

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

Wake Energy, LLC, and Frederick M.
Scott, III, Trustee of the Scott Family
Trust, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

BCE-Mach LLC, BCE-Mach II LLC, and
BCE-Mach III LLC,

Defendants.

Case No. CIV-22-794-HE

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 Wake Energy, LLC and Fredrick M. Scott III, Trustee of the Scott Family Trust (“Plaintiffs”), on behalf of themselves and all others similarly situated, and BCE-Mach LLC, BCE-Mach II LLC, and BCE-Mach III LLC (“Defendants”). Plaintiffs and Defendants 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, Plaintiffs commenced *Wake Energy LLC v. BCE-Mach LLC and BCE-Mach III LLC*, No. 22-CV-22-794-HE (W.D. Okla.) by filing a Complaint (Doc. 1)

on September 8, 2022 and commenced *Wake Energy, LLC and Frederick M. Scott III, Trustee of the Scott Family Trust v. BCE Mach II LLC*, No. 23-CV-264-R (W.D. Okla.) was commenced by filing a Petition (Doc. 1-1) on January 31, 2023 (together, the “Litigation”);

WHEREAS, Plaintiffs have made certain claims against Defendants, as more fully described in the Complaint and Petition;

WHEREAS, Plaintiffs and Plaintiffs’ Counsel have prosecuted the Litigation for over nineteen months, which has included production of documents and data, research, accounting review and analysis, discovery, consultation by and with experts, settlement negotiations among counsel, mediation, 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 Defendants 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, Defendants agree that further prosecution and defense of the claims against them in this Litigation would be protracted and expensive. Defendants have evaluated the uncertainty and risks inherent in any such litigation and have determined that it is desirable to compromise and settle the claims against them in the Litigation;

WHEREAS, Defendants have adamantly denied, and continue to deny, Plaintiffs' claims against them and any and all liability to Plaintiffs and the Settlement Class, and have vigorously defended against those claims; and

WHEREAS, Defendants enter 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 them 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 them 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, Defendants 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, any Plan 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 Defendants under paragraph 3.2 below); (b) fees, costs, and expenses incurred to publish and mail the Notices 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 any Plan 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 include 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 their time, expense, and participation in this Litigation and in representing the Settlement Class.

1.4. “**Claim Period**” means, subject to the terms of this Settlement Agreement regarding Released Claims:

1.4.1. For BCE-Mach LLC, checks or payments made or issued by or for BCE-Mach LLC dated between and including September 28, 2018 through February 29, 2024;

1.4.2. For BCE-Mach III LLC, checks or payments made or issued by or for BCE-Mach III LLC, including those made by Martindale Consulting, Inc., dated between and including June 30, 2020 through February 29, 2024; and,

1.4.3. For BCE-Mach II LLC, checks or payments made or issued by or for BCE-Mach II LLC dated between and including January 31, 2020 through February 29, 2024.

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 Western District of Oklahoma, or any successor judge presiding over the Litigation there.

1.7. “**Defendants**” means BCE-Mach LLC, BCE-Mach II LLC, and BCE-Mach III LLC.

1.8. “**Defendants’ Counsel**” means the law firms of McAfee & Taft, a Professional Corporation, and K&L Gates LLP.

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), Defendants, 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**” means the future benefits set forth in paragraph 2.5 below.

1.18. “**Gross Settlement Fund**” means the total cash amount of Four Million, Two Hundred Thousand Dollars (\$4,200,000.00) to be paid by Defendants. In no event shall Defendants be required to pay more than the Gross Settlement Fund.

1.19. “**Gross Settlement Value**” means (1) the Gross Settlement Fund and (2) the non-monetary agreements of Defendants as set out in this Settlement Agreement.

1.20. “**Judgment**” means the Judgment finally approving the Settlement between the Settlement Class and Defendants, which shall be in material conformance with Exhibit 2, attached hereto.

1.21. “**Litigation**” is separately defined on page 1 of this Settlement Agreement.

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 Award 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 Initial Plan of Allocation 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**” means, collectively, Defendants (as defined at paragraph 1.7) and Plaintiffs (as defined at paragraph 1.26).

1.26. “**Plaintiffs**” means Wake Energy, LLC and Fredrick M. Scott III, Trustee of the Scott Family Trust.

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 Brady Smith Law, PLLC and Randy C. Smith & Associates.

1.29. “**Plan of Allocation**” means the proposed 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 the Notices of Settlement be provided to the Settlement Class as set forth therein.

1.32. “**Released Claims**” means any 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, arising out of or related to underpaid and unpaid statutory interest on late payments on Oklahoma oil and gas proceeds made by or for Defendants during the Claim Period.

No other claims are released, including but not limited to: (1) claims of Owners for earned statutory interest on late payments made by Defendants before or after the Claim Period; (2) any and all claims against the Released Parties arising out of or related to underpaid or unpaid statutory interest for proceeds from Oklahoma oil-and-gas production held in suspense, but not yet paid or issued by the Released Parties during the Claim Period; (3) any and all claims for the principal amount of proceeds for Oklahoma oil-and-gas production and statutory interest due on the alleged underpayment of the principal amount of proceeds, including, but not limited to, claims arising based on breach of express and/or implied covenants of oil and gas leases and/or forced pooling orders and the class-action and individual claims asserted in *Sagacity, Inc., et al. v. BCE-Mach III LLC*, No. 23-CV-39-JFH-GLJ (E.D. Okla.); and (4) any other claims that class

members may have against Defendants other than the specific statutory interest claims under the PRSA set out in this paragraph.

1.33. “**Released Parties**” means Defendants, their past and present parent companies and all of their affiliates, subsidiaries, predecessors, successors, assigns, officers, directors, employees, contractors, agents, consultants, servants, stockholders, unit holders, general partners, limited partners, members, representatives, insurers, and attorneys, 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, 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 or Plaintiffs’ Counsel 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 or any distribution account maintained by the Settlement Administrator, 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 defined as follows:

All non-excluded persons or entities who: (1) received payments outside the time frame provided for in the PRSA from Defendants (or Defendants' designee) for oil, gas, and natural gas liquids proceeds from Oklahoma wells, or whose proceeds from Oklahoma wells were sent as unclaimed property to a government entity by Defendants; and (2) whose payments or whose unclaimed property payments did not include statutory interest pursuant to the PRSA.

