

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

Civil Action No.: 1:17-cv-01579-WJM-NYW

WILLIAM M. BARRETT, Individually, and DENICE E. BATLA, HEATHER L. COBERLY, LELAND W. GULLEY, and BLAKE A. UMSTED, Individually and as the representatives of a class consisting of the participants and beneficiaries of the Pioneer Natural Resources USA, Inc. 401(K) and Matching Plan,

Plaintiffs,

v.

PIONEER NATURAL RESOURCES USA, INC.; THE PIONEER NATURAL RESOURCES USA INC. 401(K) AND MATCHING PLAN COMMITTEE; THERESA A. FAIRBROOK; TODD C. ABBOTT; W. PAUL MCDONALD; MARGARET M. MONTEMAYOR; THOMAS J. MURPHY; CHRISTOPHER M. PAULSEN; KERRY D. SCOTT; SUSAN A. SPRATLEN; LARRY N. PAULSEN; MARK KLEINMAN; and RICHARD P. DEALY

Defendants.

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**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

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

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS.**

You are receiving this notice because the records maintained by Pioneer Natural Resources USA, Inc. (“Pioneer”) and the Pioneer Natural Resources USA Inc. 401(K) and Matching Plan Committee (the “Committee”), indicate that you are or have been a participant in the Pioneer Natural Resources USA Inc. 401(k) and Matching Plan (the “Plan”), at some time during the period from June 28, 2011 through December 10, 2018 (the “Class Period”). As such, your rights may be affected by a proposed class action settlement (the “Settlement”) of the above-captioned federal lawsuit. Pioneer and the Committee, together with Theresa A. Fairbrook, Todd C. Abbott, W. Paul McDonald, Margaret M. Montemayor, Thomas J. Murphy, Christopher M. Paulsen, Kerry D. Scott,

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They cannot answer your questions.**

Susan A. Spratlen, Larry N. Paulsen, Mark Kleinman, and Richard P. Dealy are the defendants (collectively, “Defendants”) in this lawsuit. **Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement agreement if you disagree with its terms, and what deadlines apply to the right to object to the proposed settlement.**

### **WHAT THIS LAWSUIT IS ABOUT**

A lawsuit was filed in the United States District Court for the District of Colorado against Defendants. The lawsuit involves claims that Defendants violated the federal Employee Retirement Income Security Act of 1974, as amended (“ERISA”), by failing to comply with their fiduciary duties under ERISA to the Plan and participants of the Plan in the management, operation and administration of the Plan. The Plan participants who filed the lawsuit (“Plaintiffs”) claim that Defendants acted improperly by causing participants to pay excessive fees for the Plan’s recordkeeping services.

Defendants deny the allegations in the case and assert that their conduct was entirely proper. Defendants have asserted and would assert a number of defenses to Plaintiffs’ claims should the litigation continue. For example, Defendants contend that the Plan’s asset-based recordkeeping fee arrangement is common in the industry, and benefits participants with lower Plan account balances, who shoulder less of the Plan’s recordkeeping expenses, while participants with higher balances pay proportionally more. Defendants further maintain that they have negotiated the Plan’s recordkeeping fees down over time, and that those fees have fallen over the Class Period, despite substantial growth in Plan participants and Plan assets. In addition, Defendants contend that they have tested the market reasonableness of the Plan’s recordkeeping fee arrangement over the Class Period by, for example, commissioning an independent investment advisor to conduct a competitive bidding process for recordkeeping services in 2016. In sum, Defendants maintain that they did not breach their fiduciary duties to the Plan under ERISA.

### **The Terms of the Settlement**

To avoid the time and expense of a lawsuit, Plaintiffs and Defendants have agreed to a settlement that involves monetary payments to Plan participants. These and other terms of the Settlement are set forth in the Settlement Agreement and Release dated December 10, 2018 (“Settlement Agreement”) described below.

1. The Scope of the Class Covered by the Settlement. The Settlement Agreement proposes a class action settlement that would cover and be binding on the following class of individuals (“Settlement Class” or “Settlement Class Members”): all Current Participants and

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Former Participants and Beneficiaries of the Plan from June 28, 2011 through December 10, 2018 who maintained a balance of any amount in the Plan at any point during the Class Period, excluding Defendants.

