

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Thaddius Intravaia, *et al.*

Plaintiffs,

v.

National Rural Electric Cooperative Association,
et al.,

Defendants.

Case No. 1:19-cv-973-LO-IDD

**DECLARATION OF JEFF MITCHELL IN SUPPORT OF PLAINTIFFS’ MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I, Jeff Mitchell, pursuant to 28 U.S.C. § 1746 state as follows:

1. I am currently a Project Manager for Analytics Consulting, LLC (hereinafter “Analytics”), located at 18675 Lake Drive East, Chanhassen, Minnesota, 55317. Analytics provides consulting services to the design and administration of class action and mass tort litigation settlements and notice programs. The settlements Analytics has managed over the past twenty-five years range in size from fewer than 100 class members to more than 40 million, including some of the largest and most complex notice and claims administration programs in history.

2. Analytics’ clients include corporations, law firms (both plaintiff and defense), the Department of Justice, the Securities and Exchange Commission, and the Federal Trade Commission, which since 1998 has retained Analytics to administer and provide expert advice regarding notice and claims processing in their settlements/distribution of funds.

3. In my capacity as Project Manager, I count among my duties responsibility for matters relating to the settlement administration for the above-captioned litigation.

4. Analytics has been engaged in this matter to provide settlement administration services, including (among other things) the mailing of the Court-approved Settlement Notices and CAFA notice, the establishment and maintenance of a Settlement Website and telephone call center facility, and the distribution of settlement benefits to Class Members (following final approval).¹

5. The Court approved Analytics as the Settlement Administrator in this matter in its Order on Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). *ECF No. 97 at ¶ 3.*²

CAFA Notice

6. On August 10, 2020, Analytics served CAFA notice to the 52 Attorneys General identified by Defendants as proper recipients, as well as the Acting Attorney General of the United States, pursuant to 28 U.S.C. §1715.

Class Notice

7. On or about August 26, 2020, Analytics received Class Member data from defense counsel in this action. The data file contained a total of 95,718 records of participant names and addresses that NRECA identified as belonging to Class Members, from which Analytics derived a Class List. Analytics consolidated 5 records as duplicative.

8. After compiling the Class List, Analytics cross-referenced the Class Member addresses with the United States Postal Service National Change of Address database. The Class List was updated with any new addresses that were identified.

¹ Unless otherwise noted, all capitalized terms referenced herein have the meaning ascribed to them in the Parties' Settlement Agreement (*ECF No. 99-2*).

² I understand the Court granted the Parties' Joint Motion to Substitute Settlement Agreement. *See ECF No 100*. That order did not disturb the Court's prior appointment of Analytics as Settlement Administrator in this matter. *See ECF No. 99-02 (Settlement Agreement (Amended) designating Analytics as the Settlement Administrator)*.

9. Pursuant to Paragraph 3.3 of the Settlement Agreement, after updating the relevant addresses, Analytics mailed the Court-approved Settlement Notices to 95,713 Class Members. A copy of the Settlement Notice for Current Participants is attached hereto as **Exhibit 1**. A copy of the Settlement Notice for Former Participants is attached hereto as **Exhibit 2**. These Settlement Notices were mailed on September 10, 2020, in accordance with the Preliminary Approval Order, by first-class mail, postage prepaid.

10. A Court-approved Former Participant Claim Form was included with each Settlement Notice for Former Participants. A copy of the Former Participant Claim Form that was sent to each Former Participant is attached hereto as **Exhibit 3**.

11. On or about September 8, 2020, after the Settlement Notices were printed and prepared for mailing, the Parties discovered a scrivener's error in the Class Action Settlement Agreement. To avoid any confusion, the Parties moved the Court for an order approving a Joint Motion to Substitute Settlement Agreement, which was granted on September 14, 2020. *ECF No. 100*. The Amended Settlement Agreement corrects the scrivener's error in the date used to demarcate whether a Class Member is considered a "Current Participant" or "Former Participant" in the retirement plan. Corrective notices were then sent to 110 affected Class Members (*i.e.*, class members who were misidentified as Former Participants rather than Current Participants based on the scrivener's error) informing them that a Former Participant Claim Form was provided to them in error, and that their share of the Settlement proceeds will be distributed to them automatically (as provided in the Settlement Agreement).

12. Approximately two weeks after the Notices mailed, NRECA contacted Analytics to note that some Class Members likely had their notices mailed to co-op addresses instead of residential addresses. Analytics identified records in the database that were likely addressed to

co-ops and conducted a skip trace on these records in an effort to locate a current residential address. This resulted in updated addresses on 471 records. Analytics re-mailed notices to these 471 individuals to the updated addresses.

