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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

**DECLARATION OF GENEVIEVE
PIERCE IN SUPPORT OF STATUS
REPORT REGARDING FISHER AND
PROPERTY CLASS SETTLEMENT
DISTRIBUTION AND DISPOSITION
OF RESIDUAL FUNDS**

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
5 employees and Counsel for the Plaintiffs and Defendants (“Counsel”) and, if called upon
6 to do so, I 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
9 May 13, 2022, ECF No. 944-2; a Declaration Regarding Compliance with the Class
10 Action Fairness Act, 28 USC § 1715, filed June 7, 2022, ECF No. 950-1; a Declaration
11 Regarding Class Notice, filed July 29, 2022, ECF No. 959; a Declaration Regarding Class
12 Notice Implementation and Settlement Administration Status, filed September 2, 2022,
13 ECF No. 974; a Declaration in Support of Status Report Regarding Settlement
14 Distribution to Fisher and Property Classes, filed April 3, 2024, ECF No. 983-1; and a
15 Declaration in Support of Status Report Regarding Rejected Claim Objections and
16 Recommendations for Distribution of Residual Funds, filed August 1, 2024, ECF No.
17 990-1. This Declaration is being filed to update the Court on the status of late claims, and
18 to provide recommendations for the distribution of residual Settlement¹ funds.

19 3. On September 20, 2022, the Court granted Final Approval of the Settlement
20 of this action and entered the Order Granting Final Approval of Proposed Settlement,
21 ECF No. 978 (“Final Approval Order”). Additionally, on September 20, 2022, the Court
22 entered an Order Granting Plaintiffs’ Motion for Approval of Plans of Distribution, ECF
23

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

1 No. 979. On April 3, 2024, Class Counsel filed a Status Report and Request for Deadlines
2 and Procedures Regarding Settlement Distribution to Fisher and Property Classes, ECF
3 No. 983 and, on that same day, the Court entered the Order Regarding Deadlines and
4 Procedures Re: Settlement Distribution to Fisher and Property Classes, ECF No. 984
5 (“Status Report Order”). On August 2, 2024, the Court entered the Order Regarding
6 Distribution of Remaining Funds to Fisher and Property Classes and resolved all claimant
7 objections to the Notices of Rejected Claims and objections to claim award amounts, ECF
8 No. 991 (“August Order”). It also accepted the submission of “New Late Claims” from
9 those who had requested permission to submit them on or before August 1, 2024 and who
10 could be validated by the Settlement Administrator within 30 days of the date of the
11 August Order (September 3, 2024). Finally, it authorized payment of a Supplemental
12 Distribution to the Verified Claimants in each Class, from the funds remaining available
13 for distribution after payment of late claims. *See* August Order.
14

15 NEW LATE CLAIMS

16 4. Per the August Order, JND continued to review and evaluate New Late Claims
17 filed through September 3, 2024 by Class Members who requested Claim Forms prior to
18 August 2, 2024. In addition, per Class Counsel’s request, JND provided Claim Forms to
19 additional putative Class Members who contacted JND after August 2, 2024.
20

21 5. As of September 3, 2024, JND had received 15 unique Property New Late
22 Claims from Claimants who contacted JND prior to August 2, 2024. Seven of these
23 claims, with a total value of \$509,019.71, were validated and have been processed for
24 payment. Of the eight remaining unique Property New Late Claims from Claimants who
25 contacted JND prior to August 2, 2024, seven were still deficient as of the September 3,
26

1 2024 deadline for completion and one was submitted for a parcel that is not part of the
2 Property Class. One of the deficient claims cured its deficiency after the September 3,
3 2024 deadline. Eight duplicative claims were submitted by Claimants who had contacted
4 JND prior to August 2, 2024, and two Property Claimants identified in the August Status
5 Report did not submit New Late Claims despite invitations by JND to do so. Following
6 payment of the seven validated Property New Late Claims and the deduction of
7 administrative costs previously approved by the Court, approximately \$1.7 million will
8 remain in the Property Net Settlement Fund.

