

--MEMORANDUM--

MEMO TO: City Council

FROM: Gregory E. Buckley
City Manager

DATE: August 25, 2023

SUBJECT: Payment Resulting from Monsanto Class Action Settlement, Pertaining
To PCB Contamination

I have included this matter on the August 28 work session agenda to advise the Council that the City in late April received a check in the amount of \$17,414.03 from a class action lawsuit filed in Federal Court in California, pertaining to pollution of the environment by PCB's produced by Monsanto Co.

This was apparently an "opt-out" class action, where parties were notified of their eligibility for a settlement payment and are then bound by the settlement unless they take action to opt-out. There appears to have been notice sent to the City in the Summer of 2022, although nobody is aware of having received it. In addition to receiving a settlement payment for not "opting out," the City is also subject to a release of future claims against Monsanto, as summarized below:

Plaintiffs and all Settlement Class Members who have not excluded themselves from the Class will release certain claims against the Defendant, its affiliates, certain predecessors and successors, and other parties set forth in the Settlement Agreement. This is referred to as the "Release." Generally speaking, the Release will prevent any Settlement Class Member from bringing any lawsuit or making any 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 Class suffered property damage as a result of PCB contamination.

2,306 local governmental units nationwide were eligible to participate in the settlement. These were all local governments that hold either wastewater (NPDES) or stormwater (MS4) discharge permits, and are located on a body of water that is impaired by PCB's.

Of those 2,306 units nationwide, it appears that a total of 86 "opted out." In Wisconsin, 137 local units were identified as eligible to participate in the settlement; 5 opted out. I have attached a list of those Wisconsin local units. I have also attached a communication from the League of Minnesota Cities that offers a good, short explanation of this matter. Neither the City Attorney nor I saw anything from the WI League of Municipalities on this topic.

Again, this information is being provided as an FYI. While I would have preferred to bring this matter to you for action on whether or not to "opt out," it appears that the vast majority of eligible units around Wisconsin and the U.S that were included in the "settlement class" ended up as participants.

PCB Settlement Fund
PCB Monitoring Fund
1650 Arch St. Suite 2210
Philadelphia, PA 19103



631632

TWO RIVERS WI
CITY MANAGER
GREG BUCKLEY
1717 E PARK ST
TWO RIVERS WI 54241-3060

COPY

Payee Name: TWO RIVERS WI

Claim Number:	MST12484
Check Number:	102226
Check Date:	04/13/2023
Check Amount:	\$17,414.03

Enclosed is your settlement payment as a Monitoring Fund Entity in the class action lawsuit *City of Long Beach, et al. v. Monsanto Company, et al.* in the United States District Court for the Central District of California. This settlement payment has been calculated in accordance with the terms of the Settlement Agreement approved by the Court in the case. More information is available on the settlement website www.PCBClassAction.com. You may also contact the Settlement Administrator through email at info@pcbclassaction.com or by calling (844) 585-1121. Please cash or deposit this check promptly. **This check will be void if it is not cashed or deposited on or before October 13, 2023.**

2410

THIS CHECK IS VOID WITHOUT A COLORED BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

PCB Settlement Fund
PCB Monitoring Fund
1650 Arch St. Suite 2210
Philadelphia, PA 19103



CHECK NO.

25-2
440

102226

DATE:

04/13/2023

\$17,414.03

AMOUNT:

Pay Seventeen Thousand Four Hundred Fourteen and 03/100*****

To The TWO RIVERS WI
Order Of 1717 E PARK ST
TWO RIVERS WI 54241-3060

Verification Available - Positive Pay Protected
This check will be void after 10/13/2023

