

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into effective September 30, 2018 (the “Effective Date”), by and between IVO LINDAUER, SIDNEY AND RUTH LINDAUER, and DIAMOND MINERALS, LLC, on behalf of themselves and a class of similarly situated royalty and overriding royalty owners defined further below (together, “Plaintiffs” and the “Class”), and TEP ROCKY MOUNTAIN LLC (“TEP”), a Delaware limited liability company. Plaintiffs and TEP may each be referred to as a “Party” or collectively as “the Parties.”

RECITALS

A. Plaintiffs, the Class, and TEP are parties to a class action settlement agreement approved by the District Court of Garfield County, Colorado, in a case styled *Ivo Lindauer, et al. v. Williams Production RMT Co.*, 2006 CV 0317 (Garfield County District Court) (the “*Lindauer* Settlement”). The *Lindauer* Settlement includes, among other things, a definition of the Class in paragraph 1.20 of the agreement, and that definition is incorporated herein by reference. The *Lindauer* Settlement also includes a Royalty Instrument Categorization, as that term is defined in paragraph 1.28 of the agreement, and those categorizations also are incorporated herein by reference. This Settlement Agreement does not amend the *Lindauer* Settlement in any manner, and only settles claims related to breaches of Sections 4.1 and 4.4 thereof, defined below as the Actually Settled Claims.

B. On September 14, 2018, Plaintiffs and the Class filed a Motion to Enforce the *Lindauer* Settlement in the Garfield County District Court, alleging that TEP breached the settlement by deducting certain gathering, fuel, and processing costs that were prohibited by the *Lindauer* Settlement (the “*Lindauer* Enforcement Action”).

C. On March 15, 2019, the United States District Court for the District of Colorado approved a class action settlement agreement that purports to resolve the allegations set forth in Recital B as to the interests held by 608 members of the Class in a case styled *Elna Sefcovic, LLC, et al. v. TEP Rocky Mountain LLC*, Case No. 17-cv-01990-MSH (respectively, the “*Sefcovic* Settlement” and the “*Sefcovic* Action”). Plaintiffs and their counsel have disputed the jurisdiction of the federal court and the fairness of the *Sefcovic* Settlement.

D. In order to avoid the time, cost, and uncertainty of further litigation, the Parties have entered into this Agreement.

AGREEMENT

1. Joint Motion for Preliminary Approval. Within seven (7) days after executing this Agreement, Plaintiffs and TEP will file the Joint Motion for Preliminary Approval of Class Action Settlement Agreement (the “Joint Motion”) in the form attached as Exhibit A. The Joint Motion seeks preliminary approval of this Agreement, provides for the distribution of notice of the Agreement to the Class, and requests that the Court set a hearing to provide final approval of the Agreement under C.R.C.P. 23(e).

2. Definitions.

- A. “Firm Period” is defined as production months of July 2016 through September 2018.
- B. “Contingent Period” is defined as production months of July 2016 through March 2018.
- C. “Gathering” is defined as those Deductions labeled as “GATH” on TEP check stubs.
- D. “Fuel” is defined as those Deductions labeled as “FUEL” on TEP check stubs.
- E. “Processing” is defined as Deductions labeled as “PRC” or “Processing Fees” on TEP check stubs.
- F. “PROCRI” is defined as Deductions labeled as “PROCRI” in TEP’s royalty accounting data; and is computed by multiplying “Processing” by 50%.
- G. “Gross Amount” is defined as the entire amount to be allocated to the applicable subgroup prior to deducting common fund attorney fees and costs to be distributed to Class Counsel.

3. Firm Settlement Amount. TEP shall pay a total of \$3,082,283.78 as the Gross Amount to Class members in the Royalty Instrument Categories and amounts as follows (the “Firm Settlement Amount”).