Whether a person meets these definitions or not will be based on the Plan's records. You have received this Notice because, based upon those records, you are believed to be a member of the Settlement Class.

2. The Payment and Allocation of a Settlement Fund. As part of the Settlement, Pioneer has agreed to make a payment of five hundred thousand dollars (\$500,000) (the "Settlement Fund") for the benefit of the Settlement Class. This sum, after the withdrawal of Class Counsel's Expenses approved by the Court, Administration Costs (including an estimated provision for the costs of the distribution to Settlement Class Members and other post-distribution related Administration Costs, as proposed by the Settlement Administrator and approved by Class Counsel and Defendants' Counsel as reasonable), Service Awards, and Taxes and Tax-Related Costs, will be distributed to Settlement Class Members on a pro rata basis, based on their average year-ending Plan account balances over the Class Period, starting with December 31, 2011 and ending with December 31, 2018, except that no distribution will be smaller than \$10 and any Settlement Class Member with a pro rata amount of less than \$10 shall receive a distribution of \$10. The Plan of Allocation is attached to this Notice as Appendix A. Settlement Class Members who have a positive account balance in their Plan account at the time of the distribution will receive settlement proceeds into their Plan account. Settlement Class Members who no longer have a positive balance in their Plan account as of the date of distribution will receive a check from the Settlement Administrator.

3. The Classwide Release of Claims and Covenant Not to Sue. In exchange for payment of the Settlement Fund by Pioneer, all Settlement Class Members will release any claims they have related to this lawsuit and be prohibited from bringing or pursuing any other lawsuits or other actions based on such claims. The Settlement Class Members further covenant not to sue Defendants on any claims based on conduct that the Settlement Agreement requires Defendants to undertake (the "Covenant Not to Sue"). The Releases and the Covenant Not to Sue are set forth in full in the Settlement Agreement, which can be viewed online at [www.Barrett401kSettlement.com](http://www.Barrett401kSettlement.com), or requested from Class Counsel.

### **Former Participant Claim Form**

Settlement Class Members who are Former Participants and no longer have an active Plan account must complete a basic claim form confirming their address in order to receive payment. If you are a Former Participant, a Former Participant Claim Form is enclosed with this Notice,

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along with a pre-paid envelope. This form must be completed, signed and mailed with a postmark on or before July 10, 2019 to the Settlement Administrator at the following address:

Pioneer Natural Resources USA, Inc. 401(k) and Matching Plan Settlement Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

**Former Participants who do not complete and timely return the Former Participant Claim Form will not receive any Settlement payment. Even if you plan to object (see “the Opportunity to Object to the Settlement,” below), you must submit this form if you are a Former Participant. A Former Participant who objects but does *not* timely submit a Former Participant Claim Form will *not* receive any Settlement payment, assuming the Court approves the Settlement.**

### **The Settlement Approval Process**

The Court has granted preliminary approval of the proposed Settlement, finding that it is sufficiently within the range of reasonableness to warrant such preliminary approval, and has approved this notice to the Settlement Class. The Settlement will not take effect, however, until it receives final approval from the Court following an opportunity for Settlement Class Members to object to the Settlement, as described in detail below. Following the deadline for objecting to the Settlement, the Court will hold a Final Approval Hearing on August 7, 2019, which will take place at the United States District Court for the District of Colorado, located at Alfred A. Arraj U.S. Courthouse, 901 19th Street, Denver, CO 80294 at 9:30 a.m. The judge assigned to this case is the Honorable William J. Martinez, and his Courtroom is A801. The date and location of the Final Approval Hearing is subject to change by order of the Court, which will appear on the Court’s docket for this case.

### **The Opportunity to Object to the Settlement**

Prior to the Final Approval Hearing, Settlement Class Members will have the opportunity to object to approval of the Settlement. Settlement Class Members can object to the Settlement and give reasons why they think the Court should not approve it. ***This settlement proposes a mandatory class, which means that the Settlement Class Members will not be able to opt out of the Settlement Class.***

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To object, you must mail your objection to the Court at the following address:

Clerk of Court  
ATTN: Proposed Settlement in 17-CV-1579-WJM-NYW  
901 19th Street  
Denver, CO 80294

**Objections must be postmarked no later than July 10, 2019.** Objections postmarked after that date will not be considered. Any Settlement Class Member failing to submit a timely objection will be deemed to have waived any objection they might have, and any untimely objection will be barred absent an order from the Court.