13. Under the terms of the Settlement Agreement, Current Participants will have their Plan accounts automatically credited with their share of the Settlement Fund. *Settlement Agreement* ¶ 6.5. The Former Participant Claim Form allows Former Participants to elect to have their distribution rolled over into an individual retirement account or other eligible employer plan, or to receive a direct payment by check. *Id.* ¶ 6.6. To the extent that a Class Member classified as a Current Participant no longer has an Active Account at the time monies are distributed from the Qualified Settlement Fund, they will receive their distribution automatically by check. *Id.* ¶ 6.5.6.

14. Through the date of this Declaration, 783 Settlement Notices to Class Members were returned to Analytics by the U.S. Postal Service with a forwarding address. In each case, Analytics updated the Class List with the forwarding address and re-mailed the Settlement Notice (and Former Participant Claim Form, if applicable) to the updated address.

15. Through the date of this Declaration, 1,496 Settlement Class Members were returned to Analytics by the U.S. Postal Service without a forwarding address. In each case, Analytics conducted a skip trace in attempt to ascertain a valid address for the affected Class Members. As a result of these efforts, 1,069 new addresses were identified for Class Members. Analytics subsequently updated the Class List with these new addresses and re-mailed the applicable Settlement Notice (and for Former Participants, a Former Participant Claim Form) to each of those addresses. Of those, 162 Settlement Notices have been returned as undeliverable by the Post Office as of the date of this Declaration.

16. In total, out of 95,713 Settlement Notices, only 580 (~0.61%) were ultimately undeliverable as of this declaration, according to Analytics' records, despite Analytics' efforts to verify address information in advance of mailing and to update address information and re-mail the Settlement Notices if they were initially returned.

Settlement Website and Telephone Information Line

17. From September 9, 2020, to the present, Analytics also has maintained a Settlement Website relating to this action, as provided by Paragraph 12.1 of the Settlement. The internet address for this Settlement Website is www.nreca401kfeesettlement.com. Among other things, the Settlement Website includes: (1) a "Frequently Asked Questions" page containing a clear summary of essential case information; (2) a "Home" page and "Important Deadlines" page, each containing clear notice of applicable deadlines; (3) a "Court Documents" page, which includes case and settlement documents for download (including the Settlement Notices, Former Participant Claim Form, Amended Class Action Complaint, Settlement Agreement, Preliminary Approval Order, and Plaintiffs' Motion for Approval of Attorneys' Fees, Expenses, and Class Representative Service Awards and related documents); and, (4) contact information for Class Counsel and Defendants' Counsel; and (5) email, phone, and U.S. mail contact information for Analytics.

18. Analytics also created and maintained a toll-free telephone support line as a resource for Class Members seeking information about the Settlement. The toll-free telephone line employs an interactive voice response system ("IVR system") to answer calls and provides callers the option of speaking with a live operator if they prefer. The toll-free number for the telephone support line is 1-833-962-1868. This telephone number was referenced in the Settlement Notices and appears on the Settlement Website.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: December 2, 2020

DocuSigned by:
Jeff Mitchell
4B01C430FDD14E4...

Jeff Mitchell

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Thaddius Intravaia, *et al.*,
Plaintiffs,

v.

National Rural Electric Cooperative Association,
et al.,

Defendants.

Case No. 1:19-cv-00973-LO-IDD

NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING

This is a notice of a proposed class action settlement in the above-referenced lawsuit.

Your legal rights may be affected if you are a member of the following class:

All participants and beneficiaries of the NRECA 401(k) Pension Plan at any time from July 25, 2013 through July 31, 2020 excluding members of the Insurance and Financial Services Committee, National Rural Electric Cooperative Association's ("NRECA") Board of Directors, and the Plan Administrator.

PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.

- The Court has given its preliminary approval to a proposed settlement (the "Settlement") for the Plan as a result of a class action lawsuit brought by certain participants in the Plan against NRECA and other alleged fiduciaries of the Plan (collectively, "Defendants"), alleging violations of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Defendants deny all claims, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.
- The Settlement will provide, among other things, for a \$10 million Settlement fund that will be allocated to eligible Class Members after any Court-approved deductions for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation. Class Members with one or more accounts with a positive balance (an "Active Account") in the Plan as of July 31, 2020 (referred to herein as "Current Participants") will automatically receive allocations directly to their accounts so long as they maintain a positive balance through the time Settlement monies are distributed. Class Members who did not have an Active Account as of July 31, 2020 (referred to herein as "Former Participants") must submit a claim form to be deemed an "Authorized Former Participant" and receive an allocation, and may receive their allocation in the form of a check or a rollover. Current Participants who have an Active Account as of July 31, 2020, but who no longer have an Active Account at the time monies are distributed will be treated as "Authorized Former Participants" and will receive an allocation by check.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated July 31, 2020. Capitalized terms used in this Settlement Notice but not defined in this Settlement Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at www.nreca401kfeesettlement.com. Certain other documents also will be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may also be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Eastern District of Virginia, 401 Courthouse Square, Alexandria, VA 22314.

