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Case No. 6960-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

LOUISIANA MUNICIPAL POLICE EMPLOYEES' RETIREMENT SYSTEM, on behalf of itself and all other similarly situated shareholders of EL PASO CORPORATION, Plaintiff, v. JUAN CARLOS BRANIFF, DAVID W. CRANE, DOUGLAS L. FOSHEE, ROBERT W. GOLDMAN, ANTHONY W. HALL, JR., THOMAS R. HIX, FERRELL P. MCCLEAN, TIMOTHY J. PROBERT, STEVEN J. SHAPIRO, J. MICHAEL TALBERT, ROBERT F. VAGT, JOHN L. WHITMIRE, KINDER MORGAN, INC., and THE GOLDMAN SACHS GROUP, INC., Defendants.	C.A. No. ___________________

VERIFIED CLASS ACTION COMPLAINT

Plaintiff Louisiana Municipal Police Employees' Retirement System ("Plaintiff"), on behalf of itself and all other similarly situated public shareholders of El Paso Corporation (hereafter, "El Paso" or the "Company") (the "Class"), brings the following Class Action Complaint (the "Complaint") against the members of the board of directors of El Paso (the "El Paso Board" or "Board") for breaching their fiduciary duties, and against Kinder Morgan, Inc. ("Kinder Morgan") and The Goldman Sachs Group, Inc. ("Goldman Sachs") for aiding and abetting the same. The allegations of the Complaint are based on the knowledge of Plaintiff as to itself, and on information and belief,

including the investigation of counsel and review of publicly available information as to all other matters.

INTRODUCTION

1. The El Paso Board impermissibly heeded the advice of its conflicted financial advisor Goldman Sachs and abandoned a previously announced spin-off of its exploration and production (E&P) business (the "Spin-Off") in favor of a low premium sale to competitor Kinder Morgan, a company in which Goldman Sachs: (a) holds a nearly 20 percent equity interest, (b) has two managing directors on the board of directors, and (c) has received tens, if not hundreds, of millions of dollars in investment banking fees in the last decade. By steering the Board to sell the Company to Kinder Morgan at a less-than-value-maximizing price, Goldman Sachs earned larger advisory fees than if El Paso had consummated the Spin-Off, and Goldman Sachs stands to see its 20 percent investment in Kinder Morgan increase in value by creating a situation in which Kinder Morgan did not have to pay full value for El Paso.

2. In 2006, Richard Kinder ("Kinder") orchestrated a $22 billion "take private" of Kinder Morgan. Goldman Sachs co-invested alongside Kinder in the deal, arranged $7 billion in financing for the transaction and serving as the acquiring group's financial advisor.

3. For years, Kinder has wanted to add El Paso to his growing empire. On several occasions, Kinder approached El Paso's management about a potential merger, but a transaction of this magnitude was not feasible without the ability to use Kinder Morgan stock as acquisition currency.

4. To eliminate this issue, Kinder took Kinder Morgan public in February 2011. In the initial public offering ("IPO"), Goldman Sachs sold $950 million of its Kinder Morgan stock, but retained a 19% equity interest and two seats on the Kinder Morgan board. Goldman also served in the lucrative role of lead underwriter for the largest private equity-backed U.S. IPO in history.

5. Shortly thereafter, the El Paso Board retained Goldman Sachs to begin exploring alternatives to boost the Company's stock price. The Board, pursuant to Goldman Sachs' advice, announced in May 2011 that the Company would be spinning-off its E&P business to El Paso shareholders. This announcement was lauded by Wall Street analysts as a great way to unlock value for El Paso shareholders.

6. About one month after the announcement of the proposed Spin-Off (but before it was consummated), Kinder again approached El Paso regarding a potential sale. Instead of terminating the engagement of the clearly conflicted Goldman Sachs, the El Paso Board allowed Goldman Sachs to serve as a financial advisor in connection with the potential sale.

7. Unsurprisingly, Goldman Sachs recommended that the Board eschew a market check and instead plow full steam ahead into a sale of the Company to Kinder Morgan.

8. Two months later, El Paso and Kinder Morgan announced an agreement and plan of merger ("Merger Agreement"), whereby Kinder Morgan would acquire El Paso for a mix of cash and Kinder Morgan stock worth approximately $26.87 per share (the "Proposed Transaction"). Upon closing, Kinder Morgan's former shareholders are

expected to own approximately 68 percent of the combined company, while El Paso shareholders are expected to own 32 percent.

