IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C., on behalf of themselves and all others similarly situated, Plaintiffs, v. Marathon Oil Company, Defendant.	Case No. __-CV-___-___

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (hereinafter, including all exhibits attached hereto and/or provided for herein referred to collectively as the "Settlement Agreement") is entered into between Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C., on behalf of themselves and all others similarly situated ("Plaintiffs"), and Marathon Oil Company ("Defendant"). Plaintiffs and Defendant are collectively referred to as the "Parties." The settlement expressed in this Settlement Agreement is conditioned upon the terms and conditions set forth in this Settlement Agreement, including but not limited to the Court (1) approving this Settlement Agreement; and (2) entering the orders and judgments in material conformance described herein, as more fully described below:

WHEREAS, this action (the "Litigation") was commenced on August 7, 2017, with the filing of the Original Complaint against Defendant in the United States District Court for the Northern District of Oklahoma (Doc. 2);

WHEREAS, Plaintiffs have made certain claims against Defendant, as more fully described in the First Amended Complaint in the Northern District of Oklahoma (Doc. 89);

EXHIBIT 1

WHEREAS, the Parties desire to resolve the Litigation and, for purposes of settlement proceedings only, refile the Litigation in the United States District Court for the Eastern District of Oklahoma, as more fully described herein;

WHEREAS, Plaintiffs and Plaintiffs' Counsel have prosecuted the Litigation for over five years, which has included production of documents and data, motion practice, research, accounting review and analysis, the taking and defending of depositions, consultation by and with experts, settlement negotiations among counsel, damage modeling, and other investigations and preparation;

WHEREAS, Plaintiffs and Plaintiffs' Counsel acknowledge that, during the course of their prosecution of the Litigation, they have received, examined, and analyzed information, documents, and materials they deem necessary and appropriate to enable them to enter into this Settlement Agreement on a fully-informed basis, and after such examination and analysis, and based on the experience of Plaintiffs' Counsel and their experts and consultants, Plaintiffs and Plaintiffs' Counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate and in the best interests of the Settlement Class and Plaintiffs;

WHEREAS, Plaintiffs agreed to settle the claims asserted against Defendant in the Litigation pursuant to this Settlement Agreement after considering: (1) the substantial benefits Class Members will receive from resolution of such claims, (2) the risks of litigating those claims, and (3) the desirability of permitting the Settlement to be consummated as provided by the terms of this Settlement Agreement;

WHEREAS, Defendant agrees that further prosecution and defense of the claims against it in this Litigation would be protracted and expensive. Defendant has taken into account the uncertainty and risks inherent in any such litigation and has determined that it is desirable to compromise and settle the claims against it in the Litigation;

WHEREAS, Defendant has adamantly denied, and continues to deny, Plaintiffs' claims against it and any and all liability to Plaintiffs and the Settlement Class, and has vigorously defended against those claims; and

WHEREAS, Defendant enters into this Settlement Agreement without admitting any liability whatsoever, and solely to avoid further expense, inconvenience, and the disruption of defending against the claims asserted against it in the Litigation and to be completely free of any further controversy with respect to the claims that were asserted or could have been asserted against it in the Litigation, as more fully described herein.

NOW THEREFORE, in consideration of the payments, mutual promises, agreements, undertakings, releases, and other terms and provisions of this Settlement Agreement, the sufficiency of which is hereby acknowledged by all parties hereto, Defendant and Plaintiffs, on behalf of themselves and the Settlement Class, stipulate and agree as follows, subject to the approval of the Court, without admission of any liability or wrongdoing, and in consideration of the benefits set forth herein, that all Released Claims (defined below) shall be fully, finally, and forever compromised, settled, released, and discharged, and the Litigation shall be dismissed with prejudice, upon and subject to the following terms and conditions.

1. DEFINITIONS

As used throughout this Settlement Agreement, the Plans of Allocation, and Distribution Order, and all other documents attached hereto, the following phrases and words will be given the meanings set forth below:

1.1. "**Administration, Notice, and Distribution Costs**" means the reasonable and necessary fees, costs, and expenses charged by the Settlement Administrator (or any consultant retained by the Settlement Administrator with approval from Plaintiffs' Counsel) for fees, costs, and

expenses generated or incurred in the administration, distribution, and notification of the Settlement, including: (a) fees, costs, and expenses of identifying the names, addresses, and tax identification numbers of Class Members (to the extent not contained in the records provided by Defendant under paragraph 3.2 below); (b) fees, costs, and expenses incurred to publish and mail the Notice of Settlement to the Settlement Class (such as the cost to print the Notices of Settlement, mail the Notices of Settlement, and publish the Notices of Settlement pursuant to the Plan of Notice); (c) fees, costs, and expenses to prepare, issue, and mail (and reissue and re-mail, if necessary) the Distribution Checks to the Settlement Class; (d) fees, costs, and expenses to provide a reconciliation of the final amount of Residual Unclaimed Funds; (e) fees, costs, and expenses to calculate the amount each Class Member will receive under the Plans of Allocation; and (f) fees, costs, and expenses to calculate the amount each Class Member who does not timely and properly submit a Request for Exclusion will receive under the Final Plan of Allocation. Administration, Notice, and Distribution Costs also include the costs described in (a) through (f) above incurred by Plaintiffs' Counsel and/or Plaintiffs associated with experts, consultants, or other personnel retained for purposes of administration, distribution, and notification. Administration, Notice, and Distribution Costs also includes any fees or costs charged by the Escrow Agent related to the Escrow Account.

1.2. "**Allocation Methodology**" means the methodology Plaintiffs propose to use to calculate the amount of the Net Settlement Fund to be sent to each Class Member.

1.3. "**Case Contribution Award**" means the award ordered by the Court, if any, to Plaintiffs for the time, expense, and participation in this Litigation and in representing the Settlement Class.

1.4. "**Claim Period**" means checks or payments dated between and including September 1, 2011, through and including March 31, 2022.

1.5. "**Class Member**" is a person or entity belonging to the Settlement Class.

1.6. "**Court**" means the judge or any successor judge presiding over the Litigation in the United States District Court for the Eastern District of Oklahoma, or any successor judge presiding over the Litigation there.

1.7. "**Defendant**" means Marathon Oil Company.

1.8. "**Defendant's Counsel**" means the law firm of McAfee & Taft, a Professional Corporation.

1.9. "**Distribution Check**" means a check payable to a Class Member who does not timely and properly submit a Request for Exclusion, or who is not otherwise excluded from the Settlement Class by order of the Court, for the purpose of paying that Class Member's share of the Net Settlement Fund pursuant to the Allocation Methodology.

1.10. "**Effective Date**" means the first date by which all of the events and conditions specified in paragraph 9.4 below have occurred.

1.11. "**Escrow Account**" means an account maintained by the Escrow Agent.

1.12. "**Escrow Agent**" means the bank or financial institution mutually agreed upon by the Parties and appointed and approved by the Court to carry out the duties assigned to the Escrow Agent under this Settlement Agreement.

1.13. "**Escrow Agreement**" means the agreement(s) between Plaintiffs' Counsel (on behalf of Plaintiffs and the Settlement Class), Defendant, and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account in accordance with this Settlement Agreement. The Escrow Agreement shall be in the form agreed to by the Parties.

1.14. "**Final and Non-Appealable**" means:

a) Thirty (30) days have elapsed following entry of the Judgment without the filing of: (i) any appeal or original action in any court seeking reconsideration, modification, or vacation of the Judgment; or (ii) any motion before the Court that would extend the

time to appeal from the Judgment, or which challenges or seeks reconsideration, modification, or vacation of the Judgment; or

b) One of the kinds of proceedings or motions listed in subparagraph (a) above has been filed and has resulted in a final order or judgment by the court in which it was commenced; and that final order or judgment has itself become final and is no longer subject to further review in any court.

1.15. "**Final Fairness Hearing**" means the hearing set by the Court under Federal Rule of Civil Procedure 23(e)(2) to consider final approval of the Settlement.

1.16. "**Final Plan of Allocation**" means the final calculation of the Distribution Check that will be sent to each Class Member who has not timely and properly submitted a Request for Exclusion or otherwise been excluded from the Settlement Class by order of the Court.

1.17. "**Future Benefits and Methodology**" means the future benefits and payment methodology set forth in paragraph 2.5 below.

1.18. "**Gross Settlement Fund**" means the total cash amount of Thirty-Five Million Dollars ($35,000,000.00) to be paid by Defendant. In no event shall Defendant be required to pay more than the Gross Settlement Fund, subject to Defendant's agreement to issue CAFA notices as described in paragraph 3.6.

1.19. "**Gross Settlement Value**" means (1) the Gross Settlement Fund, and (2) the non-monetary agreements of Defendant as set out in this Settlement Agreement, including the Future Benefits and Methodology.

1.20. "**Judgment**" means the Order and Judgment Granting Final Approval of Class Action Settlement finally approving the Settlement between the Settlement Class and Defendant, which shall be in material conformance with Exhibit 2, attached hereto.

1.21. "**Litigation**" is separately defined on page 1 of this Settlement Agreement and shall be construed as including the case to be refiled in the United States District Court for the Eastern District of Oklahoma, as contemplated in paragraph 3.1.

1.22. "**Litigation Expenses**" means the reasonable costs and expenses incurred by Plaintiffs' Counsel in commencing and prosecuting the Litigation.

1.23. "**Net Settlement Fund**" means the Gross Settlement Fund less: (a) any of Plaintiffs' Attorneys' Fees and Litigation Expenses awarded by the Court; (b) any Case Contribution Awards awarded by the Court; (c) any Administration, Notice, and Distribution Costs; (d) any other costs and expenses that the Court orders to be deducted from the Gross Settlement Fund; and (e) the amount of money under the Allocation Methodology attributable to Class Members who timely and properly submitted Requests for Exclusion or who were otherwise excluded from the Settlement Class by order of the Court.

1.24. "**Notice of Settlement**" means the notice in substantially the same form as Exhibits 3 and 4, which will be mailed or posted on the website in accordance with the Plan of Notice as described in Section 3 below, and the notice in substantially the same form as Exhibit 5 attached hereto, which will be published in accordance with the Plan of Notice as described in Section 3 below.

1.25. "**Parties**" is separately defined on page 1 of this Settlement Agreement.

1.26. "**Plaintiffs**" is separately defined on page 1 of this Settlement Agreement.

1.27. "**Plaintiffs' Attorneys' Fees**" means the fees that may be awarded by the Court to Plaintiffs' Counsel with respect to their work on the Litigation.

1.28. "**Plaintiffs' Counsel**" means the law firms of Bradford & Wilson PLLC and Sharp Law, LLP.

1.29. "**Plan of Allocation**" means the proposed plan of allocation, including the "Initial Plan of Allocation," and/or any order(s) entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to the members of the Settlement Class.

1.30. "**Plan of Notice**" means the process described in paragraph 3.5 below for sending and publishing the Notice of Settlement.

1.31. "**Preliminary Approval Order**" means the order in substantially the form attached hereto as Exhibit 1 to be entered by the Court preliminarily approving the Settlement, certifying the class for settlement purposes only, and directing that Notice of Settlement be provided to the Settlement Class as set forth therein.

1.32. "**Released Claims**" means as follows: all claims and damages asserted in the Litigation (statutory, contract, tort, equitable, punitive, and other relief), and all claims, actions (including class actions), causes of action, choses in action, demands, debts, obligations, duties, liens, liabilities, and theories of liability and recovery of whatsoever kind and nature, whether in contract or tort, at law or in equity, under express or implied covenants or duties, known or unknown, accrued or unaccrued, contingent, prospective or matured, whether for actual, direct, indirect, consequential, treble, or punitive damages, disgorgement, interest, injunctive relief, declaratory relief, equitable relief, or any other type of relief, asserted or that could have been asserted in the Litigation against the Released Parties, or any of them, related to or arising from the underpayment or non-payment by the Released Parties of royalties on gas and gas constituents (including, but not limited to, helium, residue gas, natural gas liquids, nitrogen, and condensate) produced from Oklahoma oil-and-gas wells during the Claim Period.

The Released Claims do not include: (1) claims arising out of or relating to oil production; (2) claims that accrue outside the Claim Period; (3) claims for breach of obligations to develop Oklahoma oil and gas leases and failure to prevent offset drainage; and (4) any other claims that

Class Members may have against Defendant other than those related to or arising from the under-payment or non-payment by the Released Parties of royalties on gas and gas constituents produced from Oklahoma oil-and-gas wells during the Claim Period.

1.33. "**Released Parties**" means Defendant; its affiliated predecessors, successors, heirs, assignors, and assignees; any past and present parents, affiliates, and affiliated subsidiaries; and any directors, officers, employees, attorneys, agents, consultants, servants, stockholders, partners, members, representatives, insurers, subsidiaries, and affiliates of the foregoing persons or entities.

1.34. "**Releasing Parties**" means Plaintiffs and the Class Members who do not timely and properly submit Requests for Exclusion and who are not otherwise excluded from the Settlement Class by order of the Court; their successors, heirs, and assignees; and any past and present officers, employees, attorneys, agents, consultants, servants, stockholders, members, partners, owners, representatives, subsidiaries, and affiliates of such persons or entities. Releasing Parties includes all Class Members who do not timely and properly submit Requests for Exclusion and who are not otherwise excluded from the Settlement Class by order of the Court without regard to whether a member of the Settlement Class actually received a payment from the Gross Settlement Fund and without regard to whether any payment received was correctly determined. All members of the Settlement Class who do not timely and properly submit Requests for Exclusion and who are not otherwise excluded from the Settlement Class by order of the Court, and their heirs, successors, and assigns, will be enjoined by the Court in the Judgment from filing or prosecuting Released Claims.

1.35. "**Request for Exclusion**" means any request for exclusion from the Settlement Class pursuant to Federal Rule of Civil Procedure 23 that meets the requirements set by the Court for exclusion.

1.36. "**Residual Unclaimed Funds**" means any portion of the Net Settlement Fund that has not been deposited, cashed, or otherwise claimed by a Class Member, including but not limited to: (a) the total amount of Distribution Checks sent to Class Members who later cannot be located by the Settlement Administrator through reasonable efforts (as described in paragraph 6.9 below), along with any interest and returns that accrue on such amounts during the time they are in the Escrow Account, and which remain unused after final distributions and administrations have been made; and (b) the amount of Distribution Checks sent to Class Members that are voided because they are not cashed or deposited within the time specified on the Distribution Check, along with any interest and returns that accrue on such amounts during the time they are in the Escrow Account, and which remains unused after final distributions and administrations have been made.

1.37. "**Settlement**" means the Parties' agreement to resolve the Litigation as described herein.

1.38. "**Settlement Class**" shall mean the below-described class that the Parties have agreed should be certified for settlement purposes only pursuant to the entry of the Preliminary Approval Order to be entered by the Court in the same or similar form attached hereto as Exhibit 1. The Settlement Class is to be substantially defined as follows:

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
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> Excluded from the Class are: (1) agencies, departments, or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners

and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

Except as expressly excluded from the Settlement Class as set forth above, the Parties intend the Settlement Class to be construed as broadly as possible to include all persons or entities that otherwise meet the definition of the Settlement Class.

2. Consideration

2.1. The Parties agree to settle the Litigation as set forth herein. In exchange for Plaintiffs' releases, covenants, and agreements in the Settlement, both on their behalf and on behalf of the Class Members, Defendant agrees to provide Plaintiffs and the Settlement Class the Gross Settlement Value.

2.2. Defendant shall pay the Gross Settlement Fund ($35,000,000.00) into the Escrow Account within ten (10) days following the date the Court enters the Judgment finally approving the Settlement in a substantially similar form to that jointly proposed by the Parties.

2.3. Except for Defendant's obligation to make the payment called for in paragraph 2.2, neither Defendant nor Defendant's Counsel shall have any liability to Plaintiffs, Plaintiffs' Counsel, or the Settlement Class with respect to the Gross Settlement Fund or its administration, including but not limited to any distributions made by the Escrow Agent or Settlement Administrator. If Defendant fails to pay the amount of the Gross Settlement Fund into the Escrow Account within the times specified above, beginning on the date on which each payment is due, such amount will

accrue compounded interest at the annual rate of 12% on the first business day of the calendar year in which the payment is due.

2.4. The Parties agree that the Settlement of the Released Claims is supported by adequate consideration and the Parties' agreements, releases, and covenants herein.

2.5. Future Benefits and Methodology: Defendant and the Settlement Class agree to the following methodology for future royalty payments: Defendant will not deduct treating, dehydration, gathering, and compression from royalty payments to Class Members, and Defendant may deduct the reasonable and actual costs or volumes for field and plant fuel, processing, mainline transportation, and transportation and fractionation of natural gas liquids from royalty payments (the "Future Methodology"). The Future Methodology will be in place for a period of ten (10) years following the Claim Period. Settlement Class Members are bound by the Future Methodology and cannot assert claims against Defendant for deducting field and plant fuel, processing, mainline transportation, or transportation and fractionation of natural gas liquids from royalty payments during this ten (10) year period. Defendant shall have a period of twelve (12) months from the execution of this Agreement to implement the Future Methodology; provided, however, that within said twelve-month period Defendant will implement reverse and rebooks to refund any treating, dehydration, gathering, and compression deductions from the Settlement Class for payments already made in the ten (10) year Future Methodology period. The Future Methodology will be binding on the Parties' and the Settlement Class's successors and assigns.

2.6. The Class Members who have not timely and properly submitted a Request for Exclusion and are not excluded from the Settlement Class by Order of the Court agree, in consideration of the agreements of Defendant in this Settlement Agreement, to give the Release, Dismissal and Covenant Not to Sue described in paragraph 4, below. Plaintiffs' experts will estimate the value of the Future Benefits and Methodology in conjunction with their final approval motions.

Defendant has not analyzed and will not take any position regarding Plaintiffs' experts' estimated value, if any, of the Future Benefits and Methodology submitted to the Court. Plaintiffs, the Settlement Class, and Defendant agree that, if the actual financial benefit described in the Future Benefits and Methodology differs from the estimate provided by Plaintiffs or Plaintiffs' Counsel, there shall be no effect on the validity or scope of the release of Released Claims, and no Class Member shall be entitled to assert any claim regarding that estimate against Defendant, Defendant's Counsel, any Class Member, Plaintiffs' Counsel, Plaintiffs, or any of their successors and assigns.

3. Plan of Notice and Court Approvals

3.1. No later than fourteen (14) days following execution of the formal settlement agreement, the Parties will file a stipulation of dismissal without prejudice in the Northern District of Oklahoma proceeding. Within two (2) business days of that dismissal without prejudice, Plaintiffs will initiate a new proceeding in the U.S. District Court for the Eastern District of Oklahoma ("EDOK"). The new "Complaint" will be in the form attached hereto as Exhibit 6. The Parties agree to consent to a magistrate in EDOK for consideration of the Settlement and to submit the appropriate forms to effectuate that assignment. If for any reason the Settlement is terminated, the Court does not enter the proposed Preliminary Approval Order or the proposed Judgment in material conformance with the forms submitted by the Parties, or if it is no longer possible for the Judgment to become Final and Non-Appealable, then, at the option of any Party hereto, the EDOK litigation shall be dismissed without prejudice. No later than seven (7) days from and after the filing of the new Complaint in EDOK, Plaintiffs will file a motion with the Court seeking preliminary approval of the Settlement, which shall include the proposed Preliminary Approval Order, in the form attached hereto as Exhibit 1, which will, *inter alia*: (a) certify the Settlement Class for the purposes of this Settlement only; (b) preliminarily approve this Settlement Agreement; (c) approve of the Notice of Settlement and Plan of Notice; and (d) direct the Settlement Administrator to

provide the Notice of Settlement to the Settlement Class in accordance with the Plan of Notice or in any other manner the Court may direct in accordance with Federal Rule of Civil Procedure 23.

