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July 15, 2013

VIA CM/ECF

The Honorable Barbara B. Crabb
U.S. District Court for the
Western District of Wisconsin
120 N. Henry St.
Madison, WI 53703

Re: Kathleen McHugh, et al. v. Madison-Kipp Corporation, et al
Case No. 11-cv-724-bbc

Dear Judge Crabb:

The undersigned represents Plaintiffs and the certified Class in the above referenced case. I am writing on behalf and with the authorization of all of the parties to this lawsuit¹ to inform the Court of the definitive class-wide settlement that the parties have reached in the above referenced matter. As the Court is aware, the parties recently communicated to Chambers that they had reached a settlement in principle. The parties have now executed a comprehensive written settlement agreement, which was filed with the Court just moments ago (*see*, Doc. 266).

In view of this settlement and the Rule 23 approval process that lies ahead, the parties jointly request that you vacate all currently scheduled case dates and deadlines, including the August 19, 2013 trial date, and enter an order providing that all pending motions are withdrawn without prejudice.

With respect to the Rule 23 and CAFA requirements applicable to approval of this class settlement, the parties jointly request that you enter an order providing as follows:

¹ The term "parties" as used in this letter does not include third-party defendants Lumbermans Mutual Casualty Company and American Motorists Insurance Company. Continental Casualty Company and Columbia Casualty Company have proposed a stipulation with those third-party defendants under which Continental's and Columbia's claims will be dismissed without prejudice. Lumbermans and American Motorist must obtain approval from the liquidator prior to entering into that agreement. Continental and Columbia expect to reach agreement on the stipulation and order shortly and expect to file it prior to the entry of the Final Approval Order and Judgment of Dismissal.


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1. That the Notice of Proposed Class Settlement and Claim Form (Exhibits 3 and 6 to the Settlement Agreement, copies of which are attached hereto for your convenience) are approved for mailing to the Class;
2. That Class Counsel shall have seven (7) days in which to mail the Notice of Proposed Class Settlement and Claim Form to the Class;
3. That Class members will have thirty (30) days from the mailing date of the Notice of Proposed Class Settlement and Claim Form in which to opt-out of the class, submit a completed Claim Form or file an objection with the Court. Class Counsel shall insert these deadlines (by reference to a specific date) in the Notice of Proposed Class Settlement and Claim Form before they are mailed to the Class;
4. That within ten (10) days from today, July 15, 2013, the Settling Defendants shall serve proper notice of the proposed settlement on the appropriate Wisconsin and Federal officials in accordance with 28 U.S.C. § 1715(b); and
5. That the Court schedule the final approval hearing for the earliest available date for the Court **after October 24, 2013**. A setting in this time frame is necessary to comply with 28 U.S.C. § 1715(d)'s requirement that a final approval of the settlement by the Court not issue earlier than 90 days after the appropriate Wisconsin and Federal officials were served with notice of the settlement. The parties estimate that an hour or less will be sufficient for the final approval hearing.

The parties wish to thank the Court, Magistrate Judge Crocker and both of your staffs for the considerable time and effort you have devoted to this matter. If the Court has any questions about the above suggested dates and procedures for settlement approval, or concerning any aspect of the proposed settlement itself, the parties would be pleased to appear telephonically or in person to discuss these issues.

Sincerely,


Michael D. Hayes

cc: All Counsel of Record (via CM/ECF)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

**KATHLEEN McHUGH and
DEANNA SCHNEIDER,
Individually and on behalf of
all persons similarly situated,**

Plaintiffs,

-v-

Case No. 11-cv-724-bbc

**MADISON-KIPP CORPORATION,
CONTINENTAL CASUALTY
COMPANY, COLUMBIA CASUALTY
COMPANY, and UNITED STATES FIRE
INSURANCE COMPANY,**

Defendants.

NOTICE OF CLASS ACTION SETTLEMENT

**To: ALL MEMBERS OF THE CERTIFIED CLASS IN THIS CASE:
PLEASE READ THIS NOTICE CAREFULLY.**

A settlement has been reached in this case, under which members of the Class previously certified by the Court in this case are entitled to receive monetary and/or remediation benefits. Because this case is a class action, the law requires judicial approval of the settlement in order for it to be effective. On _____, 2013, the Court directed that this Notice of Class Action Settlement ("Settlement Notice") be sent to the Class. This matter is scheduled for a hearing on _____, 2013, when the Court will consider whether to grant final approval to the settlement.