Objections must include: (1) the case name and number; (2) your full name, current address, telephone number and signature; (3) a statement that you are a Settlement Class Member and an explanation of the basis upon which you claim to be a Settlement Class Member; (4) all grounds for the objection; and (5) a statement as to whether you or your counsel intends to personally appear at the Final Approval Hearing.

If you submit a timely written objection in accordance with the instructions above, you will also receive an opportunity to speak at the Final Approval Hearing, if desired, either personally or through a qualified attorney retained at your own expense.

Settlement Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

The Court will consider timely Settlement Class Member objections whether or not the objector attends the Final Approval Hearing. And even if you do not file an objection, you may attend the Final Approval Hearing solely as an observer. **But you do not need to attend the Final Approval Hearing—if the Court approves the Settlement, you will receive your Settlement payment whether or not you attend the hearing.**

#### **CLASS COUNSEL EXPENSES AND CASE CONTRIBUTION AWARDS FOR PLAINTIFFS**

In granting preliminary approval of the proposed Settlement, the Court appointed the Plaintiffs' lawyers to serve as "Class Counsel" for the Settlement Class. The attorneys for the Settlement Class are as follows:

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**Paul Wood**

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14426 East Evans Avenue  
Aurora, CO 80014  
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**Keith Scranton**

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Class Counsel will file a motion with the Court seeking approval of payment from the Settlement Fund of the expenses they incurred in prosecuting the case (“Expenses”), and Service Awards not to exceed \$4,000 for Plaintiff William M. Barrett, and \$1,500 each for Plaintiffs Denice E. Batla, Heather L. Coberly, Leland W. Gulley, and Blake A. Umsted (the “Case Contribution Awards”).

Class Counsel intend to submit an application for Attorney’s Fees and Expenses not to exceed \$200,000. The motion and supporting papers will be filed on or before **July 24, 2019**. After that date you may review the motion and supporting papers at [www.Barrett401kSettlement.com](http://www.Barrett401kSettlement.com). Any Expenses and Case Contribution Awards approved by the Court, in addition to the expenses incurred by the Settlement Administrator in sending this Notice and administering the Settlement, will be paid from the Settlement Fund.

**GETTING MORE INFORMATION**

You can visit the Settlement Website at [www.Barrett401kSettlement.com](http://www.Barrett401kSettlement.com), where you will find the full Settlement Agreement, the Court’s order granting Preliminary Approval of the Settlement, this Notice, and other relevant pleadings and documents. If you cannot find the information you need on the website, you may also contact Class Counsel for more information or email the Settlement Administrator at [info@Barrett401kSettlement.com](mailto:info@Barrett401kSettlement.com).

**Do not contact the Court or Pioneer to get additional information.**

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### **Plan of Allocation**

- 1.1.** As soon as administratively feasible after the Effective Date, the Settlement Administrator shall cause the Distributable Settlement Amount to be allocated and distributed to (i) Authorized Former Participants, and their Beneficiaries or Alternate Payees, as applicable, and to (ii) the Plan for distribution to Current Participants, and their Beneficiaries or Alternate payees, as applicable in accordance with this Plan of Allocation.
- 1.2.** To be eligible for a distribution from the Distributable Settlement Amount, a person must be an Authorized Former Participant, a Current Participant, or a Beneficiary or Alternate Payee of such a person. Current Participants shall receive their Settlement payments in the form of a credit to their Plan accounts as described in this Plan of Allocation, as of the date of the Settlement payments. Authorized Former Participants shall receive their Settlement payments in the form of checks as described in this Plan of Allocation.
- 1.3.** Beneficiaries will receive checks as described in this Plan of Allocation in amounts corresponding to their entitlement as Beneficiaries of a deceased Current Participant or of a deceased Authorized Former Participant with respect to which the payment is made. Alternate Payees will receive checks if and to the extent they are entitled to receive a portion of a Current Participant's or Authorized Former Participant's allocation under this Plan of Allocation pursuant to the terms of an applicable Qualified Domestic Relations Order ("QDRO"). The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with this Plan of Allocation and as ordered by the Court. It shall be solely responsible for performing any calculations required by this Plan of Allocation.
- 1.4.** Payments to Authorized Former Participants and Current Participants shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:
  - 1.4.1.** The Settlement Administrator shall obtain the following information from the Plan, through its former recordkeeper or otherwise: the year-end account balances for all Settlement Class Members during the Class Period.
  - 1.4.2.** The Settlement Administrator shall obtain, in writing, an agreement between Class Counsel and the Settlement Administrator on the Distributable Settlement Amount.
  - 1.4.3.** The Distributable Settlement Amount will be divided among the Settlement Class Members on a pro rata basis in proportion to each Settlement Class Member's average year-ending Plan account balance over the Class Period, starting with December 31, 2011 and ending with December 31, 2018.