3.2. To the extent not already provided, Defendant will provide the names, last known addresses, and taxpayer identification numbers for the Settlement Class within ten (10) days after entry of the Preliminary Approval Order by the Court, to the extent such information is contained in Marathon's business records. Such information will be treated as confidential and will only be used for purposes of effectuating this Agreement and any Orders of the Court. It is understood and agreed that Marathon is under no obligation to verify the accuracy of such information or to obtain information it does not currently have in its records. Plaintiffs' Counsel shall be responsible for advancing all notice, distribution, and administration costs, except for the expense of the CAFA notice described in paragraph 3.6.

3.3. Defendant agrees to cooperate in providing this data to Plaintiffs' Counsel and understands that the deadlines set forth in this Settlement Agreement are based in part on Defendant's timely provision of this data to Plaintiffs' Counsel.

3.4. After the Preliminary Approval Order is entered and prior to sending the Notice of Settlement, the Settlement Administrator shall make reasonable efforts to: (a) verify the last known addresses of potential Class Members provided by Defendant pursuant to paragraph 3.2, and (b) locate current addresses of any potential Class Members for whom Defendant has not provided an address.

3.5. No later than thirty (30) days after entry of the Preliminary Approval Order, or at such time as is ordered by the Court, the Settlement Administrator will mail (or cause to be mailed) the postcard Notice of Settlement by mail (Exhibit 3) to all Class Members who have been identified after reasonable efforts to do so and will post on the settlement website the Notice of Settlement (Exhibit 4). The postcard Notice of Settlement (Exhibit 3) will be mailed to Class Members

using the data described in paragraph 3.2 above and any updated addresses found by the Settlement Administrator. No later than ten (10) days after the Notice is mailed, or at such time as is ordered by the Court, the Settlement Administrator also shall publish (or cause to be published) the summary Notice of Settlement (Exhibit 5) one time in each of the following newspapers: (a) *The Oklahoman*, a paper of general circulation in Oklahoma; and (b) *The Tulsa World*, a paper of general circulation in Oklahoma. Within 10 days after mailing the postcard Notice of Settlement and continuing through the date of the Final Fairness Hearing, the Settlement Administrator also will display (or cause to be displayed) on an Internet website dedicated to this Settlement the following documents: (a) the Notice of Settlement, (b) the new Complaint, (c) this Settlement Agreement, (d) the Preliminary Approval Order; and (e) other publicly filed documents related to approval of the Settlement. Defendant, Defendant's Counsel, Plaintiffs, the Settlement Class, and Plaintiffs' Counsel shall not have any liability for failure of the Notice of Settlement to reach any Class Member.

3.6. At its sole expense, Defendant shall issue the notice of settlement contemplated by the Class Action Fairness Act of 2005 ("CAFA") in accordance with the deadlines provided by CAFA, but no later than ten (10) days after Plaintiffs' Motion for Preliminary Approval is filed with the Court. Any failure or delay by Defendant to timely issue any CAFA notice shall not be sufficient reason to delay or continue the Final Fairness Hearing.

3.7. No later than twenty-eight (28) calendar days prior to the Final Fairness Hearing, if the Settlement has not been terminated pursuant to this Settlement Agreement, Plaintiffs' Counsel and Plaintiffs shall move for: (a) final approval of the Settlement pursuant to Federal Rule of Civil Procedure 23(e); (b) entry of a Judgment in substantially the same form as Exhibit 2 attached hereto; (c) final approval of the Allocation Methodology and Initial Plan of Allocation; and (d) approval of Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration,

Notice, and Distribution Costs, and/or Case Contribution Awards. The Parties will request the Court hold a Final Fairness Hearing as described in the Notice of Settlement, and then enter Judgment, specifically approving all terms and provisions of the Settlement, including the Allocation Methodology and Initial Plan of Allocation; provided, however, that Defendant will take no position on the Allocation Methodology nor any Plan of Allocation implementing the Allocation Methodology.

3.8. Plaintiffs' Counsel will advance all Administration, Notice, and Distribution Costs prior to the entry of the Final Approval Order, and Plaintiffs' Counsel may seek reimbursement of these costs as provided for herein.

4. Release, Dismissal, and Covenant Not to Sue

4.1. Upon the Effective Date, the Released Parties, individually and collectively, shall be fully, finally, and forever released from the Released Claims of the Class Members and other Releasing Parties who are not excluded from the Settlement Class by virtue of a timely and properly submitted Request for Exclusion or other Court order, and such Releasing Parties shall be enjoined from asserting or prosecuting any Released Claims against any Released Parties.

4.2. Upon the Effective Date and for the consideration provided for herein, each and every Class Member who has not timely and properly submitted a Request for Exclusion and who is not excluded from the Settlement Class (a) agrees and covenants that, in addition to the foregoing release of the Released Claims, he, she, or it shall not, at any time, directly or indirectly, on the Class Member's behalf, sue, institute, or assert against the Released Parties any claims or actions on or concerning the Released Claims, and (b) acknowledges that the foregoing covenant shall apply and have effect by virtue of this Settlement Agreement and by operation of the Judgment. Each Class Member who has not timely and properly submitted a Request for Exclusion and who is not excluded from the Settlement Class further agrees and acknowledges that the covenants not

to sue provided for in this paragraph are made to inure to the benefit of, and are specifically enforceable by, each of the Released Parties.

4.3. The Judgment approving the Settlement Agreement shall dismiss the Released Claims with prejudice. However, any continuing obligations under this Settlement Agreement shall survive the entry of the Judgment. The Court, along with any appellate court with power to review the Court's orders and rulings in the Litigation, will retain exclusive and continuing jurisdiction over this Litigation for purposes of administering this Settlement Agreement and any issues associated therewith.

5. Escrow Account and Payment of Taxes

5.1. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Settlement Agreement and/or further order of the Court. Unless otherwise agreed to in writing between Defendant and Plaintiffs' Counsel, the Escrow Agent shall deposit the funds in an interest-bearing account. All risks related to the investment of the Gross Settlement Fund and any risk of loss of the fund deposited in the Escrow Account shall be borne by the Gross Settlement Fund alone and not by Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, or the Settlement Administrator.

5.2. The Parties agree that the Gross Settlement Fund is intended to be a qualified settlement fund within the meaning of Treasury Regulation § 1.468B-1 and that the Settlement Administrator, as administrator of the Escrow Account within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for timely filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). All taxes on the income earned on the funds in the Escrow Account shall be paid out of the Escrow Account as provided herein and pursuant to

the disbursement instructions set forth in the Escrow Agreement. The Settlement Administrator shall also be solely responsible for causing payment to be made from the Gross Settlement Fund of any taxes owed with respect to the Gross Settlement Fund. The Settlement Administrator, as administrator of the Gross Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back election," as described in Treasury Regulation § 1.468B-1(j), to cause the qualified settlement fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

5.3. Any tax returns prepared for the Gross Settlement Fund (as well as the election set forth therein) shall be consistent with the Settlement Agreement and in all events shall reflect that all taxes (including any interest or penalties) on the income earned by the Gross Settlement Fund shall be paid out of the Gross Settlement Fund as provided herein. The Gross Settlement Fund shall indemnify and hold all Released Parties, Defendant, Defendant's Counsel, Plaintiffs, and Plaintiffs' Counsel harmless for any taxes and related expenses of any kind whatsoever (including without limitation, taxes payable by reason of any such indemnification) on income earned while the Gross Settlement Fund (or any portion thereof) is in the Escrow Account. The Parties shall notify the Escrow Agent promptly if they receive any notice of any claim for taxes relating to the Gross Settlement Fund.

5.4. All income taxes, if any, incurred on the part of the Class Members in connection with the implementation of this Settlement Agreement shall be reported and paid by the individual Class Members to the extent of their individual tax liability on proceeds they individually receive. Except for any amounts withheld for tax purposes by the Settlement Administrator, the individual Class Members are solely responsible for the payment of any taxes attributable to payments to

them under this Settlement Agreement. Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, the Gross Settlement Fund, and the Settlement Administrator shall have no responsibility or liability whatsoever for any such taxes. Defendant, Defendant's Counsel, and the Class Members will bear no responsibility for any taxes due on Plaintiffs' Attorney's Fees, any reimbursement of Litigation Expenses or Administration, Notice, and Distribution Costs, or any Case Contribution Awards and such taxes will not be paid from the Escrow Account.

5.5. All distributions shall be subject to any required federal or state income tax withholding, which the Settlement Administrator shall be entitled to withhold and pay to the appropriate taxing authorities. The Settlement Administrator shall provide IRS Form 1099s or other explanations of payments to Class Members sufficient to allow Class Members to know that proper tax payments have been or can be made or to allow them to submit requests for refunds. In the event Distribution Checks are not cashed or are returned to the Settlement Administrator, such that the Class Members do not receive payment of the amounts distributed, the Settlement Administrator shall make reasonable efforts to identify a correct address for such Class Members and shall request a refund to the taxing authority to whom any withheld taxes were paid on behalf of the Class Member who did not receive payment. The Parties and their Counsel shall have no liability for any filed IRS Form 1099s. The Gross Settlement Fund shall indemnify and hold all Released Parties, Defendant, Defendant's Counsel, Plaintiffs, and Plaintiffs' Counsel harmless for any penalties and related expenses of any kind whatsoever associated with any filed IRS Form 1099s. The Parties shall notify the Escrow Agent promptly if they receive any notice of any claim for penalties relating to a filed IRS Form 1099.

5.6. The Parties agree that Defendant, Defendant's Counsel, Plaintiffs, and Plaintiffs' Counsel have no responsibility or liability for any severance taxes or other taxes that may be due on the amounts disbursed to the Class Members from the Escrow Account.

5.7. In the event Defendant is required to pay any taxes or assessments attributable to the Class Members, including any applicable interest or penalties, each Class Member will indemnify Defendant as to the taxes, assessments, interest, and penalties attributable to such Class Member paid by Defendant. Without limitation of the foregoing, Defendant shall be entitled to recover from each Class Member that portion of such taxes or assessments, interest, and penalties attributable to the portion of the Net Settlement Fund allocated to such Class Member by any lawful means available to Defendant, including deduction or offset from any future payments to the Class Member. Defendant's Counsel shall not have any responsibility or liability whatsoever for any taxes or assessments, interest, or penalties on amounts distributed to a Class Member. Plaintiffs and Plaintiffs' Counsel shall not have any responsibility or liability whatsoever for any taxes or assessments, interest, or penalties on amounts distributed to another Class Member.

5.8. Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, and the Settlement Administrator do not provide any tax advice whatsoever and shall have no liability whatsoever for any taxes or assessments due, if any, on the Gross Settlement Fund, and make no representation or warranty regarding the tax treatment of any amount paid or received under this Settlement. Any Class Member with tax questions or concerns is urged to immediately contact his/her/its own tax adviser. Defendant will have no input in determining the amount of taxes payable by the Settlement Class or how the taxes will be paid from the Gross Settlement Fund and likewise will not be bound in any respect by such determination or be attributed with any agreement as to whether the taxes paid by the Settlement Class are due or payable.

5.9. The Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the maintenance, investment, or distribution of the Net Settlement Fund, the establishment or maintenance of the Escrow Account, the payment or withholding of any taxes, or any other expenses or losses in connection with such matters.

5.10. Before making any distribution, the Settlement Administrator and/or Plaintiffs' Counsel must request and receive approval from the Court. The request for distribution shall include the amount of the distribution, a summary of the items included in the proposed distribution, and any supporting information or testimony necessary for the Court to verify that the amount comports with the terms of the Settlement and any applicable Court order.

6. Claims Administration, Allocation, and Distribution of Net Settlement Fund

6.1. The Allocation Methodology is a matter separate and apart from the proposed Settlement between Plaintiffs and Defendant and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of this Settlement. Provided that none of the terms of the Settlement are modified by such decision, any decision by the Court concerning the Allocation Methodology shall not affect the validity or finality of the Settlement or operate to terminate or cancel this Settlement or affect the finality of the Judgment. Further, after the issuance of any notice contemplated by this Settlement Agreement or ordered by the Court, the Allocation Methodology may be modified without any further notice being required, provided the modification is approved by the Court.

6.2. Plaintiffs' Counsel shall, subject to Court approval, allocate the Net Settlement Fund to individual Class Members proportionately based primarily on the extent of post-production deductions reflected in Defendant's payment detail for the Claim Period. No distributions will be made to Class Members who would otherwise receive a distribution of $5.00 or less under the Initial Plan of Allocation. This *de minimis* threshold is set in order to preserve the overall Net Settlement Fund from the costs of claims that are likely to exceed the value of those claims. It has been determined by Plaintiffs' Counsel that $5.00 is a reasonable *de minimis* threshold. A Class Member that falls into this category may request to be excluded from this Litigation as described in this Settlement Agreement or otherwise will be bound by the Settlement Agreement and all

provisions thereof despite receiving no payment under the Final Plan of Allocation. In the event the Court declines to approve the $5.00 *de minimis* payment provision contained in this paragraph, such refusal will not be grounds to disturb or terminate the Settlement Agreement by any Party; instead, Plaintiffs' Counsel will submit an alternative plan of allocation that does not include the $5.00 *de minimis* payment provision contained in this paragraph. Plaintiffs will utilize any information provided by Defendant to direct any allocation to Class Members for the Claim Period. This allocation is subject to modification by Plaintiffs' Counsel and final approval by the Court. Defendant shall have no responsibility for the allocation and distribution of the Gross Settlement Fund and shall not be liable for any claims by, through, or under any Class Member or any third party relating to the allocation or distribution of the Gross Settlement Fund, including but not limited to any claims that a Class Member should have been allocated and distributed a different amount of the Gross Settlement Fund than it actually received or than provided by any Plan of Allocation. Defendant will be indemnified by any Class Member asserting any such claims (or by, through, or under whom such claims are asserted) from and against any losses, liabilities, costs, and expenses, including attorneys' fees, arising out of or relating to the assertion of any such claims.

6.3. To the extent not already provided, and to the extent such information is reasonably available from Defendant's active business records, Defendant will provide, no later than sixty (60) days prior to the Final Fairness Hearing, Plaintiffs and Class Counsel with information concerning which Oklahoma royalty owners are subject to express deduction or express no-deduction leases in particular oil and gas wells in Oklahoma. Defendant is under no obligation to verify the accuracy of such information nor to obtain or synthesize information not reasonably available from its current records. No later than twenty-eight (28) days prior to the Final Fairness Hearing, Plaintiffs' Counsel will provide a Plan of Allocation to Defendant, subject to extension if Defendant has not

provided all of the data it is obligated to provide pursuant to paragraph 3.2 above and this paragraph. The Plan of Allocation will reflect the amount of the Distribution Check to be sent to each Class Member based upon (a) data provided by Defendant pursuant to paragraph 3.2 above; (b) the assumption that no Class Member timely and properly submits a Request for Exclusion from the Settlement Class or is excluded from the Settlement Class by other order of the Court; and (c) the assumption that Plaintiffs' Counsel's application for Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards will be approved. Plaintiffs' Counsel may rely on the data provided by Defendant pursuant to paragraph 3.2 above and this paragraph for purposes of the Plans of Allocation and is under no obligation to independently verify such data. Plaintiffs will submit for approval by the Court the Initial Plan of Allocation based on the provisions of this section as part of or in conjunction with the Final Fairness Hearing.

6.4. Within sixty (60) days after the Effective Date, Plaintiffs will file and seek approval of a distribution order with the Court assuming the Final Plan of Allocation has been approved by the Court ("Distribution Order"). The Distribution Order will indicate the proportionate amount of the Net Settlement Fund to be paid to each Class Member pursuant to the Allocation Methodology and the Final Plan of Allocation.

6.5. Within thirty (30) days after the Effective Date, the Settlement Administrator will (a) refund from the Net Settlement Fund to Defendant the amount attributable to Class Members in the Initial Plan of Allocation who timely and properly submitted a Request for Exclusion or who were otherwise excluded from the Settlement Class by order of the Court, and (b) provide Defendant with the detail necessary for the Court and Defendant to verify the Settlement Administrator's calculation of the refund amount from the Net Settlement Fund.

6.6. The Settlement Administrator shall administer the Settlement and distribute the Net Settlement Fund under Plaintiffs' Counsel's supervision in accordance with this Settlement Agreement and subject to the jurisdiction of the Court. Plaintiffs, Defendant, and their respective Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms. The Net Settlement Fund shall be distributed to Class Members who have not timely and properly submitted a Request for Exclusion and who are not excluded from the Settlement Class according to the Final Plan of Allocation, as determined by Plaintiffs' Counsel, or according to such other Plan of Allocation and Distribution Order(s) as the Court approves. Further, to the extent Defendant has not provided the taxpayer identification number for a Class Member, the Settlement Administrator shall make reasonable efforts to obtain the Class Member's tax identification number, including making reasonable inquiry and sending a form W-9 Request for Taxpayer Identification Number and Certification to the best reasonably obtainable address of the Class Member.

6.7. The Settlement Fund will not be distributed without Court approval. In the event the Settlement is not approved by the Court in substantially similar form to that jointly proposed by the Parties or if the Judgment does not become Final and Non-Appealable, the Gross Settlement Fund will be returned to Defendant within twenty (20) days at Defendant's election in accordance with paragraph 9.5.

6.8. After Court approval of the Final Plan of Allocation and entry of a Distribution Order, the Settlement Administrator will make prompt distribution of funds to those ordered by the Court to receive those funds. The Settlement Administrator will only make distributions based on the Final Plan of Allocation and Distribution Order approved by the Court. It is contemplated that distributions may be made in waves, where using that approach is more efficient for the Settlement

Administrator, so that payments to readily identified owners are not unduly delayed. The Settlement Administrator will make a diligent effort to mail the first Distribution Checks within ninety (90) days after the entry of the Distribution Order. The Settlement Administrator will make a diligent effort to distribute the remainder of the Net Settlement Fund to Class Members who have not timely and properly submitted a Request for Exclusion and who are not excluded from the Settlement Class within six (6) months after the Distribution Order, but in no event shall the Settlement Administrator require more than twelve (12) months after the first distribution is made to distribute the remainder of the Net Settlement Fund, unless otherwise ordered by the Court for good cause shown as to why final distribution could not occur within the timeframe contemplated by this Settlement. Any portion of the Net Settlement Fund remaining in the Escrow Account after the void date for each Distribution Check, and after all administration efforts are concluded, will be considered Residual Unclaimed Funds.

6.9. The Settlement Administrator will use commercially reasonable efforts, subject to review and approval by Plaintiffs' Counsel, to distribute the Net Settlement Fund. Defendant will provide all reasonably accessible information in its possession to assist in locating Class Members who have not timely and properly submitted a Request for Exclusion and who are not excluded from the Settlement Class by Order of the Court. If the information needed to send a Distribution Check cannot be obtained through such efforts, the portion of the Net Settlement Fund attributable to such Class Member will remain in the Escrow Account as Residual Unclaimed Funds.

6.10. If a Distribution Check is returned to the Settlement Administrator under circumstances suggesting the Class Member did not receive the Distribution Check (e.g., a mailed item returned due to an incorrect, insufficient, or outdated address), the Settlement Administrator and/or consultants working with the Settlement Administrator will use commercially reasonable methods to locate an updated address and will re-issue and re-mail the Distribution Check. If the information

needed to send a Distribution Check cannot be obtained through such efforts, the portion of the Net Settlement Fund attributable to such Class Member will remain in the Escrow Account as Residual Unclaimed Funds.

