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**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

**STATUS REPORT REGARDING
FISHER AND PROPERTY CLASS
SETTLEMENT DISTRIBUTION AND
DISPOSITION OF RESIDUAL
FUNDS**

Judge: Hon. Philip S. Gutierrez

I. INTRODUCTION

Class Counsel submits this Report to apprise the Court of the status of settlement distributions to members of the Fisher Class and Property Class, to make recommendations regarding the resolution of additional requests from claimants, and to develop a process for distributing residual funds, to the extent such funds remain.¹ A proposed order is filed concurrently with this report.

I. STATUS OF CLAIMS PROCESS

In its August 2, 2024, Order Regarding Distribution Of Remaining Funds to Fisher and Property Classes (“August Order,” Dkt. No. 991), this Court resolved all claimant objections to the Notices of Rejected Claims and objections to amounts of claim awards. It also accepted the submission of late claims from those who had requested permission to submit them on or before August 1, 2024, if they could be validated by the Settlement Administrator within 30 days of the date of the August Order (September 3, 2024). Finally, it authorized payment of a Supplemental Distribution to the Verified Claimants in each Class, from the funds remaining available for distribution after the late claims. *See* August Order.

As of September 3, 2024, a total of 15 unique Property New Late Claims were received from claimants who had contacted the Settlement Administrator prior to August 2, 2024. Seven of these claims, with a total value of \$509,019.71, were determined to be valid as of the September 3, 2024, deadline. Declaration of Genevieve Pierce (“Pierce Decl.”) ¶ 5. The Settlement Administrator has processed these claims for payment. Of the eight remaining (non-duplicative) claims received before August 2, 2024, seven were still deficient as of the September 3, 2024 deadline for completion, and one was submitted for

¹ Counsel for Plains were notified of this proposal, including the identity of the proposed *cy pres* recipients, via email on October 17, 2024, and advised the same day that Plains takes no position regarding the plan.

1 a property that is not part of the Class.² After the payments to the seven valid claims are
2 made, and administrative costs previously approved by this Court are deducted, a balance
3 of approximately \$1.7 million will remain in the Property Net Settlement Fund. *Id.*

4 As of September 3, 2024, a total of 10 unique Fisher New Late Claims were
5 received from claimants who had contacted the Settlement Administrator prior to August
6 2, 2024. Seven of these claims, with a total value of \$28,347.85, were determined to be
7 valid as of the September 3, 2024, deadline, and the Settlement Administrator has initiated
8 payments for these claims as directed in the August Order.³ After these payments are
9 made, and administrative costs previously approved by this Court are deducted, a balance
10 of approximately \$4.9 million will remain in the Fisher Net Settlement Fund. Pierce Decl.
11 ¶ 6.

12 Since the entry of the Court's August Order, the Settlement Administrator and
13 Class Counsel have been contacted by at least 23 purported Property Claimants and at
14 least 28 individuals who claim to be or represent as many as 50 members of the Fisher
15 Class. Pierce Decl. ¶ 7. Although these claims are brought more than two years after
16 Preliminary Approval and nearly two years after the claims process ended, it appears that
17 at least some are bona fide members of the respective Classes, with otherwise valid
18 claims.

19 Admittedly, the on-going administrative costs for such initiatives, the extended
20 strain on Court resources, and uncompensated time invested by Class Counsel mean that
21 the window of feasibility for additional rounds of payments will soon close. At the same
22 time, given that all timely submitted claims in each Class have been paid in full, and that
23 funds remain available in each of the Net Settlement Funds, Class Counsel believe that
24

25 ² Eight duplicative claims were submitted as of August 2, 2024, and two Property
26 claimants identified in the August Status Report did not submit claims, despite invitations
27 by the Settlement Administrator to do so.

28 ³ One remaining Fisher claimant identified in the August Status Report did not submit a
claim by the September deadline, despite invitations by the Settlement Administrator to
do so.

1 one final round of payments is still feasible, for those claimants who submit valid claims
2 as of October 31, 2024. Distribution of the remaining funds to these additional Class
3 Members, provided their claims can be verified, is also consistent with the goals of Rule
4 23 and guidance from state and federal courts. *See, e.g., Principles of the Law of*
5 *Aggregate Litigation* § 3.07(a)–(b) (Am. L. Inst. 2010); *In re Citigroup Inc. Sec. Litig.*,
6 199 F. Supp.3d 845 (S.D.N.Y. 2016). Because the amounts available for each class and
7 the size of the anticipated claims differ, Class Counsel’s recommendation for the final
8 distribution to each Class is described in more detail below.