9. Among other failings, the El Paso Board neglected to negotiate for a collar around the stock portion of the consideration, thus subjecting the Company's shareholders to potential adverse movements in Kinder Morgan's stock price. As a result of Kinder Morgan taking on substantial leverage ($11.5 billion) to complete this transaction, there is real risk of downward pressure on the stock.

10. Moreover, the consideration to be paid to the Company's shareholders in the Proposed Transaction is inadequate in light of (a) the surge in demand for pipelines, (b) the pricing power Kinder Morgan will garner as a result of the Proposed Transaction, (c) the $350 million in annual synergies that are expected to flow from the Proposed Transaction, and (d) premiums paid in precedent energy deals.

11. The Board has also virtually eliminated the prospect of a superior offer for the Company emerging post-signing, by agreeing to unreasonable and disproportionate deal protection devices in the Merger Agreement. These deal protections include a prohibition on El Paso soliciting higher offers (the "No-Shop"), a provision granting Kinder Morgan the right to match any superior offer for the Company ("Matching Right'), and a punitive $650 termination fee ("Termination Fee") payable in the event the El Paso Board attempts to accept a higher offer. This panoply of deal protections acts as a severe deterrent to competing bids for El Paso.

12. In light of the Individual Defendants' breaches of fiduciary duty in agreeing to the Proposed Transaction, and the aiding and abetting of such breaches by

Kinder Morgan and Goldman Sachs, Plaintiff is entitled to enjoin the deal or, alternatively, to recover damages in the event the Proposed Transaction is consummated on its current terms.

THE PARTIES

13. Plaintiff is a shareholder of El Paso and has owned shares of El Paso common stock throughout the relevant time period.

14. El Paso is an energy company that operates in the natural gas transmission and exploration and production sectors of the energy industry. The Company operates in two primary segments: (a) Pipelines and (b) Exploration and Production ("E&P"). The Pipelines segment includes the Company's interstate natural gas transmission systems and related operations conducted through eight wholly or majority-owned pipeline systems and two partially-owned systems. The E&P segment's business focuses on the exploration for and the acquisition, development and production of natural gas, oil and natural gas liquids in the United States, Brazil and Egypt. El Paso also has a marketing segment which focuses on marketing the E&P segment's natural gas and oil production. The Company is incorporated in Delaware and maintains its principal executive offices in Houston, Texas. El Paso trades on the New York Stock Exchange ("NYSE") under the ticker symbol "EP."

15. Defendant Juan Carlos Braniff ("Braniff") has served as a member of the El Paso Board since 1997.

16. Defendant David W. Crane ("Crane") has served as a member of the El Paso Board since December 2009.

17. Defendant Douglas L. Foshee ("Foshee") has been Chairman of the El Paso Board since May 2009 and President, Chief Executive Officer ("CEO") and a director of El Paso since September 2003.

18. Defendant Robert W. Goldman ("Goldman") has served as a member of the El Paso Board since 2003.

19. Defendant Anthony W. Hall, Jr. ("Hall") has served as a member of the El Paso Board since 2001.

20. Defendant Thomas R. Hix ("Hix") has served as a member of the El Paso Board since 2004.

21. Defendant Ferrell P. McClean ("McClean") has served as a member of the El Paso Board since 2006.

22. Defendant Timothy J. Probert ("Probert") has served as a member of the El Paso Board since 2009.

23. Defendant Steven J. Shapiro ("Shapiro") has served as a member of the El Paso Board since 2006.

24. Defendant J. Michael Talbert ("Talbert") has served as a member of the El Paso Board since 2003 and the Board's Lead Director since May 2009.

25. Defendant Robert F. Vagt ("Vagt") has served as a member of the El Paso Board since 2005.

26. Defendant John L. Whitmire ("Whitmire") has served as a member of the El Paso Board since 2003.

27. Defendants Braniff, Crane, Foshee, Goldman, Hall, Hix, McClean,

Probert, Shapiro, Talbert, Vagt and Whitmire are collectively referred to herein as the "Individual Defendants."