6.11. Included with each Distribution Check shall be an enclosure that includes the following notice (or, if a change is required by the Court, a notice substantially the same as the following):

> Class Member: The enclosed check represents a share of the net settlement fund in the settlement of the Class Action *Kunneman Properties LLC, et al. v. Marathon Oil Company*, Case No. __-CV-___-___, United States District Court for the Eastern District of Oklahoma. You are receiving this distribution and check because you have been identified as a Class Member in this action. If you are not legally entitled to the proceeds identified on the check, the Court has entered an Order that requires you to pay these proceeds to persons legally entitled thereto or return this check uncashed to the sender.
>
> The person to whom this check was originally made payable, and anyone to whom the check has been assigned by that person, has accepted this payment pursuant to the terms of the Settlement Agreement, Notice of Settlement, and Judgment related thereto, which releases, inter alia, Defendant and the other Released Parties (as defined in the Settlement Agreement) from any and all Released Claims (as defined in the Settlement Agreement). Pursuant to the Order of the Court, it is the duty of the payee of the check to ensure that the funds are paid to the Class Member(s) entitled to the funds, and the release by Class Member(s) entitled to the funds shall be effective regardless of whether such Class Member(s) receive some, all, or none of the proceeds paid to a payee of a settlement check.
>
> This check shall be null and void if not endorsed and negotiated within ninety (90) days after its date. The release of claims provided in the settlement shall be effective regardless of whether this check is cashed.

6.12. Defendant, Defendant's Counsel, the Settlement Administrator, Plaintiffs, and Plaintiffs' Counsel shall have no liability to any Class Member for mispayments, overpayments, or underpayments of the Net Settlement Fund.

6.13. Upon completing all distributions of the Net Settlement Fund (including any necessary supplemental distributions), complying with the Court's order(s) in furtherance of this Set-

tlement, and distributing the Residual Unclaimed Funds pursuant to the Court's order(s), the Settlement Administrator will have satisfied all obligations relating to the payment and distribution of the Net Settlement Fund.

6.14. To the extent not specifically addressed above, any other amount of the Net Settlement Fund that remains in the Escrow Account one calendar year after the Settlement Administrator sends the final wave of Distribution Checks and for which further distribution is not economically reasonable, shall be considered Residual Unclaimed Funds.

6.15. The Settlement Administrator shall provide notice to Plaintiffs' Counsel and Defendant's Counsel of its sending of the final wave of Distribution Checks as contemplated by paragraph 6.8 within ten (10) calendar days of said sending of Distribution Checks. Within ten (10) days after the twelve (12) month period described in by paragraph 6.8, the Settlement Administrator shall additionally send a reconciliation of the Residual Unclaimed Funds to the Parties' Counsel. The reconciliation must include (a) a detail of each distribution made; (b) the detail of any interest or other returns earned; (c) the total Residual Unclaimed Funds and detail sufficient to verify that total; and (d) detail showing the total amount of the Administration, Notice, and Distribution Costs paid. Within five (5) business days following receipt of this information, Plaintiffs' Counsel will move the Court for distribution of the Residual Unclaimed Funds to Defendant. The Settlement Administrator will distribute the Residual Unclaimed Funds pursuant to the Court's order following that motion within five (5) business days of said order of the Court.

6.16. [reserved]

6.17. The Court shall retain jurisdiction to determine any issues relating to the payment and distribution of the Net Settlement Fund, and any claims relating thereto shall be determined by the Court alone, and shall be limited to a determination of the claimant's entitlement to any portion

of the Net Settlement Fund, and no consequential, punitive, or other damages; fees; interest; or costs shall be awarded in any proceeding regarding any such determination.

6.18. The Release, Dismissal, and Covenant Not to Sue shall be effective as provided in this Settlement Agreement, regardless of whether or not particular members of the Settlement Class did or did not receive payment from the Net Settlement Fund and regardless of whether or not any Class Member who was obligated pursuant to the Judgment to pay some or all of the distributed funds to another Class Member in fact made such payment to such other member of the Settlement Class. The failure of a Class Member to receive a payment from the Net Settlement Fund or the failure of a Class Member to make payment to another Class Member pursuant to the payment obligations of the Judgment shall not be a defense to enforcement of the Release of the Released Claims against the Released Parties or the Covenant Not to Sue, as to any Class Member.

6.19. Except in the case of willful and intentional malfeasance of a dishonest nature directly causing such loss, Plaintiffs' Counsel, Plaintiffs, the Settlement Class, Defendant's Counsel, and Defendant shall have no liability for loss of any portion of any funds under any circumstances and, in the event of such malfeasance, only the party whose malfeasance directly caused the loss has any liability for the portion of funds lost.

7. Plaintiffs' Attorneys' Fees, Case Contribution Awards, and Litigation Expenses

7.1. No later than twenty-eight (28) calendar days prior to the Final Fairness Hearing, Plaintiffs' Counsel may apply to the Court for an award of Plaintiffs' Attorneys' Fees, Case Contribution Awards to Plaintiffs, and for reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs. Defendant has no obligation for Plaintiffs' Attorneys' Fees, Case Contribution Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs, which shall be paid from the Gross Settlement Fund. Defendant shall not take any position with respect to the applications; the amount of Plaintiffs' Attorneys' Fees, Case Contribution Awards,

or Litigation Expenses and Administration, Notice, and Distribution Costs sought; or with respect to whether the Court should make any or all such awards. Defendant specifically agrees not to contest an application for Plaintiffs' Attorneys' Fees up to and including 40% of the Gross Settlement Fund. Any award of Plaintiffs' Attorneys' Fees will be governed by federal common law as set forth in paragraph 11.7. Plaintiffs and Plaintiffs' Counsel agree to seek any award of Plaintiffs' Attorneys' Fees, Case Contribution Awards to Plaintiffs, and Litigation Expenses and Administration, Notice, and Distribution Costs exclusively from the Gross Settlement Fund. The Released Parties shall have no responsibility for and shall take no position with respect to Plaintiffs' Attorneys' Fees, Litigation Expenses or Administration, Notice, and Distribution Costs, or Case Contribution Awards, nor will they encourage or communicate with any anyone to object thereto.

7.2. Subject to the conditions and qualifications set forth below, any Plaintiffs' Attorneys' Fees and reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs that are awarded to Plaintiffs' Counsel by the Court shall be paid to Plaintiffs' Counsel from the Gross Settlement Fund, to the extent practicable through reasonably diligent efforts by the Escrow Agent, one (1) business day following the date the Judgment becomes Final and Non-Appealable.

7.3. Any Case Contribution Awards that are awarded by the Court shall be paid to Plaintiffs from the Gross Settlement Fund, to the extent practicable through reasonably diligent efforts by the Escrow Agent, one (1) business day following the date the Judgment becomes Final and Non-Appealable.

7.4. An award of Plaintiffs' Attorneys' Fees, Case Contribution Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs is not a necessary term of this Settlement Agreement and is not a condition of this Settlement Agreement. No decision by the Court or any court on any application for an award of Plaintiffs' Attorneys' Fees, Case Contribution

Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs shall affect the validity or finality of the Settlement. Plaintiffs and Plaintiffs' Counsel may not cancel or terminate the Settlement Agreement or the Settlement based on this Court's or any other court's ruling with respect to Plaintiffs' Attorneys' Fees, Case Contribution Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs.

8. Requests for Exclusion

8.1. Plaintiffs shall not submit Requests for Exclusion and neither Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, nor anyone acting on behalf of said persons or entities, shall encourage or communicate with anyone else regarding submission of a Request for Exclusion. Nevertheless, this Settlement Agreement does not prohibit Plaintiffs' Counsel from counseling any Class Member as to his, her, or its legal rights under this Settlement Agreement or prohibit any Class Member who seeks such counsel from Plaintiffs' Counsel from electing to file a Request for Exclusion from the Settlement Class in accordance with the Court's orders on the subject.

8.2. Any putative Class Member who timely and properly submits a valid Request for Exclusion, as described below, shall have no right to object to the Settlement in any way, including but not limited to, the fairness, reasonableness and/or amount of any aspect of the Settlement, Notice of Settlement, Plaintiffs' Attorneys' Fees and Litigation Expenses and Administration, Notice, and Distribution Costs, Case Contribution Awards, the Allocation Methodology, any Plan of Allocation using the Allocation Methodology, or any distribution of the Net Settlement Fund or Residual Unclaimed Funds.

8.3. All Requests for Exclusion must be served on Defendant's Counsel, Plaintiffs' Counsel, and the Settlement Administrator by United States Certified Mail, Return Receipt Requested, in compliance with any and all requirements imposed on Requests for Exclusion as contained in the Preliminary Approval Order and the Notice of Settlement, in the manner set by the

Court at least twenty-one (21) calendar days prior to the Final Fairness Hearing, unless such deadline is changed or altered by Order of the Court.

8.4. All Requests for Exclusion must include: (a) the Class Member's name, address, telephone number, and notarized signature; (b) a statement that the Class Member wishes to be excluded from the Settlement Class in *Kunneman Properties LLC, et al. v. Marathon Oil Company*, and (c) a description of the Class Member's interest in any wells for which Defendant remitted oil-and-gas proceeds, including the name of the well, the well number, the county in which the well is located, and the owner identification number. Requests for Exclusion may not be submitted through the website or by telephone, facsimile or e-mail.

9. Termination

9.1. If (a) the Court enters an order denying the motion for preliminary approval of the Settlement or expressly declines to enter the Preliminary Approval Order; (b) the Court refuses to approve this Settlement Agreement; (c) the Court denies the motion for final approval or declines to enter the Judgment; or (d) the Judgment is modified or reversed and such modification or reversal becomes Final and Non-Appealable, this Settlement Agreement shall terminate, and the Parties shall revert to the positions they occupied before the Settlement; provided, however, that any court decision, ruling, or order solely with respect to an application for Plaintiffs' Attorneys' Fees, Case Contribution Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs, or to the Allocation Methodology (or any Plan of Allocation using the Allocation Methodology) shall not be grounds for termination.

9.2. Defendant shall have the right and option, in its sole discretion, to terminate this Settlement if Class Members who have claims which, in the aggregate, exceed twenty percent (20%) of the Net Settlement Fund elect to opt out of this Settlement. Within five (5) days after the opt-out period ends, the Settlement Administrator shall determine whether the aforesaid threshold

for opt-outs has been met and will notify Plaintiffs' Counsel and Defendant's Counsel in writing regarding the results of that determination and simultaneously provide a list of the Class Members who have submitted Requests for Exclusion. Defendant must elect to terminate this Settlement by written notice delivered to Plaintiffs' Counsel on or before the expiration of ten (10) business days following the date on which the Settlement Administrator provides the above-referenced written notice of the threshold for opt-outs. If Defendant does not exercise its right to terminate on or before the expiration of that ten (10) business day period, Defendant's right to terminate shall expire. If Defendant timely and properly exercises its option to terminate this Agreement, this Agreement shall become null and void, subject to the provisions of paragraph 9.5 below, and all orders of the Court preliminarily or otherwise certifying the Settlement Class shall be vacated and the Parties shall be returned to the status quo that existed in the Litigation before the Parties had preliminarily agreed to propose this Settlement.

9.3. [Reserved]

9.4. The Effective Date, defined in paragraph 1.10, shall be the first business day on which all of the following shall have occurred:

a) Defendant has fully paid, or caused to be fully paid, the Gross Settlement Fund, as required above;

b) the Settlement Agreement has not terminated under section 9 hereof;

c) the Court has approved the Settlement as described herein and entered the Judgment in substantially the same form and content attached hereto as Exhibit 2; and

d) such Judgment has become Final and Non-Appealable, as set forth in paragraph 1.14.

9.5. If the Settlement Agreement terminates under section 9 hereof:

a) the Effective Date shall not occur;

b) Plaintiffs and Defendant shall be restored to their respective positions prior to the Settlement, including dismissal without prejudice of the EDOK proceeding;

c) the terms and provisions of this Settlement Agreement shall have no further force and effect with respect to Plaintiffs, Defendant, or any Class Member and shall not be used in the Litigation or in any other proceeding;

d) any Judgment or other order, including any order certifying the Settlement Class for settlement purposes only, entered by the Court in accordance with the terms of this Settlement Agreement, shall be treated as vacated, *nunc pro tunc*; and,

e) within twenty (20) days after any such termination, the Gross Settlement Fund (including accrued interest or returns thereon) shall be refunded by the Escrow Agent to Defendant at Defendant's election, the Litigation shall be dismissed without prejudice from the United States District Court for the Eastern District of Oklahoma and may be refiled in the United States District Court for the Northern District of Oklahoma and shall proceed as if the Settlement Agreement and any orders or motions entered to further the Settlement were never entered. Moreover, the civil cover sheet or other appropriate paper for the refiled action shall make clear that the refiled case is related to and a continuation of Case No. 17-CV-456-JFJ.

10. Objections

10.1. The Notice of Settlement shall require that any objection to the Settlement, this Settlement Agreement, or to the application for Plaintiffs' Attorneys' Fees, Litigation Expenses, and Case Contribution Awards be in writing and comply with all the requirements set forth herein and by the Court in the Preliminary Approval Order and Notice of Settlement.

10.2. If the Court determines that the Settlement, including the Allocation Methodology, the Plan of Allocation, and the awards of Plaintiffs' Attorneys' Fees, Case Contribution Awards, and Litigation Expenses and Administration, Notice, and Distribution Costs are fair, adequate, and reasonable to the Settlement Class, Plaintiffs and Plaintiffs' Counsel shall represent the Settlement Class as a whole in all future proceedings in district court or on appeal, even if Class Members have objected to the Settlement and those objectors are severed for purposes of appeal, consistent with paragraph 10.3.

10.3. The Parties entered into the Settlement to provide certainty and finality to an ongoing dispute. Any Class Member wishing to remain a Class Member, but objecting to any part of the Settlement, can do so only as set forth herein and in the Notice of Settlement documents in

substantially the same form as Exhibits 3 through 5, attached hereto. If, after hearing the objection(s), the Court determines that the Settlement, including but not limited to, the Allocation Methodology, the Plan of Allocation, and the awards of Plaintiffs' Attorneys' Fees, any Case Contribution Awards, and reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, is fair, adequate, and reasonable to the Class as a whole, then either or both Plaintiffs and Defendant (each in their sole discretion) may request that the Court require each objecting Class Member to preserve their appellate rights as follows (prior to filing a Notice of Appeal): move for severance and separate appellate review of the Court's rulings on objections relating solely to one or more of the Plan of Allocation, the award of Plaintiffs' Attorneys' Fees, Case Contribution Awards, or Litigation Expenses and Administration, Notice, and Distribution Costs; provided, however, that none of the Parties shall file a motion for severance and separate appellate review of any objections to the fairness or approval of the Settlement.

10.4. If the Court determines that the Settlement, including but not limited to, the Allocation Methodology, the Plan of Allocation, and the awards of Plaintiffs' Attorneys' Fees, any Case Contribution Awards, and reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, is fair, adequate, and reasonable to the Class as a whole, as may be modified by the Court, then either or both Plaintiffs and Defendant (each in their sole discretion) may request the Court to require any objecting Class Member, as a prerequisite to pursuing appeal, to put up a cash bond in an amount sufficient to reimburse (a) the appellate fees of Plaintiffs' Counsel and Defendant's Counsel and (b) the amount of lost interest to the nonobjecting Class Members caused by any delay in distribution of the Net Settlement Fund that is caused by appellate review of the objection.

10.5. Only a person or entity who remains a member of the Settlement Class shall have the right to object to the Settlement, the Settlement Agreement, or the application for Plaintiffs'

Attorneys' Fees, Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards. In order for an objection to be valid, the written objection must be (a) filed with the Court and also served on Plaintiffs' Counsel and Defendant's Counsel by United States Certified Mail, Return Receipt Requested at least twenty-one (21) calendar days prior to the Final Fairness Hearing, unless such deadline is extended or altered by Order of the Court and (b) contain the following:

i. A heading referring to *Kunneman Properties LLC, et al. v. Marathon Oil Company*, Case No. __-CV___-___ and to the United States District Court for the Eastern District of Oklahoma;

ii. A statement as to whether the objector intends to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, address and telephone number;

iii. A detailed statement of the specific legal and factual basis for each and every objection;

iv. A list of any witnesses the objector wishes to call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Local Rules of the Court);

v. A list of and copies of any exhibits the objector may seek to use at the Final Fairness Hearing;

vi. A list of any legal authority the objector may present at the Final Fairness Hearing;

vii. The objector's name, current address, current telephone number, and all owner identification numbers with Defendant;

viii. The objector's signature executed before a Notary Public or other officer authorized by law to administer oaths in the jurisdiction where the objector executes the signature;

ix. Identification of the objector's interest in wells for which the objector has received payments made by Defendant (by well name, payee well number, and county in which the well is located) during the Claim Period and identification of such payments by date of payment, date of production, and amount; and

x. If the objector is objecting to any portion of the Plaintiffs' Attorneys' Fees, Litigation Expenses or Administration, Notice, and Distribution Costs, or Case Contribution Awards sought by Plaintiffs or Plaintiffs' Counsel on the basis that the amounts requested are unreasonably high, the objector must specifically state the portion of such requests he/she/it believes is fair and reasonable and the portion that is not.

Any Class Member who fails to timely file such written statement and provide the required information will not be permitted to present any objections at the Final Fairness Hearing and such failure will render any such attempted objection untimely and of no effect. All presentations of objections will be further limited by the information listed. A Class Member's mere compliance with the foregoing requirements does not in any way guarantee a Class Member the ability to present evidence or testimony at the Final Fairness Hearing. The decision whether to allow any testimony, argument, or evidence, as well as the scope and duration of any and all presentations of objections at the Final Fairness Hearing, will be in the sole discretion of the Court.

10.6. The Parties will not object to the fairness, adequacy, or reasonableness of the Settlement on appeal. Nor will Defendant take any position, including on appeal, regarding Plaintiffs' Attorneys' Fees, any Case Contribution Awards, any reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, or the Allocation Methodology (or any Plan of Allocation using the Allocation Methodology).

11. Other Terms and Conditions

11.1. Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation and denies that the Litigation could have been properly maintained as a class action. It is expressly agreed that neither this Settlement, the Settlement Agreement, any document referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may be used as, evidence of or an admission or concession by Defendant of any fault, wrongdoing, or liability whatsoever with respect to the claims and allegations in the Litigation, or class certifiability. There has been no determination by any court, administrative

agency, or other tribunal regarding the claims and allegations made in this Litigation. By agreeing to settle the Released Claims, Defendant does not admit that the Litigation could have been properly maintained as a contested class action and the Settlement Class does not admit any deficiency in the merits of their claims. Defendant asserts it has valid defenses to Plaintiffs' and the Class Member's claims and is entering into the Settlement solely to compromise the disputed claims and avoid the risk and expense of continued litigation.

11.2. Entering into or carrying out the Settlement Agreement, and any negotiations or proceedings related thereto, and the Settlement Agreement itself, are not, and shall not be construed as, or deemed to be evidence of, an admission or concession by any of the Parties to the Settlement Agreement and shall not be offered or received in evidence in any action or proceeding by or against any party hereto in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of the Settlement between Defendant and any Class Member(s), the provisions of the Settlement Agreement, or the Judgment, or to seek an Order barring or precluding the assertion of Released Claims in any proceeding. Further, Plaintiffs and Defendant agree that any judgment approving this Settlement Agreement shall not give rise to any collateral estoppel effect as to the certifiability of any class in any other proceeding.

11.3. Plaintiffs and Defendant shall use reasonable, good faith efforts to encourage and obtain approval of the Settlement. Plaintiffs and Defendant also agree to use reasonable, good faith efforts to promptly prepare and execute all documentation as may be reasonably required to obtain final approval by the Court of this Settlement and to carry out the terms of this Settlement Agreement.

11.4. Except as otherwise provided herein or by a writing signed by all the signatories hereto, the Settlement Agreement shall constitute the entire agreement among Plaintiffs and De-

fendant related to the Settlement of the Litigation and no representations, warranties, or inducements have been made to any party concerning the Settlement other than the representations, warranties, and covenants contained and memorialized in the Settlement Agreement. Further, none of the Parties have relied upon any representations, warranties, or covenants made by any other Party other than those expressly contained and memorialized in the Settlement Agreement. This Settlement Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all signatories hereto or their successors-in-interest.

