

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LESLIE ANN WILKIE PELTIER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	1:20-cv-03775-TFH
)	
SCOTT DE LA VEGA,)	
Acting Secretary of the Interior, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**ORDER CERTIFYING CLASS FOR
SETTLEMENT PURPOSES ONLY; APPOINTING CLASS REPRESENTATIVES,
CLASS COUNSEL, AND SETTLEMENT ADMINISTRATOR; AND
PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AGREEMENT AND
PLAINTIFFS’ SETTLEMENT NOTICES AND CLAIM FORMS**

This matter is before the Court on Plaintiffs’ Unopposed Motion for an Order: (1) Certifying a Plaintiff Class pursuant to Fed. R. Civ. P. 23(b)(3) for Settlement Purposes Only and Appointing Class Representatives, Class Counsel, and Settlement Administrator; and (2) Preliminarily Approving the Parties’ Class Action Settlement Agreement and Plaintiffs’ Settlement Notices and Claim Form. Upon consideration of the Motion, the fact that the Motion is unopposed, and for good cause shown, as noted during the hearing on February 11, 2021, it is ORDERED that Plaintiffs’ unopposed combined Motion should be and is hereby GRANTED. Further, it is ORDERED that

1. For the purposes of this Order, the Court adopts and incorporates by reference the definitions set forth in the Class Action Settlement Agreement, attached hereto as Exhibit 1.

2. Pursuant to Fed. R. Civ. P. 23(b)(3), and for settlement purposes only, the Court conditionally certifies a class consisting of individuals defined as follows: (a) all Original Individual Beneficiaries of the Pembina Judgment Fund 1964 and 1980 Awards, defined as: (i)

the 21,268 individuals determined by the United States Department of the Interior (“Interior” or “Interior Department”), pursuant to the 1971 Distribution Act for the 1964 Award and its implementing regulations, to be eligible to share in the distribution by Interior of the 1964 Award, regardless of whether some or all of these individuals were also determined by Interior to be eligible to share in Interior’s distribution of the 1980 Award; and (ii) the 33,584 individuals determined by Interior, pursuant to the 1982 Distribution Act for the 1980 Award and its implementing regulations, to be eligible to share in the distribution by Interior of the 1980 Award, regardless of whether some or all of these individuals were also determined by Interior to be eligible to share in Interior’s distribution of the 1964 Award; (b) all Legal Representatives of Settlement Class Members, defined as persons or entities selected by Settlement Class Members or appointed, retained, or approved under applicable federal, state, or tribal law to represent the Settlement Class Members for purposes of this Class Action; (c) all First-Line Heirs, a First-Line Heir being defined as, in the absence of applicable federal, state, or tribal law to the contrary, the living spouse, if any, of a deceased Original Individual Beneficiary, and if there is no living spouse, the oldest living child of the deceased Original Individual Beneficiary; and (d) all Second-Line Heirs, a Second-Line Heir being defined as, in those instances in which there is no First-Line Heir, the next closest living heir of a deceased Original Individual Beneficiary as determined in accordance with applicable federal, state, or tribal law. The Court finds that this conditionally certified Settlement Class meets all applicable requirements of Fed. R. C.P. 23(a) and (b)(3), including numerosity, commonality, typicality, adequate representation, predominance, and superiority.

3. Pursuant to Fed. R. Civ. P. 23(e), the Court appoints the following 65 individuals as Class Representatives for the conditionally certified Settlement Class: Leslie Ann Wilkie