28. Defendant Kinder Morgan is a leading pipeline transportation and energy storage company in North America trading on the NYSE under the ticker symbol "KMI." It owns an interest in or operates more than 37,000 miles of pipelines and 180 terminals. Its pipelines transport natural gas, gasoline, crude oil, CO_2 and other products, and its terminals store petroleum products and chemicals and handle such products as ethanol, coal, petroleum coke and steel. KMI owns the general partner interest of Kinder Morgan Energy Partners, L.P. ("KMP"), one of the largest publicly traded pipeline limited partnerships in America. Combined, KMP and KMI constitute the largest midstream energy entity in the United States with an enterprise value of approximately $55 billion. Kinder Morgan is named as a defendant herein because it is party to the Merger Agreement and for aiding and abetting the El Paso Board's breaches of fiduciary duty.

29. Defendant Goldman Sachs is a global investment banking, securities and investment management company providing a range of financial services to a client base that includes corporations, financial institutions, governments and high-net-worth individuals. Goldman Sachs is named as a defendant herein for aiding and abetting the El Paso Board's breaches of fiduciary duty.

30. The Individual Defendants, Kinder Morgan and Goldman Sachs are collectively referred to herein as "Defendants".

SUBSTANTIVE ALLEGATIONS

I. El Paso's History

31. Following the discovery of oil in the Permian Basin in the 1920s, Houston attorney Paul Kayser determined that El Paso, Texas provided a promising market for more cost-effective natural gas. He firmed up supply from several gas wells near Jal, New Mexico, convinced the town's industrial facilities to convert to natural gas, and El Paso Natural Gas Company was born.

32. In 1928, Kayser incorporated the pipeline company in Delaware as "El Paso Natural Gas Company." Soon thereafter, El Paso Natural Gas Company began construction of its first natural gas pipeline, and expanded westward into Arizona, southern New Mexico, and Cananea, Mexico. In 1936, El Paso Natural Gas Company listed its common stock on the NYSE.

33. In 1983, El Paso Natural Gas Company became a wholly-owned subsidiary of Burlington Northern Inc. Burlington Northern subsequently spun-off El Paso Natural Gas as part of Burlington Resources Inc. in 1988.

34. In 1992, El Paso Natural Gas was spun-off by Burlington Resources and announced an initial public offering of stock.

35. In 1996, the Company acquired the energy business of Tenneco Energy which extended El Paso's interstate pipeline system from coast-to-coast. El Paso moved its corporate headquarters to Houston, Texas and changed its name to El Paso Energy Corporation to reflect the company's expanding role in the energy industry.

36. In 1999, El Paso merged with Sonat Inc., which had founded its pipeline operations in 1929 as Southern Natural Gas. This merger expanded El Paso's pipeline operations into the southeast United States and initiated the Company's entrance into the exploration and production business.

37. In 2001, the Company changed its name to "El Paso Corporation" and merged with The Coastal Corporation. The merger brought Colorado Interstate Gas Company and ANR Pipeline Company to the Company's pipeline operations. The merger also significantly increased the size of the Company's exploration and production business.

38. Today, El Paso is the largest natural gas transmission system in North America.

II. Background of the Proposed Transaction

A. Richard Kinder Takes Kinder Morgan Private

39. Kinder Morgan was founded in February 1997 when a group of investors led by chairman and CEO Richard D. Kinder and former vice chairman William V. Morgan acquired the general partner of Enron Liquids Pipeline, L.P., a small, publicly-traded pipeline limited partnership.

40. Kinder Morgan began with few assets, 175 employees and an enterprise value of $325 million. Over the next decade, Kinder Morgan grew into one of the largest publicly-traded limited partnerships in America.

41. In 2006, Richard Kinder spearheaded a $22 billion management-led buyout ("MBO") to take Kinder Morgan private. Co-investors in the MBO included

Goldman Sachs Capital Partners (the investment bank's private equity arm), Highstar Capital and Fayez Sarofim.

42. In connection with the MBO, Goldman Sachs served as financial advisor to the acquisition group and helped arrange roughly $7 billion in financing for the buyout.

B. <u>Kinder Seeks to Expand Empire Through Acquisition of El Paso</u>

43. For years, Richard Kinder wanted to add El Paso to his empire. At various times, Kinder approached El Paso's management about a potential merger, but a transaction of this magnitude was not feasible without the ability to use Kinder Morgan stock as acquisition currency.