9 6. As of September 3, 2024, JND had received 10 unique Fisher New Late
10 Claims from Claimants who contacted JND prior to August 2, 2024. Seven of these
11 claims, with a total value of \$28,347.85, were validated and have been processed for
12 payment. Of the three remaining unique Fisher New Late Claims from Claimants who
13 contacted JND prior to August 2, 2024, two were still deficient as of the September 3,
14 2024 deadline for completion and are not anticipated to cure their deficiencies and one
15 was submitted by an individual who is not part of the Fisher Class. Following payment
16 of the seven validated Fisher New Late Claims and the deduction of administrative costs
17 previously approved by the Court, approximately \$4.9 million will remain in the Fisher
18 Net Settlement Fund.

19 7. Since the entry of the Court's August order, JND and Class Counsel have been
20 contacted by at least 23 purported Property Claimants. The estimated value of these
21 potential Property claims, if validated, plus the remaining deficient Property claims and
22 anticipated Property claims that have not yet been submitted, totals \$1,544,528.24. Since
23 the entry of the Court's August Order, JND and Class Counsel have been contacted by at
24

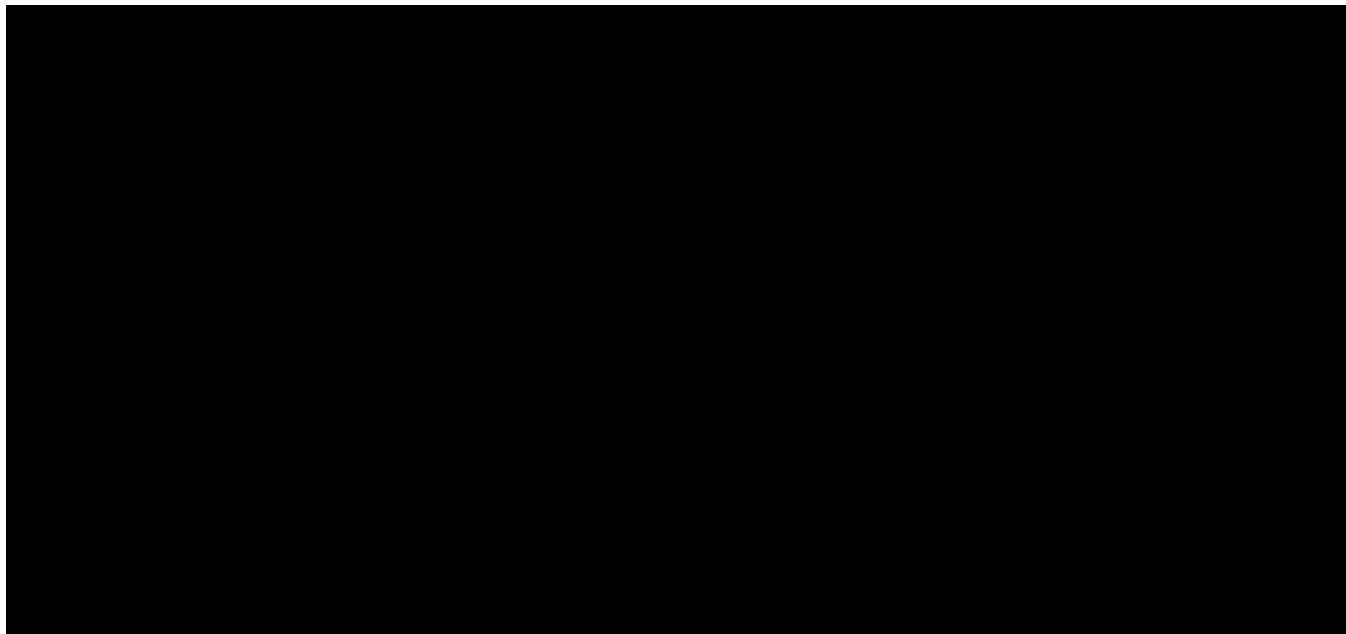
1 least 28 individuals who claim to be—or purport to represent—as many as 50 potential
2 Fisher Class Members.