- Your rights and the choices available to you — and the applicable deadlines to act — are explained in this Settlement Notice. Please note that neither NRECA nor any employees or representatives of NRECA may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court finally approves the Settlement and that final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on December 17, 2020, at 10:00 a.m. ET, before the Honorable Liam O’Grady at the Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314, in Courtroom 1000, to determine whether to grant final approval of the Settlement and approve the requested Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation. The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at www.nreca401kfeesettlement.com.
- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representatives’ Compensation, along with any supporting documents, must be mailed to Class Counsel and Defendants’ Counsel, as identified under Question 11 of this Settlement Notice.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
OUR RECORDS INDICATE YOU ARE A CURRENT PARTICIPANT. YOU WILL NEED TO CONTACT THE SETTLEMENT ADMINISTRATOR IF THIS IS NOT CORRECT.	Our records indicate that you are a <u>Current Participant</u> . You do not need to do anything to receive your share of the Net Settlement Amount. If, however, you are a “Former Participant” who did not have an Active Account in the Plan as of July 31, 2020, or are the beneficiary or alternate payee of a Former Participant, then you must mail a Former Participant Claim Form postmarked on or before December 7, 2020 to receive a share of the Net Settlement Amount. If you are a Former Participant, and you do not mail the Former Participant Claim Form by the above deadline, you will forfeit your share of the Net Settlement Amount. If you believe you are a Former Participant, a claim form may be obtained by calling the Settlement Administrator at 1-833-962-1868 or by accessing www.nreca401kfeesettlement.com .
YOU CAN OBJECT (NO LATER THAN NOVEMBER 19, 2020)	If you wish to object to any part of the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representatives’ Compensation, you must mail an objection and any supporting documents to Class Counsel and Defendants’ Counsel (as identified under Question 11 below).
YOU CAN ATTEND A HEARING ON DECEMBER 17, 2020	You may also attend the Fairness Hearing and speak at the Fairness Hearing on December 17, 2020. You may attend the hearing and speak at the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections.

The Class Action

The case is called *Intravaia, et al. v. National Rural Electric Cooperative Association, et al.*, Case No. 1:19-cv-00973-LO-IDD (E.D. Va.) (the “Class Action” or “lawsuit”). It has been pending since July 25, 2019. The Court

supervising the case is the United States District Court for the Eastern District of Virginia. The individuals who brought this lawsuit are called the Class Representatives, and the entities they sued are called Defendants. The Class Representatives, Thaddius Intravaia and Steven Marvik, are current participants in the Plan. The Defendants are NRECA and the Insurance & Financial Services Committee, (“I&FS Committee”). The Class Representatives’ claims are described below, and additional information about those claims is available at www.nreca401kfeesettlement.com.

The Settlement

Following negotiations, a Settlement has been reached. As part of the Settlement, a Qualified Settlement Fund of \$10,000,000 will be established to resolve the Class Action. The Net Settlement Amount is \$10,000,000 minus any Administrative Expenses (including taxes and tax expenses), Court-approved Attorneys’ Fees and Costs, and Class Representatives’ Compensation. The Net Settlement Amount will be allocated to Class Members according to a Plan of Allocation to be approved by the Court.

Statement of Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation Sought in the Class Action

Class Counsel has devoted many hours to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendants and third parties, and negotiating the Settlement. They also have advanced all costs necessary to pursue the case, and have not been paid for any of their time while this case has been pending.

Class Counsel will apply to the Court for payment of Attorneys’ Fees for their work in the case. The amount of fees that Class Counsel will request will not exceed one-third of the Qualified Settlement Fund (\$3,333,333.33). In addition, Class Counsel will also seek to recover their costs and the administrative expenses associated with the settlement. Any Attorneys’ Fees and Costs and Administrative Expenses awarded by the Court will be paid from the Qualified Settlement Fund.

Class Counsel also will ask the Court to approve payments, not to exceed \$10,000 each, for the Class Representatives who took on the risk of litigation and committed to spend the time necessary to bring the case to conclusion. Any Class Representatives’ Compensation awarded by the Court also will be paid from the Qualified Settlement Fund.