AUTHORIZED SIGNATURE

102226 044000024 01893984086

Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Milton WA	WA	8,169	2	\$ 17,024.47
Moses Lake WA	WA	22,470	2	\$ 17,024.47
Mount Vernon WA	WA	34,506	2	\$ 17,024.47
Mountlake Terrace WA	WA	21,135	2	\$ 17,024.47
Newcastle WA	WA	11,599	2	\$ 17,024.47
Normandy Park WA	WA	6,700	2	\$ 17,024.47
Olympia WA	WA	50,728	2	\$ 17,024.47
Pasco WA	WA	71,618	2	\$ 17,024.47
Pierce County WA	WA	860,072	1	\$ 32,024.47
Port of Olympia	WA	#N/A	2	\$ 27,024.47
Port of Seattle	WA	#N/A	1	\$ -
Port of Tacoma	WA	#N/A	1	\$ -
Port Orchard WA	WA	13,833	2	\$ 17,024.47
Poulsbo WA	WA	10,308	2	\$ 17,024.47
Puyallup WA	WA	40,344	2	\$ 17,024.47
Redmond WA	WA	62,863	2	\$ 17,024.47
Renton WA	WA	101,638	2	\$ 27,024.47
Richland WA	WA	54,742	2	\$ -
SeaTac WA	WA	29,181	2	\$ 17,024.47
Seattle WA	WA	710,510	1	\$ -
Sedro-Woolley WA	WA	11,495	2	\$ 17,024.47
Selah WA	WA	7,723	2	\$ -
Shoreline WA	WA	55,751	2	\$ 17,024.47
Skagit County WA	WA	123,709	2	\$ 27,024.47
Snohomish County WA	WA	787,695	1	\$ 32,024.47
Spokane County WA	WA	497,143	2	\$ -
Spokane Valley WA	WA	95,794	2	\$ -
Spokane WA	WA	214,990	2	\$ -
Steilacoom WA	WA	6,262	2	\$ 17,024.47
Tacoma WA	WA	210,268	1	\$ -
Thurston County WA	WA	273,721	2	\$ 27,024.47
Tukwila WA	WA	20,217	2	\$ -
Tumwater WA	WA	22,380	2	\$ 17,024.47
Union Gap WA	WA	6,154	2	\$ -
University Place WA	WA	32,984	2	\$ 17,024.47
Vancouver WA	WA	178,627	2	\$ 27,024.47
Walla Walla County WA	WA	60,094	2	\$ 17,024.47
Washougal WA	WA	15,467	2	\$ 17,024.47
Wenatchee WA	WA	34,228	2	\$ 17,024.47
West Richland WA	WA	14,216	2	\$ -
Whatcom County WA	WA	216,569	2	\$ 27,024.47
Woodinville WA	WA	12,054	2	\$ 17,024.47
Yakima County WA	WA	249,691	2	\$ -
Yakima WA	WA	93,572	2	\$ -
Algoma WI	WI	3,075	2	\$ 17,024.47
Allouez WI	WI	13,841	2	\$ 17,024.47
Appleton WI	WI	74,433	2	\$ 17,024.47
Ashwaubenon WI	WI	17,184	2	\$ 17,024.47
Bayside WI	WI	4,410	2	\$ 17,024.47
Bellevue WI	WI	15,570	2	\$ 17,024.47
Beloit WI	WI	36,691	2	\$ 17,024.47
Big Bend WI	WI	1,315	2	\$ 17,024.47
Brookfield WI	WI	39,200	1	\$ 22,024.47
Brown County WI	WI	259,546	2	\$ 27,024.47

