

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 19-cv-00495-DDD-NRN

JOLLEY POTTER RANCHES ENERGY CO.  
LLC, individually and on behalf of the certified  
class,

Plaintiffs,

v.

TEP ROCKY MOUNTAIN LLC,

Defendant.

---

**ORDER PRELIMINARILY APPROVING THE PARTIES’  
PROPOSED CLASS SETTLEMENT**

---

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 Class”), and Defendant TEP Rocky Mountain LLC’s (“TEP”) (collectively, the “Parties”) for an order: (1) preliminarily determining that their Class Settlement Agreement is fair, reasonable, and adequate, and approving the Joint Motion for Preliminary Approval of the Class Settlement; (2) approving the proposed Mailed Notice and proposed Publication Notice to the Class members; (3) establishing the deadline and manner for Class members to submit objections to the proposed Class Settlement, 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 Class Settlement, and Class Counsel’s request for an award of attorneys’ fees and expenses; and (5) setting a hearing date to consider the motions for final approval of the proposed Class Settlement 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 Mailed Notice and Publication 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 United States District Court for the District of Colorado (Civil Action No. 19-cv-00495-DDD-NRN).

2. Plaintiff, on behalf of itself and a Class of similarly situated royalty owners (the "JPR Class"), asserts class claims against TEP for alleged royalty underpayments on the production and sale of natural gas between August 1, 2011, and December 31, 2020, as defined in paragraph 8 of the Settlement Agreement.

3. TEP has denied that the JPR Class is entitled to relief based on the class claims asserted and settled by the JPR Class. On September 21, 2023, the Court granted Plaintiff's Motion for Class Certification, certifying the JPR Class pursuant to Fed. R. Civ. P. 23(b)(3), defined as follows in the Parties' Settlement Agreement:

The class of all royalty owners under oil and gas leases (and their successors and assigns) who received royalty payments for one or more production months during the period August, 2011 to December, 2020 from non-federal oil and gas leases in Garfield County, Colorado, which, as of December 31, 2020, were owned in whole or part by TEP Rocky Mountain LLC, and whose production was gathered on the Grand Valley Gathering System; and excluding from such class:

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

(2) any person or entity to the extent that their interest is derived from the following leases: (A) that certain Oil and Gas Lease, dated July 20, 2005, with Mary Anne Bosely, et al, as lessors, whose

memorandum is recorded at Reception No. 680846 in the records of the Clerk and Recorder of Garfield County, Colorado; (B) that certain Oil and Gas Lease, dated May 9, 2006, with Jonathon H. Wellendorf et ux, as lessors, whose memorandum is recorded at Reception No. 697889 in such records; (C) that certain Oil and Gas Lease, dated April 14, 2002, with Theo Ertl, as Trustee for the Jann Ertl Trust, under Trust dated January 25, 1964, as lessor, whose lease is recorded at Reception No. 610354 in such records; (D) that certain Memorandum of Oil and Gas Lease, dated November 1, 2011, with The Ranch at Parachute, LLC, as lessor, which is recorded at Reception No. 811051 in such records; (E) that certain Oil and Gas Lease, dated June 7, 2006, with Pavillion Land Development, LLC, as lessor, whose lease is recorded at Reception No. 701520 in such records; (F) that certain Oil and Gas Lease, dated April 27 1998, with NationsBank of Texas, N.A., Agent for the First Church of Christ, Scientist Agency #1221900 as lessor, whose lease is recorded at Reception No. 531029 in such records; and (G) that certain Oil and Gas Lease, dated December 5, 1997, with Colorado National Bank as Trustee of the Ann F. Dickerson Irrev. T/A Family Trust as lessor, whose lease is recorded at Reception No. 517758 in such records; and

(3) any person or entity who submitted an Election of Exclusion from the Plaintiff Class and identified on Exhibit B to the Settlement Agreement.

4. Since this litigation was commenced, the Plaintiff's attorneys ("Class Counsel") 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 Class for the time period extending from August 1, 2011, to December 31, 2020. Both Parties have retained royalty accounting experts to assist in the evaluation and analysis of the electronic royalty accounting data maintained by TEP.

5. 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 Class against TEP for natural gas royalty underpayments from August 1, 2011, through December 31, 2020, as defined in paragraph 8 of the Settlement Agreement.

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

7. 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 Amount preliminarily appears to be fair, reasonable and adequate in view of the risks involved in this protracted, complex and expensive litigation; and (d) the Parties and their attorneys, who are very experienced 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.

8. 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.

9. If the Settlement Agreement is finally approved, the Class will benefit from the Settlement Agreement because TEP has agreed to pay \$41,700,000 to settle the Class members' claims in this litigation.

10. The benefits provided to the Class under the terms of the Settlement Agreement provide a reasonable resolution of the claims of the 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.

11. 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 Class members, and the promotion of a mutually productive business relationship with the Class members.

12. The proposed forms of notice of the Settlement Agreement to be mailed and published to the members of the Class, which were submitted to the Court on April 10, 2025 as the Modified Mailed Notice [Dkt. #197-1] and Modified Publication Notice [Dkt. #197-2] (together, the "Notices"), adequately inform the Class members of the following: (1) the nature of this Class action lawsuit; (2) the definition of the Class; (3) the nature of Class members' settled claims, the issues, and TEP's defenses and denial of the 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 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 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 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:

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

14. TEP has deposited the settlement payment of \$41,700,000 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.

15. The Court approves the form and content of the proposed Notices submitted to the Court on April 10, 2025 as Dkt. # 197-1 and #197-2.

16. Class Counsel shall be responsible for mailing the Mailed Notice, by first class United States mail, to the Class members within seven (7) days after the date of this Order preliminarily approving the Class Settlement. Class Counsel shall also be responsible for causing the Publication Notice to be published within seven (7) days after the Court enters this Order.

17. 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.

18. Any member of the Class who wishes to make objections to, or comment on, the proposed Settlement Agreement, or Class Counsel's request for attorney's 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.

19. Any Class member who wishes to appear and be heard at the final approval hearing must postmark and mail notice of such intention at least seven (7) days before the scheduled date for the final fairness hearing. Notice of such intention must be mailed to Class Counsel, TEP's counsel, and the Court.

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

21. 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 10:00 a.m., on August 1, 2025, in Courtroom A1002 of this Court.

22. All pending discovery and case management deadlines in this action are stayed until further order of this Court.

IT IS SO ORDERED.

Dated this 11th day of April 2025.



---

Honorable N. Reid Neureiter  
United States Magistrate Judge