44. While Kinder Morgan and El Paso remained in contact over the years, serious talks regarding a merger were put on hold until Kinder Morgan was re-listed on a major securities exchange.

45. To this end, Richard Kinder took Kinder Morgan public in February 2011 in the largest private equity-backed U.S. IPO in history.. Kinder Morgan began trading on the NYSE under the ticker symbol "KMI".

46. Goldman Sachs served as the lead underwriter of the IPO of Kinder Morgan. Goldman Sachs Capital Partners sold about $950 million of its shares in the IPO, and upon consummation of the IPO it owned roughly 19% of Kinder Morgan's outstanding stock. Moreover, two Goldman Sachs managing directors, Henry Cornell and Kenneth A. Pontarelli, sit on the Kinder Morgan board of directors.

C. El Paso Announces Spin-Off of E&P Business

47. While Richard Kinder was taking his company public, the El Paso Board retained Goldman Sachs to begin exploring alternatives to boost the Company's stock price.

48. Early in 2011, El Paso's rival, Williams Companies Inc. ("Williams"), had announced a split-off of its pipeline and E&P businesses, and a number of other large companies outside the energy sector had also announced planned breakups, including ITT, Fortune Brands and Sara Lee.

49. Following this trend, on May 24, 2011, the El Paso Board approved a Spin-Off of the Company's E&P business to El Paso shareholders in a tax-free distribution of shares. El Paso would retain its pipeline business, its midstream group and its interests in El Paso Pipeline Partners.

50. In connection with the announcement of the Spin-Off, Doug Foshee, the Company's Chairman, President and CEO, stated: "We believe that the creation of these two stand-alone public companies will result in significant and sustainable value creation. With the completion of what was an $8 billion pipeline backlog, the elevation of our E&P business to one of the top independent producers, outstanding leadership and employees in each of our businesses, and the accelerated improvement of our balance sheet, we are ready to take this important step."

51. Wall Street analysts were extremely bullish on the Spin-Off. In a May 25, 2011 research note, Susquehanna Financial Group LLP ("Susquehanna") wrote that "[w]e have been highlighting E&P as a value driver and EP as our top E&P pick.

Freedom from the Corporate parent is likely to unleash new E&P funding tactics (such as offshore asset divestitures) enabling accelerated growth and focus in Texas oil production." Susquehanna added that "we think EP management is correct in assuming that its E&P segment is undervalued in EP shares." In response to the Spin-Off, Susquehanna increased its price target on El Paso from $24 to $26.

52. In an August 4, 2011 research note, Morgan Stanley also lauded the Spin-Off. Morgan Stanley stated that the "E&P segment spin-off creates a catalyst to unlock better valuation." Morgan Stanley added that "the E&P segment continues to show more promise and further details surrounding the Eagle Ford and Wolfcamp plays should be well received" and the "announced break-up will drive increased investor interest in each of the two remaining entities, helping drive significant further valuation uplift." Like Susquehanna, Morgan Stanley established a base case price target of $26 for El Paso's stock, but Morgan Stanley went one step further, establishing a bull case price target of $32.

D. Kinder Approaches Old Friend Foshee, and El Paso's Conflicted Financial Advisor Urges Sale

53. In August 2011, armed with the necessary acquisition currency in the form of publicly-listed Kinder Morgan stock, Richard Kinder approached his old friend Doug Foshee regarding a potential acquisition of El Paso.

54. The acquisition offer created an incurable conflict of interest for El Paso's financial advisor, Goldman Sachs. While pursuing the planned Spin-Off was likely in the best interests of El Paso's shareholders, a sale of the Company to Kinder Morgan

represented a chance to receive even larger advisory fees from El Paso and the chance to see a dramatic increase in the value of Goldman Sachs' 19% Kinder Morgan equity stake. Not only was Goldman Sachs inclined to steer El Paso towards Kinder Morgan, but as a major Kinder Morgan investor, the investment bank was also not inclined to cause Kinder Morgan to overpay. So while Goldman Sachs should have been advising El Paso on its best strategic alternatives, it was instead motivated to recommend the course of action that best suited Goldman Sachs.

55. Instead of terminating the engagement with El Paso, Goldman Sachs continued serving as the Company's financial advisor. The Board retained Morgan Stanley to serve as a financial advisor in the sale, but the presence of Goldman Sachs tainted the entire process. According to the joint press release by El Paso and Kinder Morgan announcing the Proposed Transaction, Goldman Sachs "acted as financial advisor to [El Paso] in connection with its previously announced spin-off transaction and related matters in connection with the [Kinder Morgan] transaction."

