

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: ALL PERSONS AND ENTITIES WHO CURRENTLY OWN OR HAVE OWNED ANY INTEREST IN REAL PROPERTY FROM APRIL 1, 2001, TO DATE, LOCATED IN MEMPHIS, SHELBY COUNTY, TENNESSEE,

- (A) AT OR BORDERING CYPRESS CREEK BETWEEN SCOTT STREET UPSTREAM AND THE WOLF RIVER DOWNSTREAM; OR
- (B) IN THE VICINITY OF CYPRESS CREEK THAT HAS BEEN SUBJECT TO SOIL TESTING BY VELSICOL CHEMICAL CORPORATION, TDEC, EPA, OR OTHER GOVERNMENTAL AUTHORITIES AND HAS BEEN FOUND TO CONTAIN DETECTABLE LEVELS OF DIELDRIN OR RELATED COMPOUNDS IN ANY AMOUNT.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ THE COMPLETE NOTICE CAREFULLY.

I. Purpose of this Notice.

On April 1, 2004, certain residents of the Cypress Creek neighborhood of Memphis filed a lawsuit against Velsicol Chemical Corporation, alleging damage to their property from the discharge of dieldrin and related chemicals from the Velsicol plant on Warford Avenue to Cypress Creek. *Mildred Isabel et al. v. Velsicol Chemical Corporation*, No. 04-2297 (W.D. Tenn.). In June 2006, the U.S. District Court for the Western District of Tennessee declined to certify that case as a class action, leaving the claims of Ms. Isabel and one other individual plaintiff pending. Following extended negotiations between Velsicol and counsel for Ms. Isabel and the putative class, the parties have reached a proposed class action settlement which is described in detail below. This proposed class action settlement must be reviewed and approved by the federal court where the case is pending. The purpose of this Notice is to give important information to landowners and others whose rights might be affected by this class action settlement so that they can decide which of the options described below they wish to pursue.

II. Class Members.

The class of persons who are affected by the proposed Settlement is defined as follows:

The Plaintiff class consists of all individuals, corporations, partnerships, limited liability companies, trusts, or other legal entities (not excluded below) who currently own, or have owned since April 1, 2001, any interest in real property:

(a) at or bordering Cypress Creek between Scott Street upstream and the Wolf River downstream; or

(b) in the vicinity of Cypress Creek that has been subject to soil testing by Velsicol, TDEC, EPA, or other governmental authorities and has been found to contain detectable levels of dieldrin or related compounds in any amount.

Excluded from the class are the City of Memphis, Shelby County, the State of Tennessee, Defendant Velsicol, officers of the Court, and any subsidiary, parent, or affiliated corporation or entity.

The properties and owners currently known to the parties to fall within the class definition are set out in Exhibits A and B (attached to the Settlement Agreement and available at <http://www.cypresscreekmemphis.com/settlement>). The omission of any property falling within the class definition shall not affect its owners' entitlement to the benefits and obligations of this settlement.

As noted, a full copy of the lists of properties known to be covered by the Settlement, and the current record owners of those properties, can be found at <http://www.cypresscreekmemphis.com/settlement>.

III. Settlement Benefit for Class Members

Under the terms of the parties' Class Action Settlement Agreement (Agreement), Velsicol has agreed to pay a minimum of \$2 million to class members subject to certain terms and conditions summarized below. This payment is to be made to class counsel or a Court-designated agent within thirty (30) days of the date upon which the Court's approval of the settlement under Rule 23(e) has become final and is no longer subject to appeal. In addition, Velsicol has also agreed to pay an additional \$1,500.00 each for properties falling within the class definition which tested below the 0.03 ppm soil screening level set by TDEC or which were not tested because they adjoined two properties which tested below that screening level. The aggregate of payments for such *de minimis* properties is not to exceed an additional \$70,000. In addition, Velsicol has agreed to reimburse the class for expert witness fees not to exceed \$30,000. The total amount of settlement and expert fees to be paid cannot exceed \$2.1 million. Finally, Velsicol has agreed to cover the first \$10,000 of the costs of publication or other notification to class members of the settlement.