Excluded from the Class are: (1) Defendants, their affiliates, predecessors, and employees, officers, and directors; and (2) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (3) any Indian Tribe as defined at 30 U.S.C. § 1702(4) or Indian allottee as defined at 30 U.S.C. § 1702(2); (4) persons or entities that Plaintiffs' counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (5) publicly traded oil and gas companies and their affiliates; (6) Continental Exploration LLC; (7) Tiptop Oil & Gas LLC; (8) Gai-Jin Trading Company LLC; (9) Natixis New York Branch; (10) DFE Holdings LLC; (11) Toronto Dominion (Texas) LLC; (12) ING Capital LLC; (13) Wells Fargo Bank NA; (14) Citibank NA; (15) Barclay's Bank PLC; (16) BOKF Petro Holdings LLC; (17) PNC Bank National Association; (18) The Derlam Company; and (19) ING Capital Markets LLC.

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, Defendants agree to provide Plaintiffs and Class Members the Gross Settlement Value.

2.2. Defendants shall deposit \$250,000.00 of the Gross Settlement Fund into the Escrow Account no later than twenty-one (21) days following the date the Court enters

the preliminary approval order. Defendants shall deposit the balance of the Gross Settlement Fund into the Escrow Account within 14 days following the Judgment being entered. The Gross Settlement Fund shall not be distributed without Court approval, except the \$250,000.00 partial deposit of the Settlement Fund may be used for administration, notice, and distribution costs, so long as the Court grants preliminary approval. In the event the Settlement is not approved by the Court in substantially similar form that is jointly proposed by the Parties or the Judgment does not become Final and Non-Appealable, any amount of the \$250,000.00 partial deposit of the Gross Settlement Fund not used for administrative, notice, and distribution costs prior to such date shall be returned to Defendants within twenty (20) days of the occurrence of such non-approval. Plaintiffs agree to provide reasonable support for such costs if requested.

2.3. Except for Defendants' obligation to make the payment called for by paragraph 2.2, neither Defendants nor Defendants' 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 Defendants fail to pay the amount of the Gross Settlement Fund into the Escrow Account within the time specified above in paragraph 2.2, such amount will accrue compounded annual interest at the rate of 12% beginning on the date on which payment is due and ending when the Gross Settlement Fund is paid into the Escrow Account.

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. Defendants agree to provide the following Future Benefits: Commencing within the later of (i) six (6) months after execution of the Settlement Agreement or (ii) thirty (30) days after the date a Judgment approving the Settlement becomes Final and Non-Appealable, Defendants shall review their procedures and policies to ensure they are reasonably calculated to accomplish the payment of any owed statutory interest to owners in Oklahoma without awaiting a demand for such statutory interest, and shall maintain such procedures (or other policies and procedures reasonably calculated to accomplish the same result) unless or until there is a change in the law in Oklahoma. Defendant has not analyzed and will not take any position regarding Plaintiffs' experts' estimated value, if any, of the Future Benefits submitted to the Court. Plaintiffs, the Settlement Class, and Defendant agree that, if the actual financial benefit described in the Future Benefits 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.

2.6. It is understood and agreed that nothing in this paragraph is intended to release or compromise any claims the Settlement Class members might have against the Released Parties as to claims accruing outside the Claim Period, to the extent that the Class Members contend that the above Future Benefits fail to fulfill the obligations the Released Parties may have to the Settlement Class. It is further understood and agreed that nothing in this paragraph is intended to prohibit the Released Parties from, at their

sole individual options, deciding to change their practices regarding the Future Benefits in a way that is more favorable to Class Members, with there being no need to obtain the approval of any person, entity, or tribunal in order to make such a change.

2.7. 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 Defendants in this Settlement Agreement, to give the Release, Dismissal and Covenant Not to Sue described in section 4, below.

3. Plan of Notice and Court Approvals

3.1. Within seven (7) days after the execution of the settlement agreement, the Parties shall file a joint Motion to Consolidate the BCE-Mach II case (Case No. 23-CV-264-R) into *Wake Energy LLC v. BCE-Mach LLC and BCE-Mach III LLC*, No. 22-CV-794-HE (W.D. Okla.). Plaintiffs' motion for preliminary approval shall be submitted to the Court no later than seven (7) days following the order granting the Motion to Consolidate. In the event the Court declines to consolidate the cases, the Parties shall file separate motions for preliminary approval in each case. In either event, the motion(s) for preliminary approval shall include the proposed Preliminary Approval Order, in substantially 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 the Settlement as set forth in this Settlement Agreement; (c) approve 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. No later than fourteen (14) days following entry of the Preliminary Approval Order, to the extent not already provided to Plaintiffs' Counsel, Defendants shall provide Plaintiffs' Counsel the names, last known addresses, and taxpayer identification numbers for persons who received oil and gas proceeds payments from or on behalf of Defendants during the Claim Period, to the extent such information is contained in Defendants' business records. To the extent the names, last known addresses, and/or taxpayer identification numbers of Class Members are not contained in Defendants' records, Defendants shall have no duty to locate, search for, or otherwise provide such information to Plaintiffs' Counsel, nor shall Defendants have the duty to verify the present accuracy of the contact or tax identification information contained in Defendants' records. All taxpayer identification numbers provided by Defendants shall be subject to the Stipulated Protective Order entered in the Litigation, and the Parties agree that they shall treat taxpayer identification numbers as Confidential. Defendants agree to cooperate in providing this data to Plaintiffs' Counsel and understand that the deadlines set forth in this Settlement Agreement are based in part on Defendants' timely provision of this data to Plaintiffs' Counsel.

3.3. 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 Defendants pursuant to paragraph 3.2 and (b) locate current addresses of any potential Class Members for whom Defendants have not provided an address.

3.4. 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 ten (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 Complaint and Petition, (c) this Settlement Agreement, (d) the Preliminary Approval Order(s); and (e) other publicly filed documents related to approval of the Settlement. Neither Defendants, Defendants' Counsel, Plaintiffs, the Settlement Class, nor Plaintiffs' Counsel shall have any liability for failure of the Notice of Settlement to reach any Class Member.

3.5. At its sole expense, Defendants shall issue the notice of settlement contemplated by the Class Action Fairness Act of 2005 ("CAFA") no later than ten (10)

days after Plaintiffs' Motion for Preliminary Approval is filed with the Court. Any failure or delay by Defendants to timely issue any CAFA notice shall not be sufficient reason to delay or continue the Final Fairness Hearing.