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WI

Opted Out

WI

Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Brown Deer WI	WI	12,051	2	\$ -
Burlington WI	WI	10,658	2	\$ 17,024.47
Butler WI	WI	1,821	2	\$ 17,024.47
Caledonia WI	WI	24,841	2	\$ -
Calumet County WI	WI	49,600	2	\$ 17,024.47
Cedarburg WI	WI	11,503	2	\$ 17,024.47
Chippewa County WI	WI	63,526	2	\$ 17,024.47
Chippewa Falls WI	WI	14,003	2	\$ 17,024.47
Combined Locks WI	WI	3,577	2	\$ 17,024.47
Cudahy WI	WI	18,980	2	\$ -
Dane County WI	WI	530,885	2	\$ 27,024.47
De Pere WI	WI	24,850	2	\$ 17,024.47
Delafield WI	WI	7,502	2	\$ 17,024.47
Douglas County WI	WI	43,351	2	\$ 17,024.47
Eau Claire County WI	WI	102,941	2	\$ 27,024.47
Eau Claire WI	WI	68,276	2	\$ 17,024.47
Eden WI	WI	874	2	\$ 17,024.47
Elmwood Park WI	WI	506	2	\$ 17,024.47
Fitchburg WI	WI	28,814	1	\$ 22,024.47
Fond du Lac County WI	WI	102,201	2	\$ 27,024.47
Fond du Lac WI	WI	42,853	2	\$ 17,024.47
Fox Point WI	WI	6,705	2	\$ -
Franklin WI	WI	36,262	2	\$ 17,024.47
Glendale WI	WI	13,078	2	\$ -
Grafton WI	WI	11,583	2	\$ -
Green Bay WI	WI	104,719	2	\$ 27,024.47
Greendale WI	WI	14,256	2	\$ 17,024.47
Greenfield WI	WI	36,943	1	\$ 22,024.47
Hobart WI	WI	8,555	2	\$ 17,024.47
Holmen WI	WI	9,843	2	\$ 17,024.47
Howard WI	WI	19,318	2	\$ -
Howards Grove WI	WI	3,245	2	\$ 17,024.47
Hudson WI	WI	13,605	2	\$ 17,024.47
Janesville WI	WI	64,029	2	\$ 17,024.47
Jefferson County WI	WI	84,485	2	\$ 17,024.47
Kaukauna WI	WI	15,941	2	\$ 17,024.47
Kenosha County WI	WI	167,954	2	\$ -
Kenosha WI	WI	99,485	2	\$ 17,024.47
Kewaskum WI	WI	4,153	2	\$ 17,024.47
Kimberly WI	WI	6,735	2	\$ 17,024.47
Kohler WI	WI	2,087	2	\$ 17,024.47
Kronenwetter WI	WI	7,587	2	\$ 17,024.47
La Crosse County WI	WI	117,733	2	\$ 27,024.47
La Crosse WI	WI	51,851	2	\$ 17,024.47
Lake Hallie WI	WI	6,625	2	\$ 17,024.47
Lannon WI	WI	1,167	2	\$ 17,024.47
Little Chute WI	WI	11,289	2	\$ 17,024.47
Madison WI	WI	252,485	1	\$ 32,024.47
Manitowoc WI	WI	32,845	2	\$ 17,024.47
Maple Bluff WI	WI	1,344	2	\$ 17,024.47
Marathon County WI	WI	135,057	2	\$ 27,024.47
Marinette WI	WI	10,615	2	\$ 17,024.47
McFarland WI	WI	8,427	2	\$ 17,024.47
Menasha WI	WI	17,698	2	\$ 17,024.47

