



On October 28, 2022, Trustee Cathy Yanni and Trust CFO Tim Jorstad participated in a meeting hosted by Sonoma County Supervisors Susan Gorin and James Gore. The FVT leaders answered questions from fire survivors in Sonoma, including the following questions that had been submitted in writing. In the interests of transparency, the Trust is posting these to the public website. [Note that some of the questions have been combined or truncated for brevity]:

### **Trust Communications**

#### **1. In what format could we expect regular updates from the Fire Victim Trust?**

Since beginning her role as Trustee, Cathy Yanni has consistently pledged to regularly inform Fire Victims about progress. She has posted letters, statements, and videos on the FVT website each month. The website is updated twice each month as new notices and payments are issued. The Trust also plans to post more content to the Facebook community page and more fully leverage Twitter to share information.

#### **2. The Trust has said there will be community engagement. What form will this take?**

The types of meetings will vary. For example, Cathy met in person with fire victims in Paradise, while a meeting with fire victims in Sonoma County was held over a video call.

#### **3. How frequently can we expect those meetings to occur, and when will the next meeting occur in Sonoma County?**

We are working with Supervisors Gorin and Gore to schedule another meeting early in 2023. While Cathy has demonstrated her commitment to meeting with Fire Victims to answer questions and discuss progress, she is also committed to finishing the job that she has started: processing as many claims as possible and getting fire victims as much of the money they've agreed to in their determinations as soon as possible. As we hope you will agree, this should remain her priority. Cathy will meet with fire victims whenever practicable, but her primary focus will be on her responsibilities as Trustee: issuing determinations and getting money to fire survivors.

#### **4. Will the FVT report on these meetings after they occur?**

That depends on the format of the meeting. Media have had access to Cathy after meetings, allowing participants in the meeting and the Trust to relay results of the meeting to the public. The Trustee and her team have conducted several media interviews, recognizing that it's important for the facts to get out to all fire victims and doing so through the media is an effective way to communicate broadly.

**5. What is the protocol for press releases?**

We issue press releases when there is news to announce on behalf of the Trust. Releases have been issued on the sale of PG&E stock and the D&O litigation against the former board directors of PG&E. These are available on the website.

**Stock Sales and *Pro Rata* Payments**

**6. When is the next *Pro Rata* payout expected, and what percentage of the total claim will that be?**

At present we don't know when the next sale of stock will occur, but we are working closely with our financial advisors, Morgan Stanley and Houlihan Lokey, to determine the appropriate timing to sell. There are many variables that affect the timing and amount of the sale of PG&E stock that determine when the next *Pro Rata* payment will happen and by how much it will increase the percentage of payments. Important among these is the price of the stock which we monitor daily. It's important to remember that as we sell stock we are not only adding to the Trust's ability to potentially pay another *Pro Rata* payment, but we also are monetizing assets to pay fire victims who are still in the initial stages of determinations.

**7. Who is purchasing the stocks? What is the FVT paying in brokerage fees, if any?**

Stock sold on the open market through Morgan Stanley. The Trust has made public filings as required by law showing it sold the stock to Morgan Stanley in four separate block trades of 40 million shares, 60 million shares and two batches of 35 million shares, respectively. Morgan Stanley assumes the market risk to resell the shares, and the Trust has no control over these resales. The Trust pays industry standard fees to Morgan Stanley for these transactions.

**8. Is a brokerage house purchasing the stock for resale?**

Yes, under applicable documents, Morgan Stanley has agreed to purchase the stock. Morgan Stanley, in turn, sells the stock to the end purchasers/investors.

**9. Who is our fiduciary selling the stock?**

The Trustee is the fiduciary who makes monetization decisions with the approval of the Trust Oversight Committee, as required by the governing Trust documents. The Trustee works with the Trust's financial advisors and counsel to optimize monetization value to the Trust for the benefit of Fire Victims.

**10. Is the stock being sold at a discount?**

Yes, the Trust’s block trades have been executed after the close of the market (as is typical for block trades) and priced at a discount to the closing price of the stock on that day. The discount is negotiated at the time and dependent upon multiple factors including market conditions, market price, demand for the stock and number of shares sold.