A full and formal application for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation will be filed with the Court on or before October 20, 2020. This application will be made available at www.nreca401kfeesettlement.com. You may also obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>.

1. Why Did I Receive This Settlement Notice?

The Court caused this Settlement Notice to be sent to you because our records indicate that you may be a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among Class Members according to a Court-approved Plan of Allocation.

2. What Is The Class Action About?

In the Class Action, the Class Representatives claim that Defendants breached their fiduciary duties and engaged in prohibited transactions to the detriment of the Plan and its participants.

The Defendants deny all claims and assert that they have always acted prudently and in the best interests of participants and beneficiaries.

3. Why Is There A Settlement?

The Court has not reached a final decision as to the Class Representatives' claims. Instead, the Class Representatives and Defendants have agreed to the Settlement. The Settlement is the product of extensive negotiations between the Class Representatives, Defendants, and their counsel. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representatives and Class Counsel believe that the Settlement is best for all Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendants' part of any fault or liability whatsoever. The Settlement has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

4. What Does The Settlement Provide?

Under the Settlement, NRECA or its insurers will pay \$10,000,000 into a Qualified Settlement Fund to resolve the claims of the Class. The Net Settlement Amount (after deduction of any Court-approved Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation) will be allocated to Class Members according to a Plan of Allocation to be approved by the Court (as explained further under Question 5 below). Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing accounts in the Plans. Authorized Former Participants who are entitled to a distribution may receive their distribution as a check or, if available and they elect, as a rollover to a qualified retirement account.

In addition, the Settlement provides that prospectively, Defendants will commit to certain processes and procedures designed to ensure that the Plan's fees are reasonable and comply with applicable law. The complete terms regarding prospective relief are set forth in Article VII of the Settlement Agreement, which is available on the Settlement Website at www.nreca401kfeesettlement.com.

All Class Members and anyone claiming through them will fully release the Released Parties from Released Claims. The Released Parties include (1) each Defendant; (2) each Defendant's affiliates, members, shareholders, directors, officers, employees, attorneys, partners, insurers, predecessors, successors, and any person or agent acting on their behalf; (3) the Plan and any and all administrators, fiduciaries, parties in interest, service providers, and trustees of the Plan. Generally, the release means that Class Members will not have the right to sue the Released Parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit. The entire release language is set forth in the Settlement Agreement, which is available at www.nreca401kfeesettlement.com.

5. How Much Will My Distribution Be?

The amount, if any, that will be allocated to you will be based upon records maintained by the Plan's recordkeeper. Calculations regarding the individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation. There are approximately 93,000 Class Members.

To receive a distribution from the Net Settlement Amount, you must either be a (1) "Current Participant" as defined on page 1 or (2) an "Authorized Former Participant" (a "Former Participant" as defined on page 1 who submitted a completed, satisfactory Former Participant Claim Form by the deadline), or (3) a Beneficiary or Alternate Payee of a person identified in (1) or (2).

The Net Settlement Amount will be divided *pro rata* among Class Members based on each eligible Class Member's Average Account Balance invested in the Plan during the Class Period. For purposes of making this determination, the *Average Account Balance* shall be calculated based on the quarter-ending account balance for each Authorized Former Participant and Current Participant for each quarter during the Class Period.

Note that if you are an Alternate Payee pursuant to a Qualified Domestic Relations Order, your portion of the Settlement will be distributed pursuant to the terms of that order.

The Net Settlement Amount will also depend on the amount of any Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation that are awarded by the Court, as these will be paid out of the Gross Settlement Amount of \$10,000,000. Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation at least 30 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys' Fees to not more than one-third of the Gross Settlement Amount (\$3,333,333.33). Class Counsel also will seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representatives of no more than \$10,000 each. The Court will determine the amount of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation that will be awarded, if any. All papers filed in this action, including Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation, will be available for review via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

6. How Can I Receive My Distribution?

Whether you need to submit a claim form to receive your distribution depends on whether you are considered a "Current Participant" or a "Former Participant." **According to our records, you are a Current Participant. Therefore, you do not need to do anything to receive your share of the Settlement.** If this is not correct, you need to contact the Settlement Administrator to obtain a Former Participant Claim Form. The Former Participant Claim Form will explain the next steps necessary to receive your distribution. If you are considered a Current Participant because you had an Active Account as of July 31, 2020, but you no longer have an Active Account when the Settlement is distributed to Class Members, the Settlement Administrator will mail you a check for your share of the Net Settlement Amount to your last known address. You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at 1-833-962-1868 or by mail at NRECA 401(k) Pension Plan Settlement Administrator, P.O. Box 2009, Chanhassen, MN 55317-2009.