11.5. This Settlement Agreement may be executed in one or more counterparts, including by facsimile or imaged signatures. Facsimile or imaged signatures will have the same force and effect as original signatures. All executed counterparts taken together shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts of this Settlement Agreement and Plaintiffs will file a complete copy of the Settlement Agreement that has been executed by all Parties with the Court.

11.6. Plaintiffs and Defendant and their respective counsel have mutually contributed to the preparation of the Settlement Agreement. Accordingly, no provision of the Settlement Agreement shall be construed against any party on the grounds that one of the parties or its counsel drafted the provision. Plaintiffs and Defendant are each represented by competent counsel who have advised their respective clients as to the legal effects of this Settlement, and neither Plaintiffs nor Defendant have received or relied upon advice from opposing counsel. Except as otherwise provided herein, each party shall bear its own costs in connection with the Settlement and preparation of the Settlement Agreement.

11.7. To promote certainty, predictability, the full enforceability of this Settlement Agreement as written, and its nationwide application, this Settlement Agreement shall be governed

solely by federal law, both substantive and procedural, as to due process, class certification, judgment, collateral estoppel, res judicata, release, settlement approval, allocation, case contribution award, the right to and reasonableness of attorneys' fees and expenses, and all other matters for which there is federal procedural or common law, including federal law regarding federal equitable common fund class actions.

11.8. The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors, trustees, and assigns of the Parties hereto.

11.9. Plaintiffs and Defendant intend this Settlement to be a final and complete resolution of all disputes asserted or that could be asserted with respect to the Released Claims. Accordingly, Defendant agrees not to file a claim against Plaintiffs or Plaintiffs' Counsel based upon an assertion that the Litigation was brought by Plaintiffs or Plaintiffs' Counsel in bad faith or without a reasonable basis. Similarly, Plaintiffs agree not to file a claim against Defendant or Defendant's Counsel based upon an assertion that the Litigation was defended by Defendant or Defendant's Counsel in bad faith or without a reasonable basis. Plaintiffs and Defendant agree that the amount paid and the other terms of this Settlement were negotiated at arm's length and in good faith, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel. Neither Plaintiffs nor Defendant shall assert any claims that the other violated the Oklahoma or Federal Rules of Civil Procedure or any other law or rule governing litigation conduct in the maintenance or defense of the Litigation.

11.10. The headings in the Settlement Agreement are used for the purpose of convenience only and are not meant to have legal effect.

11.11. All disputes and proceedings with respect to the administration of the Settlement and enforcement of the Judgment shall be subject to the jurisdiction of the Court. Plaintiffs and

Defendant waive any right to trial by jury of any dispute arising under or relating to this Settlement Agreement or the Settlement.

11.12. To the extent non-material modifications of this Settlement Agreement are necessary, such modification may be made by written agreement among Plaintiffs and Defendant after the Execution Date without further notice to the Settlement Class as provided herein. This Settlement Agreement and attached exhibits represent the entire, fully integrated agreement between the Parties with respect to the Settlement of the Litigation and may not be contradicted by evidence of prior or contemporaneous oral agreements between the Parties. This Settlement Agreement cancels and supersedes any and all prior agreements, understandings, representations, and negotiations concerning this Settlement. No additional obligations or understandings shall be inferred or implied from any of the terms of this Settlement Agreement, as all obligations, agreements, and understandings with respect to the subject matter hereof are solely and expressly set forth herein. It is understood and agreed that the Parties rely wholly on their own respective judgment, belief and knowledge of the facts relating to the making of this Settlement, which is made without reliance upon any statement, promise, inducement, or consideration not recited herein.

11.13. All counsel and any other persons executing this Settlement Agreement and any of the exhibits hereto or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms. Plaintiffs and each member of the Settlement Class are deemed to represent and warrant that he, she, or it holds the claims being released in the Settlement and that he, she, or it have full authority to release such claims.

11.14. Plaintiffs and Defendant stipulate and agree that (a) all activity in the Litigation, except that contemplated in the Settlement Agreement, the Preliminary Approval Order, the Notice

of Settlement, and the Judgment shall be stayed; (b) Defendant is not required to file an answer to the Complaint to be filed in the United States District Court for the Eastern District of Oklahoma and shall not be found or considered in default for not filing the same; and (c) all hearings, deadlines, and other proceedings, except the preliminary approval hearing and the Final Fairness Hearing, shall be taken off the calendar.

11.15. If any Party is required to give notice to the other Party under this Settlement Agreement, such notice shall be in writing and shall be deemed to have been duly given upon receipt by hand delivery, facsimile transmission or electronic mail to the individuals named in the signature blocks below.

11.16. The Parties agree the Litigation and the Settlement do not relate to the offering of goods or services to persons in the European Union or the monitoring of behavior of persons residing in the European Union; thus, the Parties and their Counsel are not subject to the General Data Protection Regulation (GDPR) by virtue of anything related to this Settlement.

11.17. The Parties agree that for purposes of this Agreement, the Stipulated Protective Order filed as Document No. 47 on March 25, 2019 in Case No. 17-CV-456-GFK-JFJ in the United States District Court for the Northern District of Oklahoma survives dismissal of that action and continues to apply to this Litigation while it is refiled and pending in the United States District Court for the Eastern District of Oklahoma. Documents previously produced subject to that Protective Order remain subject to its terms, and any additional documents or information provided by Defendant in connection with this Agreement may be designated Confidential according to the terms of that Order. The parties will treat all such information as Confidential under the terms of that Order.

[This space intentionally left blank. Signatures begin on following page.]

IN WITNESS WHEREOF, the parties and counsel have executed this Agreement, in several, as of September 9, 2022.

Plaintiffs:

KUNNEMAN PROPERTIES LLC

By: _____
Dale Kunneman
Title: Manager

DJM FAMILY, LLC

By: _____
David Montgomery
Title: _____

ROYSE FAMILY, L.L.C.

By: _____
David Montgomery
Title: _____

Plaintiffs' Counsel:

_____
Reagan E. Bradford, OBA #22072
Ryan K. Wilson, OBA #33306
BRADFORD & WILSON PLLC
431 W. Main Street, Suite D
Oklahoma City, OK 73102
Telephone: (405) 698-2770
reagan@bradwil.com
ryan@bradwil.com

Rex A. Sharp, OBA #011990
Ryan C. Hudson, OBA #33104
Scott B. Goodger, OBA #34476
Sharp Law, LLP
5301 W. 75th Street
Prairie Village, KS 66208
Telephone: (913) 901-0505
Facsimile: (913)901-0419
rsharp@midwest-law.com
rhudson@midwest-law.com
sgoodger@midwest-law.com

IN WITNESS WHEREOF, the parties and counsel have executed this Agreement, in several, as of September 9, 2022.

Plaintiffs:

KUNNEMAN PROPERTIES LLC

By: _____
Dale Kunneman
Title: _____

DJM FAMILY, LLC

By: David J. Montgomery
David Montgomery
Title: Managing Member

ROYSE FAMILY, L.L.C.

By: David J. Montgomery
David Montgomery
Title: Managing Member

Plaintiffs' Counsel:

Reagan E. Bradford, OBA #22072
Ryan K. Wilson, OBA #33306
BRADFORD & WILSON PLLC
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Oklahoma City, OK 73102
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Rex A. Sharp, OBA #011990
Ryan C. Hudson, OBA #33104
Scott B. Goodger, OBA #34476
Sharp Law, LLP
5301 W. 75th Street
Prairie Village, KS 66208
Telephone: (913) 901-0505
Facsimile: (913)901-0419
rsharp@midwest-law.com
rhudson@midwest-law.com
sgoodger@midwest-law.com

IN WITNESS WHEREOF, the parties and counsel have executed this Agreement, in several, as of September 9, 2022.

Plaintiffs:

KUNNEMAN PROPERTIES LLC

By: _____
Dale Kunneman
Title: _____

DJM FAMILY, LLC

By: _____
David Montgomery
Title: _____

ROYSE FAMILY, L.L.C.

By: _____
David Montgomery
Title: _____

Plaintiffs' Counsel:

_____

Reagan E. Bradford, OBA #22072
Ryan K. Wilson, OBA #33306
BRADFORD & WILSON PLLC
431 W. Main Street, Suite D
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Telephone: (913) 901-0505
Facsimile: (913)901-0419
rsharp@midwest-law.com
rhudson@midwest-law.com
sgoodger@midwest-law.com

Defendant:

MARATHON OIL COMPANY

By: DocuSigned by: Lee Tillman 2E701C575EB2418...
Lee M. Tillman
Title: President and Chief Executive Officer

And: DocuSigned by: Kim Warnica 1E35E5C75E9E54A9...
Kim Warnica
Title: Executive Vice President, General Counsel and Secretary

Defendant's Counsel:

Timothy J. Bomhoff, OBA #13172
Patrick L. Stein, OBA #30737
MCAFEE & TAFT A Professional Corporation
8th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102-7103
Telephone: (405) 235-9621
Facsimile: (405) 235-0439
tim.bomhoff@mcafeetaft.com
patrick.stein@mcafeetaft.com

Defendant:

MARATHON OIL COMPANY

By:_____
Lee M. Tillman
Title: President and Chief Executive Officer

And:_____
Kim Warnica
Title: Executive Vice President, General Counsel and Secretary

Defendant's Counsel:

Timothy J. Bomhoff, OBA #13172
Patrick L. Stein, OBA #30737
MCAFEE & TAFT A Professional Corporation
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Facsimile: (405) 235-0439
tim.bomhoff@mcafeetaft.com
patrick.stein@mcafeetaft.com

Attachments:

Exhibit 1: Preliminary Approval Order

Exhibit 2: Judgment

Exhibit 3: Notice of Settlement (for Mailing)

Exhibit 4: Notice of Settlement (for Website)

Exhibit 5: Notice of Settlement (for Publication)

Exhibit 6: New Complaint (EDOK)

Exhibit 1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

Kunneman Properties LLC, et al., on behalf of themselves and all others similarly situated, Plaintiffs, v. Marathon Oil Company, Defendant.	Case No. __-CV-___-___

ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFYING THE CLASS FOR SETTLEMENT PURPOSES, APPROVING FORM AND MANNER OF NOTICE, AND SETTING DATE FOR FINAL FAIRNESS HEARING

This is a class action lawsuit brought by Plaintiffs Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C., on behalf of themselves and as representatives of a class of owners (defined below), against Marathon Oil Company ("Defendant"), for the alleged underpayment of royalty on gas and gas constituents from Oklahoma oil-and-gas wells during the Claim Period. On September 9, 2022, the Parties executed a Stipulation and Agreement of Settlement (the "Settlement Agreement") finalizing the terms of the Settlement.[1] The Settlement Agreement, together with the documents referenced therein and exhibits thereto, set forth the terms and conditions for the proposed Settlement of the Litigation. In accordance with the Settlement Agreement, Plaintiffs now present the Settlement to the Court for preliminary approval under Federal Rule of Civil Procedure 23.

[1] Capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Settlement Agreement.

After reviewing the pleadings and Plaintiffs' Motion to Certify the Class for Settlement Purposes, Preliminarily Approve Class Action Settlement, Approve Form and Manner of Notice, and Set Date for Final Fairness Hearing ("Motion for Preliminary Approval"), the Court has preliminarily considered the Settlement to determine, among other things, whether the Settlement warrants the issuance of notice to the Settlement Class. Upon reviewing the Settlement and the Motion for Preliminary Approval, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

1. For purposes of this Order, the Court adopts all defined terms as set forth in the Settlement Agreement unless otherwise defined herein.

2. The Court finds the Settlement Class should be certified at this stage for the purposes of this Settlement, as the Settlement Class meets all certification requirements of Federal Rule of Civil Procedure 23 for a settlement class. The Settlement Class is certified for settlement purposes only, subject to the Court's final consideration at the Final Fairness Hearing. Because this case has been settled at this stage of the proceedings, the Court does not reach, and makes no ruling either way, as to the issue of whether the Settlement Class could have been certified in this case on a contested basis.

3. The certified Settlement Class is defined as follows:

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
>
> Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Ok-

lahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

4. The Court finds, subject to the Court's final consideration at the Final Fairness Hearing, the above-defined Settlement Class satisfies all prerequisites of Federal Rule of Civil Procedure 23(a) for purposes of the proposed class settlement:

a. **Numerosity**. Plaintiffs have demonstrated "[t]he class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). The Tenth Circuit has not adopted a set number as presumptively sufficient to meet this burden, and there is "no set formula to determine if the class is so numerous that it should be so certified." *Trevizo v. Adams*, 455 F.3d 1155, 1162 (10th Cir. 2006). Here, the Settlement Class consists of thousands of owners. Therefore, the Court finds the numerosity prerequisite is undoubtedly met.

b. **Commonality**. Plaintiffs have also demonstrated "[t]here are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2).

c. **Typicality**. Plaintiffs have also shown "[t]he claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3).

d. **Adequacy**. Plaintiffs and Plaintiffs' Counsel have demonstrated "[t]he representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4).

In addition, because the Court finds Plaintiffs and Plaintiffs' Counsel to be adequate representatives of the Settlement Class, the Court hereby appoints Plaintiffs Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C. as Class Representatives, and Plaintiffs' Counsel Reagan E. Bradford, Ryan K. Wilson, and Rex A. Sharp as Co-Lead Class Counsel.

5. The Court also finds the requirements of Federal Rule of Civil Procedure 23(b)(3) are met:

a. **Predominance**. Class Representatives have shown "questions of law or fact common to the members of the class predominate over any questions affecting only individual members." Fed. R. Civ. P. 23(b)(3).

b. **Superiority**. Class Representatives have also established "that a class action is superior to other available methods for the fair and efficient adjudication of the controversy." Fed. R. Civ. P. 23(b)(3).

In sum, the Court finds all prerequisites and requirements of Federal Rule of Civil Procedure 23(a)-(b) are satisfied for purposes of certifying a class for settlement purposes, subject to the Court's final consideration at the Final Fairness Hearing.

6. The Court preliminarily finds (a) the proposed Settlement resulted from extensive arm's-length negotiations; (b) the proposed Settlement was agreed to only after Class Counsel had conducted legal research and discovery regarding the strengths and weakness of Class Representatives' and the Settlement Class's claims; (c) Class Representatives and Class Counsel have concluded that the proposed Settlement is fair, reasonable, and adequate; and (d) the proposed Settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the proposed Settlement to the Settlement Class.

7. Having considered the essential terms of the Settlement under the recognized standards for preliminary approval as set forth in the relevant jurisprudence, the Court preliminarily

approves the Settlement, subject to the right of any member of the Settlement Class to challenge the fairness, reasonableness, and adequacy of any part of the Settlement, Settlement Agreement, Allocation Methodology, or proposed Plan of Allocation (or any other Plan of Allocation), and to show cause, if any exists, why a Final Judgment dismissing the Released Claims based on the Settlement Agreement should not be ordered after adequate notice to the Settlement Class has been given in conformity with this Order. As such, the Court finds that those Class Members whose Released Claims would be settled, compromised, dismissed, and released pursuant to the Settlement should be given notice and an opportunity to be heard regarding final approval of the Settlement and other matters.

8. The Court further preliminarily approves the form and content of the proposed Notices, which are attached to the Settlement Agreement as Exhibits 3-5, and finds the Notices are the best notice practicable under the circumstances, constitute due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfy the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23. The Court finds the form and content of the Notices fairly and adequately: (a) describe the terms and effect of the Settlement; (b) notify the Settlement Class that Class Counsel will seek Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards for Class Representatives' services; (c) notify the Settlement Class of the time and place of the Final Fairness Hearing; (d) describe the procedure for requesting exclusion from the Settlement; and (e) describe the procedure for objecting to the Settlement or any part thereof.

9. The Court also preliminarily approves the proposed manner of communicating the Notices to the Settlement Class, as set out below, and finds it is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive

such notice, and fully satisfies the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23:

a. No later than thirty (30) days after entry of this Preliminary Approval Order, the Settlement Administrator will mail (or cause to be mailed) the Notice by mail to all Class Members who have been identified after reasonable efforts to do so and will post the Notice to the settlement website. The Notice will be mailed to Class Members using the data described in paragraph 3.2 of the Settlement Agreement, the last known addresses for each payee, and any updated addresses found by the Settlement Administrator. For any Class Members who received more than one payment, the Notice of Settlement will be mailed to the payee's last-known address (or any updated address found by the Settlement Administrator). The Settlement Administrator will also publish the Notice as described below. It is not reasonable or economically practical for the Parties to do more to determine the names and addresses of Class Members.

b. No later than ten (10) days after mailing the first notice, or at such time as is ordered by the Court, the Settlement Administrator also shall publish (or cause to be published) the Notice of Settlement one time in each of the following newspapers: (a) *The Oklahoman*, a paper of general circulation in Oklahoma; and (b) *The Tulsa World*, a paper of general circulation in Oklahoma.

c. Within ten (10) days after mailing the first notice and continuing through the Final Fairness Hearing, the Settlement Administrator will also display (or cause to be displayed) on an Internet website dedicated to this Settlement the following documents: (i) the Notice of Settlement, (ii) the new Complaint, (iii) the Settlement Agreement, (iv) this Order, and (v) other publicly-filed documents related to the Settlement.

10. Class Counsel is authorized to act on behalf of the Settlement Class with respect to all acts required by, or which may be given pursuant to, the Settlement Agreement, or such other acts that are reasonably necessary to consummate the proposed Settlement set forth in the Settlement Agreement.

11. The Court appoints JND Class Action Administration to act as Settlement Administrator and perform the associated responsibilities set forth in the Settlement Agreement. The Settlement Administrator will receive and process any Requests for Exclusion and, if the Settlement is finally approved by the Court, will supervise and administer the Settlement in accordance with the Settlement Agreement, the Judgment, and the Court's Plan of Allocation order(s) authorizing distribution of the Net Settlement Fund to Class Members. The Parties and their Counsel shall not be liable for any act or omission of the Settlement Administrator.

12. The Court appoints Signature Bank as the Escrow Agent. The Escrow Agent is authorized and directed to act in accordance with the Settlement Agreement and Escrow Agreement. Except as set forth in paragraph 6.19 of the Settlement Agreement, the Parties and their Counsel shall not be liable for any act or omission of the Escrow Agent or loss for the funds in the Escrow Account.

13. Pursuant to Federal Rule of Civil Procedure 23(e), a Final Fairness Hearing shall be held on [Month] [Date], [Year], at _____M. in the United States District Court for the Eastern District of Oklahoma, the Honorable _____ presiding, to:

a. determine whether the Settlement should be approved by the Court as fair, reasonable, and adequate and in the best interests of the Settlement Class;

b. determine whether the notice method utilized: (i) constituted the best practicable notice under the circumstances; (ii) constituted notice reasonably calculated, under

the circumstances, to apprise Class Members of the pendency of the Litigation, the Settlement, their right to exclude themselves from the Settlement, their right to object to the Settlement, and their right to appear at the Final Fairness Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons and entities entitled to such notice; and (iv) meets all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law;

c. determine whether a final Judgment should be entered pursuant to the Settlement Agreement, *inter alia*, dismissing the Released Claims against Defendant with prejudice and extinguishing, releasing, and barring all Released Claims against all Released Parties in accordance with the Settlement Agreement;

d. determine the proper method of allocation and distribution of the Net Settlement Fund among Class Members who are not excluded from the Settlement Class by virtue of a timely and properly submitted Request for Exclusion or other order of the Court;

e. determine whether the applications for Plaintiffs' Attorneys' Fees, reimbursement for Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards to Class Representatives are fair and reasonable and should be approved; and

f. rule on such other matters as the Court may deem appropriate.

14. The Court reserves the right to adjourn, continue, and reconvene the Final Fairness Hearing, or any aspect thereof, including the consideration for the application for Plaintiffs' Attorneys' Fees and reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards to Class Representatives without further notice to the Settlement Class. The Settlement Administrator will update the website maintained pursuant this Order to reflect the current information about the date and time for the Final Fairness Hearing.