9 II. PROPOSED DISTRIBUTION OF REMAINING FUNDS

10 A. Disposition of Remaining Property Net Settlement Fund

11 As indicated above, approximately \$1.7 million will remain in the Property Fund
12 after the verified claims approved for submission by the Court’s August Order are paid
13 (and after deducting previously approved administrative fees and costs). Seven of the
14 claimants whose late claims were contemplated at the time of the Court’s August Order
15 are still deficient, and two anticipated claims were not submitted. In addition, 23
16 additional claimants have submitted or asked to submit new claims since the August Order
17 was entered.⁴ The estimated value of these 32 remaining claims, if validated, totals
18 \$1,544,528.24. Pierce Decl. ¶ 7.

19 Class Counsel recommends that the Court instruct the Settlement Administrator to
20 pay each of the remaining Property Claims that are submitted on or before October 31,
21 2024, if validated, in the order in which they are completed, without deficiencies (the
22 “Second Late Property Claim Distribution”), leaving a balance of approximately
23 \$300,000 for the Supplemental Distribution approved in the Court’s August Order, after
24 additional administrative costs are deducted. While the additional late claim distribution
25 will reduce the funds available for Supplemental Distribution to existing claimants, given

26
27 ⁴ As in the past, these claimants advise that they did not receive notice by mail because of
28 changes in ownership or residence of the properties at issue, or that claim forms were
inadvertently lost or overlooked.

1 that all pending property claims have been paid in full, a final distribution to Class
2 Members who have not yet received such funds will ensure that the funds are awarded to
3 the greatest number of Class Members for whom they were intended.

4 Although the August Order states that the Supplemental Distribution will be made
5 on a pro rata basis, given the limited funds available compared to the total number of
6 claimants, the number of *de minimus* claim checks that could result from a pro rata
7 distribution, and to reduce administrative costs, Class Counsel recommend that the
8 Supplemental Distribution be made on a per claim basis to those Verified Claimants who
9 have previously received awards. This would result in supplemental awards of
10 approximately \$250–300 per claimant, an amount sufficient to ensure that claimants are
11 incentivized to deposit the checks.

12 Class Counsel further recommends that the Court instruct the Settlement
13 Administrator to reject any claims that are submitted after October 31, 2024, or remain
14 deficient 30 days after the deadline. This will ensure that the current claims process can
15 be closed and that administrative costs do not further exhaust the funds available for
16 distribution.

17 Class Counsel do not expect any funds to remain available for distribution from the
18 Property Net Settlement Fund after the Supplemental Distribution is completed, but
19 recommend that, to the extent any residual remains, it should be designated as a *cy pres*
20 award, as described below.

21 **B. Disposition of Remaining Fisher Net Settlement Fund**

22 As indicated above, the Settlement Administrator has processed for payment seven
23 verified Fisher claims approved for submission by the Court’s August Order, with total
24 value of \$28,347.85. Approximately \$4.9 million will remain available for distribution in
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1 the Fisher Net Settlement Fund after these seven payments are made (after deducting
2 previously anticipated administrative fees and costs).⁵ Pierce Decl. ¶ 6.

3 Two of the late claims that were contemplated at the time of the Court’s August
4 Order are still deficient, and the Settlement Administrator does not anticipate that these
5 deficiencies will be cured. Additionally, one claimant failed to establish class
6 membership, and two anticipated claims were not submitted, despite the invitation to do
7 so. Pierce Decl. ¶¶ 5–6. In addition, 28 individuals have asked to submit new claims since
8 the Court’s August Order was entered. Pierce Decl. ¶ 7. Two of these, [REDACTED] and
9 [REDACTED], submitted a letter to the Court, on behalf of [REDACTED]
10 [REDACTED], and 27 others (the “San Pedro Group”), challenging the notice and distribution
11 procedures. Dkt. No. 993 (“San Pedro Letter”).⁶ One additional claimant, [REDACTED]
12 notified Class Counsel that [REDACTED]
13 [REDACTED].⁷ Pierce
14 Decl. ¶ 21. Class Counsel address these complaints, together with Class Counsel’s
15 response and recommendations.