7. When Will I Receive My Distribution?

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution likely will occur within six months of the Court's Final Approval Order.

There will be no payments under the Settlement if the Settlement Agreement is terminated.

8. Can I Get Out Of The Settlement?

No. The Class has been certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Class Action. If you wish to object to any part of the Settlement, you may write to counsel about why you object to the Settlement, as discussed below.

9. Do I Have A Lawyer In The Case?

The Court has appointed the law firm Nichols Kaster, PLLP in Minneapolis, Minnesota as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

10. How Will The Lawyers Be Paid?

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation at least 30 days prior to the objection deadline. This motion will be made available at www.nreca401kfeesettlement.com and be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys' Fees to not more than one-third of the Gross Settlement Amount (\$3,333,333.33). Class Counsel also will seek to recover all actual and anticipated litigation costs and Administrative Expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representatives of no more than \$10,000 each. The Court will determine the amount of fees, costs, administrative expenses, and Class Representatives' compensation that will be awarded, if any. All papers filed in this action, including Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation, will be available via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

11. How Do I Tell The Court If I Don't Like The Settlement?

If you are a Class Member, you can object to the Settlement by mailing a written objection and any supporting documents to Class Counsel and to Defendants' Counsel at the addresses below. Class Counsel will respond to your objection in their motion for final approval of the Settlement. Your written objection must be mailed no later than **November 19, 2020** to be considered.

CLASS COUNSEL	DEFENDANTS' COUNSEL
NICHOLS KASTER, PLLP Attn: NRECA Plan Settlement 4600 IDS Center 80 South 8th Street Minneapolis, MN 55402	GROOM LAW GROUP, CHARTERED Attn: Sarah M. Adams 1701 Pennsylvania Ave., NW, Suite 1200 Washington, DC 20006

12. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at **10:00 a.m. ET on December 17, 2020**, at the Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314, in Courtroom 1000. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation. If there are objections, the Court will consider them then. The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at www.nreca401kfeesettlement.com.

13. Do I Have To Attend The Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it.

14. May I Speak At The Fairness Hearing?

Yes. You do not need to submit a notice of your intention to appear in order to speak at the hearing, but you must comply with the requirements for making an objection (set forth above) if you wish to object.

15. What Happens If I Do Nothing At All?

If you are a “Current Participant” as defined on page 1, and you do nothing, you will receive your *pro rata* share of the Net Settlement Amount, if the Settlement is finally approved. If you are a “Former Participant” as defined on page 1, and you do nothing, you will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is finally approved, but you will not receive any money. Former participants must timely submit a claim form to receive monetary compensation.

16. How Do I Get More Information?

If you have questions regarding the Settlement, you can visit www.nreca401kfeesettlement.com, call 1-833-962-1868, email info@NRECA401kFeeSettlement.com, or write to the Settlement Administrator at NRECA 401(k) Pension Plan Settlement Administrator, P.O. Box 2009, Chanhassen, MN 55317-2009. All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Eastern District of Virginia, 401 Courthouse Square, Alexandria, VA 22314.

NRECA 401(k) Pension Plan Settlement Administrator

P.O. Box 2009

Chanhassen, MN 55317-2009

ABC1234567890 - Claim Number 111111



JOHN Q CLASSMEMBER

123 MAIN ST

ANYTOWN, ST 12345

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Thaddius Intravaia, *et al.*,
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PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.

- The Court has given its preliminary approval to a proposed settlement (the "Settlement") for the Plan as a result of a class action lawsuit brought by certain participants in the Plan against NRECA and other alleged fiduciaries of the Plan (collectively, "Defendants"), alleging violations of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Defendants deny all claims, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.
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- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representatives’ Compensation, along with any supporting documents, must be mailed to Class Counsel and Defendants’ Counsel, as identified under Question 11 of this Settlement Notice.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
<p>OUR RECORDS INDICATE YOU ARE A FORMER PARTICIPANT.</p> <p>YOU MUST MAIL A CLAIM FORM POSTMARKED ON OR BEFORE DECEMBER 7, 2020 TO RECEIVE ANY MONIES FROM THE SETTLEMENT.</p>	<p><u>Our records indicate that you are a Former Participant.</u> You must mail a Former Participant Claim Form postmarked on or before December 7, 2020 to receive your share of the Net Settlement Amount. The Former Participant Claim Form is included with this Notice. If you do not mail the Former Participant Claim Form postmarked on or before December 7, 2020, you will forfeit your share of the Net Settlement Amount.</p>
<p>YOU CAN OBJECT (NO LATER THAN NOVEMBER 19, 2020)</p>	<p>If you wish to object to any part of the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representatives’ Compensation, you must mail an objection and any supporting documents to Class Counsel and Defendants’ Counsel (as identified under Question 11 below).</p>
<p>YOU CAN ATTEND A HEARING ON DECEMBER 17, 2020</p>	<p>You may also attend the Fairness Hearing and speak at the Fairness Hearing on December 17, 2020. You may attend the hearing and speak at the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections.</p>

