



IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

CIVIL ACTION NO.: CV-2002-000408

James St. John, Jr.; Christi Dolbeer; John Scherff; Kimberly Scherff; Darden Bridgeforth and Sons Land Company, an Alabama Company; Hillsboro Gin Company, Inc., an Alabama Corporation; Hamilton Farms, an Alabama Partnership; G.T. Hamilton, individually and as a partner of Hamilton Farms; Mark Hamilton, individually and as a partner of Hamilton Farms; Lisha Felkins, individually and as a partner of Hamilton Farms; Kathleen Hamilton; Michael Letson; Don Alexander; and Reda Alexander,

Plaintiffs,

vs.

3M Company; Daikin America, Inc.; Dyneon, LLC; Synagro WWT, Inc.; Synagro South, LLC; Toray Fluorofibers (America), Inc.; BFI Waste Systems of Alabama, LLC; BFI Waste Systems of North America, LLC; The City of Decatur, Alabama; Morgan County, Alabama,

Defendants.

ORDER PRELIMINARILY APPROVING SETTLEMENT AND PROVIDING FOR NOTICES TO THE CLASS

Before the Court is the Plaintiffs' Motion for Preliminary Approval of Class-Action Settlement filed by the proposed Class Representatives (namely, John Scherff, Kimberly Scherff, Darden Bridgeforth and Sons Land Company, and G. T. Hamilton), which is not opposed by Defendants. The proposed Class Representatives have moved, pursuant to Alabama Rule of Civil Procedure 23, for an order preliminarily approving the proposed settlement of the class claims

against Defendants in the above-captioned action, in accordance with the parties' proposed Class Settlement Agreement ("Settlement Agreement"). The Settlement Agreement is Exhibit A to the Plaintiffs' Motion for Preliminary Approval of Class-Action Settlement, and it sets forth the terms and conditions for the proposed settlement of the class claims. The proposed Class Representatives also seek certification of the Class and a Subclass, pursuant to Rule 23(b)(2) and (3), and approval of a Class Notice Plan and Class Notice consistent with Rule 23 and applicable law to provide notice of the proposed class-action settlement to the Class Members.

WHEREAS, the Court has considered the Settlement Agreement and accompanying exhibits and other documents;

WHEREAS, all parties have consented to the entry of this Preliminary Approval Order; and

WHEREAS, the Court held a Preliminary Approval Hearing on December 16, 2021, with the parties present through counsel,

IT IS HEREBY ORDERED THAT:

1. John Scherff, Kimberly Scherff, Darden Bridgeforth and Sons Land Company, and G. T. Hamilton, are designated as Class Representatives for purposes of this Settlement. Further, G. T. Hamilton is designated as the representative of the Sludge Application Subclass.

2. The Court designates D. Leon Ashford, Bruce J. McKee, and Donald P. McKenna, of Hare, Wynn, Newell & Newton, LLP, in Birmingham, Alabama, and James M. Corder, Jr., and Mitchell K. Shelly of Alexander, Corder, & Shelly, P.C., in Athens, Alabama, as Class Counsel for the Class and Subclass for purposes of this Settlement.

3. The Court confirms the authority of Class Counsel to execute the Settlement Agreement on behalf of the Class and Subclass Members.

4. For settlement purposes only, the Court hereby finds, preliminarily, that certification of this action as both a Rule 23(b)(2) and a Rule 23(b)(3) class action is appropriate and finds that each of the elements of Rule 23(a) have been met: (1) the Class is so numerous that joinder of all members is impracticable, (2) there are common questions of law or fact, (3) the claims of the Class Representatives are typical of their class and subclass, and (4) each of the Class Representatives and their counsel fairly and adequately represent the Class and Subclass. As to the claims for injunctive relief in this particular context and for settlement purposes only, this Court preliminarily finds that the defendants have acted (and refused to act) on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole, as set forth in the proposed Settlement Agreement. This Court also preliminarily finds that, in this particular context and for settlement purposes only, questions of law or fact common to the class predominate over any questions affecting individual members and that a class action is superior to other available methods to fairly and efficiently adjudicate this controversy. Therefore, the Court, pursuant to both Rule 23(b)(2) and Rule 23(b)(3), preliminarily certifies a Settlement Class, defined, as follows:

All Persons that have owned, occupied, otherwise had an ownership or possessory interest (including through a lease, easement, or joint or common tenancy) in, resided at, maintained a business of any kind at, worked at, or recreated on any real property (including the Tennessee River, its tributaries, and all other bodies of water) located in Morgan County, Lawrence County, Franklin County, Limestone County, Colbert County, or Lauderdale County, Alabama, at any time between April 21, 2003, and the date of the Preliminary Approval Order, excluding the Defendants, counsel for the Parties, and the Court.