16 **1. Notice deadlines and Procedures.**

17 The San Pedro Group and others have contacted the Settlement Administrator since
18 August 1, 2024, asking to submit late claims. In particular, the San Pedro Group members
19 complain that they did not receive notice of the class action and were previously unaware
20 of the settlement, despite the robust, multi-lingual notice program and extensive media
21 coverage. They attest, for example, that language barriers and isolation in remote areas
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25 _____
26 ⁵ These funds include the 1% held in reserve to resolve disputed claims, and interest
27 accrued since the Fund was established in 2022.

28 ⁶ A redacted version of this document is attached to the Declaration of Juli Farris, as
29 Exhibit C, consistent with Plaintiffs’ application to file the document under seal.

⁷ [REDACTED] letter to Class Counsel is attached. *See* Decl., Ex. D.

1 contributed to their lack of access to the information regarding the Settlement and
2 deadlines for submitting claims.⁸

3 The Settlement Administrator’s records confirm that notice was mailed to at least
4 eight of the San Pedro Fisher Group members. Pierce Decl. ¶ 15. Five of these claimants
5 failed to submit the claim form mailed to them before the October 31, 2022, deadline. *Id.*
6 All three of the claims from the two Group members who submitted them before the
7 October 31, 2022, deadline were paid. *Id.*

8 The names and license information for most, if not all, of the remaining claimants,
9 who have contacted the Settlement Administrator since August 1, 2024, do not appear in
10 any of the CDFW data associated with qualified landings (i.e., landings in the appropriate
11 blocks, for qualified species, during relevant time periods), and thus do not appear on the
12 Class membership lists from which mailed notice was provided. Pierce Decl. ¶ 15. The
13 Settlement Administrator was unable to verify that any of these individuals are members
14 of the Class based on the information provided. Pierce Decl. ¶ 18 As a result, their requests
15 to submit claims, made long after the deadline for doing so, were rejected by the
16 Settlement Administrator. The complainants acknowledge that they cannot provide any
17 landings data to demonstrate their Class membership, because CDFW landings records
18 only identify one fishing license per landing. *See* San Pedro Letter at 5. They argue that,
19 as crew members who worked on vessels that had qualified landings, they have met the
20 Class definition and are therefore entitled to compensation. *See Id.* at 1–3.

21 Class Counsel reject any contention that the notice program was inadequate. As a
22 matter of law, “perfect notice” is not required. *Bruno v. Quten Rsch. Inst., LLC*, No.
23 SACV 11-00173 DOC(Ex), 2012 WL 12886843, at *1 (C.D. Cal. July 16, 2012). Instead,
24 Rule 23(c)(2) requires “the best notice that is practicable under the circumstances,” a
25 standard that the robust notice program in this instance clearly surpassed. *Id.* In addition

26
27 ⁸ Fifteen Fishers who are not part of the San Pedro Group have also asked to submit
28 claims since the August Order was entered. Although not individually addressed, Class
Counsel’s response and recommendations apply to their claims as well.

1 to repeated mailings to each and every fisher and business identified in the landings data
2 supplied by the CDFW, the notice included publication in English, Spanish, Vietnamese,
3 and Chinese languages; participation of industry trade groups; and widespread media
4 coverage. *See* Decl. of Jennifer M. Keough Regarding Class Notice, Dkt. No. 959
5 (“Keough Decl.”) (explaining notice statistics). As this Court has previously held, the
6 notice plan was properly effectuated, “constitute[d] the best notice practicable under the
7 circumstances of this Action,” and fully complies with all applicable laws. Order Granting
8 Final Approval of Proposed Settlement, Dkt. No. 978 ¶ 3.

9 Validation of Class membership is also an important safeguard to ensure that
10 available Settlement Funds are distributed to actual victims, rather than opportunists.⁹ The
11 Settlement Administrator’s use of CDFW records to verify Class membership, and
12 adherence to both Class membership requirements and applicable claim deadlines, have
13 minimized risks of fraud and ensured that Settlement Funds have been distributed to bona
14 fide Class Members injured by the oil spill.

15 2. Claim Amounts were appropriate.

