENT ADMINISTRATOR
Plains Oil Spill Settlement
info@PlainsOilSpillSettlement.com

Juli E. Farris (CSB No. 141716)
jfarris@kellerrohrback.com
KELLER ROHRBACK L.L.P.
801 Garden Street, Suite 301
Santa Barbara, CA 93101
Telephone: (805) 456-1496
Facsimile: (805) 456-1497

A. Barry Cappello (CSB No. 037835)
abc@cappellonoel.com
CAPPELLO & NOËL LLP
831 State Street
Santa Barbara, CA 93101-3227
Telephone: (805)564-2444
Facsimile: (805)965-5950

Robert J. Nelson (CSB No. 132797)
rmelson@lchb.com
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415)956-1000
Facsimile: (415) 956-1008

Lead Trial Counsel

Class Counsel
(additional counsel listed at signature)

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

KEITH ANDREWS, an individual, et al.,

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

Plaintiffs,

**DECLARATION OF GENEVIEVE
PIERCE IN SUPPORT OF STATUS
REPORT REGARDING
SETTLEMENT DISTRIBUTION TO
FISHER AND PROPERTY CLASSES**

v.

PLAINS ALL AMERICAN PIPELINE,
L.P., a Delaware limited partnership, et al.,

Defendants.

Judge: Hon. Philip S. Gutierrez

1 I, Genevieve Pierce, declare as follows:

2 1. I am a Senior Director at JND Legal Administration LLC (“JND”), the Court-
3 appointed Settlement Administrator in this case. This Declaration is based on my personal
4 knowledge, as well as upon information provided to me by knowledgeable JND employees
5 and Counsel for the Plaintiffs and Defendants (“Counsel”) and, if called upon to do so, I
6 could and would testify competently thereto.

7 2. JND previously filed a Declaration in Support of Motion for Preliminary
8 Approval of Class Action Settlement and Direction of Notice Under Rule 23(e), filed May
9 13, 2022, ECF No. 944-2; a Declaration Regarding Compliance with the Class Action
10 Fairness Act, 28 USC § 1715, filed June 7, 2022, ECF No. 950-1; a Declaration Regarding
11 Class Notice, filed July 29, 2022, ECF No. 959; and a Declaration Regarding Class Notice
12 Implementation and Settlement Administration Status, filed September 2, 2022, ECF No.
13 974. This Declaration is being filed to update the Court on the status of the Settlement¹
14 payment distributions and the ongoing claims process.

15 3. On September 20, 2022, the Court granted Final Approval of the Settlement
16 of this action and entered the Order Granting Final Approval of Proposed Settlement, ECF
17 No. 978 (“Final Approval Order”). Additionally, on September 20, 2022, the Court entered
18 an Order Granting Plaintiffs’ Motion for Approval of Plans of Distribution, ECF No. 979.

19
20 **CLAIMS PROCESS**

21 4. Fisher and Property Class Settlement Email and Mail Notices informed Class
22 Members that a Fisher or Property Class Claim Form must be submitted to participate in
23
24

25
26 ¹ Unless otherwise noted, capitalized terms have the meaning attributed to them in the
27 Settlement Agreement, ECF No. 944-1, and in the Plans of Distribution for the Fisher and
Property Classes, ECF No. 951.

1 the Settlement, and that all claims must be received through the Settlement website or
2 postmarked no later than October 31, 2022.

3 5. As of March 28, 2024, JND has received a total of 872 Fisher Class Claim
4 Forms (730 timely and Verified Claims; 142 late claims) and 1,269 Property Class Claim
5 Forms (1,181 timely and Verified Claims; 88 late claims).

6 6. Pursuant to the Fisher Class Plan of Distribution and, in consultation with
7 Class Counsel, JND relied on CDFW Landing Records, utilized distribution information
8 provided by Plaintiffs' consultants at The Fontana Group, and reviewed all submitted
9 Claim Forms and any supporting documentation to determine eligibility and Distribution
10 Shares for Fisher Class Members.