15. Class Members wishing to exclude themselves from the Settlement Class pursuant to Federal Rule of Civil Procedure 23(e)(4) must submit to the Settlement Administrator a valid and timely Request for Exclusion. Requests for Exclusion must include: (i) the Class Member's name, address, telephone number, and notarized signature; (ii) a statement that the Class Member wishes to be excluded from the Settlement Class in *Kunneman Properties LLC, et al. v. Marathon Oil Company*; and (iii) a description of the Class Member's interest in any wells for which Defendant remitted oil-and-gas proceeds, including the name, well number, county in which the well is located, and the owner identification number. Requests for Exclusion must be served on the Settlement Administrator, Defendant's Counsel, and Plaintiffs' Counsel by certified mail, return receipt requested and received no later than 5 p.m. CT on [Month] [Date], [Year]. Requests for Exclusion may be mailed as follows:

Settlement Administrator:
Kunneman Properties LLC v. Marathon Oil Company Settlement
c/o JND Class Action Administration, Settlement Administrator
P.O. Box 91348
Seattle, WA 98111

Co-Lead Class Counsel:
Reagan E. Bradford
Ryan K. Wilson
Bradford & Wilson PLLC
431 W. Main Street, Suite D
Oklahoma City, OK 73102

Defendant's Counsel:
Timothy J. Bomhoff
Patrick L. Stein
McAfee & Taft
A Professional Corporation
10th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102-7103

Requests for Exclusion may not be submitted through the website or by phone, facsimile, or e-mail. Any Class Member that has not timely and properly submitted a Request for Exclusion

shall be included in the Settlement and shall be bound by the terms of the Settlement Agreement in the event it is finally approved by the Court.

16. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, any term of the Settlement, the Allocation Methodology, any Plan of Allocation, the request for Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, or the request for Case Contribution Awards to Class Representatives may file an objection. An objector must file with the Court and serve upon Class Counsel and Defendant's Counsel a written objection containing the following: (a) a heading referring to *Kunneman Properties LLC, et al. v. Marathon Oil Company*, Case No. __-CV-___-___, United States District Court for the Eastern District of Oklahoma; (b) a statement as to whether the objector intends to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, counsel must be identified by name, address, and telephone number; (c) a detailed statement of the specific legal and factual basis for each and every objection; (d) a list of any witnesses the objector may call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Local Rules of the Court); (e) a list of and copies of any exhibits the objector may seek to use at the Final Fairness Hearing; (f) a list of any legal authority the objector may present at the Final Fairness Hearing; (g) the objector's name, current address, current telephone number, and all owner identification numbers with Defendant; (h) the objector's signature executed before a Notary Public; (i) identification of the objector's interest in wells for which Defendant remitted oil-and-gas proceeds (by well name, payee well number, and county in which the well is located) during the Claim Period and identification of any payments by date of payment, date of production, and amount; and (j) if the objector is objecting to any portion

of Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses or Administration, Notice, and Distribution Costs, or Case Contribution Awards sought by Class Representatives or Class Counsel on the basis that the amounts requested are unreasonably high, the objector must specifically state the portion of such requests he/she/it believes is fair and reasonable and the portion that is not. Such written objections must be filed with the Court and served on Class Counsel and Defendant's Counsel, via certified mail return receipt requested, and received no later than 5 p.m. CT by the deadline of twenty-one (21) calendar days prior to the Final Fairness Hearing at the addresses set forth in paragraph 15 above.

Any Class Member who fails to timely file and serve such written statement and provide the required information will not be permitted to present any objections at the Final Fairness Hearing and such failure will render any such attempted objection untimely and of no effect. All presentations of objections will be further limited by the information listed. Either or both Party's Counsel may file any reply or response to any objections prior to the Final Fairness Hearing. The procedures set forth in this paragraph do not supplant, but are in addition to, any procedures required by the Federal Rules of Civil Procedure.

17. Any objector who timely files and serves a valid written objection in accordance with the above paragraph may also appear at the Final Fairness Hearing, either in person or through qualified counsel retained at the objector's sole expense. Objectors or their attorneys intending to present any objection at the Final Fairness Hearing must comply with the Local Rules of this Court in addition to the requirements set forth in paragraph 16 above.

18. No later than twenty-eight (28) calendar days prior to the Final Fairness Hearing, if the Settlement has not been terminated pursuant to the Settlement Agreement, Plaintiffs' Counsel and Plaintiffs shall move for: (a) final approval of the Settlement pursuant to Federal Rule of Civil Procedure 23(e); (b) entry of a Judgment in substantially the same form as Exhibit 2; (c) final

approval of the Allocation Methodology and Initial Plan of Allocation; and (d) Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and/or Case Contribution Awards.

19. If the Settlement is not approved by the Court, is terminated in accordance with the terms of the Settlement Agreement, or otherwise does not become Final and Non-Appealable, the Settlement, Settlement Agreement, and any actions to be taken in connection therewith (including this Order and any Judgment entered herein), shall be terminated and become void and of no further force and effect as described in the Settlement Agreement. Any obligations or provisions relating to the refund of Plaintiffs' Attorney's Fees, Litigation Expenses, the payment of Administration, Notice, and Distribution Costs already incurred, and any other obligation or provision in the Settlement Agreement that expressly pertains to the termination of the Settlement or events to occur after the termination, shall survive termination of the Settlement Agreement and Settlement.

20. All proceedings in the Litigation, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further order of this Court. Pending final approval of the Settlement, Class Representatives and all Class Members are barred, enjoined, and restrained from commencing, prosecuting, continuing, or asserting in any forum, either directly or indirectly, on their own behalf or on the behalf of any other person or class, any Released Claim against Released Parties.

21. Entering into or carrying out the Settlement Agreement, and any negotiations or proceedings related thereto, is not, and shall not be construed as an admission or concession by any of the Parties to the Settlement Agreement. This Order shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, liability, or the propriety of maintaining this Litigation as a contested class action or of class certifiability,

and Defendant specifically denies any such fault, wrongdoing, breach, liability, and allegation regarding certification. This Order shall not be construed or used as an admission, concession, or declaration by or against Class Representatives or the Settlement Class that their claims lack merit or that the relief requested in the Litigation is inappropriate, improper, or unavailable. This Order shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims he, she, or it may have with respect to the Litigation or class certifiability in the event the Settlement is terminated.

22. The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further written notice to the Settlement Class.

IT IS SO ORDERED this ___ day of _____, 2022.

_____

[JUDGE]
UNITED STATES MAGISTRATE JUDGE

Approved as to Form:

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CLASS COUNSEL

Exhibit 2

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

Kunneman Properties LLC, et al., on behalf of themselves and all others similarly situated, Plaintiffs, v. Marathon Oil Company, Defendant.	Case No. __-CV-___-___

JUDGMENT

This is a class action lawsuit brought by Plaintiffs Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C., on behalf of themselves and as representatives of a class of owners (defined below), against Marathon Oil Company ("Defendant"), for the alleged underpayment of royalty on gas and gas constituents from Oklahoma oil-and-gas wells during the Claim Period. On September 9, 2022, the Parties executed a Stipulation and Agreement of Settlement (the "Settlement Agreement") finalizing the terms of the Settlement.[1]

On [Month] [Date], [Year], the Court preliminarily approved the Settlement and issued an Order Granting Preliminary Approval of Class Action Settlement, Certifying the Class for Settlement Purposes, Approving Form and Manner of Notice, and Setting Date for Final Fairness Hearing (the "Preliminary Approval Order"). In the Preliminary Approval Order, the Court, *inter alia*:

[1] Capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Settlement Agreement.

a. certified the Settlement Class for settlement purposes, finding all requirements of Federal Rule of Civil Procedure 23 have been satisfied with respect to the proposed Settlement Class;

b. appointed Plaintiffs Kunneman Properties LLC, DJM Family, LLC, and Royse Family, L.L.C., as Class Representatives, and Reagan E. Bradford, Ryan K. Wilson, and Ryan K. Wilson as Co-Lead Class Counsel;

c. preliminarily found: (i) the proposed Settlement resulted from extensive arm's-length negotiations; (ii) the proposed Settlement was agreed to only after Class Counsel had conducted legal research and discovery regarding the strengths and weaknesses of Class Representatives' and the Settlement Class's claims; (iii) Class Representatives and Class Counsel have concluded that the proposed Settlement is fair, reasonable, and adequate; and (iv) the proposed Settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the proposed Settlement to the Settlement Class;

d. preliminarily approved the Settlement as fair, reasonable, and adequate and in the best interest of the Settlement Class;

e. preliminarily approved the form and manner of the proposed Notices to be communicated to the Settlement Class, finding specifically that such Notices, among other information: (i) described the terms and effect of the Settlement; (ii) notified the Settlement Class that Plaintiffs' Counsel will seek Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards for Class Representatives' services; (iii) notified the Settlement Class of the time and place of the Final Fairness Hearing; (iv)

described the procedure for requesting exclusion from the Settlement; and (v) described the procedure for objecting to the Settlement or any part thereof;

f. instructed the Settlement Administrator to disseminate the approved Notices to potential members of the Settlement Class in accordance with the Settlement Agreement and in the manner approved by the Court;

g. provided for the appointment of a Settlement Administrator;

h. provided for the appointment of an Escrow Agent;

i. set the date and time for the Final Fairness Hearing as [Month] [Date], [Year], at _____.M. in the United States District Court for the Eastern District of Oklahoma; and

j. set out the procedures and deadlines by which Class Members could properly request exclusion from the Settlement Class or object to the Settlement or any part thereof.

After the Court issued the Preliminary Approval Order, due and adequate notice by means of the Notices was given to the Settlement Class, notifying them of the Settlement and the upcoming Final Fairness Hearing. On [Month] [Day], [Year], in accordance with the Preliminary Approval Order and the Notices, the Court conducted a Final Fairness Hearing to, *inter alia*:

a. determine whether the Settlement should be approved by the Court as fair, reasonable, and adequate and in the best interests of the Settlement Class;

b. determine whether the notice method utilized by the Settlement Administrator: (i) constituted the best practicable notice under the circumstances; (ii) constituted notice reasonably calculated under the circumstances to apprise Class Members of the pendency of the Litigation, the Settlement, their right to exclude themselves from the Settlement, their right to object to the Settlement or any part thereof, and their right to appear at the Final Fairness Hearing; (iii) was

reasonable and constituted due, adequate, and sufficient notice to all persons and entities entitled to such notice; and (iv) meets all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law;

c. determine whether to approve the Allocation Methodology, the Initial Plan of Allocation, and distribution of the Net Settlement Fund to Class Members who did not timely submit a valid Request for Exclusion or were not otherwise excluded from the Settlement Class by order of the Court;[2]

d. determine whether a Judgment should be entered pursuant to the Settlement Agreement, *inter alia*, dismissing the Released Claims against Defendant with prejudice and extinguishing, releasing, and barring all Released Claims against all Released Parties in accordance with the Settlement Agreement;

e. determine whether the applications for Plaintiffs' Attorneys' Fees, reimbursement for Litigation Expenses and Administration, Notice, and Distribution Costs, and Case Contribution Awards to Class Representatives are fair and reasonable and should be approved;[3] and

f. rule on such other matters as the Court deems appropriate.

The Court, having reviewed the Settlement, the Settlement Agreement, and all related pleadings and filings, and having heard the evidence and argument presented at the Final Fairness Hearing, now **FINDS, ORDERS, and ADJUDGES** as follows:

1. The Court, for purposes of this Final Judgment (the "Judgment"), adopts all defined terms as set forth in the Settlement Agreement and incorporates them as if fully set forth herein.

---

[2] The Court will issue a separate order pertaining to the allocation and distribution of the Net Settlement Proceeds among Class Members (the "Initial Plan of Allocation Order").

[3] The Court will issue separate orders pertaining to Plaintiffs' Counsel's request for Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and Class Representatives' request for Case Contribution Awards.

2. The Court has jurisdiction over the subject matter of this Litigation and all matters relating to the Settlement, as well as personal jurisdiction over Defendant and Class Members.

3. The Settlement Class, which was certified in the Court's Preliminary Approval Order, is defined as follows:

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
>
> Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

4. For substantially the same reasons as set out in the Court's Preliminary Approval Order, [Doc. __], the Court finds that the above-defined Settlement Class should be and is hereby certified for the purposes of entering judgment pursuant to the Settlement Agreement. Specifically, the Court finds that all requirements of Rule 23(a) and Rule 23(b)(3) have been satisfied for settlement purposes. Because this case has been settled at this stage of the proceedings, the Court does

not reach, and makes no ruling either way, as to the issue of whether the Settlement Class could have been certified in this case on a contested basis.

5. The Court finds that the persons and entities identified in the attached **Exhibit 1** have submitted timely and valid Requests for Exclusion and are hereby excluded from the foregoing Settlement Class, will not participate in or be bound by the Settlement, or any part thereof, as set forth in the Settlement Agreement, and will not be bound by or subject to the releases provided for in this Judgment and the Settlement Agreement.

6. At the Final Fairness Hearing on [Month] [Date], [Year], the Court fulfilled its duties to independently evaluate the fairness, reasonableness, and adequacy of, *inter alia*, the Settlement and the Notice of Settlement provided to the Settlement Class, considering not only the pleadings and arguments of Class Representatives and Defendant and their respective Counsel, but also the concerns of any objectors and the interests of all absent Class Members. In so doing, the Court considered arguments that could reasonably be made against, *inter alia*, approving the Settlement and the Notice of Settlement, even if such argument was not actually presented to the Court by pleading or oral argument.

7. The Court further finds that due and proper notice, by means of the Notices, was given to the Settlement Class in conformity with the Settlement Agreement and Preliminary Approval Order. The form, content, and method of communicating the Notices disseminated to the Settlement Class and published pursuant to the Settlement Agreement and the Preliminary Approval Order: (a) constituted the best practicable notice under the circumstances; (b) constituted notice reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Litigation, the Settlement, their right to exclude themselves from the Settlement, their right to object to the Settlement or any part thereof, and their right to appear at the Final Fairness Hear-

ing; (c) was reasonable and constituted due, adequate, and sufficient notice to all persons and entities entitled to such notice; and (d) met all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, the Due Process protections of the State of Oklahoma, and any other applicable law. Therefore, the Court approves the form, manner, and content of the Notices used by the Parties. The Court further finds that all Class Members have been afforded a reasonable opportunity to request exclusion from the Settlement Class or object to the Settlement.

8. Pursuant to and in accordance with Federal Rule of Civil Procedure 23, the Settlement, including, without limitation, the consideration paid by Defendant, the Future Benefits and Methodology, the covenants not to sue, the releases, and the dismissal with prejudice of the Released Claims against the Released Parties as set forth in the Settlement Agreement, is finally approved as fair, reasonable and adequate and in the best interests of the Settlement Class. The Settlement Agreement was entered into between the Parties at arm's-length and in good faith after substantial negotiations free of collusion. The Settlement fairly reflects the complexity of the Claims, the duration of the Litigation, the extent of discovery, and the balance between the benefits the Settlement provides to the Settlement Class and the risk, cost, and uncertainty associated with further litigation and trial. Serious questions of law and fact remain contested between the parties. The Settlement provides a means of gaining immediate valuable and reasonable compensation and forecloses the prospect of uncertain results after many more months or years of additional discovery and litigation. The considered judgment of the Parties, aided by experienced legal counsel, supports the Settlement.

9. By agreeing to settle the Litigation, Defendant does not admit, and instead specifically denies, that the Litigation could have otherwise been properly maintained as a contested class

action, and specifically denies any and all wrongdoing and liability to the Settlement Class, Class Representatives, and Class Counsel.

10. The Court finds that on [Month] [Date], [Year], Defendant caused notice of the Settlement to be served on the appropriate state official for each state in which a Class Member resides, and the appropriate federal official, as required by and in conformance with the form and content requirements of 28 U.S.C. § 1715. In connection therewith, the Court has determined that, under 28 U.S.C. § 1715, the appropriate state official for each state in which a Class Member resides was and is the State Attorney General for each such state, and the appropriate federal official was and is the Attorney General of the United States. Further, the Court finds it was not feasible for Defendant to include on each such notice the names of each of the Class Members who reside in each state and the estimated proportionate share of each such Class Members to the entire Settlement as provided in 28 U.S.C. § 1715(b)(7)(A); therefore, each notice included a reasonable estimate of the number of Class Members residing in each state and the value of the Gross Settlement Fund. No appropriate state or federal official has entered an appearance or filed an objection to the entry of final approval of the Settlement. Thus, the Court finds that all requirements of 28 U.S.C. § 1715 have been met and complied with and, as a consequence, no Class Member may refuse to comply with or choose not to be bound by the Settlement and this Court's Orders in furtherance thereof, including this Judgment, under the provisions of 28 U.S.C. § 1715.

11. The Litigation and Released Claims are dismissed with prejudice as to the Released Parties. All Class Members who have not validly and timely submitted a Request for Exclusion to the Settlement Administrator as directed in the Notice of Settlement and Preliminary Approval Order (a) are hereby deemed to have finally, fully, and forever conclusively released, relinquished, and discharged all of the Released Claims against the Released Parties and (b) are barred and permanently enjoined from, directly or indirectly, on any Class Member's behalf or through others,

suing, instigating, instituting, or asserting against the Released Parties any claims or actions on or concerning the Released Claims. No Party will bear the other Party's litigation costs, costs of court, or attorney's fees.

12. The Court also approves the efforts and activities of the Settlement Administrator and the Escrow Agent in assisting with certain aspects of the administration of the Settlement, and directs them to continue to assist Class Representatives in completing the administration and distribution of the Settlement in accordance with the Settlement Agreement, this Judgment, any Plan of Allocation approved by the Court, and the Court's other orders.

13. Nothing in this Judgment shall bar any action or claim by Class Representatives, Class Members, or Defendant to enforce or effectuate the terms of the Settlement Agreement or this Judgment.

14. The Settlement Administrator is directed to refund to Defendant the portions of the Net Settlement Fund attributable to Class Members who timely and properly submitted a Request for Exclusion or who were otherwise excluded from the Settlement Class by order of the Court in accordance with the terms and process detailed in the Settlement Agreement.

15. Entering into or carrying out the Settlement Agreement, and any negotiations or proceedings related thereto, and the Settlement Agreement itself, are not, and shall not be construed as, or deemed to be evidence of, an admission or concession by any of the Parties to the Settlement Agreement. Further, this Final Judgment shall not give rise to any collateral estoppel effect as to the certifiability of any class in any other proceeding.

16. As separately set forth in detail in the Court's Initial Plan of Allocation Order, the Allocation Methodology, any other Plan of Allocation, and distribution of the Net Settlement Fund among Class Members who were not excluded from the Settlement Class by timely submitting a

valid Request for Exclusion or other order of the Court, are approved as fair, reasonable and adequate, and Class Counsel and the Settlement Administrator are directed to administer the Settlement in accordance with the Plan of Allocation Order(s) entered by the Court.

17. The Court finds that Class Representatives, Defendant, and their Counsel have complied with the requirements of the Federal Rules of Civil Procedure as to all proceedings and filings in this Litigation. The Court further finds that Class Representatives and Class Counsel adequately represented the Settlement Class in entering into and implementing the Settlement.

18. Neither Defendant nor Defendant's Counsel shall have any liability or responsibility to Plaintiffs, Plaintiffs' Counsel, or the Settlement Class with respect to the Gross Settlement Fund or its administration, including but not limiting to any distributions made by the Escrow Agent or Settlement Administrator. Except as described in paragraph 6.19 of the Settlement Agreement, no Class Member shall have any claim against Plaintiffs, Plaintiffs' Counsel, the Settlement Administrator, the Escrow Agent, or any of their respective designees or agents based on the distributions made substantially in accordance with the Settlement Agreement, the Court's Plan of Allocation Order(s), or other orders of the Court.