3 8. Given the substantial balance available in the Fisher Net Settlement Fund after
4 payment of the previous round of Late Claims, and in recognition that Claimants without
5 demonstrable landings would have received Fixed Share Awards based on their own
6 attestation if their Claims had been filed before the deadline, Class Counsel instructed
7 JND to offer Claim Forms to individuals without CDFW landings and to request that
8 those individuals submit their Claim Forms with additional indicia of validity, such as
9 CDFW licenses or receipts for the period 2010-2015 (valid as of May 19, 2015), and for
10 each year during the period 2015-2020 that the Fisher intends to claim damages. These
11 Claim Forms and instructions were provided to claimants with the proviso that JND could
12 not guarantee that they would receive a payment as their claim would not be payable
13 without an additional Court order authorizing such payments.
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15 **SAN PEDRO GROUP LETTER**

16 9. On October 10, 2024, two individuals, [REDACTED]
17 submitted a letter to the Court on behalf of [REDACTED] and 27
18 others (the “San Pedro Group”), challenging the Notice and Settlement distribution
19 procedures, ECF No. 993.
20

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]



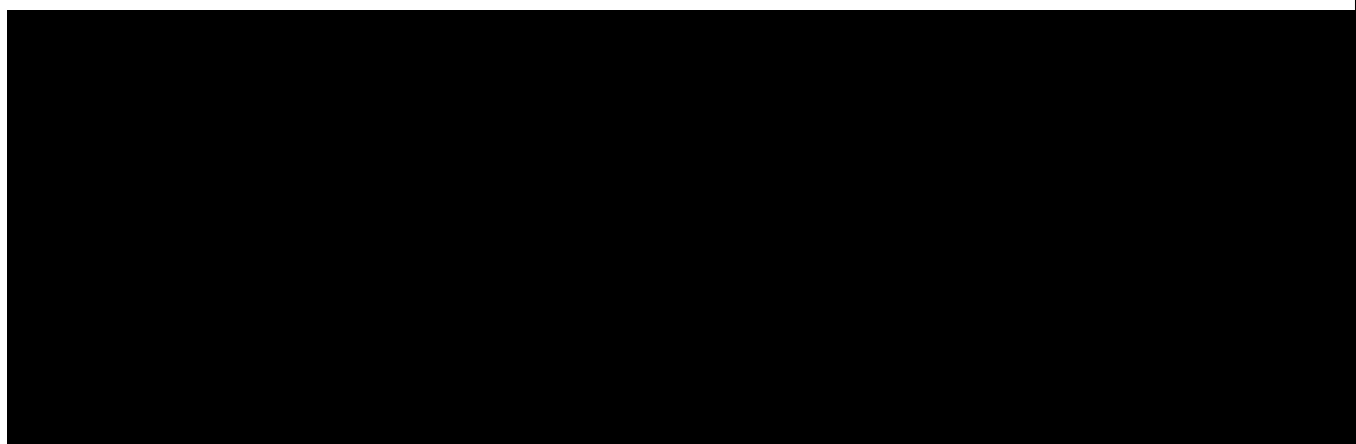
13. JND sent an email to [REDACTED] on August 29, 2024 to explain the reasons his claim was rejected (the “August 2024 Letter”). A true and correct copy of the August 2024 Letter is attached as **Exhibit A**.

14. The San Pedro Group letter suggests that the decision to reject claims from [REDACTED] and others was arbitrary, and that others were permitted to submit late claims. In reality, as JND explained in the August 2024 Letter, the extended deadlines allowed those who had received or requested Claim Forms before the October 31, 2022 deadline to complete them. No “new” claims were initiated or accepted from claimants that had not been previously identified.

15. Additionally, Notice was mailed to at least eight of the San Pedro Group members. Five of these Class Members failed to submit the Claim Form they received by the October 31, 2022 deadline. All three claims from the two San Pedro Group Class Members who submitted timely Claim Forms were paid. The names and CDFW license information for many—if not all—of the remaining, purported Fishers who contacted

1 JND since August 1, 2024 do not appear in the CDFW data associated with qualified
2 landings. Consequently, these purported Fishers without qualified landings would not
3 have appeared in the Class data, upon which Notice was disseminated.

4 16. The complainants also acknowledge that they cannot provide any CDFW
5 landing data to demonstrate Class Membership as the CDFW landing records only
6 identify one fishing license per landing. They allege that, as crew members who worked
7 on vessels with qualified CDFW landings, they have met the Fisher Class definition and
8 are, therefore, entitled to compensation.



