

# 135 Wisconsin Municipalities Potentially Affected by PCB Class Action Settlement. Payouts May Not Align with Actual Damages.

Article

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A Central District of California Judge has preliminarily approved a class action settlement in *City of Long Beach, et al. v. Monsanto Company, et al.*, that will resolve claims by various municipalities against Monsanto Company, Solutia, Inc. and Pharmacia for environmental damages related to PCBs. The underlying basis for the claims are allegations that PCBs are present at sites and public properties, including in stormwater, storm and wastewater systems, water bodies, sediment, natural resources, fish and wildlife. The Defendants agreed to pay \$550 million to be distributed to 2,528 initial class members across the United States.

While none of the named plaintiffs in the case are from Wisconsin, there are 135 Wisconsin Municipalities identified as Class Members who will be impacted by this settlement. Eighteen Wisconsin Municipalities are projected to be eligible for a combined total of over \$11 million from a "TMDL Fund." The TMDL payments range from as low as \$5,404 to a high of \$4,034,109 and are intended to be used for "restitution and remediation including mitigation of contaminated property, stormwater, and/or stormwater systems, including compliance with a TMDL." The other 117 municipalities are purportedly eligible to receive payments ranging from \$17,024.47 to \$32,024.47 from a "monitoring fund." The total projected payout to these Wisconsin Municipalities from the monitoring fund is just under \$720,000.

In exchange for accepting payments as class members, the municipalities will be forever barred from making any claim against these manufacturers for PCB related environmental impairments, including impairments to water bodies, sediment cleanups, public properties, including stormwater and wastewater systems.

Notice of the preliminary approval will be mailed to the identified 135 Wisconsin Municipalities in the coming days. Once the notice has been mailed, municipalities have 60 days from the date of mailing to decide if they want to (1) accept the settlement, remain in the class and file a claim; (2) remain in the class

and object to the settlement; or (3) opt out of the settlement to pursue claims separately.

While settlements like this often feel like found money, municipalities with more than nominal PCB levels may want to closely assess whether the payouts being offered underestimate the actual cost of the environmental damage and cleanup needs for their respective community.

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