WI

Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Menomonee Falls WI	WI	36,755	2	\$ 17,024.47
Mequon WI	WI	23,476	2	\$ -
Merrill WI	WI	9,157	2	\$ 17,024.47
Merton WI	WI	3,599	2	\$ 17,024.47
Middleton WI	WI	19,062	1	\$ 22,024.47
Milton WI	WI	5,556	2	\$ 17,024.47
Milwaukee County WI	WI	948,301	1	\$ -
Milwaukee WI	WI	597,123	1	\$ 32,024.47
Monona WI	WI	8,170	1	\$ 22,024.47
Mosinee WI	WI	3,992	2	\$ 17,024.47
Mount Pleasant WI	WI	26,699	2	\$ -
Mukwonago WI	WI	7,823	2	\$ 17,024.47
Muskego WI	WI	24,867	2	\$ 17,024.47
Neenah WI	WI	25,845	2	\$ 17,024.47
New Berlin WI	WI	39,770	2	\$ 17,024.47
North Bay WI	WI	237	2	\$ 17,024.47
North Fond du Lac WI	WI	5,088	2	\$ 17,024.47
Oak Creek WI	WI	36,037	2	\$ 17,024.47
Oconomowoc Lake WI	WI	590	2	\$ 17,024.47
Oconomowoc WI	WI	16,558	2	\$ 17,024.47
Oliver WI	WI	407	2	\$ 17,024.47
Omro WI	WI	3,566	2	\$ 17,024.47
Onalaska WI	WI	18,627	2	\$ 17,024.47
Oshkosh WI	WI	66,517	2	\$ 17,024.47
Outagamie County WI	WI	184,755	2	\$ 27,024.47
Ozaukee County WI	WI	88,327	2	\$ 17,024.47
Paddock Lake WI	WI	2,984	2	\$ 17,024.47
Pewaukee WI	WI	14,332	1	\$ 22,024.47
Pewaukee WI	WI	8,184	2	\$ 17,024.47
Pleasant Prairie WI	WI	20,759	2	\$ -
Plover WI	WI	12,651	2	\$ 17,024.47
Port Washington WI	WI	11,656	2	\$ 17,024.47
Portage WI	WI	10,349	2	\$ 17,024.47
Racine County WI	WI	194,913	2	\$ -
Racine WI	WI	77,455	2	\$ 17,024.47
Richfield WI	WI	11,618	2	\$ 17,024.47
River Falls WI	WI	15,336	2	\$ 17,024.47
River Hills WI	WI	1,599	2	\$ 17,024.47
Rock County WI	WI	161,394	2	\$ 27,024.47
Rothschild WI	WI	5,310	2	\$ 17,024.47
Saukville WI	WI	4,465	2	\$ 17,024.47
Schofield WI	WI	2,184	2	\$ 17,024.47
Sheboygan County WI	WI	115,099	2	\$ -
Sheboygan Falls WI	WI	7,853	2	\$ 17,024.47
Sheboygan WI	WI	48,576	2	\$ 17,024.47
Sherwood WI	WI	2,878	2	\$ 17,024.47
Shorewood Hills WI	WI	2,039	2	\$ 17,024.47
Shorewood WI	WI	13,423	2	\$ -
South Milwaukee WI	WI	21,124	2	\$ 17,024.47
St. Croix County WI	WI	87,603	2	\$ 17,024.47
St. Francis WI	WI	9,471	2	\$ 17,024.47
Stevens Point WI	WI	26,363	2	\$ 17,024.47
Stoughton WI	WI	13,126	1	\$ 22,024.47
Suamico WI	WI	12,535	2	\$ -

WI

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Class Member	State	Population	MS4 NPDES Phase I or II	REVISED Monitoring Fund Allocation
Superior WI	WI	26,334	2	\$ 17,024.47
Superior WI	WI	660	2	\$ 17,024.47
Sussex WI	WI	10,773	2	\$ 17,024.47
Thiensville WI	WI	3,182	2	\$ 17,024.47
Twin Lakes WI	WI	6,062	2	\$ 17,024.47
Two Rivers WI	WI	11,211	2	\$ 17,024.47
Washington County WI	WI	134,386	2	\$ 27,024.47
Waukesha WI	WI	68,376	2	\$ 17,024.47
Waukesha County WI	WI	398,561	2	\$ 27,024.47
Waunakee WI	WI	13,581	2	\$ 17,024.47
Wausau WI	WI	38,430	2	\$ 17,024.47
West Bend WI	WI	31,654	2	\$ 17,024.47
West Milwaukee WI	WI	4,181	2	\$ 17,024.47
West Salem WI	WI	4,983	2	\$ 17,024.47
Weston WI	WI	15,099	2	\$ 17,024.47
Whitefish Bay WI	WI	14,061	2	\$ -
Wind Point WI	WI	1,703	2	\$ 17,024.47
Winnebago County WI	WI	169,637	2	\$ 27,024.47
Wisconsin Rapids WI	WI	17,898	2	\$ 17,024.47
Belle WV	WV	1,185	2	\$ 17,024.47
Benwood WV	WV	1,332	2	\$ 17,024.47
Bethlehem WV	WV	2,396	2	\$ 17,024.47
Bluefield WV	WV	10,056	2	\$ 17,024.47
Ceredo WV	WV	1,340	2	\$ 17,024.47
Charleston WV	WV	48,784	2	\$ 17,024.47
Chesapeake WV	WV	1,482	2	\$ 17,024.47
Clarksburg WV	WV	15,883	2	\$ 17,024.47
Dunbar WV	WV	7,473	2	\$ 17,024.47
Eleanor WV	WV	1,577	2	\$ 17,024.47
Fairmont WV	WV	18,489	2	\$ 17,024.47
Follansbee WV	WV	2,801	2	\$ 17,024.47
Glen Dale WV	WV	1,440	2	\$ 17,024.47
Huntington WV	WV	47,592	2	\$ 17,024.47
Kenova WV	WV	3,094	2	\$ 17,024.47
Marmet WV	WV	1,432	2	\$ 17,024.47
McMechen WV	WV	1,810	2	\$ 17,024.47
Montgomery WV	WV	1,570	2	\$ 17,024.47
Moundsville WV	WV	8,647	2	\$ 17,024.47
Nitro WV	WV	6,655	2	\$ 17,024.47
Parkersburg WV	WV	30,373	2	\$ 17,024.47
Poca WV	WV	986	2	\$ 17,024.47
South Charleston WV	WV	12,723	2	\$ 17,024.47
St. Albans WV	WV	10,454	2	\$ 17,024.47
Vienna WV	WV	10,474	2	\$ 17,024.47
Weirton WV	WV	18,867	2	\$ 17,024.47
Wellsburg WV	WV	2,624	2	\$ 17,024.47
Wheeling WV	WV	27,408	2	\$ 17,024.47
Williamstown WV	WV	2,931	2	\$ 17,024.47
Winfield WV	WV	2,350	2	\$ 17,024.47