- 1.4.4.** No payment to any Settlement Class Member shall be smaller than ten dollars (\$10.00). Any Settlement Class Member whose allocation pursuant to Paragraph 1.4.3 is less than ten dollars (\$10.00) shall receive a payment of ten dollars (\$10.00). After performing the initial calculation pursuant to Paragraph 1.4.3, the Settlement Administrator shall debit, pro rata, the payments to Settlement Class Members that exceed \$10.00 to bring the payment to any Settlement Class Member that is smaller than ten dollars (\$10.00) up to ten dollars (\$10.00).
- 1.4.5.** The Settlement Administrator shall utilize the calculations required to be performed herein for (i) making the required distributions to Authorized Former Participants; and (ii) instructing Defendants as to the amounts to be distributed to Current Participants and calculating the total amount to deposit in the Plan to fulfill this instruction.
- 1.4.6.** Unless the Settling Parties agree in writing, the total amount of all checks to be written by the Settlement Administrator plus the total amount of all credits that Defendants are instructed to make to Current Participants may not exceed the Distributable Settlement Amount. In the event that the Settlement Administrator determines that this Plan of Allocation would otherwise require payments exceeding the Distributable Settlement Amount, the Settlement Administrator is authorized to make such changes as are necessary to this Plan of Allocation such that said totals do not exceed the Distributable Settlement Amount.
- 1.5.** The Settlement Administrator shall complete all payment calculations for all Current Participants and Authorized Former Participants within sixty (60) calendar days after the Effective Date.
- 1.6.** Within two (2) business days after the Settlement Administrator has completed all payment calculations for all Current Participants, the Settlement Administrator will provide the Company with an Excel spreadsheet containing the following information: last name, first name, Social Security number, and the amount of the Settlement payment (with no "\$" sign or comma) for each of the Current Participants. Thereafter, within ten (10) business days' written notice to the Company, the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the Plan's trustee of the aggregate amount of all Settlement payments payable to Current Participants. The Company (or its designee) shall direct the Plan's trustee to credit the individual Plan account of each Current Participant in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to such Current Participant. The Settlement payment for each Current Participant will be invested in accordance with such Current Participant's investment elections then on file. If there is no investment election on file for any Current Participant, then such Current Participant shall be

deemed to have directed such payment to be invested in the Plan's "Qualified Default Investment Alternative," as defined in 29 C.F.R. § 2550.404c-5. The Plan's current recordkeeper shall process all Current Participant transactions within thirty (30) calendar days of the later of the funds being received by the Plan's trustee and the Plan's recordkeeper receiving final direction from the Pioneer Natural Resources USA Inc. 401(K) and Matching Plan Committee (the "Committee") (or its designee) for any Current Participant. The Plan may be amended, to the extent necessary, to reflect the Settlement allocation to Current Participants' accounts in accordance with this Plan of Allocation.