19. Any Class Member who receives a Distribution Check that he/she/it is not legally entitled to receive is hereby ordered to either (a) pay the appropriate portion(s) of the Distribution Check to the person(s) legally entitled to receive such portion(s) or (b) return the Distribution Check uncashed to the Settlement Administrator.

20. All matters regarding the administration of the Escrow Account and the taxation of funds in the Escrow Account or distributed from the Escrow Account shall be handled in accordance with the Settlement Agreement.

21. Any order approving or modifying any Plan of Allocation Order, the application by Class Counsel for an award of Plaintiffs' Attorneys' Fees or reimbursement of Litigation Expenses

and Administration, Notice, and Distribution Costs, or the request of Class Representatives for Case Contribution Awards shall be handled in accordance with the Settlement Agreement and the documents referenced therein.

22. Plaintiffs' Counsel, Plaintiffs, Defendants, Defendant's Counsel, and the Settlement Class will only be liable for loss of any portion of the Escrow Account as described in paragraph 6.19 of the Settlement Agreement.

23. Without affecting the finality of this Judgment in any way, the Court (along with any appellate court with power to review the Court's orders and rulings in the Litigation) reserves exclusive and continuing jurisdiction to enter any orders as necessary to administer the Settlement Agreement, including jurisdiction to determine any issues relating to the payment and distribution of the Net Settlement Fund, and to enforce the Judgment.

24. In the event the Settlement is terminated as the result of a successful appeal of this Judgment or does not become Final and Non-Appealable in accordance with the terms of the Settlement Agreement for any reason whatsoever, then this Judgment and all orders previously entered in connection with the Settlement shall be rendered null and void and shall be vacated. The provisions of the Settlement Agreement relating to termination of the Settlement Agreement shall be complied with, including the refund of amounts in the Escrow Account to Defendant.

25. Without affecting the finality of this Judgment in any way, the Court (along with any appellate court with power to review the Court's orders and rulings in the Litigation) reserves exclusive and continuing jurisdiction to enter any orders as necessary to administer the Settlement Agreement, including jurisdiction to determine any issues relating to the payment and distribution of the Net Settlement Fund, to issue additional orders pertaining to, *inter alia*, Class Counsel's request for Plaintiffs' Attorneys' Fees and reimbursement of reasonable Litigation Expenses and

Administration, Notice, and Distribution Costs, and Class Representatives' request for Case Contribution Awards, and to enforce this Final Judgment. Notwithstanding the Court's jurisdiction to issue additional orders in this Litigation, this Judgment fully disposes of the Released Claims as to Defendant and is therefore a final appealable judgment. The Court further hereby expressly directs the Clerk of the Court to file this Judgment as a final order and final judgment in this Litigation.

26. [IF OBJECTION(S) ARE MADE – ADDITIONAL LANGUAGE TO BE DETERMINED BASED ON OBJECTION(S)]

IT IS SO ORDERED this ___ day of _____, 2022.

_____
[JUDGE]
UNITED STATES MAGISTRATE JUDGE

Approved as to Form:

/s/ *Reagan E. Bradford*
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Ryan K. Wilson, OBA #33306
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/s/ *Patrick L. Stein*
Timothy J. Bomhoff, OBA #13172
Patrick L. Stein, OBA #30737
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COUNSEL FOR DEFENDANT

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sgoodger@midwest-law.com

CLASS COUNSEL

Exhibit 3

A federal court authorized this notice.
*This is **not** a solicitation from a lawyer.*

If You Are or Were a Royalty Owner Paid by Marathon for Gas Production from an Oklahoma Oil-and-Gas Well, You Could Be a Part of a Proposed Class Action Settlement.

Who Is Included?
You are a member of the Settlement Class if you own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which you received royalty on gas from Marathon and your royalty payments were reduced for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons. The Class has been preliminarily approved for settlement only. There are exclusions.

Kunneman-Marathon Oil Settlement
c/o JND Legal Administration
PO Box 91348
Seattle, WA 98111

ID: «CF_PRINTED_ID»

«CF_NAME1»
«CF_NAME2»
«CF_CARE_OF_NAME»
«CF_ADDRESS_1»
«CF_ADDRESS_2»
«CF_CITY»«CF_STATE»«CF_ZIP»
«CF_COUNTRY»

There is a proposed Settlement in a putative class action lawsuit filed against Marathon Oil Co. ("Defendant") called *Kunneman Properties LLC, et al. v. Marathon Oil Co.*, Case No. __-CV-___-___, in the U.S. District Court for the Eastern District of Oklahoma. The Lawsuit claims Defendant underpaid royalties on gas and gas constituents for oil-and-gas production proceeds from wells in Oklahoma.

Why am I receiving this notice?
Defendant's records indicate you may be a member of the Settlement Class.

What does the settlement provide?
The proposed Settlement provides monetary benefits of $35,000,000.00 that will be distributed according to the terms of the Settlement Agreement, the documents referenced in and exhibits to the Settlement Agreement, and orders from the Court. The Settlement also provides the Future Benefits and Methodology for the payment of royalties to Settlement Class Members for a ten (10) year period following the Settlement. Plaintiffs' Counsel will seek attorneys' fees up to 40% of the Gross Settlement Fund, plus reimbursement of litigation expenses and administration costs, all to be paid from the Settlement. Plaintiffs will seek contribution awards of up to 2% of the Gross Settlement Fund.

What are my legal rights?
You do not have to do anything to stay in the Settlement Class and receive the benefits of the proposed Settlement. If you stay in the Settlement Class, you may also object to the proposed Settlement by following the instructions from the Court (available on the website) by _____, [Year]. If you stay in the Settlement Class, you will be bound by all orders and judgments of the Court, and you will not be able to sue, or continue to sue, Defendant or others identified in the Settlement Agreement from claims described therein. You may appear through an attorney if you so desire.

What are my other options?
If you do not wish to participate in or be legally bound by the proposed Settlement, you may exclude yourself by opting out no later than _____, [Year], by following the instructions from the Court (available on the website). If you opt out, you will not receive any benefits from the Settlement and will not be bound by it or the judgment in this case.

When will the Court decide whether to approve the proposed Settlement?
A Final Fairness Hearing has been scheduled for _____**, [Year]**, at __:00 _.m. CT at the United States District Court for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma 74401. You are not required to attend the hearing, but you or your lawyer may do so if you wish.

THIS IS ONLY A SUMMARY. TO GET A COPY OF THE LONG-FORM NOTICE OR FOR MORE INFORMATION, VISIT WWW.KUNNEMAN-MARATHON.COM OR CALL TOLL-FREE 1-877-654-1979

Exhibit 4

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

Kunneman Properties LLC, et al., on behalf of themselves and all others similarly situated, Plaintiffs, v. Marathon Oil Company, Defendant.	Case No. __-CV-___-___

NOTICE OF PROPOSED SETTLEMENT, MOTION FOR PLAINTIFFS' ATTORNEYS' FEES AND COSTS, CASE CONTRIBUTION AWARDS, AND FINAL FAIRNESS HEARING

A court authorized this Notice. This is not a solicitation from a lawyer.

If you belong to the Settlement Class and this Settlement is approved, your legal rights will be affected.
Read this Notice carefully to see what your rights are in connection with this Settlement.[1]

Because you may be a member of the Settlement Class in the Litigation captioned above and described below ("the Litigation"), the Court has directed this Notice to be provided for you. Defendant Marathon Oil Company's ("Defendant" or "Marathon") records show you are an owner in Oklahoma well(s) for which Marathon remitted royalties on gas production. Capitalized terms not otherwise defined in this Notice shall have the meanings attributed to those terms in the Settlement Agreement referred to below and available at www.kunneman-marathon.com.

This Notice generally explains the claims being asserted in the Litigation, summarizes the Settlement, and tells you about your rights to remain a Class Member or to timely and properly submit a Request for Exclusion (also known as an "opt out") so that you will be excluded from the Settlement. This Notice provides information so you can decide what action you want to take with respect to the Settlement before the Court is asked to finally approve it. If the Court approves the

[1] This Notice is a summary of the terms of the Settlement Agreement in this matter. Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. A copy of the Settlement Agreement is available for free at www.kunneman-marathon.com. The terms, conditions, and definitions in the Settlement Agreement qualify this Notice in its entirety.

Settlement and after the final resolution of any objections or appeals, the Court-appointed Settlement Administrator will issue payments to final Class Members, without any further action from you. This Notice describes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Settlement Class in the Litigation consists of the following individuals and entities:

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
>
> Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

The Claim Period means checks or payments dated between and including September 1, 2011, through and including March 31, 2022. If you are unsure whether you are included in the Settlement Class, you may contact the Settlement Administrator at:

Kunneman Properties LLC, et al. v. Marathon Oil Company
c/o JND Legal Administration, Settlement Administrator
P.O. Box 91348
Seattle, WA 98111
Call Toll-Free: 1-877-654-1979

TO OBTAIN THE BENEFITS OF THIS PROPOSED SETTLEMENT, YOU DO NOT HAVE TO DO ANYTHING.

I. General Information About the Litigation

The Litigation seeks damages for Defendant's alleged underpayment of royalty on gas and gas constituents from Oklahoma oil-and-gas wells during the Claim Period. Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation. The Court has made no final determination with respect to the merits of any of the parties' claims or defenses. A more complete description of the Litigation, its status, and the rulings made in the Litigation are available in the pleadings and other papers maintained by the United States District Court for the Eastern District of Oklahoma in the file for the Litigation.

II. The Settlement, Attorneys' Fees, Litigation Expenses, Case Contribution Award, And The Settlement Allocation And Distribution To The Class

On [Month] [Date], [Year], the Court preliminarily approved a Settlement in the Litigation between Plaintiffs, on behalf of themselves and the Settlement Class, and Defendant. This approval and this Notice are not an expression of opinion by the Court as to the merits of any of the claims or defenses asserted by any of the parties to the Litigation, or of whether the Court will ultimately approve the Settlement Agreement.

In settlement of all claims alleged in the Litigation, Defendant has agreed to pay Thirty-Five Million ($35,000,000.00) in cash ("Gross Settlement Fund"). In exchange for the payment noted above and other consideration outlined in the Settlement Agreement, the Settlement Class shall release the Released Claims (as defined in the Settlement Agreement available for review and download at www.kunneman-marathon.com) against the Released Parties (as defined in the Settlement Agreement). The Settlement Agreement also includes the Future Benefits and Methodology for the Settlement Class, which provides that Defendant will not deduct treating, dehydration, gathering, and compression from royalty payments, and Defendant may deduct the reasonable and actual costs or volumes for field and plant fuel, processing, mainline transportation, and transportation and fractionation of natural gas liquids from royalty payments for a period of ten (10) years after the Claim Period. The $35,000,000.00 cash payment is referred to as the "Gross Settlement Fund." The Gross Settlement Fund and the Future Benefits and Methodology is referred to as the "Gross Settlement Value." The Gross Settlement Fund, less Plaintiffs' Attorneys' Fees and Litigation Expenses and Administration, Notice, and Distribution Costs, and other costs approved by the Court (the "Net Settlement Fund"), will be distributed to final Class Members pursuant to the terms of the Settlement Agreement.

Class Counsel intends to seek an award of Plaintiffs' Attorneys' Fees of not more than 40% of the Gross Settlement Fund. Co-Lead Class Counsel, Reagan E. Bradford and Ryan K. Wilson of Bradford & Wilson, and Rex A. Sharp of Sharp Law, LLP, have been litigating this case without any payment whatsoever, advancing hundreds of thousands of dollars in expenses for over five years. At the Final Fairness Hearing, Plaintiffs' Counsel will also seek reimbursement of the litigation and administration expenses incurred in connection with the prosecution of this Litigation and that will be incurred through final distribution of the Settlement, which is estimated to be approximately $600,000.00. In addition, Plaintiffs intend to seek case contribution awards for their representation of the Class, which amount will not exceed 2% of the Gross Settlement Fund, to compensate Plaintiffs for their time, expense, risk, and burden as serving as Class Representatives.

The Court must approve the Allocation Methodology, which describes how the Settlement Administrator will allocate the Net Settlement Fund. The Net Settlement Fund will be distributed by the Settlement Administrator after the Effective Date of the Settlement. The Effective Date requires the exhaustion of any appeals, which may take a year or more after the entry of Judgment. The Settlement may be terminated on several grounds, including if the Court does not approve or materially modifies the terms of the Settlement.

This Notice does not and cannot set out all the terms of the Settlement Agreement, which is available for review at www.kunneman-marathon.com. This website will eventually include this Notice, the Plans of Allocation, and Plaintiffs' Counsel's application for Plaintiffs' Attorneys' Fees and Litigation Expenses and other costs. You may also receive information about the progress of the Settlement by visiting the website at www.kunneman-marathon.com, or by contacting the Settlement Administrator at the address set forth above.

III. Class Settlement Fairness Hearing

The Final Fairness Hearing will be held on [Month] [Date], [Year], beginning at__ _.m., before the Honorable _____, U.S. Magistrate Judge for the Eastern District of Oklahoma, 101 North 5th Street, Muskogee, Oklahoma 74401. Please note that the date of the Final Fairness Hearing is subject to change without further notice. You should check www.kunneman-marathon.com to confirm no change to the date and time of the hearing has been made. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement is fair, reasonable, and adequate; (b) any timely and properly raised objections to the Settlement; (c) the Allocation Methodology; (d) the application for Plaintiffs' Attorneys' Fees and Litigation Expenses and Administration, Notice, and Distribution Costs; and (e) the application for Case Contribution Awards for the Class Representatives.

A CLASS MEMBER WHO WISHES TO PARTICIPATE IN THE SETTLEMENT AND DOES NOT SUBMIT A VALID REQUEST FOR EXCLUSION DOES NOT NEED TO APPEAR AT THE FINAL FAIRNESS HEARING OR TAKE ANY OTHER ACTION TO PARTICIPATE IN THE SETTLEMENT.

IV. What Are Your Options As A Class Member?

A. You Can Participate in the Class Settlement by Doing Nothing

By taking no action, your interests will be represented by Plaintiffs as the Class Representatives and by Plaintiffs' Counsel. As a Class Member, you will be bound by the outcome of the Settlement, if finally approved by the Court. The Class Representatives and Plaintiffs' Counsel believe that the Settlement is in the best interest of the Class, and, therefore, they intend to support the proposed Settlement at the Final Fairness Hearing. As a Class Member, if you are entitled to a distribution pursuant to the Allocation Methodology, you will receive your portion of the Net Settlement Fund. You will also be bound by the Settlement Agreement and all orders and judgments entered by the Court regarding the Settlement, including the Future Benefits and Methodology. If the Settlement is approved, unless you exclude yourself from the Settlement Class, neither you nor any other Releasing Party will be able to start a lawsuit or arbitration, continue a lawsuit or arbitration, or be part of any other lawsuit against any of the Released Parties based on any of the Released Claims.

B. You May Submit a Request for Exclusion to Opt Out of the Settlement Class

If you do not wish to be a member of the Settlement Class, then you must exclude yourself from the Settlement Class by mailing by certified mail, return receipt requested, a Request for Exclusion to the Settlement Administrator to be received by [Month] [Date], [Year], at 5 p.m. CT. All Requests for Exclusion must include: (i) the Class Member's name, address, telephone number, and notarized signature; (ii) a statement that the Class Member wishes to be excluded from one or both of the Settlement Class in *Kunneman Properties LLC v. Marathon Oil Company*; and (iii) a description of the Class Member's interest in any wells for which it has received payments from Defendant, including the name, well number, county in which the well is located, and the owner identification number. Requests for Exclusion must be served on the Settlement Administrator, Defendant's Counsel, and Plaintiffs' Counsel by certified mail, return receipt requested and received no later than 5 p.m. CT on [Month] [Date], [Year]. Requests for Exclusion may be mailed as follows:

Settlement Administrator:
Kunneman Properties LLC v. Marathon Oil Company Settlement
c/o JND Class Action Administration, Settlement Administrator
P.O. Box 91348
Seattle, WA 98111

Co-Lead Class Counsel:
Reagan E. Bradford
Ryan K. Wilson
Bradford & Wilson PLLC
431 W. Main Street, Suite D
Oklahoma City, OK 73102

Defendant's Counsel:
Timothy J. Bomhoff
Patrick L. Stein
McAfee & Taft
A Professional Corporation
10th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102-7103

If you do not follow these procedures—including mailing the Request for Exclusion so that it is received by the deadline set out above—you will <u>not</u> be excluded from the Settlement Class, and you will be bound by all of the orders and judgments entered by the Court regarding the Settlement, including the release of claims and Future Benefits and Methodology. You must exclude yourself even if you already have a pending case against any of the Released Parties based upon any Released Claims during the Claim Period. You cannot exclude yourself on the website, by telephone, facsimile, or by e-mail. If you validly request exclusion as described above, you will not receive any distribution from the Net Settlement Fund, you cannot object to the Settlement, and you will not have released any claim against the Released Parties. You will not be legally bound by anything that happens in the Litigation.

C. You May Remain a Member of the Settlement Class, but Object to the Settlement, Allocation Methodology, Plan of Allocation, Plaintiffs' Attorneys' Fees, Litigation Expenses, Administration, Notice, and Distribution Costs, or Case Contribution Awards

Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, any term of the Settlement, the Allocation Methodology, the Plan of Allocation, the request for Plaintiffs' Attorneys' Fees and Litigation Expenses and Administration, Notice, and Distribution Costs, or the request for Case Contribution Awards to Class Representatives may file an objection. An objector must file with the Court and serve upon Class Counsel and Defendant's Counsel a written objection containing the following: (a) a heading referring to *Kunneman Properties LLC, et al. v. Marathon Oil Company*, Case No. __-CV-___-___, United States District Court for the Eastern District of Oklahoma; (b) a statement as to whether the objector intends to appear at the Final Fairness Hearing, either in person or through counsel, and, if through counsel, counsel must be identified by name, address, and telephone number; (c) a detailed statement of the specific legal and factual basis for each and every objection; (d) a list of any witnesses the objector may call at the Final Fairness Hearing, together with a brief summary of each witness's expected testimony (to the extent the objector desires to offer expert testimony and/or an expert report, any such evidence must fully comply with the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Local Rules of the Court); (e) a list of and copies of any exhibits the objector may seek to use at the Final Fairness Hearing; (f) a list of any legal authority the objector may present at the Final Fairness Hearing; (g) the objector's name, current address, current telephone number, and all owner identification numbers with Defendant; (h) the objector's signature executed before a Notary Public; (i) identification of the objector's interest in wells for which Defendant remitted oil and gas proceeds (by well name, payee well number, and county in which the well is located) during the Claim Period and identification of any payments by date of payment, date of production, and amount; and (j) if the objector is objecting to any portion of the Plaintiffs' Attorneys' Fees or Litigation Expenses and Administration, Notice, and Distribution Costs, or Case Contribution Awards sought by Class Representatives or Class Counsel on the basis that the amounts requested are unreasonably high, the objector must specifically state the portion of such requests he/she/it believes is fair and reasonable and the portion that is not. Such written objections must be filed with the Court and served on Plaintiffs' Counsel and Defendant's Counsel, via certified mail return receipt requested, and received no later than 5 p.m. CT by [Month] [Date], [Year], at the addresses set forth above. Any Class Member that fails to timely file the written objection statement and provide the required information will not be permitted to present any objections at the Final Fairness Hearing. Your written objection must be timely filed with the Court at the address below:

Clerk of the Court
United States District Court for the Eastern District of Oklahoma
101 North 5th Street
Muskogee, OK 74401

UNLESS OTHERWISE ORDERED BY THE COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTON TO THE SETTLEMENT (OR ANY PART THEREOF) AND WILL NOT BE ALLOWED TO PRESENT ANY OBJECTIONS AT THE FINAL FAIRNESS HEARING.

D. You May Retain Your Own Attorney to Represent You at the Final Fairness Hearing

You have the right to retain your own attorney to represent you at the Final Fairness Hearing. If you retain separate counsel, you will be responsible to pay his or her fees and expenses out of your own pocket.