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

3.7. All Administration, Notice, and Distribution Costs shall be paid from the Gross Settlement Fund. Defendants shall have no liability for any costs associated with the administration of this Settlement other than issuing notice as contemplated by CAFA.

3.8. Defendants agree that, should the Court grant preliminary approval of the Settlement, up to Two Hundred Fifty Thousand Dollars (\$250,000.00) of the Gross Settlement Fund may be used for Administration, Notice, and Distribution Costs.

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 asserted in the Litigation 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 Defendants' 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 or any distribution account maintained by the Settlement Administrator after the Court enters the Distribution Order shall be borne by the Gross Settlement Fund alone and not by Plaintiffs, Plaintiffs' Counsel, Defendants, Defendants' 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, Defendants, Defendants’ 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 or any distribution account maintained by the Settlement Administrator after the Court enters the Distribution. The Parties shall notify the Escrow Agent and Settlement Administrator

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, Defendants, Defendants' Counsel, the Gross Settlement Fund, and the Settlement Administrator shall have no responsibility or liability whatsoever for any such taxes. Defendants, Defendants' 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 Award, 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, and such refunds will become part of the Residual Unclaimed Funds. 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, Defendants, Defendants' 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 and Settlement Administrator promptly if they receive any notice of any claim for penalties relating to a filed IRS Form 1099.

5.6. The Parties agree that Defendants, Defendants' 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.

5.7. In the event Defendants are required to pay any taxes or assessments attributable to the Class Members, including any applicable interest or penalties, each Class Member will indemnify Defendants as to the taxes, assessments, interest, and penalties attributable to such Class Member paid by Defendants. Without limitation of the foregoing, Defendants 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 Defendants, including deduction or offset from any future payments to the Class Member. Defendants' 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 a Class Member.

5.8. Plaintiffs, Plaintiffs' Counsel, Defendants, Defendants' 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 own tax adviser. Defendants shall 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 or any distribution account maintained by the Settlement Administrator after the Court enters the Distribution Order, the payment or withholding of any taxes, or any other expenses or losses in connection with such matters.

5.10. Subject to paragraph 3.8 above regarding up to Two Hundred Fifty Thousand Dollars (\$250,000.00) in Administration, Notice, and Distribution Costs,

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 evidence 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 Defendants 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 on the amount of statutory interest owed on the original underlying payment that allegedly occurred outside the time periods required by the PRSA, with due regard for the production date, the date the underlying payment was made, the amount of the underlying payment, the time periods set forth in the PRSA, any additional statutory interest that Plaintiffs' Counsel

believes has since accrued, and the amount of interest or returns that have accrued on the Class Member's proportionate share of the Net Settlement Fund during the time such share was held in the Escrow Account, and the distribution of small amounts that may exceed the cost of the distribution (\$5.00). No distributions will be made to Class Members who would otherwise receive a distribution of \$5.00 or less under the Final 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 Defendants 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. Defendants shall have no responsibility for the allocation and distribution of the Gross Settlement Fund or Net Settlement Fund, 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 or Net 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 or Net Settlement Fund than it actually received or than provided by any plan of allocation. Defendants shall 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. No later than twenty-eight (28) days prior to the Final Fairness Hearing, Plaintiffs' Counsel will provide an Initial Plan of Allocation to Defendants, subject to extension if Defendants has not provided all of the data it is obligated to provide pursuant to paragraph 3.2 above. The Initial Plan of Allocation will reflect the amount of the Distribution Check to be sent to each Class Member based upon (a) data provided by Defendants 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 the Case Contribution Award will be approved. Plaintiffs' Counsel may rely on the data provided by Defendants pursuant to paragraph 3.2 above for purposes of the initial Plan 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 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 Plan of Allocation. The Distribution Order will authorize the Escrow Agent to transfer the Net Settlement Fund to the Settlement Administrator for distribution and will direct the Escrow Agent to terminate the Escrow Account.

6.5. Within thirty (30) days after the Effective Date, the Settlement Administrator will (a) refund from the Net Settlement Fund to Defendants 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 Defendants with the detail necessary for Defendants 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, Defendants, 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, except those who have timely and properly submitted a Request for Exclusion or are otherwise excluded from the Settlement Class, according to

the 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 Defendants 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. Except for Two Hundred Fifty Thousand Dollars (\$250,000.00) in Administration, Notice, and Distribution Costs described in paragraph 3.8 above, the Gross Settlement Fund shall not be distributed without express Court approval. If the Court does not grant the Preliminary Approval Order, the portion of the Gross Settlement Fund paid by Defendants, with proportionate interest, shall be returned to Defendants within twenty (20) days of the Court's denial of approval at Defendants' election. In the event the Settlement is not finally approved by the Court in substantially similar form as that jointly proposed by the Parties or the Judgment does not become Final and Non-Appealable, the portion of the Gross Settlement Fund paid by Defendants shall be returned to Defendants within twenty (20) days of the occurrence of such non-approval at Defendants' election, less up to \$250,000.00 in reasonably and actually incurred Administration, Notice, and Distribution costs incurred prior to such date, and Plaintiffs agrees to provide reasonable support for such costs if requested.

6.8. After Court approval of the 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 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. Any portion of the Net Settlement Fund remaining in the Escrow Account or any distribution account maintained by the Settlement Administrator after the void date for each Distribution Check, and after all reasonable administration efforts are concluded, shall 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. Defendants will provide all reasonably accessible information in their 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 or distribution account maintained by the Settlement Administrator as Residual Unclaimed Funds.

6.10. 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. 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 or distribution account maintained by the Settlement Administrator 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 *Wake Energy, LLC, et al. v. BCE-Mach LLC, et al.*, Case No. 22-CV-22-794-HE, United States District Court for the Western District of Oklahoma, United States District Court for the Western 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, Defendants 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. Defendants, Defendants' 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 as set forth above in paragraphs 6.8 through 6.10), complying with the Court's order(s) in furtherance of this Settlement, 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. Within one calendar year after the Settlement Administrator sends the final wave of Distribution Checks, the Settlement Administrator shall send a reconciliation of the Residual Unclaimed Funds to Plaintiffs' 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.

6.16. Following receipt of this information, Plaintiffs shall move the Court for distribution of $\frac{2}{3}$ the Residual Unclaimed Funds, and Defendants shall move the Court for distribution of $\frac{1}{3}$ of the Residual Unclaimed Funds. Neither party shall oppose or take a position on the other party's Motion related to Residual Unclaimed Funds. The Settlement Administrator will distribute the Residual Unclaimed Funds pursuant to the Court's order(s) on the Parties' Motion(s).