**11. When can the Trust sell more stock? Are there restrictions on how often stock is sold?**

Immediately after a block sale, there are typically relatively short-term restricted periods, consistent with market practice. For example, after the Trust’s four block sales in 2022, the Trust was restricted for selling shares for 60 (January 31st sale), 30 (April 14th), and 14 days (October 4th & 27th), respectively. Once those restrictions lapse, there are not further restrictions on when the Trust may sell stock. There is no limit to the number of shares that can be sold at once, but our financial advisors are carefully weighing the market’s reaction to each block sale including how many brokerage houses or funds are likely to buy the stock, when advising the Fund on the amount of shares to sell each time.

**12. What price does the Trust need to sell the stock at to reach \$13.5 billion?**

The exact calculation changes based on market conditions and future stock sales. The Trust is committed to selling the stock at the highest possible price to maximize awards for claimants.

**13. What if sales proceeds exceed this amount — what would happen to the extra funds?**

For any excess proceeds above the \$13.5 billion, pursuant to documents and agreements made in the bankruptcy proceedings, \$89 million is owed to various California agencies and \$115 million is payable to Cal Fire (only out of interest earnings on the US Treasuries) with the balance then payable to the FVT claimants up to 100% of their awarded claims. FEMA is entitled to be paid \$1 billion after all claimants have been paid in full.

**Data on Claims Processing**

**14. On the Trust’s website ([www.firevictimtrust.com](http://www.firevictimtrust.com)) one figure is of “Submitted Claims Questionnaires (CQs)”, while another is “Number of Claims Questionnaires”. What is the difference?**

The first was the number of submitted Claims Questionnaires (CQs), while the second referenced total CQs. Going forward, the Trust will only report on submitted CQs to avoid confusion.

**15. The Landing Pie Chart also shows “88% determined, 8% incomplete pending additional information, 4% to be determined.” [Note: these numbers are updated twice a month].**

**a) What is the deadline for the “8% incomplete pending additional information”?**

Deficiency notices have a 30-day response deadline.

**b) What is the completion ETA for the “4% to be determined”?**

We review and approve determination notices every day and are on pace to meet our stated 90% goal by the end of the year.

**c) Where do Redetermination Requests fit into these numbers, and what is the Trust’s “turn-around time” for Redeterminations?**

Reconsideration determination notices are also reviewed daily and most receive a notice within 30 days.

**16. The Claims Data report has different data points: Number of Claimants who have Received *Pro Rata* Payments and Number of Claimants who have Received Preliminary Payments. What is the relationship between these numbers?**

There is not a one-to-one relationship between Preliminary and *Pro Rata* Payments. Claimants who received a Preliminary payment will also receive a *Pro Rata* payment after they have accepted their Determination notice.

**17. Why does the Number of Claims Questionnaires go up every two weeks?**

The reason these numbers change on the FVT website is because the Trust updates the data as it processes new or amended claims.

**18. When will the number of CQs stop increasing?**

When all qualifying claims have been resolved.

**19. Why do previous months’ reports disappear? Previous Claim Data Reports are not available on the FVT website.**

The Trust reports on the most current data with the most accurate results available.

## **20. Is the Trust still accepting Claims?**

The Proof of Claim filing deadline set by the Bankruptcy Court to file a Fire Victim Claim against PG&E was December 31, 2019. Claimants who did not file a Proof of Claim by that date, must seek court approval of their late filing or else they cannot be eligible for compensation from the Trust. While the Trustee did not initially oppose late filings (mirroring the 9th Circuit's permissive standard for allowing late claims in bankruptcy), now nearly three years after the 2019 deadline the Trust opposes late filings. To prevent dilution of funds for Fire Victims who filed on a timely basis and avert delays in getting final distributions to them, the Trust is objecting to all filings made after September 30, 2022.

### **Fire Victims' Lawyers**

## **21. What can the Trust do to assist with issues that arise between victims and their lawyers?**

Cathy is committed to assisting claimants with hardships and has indicated that the Trust will communicate with claimants' attorneys to facilitate resolution of claims. We are in touch with claimants' attorneys every day, but it is also true that the Trust cannot intercede in the privileged relationship between client and attorney.

## **22. Which lawyers represent claimants in the FVT and how many claimants are they each representing?**

There are over 250 firms representing approximately 90% of the claimants. The other approximately 10% are not represented by counsel.