56. Based in large part on input from Goldman Sachs, and despite knowing of Goldman Sachs' conflict of interest and its financial incentive to favor the Proposed Transaction over the Spin-Off, the Board: (a) abandoned the Spin-Off that had been so well-received in the marketplace; (b) did not contact a single other potential suitor despite "white-hot" demand for pipelines and the potential for a bidding war; and (c) pursued merger discussions with Kinder Morgan.

E. <u>The Proposed Transaction</u>

57. In less than two months, Richard Kinder and Doug Foshee reached an accord.

58. On October 16, 2011, El Paso and Kinder Morgan announced an agreement and plan of merger whereby Kinder Morgan would acquire El Paso for approximately $26.87 per share, consisting of $14.65 in cash, 0.4187 Kinder Morgan shares (valued at $11.26 per El Paso share based on Kinder Morgan's October 14, 2011 closing price), and 0.640 Kinder Morgan warrants (valued at $0.96 per El Paso share based on Kinder Morgan's October 14 closing price). In the alternative, El Paso shareholders may individually elect to receive the entirety of their merger consideration in cash ($25.91 per share), plus a fractional share of a Kinder Morgan warrant, or in Kinder Morgan stock (0.9635 shares per El Paso share), plus a fractional share of a Kinder Morgan warrant. The warrants will have an exercise price of $40 and a five-year term.

59. Upon closing of the Proposed Transaction, Kinder Morgan's former shareholders are expected to own approximately 68 percent of the combined company, while El Paso shareholders are expected to own only 32 percent. Two members of the El Paso Board will join the eleven-member Kinder Morgan board of directors after the merger closes.

60. The structure of the deal consideration poses risks to El Paso shareholders. There is no collar around the stock component of the consideration, thus leaving the ultimate deal price subject to the vagaries of the marketplace. Kinder Morgan's past

stock price movements are the source of concern for El Paso shareholders. Since the February IPO at $30 per share, Kinder Morgan's stock price is down over ten percent.

61. Moreover, Kinder Morgan has an alarmingly high amount of leverage. Prior to entering the Proposed Transaction, Kinder Morgan's debt was already rated "BB" (*i.e.*, junk) by Standard & Poors. The $11.5 billion loan from Barclays Capital which Kinder Morgan is using to fund the cash portion of the purchase price will likely only drag down Kinder Morgan's debt rating further.

62. To help pay down the debt owed to Barclays, Kinder Morgan intends to sell El Paso's E&P business. The sale of the highly valuable E&P business, which would have been spun-off but for the Proposed Transaction, will effectively subsidize Kinder Morgan's purchase. In addition, El Paso shareholders will only receive a fraction of the value received in any sale of the E&P business, as it will be paid to Kinder Morgan.

63. Special meetings of the shareholders of El Paso and Kinder Morgan are expected to be held by January 2012 for the purpose of voting on the Proposed Transaction. The boards of both companies have agreed to recommend that the Proposed Transaction be approved by their shareholders, and Richard Kinder together with a number of Goldman Sachs affiliates and other entities that collectively hold 75% of the voting power of Kinder Morgan have entered into a voting agreement with El Paso whereby they have agreed to vote against any alternative transaction or other action that would prevent or materially impede or delay consummation of the Proposed Transaction.

III. The El Paso Board Agreed To Sell The Company To Kinder Morgan For Inadequate Consideration

64. The merger consideration to which the Board agreed in the Proposed Transaction is inadequate in light of (a) the surge in demand for pipelines, (b) the pricing power Kinder Morgan will garner as a result of the Proposed Transaction, (c) anticipated synergies flowing from the Proposed Transaction, and (d) premiums paid in precedent energy deals.

65. Pipelines companies, which get paid for moving natural gas from the field to the market, have been in high demand recently as drillers tap rich new deposits in Pennsylvania, Montana, Utah and other states. According to Dan Spears, a fund manager at Swank Capital LLC in Dallas, more pipelines are needed to move gas to new markets, particularly for power generation, and to accommodate supplies from new gas fields such as the Marcellus Shale and the Eagle Ford Shale. In fact, pipelines are so scant in the Eagle Ford Shale in South Texas that companies are having to rely on trucks and are building rail terminals to handle the vast field's output. The merger consideration fails to take into account this surge in demand for pipelines.