16 The San Pedro Group object to the Fixed Share Award (identified as a “reward” in
17 their letter), apparently believing that it is too small. *See* San Pedro Group Letter at 5. ■■■
18 ■■■ expresses similar sentiments in her letter to Class Counsel. Neither claim is true.
19 The settlement award distribution mirrors the model developed by Plaintiffs’ expert to
20 calculate damages to be proved at trial, and relies upon the same CDFW data for these
21 calculations. The size of each Fisher Claimant award is determined by the landings
22 information supplied in the government data. The Fisher Notice and Plan of Distribution
23 both make clear that the settlement awards are to be based upon CDFW data. *See, e.g.,*

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26 ⁹ *See, e.g.,* Diana Jones, *US Class Action Settlements Flooded With Fraudulent Claims by*
27 *Scammers*, Reuters (May 2, 2024), [https://www.usnews.com/news/top-](https://www.usnews.com/news/top-news/articles/2024-05-02/us-class-action-settlements-flooded-with-fraudulent-claims-by-scammers)
28 [news/articles/2024-05-02/us-class-action-settlements-flooded-with-fraudulent-claims-by-](https://www.usnews.com/news/top-news/articles/2024-05-02/us-class-action-settlements-flooded-with-fraudulent-claims-by-scammers)
[scammers](https://www.usnews.com/news/top-news/articles/2024-05-02/us-class-action-settlements-flooded-with-fraudulent-claims-by-scammers) (last visited Oct. 18, 2024).

1 Keough Decl. Ex. A at 1–2 (Fisher Notice); Plan of Distribution for the Fisher Class
2 (“Fisher Plan of Distribution”), Dkt. No. 951-1 ¶ 2.

3 The Settlement Plan of Distribution recognized that some crew members would be
4 unable to rely on landings records to establish their Class membership or provide
5 information from which a claim could be calculated, because their licenses do not appear
6 in the claims data, even though they worked on boats with others for whom the CDFW
7 data did show landings.¹⁰ Fisher Plan of Distribution ¶¶ 47–49, 63. Indeed, the Fixed
8 Share Award was established to compensate those who were bona fide members of the
9 Class, but would be unable to quantify their claims. Fisher Plan of Distribution ¶ 63; *See*
10 *also* Order Granting Plaintiffs’ Motion for Approval of Plans of Distribution, Dkt. No.
11 979 at 3 (“The Fisher Plan distributes the Fisher Net Settlement Fund based largely on
12 the claimant’s proportional share of landings, and also includes a fixed payment
13 distributed equally to all verified claimants, thus ensuring all claimants receive
14 meaningful compensation in exchange for releasing their claims.”).¹¹

15 The San Pedro Group seem to believe that other claimants received settlement
16 awards that their members were entitled to receive or share. *See* San Pedro Letter at 3–4.
17 Class Counsel take no position on whether any settlement claim recipient had any
18 obligation to distribute funds from that claim to any crew member, nor would Counsel or
19 the Settlement Administrator be in a position to resolve such a dispute should it arise. *See*
20 *Pierce* Decl. ¶19.¹² But the claim submission process required that each Settlement
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22 ¹⁰ Indeed, the Settlement Administrator and Class Counsel expended significant time and
23 effort to verify Class Membership and calculate Settlement awards for crew members
24 who filed timely claims. Given the months-long delay and significant expense, such
25 effort is no longer feasible. *Pierce* Decl. ¶ 18.

26 ¹¹ The objections lodged by [REDACTED] and the San Pedro Group are, in essence,
27 complaints regarding the amount established for the Fixed Share Awards under the Plan
28 of Distribution approved by the Court. The deadline for lodging such objections expired
more than two years ago. *See* Order Granting Preliminary Approval of Proposed
Settlement, Dkt. No 949 ¶¶ 14, 17.

¹² References in the letter to Designated Recipients are similarly out of context. While the
Plan of Distribution permitted an award recipient to make such a designation, the
claimant was required to notify the recipients and the proposed recipient was required to

1 recipient confirm, under penalty of perjury, that they were entitled to the funds requested.
2 The check stub also included the following language: “Consistent with the terms of the
3 Settlement and Distribution Plan, by endorsing and/or depositing this check, you
4 acknowledge that, if any other party is entitled to a portion of this Settlement payment,
5 you agree to pay any such portion to such other party.” Pierce Decl. ¶ 19, Ex. B. The
6 expectation that the claim recipient would distribute funds to crew members who might
7 be entitled to them is consistent with industry practice that crew members are typically
8 paid from the revenue obtained by the captain or vessel owner. *See, e.g.,* San Pedro Letter
9 at 4; *see also* Amended and Supplemental Expert Report of Peter Rupert, Ph.D., Dkt. No.
10 606-19 at 9–10, 13; Supplemental Expert Report of Peter Rupert, Ph.D., Dkt. No. 929-2
11 (referencing industry guidelines).

12 The San Pedro Group also objects that they were not given more assistance in
13 submitting claims. In reality, the Settlement Administrator and Class Counsel have spent
14 countless hours in communication by phone and email with [REDACTED]
15 [REDACTED] and others. Pierce Decl. ¶ 18.