### **Inverse Condemnation**

## **23. Can you explain how the Trust is handling inverse condemnation?**

Because PG&E is considered a public entity under California law and its fires created a "taking" of private property, PG&E was responsible for the reasonable attorneys' fees and costs directly related to those property losses in addition to the property damage itself. When the Fire Victim Trust stepped into PG&E's shoes to compensate Fire Victims, the Trust inherited the duty to pay inverse attorneys' fees and costs. This is done in a two-step process:

- **Inverse Fee Awards**: These are the reasonable attorneys' fees incurred in relation to claim for property damage. Because these are only compensable in relation to a "taking", the Trust includes these awards as a line-item directly in a Claimant's Real and Personal Property award. Because most law firms have contingency fee arrangements with their clients, the Trust could more quickly review and determine appropriate inverse fee awards, allowing us to include these awards in a Determination Notice from the outset of the program.

- Inverse Cost Awards: These are the reasonable costs and expenses incurred in relation to the claim for property damage. In addition to attorneys' costs, these may include other reasonable expenses incurred in relation to the property damage claim. The most common examples of compensable inverse costs include rebuild appraisal and engineering expenses. We also receive claims for arborist expenses and filing fees, and deposition costs. Importantly, lawyers' marketing and operations costs are not compensable inverse costs.

Unlike the inverse fees award, the Trust issues a separate notice to firms regarding inverse cost awards. Inverse costs awards require more detailed reviews of expert invoices, many of which had not been submitted to the Trust when the claims were initially submitted. Recognizing the urgency of getting notices and payments out to Fire Victims as quickly as possible, the Trust decided it was best to carve inverse costs out into a separate process.

Finally, inverse awards (both fees and costs) are claimant awards and must be paid at the same pro rata percentage (currently 45%) as all other claim awards. The Trust has received over 33,000 property damage claims from represented Claimants. Each that is eligible for payment from the Trust is also eligible for inverse awards. As a practical matter, inverse awards benefit victims by increasing their overall award and offsetting fees and costs due under their attorney-client contract.

### Lobbying

#### **24. What lobbying efforts are the Trust undertaking?**

The goal of the Trust's lobbying efforts is to build relationships and support legislative efforts that support fire victims' ability to get paid as quickly and fairly as possible. At the State level, the FVT lobbyist worked with Assemblymember Gallagher's office and State Senator McGuire's office on their legislative efforts. Darby Kernan (Trust lobbyist) and the Trustee have met with both legislators in the past five months. They also met with the Governor's and Treasurer's staff on various issues, in an attempt to secure a loan for the FVT. While the loan effort was not successful, other conversations are continuing to see if more can be done in 2023.

On the federal level, Congressmen La Malfa and Thompson have been championing legislation, H.R. 7305. The FVT lobbyist has been working with both offices and has submitted letter of support for that legislation. The letter will be posted to the Trust's website.

### **FVT Filing of Tax Return**

#### **25. Does the FVT File a 1041 U.S. Income Tax Return?**

The FVT is considered a grantor trust. As such, it files a no activity Form 1041 Trust Tax Return with a Grantor Statement that states that the FVT's income and expenses are reported on the PG&E corporation tax return. The FVT specifically and settlement trusts generally are never tax-exempt entities. In the absence of the FVT qualifying as a grantor trust, the FVT files a Form 1120 corporation income tax return.

### **Determinations for Minors**

#### **26. What is the process for determinations and payments to minors, and do any restrictions exist?**

To protect the interests of minors, the Court approved the Honorable Ellen Sickles James (Ret.) as the Special Master to review and approve the claims determinations and disbursement measures for all awards to minors before the Trust may issue payment. As part of this process, the Special Master reviews the determination notice and claim awards after acceptance, as well as documentation supporting the Legal Representative's authority to act on the minor's behalf.

In addition, the Special Master is tasked with ensuring the awards minors receive are "at least as protected as measures used by California state courts." That means the Special Master has approved deposits into insured accounts ("blocked accounts") and single-premium deferred annuities ("structured settlements"), as well as deposits to Special Needs Trusts and CalABLE accounts for the benefit of minors. However, the Special Master will not approve deposits into accounts that allow a minor's funds to be sold or transferred or allow a parent/guardian control over the funds, such as an investment account, a 529 account, UTMA account, or direct deposit into a parent/guardian's checking account.