

<b>DISTRICT COURT, COUNTY OF GARFIELD, COLORADO</b> 109 8th Street, Suite 104 Glenwood Springs, CO 81601	DATE FILED June 26, 2025 9:26 AM CASE NUMBER: 2019CV30036  <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<b>Plaintiffs:</b> JOLLEY POTTER RANCHES ENERGY CO, LLC,  v.  <b>Defendant:</b> TEP ROCKY MOUNTAIN LLC.	
<p style="text-align: center;"><b>ORDER PRELIMINARILY APPROVING THE PARTIES' PROPOSED CLASS SETTLEMENT AGREEMENT</b></p>	

This matter comes before the Court on the Joint Motion of Plaintiff Jolley Potter Ranches Energy Co., LLC's ("Plaintiff"), on behalf of itself and the certified class of royalty owners defined in paragraph 4 below (together "the Plaintiff Class"), and Defendant TEP Rocky Mountain LLC ("TEP") (collectively, the "Parties"), for an order: (1) preliminarily approving the proposed class Settlement Agreement; (2) approving the proposed Notice to be mailed to the Plaintiff Class members; (3) establishing the deadline and manner for Plaintiff Class members to submit objections to the proposed Settlement Agreement and Class Counsel's request for attorneys' fees and expense reimbursements; (4) establishing the deadline for the Parties' submission of motions in support of final approval of the Settlement Agreement and Class Counsel's request for an award of attorneys' fees and expenses; and (5) setting a hearing date to consider motions for final approval of the proposed Settlement Agreement and Class Counsel's attorneys' fees and expenses.

The Court, having reviewed and considered the Parties' Joint Motion, the proposed class Settlement Agreement, the proposed Notice, pertinent portions of the entire record in this litigation

to date, and after hearing the arguments of the Parties' attorneys at the hearing to consider the Joint Motion, finds as follows:

1. On February 19, 2019, Plaintiff filed its class action complaint against TEP in the District Court of Garfield County, Colorado.

2. Plaintiff, on behalf of itself and a class of similarly situated royalty owners, asserts class claims against TEP alleging that TEP, formerly known as WPX Energy Rocky Mountain, LLC, improperly deducted gathering and gathering-related fuel costs when calculating royalties paid on natural gas, claiming these deductions were prohibited by the Parties' oil and gas leases. TEP has denied those allegations.

3. Class Counsel and TEP's attorneys engaged in initial settlement discussions beginning in July 2021. Despite these good faith negotiations and exchanges of extensive and complex royalty accounting data for the settlement purposes, these initial settlement discussions were unsuccessful. *See* Joint Status Report (9/21/2021); Joint Status Report (5/25/2022). On June 1, 2022, the Parties stipulated to class certification and the scope of the litigation. *See* Stipulation (6/1/2022).

4. On June 30, 2022, the Court certified the Plaintiff Class pursuant to C.R.C.P. 23(b)(3) in accordance with the Parties' Joint Submission of Stipulated Order, defined as follows:

The persons or entities who own oil and gas leases of the type categorized as Category 2 Royalty Instruments in *Lindauer v. Williams Production RMT Company*, Case No. 2006cv317 filed in the District Court in and for Garfield County, Colorado and have received royalty or overriding royalty payments on behalf of TEP Rocky Mountain LLC (TEP) from sales of natural gas produced in Garfield County during and after the production month of February 2013 until December 2021; whether or not such persons or entities

are included in the certified *Lindauer* Class; and excluding from such Class:

(1) TEP, WPX Energy Rocky Mountain, LLC, Williams Production RMT Company, LLC, Williams Production RMT Company, and any of their affiliates;

(2) NYSE or NASDAQ listed entities (together with their subsidiaries and affiliates) engaged in oil and gas exploration and production; and

(3) those owners to the extent their interests are subject to the class-action settlement entered into in *Sefcovic v. TEP Rocky Mountain, LLC*, Case No. 17-cv-01990-MSK-MEH filed in the United States District Court for the District of Colorado.

*See* Order (6/30/2022) ¶ 5.

5. Since this litigation was commenced, the Parties have engaged in extensive discovery. Class Counsel has requested, received, and reviewed voluminous documents and electronic data regarding TEP's calculation and payment of royalties to the Plaintiff and the Plaintiff Class relating to royalties paid on gas produced from July 2011 to December 2020. Both Parties have retained royalty accounting, gas production, and marketing experts to assist in the evaluation and analysis of the electronic royalty accounting data maintained by TEP.

6. The Parties filed cross-motions for summary judgment on April 4, 2021, and completed briefing on the cross-motions for summary judgment on May 24, 2021. After hearing argument on the cross-motions for summary judgment on February 14, 2024, the Court denied the Parties' cross-motions for summary judgment. *See* Order Denying Cross-Mots. for Summ. J. (7/18/2024).

7. The terms of the proposed Class Settlement are set forth in the Settlement Agreement which is attached to the Joint Motion as Exhibit 1. The definitions set forth in the

Settlement Agreement are incorporated herein by reference. The Settlement Agreement resolves the claims of the Plaintiff Class against TEP for natural gas royalty underpayments from February 2013 through December 2020, as defined in Recital C of the Settlement Agreement.