Cities Receive Checks From Monsanto Settlement

April 24, 2023

The checks are legitimate and intended as compensation for potentially unnecessary testing and mitigation efforts.

Minnesota cities and counties are beginning to receive sizable checks from a Monsanto Class Action Settlement. Cities should rest assured that these checks — for approximately \$17,000, \$27,000, or \$32,000 — are legitimate. They are intended as compensation for testing and mitigation efforts, which might not have been necessary if not for the actions of the Class Action Defendant.

Class action lawsuit details

Not too long ago, several large and mostly West Coast cities sued Monsanto for manufacturing a class of industrial chemicals called polychlorinated biphenyls (PCBs), which were released into the environment between the 1930s and 1977.

By early 2022, a class action lawsuit was established: *City of Long Beach v. Monsanto Co.*, Case No. 2:16-CV-03493-FMO-AS (C.D. Ca.). The suit alleged various causes of action against Monsanto for PCB-related impairments to the environment, including to water bodies. The cities alleged that PCBs were present at sites and public properties, including in stormwater, stormwater and wastewater systems, water bodies, sediment, natural resources, fish, and wildlife.

Members of the certified class include government subdivisions that are covered under MS4 (municipal separate storm-sewer system) permits in the drainage areas of or near to specific types of or listed water bodies. A notice was mailed to potential class members around the end of March 2022. As this was an opt-out class action, any potential members of the class that wanted to pursue the causes of action on their own had to opt out by July 25, 2022.

[View the court-approved notice sent to potential class members \(pdf\)](#)

Settlement payments

During the week of April 17, all members of the class automatically received a payment from a portion of the settlement called the “Monitoring Fund.” This included many government subdivisions in Minnesota.

In addition to consideration for release from claims, the payment is intended to compensate for “PCB sampling and/or any other mitigation efforts in the Settlement Class Member’s sole discretion, as part of compliance with applicable law.” All class members within Minnesota should be aware, this is the only money they will receive automatically from the settlement.

[View a list of government subdivisions in Minnesota that received settlement payments \(pdf\)](#)

Finally, class members should know there is one more opportunity for additional funding but only for special cases. The settlement includes a “Special Needs Fund” set aside to address “a significant regional, state, or national benefit, cost, or contribution” regarding bodies of water “impaired by PCBs through stormwater and/or dry weather runoff.” A special master has been appointed to receive and evaluate applications to this fund. Cities seeking to apply to the Special Needs Fund must do so within one year and 14 days of the date the Monitoring Fund checks were mailed.

- [Apply to the Monsanto Class Action Settlement Special Needs Fund](#)
- [View the settlement website for more information](#)

[Read more news articles](#)

Your LMC Resource

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