Category	Gross Amount	How Gross Amount Was Calculated for the Subgroup for the Firm Period
<i>Lindauer</i> Category 1	\$265,666.13	The difference between Processing and PROCRI.
<i>Lindauer</i> Category 4	\$44,950.96	100% of Gathering and Fuel.
<i>Lindauer</i> Category 6	\$0	N/A
<i>Lindauer</i> Category 7	\$0	N/A
<i>Lindauer</i> Category 8	\$1,614.96	100% of Gathering, Fuel, and Processing
<i>Lindauer</i> Category 9	\$20,325.27	100% of Gathering, Fuel, and Processing.
<i>Lindauer</i> Category 10	\$90,632.88	100% of Gathering and Fuel, and the difference between Processing and PROCRI.
<i>Lindauer</i> Categories 2 and	\$10,890.36	The difference between

3 Owners Opting Out of the <i>Sefcovic</i> Settlement		Processing and PROCRI.
<i>Lindauer</i> Category 5 Owners Opting Out of the <i>Sefcovic</i> Settlement	\$1,808,576.11	100% of Gathering and Fuel, and the difference between Processing and PROCRI.
<i>Lindauer</i> Category 11 Owners Opting Out of the <i>Sefcovic</i> Settlement	\$520,311.01	100% of Gathering, Fuel, and Processing.
Members with Interests in Category 2 or 3 Instruments, But Not Included in the <i>Sefcovic</i> Settlement	\$0	N/A
Members with Interests in Category 5 Instruments, But Not Included in the <i>Sefcovic</i> Settlement	\$242,058.37	100% of Gathering and Fuel.
Members with Interests in Category 11 Instruments, But Not Included in the <i>Sefcovic</i> Settlement.	\$77,257.73	100% of Gathering, Fuel and Processing.

4. Contingent Settlement Amount.

a. In the event the *Sefcovic* Settlement is disapproved or terminated, TEP shall pay a total of \$7,734,149.62 as the Gross Amount to the 608 members of the *Sefcovic* Settlement Class with interests in the Royalty Instrument Categories as follows (the “Contingent Settlement Amount”):

Category	Gross Amount	How Gross Amount Was Calculated for the Subgroup for the Contingent Period
<i>Lindauer</i> Categories 2 and 3 (<i>Sefcovic</i> Subclass 1)	\$170,445.95	50% of Processing.
<i>Lindauer</i> Category 5 (<i>Sefcovic</i> Subclass 2)	\$4,611,255.97	100% of Gathering and Fuel, and 50% of Processing.
<i>Lindauer</i> Category 11 (<i>Sefcovic</i> Subclass 3)	\$843,799.16	100% of Gathering, Fuel and Processing.
<i>Lindauer</i> Category 5 and 11 (<i>Sefcovic</i> Subclass 4)	\$2,108,648.54	100% of Gathering, Fuel, and Processing.

b. TEP may elect to distribute all or part of the amounts set out on the *Sefcovic* Final Distribution Schedule (totaling \$5,240,989.38) to royalty owners listed

thereon. In the event TEP elects to make any such distribution, then the Gross Amount due to each such royalty owner under this paragraph 4 shall be reduced by the actual amount distributed to such royalty owner. Such elective distributions shall not affect the calculation of Class Counsel's fees and costs hereunder.

In addition, with respect to any such elective distribution to Subclass 1 owners under the *Sefcovic* Settlement, and in the event the *Sefcovic* Settlement is disapproved or terminated, nothing in this Agreement shall prevent nor authorize TEP's recoupment of the \$257,341.36 paid to such owners in order to resolve claims associated with Gathering and Fuel Deductions, which are not resolved by this Agreement.

c. For purposes of this Agreement, the *Sefcovic* Settlement shall be considered disapproved and/or terminated only upon (a) the entry of a final non-appealable judgment in the *Sefcovic* matter disapproving and/or terminating the *Sefcovic* Settlement, and (b) the return to TEP of all escrowed funds paid by TEP in connection with the *Sefcovic* Settlement, except for any settlement funds distributed to the *Sefcovic* class members.

d. In the event that a final non-appealable judgment is entered approving the *Sefcovic* Settlement, this paragraph 4 shall terminate.