Further, pursuant to Rule 23(b)(3), the Court preliminarily certifies a Settlement Sludge Application Subclass, defined, as follows:

All Class Members that, as of the date of the Preliminary Approval Order, own, occupy, or have an ownership or possessory interest (including through a

lease, easement, or joint or common tenancy) in real property in Morgan County, Lawrence County, Franklin County, or Limestone County, Alabama, on which biosolids containing PFAS compounds were applied at any time.

5. The Court has reviewed the Settlement Agreement and preliminarily approves its terms, subject to further consideration at a Fairness Hearing.

a. The Court preliminarily finds that the Settlement Agreement is the product of informed, arm's-length negotiation by counsel, aided by a mediation process, and is presumptively fair, just, reasonable, valid, and adequate, subject to consideration of any objections that may be raised at the Fairness Hearing.

b. The Court preliminarily finds that the proposed injunctive relief will benefit the Class Members. Based on the Court's preliminary analysis, the class benefits, and the class release, represent a reasonable compromise of the relief sought by the Class Members through their Rule 23 class claims against Defendants.

c. The Court preliminarily finds that the Class Settlement, including the proposed plan of distribution of settlement proceeds to Subclass Members, is fair, adequate, and reasonable.

d. The Fairness Hearing shall be held before the Court on Thursday, April 21, 2022, at the Morgan County Courthouse, 302 Lee Street NE, Decatur, Alabama, at 1:30 p.m., in courtroom 444. The Fairness Hearing will enable the Court to: (i) determine whether the proposed Settlement is fair, reasonable and adequate and should be approved by the Court under Rule 23(e), and whether a Final Approval Order should be entered; and (ii) consider such other matters as may properly come before the Court in connection with the approval of the proposed Settlement Agreement, certification of a Class and a Subclass, approval of Class Counsel's attorney fees, costs, and expenses, and other matters related to approval and implementation of the Settlement Agreement.

6. The Court finds that the proposed Notice Plan and Class Notice attached to the Settlement Agreement are appropriate under the circumstances and are reasonably calculated to inform Class Members of the proposed Settlement, afford Class Members an opportunity to opt out of or present their objections to the Settlement, and complies in all respects with the requirements of Rule 23 and applicable due-process requirements.

7. Class Counsel shall provide notice of the proposed Settlement Agreement to Class Members as required by Rule 23 of the Alabama Rules of Civil Procedure and applicable law as set forth in the Notice Plan, including by publication notice in certain newspapers and on digital and social media and by causing a copy of the Class Notice to be emailed or mailed to certain Class Members beginning no later than 21 days after the entry of this Order and being completed no later than 60 days after entry of this Order.

8. Class Members may (1) file objections to the Settlement Agreement and/or the Motion for Attorneys' Fees, Costs, and Expenses, and/or (2) appear at the Fairness Hearing personally or by counsel (provided that an appearance is served and filed as provided herein). Procedures for lodging objections shall include the following:

a. Each Class Member wishing to object to the Settlement Agreement shall file with the Court a timely written and personally-signed notice of their objections. Any such notice must be either (i) electronically filed with the Court no later than 90 days after entry of this Preliminary Approval Order, or March 17, 2022, or (ii) mailed to the Court first-class postage pre-paid with a postmark of no later than 90 days after entry of this Preliminary Approval Order, or March 17, 2022, at the following address:

Chris Priest, Clerk of Court
Circuit Court of Morgan County, Alabama
302 Lee St NE 4th floor

Decatur, AL 35601

If the objection or notice is filed by mail, copies of the filing must be mailed to counsel for each party, as follows:

D. Leon Ashford
Hare, Wynn, Newell & Newton, LLP
2025 3rd Avenue North, Suite 800
Birmingham, AL 35203
Counsel for plaintiffs

M. Christian King
Lightfoot, Franklin & White LLC
400 20th Street North
Birmingham, AL 35203
Counsel for 3M

Christopher L. Yeilding
Balch & Bingham LLP
1901 6th Avenue North Suite 1500
Birmingham, AL 35203
Counsel for Daikin

E. Britton Monroe
Lloyd, Gray, Whitehead & Monroe
880 Montclair Road Suite 100
Birmingham, AL 35213
Counsel for Toray

Barnes F. Lovelace Jr.
Harris, Caddell & Shanks, P.C.
214 Johnston Street, S.E.
Decatur, Alabama 35601
Counsel for Morgan County and
the City of Decatur

J. Alan Truitt
Kazmarek Mowrey Cloud Laseter LLP
1914 4th Avenue North, Suite 400
Birmingham, AL 35203
Counsel for Synagro

William G. Beck
Lathrop GPM LLP
2345 Grand Boulevard, Suite 2200

Kansas City, MO 64108-2618
Counsel for BFI

John W. Scott
Scott Dukes & Geisler, PC
211 22nd Street North
Birmingham, AL 35203
Additional Counsel for BFI

b. Any notice of appearance must be filed in the same manner and time.