11 7. Consistent with the Property Class Plan of Distribution, JND utilized
12 distribution information supplied by Plaintiffs' real property expert, Landmark Research
13 Group and reviewed all submitted Claim Forms and any supporting documentation to
14 determine eligibility and Distribution Shares for Property Class Members.

15 8. JND determined the number of Verified Claimants for the Fisher and Property
16 Classes and began issuing Notices of Deficiency on March 15, 2023 to any claimants
17 whose Claim Forms were deficient. Any supplemental documentation or information
18 provided by claimants who submitted deficient Claim Forms was reviewed on an ongoing
19 basis, and the number of Verified Claims was updated as applicable throughout this
20 process.

21
22 **CLASS DISTRIBUTIONS FOR VERIFIED CLAIMS**

23 9. On May 19, 2023, the Court issued an Order Granting Extending Deadline to
24 Distribute Settlement Funds, ECF No. 982 ("Extension Order"), which extended the
25 deadline to distribute Settlement Funds to the Fisher and Property Classes to July 31, 2023.
26

1 10. Per the Court’s Extension Order and, as of July 31, 2023, 529 Fisher
2 Settlement payments totaling \$75,105,730.49 and 570 Property Settlement payments
3 totaling \$15,921,408.90 have been issued to Verified Claimants and Designated
4 Recipients.

5 11. Since July 31, 2023, 331 additional checks have been issued for claims (80
6 Fisher; 251 Property) that were either deficient or pending further review from Counsel but
7 have been cured and deemed Verified Claims.

8 12. Settlement payments for these additional Verified Claims were issued to 80
9 Fisher and 251 Property Verified Claimants and Designated Recipients in the amounts of
10 \$14,293,271.64 for the Fisher Class and \$7,596,688.97 for the Property Class.

11 13. As of April 2, 2024, a total of \$89,399,002.13 has been distributed to the
12 Fisher Class and \$23,518,097.87 has been distributed to the Property Class.
13 \$30,532,017.65 remains in the Fisher Settlement Fund and \$6,344,837.88 remains in the
14 Property Settlement Fund.

15
16 **LATE CLAIMS**

17 14. Since the October 31, 2022 claims deadline and, as of March 28, 2024, JND
18 has received 230 late Claim Forms (142 Fisher; 88 Property).

19 15. 71 Fisher late claims and 21 Property late claims contain one or more
20 deficiencies that would prevent their immediate payment, pending additional outreach to
21 these claimants.

22 16. JND will continue to review any late claims postmarked or received by a
23 deadline to be determined by the Court in response to Counsel’s Status Report Regarding
24 Settlement Distribution to Fisher and Property Classes.

TIMELY, DEFICIENT CLAIMS

17. As of March 28, 2024, there are 89 Fisher and 273 Property claims that are timely but which remain deficient despite mailing Notices of Deficiency and other outreach attempts. These claims are currently “on hold” per consultation with Class Counsel.

18. Deficiency reasons include—but are not limited to—competing claims made for the same CDFW License ID, Vessel ID, or Fish Business ID, or for the same APN or property address; vessel or property ownership determinations; death; and divorce.

ADMINISTRATIVE FEES AND COSTS

19. To date, JND has dedicated a total of approximately 11,220.25 hours (6,928.75 for the Fisher Class; 4,291.50 for the Property Class) towards evaluating and verifying Claim Forms and supporting documentation; addressing any Class Member inquiries regarding the Settlement; deficiency outreach; distribution of Settlement Funds; and ongoing consultation with Counsel regarding the comprehensive claims review process.

20. As of March 28, 2024, \$1,172,082.24 (\$810,375.39 for the Fisher Class; \$361,706.85 for the Property Class) has been incurred in administrative fees and costs.

21. JND estimates an additional \$179,392.07 for the Fisher Class; \$108,934.03 for the Property Class) in administrative fees and costs to complete administration of the Settlement.

22. JND will continue to administer the Settlement through all phases of Settlement Administration, as required by the Settlement Agreement, Final Approval Order, and pursuant to any future Orders of this Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

1 Executed on April 3, 2024 in Seattle, Washington.

2 
3 _____
4 GENEVIEVE PIERCE

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

KEITH ANDREWS, an individual, et al.,

Plaintiffs,

v.