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, Defendants' Counsel, and Defendants 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 Award, Litigation Expenses, and Administration, Notice, and Distribution Costs

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 to Plaintiffs' Counsel, the Case Contribution Award to Plaintiffs, and for reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs. Defendants has no obligation for Plaintiffs' Attorneys' Fees, the Case Contribution Award, or Litigation Expenses and Administration, Notice, and Distribution Costs, which

shall be paid from the Gross Settlement Fund. Therefore, Defendants shall not take any position with respect to the applications; the amount of Plaintiffs' Attorneys' Fees, the Case Contribution Award, or Litigation Expenses and Administration, Notice, and Distribution Costs sought; or with respect to whether the Court should make any or all such awards. Defendants 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 to Plaintiffs' Counsel, the Case Contribution Award to Plaintiffs, and Litigation Expenses and Administration, Notice, and Distribution Costs exclusively from the Gross Settlement Fund. Defendants, Defendants' Counsel and 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 Award, 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. The terms of this provision may only

be altered or amended by written agreement signed by Defendants' and Plaintiffs' Counsel.

7.3. Any Case Contribution Award that is 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, a Case Contribution Award, 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 Award, 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, the Case Contribution Award, or Litigation Expenses and Administration, Notice, and Distribution Costs.

8. Requests for Exclusion

8.1. Plaintiffs shall not submit a Request for Exclusion and neither Plaintiffs, Plaintiffs' Counsel, Defendants, Defendants' 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' Counsel's request for Plaintiffs' Attorneys' Fees and Litigation Expenses and Administration, Notice, and Distribution Costs, the Case Contribution Award, 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 Defendants' 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 *Wake Energy, LLC, et al. v. BCE-Mach LLC, et al.*, and (c) a description of the Class Member's interest in any wells

for which Defendants 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 may not be submitted through the website or by telephone, facsimile, or e-mail.

8.5. 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 any Order of the Court, and their heirs, successors, and assigns, will be enjoined by the Court in the Judgment from filing or prosecuting the Released Claims, without regard as to whether a member of the Settlement Class actually received a payment from the Net Settlement Fund, and without regard as to whether any payment received was correctly determined.

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 Award, 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. Defendants shall have the right and option, in their 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 under the Initial Plan of Allocation 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 thresholds for opt-outs have been met and will notify Plaintiffs' Counsel and Defendants' Counsel in writing regarding the results of that determination and simultaneously provide a list of the Class Members who have opted out. Defendants must elect to terminate this Settlement by written notice delivered to Plaintiffs' Counsel on or before the expiration of five (5) business days following the date on which the Settlement Administrator provides the above-referenced written notice of the threshold for opt-outs. If Defendants do not exercise its right to terminate on or before the expiration of that five (5) business day period, Defendants' right to terminate shall expire. If Defendants timely and properly exercises their 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 (subject to appropriate extensions of deadlines to enable the litigation to proceed).

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) Defendants have fully paid, or caused to be fully paid, the Gross Settlement Fund, as required above;
- b) the Settlement Agreement has not terminated under paragraph 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 paragraph 9 hereof:

- a) the Effective Date shall not occur;
- b) Plaintiffs and Defendants shall be restored to their respective positions prior to the Settlement;
- c) the terms and provisions of this Settlement Agreement shall have no further force and effect with respect to Plaintiffs, Defendants, 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*;
- e) the portion of the Gross Settlement Fund paid by Defendants will be returned to Defendants within twenty (20) days at Defendants' election, less up to \$250,000.00 in reasonably incurred Administration, Notice, and Distribution Costs incurred prior to such date, and Plaintiffs' Counsel agree to provide reasonable support for such costs if requested; and
- f) the Litigation shall proceed as if the Settlement Agreement and any orders or motions entered to further the Settlement were never entered.

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, Administration, Notice, and Distribution Costs, and the Case Contribution

Award 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, the Case Contribution Award, 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 Notices 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 Award, 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 Defendants (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 following: the Plan of Allocation, the award of Plaintiffs' Attorneys' Fees, the Case Contribution Award, 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 Agreement.

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 Award, and reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, as may be modified by the Court, is fair, adequate, and reasonable to the Class as a whole, then either or both Plaintiffs and Defendants (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 Defendants' 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 the Case Contribution Award. In order for an objection to be valid, the written objection must be (a) filed with the Court and served on Plaintiffs' Counsel and Defendants' 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 *Wake Energy, LLC, et al. v. BCE-Mach LLC, et al.*, Case No. CIV-22-794-HE United States District Court for the Western 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 Settlement 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 Defendants;
- 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 or on behalf of Defendants (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 Award 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 Defendants take any position, including on appeal, regarding Plaintiffs' Attorneys' Fees, any Case Contribution Award, 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. Defendants expressly deny all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation and deny 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 Defendants 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 claims of the Settlement Class in the Litigation, Defendants do not admit that the Litigation could have been properly maintained as a contested class action and the Settlement Class do not admit any deficiency in the merits of their claims. Defendants assert they have 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 Defendants 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 Defendants 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 Defendants shall use reasonable, good-faith efforts to encourage and obtain approval of the Settlement. Plaintiffs and Defendants 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 Defendants 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 Defendants 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 Defendants are each represented by competent counsel who have advised their respective clients as to the legal effects of this Settlement, and neither Plaintiffs nor Defendants has 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 Defendants 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, Defendants 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 agrees not to file a claim against Defendants or Defendants' Counsel based upon an assertion that the Litigation was defended by Defendants or Defendants' Counsel in bad faith or without a reasonable basis. Plaintiffs and Defendants 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 Defendants 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, the Settlement Class, and Defendants 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 Defendants 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 or

written 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 is deemed to represent and warrant that he, she, or it holds the claims being released in the Settlement and that he, she, or it has full authority to release such claims.

11.14. Plaintiffs and Defendants 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; and (b) all hearings, deadlines, and other proceedings, except the preliminary approval hearing (if any) 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 that the settlement terms reached at mediation are superseded in their entirety by this Settlement Agreement.

11.17. 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.

IN WITNESS WHEREOF, the parties and counsel have executed this Agreement, in several, as of June 4, 2024.