The Class Action

The case is called *Intravaia, et al. v. National Rural Electric Cooperative Association, et al.*, Case No. 1:19-cv-00973-LO-IDD (E.D. Va.) (the “Class Action” or “lawsuit”). It has been pending since July 25, 2019. The Court supervising the case is the United States District Court for the Eastern District of Virginia. The individuals who brought this lawsuit are called the Class Representatives, and the entities they sued are called Defendants. The Class Representatives, Thaddius Intravaia and Steven Marvik, are current participants in the Plan. The Defendants are NRECA and the Insurance & Financial Services Committee (“I&FS Committee”). The Class Representatives’ claims are described below, and additional information about those claims is available at www.nreca401kfeesettlement.com.

The Settlement

Following negotiations, a Settlement has been reached. As part of the Settlement, a Qualified Settlement Fund of \$10,000,000 will be established to resolve the Class Action. The Net Settlement Amount is \$10,000,000 minus any Administrative Expenses (including taxes and tax expenses), Court-approved Attorneys’ Fees and Costs, and Class Representatives’ Compensation. The Net Settlement Amount will be allocated to Class Members according to a Plan of Allocation to be approved by the Court.

Statement of Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation Sought in the Class Action

Class Counsel has devoted many hours to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendants and third parties, and negotiating the Settlement. They also have advanced all costs necessary to pursue the case, and have not been paid for any of their time while this case has been pending.

Class Counsel will apply to the Court for payment of Attorneys’ Fees for their work in the case. The amount of fees that Class Counsel will request will not exceed one-third of the Qualified Settlement Fund (\$3,333,333.33). In addition, Class Counsel will also seek to recover their costs and the administrative expenses associated with the settlement. Any Attorneys’ Fees and Costs and Administrative Expenses awarded by the Court will be paid from the Qualified Settlement Fund.

Class Counsel also will ask the Court to approve payments, not to exceed \$10,000 each, for the Class Representatives who took on the risk of litigation and committed to spend the time necessary to bring the case to conclusion. Any Class Representatives’ Compensation awarded by the Court also will be paid from the Qualified Settlement Fund.

A full and formal application for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation will be filed with the Court on or before October 20, 2020. This application will be made available at www.nreca401kfeesettlement.com. You may also obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>.

1. Why Did I Receive This Settlement Notice?

The Court caused this Settlement Notice to be sent to you because our records indicate that you may be a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among Class Members according to a Court-approved Plan of Allocation.

2. What Is The Class Action About?

In the Class Action, the Class Representatives claim that Defendants breached their fiduciary duties and engaged in prohibited transactions to the detriment of the Plan and its participants.

The Defendants deny all claims and assert that they have always acted prudently and in the best interests of participants and beneficiaries.

3. Why Is There A Settlement?

The Court has not reached a final decision as to the Class Representatives' claims. Instead, the Class Representatives and Defendants have agreed to the Settlement. The Settlement is the product of extensive negotiations between the Class Representatives, Defendants, and their counsel. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representatives and Class Counsel believe that the Settlement is best for all Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendants' part of any fault or liability whatsoever. The Settlement has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

4. What Does The Settlement Provide?

Under the Settlement, NRECA or its insurers will pay \$10,000,000 into a Qualified Settlement Fund to resolve the claims of the Class. The Net Settlement Amount (after deduction of any Court-approved Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation) will be allocated to Class Members according to a Plan of Allocation to be approved by the Court (as explained further under Question 5 below). Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing accounts in the Plans. Authorized Former Participants who are entitled to a distribution may receive their distribution as a check or, if available and they elect, as a rollover to a qualified retirement account.

In addition, the Settlement provides that prospectively, Defendants will commit to certain processes and procedures designed to ensure that the Plan's fees are reasonable and comply with applicable law. The complete terms regarding prospective relief are set forth in Article VII of the Settlement Agreement, which is available on the Settlement Website at www.nreca401kfeesettlement.com.

All Class Members and anyone claiming through them will fully release the Released Parties from Released Claims. The Released Parties include (1) each Defendant; (2) each Defendant's affiliates, members, shareholders, directors, officers, employees, attorneys, partners, insurers, predecessors, successors, and any person or agent acting on their behalf; (3) the Plan and any and all administrators, fiduciaries, parties in interest, service providers, and trustees of the Plan. The governing releases are found within the Settlement Agreement at www.nreca401kfeesettlement.com. Generally, the release means that Class Members will not have the right to sue the Released Parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit. The entire release language is set forth in the Settlement Agreement, which is available at www.nreca401kfeesettlement.com.