16 In support of their argument, the San Pedro Group reference FAQs (frequently
17 asked questions) from the Settlement Administrator’s website that explain the process by
18 which those who submitted claims before the deadline, were permitted to submit
19 additional documentation to support their claims. *See* Plains Oil Spill Settlement,
20 *Frequently Asked Questions*, (“Notice Website”) (explaining in FAQ 13 that “[i]f you
21 worked on or owned a vessel . . . [y]ou needed to submit additional documentation to
22 support your Claim in order to demonstrate that you participated in landing Qualifying
23 Catch” and linking to Plan of Distribution, Dkt. No. 951-1).¹³ The language cited is
24 consistent with the Plan of Distribution, which states that “Settlement Class Members

25 _____
26 file a separate claim before the October 2022 deadline. Fisher Plan of Distribution ¶¶ 48,
27 56, 81. If the Designated Recipient claim was not filed, the funds were issued to the
28 original claimant. *Id.* ¶ 81.

¹³ <https://www.plainoilspillsettlement.com/faq> (last visited Oct. 18, 2024).

1 who are not identified in the CDFW Landing Records may timely submit Claims and
2 provide other documentation for evaluation by the Settlement Administrator” to be treated
3 as Verified Claimants. Plan of Distribution ¶ 47. But the FAQs and other sections of the
4 Settlement website also make clear that the deadline for requesting claim forms and
5 submitting claims ended almost two years ago. Notice Website, FAQs 4, 11, 13, 18.
6 Indeed, as the Court is aware, Class Counsel and the Settlement Administrator spent
7 nearly a year conducting outreach and assisting claimants to provide documentation and
8 cure deficiencies in their claims.¹⁴ See, e.g. Stipulation to Extend Deadline to Distribute
9 Settlement Funds, Dkt. No. 981; Order Granting Extending Deadline to Distribute
10 Settlement Funds, Dkt. No. 982; Status Report and Request for Deadlines and Procedures
11 Regarding Settlement Distribution, Dkt. No. 983; Order Regarding Deadlines and
12 Procedures, Dkt. No. 984.

13 The most recent round of late claims, including [REDACTED] required even more
14 time on a per claimant basis. As an example, JND estimates that during August and
15 September 2024 it dedicated more than 400 hours to corresponding with claimants by
16 phone and email regarding the New Late Claim submissions authorized in the Court’s
17 most recent order, analyzing supporting documentation, addressing additional
18 Settlement-related communications generated by the extended deadline, and tracking
19 submissions. Pierce Decl. ¶ 22. And the effort has not always been successful in resolving
20 claim deficiencies. For example, while [REDACTED]

21 [REDACTED]
22 [REDACTED] Pierce Decl. ¶¶ 10–17.
23 Reopening such an intensive and time-consuming claims process for an extended period
24 would be impractical and expensive. More importantly, it would delay all remaining
25 payments and postpone resolution of the claims process for a year or more, without any

26 _____
27 ¹⁴ The San Pedro Fisher Group incorrectly describes this as an extension of the deadline,
28 but in reality, the extension applied to the completion of existing claims, not to the
submission of new claims.

1 guarantee that the remaining claim deficiencies could be, or would be, cured. As [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]¹⁵

5 **3. Class Counsel Recommendation**

6 Class Counsel are confident that the claims program, deadlines, and distribution
7 process were robust and fair. Nevertheless, given that all timely submitted Fisher claims
8 have been paid in full, Class Counsel recommend that those who still seek to file claims
9 should be provided a short window to do so, and that the Settlement Administrator should
10 be directed to consider and pay those submitted within the timeline that can be verified.
11 To the extent such individuals were in fact victims of the Oil Spill, payment of such claims
12 serves the goals of Rule 23.¹⁶

13 At the same time, given that the majority of the remaining claims are brought by
14 those whose license information is not included in the CDFW data, additional procedures
15 are warranted to allow the Settlement Administrator to quickly and expediently verify
16 each claim, and avoid the possibility of an “open class” program that would be susceptible
17 to fraud.¹⁷

18 Class Counsel recommends, therefore, that the Court instruct the Settlement
19 Administrator to accept claim forms through October 31, 2024, together with copies of
20 valid CDFW fishing licenses or receipts: 1. for at least one year during the period January

21 _____
22 ¹⁵ Indeed, to the extent that the San Pedro Group, [REDACTED] or others are dissatisfied
23 with the claim amounts they have received, the most practical solution at this point is to
24 resolve all remaining claims quickly and expeditiously so that the Supplemental
25 Distribution can be issued

26 ¹⁶ Because [REDACTED]
27 [REDACTED] Pierce Decl. ¶ 21. Class Counsel do not recommend any further adjustment to
28 her award.