66. The merger consideration also fails to adequately compensate El Paso shareholders for the dramatic increase in market power that Kinder Morgan will garner as a result of the Proposed Transaction. Following consummation of the deal, Kinder Morgan will likely be able to increase the prices it charges it customers.

67. Chris Jarvis, president and founder of Caprock Risk Management, stated that "[n]ow that KMP is by far the biggest pipeline distributor of natural gas, that will

also give them pricing power over the market, which could lead to price pressure to the upside for natural gas."

68. Robert McFadden, a Houston-based natural gas pipeline consultant, echoed these sentiments, noting that with more pipelines under its control, Kinder Morgan could charge suppliers higher transport fees.

69. Similarly, Ed Hirs, managing director of Hillhouse Resources and a professor of energy economics at the University of Houston, called the deal "a brilliant strategic takeout of a potential competitor." By "potential competitor," Hirs meant that as long as El Paso existed independently, it had the heft to match Kinder Morgan in the building of new pipelines, and thus El Paso could "keep Kinder honest" in regards to pricing. If regulations governing pipelines are weakened, says Hirs, "the Kinder-El Paso combination will have a heckuva competitive advantage and become the monopoly that everyone fears."

70. Additionally, the merger consideration fails to properly account for anticipated synergies flowing from the Proposed Transaction. The combined company anticipates generating $350 million per year in cost savings, or about five percent of the combined companies' EBITDA. As a result of these high synergies, the Proposed Transaction is expected to be immediately accretive to dividend yield for Kinder Morgan holders.

71. Discussing the deal's synergies, Gianna Bern, president of Brookshire Advisory & Research Inc., noted that "the [Proposed Transaction] will establish Kinder

Morgan as the pre-eminent pipeline company in the United States and will provide operational savings and increased cash flows."

72. Finally, the deal price looks inadequate when viewed in light of precedent energy sector transactions. The Proposed Transaction values El Paso at about 13 times the last 12 months' EBITDA of $2.67 billion. That is less than the 14 times EBITDA that Energy Transfer Equity LP ("ETE") agreed in July to pay for Southern Union Co. Tudor Pickering analyst Brad Olsen compared the Proposed Transaction with the ETE/Southern Union deal and noted that "[Kinder Morgan and ETE] have gone out and snagged undervalued pipeline assets."

73. While the Proposed Transaction looks suspect in comparison to the ETE deal, the inadequacy of the consideration is highlighted when the Proposed Transaction is compared to the take-private of Kinder Morgan, wherein Richard Kinder and his co-investors (including Goldman Sachs) paid Kinder Morgan shareholders 27 times EBITDA.

74. El Paso shareholders have a right to receive the highest price reasonably available for their shares in connection with this sale of the Company for primarily cash consideration. However, the Board's conflicted financial advisor steered the Company into a transaction that uniquely suits the investment bank's financial interests and shortchanges El Paso shareholders.

IV. The El Paso Board Agreed To Deal Protections That Improperly Strip the Board of the Ability to Properly Exercise Its Fiduciary Duties

75. Not only did the El Paso Board fail to maximize shareholder value in agreeing to the Proposed Transaction, it also took unreasonable steps to virtually guarantee consummation of a deal with Kinder Morgan to the detriment of El Paso's shareholders.

76. First, the El Paso Board failed to negotiate for a "Go-Shop" provision. In light of the Board's decision to negotiate exclusively with Kinder Morgan, a "Go-Shop" is the only way to ensure that shareholders receive the highest value reasonably available for their shares. While not a perfect substitute for a pre-signing auction, a "Go-Shop" could serve a similar function by allowing the Board to canvas the market to determine whether potential suitors are interested in making a competing bid.

77. Instead of negotiating for a "Go-Shop", the El Paso Board agreed to a prohibitive "No Solicitation" clause (the "No-Shop"), further limiting the Board's ability to entertain superior strategic alternatives. As written, the No-Shop provision prevents El Paso from even encouraging competing bids for the Company; the antithesis of maximizing shareholder value.