c. A notice of objections must include: (1) the name, address, and telephone number of the objector; (2) a statement of the facts that make them a Class Member; (3) the reasons for their objection; (4) the factual basis for their objection and copies of any documents that support their objection; (5) their signature; (6) three dates at least ten days before the Fairness Hearing on which the objector will be available to be deposed by lawyers for the parties; (7) the caption of each case in which the objector or the counsel representing them have objected to a class action settlement within the five years preceding the date of the filing of the objection in this case and a copy of all orders related to or ruling upon those objections; (8) all agreements that relate to the objection in this case or the process of objecting, whether written or verbal, between or among the objector, their counsel, and/or any other person or entity; and (9) a statement indicating whether they wish to appear at the final hearing (personally or through counsel).

d. No “mass” or “class” objections shall be valid. Each such objection must be personally signed by such Class Member.

e. Only objectors that include in their objection a statement that they intend to appear at the Fairness Hearing shall have the right to present their objection orally at the Fairness Hearing.

9. Class Members who object in the manner provided herein remain Class Members of both the Rule 23(b)(2) class and the Rule 23(b)(3) class (and, if applicable, the Sludge

Application Subclass) and will be bound by the Settlement Agreement and Final Approval Order if the Settlement Agreement is finally approved following the Fairness Hearing. Any person who fails to object in the manner provided herein shall be deemed to have waived his or her objections and shall forever be barred from making any such objections in this Action and any appeal or other action or proceeding.

10. Class Members may opt-out of the Class and Subclass only in accord with the following limitations:

a. Class Members may not opt out of the Rule 23(b)(2) injunctive-relief Class.

b. Class Members may opt out of the Rule 23(b)(3) Class by submitting a timely and personally-signed written notice of their decision to opt out of the Class to the Settlement Administrator in accord with the Class Notice that is postmarked no later than 90 days after entry of this Preliminary Approval Order, or March 17, 2022. Such a request for exclusion must include: (1) the name of the Class Member attempting to opt out; (2) their address; (3) their telephone number; (4) a statement of the facts that make them a Class Member (or, if applicable, a Sludge Application Subclass Member); (5) a statement indicating that they wish to be excluded from the Class Settlement (or, if applicable, the Sludge Application Subclass Settlement); and (6) their signature. Class Members who opt out of the Class will not be bound by the non-injunctive portions of the Settlement Agreement or receive any payment under the Settlement Agreement. Any person who fails to opt out in the manner provided herein shall be deemed to have waived his or her ability to opt out and shall forever be barred from opting out of the Class in this action or in any appeal or other action or proceeding.

c. No “mass” or “class” opt-out requests shall be valid, and no person may submit an opt-out request on behalf of any person other than himself, herself, or itself. Each such request for

exclusion must be personally signed by such Class Member.

d. Any Class Member (including a Sludge Application Subclass Member) that submits an opt-out request may revoke the request by mailing to the Class Administrator a statement of revocation postmarked no later than forty-two (42) days before the Fairness Hearing.

e. No later than thirty (30) days before the Fairness Hearing, the Class Administrator shall furnish the parties with a final list of Class and Subclass Members who submitted timely and valid opt-out requests.

11. Class Counsel shall file their Motion for Attorneys' Fees, Costs, and Expenses no later than 28 days after entry of this Preliminary Approval Order, and shall file their Motion for Final Approval of the settlement no later than 60 days after entry of this Preliminary Approval Order. Both motions must be posted on the settlement website maintained by the Class Administrator.

12. The Court has considered the due-process rights of absent Class Members and finds that such rights are adequately protected under the process set forth herein.

13. At the request of the parties, KCC Class Action Services, LLC, is designated as the Class Administrator, within the meaning of section 1.10 of the Settlement Agreement. The Class Administrator shall take appropriate steps to provide notice to the Settlement Class and Subclass as set forth in the parties' Settlement Agreement. The notices shall state that the deadline for members of the Sludge Application Subclass to file claim forms is fourteen (14) days after the date of the Fairness Hearing.

14. Defendants have denied wrongdoing and liability in connection with the allegations in this Class Action. Nothing in the Settlement Agreement or this Order constitutes an admission by Defendants or a finding by the Court as to the merits of the allegations made in this Class Action,

the validity or invalidity of any defenses that could be or have been asserted by Defendants, or the suitability of this case for litigation as a class action.

15. Except as to the processes regarding this proposed Class Settlement, all other proceedings in this case are hereby stayed, pending the final determination of whether the Settlement Agreement should be approved.

DONE this the 17th day of December, 2021.

A handwritten signature in black ink that reads "Glenn Thompson". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Hon. Glenn Thompson
SPECIAL CIRCUIT JUDGE