5. TEP Warranties and Representations. TEP hereby makes the following warranties and representations to Plaintiffs and the Class Members:

a. The Gross Amounts described in paragraphs 3 and 4 above were calculated as described in the columns labeled "How Gross Amount Was Calculated for the Firm Period" and "How Gross Amount Was Calculated for the Contingent Period," on a subgroup level.

b. For production months after September 2018, TEP's revenue accounting system will calculate royalty and overriding royalty payments in accordance with the terms of the *Lindauer* Settlement.

c. Prior to the July 2016 production month, the revenue accounting system used by WPX and its predecessors in interest did not deduct gathering or fuel costs from any *Lindauer* Class Member, except those in *Lindauer* Categories 1, 2, and 3.

d. Prior to the July 2016 production month, the revenue accounting system used by WPX and its predecessors in interest calculated processing costs in accordance with paragraph 4.4 of the *Lindauer* Settlement.

e. Prior to the July 2016 production month, the revenue accounting system used by WPX and its predecessors in interest did not deduct processing costs from any *Lindauer* Class Member in Categories 8, 9, or 11.

f. During production months from July 2016 through March 2018, Processing included all monetary fees and in-kind product allocations received by

processors from TEP, and actual processing costs incurred by TEP during this period did not exceed the “2/3rds limit” on such costs imposed on such costs by federal regulations.

All of the foregoing is subject to TEP’s ability to make prior period adjustments, including those that result from ONRR adjustments, pursuant to paragraph 6.2 of the *Lindauer* Settlement in order to conform to these representations and warranties and to the *Lindauer* Settlement, and the right of the affected royalty owner(s) to object thereto.

Each *Lindauer* Class Member is entitled to enforce this Section and each *Lindauer* Class Member shall have the continuing right to enforce this Section in the Garfield County District Court in Case No. 2006 CV 317.

Prior to filing any action, a *Lindauer* Class Member seeking to enforce this Agreement or the *Lindauer* Settlement shall first provide written notice to TEP specifying the alleged breach, and TEP shall have thirty (30) days to cure such breach. If TEP receives written notice from a *Lindauer* Class Member under this section who is not a *Lindauer* Class Representative, it will timely provide such notice to Class Counsel.

6. Preliminary Approval Hearing and Distribution Schedule.

a. As soon as practicable after the filing of the Joint Motion, the Parties shall seek to set a hearing with the Court (the “Preliminary Approval Hearing”).

b. Prior to the Preliminary Approval Hearing, the Parties will cooperate on the preparation of a distribution schedule identifying the distribution of the Firm Settlement Amount to individual class members (the “Firm Preliminary Distribution Schedule”). The Parties also will cooperate on the preparation of a contingent distribution schedule in the event of a payment of the Contingent Settlement Amount (the “Contingent Preliminary Distribution Schedule”).

c. At the Preliminary Approval Hearing, the Parties will request that the Court preliminarily approve this Agreement and order notice to be mailed to the Class in the form attached as Exhibit B. The Parties will submit a proposed order in the form attached as Exhibit C (the “Preliminary Approval Order”). The Parties also will request that the Court set a Final Fairness Hearing. The Parties shall cooperate with one another and make their best efforts to obtain Court approval of this Agreement.

7. Notice to Class.

a. Within seven (7) days after the Court enters the Preliminary Approval Order, TEP shall provide Class Counsel with the last known mailing address for each *Lindauer* Class Member (divided between those subject to the Firm Settlement and those subject to the Contingent Settlement), and within fourteen (14) days after the Court enters the Preliminary Approval Order, Class Counsel shall mail notice to the Class in the form attached as Exhibit B. The notice shall set a deadline for parties to object to this Agreement (the “Objection Deadline”) which shall be 14 days prior to the Fairness Hearing.

b. The Objection Deadline will not be extended without the written consent of all Parties.

c. As soon as practicable after Preliminary Approval, the Preliminary Distribution Schedule shall be posted on Class Counsel's website with class members identified by TEP owner number.