PLAINS ALL AMERICAN PIPELINE,
L.P., a Delaware limited partnership, et al.,

Defendants.

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

**[PROPOSED] ORDER REGARDING
DEADLINES AND PROCEDURES
RE: SETTLEMENT DISTRIBUTION
TO FISHER AND PROPERTY
CLASSES**

Judge: Hon. Philip S. Gutierrez

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

After consideration of Plaintiffs’ Status Report Regarding Settlement Distribution to Fisher and Property Classes, and good cause appearing, IT IS HEREBY ORDERED:

1. All timely filed Fisher and Property Class Claims, submitted before the October 31, 2022, deadline established in the Court’s Final Approval Order (Dkt. 978), that are otherwise valid and without deficiencies as of March 29, 2024, are hereby deemed timely and approved for payment within 30 days of the entry of this Order, consistent with the Fisher and Property Plans of Distribution.

1 2. All remaining unpaid Fisher and Property Class Claims, submitted
2 after the October 31, 2022, deadline, that are otherwise valid and without
3 deficiencies as of March 29, 2024, are hereby deemed timely and may be paid
4 from the remaining funds available for distribution from the Fisher and Property
5 Net Settlement Funds respectively, after reservation of anticipated settlement
6 administration costs necessary to complete the settlement distribution process.

7 3. Any claims that are submitted after March 29, 2024, or remain
8 deficient after March 29, 2024 are untimely and shall be treated as Rejected
9 Claims, consistent with the Plans of Distribution and as further directed below,
10 except that the claimants that have been in communication with Class Counsel or
11 the Settlement Administrator within the past 60 days, and have advised that they
12 are actively engaged in providing records to cure deficiencies in their claim files
13 shall have until April 30, 2024, to provide additional records to the Settlement
14 Administrator.

15 4. The Settlement Administrator will issue a Notice of Rejected Claim
16 to each claimant whose claim is deemed untimely, deficient, or otherwise invalid
17 within 30 days of the entry of this Order.

18 5. Claimants who object to the Notice of Rejected Claim must submit
19 their objections in writing, via certified mail, to the Settlement Administrator,
20 with copies via email or certified mail to Class Counsel, at the addresses listed
21 below, within 30 days after the Notice is issued:

22
23 Juli E. Farris
24 Keller Rohrback L.L.P.
25 1201 Third Avenue, Suite 3200
26 Seattle, Washington 98178
27 jfarris@kellerrohrback.com

A. Barry Cappello
Cappello & NOËL LLP
831 State Street
Santa Barbara, California 93101
abc@cappellonoel.com

Robert J. Nelson
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, California 94111
rnelson@lchb.com

6. Class Counsel will request a status conference for approval of a plan for distribution of the remainder of the Net Settlement Funds, and resolution of any remaining objections to Rejected Claims, 45 days after the deadline for objection to the Notice of Rejection, or as soon as practicable thereafter, and will submit a status report addressing these topics two weeks in advance of the hearing date.

7. The schedule for completion of the Plan of Distribution for the Fisher Class and Property Class is set as follows:

Extended deadline for submission of claims	March 29, 2024
Deadline for resolution of deficiencies, except those already in process	March 29, 2024
Final deadline for resolution of deficiencies already in process	April 30, 2024 (30 days after deadline above)
Distribution of remaining timely-filed Verified Claims scheduled for payment	(30 days after entry of this Order)
Notices of Rejection of Claim issued	(30 days after entry of this Order)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Deadline for written objection to Rejection of Claim	(30 days after Notice is issued)
Distribution for late-filed and all remaining Verified Claims	(90 days after entry of this Order)
Submission to Court of unresolved objections to Rejection of Claim	(Two weeks before status conference)
Status conference regarding Rejected Claim objections and recommendations for distribution of residual funds	45 days after deadline for written objections to Notice of Rejection of Claim, or as soon as practicable thereafter; Status Report from Class Counsel and Settlement Administrator to be submitted two weeks in advance of hearing.

IT IS SO ORDERED.

Dated: _____

Honorable Philip S. Gutierrez