[signature page to follow]

Plaintiff:



Wake Energy, LLC

By: Coy Reed, Managing Member



Scott Family Trust

By: Fredrick M. Scott III, Trustee

Plaintiffs' Counsel:



Brady L. Smith, OBA #30727

Harry "Skeeter" Jordan, OBA #32437

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—and—

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Telephone (405) 212-2786

Facsimile (405) 232-6515


randy@rcsmithlaw.com

Defendants:


BCE-MACH LLC

By: 
Name: Michael E. Reel
Title: General Counsel & Secretary

BCE-MACH II LLC

By: 
Name: Michael E. Reel
Title: General Counsel & Secretary

BCE-MACH III LLC

By: 
Name: Michael E. Reel
Title: General Counsel & Secretary

Defendants' Counsel:



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—and—

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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 1

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WAKE ENERGY, LLC, on behalf of itself
and all others similarly situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Case No. CIV-22-794-HE

(Consolidated Case)

Frederick M. Scott III, Trustee of the Scott
Family Trust and Wake Energy, LLC, on
behalf of themselves and all of others similarly
situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Case No. CIV-23-0264-HE

**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 Wake Energy, LLC, and Frederick M. Scott, III, Trustee of the Scott Family Trust (“Plaintiffs”), on behalf of themselves and as a representative of a class of owners (defined below), against BCE-Mach LLC, BCE-Mach II LLC and BCE-Mach III LLC, (“Defendants”) (“Plaintiffs” and “Defendants” collectively the “Parties”), for the alleged failure to pay statutory interest on payments made outside the time periods set forth in the Production Revenue Standards Act, 52 Okla. St. §

570.1 *et seq.* (the “PRSA”) for oil and gas production proceeds from oil and gas wells in Oklahoma. On June 4, 2024, 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.

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

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

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 non-excluded persons or entities who: (1) received payments outside the time frame provided for in the PRSA from Defendants (or Defendants' designee) for oil, gas, and natural gas liquids proceeds from Oklahoma wells, or whose proceeds from Oklahoma wells were sent as unclaimed property to a government entity by Defendants; and (2) whose payments or whose unclaimed property payments did not include statutory interest pursuant to the PRSA.

Excluded from the Class are: (1) Defendants, their affiliates, predecessors, and employees, officers, and directors; and (2) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (3) any Indian Tribe as defined at 30 U.S.C. § 1702(4) or Indian allottee as defined at 30 U.S.C. § 1702(2); (4) persons or entities that Plaintiffs' counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (5) publicly traded oil and gas companies and their affiliates; (6) Continental Exploration LLC; (7) Tiptop Oil & Gas LLC; (8) Gai-Jin Trading Company LLC; (9) Natixis New York Branch; (10) DFE Holdings LLC; (11) Toronto Dominion (Texas) LLC; (12) ING Capital LLC; (13) Wells Fargo Bank NA; (14) Citibank NA; (15) Barclay's Bank PLC; (16) BOKF Petro Holdings LLC; (17) PNC Bank National Association; (18) The Derlam Company; and (19) ING Capital Markets LLC.

4. The Court finds, subject to the Court's final consideration at the Final Fairness Hearing, the above-defined Settlement Class satisfy 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[es] [are] 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[es].” 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[es].” 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[es].” 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 Wake Energy, LLC and Frederick M. Scott, III, Trustee of the Scott Family Trust, as Class Representatives, and Plaintiffs’ Counsel, Brady L. Smith and Harry “Skeeter” Jordan of Brady Smith Law, PLLC and Randy C. Smith of Randy C. Smith and Associates, PLLC, as 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[es] 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 Representative’s 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 the Judgment dismissing the Litigation 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 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 a Case Contribution Award for Class Representative’s 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 Complaint and Petition, (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 Legal 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 JND Legal Administration 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], 2024, at _____ M. in the United States District Court for the Western District of Oklahoma, the Honorable Joe Heaton 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 Litigation against Defendants 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 the Case Contribution Award 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 the Case Contribution Award 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 *Wake Energy, LLC, et al. v. BCE-Mach LLC, et al.*, and (iii) a description of the Class Member's interest in any wells for which Defendants 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, Defendants' Counsel, and Plaintiffs' Counsel by certified mail, return receipt requested and received no later than 5 p.m. CT on [Month] [Date], 2024. Requests for Exclusion may be mailed as follows:

Settlement Administrator:

Wake Energy v. BCE-Mach LLC Settlement
c/o JND Legal Administration, Settlement Administrator
P.O. Box [REDACTED]
Seattle, WA 98111

Co-Lead Class Counsel:

Brady L. Smith
Brady Smith Law, PLLC
One Leadership Square, Suite 1320
211 N. Robinson Ave.

Oklahoma City, OK 73102

Defendants' Counsel:

Patrick L. Stein
McAfee & Taft,
A Professional Corporation
8th Floor, Two Leadership Square
211 N. Robinson Ave.
Oklahoma City, OK 73102

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, the Plan of Allocation, the request for Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, or the request for the Case Contribution Award to Class Representatives may file an objection. An objector must file with the Court and serve upon Class Counsel and Defendants' Counsel a written objection containing the following: (a) a heading referring to *Wake Energy, LLC et al. v. BCE-Mach, LLC et al.*, Case No. CIV-22-794-HE, United States District Court for the Western 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 Defendants; (h) the objector's signature executed before a Notary Public; (i) identification of the objector's interest in wells for which Defendants 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, reimbursement of Litigation Expenses or Administration, Notice, and Distribution Costs, or the Case Contribution Award 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 Defendants' 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. The Parties' 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 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 Plan of Allocation; and (d) Plaintiffs' Attorneys' Fees, reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, and/or the Case Contribution Award.

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 for any reason whatsoever, 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 Representative 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 Defendants of any fault, wrongdoing, breach, liability, or the propriety of maintaining this Litigation as a contested class action or of class certifiability, and Defendants specifically deny 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 _____, 2024.