8. Upon preliminary review, the Settlement Agreement between the Plaintiff Class and TEP appears to be fair, reasonable, and adequate.

9. In determining that the proposed Settlement Agreement appears to be fair, reasonable and adequate, the Court has considered the following: (a) the proposed Settlement Agreement has been fairly and honestly negotiated; (b) serious questions of law and fact exist which put the ultimate outcome of a trial on the merits in doubt; (c) the proposed Settlement Agreement outweighs the possibility of further relief by continuing protracted, complex and expensive litigation; and (d) the Parties and their attorneys, who have extensive experience in class-action royalty underpayment litigation, believe that the Settlement Agreement is fair and adequate, and are requesting that the Settlement Agreement be preliminarily approved.

10. The Parties have entered into the Settlement Agreement after conducting extensive discovery and fact gathering, and with full knowledge of the relevant factual and legal issues. The Settlement Agreement is the product of non-collusive, arm's-length bargaining between the Parties and their Counsel.

11. If the Settlement Agreement is finally approved, the Plaintiff Class will benefit from the Settlement Agreement because TEP has agreed to pay \$900,962.00 to settle the Plaintiff Class members' claims in this litigation.

12. The benefits provided to the Plaintiff Class under the terms of the Settlement Agreement provide a reasonable resolution of the claims of the Plaintiff Class, considering the risk

of litigation, likelihood of protracted and expensive litigation in the absence of the Settlement Agreement, and the Parties' various claims and defenses.

13. TEP also benefits from the Settlement Agreement through the avoidance of protracted and expensive litigation, the elimination of risk of an adverse judgment, the final resolution of disputes with the Plaintiff Class members, and the promotion of a mutually productive business relationship with the Plaintiff Class members.

14. The proposed form of Notice of the Settlement Agreement to be mailed to the members of the Plaintiff Class, which is attached to the Settlement Agreement as Exhibit C, and attached to the Joint Motion as Exhibit 2, adequately informs the Plaintiff Class members of the following: (1) the nature of this class-action lawsuit; (2) the definition of the Plaintiff Class; (3) the nature of Plaintiff Class members' claims, the issues, and TEP's defenses and denial of the Plaintiff Class members' claims; (4) a description of the terms of the Settlement Agreement, including posting of the Settlement Agreement, the preliminary distribution schedule and other information on Class Counsel's website and the Plaintiff Class members' right to obtain a copy of the Settlement Agreement from Class Counsel; (5) Class Counsel's request for reimbursement of expenses and for one-third of the Settlement Amount as attorneys' fees; (6) the right of any Plaintiff Class member to object to the proposed Settlement Agreement, or Class Counsel's request for reimbursement of expenses and for attorneys' fees, and the deadline for any such objections; (7) the binding effect of the Settlement Agreement on Plaintiff Class members; and (8) the date and time set for the fairness hearing.

## **ORDER**

In light of the Court's findings and conclusions, and pending further consideration at a final fairness hearing, IT IS HEREBY ORDERED THAT:

15. The Settlement Agreement is preliminarily approved as being fair, adequate, and reasonable.

16. TEP has deposited the settlement payment of \$900,962.00 into the Escrow Account established pursuant to the Escrow Agreement, as provided for in paragraph 3(a) of the Settlement Agreement, and subject to the conditions set forth in the Settlement Agreement and the Escrow Agreement.

17. The Court approves the form and content of the proposed Notice, attached to the Settlement Agreement as Exhibit C, and attached to the Joint Motion as Exhibit 2.

18. Class Counsel shall be responsible for mailing the Notice, by First-Class United States Mail, to the Plaintiff Class members within seven (7) days after the date of this Order preliminarily approving the Class Settlement.

19. On or before the date which is twenty-one (21) days before the scheduled date for the final fairness hearing, the Parties shall file motions in support of final approval of the Settlement Agreement, and Class Counsel shall file their request for attorneys' fees and expense reimbursements.

20. Any member of the Plaintiff Class who wishes to make objections to, or comment on, the proposed Settlement Agreement, or Class Counsel's request for attorneys' fees and expenses reimbursements, shall postmark and mail such objections or comments on or before the date which is fourteen (14) days before the scheduled date for the final fairness hearing. In

accordance with the procedures set forth in the Mailed Notice, any such objections or comments must be mailed to Class Counsel, TEP's counsel, and the Court.

21. Any Plaintiff Class member who wishes to appear and be heard at the final approval hearing must file a notice of such intention with the Court at least seven (7) days before the scheduled date for the final fairness hearing.

22. At least seven (7) days before the scheduled date for the final fairness hearing, Class Counsel and TEP may file a response to any Plaintiff Class member's objections or comments. A copy of such response shall be mailed to all Plaintiff Class members who have submitted timely objections or comments.

23. The Court will conduct a hearing to consider final approval of the proposed Class Settlement, Class Counsel's request for attorneys' fees and expense reimbursements, beginning at 9am~~xxxxxx~~am/p.m., on Aug. 29 2025, in C Courtroom of this Court. (WebEx appearances are also authorized)

IT IS SO ORDERED.

Counsel may contact the court for a different hearing date if the August 29 date is not viable.

Dated this 26th day of June, 2025.

BY THE COURT:



ANNE K. NORRDIN  
DISTRICT COURT JUDGE