78. The El Paso Board also granted Kinder Morgan a "Matching Right" in the Merger Agreement that provides Kinder Morgan five (5) calendar days to revise its proposal or persuade the El Paso Board not to change its recommendation on the Proposed Transaction in the face of a proposal from a third party suitor. The Matching Right dissuades interested parties from making an offer for the Company by providing

Kinder Morgan the opportunity to make repeated matching bids to counter any competing offers. Due to the complete absence of a legitimate pre-signing market check, no justification exists for the inclusion of the Matching Right and other bid advantages in the Merger Agreement.

79. The El Paso Board further reduced the possibility of a maximizing shareholder value by agreeing to a punitive $650 million Termination Fee. The Termination Fee is payable if, among other situations, the El Paso Board terminates the Merger Agreement and the Company consummates a transaction with another interested party within twelve (12) months after the date of such termination. Thus, the $650 million Termination Fee will be payable by any potential third-party buyer, driving up the cost of the acquisition and potentially transferring money to Kinder Morgan that otherwise could have been paid to El Paso shareholders as additional merger consideration.

80. The $650 million Termination Fee is unjustifiable by any measure. A termination fee is supposed to serve merely as compensation for an acquirer's investment in pursuing a deal. It is inconceivable that Kinder Morgan will incur transaction costs related to the Proposed Transaction anywhere close to $650 million.

81. The inclusion of the No-Shop, Matching Right and Termination Fee (collectively, the "Deal Protections") serve to deter competing parties from making bids and prevents the El Paso Board from properly exercising their fiduciary duties to obtain the best available strategic alternative – and resulting maximum value – for El Paso's shareholders.

82. The Deal Protections are simply unreasonable barriers to competing offers and substantially increase the likelihood that the Proposed Transaction will be consummated, leaving El Paso shareholders with limited opportunity to consider any superior offer. When viewed together, these provisions cannot be justified as reasonable or proportionate measures to protect Kinder Morgan's investment in the transaction process.

CLASS ACTION ALLEGATIONS

83. Plaintiff brings this action pursuant to Delaware Court of Chancery Rule 23, individually and on behalf of all other holders of El Paso's common stock (except El Paso, Defendants, and any persons, firm, trust, corporation or other entity related to or affiliated with them and their successors in interest) who are or will be threatened with injury arising from Defendants' wrongful actions, as more fully described herein.

84. This action is properly maintainable as a class action.

85. The Class is so numerous that joinder of all members is impracticable. The Company has thousands of shareholders who are scattered throughout the United States. As of August 2, 2011, there were 770,247,634 shares of El Paso's common stock outstanding.

86. There are questions of law and fact common to the Class including, *inter alia*, whether:

a. The Individual Defendants breached their fiduciary duties by refusing to extract the highest value possible from Kinder Morgan in exchange for El Paso's shares;

b. The Individual Defendants breached their fiduciary duties by "locking up" the Proposed Transaction to the detriment of the Class by approving the No-Shop, Matching Right and Termination Fee without obtaining adequate consideration for El Paso shareholders;

c. Goldman Sachs, as financial advisor to the El Paso Board, aided and abetted the Board's breaches of fiduciary duty, by steering the process towards a transaction that uniquely suited the investment bank's interests;

d. Plaintiff and the other members of the Class are being and will continue to be injured by the wrongful conduct alleged herein and, if so, what is the proper remedy and/or measure of damages; and

e. Plaintiff and the other members of the Class will be damaged irreparably by Defendants' conduct.

87. Plaintiff is committed to prosecuting the action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class, and Plaintiff has the same interests as the other members of the Class. Plaintiff is an adequate representative of the Class.

88. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual members of the Class, which would as a practical matter be disjunctive of the interests of the other members not parties

to the adjudications or substantially impair or impede their ability to protect their interests.

89. Defendants have acted, or refused to act, on grounds generally applicable to, and causing injury to, the Class and, therefore, preliminary and final injunctive relief on behalf of the Class, as a whole, is appropriate.

COUNT I

BREACH OF FIDUCIARY DUTY AGAINST THE INDIVIDUAL DEFENDANTS

90. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

91. The Individual Defendants, as El Paso directors, owe the Class the utmost fiduciary duties of due care, good faith, candor and loyalty. By virtue of their positions as directors and/or officers of El Paso and their exercise of control over the business and corporate affairs of the Company, the Individual Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the practices complained of herein. Each Individual Defendant was required to: (a) use their ability to control and manage El Paso in a fair, just and equitable manner; and (b) act in furtherance of the best interests of El Paso and its shareholders and not their own.

