

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

~~COURTESY COPY~~

IN RE PENN WEST PETROLEUM LTD.  
SECURITIES LITIGATION

Master File No. 14-cv-6046-JGK

~~PROPOSED~~ ORDER APPROVING DISTRIBUTION PLAN

Lead Plaintiffs moved this Court for an order approving a distribution plan for the Net Settlement Fund in the above-captioned class action (the “Action”). Having reviewed and considered all the materials and arguments submitted in support of the motion, including the Declaration of Stephanie A. Thurin in Support of Lead Plaintiffs’ Motion for Approval of Distribution Plan (the “Thurin Declaration”):

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated February 12, 2016 (ECF No. 121-1) (the “Stipulation”) and the Thurin Declaration, and all terms used herein shall have the same meanings as set forth in the Stipulation or in the Thurin Declaration.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. Lead Plaintiffs’ plan for distribution of the Net Settlement Fund to Authorized Claimants is **APPROVED**. Accordingly:

(a) The administrative recommendations of the Court-approved Claims Administrator, Epiq Class Action & Claims Solutions, Inc. (“Epiq”), to accept the Timely Eligible Claims set forth in Exhibit C-1 to the Thurin Declaration and the Late But Otherwise Eligible Claims set forth in Exhibit C-2 to the Thurin Declaration, are adopted;

(b) The Claims Administrator's administrative recommendations to reject wholly ineligible Claims as set forth in Exhibit C-3 to the Thurin Declaration, including the Disputed Claims discussed in paragraphs 27-31 of the Thurin Declaration and Exhibit B to the Thurin Declaration, are adopted;

(c) Epiq is directed to distribute 100% of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by the Court in this Order, and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, to Authorized Claimants who would receive at least \$10.00 based on their Recognized Claims in comparison to the total Recognized Claims of all Authorized Claimants, as further detailed in paragraph 43(a) of the Thurin Declaration (the "Distribution");

(d) In order to encourage Authorized Claimants to promptly cash their checks, all Distribution checks shall bear the following notation: "DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED WITHIN 90 DAYS OF ISSUE DATE." Co-Lead Counsel and Epiq are authorized to take appropriate action to locate and/or contact any Authorized Claimant who has not cashed his, her, or its check within said time as detailed in paragraph 43(a)(iv) footnote 6 of the Thurin Declaration;

(e) Authorized Claimants who do not cash their Distribution checks within the time allotted or on the conditions set forth in paragraph 43(a)(iv) footnote 6 of the Thurin Declaration shall irrevocably forfeit all recovery from the Settlement, and the funds allocated to all such stale-dated checks shall be available to be re-distributed to other Authorized Claimants, if Co-Lead Counsel, in consultation with Epiq, determine that it is

cost effective to conduct a second distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distributions (should such distributions occur) within the time allotted or on the conditions set forth in paragraph 43(a)(iv) footnote 6 of the Thurin Declaration shall irrevocably forfeit any further recovery from the Net Settlement Fund;

(f) After Epiq has made reasonable and diligent efforts to have Authorized Claimants cash their Distribution checks (as set forth in paragraph 43(a)(iv) footnote 6 of the Thurin Declaration), but no earlier than nine (9) months after the Distribution, Epiq shall, if Co-Lead Counsel, in consultation with Epiq, determine that it is cost effective to do so, conduct a second distribution of the Net Settlement Fund (the “Second Distribution”), in which any amounts remaining in the Net Settlement Fund after the Distribution, after deducting Epiq’s fees and expenses incurred in connection with administering the Settlement for which it has not yet been paid (including the estimated costs of such Second Distribution), and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, shall be distributed to all Authorized Claimants in the Distribution who cashed their Distribution check and would receive at least \$10.00 from such re-distribution based on their *pro rata* share of the remaining funds. Additional re-distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in nine-month intervals until Co-Lead Counsel, in consultation with Epiq, determine that further re-distribution is not cost effective;

(g) At such time as Co-Lead Counsel, in consultation with Epiq, determine that further re-distribution of the funds remaining in the Net Settlement Fund is not cost

effective, if sufficient funds remain to warrant the processing of Claims received after July 16, 2018, such Claims shall be processed, and any otherwise valid Claims received after July 16, 2018, as well as any earlier received Claims for which an adjustment was received after July 16, 2018 that resulted in an increased Recognized Claim amount, shall be paid in accordance with subparagraph (h) below. If any funds shall remain in the Net Settlement Fund after the payment of any such late or late adjusted Claims, the remaining balance of the Net Settlement Fund, after the payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, shall be contributed to non-sectarian, not-for-profit 501(c)(3) organization(s), to be recommended by Co-Lead Counsel and approved by the Court;

(h) No new Claims shall be accepted after July 16, 2018, and no further adjustments to Claims received on or before July 16, 2018 that would result in an increased Recognized Claim amount shall be made for any reason after July 16, 2018, subject to the following exception. If Claims are received or modified after July 16, 2018 that would have been eligible for payment or additional payment under the Plan of Allocation if timely received then, at the time that Co-Lead Counsel, in consultation with Epiq, determine that a re-distribution is not cost effective as provided in subparagraph (g) above, after the payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, such Claimants, at the discretion of Co-Lead Counsel, may be paid their distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other

Authorized Claimants who have cashed all their prior distribution checks to the extent possible;


(i) All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of such involvement, and all Settlement Class Members, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Lead Plaintiffs, Co-Lead Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Lead Plaintiffs or Co-Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released pursuant to the Settlement, beyond the amounts allocated to Authorized Claimants;

(j) All of Epiq's fees and expenses incurred in connection with the administration of the Settlement and estimated to be incurred in connection with the Distribution of the Net Settlement Fund as set forth in Exhibits D and E to the Thurin Declaration are approved, and Co-Lead Counsel is directed to pay the outstanding balance of \$711,989.24 out of the Settlement Fund to Epiq; and

(k) Unless otherwise ordered by the Court, one year after the Second Distribution, if that occurs or, if there is no Second Distribution, two years after the Distribution, Epiq shall destroy the paper copies of the Claims and all supporting documentation and, one year after all funds have been distributed, Epiq shall destroy electronic copies of the same.

4. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as this Court deems appropriate.

SO ORDERED this 14 day of September, 2018.

  
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The Honorable John G. Koeltl  
United States District Judge