JOE HEATON
UNITED STATES DISTRICT JUDGE

Approved as to Form:

Brady L. Smith, OBA #30727
Harry “Skeeter” Jordan, OBA #32437
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COUNSEL FOR DEFENDANTS

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WAKE ENERGY, LLC, on behalf of
itself and all others similarly situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Frederick M. Scott III, Trustee of the Scott
Family Trust and Wake Energy, LLC, on
behalf of themselves and all of others
similarly situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Case No. CIV-22-794-HE

(Consolidated Case)

Case No. CIV-23-0264-HE

JUDGMENT

This is a class action lawsuit brought by Plaintiffs Wake Energy, LLC and Frederick M. Scott, III, Trustee of the Scott Family Trust (“Plaintiffs”), on behalf of themselves and as a representative of a class of owners (defined below), against BCE-Mach LLC, BCE-Mach II LLC and BCE-Mach III LLC, (“Defendants”) (“Plaintiffs” and “Defendants” collectively the “Parties”), for the alleged failure to pay statutory interest on payments made outside the time periods set forth in the Production Revenue Standards Act, 52 Okla. St. § 570.1 *et seq.* (the “PRSA”) for oil and gas production proceeds from oil and gas wells

in Oklahoma. On June 4, 2024, the Parties executed a Stipulation and Agreement of Settlement (the “Settlement Agreement”) finalizing the terms of the Settlement.¹

On [Month] [Date], 2024, 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*:

- 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 Wake Energy, LLC and Frederick M. Scott, III, Trustee of the Scott Family Trust as Class Representatives, and Plaintiffs’ Counsel, Brady L. Smith and Harry “Skeeter” Jordan of Brady Smith Law, PLLC and Randy C. Smith of Randy C. Smith and Associates, PLLC, as 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 Representative’s and the Settlement Class claims; (iii) Class Representative and Class Counsel have concluded that the proposed Settlement is fair, reasonable, and adequate; and (iv) the

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

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 interests 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 the Case Contribution Award for Class Representative's 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], 2024, at [Time].M. in the United States District Court for the Western 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 Notice and Summary Notice was given to the Settlement Class, notifying them of the Settlement and the upcoming Final Fairness Hearing. On [Month] [Day], 2024, in accordance with the Preliminary Approval Order and the Notice, 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 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 Litigation against Defendants 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 the Case Contribution Award to Class Representative 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:

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 Representative's request for the Case Contribution Award.

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

3. The Settlement Class, which were certified in the Court’s Preliminary Approval Order, are defined as follows:

All non-excluded persons or entities who: (1) received payments outside the time frame provided for in the PRSA from Defendants (or Defendants’ designee) for oil, gas, and natural gas liquids proceeds from Oklahoma wells, or whose proceeds from Oklahoma wells were sent as unclaimed property to a government entity by Defendants; and (2) whose payments or whose unclaimed property payments did not include statutory interest pursuant to the PRSA.

Excluded from the Class are: (1) Defendants, their affiliates, predecessors, and employees, officers, and directors; and (2) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (3) any Indian Tribe as defined at 30 U.S.C. § 1702(4) or Indian allottee as defined at 30 U.S.C. § 1702(2); (4) persons or entities that Plaintiffs’ counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (5) publicly traded oil and gas companies and their affiliates; (6) Continental Exploration LLC; (7) Tiptop Oil & Gas LLC; (8) Gai-Jin Trading Company LLC; (9) Natixis New York Branch; (10) DFE Holdings LLC; (11) Toronto Dominion (Texas) LLC; (12) ING Capital LLC; (13) Wells Fargo Bank NA; (14) Citibank NA; (15) Barclay’s Bank PLC; (16) BOKF Petro Holdings LLC; (17) PNC Bank National Association; (18) The Derlam Company; and (19) ING Capital Markets LLC.

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 are 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], 2024, 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 Defendants 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 Hearing; (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 Defendants, 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, Defendants do not admit, and instead specifically deny, 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], 2024, Defendants 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 Defendants 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. Neither Party will bear the other's 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 or Defendants to enforce or effectuate the terms of the Settlement Agreement or this Judgment.

14. The Settlement Administrator is directed to refund to Defendants the portions of the Net Settlement Fund under the Initial Plan of Allocation 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 of 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 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 Plan of Allocation Order(s), the Allocation Methodology, the 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, Defendants, 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 Defendants nor Defendants' 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 the Contribution Award shall be handled in accordance with the Settlement Agreement and the documents referenced therein (to the extent the Settlement Agreement and documents referenced therein address such an order).

22. A party, including Plaintiffs, Plaintiffs' Counsel, the Settlement Class, Defendants, and Defendants' Counsel 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 Defendants.

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 Representative's request for the Case Contribution Award, and to enforce this Judgment. Notwithstanding the Court's jurisdiction to issue additional orders in this Litigation, this Judgment fully disposes of all claims as to Defendants 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 _____, 2024.

JOE HEATON
UNITED STATES DISTRICT JUDGE

Approved as to Form:

/s/

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–and–

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COUNSEL FOR DEFENDANTS

Exhibit 3

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|---|--|
| <p style="text-align: center;"><i>A court authorized this notice. This is not a solicitation from a lawyer.</i></p> <p>If You Are or Were an Owner Paid by BCE-Mach LLC, BCE-Mach II LLC or BCE-Mach III LLC for Oil-and-Gas Production Proceeds from an Oklahoma Oil-and-Gas Well, You Could Be a Part of a Proposed Class Action Settlement.</p> <p>There is a proposed Settlement in a putative class action lawsuit filed against BCE-Mach LLC, BCE-Mach II LLC and BCE-Mach III LLC (“Mach”) called <i>Wake Energy, LLC, et al., v. BCE-Mach LLC, et al.</i>, Case No. CIV-22-794-HE, which was consolidated with Case No. CIV-23-0264-HE, in the United States District Court for the Western District of Oklahoma. The Lawsuit claims Mach failed to pay statutory interest on payments made outside the time periods of the Production Revenue Standards Act (“PRSA”) for oil-and-gas production proceeds from wells in Oklahoma.</p> | <p><i>Wake v. BCE-Mach Settlement c/o JND Legal Administration P.O. Box [REDACTED] Seattle, WA 98111</i></p> <p>ID: <<CF_PRINTED_ID>></p> <p><<CF_NAME1>> <<CF_NAME2>> <<CF_CARE_OF_NAMES>> <<CF_ADDRESS_1>> <<CF_ADDRESS_2>> <<CF_CITY>><<CF_STATE>><<CF_ZIP>> <<CF_COUNTRY>></p> |
|---|--|