¹⁷ See, Jones, *supra* note 8; *Increase of Fraudulent Claims is ‘Stunning’*, Epiq,
[https://www.epiqglobal.com/en-us/resource-center/advice/increase-of-fraudulent-claims-
is-stunning](https://www.epiqglobal.com/en-us/resource-center/advice/increase-of-fraudulent-claims-is-stunning) (last visited Oct. 18, 2024).

1 1, 2010–May 19 , 2015; 2. valid as of May 19, 2015, the date of the Oil Spill, and; 3. for
2 each year during the period May, 2015–May, 2020 for which the claimant seeks damages
3 (“Second Late Fisher Distribution”). The Settlement Administrator can pay those Fisher
4 Claims submitted by the deadline that can be verified, in the order in which the
5 submissions are completed, without deficiencies. Class Counsel further recommends that
6 the Court instruct the Settlement Administrator to reject any claims that are submitted
7 after the October 31, 2024, deadline, or that remain deficient 30 days after the deadline.
8 This will ensure that the current claims process can be closed and that administrative costs
9 do not further exhaust the funds available for distribution.

10 Given the remaining balance of the Fisher Fund, Class Counsel do not expect the
11 Fisher Final Distribution to exhaust the Fisher Net Settlement Fund and recommend that
12 the remaining funds be distributed as Supplemental Fixed Shares to each Verified
13 Claimant who previously received a Settlement award. Establishing fixed shares will
14 reduce the administrative costs of calculating the distribution, minimize the possibility of
15 miniscule checks to any claimant, and reduce windfall payments to those with the largest
16 initial recoveries.

17 Once the Second Late Fisher Distribution and Fisher Supplemental Distribution is
18 complete, Class Counsel do not expect any funds to remain available for distribution from
19 the Fisher Net Settlement Fund, but recommend that to the extent any residual remains,
20 it should be designated as a *cy pres* award, as described below.

21 **C. Disposition of Any Residual Funds**

22 When the Second Late Claim and Supplemental Distributions to the Fisher Class
23 and Property Class are completed, Class Counsel expect that both Net Settlement Funds
24 will be exhausted. Even to the extent that residual funds remain, the administrative costs
25 of additional rounds of distribution would exceed the funds available rendering further
26 distribution to Class Members unfeasible. In these circumstances, where recovery by
27 victims is no longer feasible, distribution of any remaining residual funds as a *cy pres*
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1 award to one or more non-profits, whose missions are consistent with the purpose and
2 objectives of the lawsuit and the interests and geographic scope of the Fisher and Property
3 Classes, is an appropriate way to ensure use of such funds. *See, e.g., Nachshin v. AOL,*
4 *LLC*, 663 F.3d 1034, 1039–40 (9th Cir. 2011) (citing *Six Mexican Workers v. Arizona*
5 *Citrus Growers*, 904 F.2d 1301, 1307 (9th Cir. 1990)) (*Cy pres* distributions must account
6 for the nature of the plaintiffs’ lawsuit, the objectives of the underlying statutes at issue,
7 and the interests of the silent class members, including their geographic diversity); Cal.
8 Code of Civil Procedure § 384(b) (authorizing distribution of any “residue or unclaimed
9 or abandoned class member funds, plus any interest that has accrued thereon, to nonprofit
10 organizations or foundations to support projects that will benefit the class or similarly
11 situated persons, or that promote the law consistent with the objectives and purposes of
12 the underlying cause of action”); Principles § 307(c) (Am. L. Inst. 2010) (“If the court
13 finds that individual distributions are not viable based upon the criteria set forth in
14 subsections (a) and (b), the settlement may utilize a *cy pres* approach. The court, when
15 feasible, should require the parties to identify a recipient whose interests reasonably
16 approximate those being pursued by the class”).

17 In accordance with these provisions, Class Counsel respectfully request the Court
18 to designate the Commercial Fishermen of Santa Barbara (CFSB) as the *cy pres*
19 beneficiary for the Fisher Class and Santa Barbara Channelkeeper (SBC) as the *cy pres*
20 beneficiary for the Property Class.