Peltier; Chrystal Aurora Cornelius; Delvin Cree; Carol Ann Davis; Andrea Laverdure; Roberta Morin Lord; Coreena Joy Patnaude; Barbara Ann Marie Poitra; Larry Joseph Morsette, Jr.; William Dallas Wade Sun Child; John Wayne Gilbert; Carol Sue Doney Hofeldt; Leona Kienenberger; Larry James Salois; Dawn Louise Roath; Eunice Mae Bellanger; Wilfred Vernon Dentz; Dorothy Marilyn Gay; Frank Stephen Lhotka; Bernadette Anne Spahr; Regina Ruth Howard; Charlene Big Knife; Twila Marie Jerome; Toby Lee Lamere; Dale Roger Pesch; Gladys J. Torkelson; Deanna M. Trottier Wirtzberger; Gail Eagleman; Gaile Lynn Torres; Chane Weymer Salois; Maryjo Elizabeth Rust; Lavonne Marie Brown; Shane Michael Brien; Tacey Lynn Foster; Richard Edward Lawson; Peggy Ann Pena; Daniel Boyd Williams; Mikealinda Marae Grant; Annette Marie Charette; Robert S. DeCoteau; Lola Greatwalker; Andrew L. Laverdure; Tammy Jean Wilkie Poitra; Lee William Wilkie; Kenneth Zane Blatt St. Marks; Josephine Oats Corcoran; Yvonne Marie Hill; Kathleen Ann Franklin; Deborah Lea Ronneng; Amelia Evette Lafriniere Roy; Joyce Elaine Demarre Stewart; Aaron Vasecka; Andrew Leslie Vasecka; Devi Cole; Peter Frederick Doney; Debra Josephine Newgard; Marie Louise Nielsen; James Melvin Weigand; Georgi Ann Mitchell; Tammie Mae Simmons; Tina Marie Taylor; Jeremy John Lee Rindahl; Belinda May Harvill; Edward Timothy Ramsted; and Kathleen Butcher.

4. Pursuant to Fed. R. Civ. P. 23(g), the Court appoints as Class Counsel for the conditionally certified Settlement Class the Native American Rights Fund (NARF), including but not limited to NARF Staff Attorney Melody McCoy, as the lead attorney for the Settlement Class, and NARF Staff Attorney Kim Jerome Gottschalk, as an attorney for the Settlement Class.

5. Pursuant to Fed. R. Civ. P. 23(e), the Court grants Preliminary Approval of the Class Action Settlement Agreement that is attached hereto as Exhibit 1.

6. The Court approves Plaintiffs' Long-Form and Summary Notices that are attached

hereto as Exhibits 2 and 3. The contents of these Notices, as well as the program, plans, timelines, and processes (including those for Long-Form Notice, Summary Notice, and Other Notice), that are set forth in the Class Action Settlement Agreement and that include the mailing of direct notice and the establishment of a Settlement Administration Information Website and a Settlement Administration Information Telephone Line that have been or will be created or established and maintained by the Settlement Administrator, meet the requirements of Fed. R. Civ. P. 23(c) and (e) and of due process; they constitute the best notice practicable under the circumstances; and they constitutes due and sufficient notice to all persons entitled to such notice.

7. The Court allows Plaintiffs to proceed with their Long-Form and Summary Notices in this case without filing additional notice under the Class Action Fairness Act, 28 U.S.C. § 1715.

8. The Court appoints Class Experts Group, LLC, as the Settlement Administrator and directs that the Settlement Administrator, for the purposes of effectuating the Class Action Settlement Agreement, fulfill the roles designated for the Settlement Administrator in the Settlement Agreement, including but not limited to the mailing of the Long-Form Notice within thirty (30) calendar days of the Preliminary Approval Order date.

9. The Court approves the following deadlines and requirements for members of the Settlement Class to take relevant actions, as set forth in the Class Action Settlement Agreement:

a. Exclusions from / Opt outs of the Settlement Class must be submitted in writing and postmarked no later than April 29, 2021, to:

Pembina Settlement Administrator
c/o Class Experts Group, LLC
EXCLUSIONS
P.O. Box 995
Mequon, WI 53092

(1) At minimum, Exclusion / Opt-out requests made by any Settlement

Class Member who is an Original Individual Beneficiary must include the Original Individual Beneficiary's full name, address, and date of birth; and a statement of intent to be an Exclusion / Opt-out.

(2) Exclusion / Opt-out requests made by any Legal Representative of a Settlement Class Member must include the Settlement Class Member's name, address, and date of birth; the Legal Representative's name, address, and date of birth; Proof of Identity of the Legal Representative; Proof of Death of the Settlement Class Member, if applicable; Proof of Legal Representation—the appropriate will, Estate, Probate, appointment, retention, or approval documentation of the Legal Representative status; and a statement of intent to be an Exclusion / Opt-out.