| | |
|---|---|
| <p>Who Is Included? You may be a member of the Settlement Class if you received payments for proceeds from the sale of oil-and-gas production from Mach wells in the State of Oklahoma with check made or issued by BCE-Mach LLC between and including September 28, 2018 through February 29, 2024, BCE-Mach II LLC dated between and including January 31, 2020 through February 29, 2024, or BCE-Mach III LLC dated between and including June 30, 2020 through February 29, 2024. The Settlement Class has been preliminarily approved for settlement only. There are exclusions.</p> <p>Why am I receiving this notice? Mach’s records indicate you may be a member of the Settlement Class.</p> <p>What does the settlement provide? The proposed Settlement provides monetary benefits of \$4,200,000.00 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. Plaintiff’s Counsel will seek attorneys’ fees up to 40% of the Settlement, plus reimbursement of litigation expenses and administration costs, all to be paid from the Settlement. Plaintiff will seek a contribution award of up to 2% from the Settlement.</p> | <p>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 [insert date of deadline]. 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 Defendants or others identified in the Settlement Agreement from claims described therein. You may appear through an attorney if you so desire.</p> <p>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 [insert date of deadline], 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.</p> <p>When will the Court decide whether to approve the proposed Settlement? A Final Fairness Hearing has been scheduled for [insert hearing date] at [insert time .m.] CT at the United States District for the Western District of Oklahoma, 200 NW 4th Street, Oklahoma City, Oklahoma 73102. You are not required to attend the hearing, but you or your lawyer may do so if you wish.</p> |
|---|---|

THIS IS ONLY A SUMMARY. TO GET A COPY OF THE LONG-FORM NOTICE OR FOR MORE INFORMATION, VISIT [insert website] OR CALL TOLL-FREE [insert number]

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WAKE ENERGY, LLC, on behalf of
itself and all others similarly situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Frederick M. Scott III, Trustee of the Scott
Family Trust and Wake Energy, LLC, on
behalf of themselves and all of others
similarly situated,

Plaintiff,

v.

BCE-MACH LLC, *et al.*,

Defendants.

Case No. CIV-22-794-HE

(Consolidated Case)

Case No. CIV-23-0264-HE

**NOTICE OF PROPOSED SETTLEMENT,
MOTION FOR ATTORNEYS' FEES AND COSTS,
CASE CONTRIBUTION AWARD, AND 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

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 [insert website]. The terms, conditions, and definitions in the Settlement Agreement qualify this Notice in its entirety.

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. The records of Defendants BCE-Mach LLC, BCE-Mach II LLC, and BCE-Mach III LLC, (“Defendants”) show you are an owner in Oklahoma well(s) for which Defendants remitted oil-and-gas proceeds. 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 [\[insert website\]](#).

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 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 consist of the following individuals and entities:

All non-excluded persons or entities who: (1) received payments outside the time frame provided for in the PRSA from Defendants (or Defendants’ designee) for oil, gas, and natural gas liquids proceeds from Oklahoma wells, or whose proceeds from Oklahoma wells were sent as unclaimed property to a government entity by Defendants; and (2) whose payments or whose unclaimed property payments did not include statutory interest pursuant to the PRSA.

Excluded from the Class are: (1) Defendants, their affiliates, predecessors, and employees, officers, and directors; and (2) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (3) any Indian Tribe as defined at 30 U.S.C. § 1702(4) or Indian allottee as defined at 30 U.S.C. § 1702(2); (4) persons or entities that Plaintiffs’ counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (5) publicly traded oil and gas companies and their affiliates; (6) Continental Exploration LLC; (7) Tiptop Oil & Gas LLC; (8) Gai-Jin Trading Company LLC; (9) Natixis New York Branch; (10) DFE Holdings LLC; (11) Toronto Dominion (Texas) LLC; (12) ING Capital LLC; (13) Wells Fargo Bank NA; (14) Citibank NA; (15) Barclay’s Bank PLC;

(16) BOKF Petro Holdings LLC; (17) PNC Bank National Association; (18) The Derlam Company; and (19) ING Capital Markets LLC.

The Claim Period means, subject to the terms of the Settlement Agreement regarding Released Claims: (i) for BCE-Mach LLC, checks or payments made or issued by or for BCE-Mach LLC between and including September 28, 2018 through February 29, 2024; (ii) for BCE-Mach II LLC, checks or payments made or issued by or for BCE-Mach II LLC between and including January 31, 2020 through February 29, 2024; and (iii) for BCE-Mach III LLC, checks or payments made or issued by or for BCE-Mach III LLC between and including June 30, 2020 through February 29, 2024. If you are unsure whether you are included in the Settlement Class, you may contact the Settlement Administrator at:

Wake v. BCE-Mach Settlement
c/o JND Legal Administration, Settlement Administrator
P.O. Box [REDACTED]
Seattle, WA 98111
Call Toll-Free: [REDACTED]

**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 Defendants' alleged failure to pay statutory interest on allegedly late payments under Oklahoma law. Defendants expressly deny all allegations of wrongdoing or liability with respect to the claims and allegations in the Litigation. The Court has made no 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 Western District of Oklahoma in the file for the Litigation.

II. The Settlement, Plaintiffs' Attorneys' Fees, Litigation Expenses, Administration, Notice, and Distribution Costs, Case Contribution Award, and The Settlement Allocation and Distribution To The Class

On [Month] [Date], 2024, the Court preliminarily approved a Settlement in the Litigation between Plaintiffs, on behalf of themselves and the Settlement Class, and Defendants. 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, Defendants have agreed to pay Four Million Two Hundred Thousand Dollars (\$4,200,000.00) in cash (“Gross Settlement Fund”). In exchange for this payment 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 [\[insert website\]](#)) against the Released Parties (as defined in the Settlement Agreement). The Gross Settlement Fund, less Plaintiffs’ Attorneys’ Fees and Litigation Expenses and Administration, Notice, and Distribution Costs, Case Contribution Award, and any 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. The Settlement Agreement also includes Future Benefits.

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 Brady L. Smith and Harry “Skeeter” Jordan of Brady Smith Law, PLLC and Randy C. Smith of Randy C. Smith and Associates have been litigating this case without any payment whatsoever, advancing thousands of dollars in expenses. 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 \$350,000.00. In addition, Plaintiffs intend to seek a case contribution award for its representation of the Class, which amount will not exceed 2% 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. If the Settlement is terminated, the Litigation will proceed as if the Settlement had not been reached.