21 CFSB is a non-profit organization which, according to its website, predominantly
22 serves “small-scale, independent fishermen, mostly operating family-owned fishing
23 businesses.”¹⁸ Its membership, limited to “individuals who earn their livelihood or a
24 substantial portion by commercial fishing [who] must have a commercial fishing license,”
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27 ¹⁸ *Our Mission*, Commercial Fishermen of Santa Barbara, <https://www.cfsb.info/mission>
28 (last visited Oct. 18, 2024).

1 closely aligns with the membership of the Fisher Class.¹⁹ CFSB’s mission is to: “1.
2 Provide healthy, high quality seafood to local and global markets; 2. Ensure the economic
3 and biological sustainability of fisheries, and 3. Maintain California's fishing heritage. ...
4 To fulfill these goals and foster innovation, we connect fishermen, scientists, community
5 leaders and industry supporters. We pursue new collaborations with trust, respect and
6 transparency. By building knowledge and skills, we create new human capital to achieve
7 our vision of fisheries co-management, wherein fishermen share responsibility with
8 government agencies in protecting our resources and preserving ocean health.”²⁰ These
9 objectives align closely with those of the Fisher Class, all of whom are, by definition, part
10 of the commercial fishing industry along the Central California Coast.²¹

11 The CFSB played a cooperative and active role in distributing Class notice and
12 Settlement information to its members, including hosting an informational session for its
13 members with Class Counsel at the Santa Barbara harbor to explain the Settlement
14 process. Although a number of Class Members, including some of the Fisher Class
15 Representatives, are members of CFSB, none of the named Plaintiffs currently serve as
16 officers or directors of the organization. Neither Plains, its Counsel, nor Class Counsel
17 have any pre-existing relationship with CFSB.

18 Santa Barbara Channelkeeper (SBC), according to its website, “is a grassroots non-
19 profit organization dedicated to protecting and restoring the Santa Barbara Channel and
20 its watersheds. Through science-based advocacy, education, field work and enforcement,
21 Channelkeeper defends our community’s right to clean water and informs, inspires and
22 empowers people to speak and act for our waterways.”²² Its service area, “500 square

23 _____
24 ¹⁹ *CFSB Membership*, Commercial Fishermen of Santa Barbara,
https://secure.lglforms.com/form_engine/s/CJ1z7X42uIo6bQSyA0fs9A (last visited Oct.
18, 2024).

25 ²⁰ Commercial Fishermen of Santa Barbara, *supra* note 15.

26 ²¹ According to Charity Navigator, CFSB is a 501(c)(3) charity, but has not been rated by
Charity Navigator. *Commercial Fishermen of Santa Barbara*, Charity Navigator,
<https://www.charitynavigator.org/ein/952916932> (last visited Oct. 18, 2024).

27 ²² *Our Mission & Vision*, Santa Barbara Channelkeeper, [https://www.sbck.org/about-](https://www.sbck.org/about-us/our-mission-vision/)
28 [us/our-mission-vision/](https://www.sbck.org/about-us/our-mission-vision/) (last visited Oct. 18, 2024).

1 miles of coastal watersheds stretching from the Gaviota Coast to the Ventura River,”
2 closely aligns with the geographic area of the Property Class. It engages in advocacy to
3 develop and enforce water protection laws to ensure “clean beaches, healthy, flowing
4 streams, and a teeming, resilient ocean that support a thriving economy, offer healthy
5 habitat for fish and wildlife, and provide clean water and safe places for recreation for all
6 people and for future generations.” These goals align closely with the interests of the
7 Property Class Members, and the purposes of the litigation. SBC is a 501(c)(3) charity
8 that is highly rated by Charity Navigator.²³ Class Counsel have no pre-existing
9 relationship with SBC and are not aware of any pre-existing relationship between SBC
10 and Plains or Plaintiffs.

11 Awarding the *cy pres* funds to CFSB and SBC will ensure that any residual
12 settlement funds benefit members of the Fisher and Property Classes, respectively, and
13 serve the purposes for which the litigation was brought.

14 **D. Payment of Additional Administrative Fees and Costs**

15 The Settlement Administrator and consultants expect to expend additional time to
16 evaluate and verify the additional late claims, and communicate with claimants, before
17 completing the Supplemental Distributions and other work required to complete the
18 claims process. The Settlement Administrator estimates that an additional \$95,504.35 in
19 fees and costs for the Fisher Class and \$63,580 in fees and costs for the Property Class is
20 necessary to complete the project. Pierce Decl. ¶ 25. Class Counsel request approval to
21 hold these amounts in reserve for payment of additional administrative fees and costs, if
22 necessary, to complete the settlement distribution process.