(3) Exclusion / Opt-out requests made by any First-Line Heir or Second-Line Heir must include the Original Individual Beneficiary's name, address and date of birth; the First-Line Heir's or Second-Line Heir's name, address and date of birth; Proof of Death of the Original Individual Beneficiary; Proof of Identity of the Eligible Heir; Proof of Heirship for the First-Line Heir or Second-Line Heir; and a statement of intent to be an Exclusion / Opt-out.

b. Objections to the fairness of the Class Action Settlement Agreement must be submitted in writing and postmarked no later than April 29, 2021 to:

Pembina Settlement Administrator
c/o Class Experts Group, LLC
OBJECTIONS
P.O. Box 995
Mequon, WI 53092

(1) At minimum, objections by any Original Individual Beneficiary must include the Original Individual Beneficiary's name, address, date of birth, and Social Security

number, if any; the specific term(s) or condition(s) of the Class Action Settlement Agreement to which the Original Individual Beneficiary objects; and a statement about whether the objecting Original Individual Beneficiary intends to appear, at his or her own expense, at the Fairness Hearing.

(2) Objections by any Legal Representative of Settlement Class Members must include the Settlement Class Member's name, address, date of birth, and Social Security number; the name, address, date of birth, and Social Security number or Taxpayer Identification Number, if any, of the Legal Representative, as well as a copy of the appropriate will, Estate, Probate, appointment, retention, or approval documentation of the Legal Representative's status; Proof of Identity of the Legal Representative; Proof of Death of the Settlement Class Member, if applicable; the specific term(s) or condition(s) of the Class Action Settlement Agreement to which the Legal Representative objects; and a statement about whether the objecting Legal Representative intends to appear, at his or her own expense, at the Fairness Hearing.

(3) Objections by any First-Line Heir or Second-Line Heir must include the Original Individual Beneficiary's name, address, date of birth, and Social Security number, if any; the First-Line Heir's or Second-Line Heir's name, address, date of birth, and Social Security number, if any; Proof of Death of the Original Individual Beneficiary; Proof of Identity of the Eligible Heir; Proof of Heirship for the First-Line Heir or Second-Line Heir; the specific term(s) or condition(s) of the Class Action Settlement Agreement to which the First-Line Heir or Second-Line Heir objects; and a statement about whether the objecting First-Line Heir or Second-Line Heir intends to appear, at his or her own expense, at the Fairness Hearing.

10. The Court approves the Claim Form that is attached hereto as Exhibit 4, as well as

the provisions in the Class Action Settlement Agreement regarding the requirements, process, and timing of submission of Claim Forms that include but are not limited to the requirement that all Claim Forms and supporting documentation shall be postmarked by September 8, 2021, and submitted to:

Pembina Settlement Administrator

c/o Class Experts Group, LLC

P.O. Box 995

Mequon, WI 53092

11. The Court approves all other dates and deadlines that are set forth in the Class Action Settlement Agreement.
12. Members of the Settlement Class requesting exclusion from the Settlement Class shall not be entitled to receive any payment herein, as described in the Class Action Settlement Agreement and Long-Form Notice.
13. The parties shall submit a Joint Status Report regarding the progress of their settlement process on or before April 12, 2021.
13. The Parties shall submit a Motion for Final Approval of the Class Action Settlement Agreement on or before June 3, 2021.
14. The Court will conduct a Fairness Hearing on the Class Action Settlement Agreement, pursuant to Fed. R. Civ. P. 23(e), on June 10, 2021, at 2:00 pm EDT. At that hearing, the Court will consider and determine, *inter alia*, the following issues:
 - a. Whether the Court should provide Final Approval to the Class Action Settlement Agreement;
 - b. Whether and how much the Court should award to Class Counsel for fees, expenses, and costs;
 - c. Whether and how much the Court should award to the Settlement

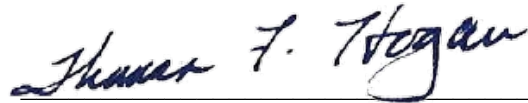
Administrator for fees, costs, and expenses; and

d. Whether and how much the Court award the Class Representatives for Service Awards.

15. Pending the Fairness Hearing, all pre-trial procedures and deadlines in this case, other than those proceedings set forth in the Class Action Settlement Agreement or which may be necessary to implement the terms of the Class Action Settlement Agreement or this Order, are hereby stayed until further notice of the Court.

SO ORDERED.

Date: February 16, 2021



THOMAS F. HOGAN
United States District Judge