8. Final Approval and Distribution of Firm Settlement Amount.

a. Assuming that the Agreement has not terminated for any other reason (as described in Section 14 below), Plaintiffs and TEP will prepare a joint motion for final approval of the Agreement and to address any objections received prior to the Objection Deadline.

b. Along with the joint motion for final approval, Plaintiffs will prepare final schedules for distributing the Firm Settlement Amount (the "Firm Final Distribution Schedule") and the Contingent Settlement Amount (the "Contingent Final Distribution Schedule") to the Class that adjusts the distributions to account for attorneys' fees and costs requested by Plaintiffs pursuant to Section 13 below. Plaintiffs will submit the Firm Final Distribution Schedule and the Contingent Final Distribution Schedule along with the motion for final approval of the Agreement.

c. Provided that the Court enters an Order and Judgment approving of the Settlement Agreement and the Firm Final Distribution Schedule without modification, and upon entry of a final non-appealable judgment (whether after appeal or after the deadline to appeal the Court's Order and Judgment has expired) (the "Approval Event"), TEP shall distribute payment to the owners consistent with the Firm Final Distribution Schedule within thirty-five (35) days after the Approval Event.

d. Provided that the Court enters an Order and Judgment approving of the Agreement and the Contingent Final Distribution Schedule without modification, and provided that the *Sefcovic* Settlement is disapproved or terminated, TEP shall pay the Contingent Settlement Amount within thirty-five (35) days after the Approval Event defined in Section 8(c) above, or within thirty-five (35) days after the disapproval or termination of the *Sefcovic* Settlement, whichever is later.

e. With respect to any payment of the Firm Settlement Amount or Contingent Settlement Amount to Class members whose royalties currently are held in suspense, TEP shall distribute their share of the Firm Final Distribution Schedule or the Contingent Final Distribution Schedule to the owners' respective suspense accounts.

f. Within ninety (90) days after any payment under the Firm Final Distribution Schedule or the Contingent Final Distribution Schedule, TEP shall submit a report to the Court identifying all Class members who have not yet cashed the checks sent to them by TEP, including a list of Class members whose checks have been returned as undeliverable. TEP then shall have ninety (90) days to identify more current addresses and resend new checks to these Class members. TEP shall reasonably cooperate with Class Counsel to identify better addresses for affected Class members. Any portion of

any distribution to class members unclaimed after one year (365 days) after the date TEP resends the checks to the affected Class members shall be returned to TEP. The amount of the attorney fees and costs awarded by the Court to Class Counsel shall not be affected by this paragraph.

g. Plaintiffs and the Settlement Class members shall be responsible for filing any tax returns and for paying any taxes that may be due on their proportionate share of the Firm Final Distribution or Contingent Final Distribution. TEP shall distribute all necessary tax documents to the Settlement Class members, including but not limited to Form 1099s required by the Internal Revenue Service. TEP shall have no liability or responsibility for paying any taxes with respect to amounts paid under this Agreement.

9. Release. Upon the Approval Event, Plaintiffs and the Class release TEP and its predecessors (including but not limited to WPX Energy Inc., WPX Energy Holdings LLC, and their respective predecessors), successors, assigns, and its past, present and future officers, directors, parents (including Terra Energy Partners LLC and Terra Energy Holdings LLC), affiliates, employees, agents, servants, and representatives (collectively, the “TEP Released Parties”) from any and all liabilities, rights, claims, demands, obligations, damages (including claims for or award of costs and/or expenses, court costs and attorneys’ fees), losses, causes of action in law or in equity asserted in the Actually Settled Claims. The Actually Settled Claims in the Firm Settlement are those which seek to recover the amount due, pursuant to Sections 4.1 and 4.4 of the Lindauer Settlement, to each class member as described in paragraph 3 above under the column titled “How Gross Amount Was Calculated for the Firm Period” prior to September 30, 2018. The Actually Settled Claims in the Contingent Settlement are those which seek to recover the amount due, pursuant to Section 4.1 and 4.4 of the Lindauer Settlement, to each class member as described in paragraph 4 above under the column titled “How Gross Amount Was Calculated for the Contingent Period” prior to March 2018.

10. Covenant Not to Sue. Plaintiffs and the Class, for themselves and their officers, directors, agents, joint venturers, partners, members, parents, subsidiaries, affiliates, insurers, heirs, legal representatives, successors and assigns, covenant and agree that they will not commence, participate in, prosecute, or cause to be commenced or prosecuted against the TEP Released Parties, any action or other proceeding based upon any of the Actually Settled Claims.