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16 18. The San Pedro Group also objects that they were not given more assistance
17 in submitting claims. JND and Class Counsel² have spent many hours in
18 communication by telephone and email with [REDACTED] and
19 others. JND has exchanged 34 emails and 30 phone calls with these individuals and
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23 ² In their October 10, 2024 letter, the San Pedro Group alleges that they have
24 communicated with an individual named, “Julie.” Given that an individual of this name
25 has not been assigned to the *Andrews, et al. v. Plains All American Pipeline, L.P., et al.*
26 case, it is assumed that the complainants are referring to Juli E. Farris, one of the
27 attorneys at Keller Rohrback L.L.P. that comprises Class Counsel.

1 their family members. [REDACTED]

2 [REDACTED]
3 19. The San Pedro Group also believes that they are entitled to a share of claims
4 belonging to another party. JND has never said that any member of the San Pedro
5 Group is entitled to compensation from any other Settlement payment recipient, and
6 JND would be unable to resolve any such dispute should it arise. The complainants are
7 incorrect when they state they have not been advised regarding the status of claims by
8 vessel owners with whom they work. The August 2024 Letter explains that [REDACTED]

9 [REDACTED] As the August 2024 Letter
10 also explains, the Claim Form required each claimant to attest under penalty of perjury
11 that they were entitled to the funds, and the check stub accompanying the Settlement
12 payment states, “Consistent with the terms of the Settlement and Distribution Plan, by
13 endorsing and/or depositing this check, you acknowledge that, if any other party is
14 entitled to a portion of this Settlement payment, you agree to pay any such portion to
15 such other party.” A true and correct copy of the check stub is attached as **Exhibit B**.
16 The August 2024 Letter also explains that, as a matter of policy and privacy, JND does
17 not provide information regarding claims to individuals other than the Claimant without
18 the Claimant’s permission.

19 20. The San Pedro Group also refers to Designated Recipients. While the Plan of
20 Distribution for the Fisher Class permitted a Claimant to make such a designation, the
21 Claimant was required to notify the recipient and the proposed recipient was required to
22 file a separate Claim Form before the October 31, 2022 deadline. If the Designated
23 Recipient claim was not filed, the funds were issued to the original Claimant.
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LETTER

21. [REDACTED] notified Class Counsel that [REDACTED]

[REDACTED]

ADMINISTRATIVE FEES AND COSTS

22. From August to September 2024, JND has dedicated approximately 401.5 hours (268 Fisher; 133.5 Property) to corresponding with claimants regarding their New Late Claim submissions over the phone and email, analyzing supporting documentation, addressing additional Settlement-related communications generated by the extended New Late Claims deadline, and tracking submissions.

23. As of September 30, 2024, JND has dedicated a total of approximately 13,889.83 hours (8,694.33 for the Fisher Class; 5,195.50 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.

24. As of August 30, 2024, \$1,498,529.51 (\$1,027,188.63 for the Fisher Class; \$471,340.88 for the Property Class) has been incurred in administrative fees and costs.

1 25. As of October 1, 2024, JND estimates an additional \$159,084.35 (\$95,504.35
2 for the Fisher Class; \$63,580.00 for the Property Class) in administrative fees and costs
3 to complete administration of the Settlement.

4 26. JND will continue to administer the Settlement through all phases of
5 Settlement Administration, as required by the Settlement Agreement, Final Approval
6 Order, Status Report Order, August Order, and pursuant to any future Orders of this
7 Court.

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

10 Executed on October 22, 2024 in Seattle, Washington.

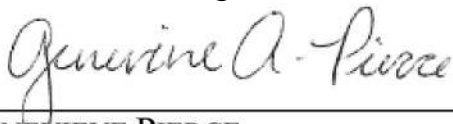
11 
12 _____
13 GENEVIEVE PIERCE

EXHIBIT A



Plains Oil Spill Settlement - Fisher Class Claim DP4569BX3S

From CA - info@plainsoilspillsettlement.com <info@plainsoilspillsettlement.com>

Date Thu 8/29/2024 12:54 PM

To [REDACTED]

Dear [REDACTED]

You have asked for additional information regarding the reason your claim was rejected.

