

IN THE CIRCUIT COURT OF PUTNAM COUNTY, WEST VIRGINIA

ZINA G. BIBB, et al.,

Plaintiffs,

v.

MONSANTO COMPANY, et al.,

Defendants.

CIVIL ACTION NO. 04-C-465  
Derek C. Swope, Circuit Judge

3411  
3412  
RONNIE R. MATTHEWS  
PUTNAM CO. CIRCUIT COURT  
2016 APR -8 PM 2:26

**REPORT AND MOTION OF THE CLASS SETTLEMENT  
ADMINISTRATOR REGARDING THE PROPERTY CLASS  
SETTLEMENT AGREEMENT ADMINISTRATION**

The undersigned Class Settlement Administrator comes now and represents to the Court as follows:

1. By Order entered January 23, 2013, the undersigned was appointed by the Court to administer *inter alia*, the terms of the Property Class Settlement Agreement (PCSA) approved by that same Order.

2. Paragraph 2.11 of the PCSA defined the eligibility criteria for benefits and paragraph 4.2 thereof established the methodology for eligibility determination.

3. A total of 950 eligibility questionnaires were submitted to your Administrator within the prescribed time period seeking participation in the property program. Approximately 95 of those questionnaires were duplicates submitted by others of the household for the same property.

4. The registration period for submission of eligibility questionnaires expired on October 31, 2014.

5. Applying eligibility criteria set forth in the PCSA and the standard of liberality established by the Court, the Administrator determined that 533 properties were eligible for the benefits.

6. No Class member determined to be ineligible requested a review of such finding by the Administrator or the Court as provided by paragraph 4.3 of the PCSA.

7. In calendar year 2014, Foth Infrastructure & Environment, LLC (hereinafter "Foth") began the removal of dust and cleaning interior living spaces from the eligible properties in accordance with the standard operating procedures set forth in Exhibit D of the PCSA as modified by agreement of the parties and the Court.

8. Foth continued its dust removal and cleaning work during calendar year 2015 and completed work on a total of 101 properties. The remaining 432 eligible property owners ultimately advised your Administrator that they were opting out of the dust removal and cleaning of their properties.

9. Foth has now completed its work and provided Certificates of Completion for all 101 properties cleaned.

10. Under the terms of the contract negotiated with Foth and all defendants by Monsanto Company and its affiliates, Foth was entitled to be paid based upon a minimum of 500 properties regardless of the number actually opting for such cleaning. Therefore, Foth has been paid a total of \$1,376,978.00 for its work pursuant to the PCSA and all such work has now been completed.

11. Accordingly, the Administrator hereby reports to the Court that the terms of the PCSA approved by the Court have now been fulfilled, the work thereon completed, and that aspect of the administration of the total Class settlement can be closed.

12. Of the original \$3,000,000.00 deposited by the defendants in the Property Program Fund pursuant to paragraph 4.1 of the PCSA and the Court's Order entered January 23, 2013, the undersigned Administrator submits the following accounting of receipts and disbursement of such Fund:

**RECEIPTS:**

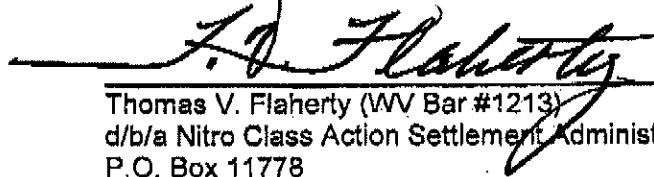
Interested earned through March 31, 2016 \$ 1,132.05

**EXPENDITURES:**

Foth Infrastructure and Environmental, LLC	\$1,376,978.00
Nitro Class Action Settlement Administrators' Fees and Expenses February 15, 2012 through December 31, 2015	\$ 386,119.90
Rust Consulting	\$ <u>47,758.75</u>
	<b>\$1,810,856.65</b>

13. Accordingly, the sum of \$1,190,275.40 remains unspent from the Property Settlement Fund Escrow Account. Under the terms of paragraph 4.5(g) of the PCSA, ". . . any part of the Fund not expended in any given year will be returned to the defendants."

ACCORDINGLY, the Administrator respectfully moves the Court to permit the Administrator to return the sum of \$1,190,275.40 to the defendants and to close the Property Program Fund established relative to this action.



Thomas V. Flaherty (WV Bar #1213)  
d/b/a Nitro Class Action Settlement Administrators LLC  
P.O. Box 11778  
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CERTIFICATE OF SERVICE

I, Thomas V. Flaherty, Administrator, do hereby certify that I have served the foregoing *Report and Motion of the Class Settlement Administrator Regarding the Property Class Settlement Agreement Administration* upon counsel of record this 6<sup>th</sup> day of April, 2016, by depositing true copies in the United States mail, postage prepaid, addressed as follows:

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