11. Royalties Paid After the Effective Date and Adjustments to Royalties Paid Prior to the Effective Date. Paragraph 6.2 of the *Lindauer* Settlement shall continue to apply to royalties paid to the *Lindauer* Class Members. Nothing in this Agreement shall prohibit TEP from recouping any overpayments made to Class members for the production months July, 2016 through September, 2018, provided that such recoupments are consistent with the *Lindauer* Settlement, and nothing in this Agreement shall prohibit any Class member from challenging such recoupments.

12. Enforcement of Agreement. The Parties agree that the Garfield County District Court shall be the exclusive Court in which this Agreement may be enforced, and agree that the judgment approving this Agreement in Case No. 2006 CV 317 shall state

that from and after the date such judgment is entered the Garfield County District Court shall retain continuing and exclusive jurisdiction to administer, implement and enforce both the *Lindauer* Settlement and Judgment and this Agreement and related judgment in Case No. 2006 CV 317. In the event that, after the date of the judgment related to this Settlement is entered, a Class member seeks to enforce the terms of this Settlement Agreement in a forum other than the Garfield County District Court, TEP shall move to remand or transfer that action to the Garfield County District Court. The Parties further agree that this paragraph 12 excludes any action to administer, implement, or enforce any final judgment entered in the *Sefcovic* action, and agree that the judgment approving this Agreement shall exclude from its jurisdictional provision any action to administer, implement, or enforce a final judgment entered in the *Sefcovic* action, if any

13. Fees and Costs.

a. Class Counsel shall apply to the Court for (i) reimbursement of their reasonable litigation expenses incurred in this case and in the *Sefcovic* action; and (ii) reimbursement of expenses associated with administering this Agreement.

b. Class Counsel shall apply to the Court for an award of attorneys' fees of 25% of the Firm Settlement Amount, after reduction related to paragraph 13(a)(i) and (ii) above, and attorney fees of 25% of the Contingent Settlement Amount. Such award and reimbursements shall be paid out of the Firm Settlement Amount and, in the event the *Sefcovic* Settlement Agreement is disapproved or terminated as described in Section 4 above then such award shall be paid out of the Contingent Settlement Amount.

c. TEP shall take no position regarding the award of fees and reimbursement of expenses. TEP will bear its own costs. TEP will have no obligation to bear the costs, fees, or expenses of the Class or Class Counsel.

d. This Agreement is not contingent upon the Court's approval of Class Counsel's application for attorneys' fees and reimbursement of expenses.

14. Conditions and Termination Events.

a. This Agreement is conditioned upon the non-occurrence of the following events, and shall immediately terminate upon the occurrence of any of the following events:

i. The Court denies the entry of the Preliminary Approval Order substantially in the form attached as Exhibit C;

ii. The Court denies the entry of an Order and Judgment approving this Agreement; or

iii. The Approval Event is not achieved.

b. Upon the occurrence of any of the events described in Section 14(a):

- i. this Agreement shall terminate;
- ii. any Order and/or Judgment entered pursuant to this Agreement shall be vacated, certification of the Class shall be vacated, and the *Lindauer* Enforcement Action shall proceed as if this Agreement had never been executed; and
- iii. the Agreement may not be used in this action or otherwise for any purpose.

15. Dismissal With Prejudice. Upon the occurrence of the Approval Event and completion of required disbursements by TEP, Plaintiffs, the Class, and TEP shall be deemed to have dismissed the *Lindauer* Enforcement Action with prejudice.