5. How Much Will My Distribution Be?

The amount, if any, that will be allocated to you will be based upon records maintained by the Plan's recordkeeper. Calculations regarding the individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation. There are approximately 93,000 Class Members.

To receive a distribution from the Net Settlement Amount, you must either be a (1) "Current Participant" as defined on page 1 or (2) an "Authorized Former Participant" (a "Former Participant" as defined on page 1 who submitted a completed, satisfactory Former Participant Claim Form by the deadline), or (3) a Beneficiary or Alternate Payee of a person identified in (1) or (2).

The Net Settlement Amount will be divided pro rata among Class Members based on each eligible Class Member's Average Account Balance invested in the Plan during the Class Period. For purposes of making this

determination, the *Average Account Balance* shall be calculated based on the quarter-ending account balance for each Authorized Former Participant and Current Participant for each quarter during the Class Period.

Note that if you are an Alternate Payee pursuant to a Qualified Domestic Relations Order, your portion of the Settlement will be distributed pursuant to the terms of that order.

The Net Settlement Amount will also depend on the amount of any Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation that are awarded by the Court, as these will be paid out of the Gross Settlement Amount of \$10,000,000. Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation at least 30 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys' Fees to not more than one-third of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representatives of no more than \$10,000 each. The Court will determine the amount of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation that will be awarded, if any. All papers filed in this action, including Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation, will be available for review via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

6. How Can I Receive My Distribution?

Whether you need to submit a claim form to receive your distribution depends on whether you are considered a "Current Participant" or a "Former Participant." **According to our records, you are a Former Participant. Therefore, you must return a valid, timely Former Participant Claim Form to receive your share of the Settlement. The Former Participant Claim Form is included with this Notice.**

7. When Will I Receive My Distribution?

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution likely will occur within six months of the Court's Final Approval Order.

There will be no payments under the Settlement if the Settlement Agreement is terminated.

8. Can I Get Out Of The Settlement?

No. The Class has been certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Class Action. If you wish to object to any part of the Settlement, you may write to counsel about why you object to the Settlement, as discussed below.

9. Do I Have a Lawyer in the Case?

The Court has appointed the law firm Nichols Kaster, PLLP in Minneapolis, Minnesota as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

10. How Will The Lawyers Be Paid?

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation at least 30 days prior to the objection deadline. This motion will be

made available at www.nreca401kfeesettlement.com and be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys’ Fees to not more than one-third of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and Administrative Expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representatives of no more than \$10,000 each. The Court will determine the amount of fees, costs, administrative expenses, and Class Representatives’ compensation that will be awarded, if any. All papers filed in this action, including Class Counsel’s motion for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation, will be available via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

11. How Do I Tell The Court If I Don’t Like The Settlement?

If you are a Class Member, you can object to the Settlement by mailing a written objection and any supporting documents to Class Counsel and to Defendants’ Counsel at the addresses below. Class Counsel will respond to your objection in their motion for final approval of the Settlement. Your written objection must be mailed no later than **November 19, 2020** to be considered.

CLASS COUNSEL	DEFENDANTS’ COUNSEL
NICHOLS KASTER, PLLP Attn: NRECA Plan Settlement 4600 IDS Center 80 South 8th Street Minneapolis, MN 55402	GROOM LAW GROUP, CHARTERED Attn: Sarah M. Adams 1701 Pennsylvania Ave., NW, Suite 1200 Washington, DC 20006

12. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at **10:00 a.m. ET on December 17, 2020** at the Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314, in Courtroom 1000. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation. If there are objections, the Court will consider them then. The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at www.nreca401kfeesettlement.com.

13. Do I Have To Attend The Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it.

14. May I Speak At The Fairness Hearing?

Yes. You do not need to submit a notice of your intention to appear in order to speak at the hearing, but you must comply with the requirements for making an objection (set forth above) if you wish to object.

15. What Happens If I Do Nothing At All?

If you are a “Former Participant” as defined on page 1, and you do nothing, you will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is finally approved, but you will not receive any money. Former Participants must timely submit a claim form to receive monetary compensation.

16. How Do I Get More Information?

If you have questions regarding the Settlement, you can visit www.nreca401kfeesettlement.com, call 1-833-962-1868, email info@NRECA401kFeeSettlement.com, or write to the Settlement Administrator at NRECA 401(k) Pension Plan Settlement Administrator, P.O. Box 2009, Chanhassen, MN 55317-2009. All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Eastern District of Virginia, 401 Courthouse Square, Alexandria, VA 22314.