23 **III. CONCLUSION**

24 For the reasons stated above, Class Counsel respectfully request that this Court
25 authorize payment of the Second Late Property Distribution, Second Late Fisher
26

27 ²³ *Santa Barbara Channelkeeper*, Charity Navigator,
28 <https://www.charitynavigator.org/ein/912151460> (last visited Oct. 18, 2024).

1 Distribution and the Fisher and Property Supplemental Distributions approved in the
2 August Order, as described above. To the extent any residual funds remain available for
3 distribution after these Distributions are completed and remaining administrative costs
4 are paid, Class Counsel request that the Court approve payment of a *cy pres* award to the
5 Commercial Fishermen of Santa Barbara of any funds remaining in the Fisher Net
6 Settlement Fund, and to Santa Barbara Channelkeeper of any funds remaining in the
7 Property Net Settlement Fund.

8 A proposed order is submitted with this status report. Class Counsel are also
9 available to appear, in person or via Zoom, should the Court wish to schedule a status
10 conference to discuss this report.

11
12 Dated: October 23, 2024

Respectfully submitted,

13 KELLER ROHRBACK L.L.P.

14 By: /s/ Juli E. Farris

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Lead Trial Counsel

CERTIFICATE OF SERVICE

I, Juli Farris, hereby certify that on October 23, 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

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Lead Trial Counsel

Class Counsel
(additional counsel listed at signature)

**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
FISHER AND PROPERTY CLASS
SETTLEMENT AND DISPOSITION
OF RESIDUAL FUNDS**

Judge: Hon. Philip S. Gutierrez

After consideration of Plaintiffs' Status Report Regarding Fisher and Property Class Settlement and Disposition of Residual Funds, the Declaration of Genevieve Pierce, and related documents, and good cause appearing, IT IS HEREBY ORDERED:

1 1. Payment of a Second Late Property Claim Distribution is approved. The
2 Settlement Administrator is directed to pay each of the remaining Property Claims that
3 are submitted on or before October 31, 2024, and that can be verified, in the order in
4 which they are completed, without deficiencies. Any claims submitted after October 31,
5 2023, or that remain deficient as of December 1, 2024, are rejected. No additional claims
6 shall be considered;

7 2. The balance of funds available for distribution remaining in the Property Net
8 Settlement Fund once the Second Late Property Claim Distribution is complete shall be
9 distributed as a Supplemental Distribution, in equal shares, to each of the Verified
10 Property Claimants.

11 3. In addition to the amounts previously approved, payment of up to \$63,580
12 in additional administrative for the Property Class is authorized;

13 4. To the extent any residual funds remain available for distribution after the
14 Supplemental Distribution is completed (after the deduction of administrative fees and
15 costs), the Court approves payment of a *cy pres* award to Santa Barbara Channelkeeper.

16 5. Payment of a Second Late Fisher Distribution is approved. The Settlement
17 Administrator is directed to pay each of the remaining Fisher Claims that are submitted
18 on or before October 31, 2024, that can be verified, in the order in which they are
19 completed, without deficiencies. To verify class membership, each claim form should be
20 submitted together with copies of valid CDFW fishing licenses, or receipts for same: 1.
21 for at least one year during the period January 1, 2010-May 19, 2015; 2. valid as of May
22 19, 2015, the date of the Oil Spill, and, 3. for each year during the period May, 2015–
23 May, 2020 for which the claimant seeks damages. Any claims submitted after October
24 31, 2023, or that remain deficient as of December 1, 2024, are rejected. No additional
25 claims shall be considered;

1 6. The balance of funds available for distribution remaining in the Fisher Net
2 Settlement Fund once the Second Late Fisher Claim Distribution is completed shall be
3 distributed as a Supplemental Distribution, in equal shares, to each of the Verified Fisher
4 Claimants.

5 7. In addition to the amounts previously approved, payment of up to \$95,504.35
6 in additional administrative costs and fees for the Fisher Class is authorized;

7 8. To the extent any residual funds remain available for distribution after the
8 Supplemental Distribution is completed (after deduction of administrative costs and fees),
9 the Court approves payment of a *cy pres* award to the Commercial Fishermen of Santa
10 Barbara.

11
12 **IT IS SO ORDERED.**

13 Dated: _____

14 Hon. Philip S. Gutierrez
15 United States District Judge
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