This Notice does not and cannot set out all the terms of the Settlement Agreement, which is available for review at [\[insert website\]](#). This website will eventually include this Notice, the Plan of Allocation, and Plaintiff’s 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 [\[insert website\]](#), 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], 2024, beginning at ___.m., before the Honorable Joe Heaton, U.S. District Judge for the Western District of Oklahoma, 200 NW 4th Street, Oklahoma City, OK 73102. Please note that the date of the Fairness Hearing is subject to change without further notice. You should check with the Court and [insert website] to confirm no change to the date and time of the hearing has been made. At the 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 the Case Contribution Award 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 Settlement by Doing Nothing

By taking no action, your interests will be represented by Plaintiffs as the Class Representatives and 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, and you will be bound by the Settlement Agreement and all orders and judgments entered by the Court regarding the Settlement. 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 a Request for Exclusion. 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 the Settlement Class in *Wake Energy, LLC, et al., v. BCE-Mach LLC, et al.*; and (iii) a description of the Class Member's interest in any wells for which it has received payments from Defendants, including the name, well number, county in which the well is located,

and the owner identification number. Requests for Exclusion must be mailed by certified mail, return receipt requested, as follows:

Settlement Administrator:

Wake Energy v. BCE-Mach LLC Settlement
c/o JND Legal Administration, Settlement Administrator
P.O. Box [REDACTED]
Seattle, WA 98111

Co-Lead Class Counsel:

Brady L. Smith
Brady Smith Law, PLLC
One Leadership Square, Suite 1320
211 N. Robinson Ave.
Oklahoma City, OK 73102

Defendants' Counsel:

Patrick L. Stein
McAfee & Taft,
A Professional Corporation
8th Floor, Two Leadership Square
211 N. Robinson
Oklahoma City, OK 73102

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 not 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. 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 Award

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 the Case Contribution Award to Class Representatives may file an objection. An objector must file with the Court and serve upon Class Counsel and Defendants' Counsel a written objection containing the following: (a) a heading referring to *Wake Energy, LLC et al. v. BCE-Mach LLC et al.*, , Case No. CIV-22-794-HE, United States District Court for the Western 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 Defendants; (h) the objector's signature executed before a Notary Public; (i) identification of the objector's interest in wells for which the objector has received payments made by or on behalf of Defendants (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 Award 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 Defendants' Counsel, via certified mail return receipt requested, and received no later than 5 p.m. CT by [Month] [Date], 2024, 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 Western District of Oklahoma
200 NW 4th Street
Oklahoma City, OK 73102

UNLESS OTHERWISE ORDERED BY THE COURT, ANY MEMBER OF THE SETTLEMENT CLASS 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 [insert website], 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.

JOE HEATON
UNITED STATES DISTRICT JUDGE

Exhibit 5

If You Are or Were an Owner Paid by BCE-Mach LLC, BCE-Mach II LLC, and BCE-Mach III LLC for Oil-and-Gas Production Proceeds from an Oklahoma Well, You Could Be a Part of a Proposed Class Action Settlement

The Settlement Class include, subject to certain excluded persons or entities as detailed in the Settlement Agreement:

All non-excluded persons or entities who: (1) received payments outside the time frame provided for in the PRSA from Defendants (or Defendants' designee) for oil, gas, and natural gas liquids proceeds from Oklahoma wells, or whose proceeds from Oklahoma wells were sent as unclaimed property to a government entity by Defendants; and (2) whose payments or whose unclaimed property payments did not include statutory interest pursuant to the PRSA.

Excluded from the Class are: (1) Defendants, their affiliates, predecessors, and employees, officers, and directors; and (2) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (3) any Indian Tribe as defined at 30 U.S.C. § 1702(4) or Indian allottee as defined at 30 U.S.C. § 1702(2); (4) persons or entities that Plaintiffs' counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct; (5) publicly traded oil and gas companies and their affiliates; (6) Continental Exploration LLC; (7) Tiptop Oil & Gas LLC; (8) Gai-Jin Trading Company LLC; (9) Natixis New York Branch; (10) DFE Holdings LLC; (11) Toronto Dominion (Texas) LLC; (12) ING Capital LLC; (13) Wells Fargo Bank NA; (14) Citibank NA; (15) Barclay's Bank PLC; (16) BOKF Petro Holdings LLC; (17) PNC Bank National Association; (18) The Derlam Company; and (19) ING Capital Markets LLC.

The Claim Period means, subject to the terms of the Settlement Agreement regarding Released Claims: (i) for BCE-Mach LLC, checks or payments made or issued by or for BCE-Mach LLC between and including September 28, 2018 through February 29, 2024; (ii) for BCE-Mach II, LLC, checks or payments made or issued by or for BCE-Mach II LLC between and including January 31, 2020 through February 29, 2024; and (iii) for BCE-Mach III LLC, checks or payments made or issued by or for BCE-Mach III LLC between and including June 30, 2020 through February 29, 2024. The Litigation seeks damages for Defendants' failure to pay statutory interest on allegedly late payments under Oklahoma law. Defendants expressly deny 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. "Defendants" means BCE-Mach LLC, BCE-Mach II LLC, and BCE-Mach III LLC.

On [Month] [Date], 2024, the Court preliminarily approved a Settlement in which Defendants has agreed to pay Four Million Two Hundred Thousand Dollars (\$4,200,000.00) in cash (the “Gross Settlement Fund”). From the Gross Settlement Fund, the Court may deduct Plaintiffs’ Attorneys’ Fees and Litigation Expenses, Case Contribution Award, and any settlement Administration, Notice, and Distribution Costs. The remainder of the fund (the “Net Settlement Fund”) will be distributed to participating Class Members as provided in the Settlement Agreement. 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 Defendants and others identified in the Settlement Agreement from the claims described in the Settlement Agreement. The Settlement Agreement also includes Future Benefits.

The attorneys and law firms who represent the Class are Brady L. Smith and Harry “Skeeter” Jordan of Brady Smith Law, PLLC and Randy C. Smith of Randy C. Smith and Associates as Co-Lead Class Counsel. 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 and served on Plaintiffs’ Counsel and Defendants’ Counsel no later than [Month] [Date], 2024, at 5 p.m. CT.
- **Exclude Yourself from the Settlement Class:** To exclude yourself from the Settlement Class, you must serve by certified mail a written statement to the Settlement Administrator, Plaintiffs’ Counsel, and Defendants’ Counsel. 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], 2024, 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], 2024, at _____m. CT at the United States District Court for the Western 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 the Case Contribution Award. 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 with the Court and [insert website] 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 Members of the Settlement Class, read the Notice of Settlement, Settlement Agreement and other documents posted on the website or contact the Settlement Administrator.

Visit: [insert website]

Call Toll-Free: [insert phone number]

Or write to: *Wake v. BCE-Mach Settlement*
c/o JND Legal Administration, Settlement Administrator
P.O. Box [redacted]
Seattle, WA 98111