EXHIBIT 3

NRECA 401(k) Pension Plan Settlement Administrator

P.O. Box 2009

Chanhassen, MN 55317-2009

Email: info@NRECA401kFeeSettlement.com

www.NRECA401kFeeSettlement.com

FORMER PARTICIPANT CLAIM FORM

ABC1234567890

Claim Number: 1111111



JOHN Q CLASSMEMBER

123 MAIN ST

APT 1

ANYTOWN, ST 12345

This Former Participant Claim Form is **ONLY** for Class Members who are **Former Participants** of the NRECA 401(k) Pension Plan, or the beneficiaries or alternate payees of Former Participants (all of whom will be treated as Former Participants). A Former Participant is a Class Member who no longer had an Active Account in the Plan as of July 31, 2020.

This form must be completed, signed and mailed with a postmark on or before **December 7, 2020** to the Settlement Administrator in order for you receive your share of the Settlement proceeds. **Former Participants who do not complete and timely return this form will not receive any Settlement payment.** Please review the instructions below carefully. If you have questions regarding this Claim Form, you may contact the Settlement Administrator as indicated below.

PART 1: INSTRUCTIONS FOR COMPLETING FORMER PARTICIPANT CLAIM FORM

1. Complete this claim form and keep a copy of all pages of your Former Participant Claim Form, including the first page with the address label, for your records.
2. Mail your completed Former Participant Claim Form postmarked on or before **December 7, 2020** to the Settlement Administrator at the following address:

NRECA 401(k) Pension Plan Settlement Administrator
P.O. Box 2009
Chanhassen, MN 55317-2009

It is your responsibility to ensure the Settlement Administrator has timely received your Former Participant Claim Form.

3. Other Reminders:
 - You must provide date of birth, signature, and a completed Substitute IRS Form W-9, which is attached as part 5 to this form.
 - If you desire to do a rollover and you do not complete in full the rollover information in Part 4, below, payment will be made to you by check.
 - If you change your address after sending in your Former Participant Claim Form, please provide your new address to the Settlement Administrator
 - **Timing of Payments to Eligible Settlement Class Members.** Please note that Settlement payments are subject to the Settlement Agreement's receiving final Court approval. If the Settlement Agreement is approved and if you are entitled to a Settlement payment under the terms of the Settlement, such payments will likely be distributed within approximately 90 days after the Court's final approval order due to the need to process and verify information for all Class Members who are entitled to a payment and to compute the amount of each payment. Payments may be further delayed if any appeals are filed.
4. **Questions?** If you have any questions about this Former Participant Claim Form, please call the Settlement Administrator at 1-833-962-1868. The Settlement Administrator will provide advice only regarding completing this form and will not provide financial, tax or other advice concerning the Settlement. You therefore may want to consult with your financial or tax advisor. Information about the status of the approval of the Settlement, the Settlement administration, and claim processing is available on the settlement website, www.nreca401kfeesettlement.com.

PART 4: PAYMENT ELECTION

- Payment to Self** – A check subject to mandatory federal and applicable state withholding tax will be mailed to your address on the previous page.
- Direct Rollover to an Eligible Plan** – Check only one box below and complete Rollover Information section below:
- Government 457(b) 401(a)/401(k) 403(b)
- Direct Rollover to a Traditional IRA Direct Rollover to a Roth IRA (subject to ordinary income tax)

Rollover Information:

Company or Trustee's Name *(to whom the check should be made payable)*

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Company or Trustee's Mailing Address 1

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Company or Trustee's Mailing Address 2

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Company or Trustee's City

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State

Zip Code

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Your Account Number

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Company or Trustee's Phone Number

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PART 5: SIGNATURE, CONSENT, AND SUBSTITUTE IRS FORM W-9

UNDER PENALTIES OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA, I CERTIFY THAT ALL OF THE INFORMATION PROVIDED ON THIS FORMER PARTICIPANT CLAIM FORM IS TRUE, CORRECT, AND COMPLETE AND THAT I SIGNED THIS FORMER PARTICIPANT CLAIM FORM.

- The Social Security number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to back up withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. person (including a U.S. resident alien).

M	M	–	D	D	–	Y	Y	Y	Y

Participant Signature

Date Signed (Required)

Note: If you are subject to backup withholding, you must cross out item 2 above. The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.

QUESTIONS? VISIT: WWW.NRECA401KFEESSETTLEMENT.COM, OR CALL 1-833-962-1868