In return for these payments of up to \$2.1 million, Velsicol will receive a release from the class members for all claims asserted in the *Isabel* litigation, in addition to

all other claims for property damage, environmental cleanup, or any other claim of any nature whatsoever, excepting only claims for bodily injury, arising out of the actual or alleged presence of dieldrin or related compounds on, under, or near property owned by Plaintiffs in Memphis, Shelby County, Tennessee, or relating in any way to the operation of VCC's Memphis plant or the release of dieldrin or related compounds from that plant (the 'Released Claims').

Id. at § 1. The carve-out for bodily injury claims would allow class members to bring any such claims notwithstanding the release. These excluded bodily injury claims would, however, still be subject to statute of limitations and other defenses available to Velsicol. *Id.* at § 17. Velsicol continues to deny liability or fault for the acts alleged by Plaintiffs and the proposed settlement does not constitute an admission or evidence of liability. *Id.*

The parties' settlement is conditioned on approval by Velsicol's insurer (which has been obtained), upon certification of the settlement class and approval by the District Court under Rule 23(e), and on any opt-outs from the settlement class not exceeding 10% of the total number of properties, or 10% of the total residential assessed property value (as determined by the 2005 assessment). *Id.* at §§ 7-10. In the event that any of these conditions precedent are not satisfied, the Agreement would be null and void and the parties would be returned to their original positions. *Id.* at §§ 2, 7-10, 18.

The amounts payable to owners of individual properties is determined by a proposed distribution plan created by counsel for the class. These distributions will be based upon the level of contamination found at each property, the nature of the property (residential or commercial), and the assessed value of the property. Specifically, residential properties testing above .03 parts per million (ppm) dieldrin will receive 25 % of their assessed value; non-residential properties testing above 0.03 ppm will receive 7.5 % of assessed value. Residential or nonresidential properties testing below 0.03 parts per million or those which have not been tested will receive the lesser of 25% of assessed value or \$1,500.00. The assessed values will be those determined by the Shelby County Assessor's office for 2006. Total disbursements for class members are estimated at \$1,454,910 or approximately 70% of the gross settlement amount. The balance of the gross settlement amount will go to fees of class counsel and expenses of the litigation and settlement.

The fees of class counsel will also be deducted from the gross settlement amount. Counsel for the class have proposed a fee of approximately 30% of the gross settlement amount. This fee request is also subject to approval by the District Court as part of the fairness hearing described below.

IV. Claims Process, Disputes, and Deadline.

Those current owners of record shown on Exhibits A and B to the Settlement Agreement (and who will be mailed a copy of this notice) will be entitled to a distribution from the settlement fund based on the distribution plan described above. If you are not listed on Exhibits A or B and claim an interest in one of the listed properties, you must submit a claim form and any written documentation of your interest in a covered property during the relevant time period to counsel for the class or, if one is appointed, to a settlement agent designated by the Court.

In the event of a dispute over entitlement to a share of the settlement, class counsel will file an interpleader action in the Court of General Sessions or Circuit Court for Shelby County and will deposit the disputed amount with the clerk of that court. The state court will adjudicate any disputes or competing claims. Class counsel and the district court will not decide such disputes. Any filing fees or other court costs of such an interpleader action will be deducted from the amount deposited with the state court.

The deadline for submission of any such claim for benefits will be June 30, 2008. Any claim submitted after this time will be denied. Actual distribution of settlement payments will be delayed if appeals or post-hearing motions extend the date upon which the court's order becomes final and no longer subject to appeal.

V. Dismissal of Litigation, Entry of Judgment, and Release of Claims.

If the District Court approves this proposed Settlement following receipt of comments and a fairness hearing, and if all other conditions precedent are satisfied, the pending *Isabel* case will be dismissed with prejudice by the Court. Entry of this judgment of dismissal will serve to extinguish all claims as described above, except for those expressly reserved, as to which Velsicol reserves all of its rights and defenses. This means that all members of the class will be barred from bringing such claims in the future, regardless of whether they submit a claim for or receive benefits from the Settlement.