92. The Individual Defendants failed to fulfill their fiduciary duties in connection with the Proposed Transaction. Among other things, the Individual Defendants agreed to a sale of the Company for inadequate consideration, without

conducting any auction process or pre-signing market check; agreed to onerous Deal Protections that preclude any meaningful post-signing market check; and relied upon advice from Goldman Sachs despite knowing of Goldman Sachs' inherent conflict of interest and financial incentive to favor the Proposed Transaction over the Spin-Off.

93. As a result of the El Paso directors' breaches of fiduciary duty in agreeing to the Proposed Transaction, the Class will be harmed by receiving the inferior consideration offered in the Proposed Transaction.

94. Furthermore, the Deal Protections adopted by the Individual Defendants and contained in the Merger Agreement impose an excessive and disproportionate impediment to the Board's ability to entertain any other potentially superior alternative offer. The El Paso Board's agreement to the No-Shop, Matching Right and the Termination Fee constitute a breach of fiduciary duty, especially in light of the Individual Defendants' failure to obtain additional consideration in exchange for these valuable concessions.

95. Plaintiff and the Class have no adequate remedy at law.

COUNT II

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY AGAINST KINDER MORGAN

96. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

97. Defendant Kinder Morgan knowingly assisted the Individual Defendants in construction of the Proposed Transaction and the related Merger Agreement, which

unlawfully restricts the El Paso Board from fully informing itself of all of the Company's strategic alternatives in compliance with its fiduciary duties. As such, Kinder Morgan aided and abetted the Individual Defendants' breaches of fiduciary duty.

98. As a result of this conduct by Kinder Morgan, Plaintiff and other members of the Class have been and will be damaged by being denied the best opportunity to maximize the value of their investment in the Company.

99. Plaintiff and the Class have no adequate remedy at law.

COUNT III

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY AGAINST GOLDMAN SACHS

100. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

101. As alleged above, the Individual Defendants breached their fiduciary duties to El Paso's shareholders. Defendant Goldman Sachs is sued herein for aiding and abetting the Individual Defendants' breaches of fiduciary duty.

102. Defendant Goldman Sachs knowingly advised its client, the El Paso Board, to abandon the Spin-Off in favor of a sale to Kinder Morgan, a company in which Goldman Sachs owns a substantial equity stake and has two employees on the board of directors, and to which Goldman Sachs has provided substantial investment banking services over the last several years. By steering a sale of the Company to Kinder Morgan at a less-than-value-maximizing price, Goldman Sachs earned larger advisory fees than if El Paso had consummated the Spin-Off, and Goldman Sachs also stands to see its

substantial investment in Kinder Morgan increase in value by creating a situation in which Kinder Morgan did not have to pay full value for El Paso.

103. As a result of the conduct by Goldman Sachs, Plaintiff and the Class have been and will be damaged by being denied the best opportunity to maximize the value of their investments in the Company.

104. Plaintiff and the Class have no adequate remedy at law.

RELIEF REQUESTED

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in its favor and in favor of the Class and against Defendants as follows:

a. Holding that this action is properly maintainable as a class action;

b. Preliminarily and permanently enjoining Defendants from taking any action to consummate the Proposed Transaction or enforce the Merger Agreement until such time as the Individual Defendants have fully complied with their fiduciary duties and taken all readily available steps to maximize shareholder value;

c. Finding the Individual Defendants liable for breaching their fiduciary duties to the Class;

d. Finding the Deal Protections invalid and unenforceable, or in the alternative, amending the Deal Protections as necessary to ensure a full and fair sale process for the benefit of the Class;

e. Finding Kinder Morgan liable for aiding and abetting the Individual Defendants' breach of fiduciary duty;

f. Finding Goldman Sachs liable for aiding and abetting the Individual Defendants' breach of fiduciary duty;

g. Requiring the Individual Defendants to fully inform themselves of all of the Company's strategic alternatives, and to give full and fair consideration to any alternative offers for the Company;

h. Awarding the Class compensatory damages, together with pre- and post-judgment interest;

i. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

j. Awarding such other and further relief as is just and equitable.

Dated: October 20, 2011

/s/ Megan D. McIntyre
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