V. Availability of Filed Papers And More Information

This Notice summarizes the Settlement Agreement, which sets out all of its terms. You may obtain a copy of the Settlement Agreement with its exhibits, as well as other relevant documents, from the settlement website for free at www.kunneman-marathon.com, or you may request copies by contacting the Settlement Administrator as set forth above. In addition, the pleadings and other papers filed in this Action, including the Settlement Agreement, are available for inspection in at the Office of the Clerk of the Court, set forth above, and may be obtained by the Clerk's office directly. The records are also available on-line for a fee through the PACER service at www.pacer.gov/. If you have any questions about this Notice, you may consult an attorney of your own choosing at your own expense or Class Counsel.

PLEASE DO *NOT* CONTACT THE JUDGE OR THE COURT CLERK ASKING FOR INFORMATION REGARDING THIS NOTICE.

_____
[JUDGE]
UNITED STATES MAGISTRATE JUDGE

Exhibit 5

If You Are or Were a Royalty Owner Paid by Marathon for Gas Production from an Oklahoma Oil-and-Gas Well, You Could Be a Part of a Proposed Class Action Settlement.

The Settlement Class includes:

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
>
> Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

The Litigation seeks damages for Defendant's alleged underpayment of royalty on gas and gas constituents from Oklahoma oil-and-gas wells during the Claim Period. Defendant expressly denies all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation. The Court did not decide which side is right.

On [Month] [Date], [Year], the Court preliminarily approved a Settlement in which Defendant has agreed to pay Thirty-Five Million Dollars ($35,000,000.00) in cash (the "Gross Settlement Fund"). From the Gross Settlement Fund, the Court may deduct Plaintiffs' Attorney's Fees and Litigation Expenses, Case Contribution Awards, and any settlement Administration, Notice, and Distribution Costs. The remainder of the fund (the "Net Settlement Fund") will be distributed to final Class Members as provided in the Settlement Agreement. The Settlement Agreement also includes the Future Benefits and Methodology for the Settlement Class, which outlines the costs which will not and may be deducted from future royalties for a period of ten (10) years after the Claim Period. Complete information on the benefits of the Settlement, including information on the distribution

of the Net Settlement Fund, can be found in the Settlement Agreement posted on the website listed below. In exchange, Class Members will release Defendant and others identified in the Settlement Agreement from the claims described in the Settlement Agreement.

The attorneys and law firms who represent the Class as Co-Lead Class Counsel are Reagan E. Bradford and Ryan K. Wilson of Bradford & Wilson PLLC and Rex A. Sharp of Sharp Law, LLP. You may hire your own attorney, if you wish. However, you will be responsible for that attorney's fees and expenses.

What Are My Legal Rights?

- **Do Nothing, Stay in the Class, and Receive Benefits of the Settlement:** If the Court approves the proposed Settlement, you or your successors, if eligible, will receive the benefits of the proposed Settlement.
- **Stay in the Settlement Class, But Object to All or Part of the Settlement:** You can file and serve a written objection to the Settlement and appear before the Court. Your written objection must contain the information described in the Notice of Settlement found at the website listed below and must be filed with the Court no later than [Month] [Date], [Year], at 5 p.m. CT.
- **Exclude Yourself from the Settlement Class:** To exclude yourself from the Settlement Class, you must submit a written statement requesting exclusion. Your Request for Exclusion must contain the information described in the Notice of Settlement found at the website listed below and must be received no later than [Month] [Date], [Year], at 5 p.m. CT. You cannot exclude yourself on the website, by telephone, or by email.

The Court will hold a Final Fairness Hearing on [Month] [Date], [Year], at ____ _.m. CT at the United States District Court for the Eastern District of Oklahoma. At the Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court will also consider the application for Plaintiffs' Attorneys' Fees and Litigation Expenses and other costs, including Case Contribution Awards. If comments or objections have been submitted in the manner required, the Court will consider them as well. Please note that the date of the Final Fairness Hearing is subject to change without further notice. If you plan to attend the Hearing, you should check www.kunneman-marathon.com to confirm no change to the date and time of the Hearing has been made.

This notice provides only a summary. For more detailed information regarding the rights and obligations of Settlement Class Members, read the Notice of Settlement, Settlement Agreement and other documents posted on the website or contact the Settlement Administrator.

Visit: www.kunneman-marathon.com

Call Toll-Free: 1-877-654-1979
Or write to: ***Kunneman Properties LLC v. Marathon Oil Company***

c/o JND Legal Administration, Settlement Administrator
P.O. Box 91348
Seattle, WA 98111

Exhibit 6

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) Kunneman Properties LLC, (2) DJM Family, LLC, (3) Royse Family, L.L.C., on behalf of themselves and all others similarly situated, Plaintiffs, v. (1) Marathon Oil Company, Defendant.	Case No. __-CV-___-___

CLASS ACTION COMPLAINT

Kunneman Properties LLC ("Kunneman"), DJM Family, LLC ("DJM"), and Royse Family, L.L.C. ("Royse") (collectively, "Plaintiffs"), on behalf of themselves and the Class of all other persons similarly situated, file this Class Action Complaint against Marathon Oil Company ("Marathon"), and allege and state the following.

SUMMARY OF ACTION

1. Plaintiffs and the Class bring claims against Marathon concerning Marathon's actual, knowing, and willful underpayment or non-payment of royalties on oil-and-gas proceeds from wells through improper accounting methods (such as not paying on the starting price for gas products but instead taking improper deductions) and by failing to account for and pay royalties, all as more fully described below.

JURISDICTION AND VENUE

2. This Court has original jurisdiction over the claims asserted in this complaint under 28 U.S.C. § 1332(d) because this is a class action where the amount in controversy exceeds the sum of $5,000,000 and because members of the Class and Marathon are citizens of different states.

3. Venue is proper in this District under 28 U.S.C. § 1391 because Marathon transacts business within this District and a substantial part of the events giving rise to these claims occurred in this District. Marathon also consented to venue in this District.

PARTIES

4. Plaintiff Kunneman Properties LLC is an Oklahoma limited liability company and is a citizen of Oklahoma and Texas. Kunneman owns royalty interests in Marathon operated wells that produce gas. Kunneman holds oil-and-gas leases dated January 26, 1973 (recorded at Book 469, Pages 143–44 in the Kingfisher County, Oklahoma records) and June 19, 2014 (recorded at Book 2721, Pages 220–222 in the Kingfisher County, Oklahoma records), for which Marathon is lessee. Kunneman's oil-and-gas leases include an Express Off-Lease-Use Clause, which entitles Kunneman to royalty for all gas used off the leased premises.

5. Plaintiff DJM Family, LLC is an Oklahoma limited liability company and owns royalty interest in a Marathon-operated well that produces gas. DJM holds an oil-and-gas lease dated September 6, 1977 (recorded at Book 692, Page 492–94 in the Canadian County, Oklahoma records), for which Marathon is lessee. DJM's oil-and-gas lease includes an Express Off-Lease-Use Clause, which entitles DJM to royalty for all gas used off the leased premises.

6. Plaintiff Royse Family, L.L.C. is an Oklahoma limited liability company and owns royalty interest in a Marathon-operated wells that produce gas. Royse holds an oil-and-

gas lease dated September 6, 1974 (recorded at Book 591, Pages 207–09 in the Canadian County, Oklahoma records), for which Marathon is lessee. Royse's oil-and-gas lease includes an Express Off-Lease-Use Clause, which entitles Royse to royalty for all gas used off the leased premises.

7. Marathon is a corporation organized under Delaware law with its principal place of business in Texas and may be served with process by serving its registered agent, The Corporation Company, 1833 S. Morgan Road, Oklahoma City, OK 73128.

8. Marathon is in the business of producing and marketing oil-and-gas and constituent products from the wells in which Class members hold interests.

9. The acts charged in this Complaint as having been done by Marathon were authorized, ordered, or done by officers, agents, affiliates, employees, or representatives, while actively engaged in the conduct or management of Marathon's business or affairs, and within the scope of their employment or agency with Marathon.

CLASS ALLEGATIONS

10. Plaintiffs bring this action on behalf of themselves and as a class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class (the "Class"):

> All persons who own or owned minerals in the State of Oklahoma subject to an oil-and-gas lease from September 1, 2011, through and including March 31, 2022, under which (1) they received royalty on the sale and disposition of gas from Marathon from Oklahoma oil-and-gas wells; and (2) their royalty payments were reduced for production volumes or production proceeds expended for marketing, gathering, compressing, dehydrating, treating, processing, transporting and fractionating natural gas liquids, or transporting of hydrocarbons produced from the unit.
>
> Excluded from the Class are: (1) agencies, departments or instrumentalities of the United States of America, including but not limited to the U.S. Department of the Interior (the United States, Indian tribes, and Indian allottees); (2) the State of Oklahoma or any of its agencies or departments that own royalty interests; (3) Defendant, its affiliates, predecessors, and employees, officers, and directors; (4) any publicly

traded company or their affiliated entity that produces, gathers, processes, or markets gas; (5) overriding royalty owners and others whose interest was carved out from the lessee's interest; (6) royalty owners who have already filed and still have pending lawsuits for underpayment of royalties against Defendant, including: Fortis Sooner Trend, LLC; Fortis Minerals II, LLC; FMII STM, LLC; Sooner Trend Minerals, LLC; Phenom Minerals, LLC; Christopher W. Didier; Kari J. Didier; August Grant Didier; Dixie L. Didier Beth Ann Switzer; Kent L. Switzer; Gregory Vic Kirkpatrick; Milton Kent Kirkpatrick Revocable Trust; Emma Eugenia Kirkpatrick Family Trust; Jimmie Ice and Vicki Ice Trust; and Malcome Roy Oyler; and (7) royalty owners whose leases expressly authorize or expressly prohibit deductions under Oklahoma law.

11. The Claim Period means checks or payments dated between and including September 1, 2011, through and including March 31, 2022.

12. Marathon and Plaintiffs have entered into a Settlement Agreement to resolve the Released Claims for the Settlement Class.

13. The members of the Class are so numerous and geographically dispersed that joinder of all members is impracticable.

14. Marathon operates or has operated thousands of Class Wells that produce gas. Marathon holds a working interest in these Wells, with at least one, and usually multiple, royalty owners for each well.

15. Marathon has within its possession or control records that identify all persons to whom it (including affiliated predecessors and those for whom it is legally responsible) has paid royalties from Class Wells during the Claim Period.

16. The questions of fact or law common to Plaintiffs and the Class include, without limitation, one or more of the following:

a. Whether Plaintiffs and members of the Class are beneficiaries of the implied Marketable Condition Rule (MCR), which requires Marathon to sever the gas from the ground and to prepare the gas for market at Marathon's sole expense.

i. If so, whether: 1) the Midstream Costs of gathering, compression, dehydration, treatment, and processing (GCDTP) are costs associated with preparing the gas for market such that none of them

should have been deducted from royalties but all of them were; or 2) whether the market for gas occurs before GCDTP are incurred such that the Class's claim is only for excessive deductions of Midstream Costs.

b. Whether Marathon paid royalty to Plaintiffs and members of the Class for all valuable constituents coming from their wells and which inured to Marathon's benefit either: 1) through credit toward the Midstream Costs; or 2) by contractual consideration in-kind to a midstream company (such as drip condensate, helium, liquefied nitrogen, some percentage of residue, some percentage of fractionated NGLs, plant fuel, or FL&U).

c. Whether Marathon (including any of its affiliates) paid royalty to Plaintiffs and members of the Class based on a starting price below what Marathon or its affiliates received in arm's-length sales transactions.

d. Whether the Express Off-Lease-Use Clauses in the Leases of the members of the Class require the payment of royalty on gas used off the leased premises and whether Marathon failed to pay for the gas from the Class Wells used off the leased premises.

f. Whether class-wide damages can be calculated for Plaintiffs' theories of liability.

17. Plaintiffs are typical of other class members because Marathon pays royalty to Plaintiffs and other Class members using a common method. Marathon pays royalty based on the net revenue it receives under its gas contracts, the terms of which royalty owners neither know nor approve of. The contracts are for services necessary to place the gas and its constituent parts into marketable condition so they can be sold into recognized, active, and competitive commercial markets.

18. Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs are royalty owners to whom Marathon pays royalty, and their leases contain Express Off-Lease-Use Clauses. Plaintiffs understand their duties as Class representatives. Plaintiffs have retained counsel competent and experienced in class action and royalty owner litigation.

19. This action is properly maintainable as a class action. Common questions of law or fact exist as to all members of the Class, and those common questions predominate over any questions solely affecting individual members. There is no need for individual Class members to testify in order to establish Marathon's liability to or damages sustained by Plaintiffs and the Class.

20. Class action treatment is appropriate in this matter and is superior to the alternative of numerous individual lawsuits by members of the Class. Class action treatment will allow a large number of similarly situated individuals to prosecute their common claims in a single forum, simultaneously, efficiently, and without duplication of time, expense and effort on the part of those individuals, witnesses, the courts, and/or Marathon. Likewise, class action treatment will avoid the possibility of inconsistent and/or varying results in this matter arising out of the same facts. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action and no superior alternative forum exists for the fair and efficient adjudication of the claims of all Class.

21. Class action treatment in this matter is further superior to the alternative of numerous individual lawsuits by all or some members of the Class. Joinder of all Class members would be either highly impracticable or impossible. And the amounts at stake for individual Class members, while significant in the aggregate, would be insufficient to enable them to retain competent legal counsel to pursue claims individually. In the absence of a class action in this matter, Marathon will likely retain the benefit of its wrongdoing.

GAS INDUSTRY BACKGROUND

22. The members of the Class own royalty interests in wells that produce gas and constituents that are transformed into marketable products and sold into the established commercial markets for those products.

23. Marathon's method for calculating royalty to the members of the Class is subject to uniform accounting procedures and implied marketable product law.

24. Oklahoma law requires the lessee to bear all the costs of placing gas and its constituents into "Marketable Condition" products.

25. Gas and its constituent parts are marketable products only when they are in the physical condition to be bought and sold in a commercial marketplace.

26. Only after a given product is marketable does a royalty owner have to pay its proportionate share of the reasonable costs to get a higher enhanced value or price for that particular product.

The Lessor-Lessee Relationship

27. The lessor owns minerals, including oil and gas; the lessee has the money, labor, and know-how to extract, condition, and market those minerals. The lessor and lessee enter a lease that allows the lessee to take the minerals from the lessor's land. In the past, the usual revenue split from a well was 1/8th to the lessor (royalty owner) and 7/8ths to the lessee. As the risk of finding oil and gas has diminished over time, due to the prevalence of wells delineating the field, better seismic technology, and increased efficiency of drilling rigs, royalty owners on more recent leases have received 3/16th or even 1/4th of the revenue.

28. But the oil-and-gas companies have used undisclosed internal accounting practices to try to keep for themselves as much of the well revenue as possible. These accounting practices are at the heart of every oil-and-gas royalty case.

29. Rather than adopting transparency in its royalty calculation formula, Marathon, like most lessees, has guarded its production and accounting processes as confidential or proprietary, thereby, depriving the royalty owners of information necessary to understand how Marathon calculates royalties. Consequently, the royalty owner is unaware of the lessee's

actual practices, thereby enabling the lessee to breach the oil-and-gas lease without accountability.

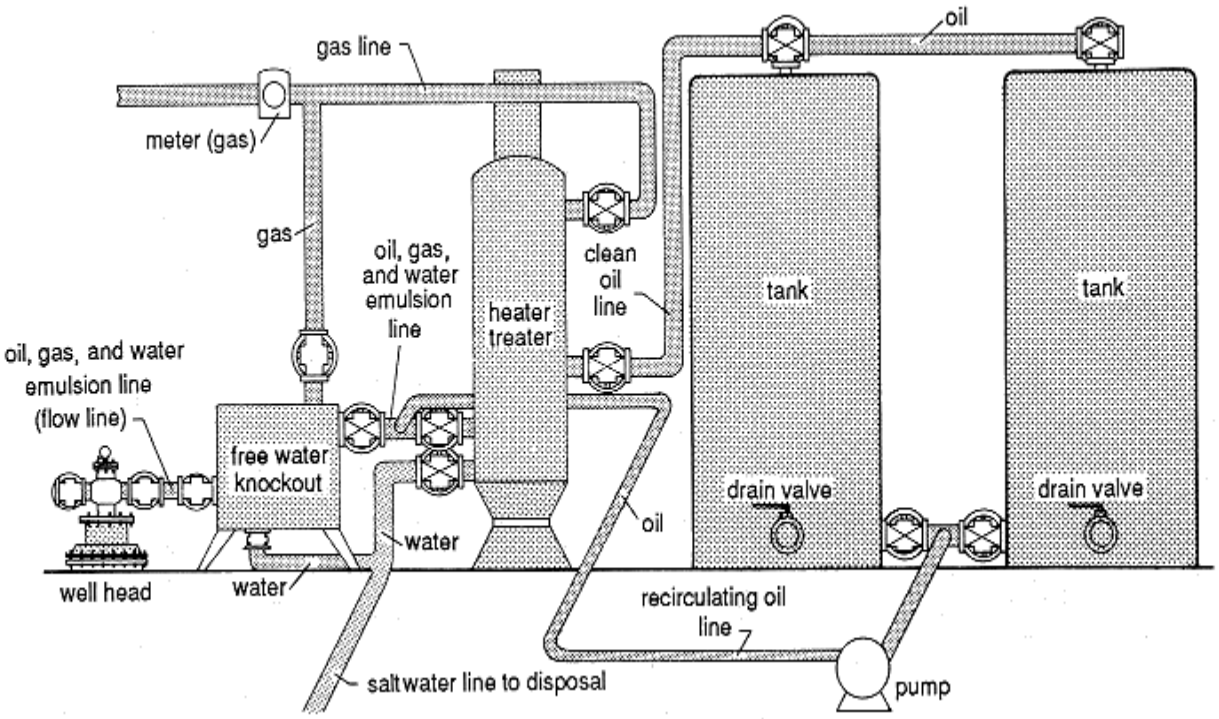
30. If and when one or more of the royalty owners learn of the "breach," the royalty owner has only three options—all of which are poor: (1) confront the lessee and maybe get paid while the lessee continues to retain improperly garnered gas revenues from thousands of other unknowing royalty owners; (2) do nothing since the "breach" only results in a modest yearly loss and the expense of individual litigation would exceed the recovery, if any; or (3) file a class action lawsuit which will persist for years and probably will not recover the full loss. In short, if the lessee breaches, it may never be held accountable; and if a royalty owner complains, the lessee will still come out ahead because an individual case is not worth much and a class action rarely requires 100% repayment to royalty owners plus prejudgment interest, plus attorneys' fees and expenses. The class action is the best of the three options, hence the filing of this class action lawsuit.

Residue Gas, Helium, Nitrogen and Natural Gas Liquids Production

31. The gas is gathered from each well, dehydrated and compressed, through underground gathering lines crossing many miles of land to processing plants where the raw gas is transformed into two primary products: methane and fractionated natural gas liquids ("NGLs"). Once homogenized as fungible products, the residue gas and NGLs are sold in the commercial market.

Wellhead (Basic Separation and Gas Measurement)

32. The diagram below illustrates the gas conditioning process:



See http://www.kgs.ku.edu/Publications/Oil/primer13.html (last visited Sept. 12, 2019).

33. Wells produce oil, gas, and a host of other products, such as water, helium, nitrogen, etc., all mixed together in the gas stream.[1] After the stream comes out of the ground, it enters the free water knockout (a/k/a three-phase separator) which separates the products by gravity, water at the bottom, oil in the middle, and gas going out the top. Due to the low technology, the separator is not expensive (the "separation cost"). The gaseous mixture (with helium, nitrogen, NGLs, and other gaseous substances) passes from the separator into the gas line.[2] The remaining fluid goes through the heater-treater where heat, gravity segregation,

[1] Hydrocarbons can vary in chemical makeup (from simple methane to complex octane) and in form (from pure gaseous state to liquid condensate). The non-hydrocarbon makeup of the well-stream that includes natural gas can also include gases such as helium, sulfur, carbon dioxide, and nitrogen. This mixture of many gaseous elements and substances is often referred to as the "gas stream" or just "gas."