16. Other Matters.

a. Nothing in this Agreement shall be construed as an admission by or on behalf of any Party of any wrongful acts or liabilities whatsoever.

b. The Parties represent and warrant to one another that they will not use the existence or terms of this Agreement to contest or support the fairness or reasonableness of the *Sefcovic* Settlement, or use the existence or terms of this Agreement to contest or support the jurisdiction of the United States District Court for the District of Colorado in the *Sefcovic* action. TEP may oppose an argument based on the existence or terms of this Agreement made by any Class member in *Sefcovic* challenging either the *Sefcovic* Settlement or the jurisdiction of the United States District Court for the District of Colorado in the *Sefcovic* action. The *Lindauer* Class Representatives (Lindauers) shall not take any position regarding such challenges. The Lindauers may oppose any argument based on the existence or terms of this Agreement attempting to support the *Sefcovic* Settlement or the jurisdiction of the United States District Court for the District of Colorado in the *Sefcovic* action. The *Lindauer* Class Representatives and objecting class members may utilize all other grounds available to them to contest or challenge either the *Sefcovic* Settlement and/or the jurisdiction of the Federal District Court of Colorado in the *Sefcovic* action.

c. The Parties represent and warrant to one another that the individual who executes this Agreement has the right and legal authority to execute such document on behalf of the Party for whom it acts, and that the Party has not sold, assigned, conveyed or otherwise disposed of or transferred to another entity or individual any of such Party's Actually Settled Claims.

d. The Parties expressly acknowledge that they have had the opportunity to consult additional professionals of their choice, including lawyers, accountants, and others regarding any and all damages, losses, costs, expenses, liabilities, claims and the consequences thereof, of whatsoever kind and nature, which they may have incurred or which they may or will incur, whether suspected or unsuspected, known or unknown, foreseen or unforeseen. The Parties have relied upon their own counsel's advice in entering into this Agreement and not upon the advice of any other Party's counsel.

e. The Parties and their counsel have mutually contributed to the preparation of this Agreement and the Exhibits hereto. No provision of this Agreement or the Exhibits shall be construed for or against any Party because that Party or its counsel drafted the provision. No Party has made any representation, promise or agreement of any kind to do or refrain from doing any act or thing or pay any money or other consideration not expressly set forth herein.

f. All of the Exhibits to this Agreement are material and integral parts hereto, and the Exhibits are fully incorporated herein by reference.

g. This Agreement may be amended or modified only by a written agreement signed by or on behalf of the Parties or their successors in interest.

h. This Agreement may be executed in any number of counterparts, each of which when so executed shall constitute in the aggregate but one and the same document. Facsimile signatures and/or signatures transmitted by electronic mail shall be valid and binding as original signatures.

i. This Agreement constitutes the complete Agreement between the Parties relating to the subject matter hereof, and there are no written or oral understandings or agreements directly or indirectly connected with this Agreement that are not incorporated herein. Any prior negotiations, correspondence or understandings related to the subject matter of this Agreement shall be deemed to be merged into this Agreement.

j. The provisions of this Agreement shall, where possible, be interpreted in a manner to sustain their legality and enforceability, except that the provisions of this Agreement cannot be severed, and rendering any portion of the Agreement to be unenforceable shall render the entire Agreement to be unenforceable.

k. This Agreement and its Exhibits shall be construed and interpreted under the laws of the State of Colorado.

l. This Settlement Agreement and its Exhibits shall be binding upon, and inure to the benefit of, the Parties' and the Class' successors and assigns.

[Remainder of page intentionally left blank – signature pages follow]

The Parties hereby execute this Agreement this 25th day of March, 2019, effective as of the Effective Date.

Ivo Lindauer

Ivo E. Lindauer

Sidney and Ruth Lindauer

Sidney Lindauer

Ruth L. Lindauer

Diamond Minerals, LLC

Ivo E. Lindauer

By: Ivo E. Lindauer

Title: Mgr.

TEP Rocky Mountain LLC

By: _____

Title: _____

APPROVED:

Counsel for Plaintiffs and Class

Dufford, Waddell, Robinson & Kosh

By: [Signature]

Counsel for TEP Rocky Mountain LLC

By: _____

The Parties hereby execute this Agreement this 25th day of March, 2019, effective as of the Effective Date.

Ivo Lindauer

Sidney and Ruth Lindauer

Diamond Minerals, LLC

TEP Rocky Mountain LLC

_____

By: _____

By: Michael S. Land


Title: _____

Title: President + CEO

APPROVED:

Counsel for Plaintiffs and Class

Counsel for TEP Rocky Mountain LLC

_____

By: _____

By: **Christopher Chrisman**
Holland & Hart LLP