



Legislation Text

File #: 1524-2023, **Version:** 1

Plaintiffs City of Long Beach, Mayor and City Council of Baltimore, City of Berkeley, City of Chula Vista, County of Los Angeles, City of Oakland, City of Portland, Port of Portland, City of San Diego, City of San Jose, and City of Spokane filed lawsuits against Defendant in district courts in their respective jurisdictions. In their complaints, Plaintiffs asserted that Defendant manufactured a class of industrial chemicals called polychlorinated biphenyls (“PCBs”) between the 1930s and 1977 and stated various causes of action against Defendant for alleged PCB-related impairments to the environment, including to water bodies. Plaintiffs alleged that PCBs are present at sites and public properties, including in stormwater, stormwater and wastewater systems, water bodies, sediment, natural resources, fish and wildlife. Plaintiffs sought compensatory damages and injunctive and equitable relief.

On March 14, 2022, the Court entered an order certifying the Action as a class action, and specifically certifying a Nationwide Class defined as: As of June 24, 2020 only, but not later, all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs. The claims certified for class-action treatment include claims that Defendant’s PCBs and PCB-containing products were defectively designed, that the risks of environmental harm associated with PCBs and PCB-containing products outweighed the benefits of their uses, that Defendant failed to warn of the risks of harm associated with PCBs and PCB-containing products, and that Plaintiffs and the Settlement Class Members suffered property damage as a result of PCB contamination.

Defendant denies that class certification was or remains appropriate (except for purposes of the proposed settlement), denies that its PCBs and PCB-containing products were defectively designed, denies that the risks of environmental harm associated with PCBs and PCB-containing products outweigh their benefits, denies that it acted unlawfully, and asserts various legal and factual defenses against Plaintiffs’ claims.

The parties reached a settlement before the Court resolved the claims and defenses of the parties in the Action. Therefore, the Court never resolved whether Defendant did anything wrong. Plaintiffs and Defendant recognize that to resolve these and other important issues would be time-consuming, uncertain, and expensive, which is part of the reason for the Settlement.

To approve the settlement in the case of the *City of Long Beach, et al. v. Monsanto Company, et al.*, Case No. 2:16-cv-03493-FMO-AS and to accept a deposit of \$32,414.03 to be deposited into the General Fund. (\$32,414.03)

WHEREAS, the cities of Long Beach, Mayor and City Council of Baltimore, City of Berkeley, City of Chula Vista, County of Los Angeles, City of Oakland, City of Portland, Port of Portland, City of San Diego, City of San Jose, and City of Spokane (“Plaintiffs”) filed lawsuits against Monsanto Company, Solutia Inc., and Pharmacia LLC (the former Monsanto Company) (collectively, “Defendant” or “Monsanto”) in district courts in their respective jurisdictions; and

WHEREAS, in their complaints, Plaintiffs asserted that Defendant manufactured a class of industrial chemicals called polychlorinated biphenyls (“PCBs”) between the 1930s and 1977 and stated various causes of action against Defendant for alleged PCB-related impairments to the environment, including to water bodies. Plaintiffs alleged that PCBs are present at sites and public properties, including in stormwater, stormwater and wastewater systems, water bodies, sediment, natural resources, fish and wildlife. Plaintiffs sought compensatory damages and injunctive and equitable relief; and

WHEREAS, the lawsuits resulted in a class being certified with the case titled *City of Long Beach, et al. v. Monsanto Company, et al.*, Case No. 2:16-cv-03493-FMO-AS in the U.S. District Court for the Central District of California,

Western Division; and

WHEREAS, the class was identified as all NPDES Phase I and II city, town, village, borough, township, and independent port district MS4 permittees with jurisdictional boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs and all NPDES Phase I and II county MS4 permittees with urbanized, unincorporated boundaries within a HUC 12 Watershed that contains and/or is immediately adjoining a 303(d) water body impaired by PCBs; and

WHEREAS, Defendant denies that class certification was or remains appropriate (except for purposes of the proposed settlement), denies that its PCBs and PCB-containing products were defectively designed, denies that the risks of environmental harm associated with PCBs and PCB-containing products outweigh their benefits, denies that it acted unlawfully, and asserts various legal and factual defenses against Plaintiffs' claims; and

WHEREAS, however, the parties reached a settlement before the Court resolved the claims and defenses of the parties in the Action; and

WHEREAS, the City of Columbus received notice that it had been certified as part of the class; and

WHEREAS, the City of Columbus did not choose to opt-out of the proposed settlement and, as a result, has received a settlement check from the Defendant; and

WHEREAS, the City Attorney recommends that settlement of the lawsuit filed by the Plaintiffs and certified as a class serves the best interests of the citizens of the City of Columbus, **NOW, THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1: That City Council hereby accepts the recommendation of the City Attorney and authorizes approval of the class action settlement in *City of Long Beach, et al. v. Monsanto Company, et al.*, Case No. 2:16-cv-03493-FMO-AS in the U.S. District Court for the Central District of California, Western Division.

SECTION 2: That the City Treasurer is hereby authorized and directed to accept the settlement payment in the amount of \$32,414.03 for the City of Columbus.

SECTION 3. That the City Treasurer is hereby authorized and directed to deposit \$32,414.03 into the General Fund 1000, Subfund 100010, Department 45, Division 4550.

SECTION 4: That this ordinance shall take effect and be in force from and after the earliest period allowed by law