[2] A minute portion of this raw gas may be used on a few leased lands to heat the farm house pursuant to a free gas clause in the lease. Although title to the gas sometimes is purportedly transferred, this is not a true sale. Some producers sell less than 3% of the raw gas to a

chemical additives and electric current break down the mixture more clearly in oil and water. The heater-treater is installed, maintained and takes fuel to operate (the "heater-treater cost"). The water is drained off and sent for saltwater disposal. The oil that is separated at the well-head is collected in a tank, usually trucked out and sold (the payment of oil royalties is not at issue in this Class).

34. Because production over time depletes the pressure of a well, on rare occasion, on-lease compressors are installed to suction gas out of the well or to move the gaseous mixture down the gathering lines. But when on-lease compressors are installed, their use requires fuel (the "on-lease compression" or "vacuum compression" cost).

35. The gaseous mixture produced from a single well cannot be processed economically, so the mixtures from many wells are "gathered" together through gathering lines and delivered to a processing plant for transformation into marketable products and sale into commercial markets. This results in a gathering cost (G). The below diagram provides an overview of the midstream services deduction process. Marathon does not improperly deduct from royalty any of the costs before the gathering line inlet (#1 on the diagram). But it improperly deducts the costs after the gathering line inlet and before the interstate pipeline inlet (#2 on the diagram), the market in which Marathon chooses to participate.

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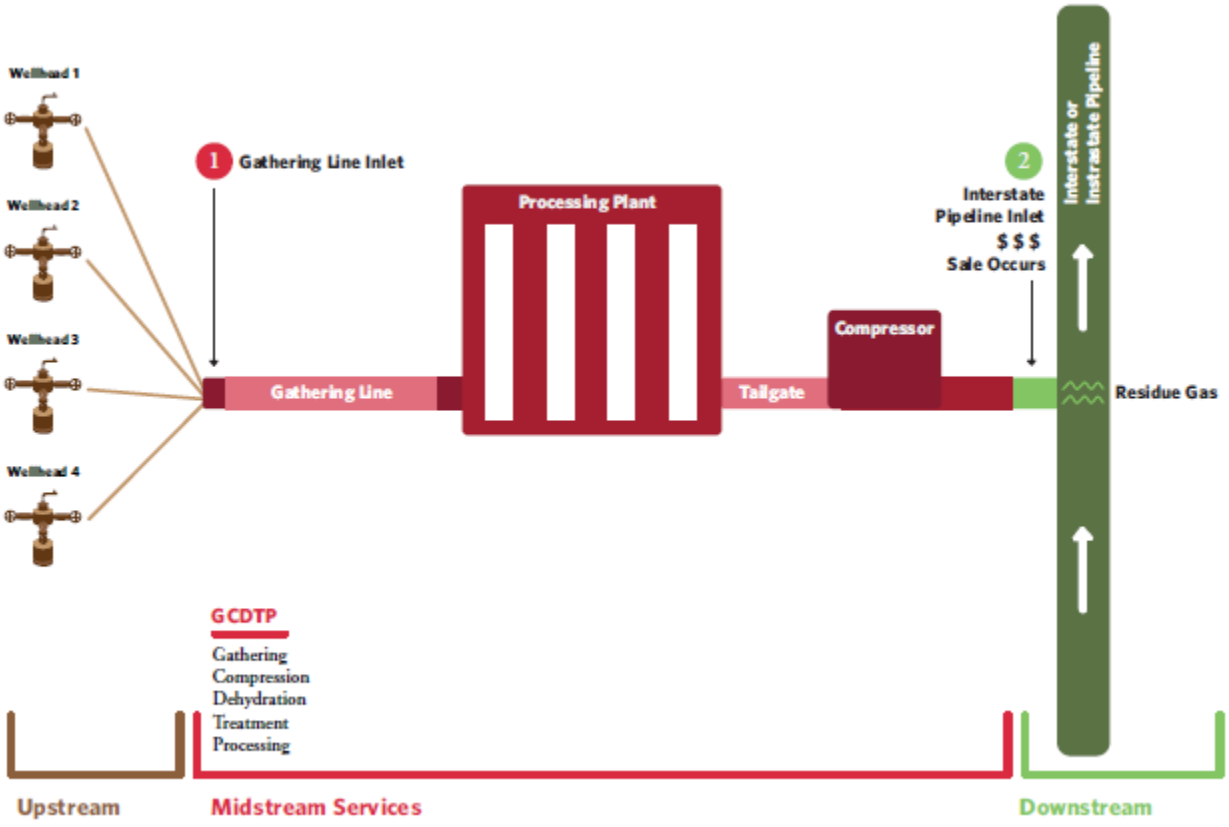
local irrigator during the summer months for agricultural purposes, but this is not the economic market for which the wells are drilled.

Midstream Services (GCDTP) Deductions



36. As the gaseous mixture from each well enters the gathering line, it flows into a meter run where the mixture is measured for both volume (in Mcf) and quality (Btu content) (combined, "gas measurement," in MMBtu). The meter run must be constantly maintained to record accurate measurements.

37. Gathering pipelines are usually made of metal that could be corroded by water vapor (and other corrosive gases) in the gaseous mixture, so a glycol dehydrator is used to remove the water vapor. This results in a dehydration cost (D).

38. Gas will not move downstream from the well unless it is pressurized sufficiently to overcome the in-line back pressure and friction in the gathering line. So large gas compressors are installed to move the gas from the gathering line inlet to the processing plant. These compressors are expensive and require fuel to operate. This results in a compression cost (C).

39. The gathering pipelines themselves cost money to lay and maintain, though most have been in place for decades. Gas condensate (gas condensed into liquid as it cools and is pressurized) ("Drip Condensate") is collected at points along the gathering lines as a result of cleaning or "pigging the line" and is captured for fractionation and sale later. Generally lessees pay no royalty on the revenue generated from the sale of the drip condensate even though the drip condensate is produced from the wells.

40. Finally, gathering lines leak, especially as they age, resulting in lost and unaccounted for gas ("L&U"). Lessees pay no royalty on the volume of L&U.

Natural Gas Processing

41. Once enough of the gas mixture from multiple wells (and often from multiple gathering systems) is gathered, the mixture enters the inlet of the processing plant where the mixture will be transformed into methane and mixed NGLs.

42. Lessees, such as Marathon, use gas processing plants that either they or a third party own. Usually an unrelated third party owns the processing plant but the plant may also be owned in whole or in part by a lessee.

43. The plant removes impurities that remain in the mixture, such as carbon dioxide, nitrogen, or sulfur, before the mixture can be processed. This incurs a "treatment cost" (T).

44. The final cost, processing (P), involves services to transform the gas mixture into methane gas (also called "residue gas"), NGLs raw make, and in the Panhandle of Oklahoma, crude helium.

a. Methane must meet the quality standards for long-haul pipeline transmission set by the Federal Energy Regulatory Commission ("FERC") which is called "pipeline quality gas".

b. The raw make NGLs are used as a feedstock in the petrochemical and oil refining industries; they are a more valuable commodity than methane. To separate the NGLs from the gaseous mixture, they are cooled to temperatures lower than minus 150°F (the "Cryogenic or cooling process"). The NGLs move into a liquids pipeline and are processed by a fractionator into their marketable products: ethane; propane; butanes; and pentanes plus. In the gas contracts, this process incurs a "T&F" or "fractionation" fee, even though lessees sometimes give away the NGLs in keep-whole agreements as consideration for other services the midstream company provides.

c. Helium is processed into Grade A helium at new processing plants or into crude helium (contaminated with nitrogen) at older plants which is then processed into Grade A helium at a nearby helium processor (often a few hundred feet away).

45. This total processing system involves expensive equipment and requires fuel to operate (collectively, the "processing charge" and/or "plant fuel"). Lessees do not pay royalty on plant fuel, even though it comes from Class Wells.

46. At the tailgate of the processing plant, at least two products emerge: (1) residue gas (or methane gas); and, (2) NGLs (usually a mixture of NGLs, known as "raw make" or

"Y" grade). In helium rich production areas, Grade A or crude helium, along with liquefied nitrogen also emerges. But none of these products are commercially marketable at this point.

Marketable Condition for the Products

47. *Methane Gas*. Methane gas (or residue gas) is commercial quality (a/k/a "pipeline quality") at the tailgate of the processing plant only after it is further pressurized to enter the transmission line by a booster compressor (the "booster compression" cost).

48. *NGLs*. The raw mixture of NGLs at the tailgate of the processing plant is not commercially marketable. It must be fractionated into commercially marketable products – ethane, propane, butane, isobutene, natural gasoline, etc. In computing royalty for NGLs, Marathon improperly deducts processing fees and/or other costs (such as transportation and fractionation, T&F) needed to reach commercially-marketable fractionated NGLs.

49. *Drip Condensate*. Drip Condensate is recovered on the gathering lines and at the inlet to the processing plant and is essentially in marketable condition when collected. Marathon pays no royalty on the drip condensate it takes from the Class Wells.

50. *Other Products*. In some areas of the country (e.g., in the Hugoton Field, which stretches across Southwest Kansas, the Oklahoma Panhandle, the Texas Panhandle, and into parts of Wyoming), helium is produced in commercial quantities and recovered, along with liquefied nitrogen. Other areas of the country produce sulfur and carbon dioxide in commercial quantities. When such products are available in commercial quantities, processing and treatment plants recover these valuable constituents but lessees pay little or nothing to the royalty owners. Royalty owners should be paid for the gas and all constituents taken.

Sale of Products

51. To turn the marketable products into money, the producer sells them (or contracts to have them sold) in the commercial marketplace in an arm's length transaction. No

money exchanges hands until the residue gas is sold at the Index pool, the fractionated NGLs at OPIS, and any other marketable products at the prices established by their respective commercial markets. Lessees attempt to obscure this fact with self-serving language in gas marketing contracts about title transfer or even by creating a wholly-owned affiliate to manufacture a fictitious "sale" before the gas reaches commercial quality for sale.

52. The "starting price" for gas products is always achieved, as it must be, at a commercial market price. All of the gas contracts express the commercial market price in one of two ways: (a) a market price, called an "Index" price for residue gas and "OPIS" price for fractionated NGLs, or (b) a "weighted average sales price" or "WASP" achieved at the same residue Index market or OPIS market. The difference stems from Marathon's market power to, over time, obtain above "Index" or "OPIS" price in its arm's length sale. Whichever starting price is used in an arm's length transaction, that price is the highest and best reasonable price for the valuable gas products. If other products are also produced, they are and must be also priced in a commercial market.

53. Affiliate gas contracts are not arm's-length sales in a commercial market. Instead, the later arm's-length sale by the affiliate in the commercial market is the true sale that should be used as the "starting price" for marketable condition gas products.

a. Some lessees contract with affiliated gathering companies or other affiliated gas service providers before the products (residue gas and/or NGLs) are in Marketable Condition in an effort to: (1) artificially, and improperly, create a commercial market where none truly exists so they may justify deducting costs from royalty, or not paying for all of the gas or constituent products produced; (2) charge "marketing fees" to royalty owners even though the lessee is already obligated under the lease to prepare the gas for market and

market the gas and constituent products; and/or (3) pay on the lower lessee/affiliate sale price and not the higher affiliate/third party price.

b. WASP involves a pool of sales transactions to third parties (and/or affiliates) and combines the prices paid by those third parties (and/or affiliates) to arrive at a "weighted average sales price." Lessees can manipulate this process by using lower lessee/affiliate sales prices for part of the pool price, rather than all third-party arm's length sale prices.

54. Fictitious "sales" (also known as sham sales or conditional sales) are created by lessees to pass off a non-commercial market sale as if it should be the starting point for royalty payments. But none of these efforts comport with economic reality or are in good faith with respect to royalty owners. For instance:

a. Anything of value can be sold at any place and in any condition.

b. Gas and other minerals can and are routinely sold in the ground, but they are not in marketable condition.

c. Gas could be sold at the bottom of the hole when it is severed from the surrounding rock and enters the downhole pipe. Although a contract driller might be willing to accept some percentage of the future sale of oil or gas in the real marketplace as compensation for his drilling services, that agreement does not make the transaction a real market sale.

d. Gas could be sold "at the wellhead" when the gas is severed from the surface. Although a contract operator might be willing to accept some percentage of the future sale of oil or gas in the real marketplace as compensation for his well operating services, that transaction does not make it a real market sale.

e. Gas also could be sold at the gathering line inlet when the gas enters the gathering line and changes custody. Although a contract gatherer might be willing to accept some percentage of the future sale of gas in the real marketplace as compensation for his gathering services, that transaction does not make it a real market sale.

f. Gas also could be sold at the processing plant inlet when the gas changes custody to the processing plant. Although a contract processor might be willing to accept some percentage of the future sale of gas in the real marketplace as compensation for his processing services, that transaction does not make it a real market sale.

g. The lessee could simply pay for all these services with monetary fees or in-kind contributions of all or part of the valuable constituents. But the structure of the transaction does not change the fact that the services are necessary to prepare the gas and valuable constituents for the first real sale into the commercial market – Index or OPIS.

h. Nor does a contract saying title transfers at a custody transfer point create a sale of marketable products in a real commercial market. Some gas contracts with Midstream companies that provide GCDTP services purport to do that, but other parts of the gas contract demonstrate that it is a poorly attempted legal sleight of hand as (i) the risk of loss that usually passes with a true title transfer and market sale does not happen; (ii) the cost of future downstream services that usually passes with a true title transfer and market sale does not happen; (iii) the starting price that would occur with a true title transfer and market sale does not happen. Indeed, the paper title transfer is

unnecessary to receiving the Midstream services as the gas could (and sometimes does) receive the exact same Midstream services without the paper title transfer.

i. All the gas contracts implicitly recognize this paper title transfer fiction, as the starting price for gas products always is at the Index and OPIS market pool as previously described.

j. Midstream services providers are not buyers and resellers of raw gas. They are service providers that convert raw gas into pipeline quality gas so it can enter the Index or OPIS market pools. Indeed, they are called Midstream servicers, not Midstream purchasers.

Different Ways Marathon Underpays Royalty Owners

55. The extraordinarily large dollars at stake and the one-sided nature of the gas lessor-lessee relationship are constant temptations to lessees to wrongfully retain gas revenues. All payment formulas, all affiliate and non-affiliate contractual relationships, and all calculations are firmly kept in the exclusive control of lessees, *and* they involve undisclosed accounting and operational practices. As a result, there are many ways that royalty owners are underpaid on their royalty interests, and they never know it. The common thread through all these schemes is that they are typically buried in the internal lessee accounting systems or royalty-payment formulas.

56. Marathon represents the royalty calculation on the form of a monthly check stub it sends each royalty owner. The check stub shows each royalty owner's interest and taxes (which are not in dispute here), and volume, price, deductions, and value, all of which are disputed.

57. Marathon underpays royalty to Plaintiffs and other Class Members in one or more of the following ways:

a. *Residue Gas*. The starting price paid for residue gas should be an arm's length, third party market sales price for residue gas at pipeline quality. All of Marathon's gas contracts will show this to be true. But, instead of paying on that gross competitive price, Marathon pays on a net price after directly taking or allowing midstream companies to indirectly take Midstream Services deductions (both monetary fees and in-kind volumetric deductions).

b. *NGLs*. The starting price paid for fractionated NGLs should be an arm's length, third party market sales price for ethane, propane, normal butane, iso-butane, and pentane plus (a/k/a natural gasoline). All of Marathon's gas contracts will show this to be true. But instead of paying on that gross competitive price, Marathon pays royalty (i) for only some of the NGLs produced (some is lost and unaccounted for in the gathering process, lost in plant fuel or compression fuel); (ii) after deducting processing fees and expenses (often keeping in-kind a Percentage of the Proceeds ("POP") of the fractionated NGLs as payment for the processing services); and, (iii) after reducing payment by T&F.

c. *Drip Condensate*. Plaintiffs and the Class Members' wells produce heavy hydrocarbons that condense in the pipeline. Marathon, or a third-party on behalf of Marathon (gatherers and/or processors), recovers those hydrocarbons for sale. Marathon fails to pay any royalty for that Drip Condensate.

d. *Other Products*. Helium is contained in the well-stream produced from Plaintiffs and many of the Class Members' wells, but Marathon: (i) fails to pay

royalty for all of the helium produced (some is lost and unaccounted for in the gathering and processing process); (ii) deducts processing fees and costs even though the helium is not yet in commercial grade; and (iii) pays at a lower than commercial Grade A price. Often, Marathon does not pay any royalty at all for Helium, for liquid nitrogen, or other products taken from Plaintiffs and the Class Members' wells.

58. Marathon underpays Plaintiffs and the Class Members by failing to pay royalties on gas used off the lease premises—including field fuel, L&U, drip condensate, plant fuel, and POP % retained—despite express contractual obligations to do so.

ACTUAL, KNOWING AND WILLFUL UNDERPAYMENT OR NON-PAYMENT OF ROYALTIES

59. The underpayment and non-payment of royalties are done with Marathon's actual and willful knowledge and intent.

60. Marathon is well familiar with the fact that many other producers in Oklahoma have resolved the same claims for hundreds of millions, if not billions, of dollars or have changed their royalty payment practices to cease the improper deductions described here.

61. In fact, Marathon itself settled an identical class action for an identical Class definition Plaintiffs allege here, and that Class definition was certified on June 9, 2010, in *Hill v. Marathon Oil Co.*, No. CIV–8–37–R in the United States District Court for the Western District of Oklahoma.[3]

62. Nevertheless, Marathon continues its improper payment practices with actual and willful knowledge and intent.

[3] At this time, Plaintiffs do not assert claims for breach of the class settlement agreement in *Hill v. Marathon Oil Co*.

CAUSES OF ACTION
COUNT 1 – BREACH OF LEASE

63. The allegations set forth above are incorporated herein by reference.

64. Plaintiffs and the other Class Members entered into written, fully-executed oil-and-gas leases with Marathon, and those leases include implied covenants requiring Marathon to prepare the gas and its constituent parts for market at Marathon's sole cost. The leases also place upon Marathon the obligation to properly account for and pay royalty interests to royalty owners under the mutual benefit rule and the duty of good faith and fair dealing.

65. Marathon breached the terms of the leases, including the implied covenants, by its actions and/or inactions in underpaying royalty or not paying royalty on all products sold from the gas stream or all products used off leased premises.

66. As a result of Marathon's breaches, Plaintiffs and the Class Members have been damaged through underpayment of the actual amounts due.

67. Further, Plaintiffs and the Members of the Class are entitled to other damages provided by Oklahoma statute, including compounding interest and punitive damages. *See* OKLA. STAT. tit. 52, § 570.1, *et seq.*

PRAYER FOR RELIEF

Wherefore, premises considered, Plaintiffs seek:

1. An order preliminarily certifying the Class for settlement purposes and allowing this case to proceed as a class action with Plaintiffs as class representatives and the undersigned counsel as class counsel;

2. An order requiring Defendant to pay Plaintiffs and all of the Class Members' actual damages to fully compensate them for losses sustained as a direct, proximate, and/or producing cause of Defendant's breaches and/or unlawful conduct;

3. An order requiring Defendant to pay interest in the future, as required by law, to Plaintiffs as representatives of the Class;

4. An order awarding punitive damages as determined by the jury and in accordance with Oklahoma law on each of Defendant's wrongful acts, as alleged in this Complaint;

5. An order requiring Defendant to pay the attorney fees and litigation costs of the Plaintiffs and Class as provided by statute; and

6. Such costs and other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all matters so triable.

Respectfully submitted,

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