- 1.7.** If, as of the date when distributions pursuant to this Settlement Agreement are made, a Current Participant no longer has an Active Account, he or she will be treated as an Authorized Former Participant for purposes of the Settlement distribution only and will receive his or her payment from the Settlement Administrator in one Settlement check as described in Paragraph 1.8. A Current Participant who no longer has an Active Account on the date of his or her Settlement distribution need not complete a Former Participant Claim Form. Settlement payments that cannot be made by the Plan's trustee within thirty (30) calendar days of receiving direction from the Committee (or its designee) because the Settlement Class Member no longer has an Active Account shall be deposited in the Plan account for the purpose of defraying administrative fees and expenses of the Plan that would otherwise be charged to the Plan's participants.
- 1.8.** For each Authorized Former Participant, the Settlement Administrator will issue a single check from the Qualified Settlement Fund and mail it to the address of such Authorized Former Participant listed in his or her Former Participant Claim Form or, in the case of ambiguity or uncertainty, to the address of such person as determined by the Settlement Administrator using commercially reasonable means. The Settlement Administrator shall: (i) calculate and withhold any applicable taxes from Settlement payments to Authorized Former Participants; (ii) report such payments and remit such tax withholdings to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the Authorized Former Participants.
- 1.9.** This Plan of Allocation is based upon preliminary data regarding the Settlement Class Members who may be entitled to Settlement payments. If the Settlement Administrator concludes that it is impracticable to implement any provision of this Plan of Allocation, the Settling Parties will modify promptly the terms of this Plan of Allocation and present such modified terms to the Court for its approval. Direct mailed notice to Settlement Class Members of such proposed modification of the Plan of Allocation shall not be required. However, notice of such proposed modification shall be posted on the Settlement Website within five (5) business days of the date that the proposed modification is submitted to the Court for its approval. If the proposed modification is implemented, notice of such modification shall be posted on the Settlement Website within five (5) business days of the date

that the modification was implemented.

- 1.10.** Within ten (10) business days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel, Defense Counsel, and Defendants one or more affidavits stating the following: (i) the name of each Settlement Class Member to whom the Settlement Administrator sent the Notice or the Former Participant Claim Form, and the address of such mailing; (ii) the date(s) upon which the Settlement Administrator sent the Notice or the Former Participant Claim Form; (iii) the name of each Settlement Class Member whose Settlement Notice or Former Participant Claim Form was returned as undeliverable; (iv) the efforts made by the Settlement Administrator to find the correct address and to deliver the Notice or Former Participant Claim Form for each such Settlement Class Member; and (v) the name of each Settlement Class Member to whom the Settlement Administrator made a distribution from the Distributable Settlement Amount, together with the amount of the distribution, the name of the payee, the date of distribution, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable. The Settling Parties shall treat the affidavit(s) as confidential.
- 1.11.** The Settling Parties acknowledge that any payments to Settlement Class Members or their attorneys may be subject to applicable tax laws. Defendants, Defendants' Counsel, Class Counsel, and Plaintiffs will provide no tax advice to the Settlement Class Members and make no representation regarding the tax consequences of any of the Settlement payments described in this Settlement Agreement. To the extent that any portion of any Settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be considered to be wages by the Settling Parties.
- 1.12.** Each Settlement Class Member who receives a payment under the Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Settlement Class Member shall hold Defendants, Defendants' Counsel, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendants, Defendants' Counsel, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.
- 1.13.** All checks issued pursuant to this Plan of Allocation shall expire no later than ninety (90) days after their issue date. Checks older than ninety (90) days will be

void, and the Settlement Administrator shall be instructed to return any such funds to the Escrow Account.

- 1.14.** To the extent funds remain in the Escrow Account as a result of any uncashed checks by Authorized Former Participants and the remainder exceeds \$5,000, such funds will be electronically distributed to Current Participants on a pro rata basis in proportion to each Current Participant's average year-ending Plan account balance over the Class Period (for purposes of any second distribution to Current Participants described in this Paragraph 1.14, the \$10 minimum payment described in Paragraph 1.4.4 shall not apply). To the extent the remainder in the Escrow Account is less than \$5,000, the remainder will be electronically deposited in the Plan's suspense account and utilized to defray expenses to Plan participants.
- 1.15.** Any funds associated with checks that are not cashed within ninety (90) days of issuance and any funds that cannot be distributed to Settlement Class Members for any other reason, together with any interest earned on them, and after the payment of any applicable taxes by the Escrow Agent, shall be returned to the Escrow Account by the Settlement Administrator to be distributed as described in Paragraph 1.14.