VI. Attorneys' Fees and Costs.

The fees of class counsel will also be deducted from the gross settlement amount, thereby reducing individual awards by a proportionate amount. However, the individual awards were determined by class counsel prior to the consideration of fees. At this time, class counsel does not intend to receive any fees until the class award is approved and all expenses for the litigation and resulting settlement have been paid. Counsel for the class have proposed a fee of approximately 30% of the gross settlement amount. This fee request contemplates the disbursement to class members in the first instance, and that expenses are paid in the second instance. Because the settlement expenses and litigation expenses are not certain, the fees cannot be precisely calculated. Considering the nature of the settlement and the proposed disbursement amount, class counsel expects to receive approximately 30% of the gross settlement amount. This fee request is also subject to approval by the District Court as part of the fairness hearing described below.

VII. Rights and Options of Class Members

A. Remain a Class Member

Each person who falls within the class definition set out above has at least three options in response to this Notice. The first is to remain a class member and, if the proposed Settlement is approved by the District Court, to submit claims for benefits as outlined above. Class members choosing this option will be bound in full by the terms of the Settlement.

B. Opt-Out of the Settlement.

A second option is to opt-out of the Settlement. This means that a person falling within the class definition set out above does not wish to be a part of the Settlement. Such a person is required to file a notice of intent to opt-out no later than April 18, 2008. Such Notices need not follow any particular form so long as they unequivocally express an intention not to participate in this Settlement. While not required, a form Notice can be found at <http://www.cypresscreekmemphis.com/optout>. Such Notices must be received no later than April 18, 2008, in order to be effective.

Those class members choosing to opt-out of the Settlement will not be bound by its terms. They may file their own suits but are subject to all defenses available to Velsicol, including the statute of limitations.

C. Intervene in the Litigation and/or Object to the Settlement

A third choice available to persons falling within the class definition set out above is to intervene in the *Isabel* case as a party or to make written or oral objections to the proposed Settlement (including the distribution plan or proposed fees of class counsel) before or at the fairness hearing. Only those persons who formally intervene as parties would be able to appeal from the District Court's final ruling on the proposed Settlement. Any class member, whether he or she intervenes or not, has the right to be represented by counsel, to file written objections to the proposed Settlement, and to be heard at the fairness hearing.

VIII. Fairness Hearing and Settlement Objections.

The District Court has preliminarily certified the proposed settlement class and scheduled a fairness hearing on the proposed Settlement for May 30, 2008. The Court will also consider final certification of the class for settlement purposes at that time. The Court will also hear comments from the parties and from members of the class at that time. Those who wish may also submit written comments or objections on class certification or the Settlement prior to that fairness hearing by mailing them to the Clerk, U.S. District Court for the Western District of Tennessee, Federal Building, 167 North Main Street, Suite 242, Memphis, Tennessee 38103. The Clerk's Office WILL NOT accept telephone comments nor answer questions regarding the Settlement.

Inquiries regarding the Settlement should be addressed, in writing, to counsel for the proposed class at the following address:

Murray B. Wells, Esq.
Arthur E. Horne, III, Esq.
Horne & Wells, PLLC
81 Monroe Avenue, Suite 400
Memphis, TN 38103

IX. For More Information and Important Dates.

For additional information, contact counsel for the class at the address above. Do not contact Velsicol Chemical Corporation or the U.S. District Court for the Western District of Tennessee for information on the Settlement.

Event

Deadline

Please bear in mind the following deadlines:

Deadline to opt-out of Class: April 18, 2008

Deadline for written objections: April 18, 2008

Deadline for motion to intervene: April 18, 2008

Fairness hearing:

May 30, 2008

Submission of Claims for Benefits:

June 30, 2008

Dated: January 31, 2008

/s Bernice B. Donald
Honorable Judge Bernice B. Donald
United States District Court Judge