The Court-approved Notice program included Notice by direct mail and email to Fishers whose licenses appeared in landings records supplied by the CDFW ("CDFW Landing Records"). The notice program also included publication and outreach to trade associations. Notice of the litigation was issued multiple times since the class was certified in 2016 and received widespread media coverage. All important records regarding the litigation and settlement were also publicly available on the district court's docket and on the websites maintained throughout the litigation by Class Counsel and later by JND.

In accordance with the Fisher Class definition and the Plan of Distribution for the Fisher Class, claims were based on the CDFW Landing Records. The CDFW Landing Records included the vessel ID and fishing license number associated with each landing of those species that occurred in specific fishing blocks that were identified in the Fisher Class definition. The Plan of Distribution was approved by the Court and is available on the Important Document tab of the website, www.PlainsOilSpillSettlement.com.

The deadline for submission of a claim was October 31, 2022. For claimants who received or requested a claim form before the deadline, but had not completed it, the Court permitted such claims to be accepted if completed by March 29, 2024. No new claim forms were provided to those who did not request or receive one before the original deadline.

[REDACTED]

[REDACTED]

Settlement payments were based on the CDFW Landing Records. [REDACTED]

[REDACTED] Each Settlement payment recipient confirmed, under penalty of perjury, that they were entitled to the funds. The check stub also included the following language: "Consistent

with the terms of the Settlement and Distribution Plan, by endorsing and/or depositing this check, you acknowledge that, if any other party is entitled to a portion of this Settlement payment, you agree to pay any such portion to such other party.” We are not able to provide any information to you regarding claims submitted by another fisher, without their consent.

Regards,

Plains Oil Spill Settlement Administrator
c/o JND Legal Administration
Toll-free: 1-844-202-9486
www.PlainsOilSpillSettlement.com
[ZTJ]

EXHIBIT B

ID #: 46487

CitiBank NA

Plains Oil Spill Settlement
Fisher Class Common Fund
c/o JND Legal Administration
P.O. Box 91450
Seattle, WA 98111

[CHECK-NO]

[CHECK-DATE]

PAY TO THE [NAME-1]
ORDER OF [NAME-2]

[CHECK-AMT]

Amount in Words

DOLLARS

Signature Block Here

[NameNumber]

[VOID-STRING1]

[VOID-STRING2]

[CHECK-NO]

[BI-CHECK-TRANSIT-NO]

[BI-ACCT-NO]

[NAME-1]:
[NAME-2]

Attached is your Fisher Class Settlement payment from the *Andrews et al. v. Plains All American Pipeline, L.P., et al.* Settlement (Case No. 2:15-CV-04113-PSG-JEM (C.D. Cal.)) per the Court-approved Settlement Agreement.

Additional details regarding the Settlement are available on the Settlement website at www.PlainsOilSpillSettlement.com. If you have any questions about this check or need to have it reissued, please contact us by email at info@PlainsOilSpillSettlement.com. All check reissue requests must be received in writing.

Enclosed is an IRS Form 1099-MISC for this Settlement payment. We cannot provide tax advice. You may want to consult your financial or tax advisor with regards to the tax treatment of this Settlement payment if you have tax-related questions.

Consistent with the terms of the Settlement and Distribution Plan, by endorsing and/or depositing this check, you acknowledge that, if any other party is entitled to a portion of this Settlement payment, you agree to pay any such portion to such other party.

This check must be deposited promptly. It is void if not deposited by [VOID DATE] (180 days after the check issue date).

Regards,

PLAINS OIL SPILL SETTLEMENT ADMINISTRATOR
info@PlainsOilSpillSettlement.com

PLAINS OIL SPILL SETTLEMENT FISHER CLASS
COMMON FUND
C/O JND LEGAL ADMINISTRATION
P.O. BOX 91450
SEATTLE, WA 98111

[Mailing Barcode]

[Name 1]
[Name 2]
[Address Line 1]
[Address Line 2]
[City], [State] [Zip]

Check Date: [CHECK-DATE]
Check Amount: [CHECK-AMT]
Claim ID: [NAME-NO]
Check Number: [CHECK-NO]

SIGNATURE REQUIRED BEFORE DEPOSIT
Consistent with the Settlement terms, by endorsing and/or depositing this check, you acknowledge that if any other party is entitled to a portion of this Settlement payment, you agree to pay any such portion to such other party.