This Settlement Notice explains the general terms of the settlement, your rights concerning approval of the settlement, and what you need to do if you wish to receive monetary and remediation benefits from the settlement if it is approved.

THE PROPOSED SETTLEMENT

Plaintiffs, Kathleen McHugh and Deanna Schneider (collectively the "Class Representatives"), and the Defendants, Madison-Kipp Corporation ("MKC"), Continental Casualty Company, Columbia Casualty Company, and United States Fire Insurance Company (collectively, the "Settling Defendants"), have agreed to the settlement described below. A complete version of the Settlement Agreement and Limited Release are available for your review at www.vblhc.com. The Class Representatives and Class Counsel believe that the settlement is fair, reasonable and in the best interests of the Class.

The main terms of the settlement are as follows:

Cash Payment: The Settling Defendants shall make a cash payment to the Class of **Four Million Six Hundred Thousand Dollars (\$4,600,000.00)** (the "Settlement Funds"). The Settlement Funds shall be distributed as follows: 1) subject to Court approval, Class Counsel shall receive one-third of the Settlement Funds in attorneys' fees, plus reimbursement of costs and expenses incurred in connection with this lawsuit; 2) subject to Court approval, the Class Representatives shall each receive \$10,000 for their diligent assumption and performance of the duties and responsibilities of class representatives; and 3) the remaining portion of the Settlement Funds (the "Class Payments") shall be distributed to those members of the Class who own Class Area properties and who timely submit the settlement claim form (the "Claim Form") enclosed with this Settlement Notice. The Class Payments shall be distributed to owners of Class Area properties based upon the percentage of each property's assessed value in relation to the assessed values of all properties owned in the Class Area by Class members. There are 33 properties in the Class Area owned by Class members, and Class Counsel estimates that **the average monetary payment per property, assuming all 33 owners submit Claim Forms, will be approximately \$82,000 per property.** The payment will likely be less than this for properties which have lower than average assessed values and will likely be more than this for properties which have higher than average assessed values. Further, in the event that any Class member opts out of the settlement, the amount of the overall settlement monetary payment will be reduced by the ratio of the opting out Class member's assessed value of his/her residence to the total assessed value of all Class members' residences multiplied by the total monetary payment. **PLEASE NOTE THAT TO RECEIVE A SHARE OF THE CLASS PAYMENTS YOU MUST TIMELY SUBMIT THE CLAIM FORM ENCLOSED WITH THIS SETTLEMENT NOTICE. THE DEADLINE FOR SUBMITTING THE CLAIM FORM IS [fill in deadline established by the Court], 2013.**

Investigation and Remediation of the Class Area: As a settlement benefit flowing to all residents and/or owners of Class Area properties, MKC has agreed that it shall continue to perform such investigation and remediation of the Class Area to address environmental conditions at and migrating from MKC's Waubesa Street plant (the "Facility") as is required of MKC by the Wisconsin Department of Natural Resources ("WDNR"), the United States Environmental Protection Agency ("USEPA") or by other federal, state or local authorities, but reserves the right to exercise appeal rights in accordance with applicable law. Please note that opting out of this settlement means that you will not receive the house-specific remediation actions listed in paragraphs (A) and (B) below. Without limitation of the foregoing, the following remedial and other measures shall be taken with respect to environmental and other conditions in, or potentially impacting, the Class Area:

A. **Sub-Slab Depressurization Systems.** MKC, at its sole cost and expense, shall pay for and coordinate the installation of a sub-slab depressurization system ("SSDS") in every Class Area home that does not currently have one and whose property owner submits the Claim Form electing to have a SSDS installed on their property. With respect to these new SSDS units and the existing SSDS units (previously installed in the Class Area by either MKC or WDNR), MKC shall, at its sole cost and expense, for a period of five (5) years 1) inspect these SSDS units once per year to ensure that they are operating as designed and installed, 2) repair and maintain these SSDS units to keep them in reasonable operating condition, and 3) replace any SSDS units which are not operating as designed and installed and which cannot be quickly and cost effectively repaired. **PLEASE NOTE THAT IF YOU DO NOT ALREADY HAVE A SSDS INSTALLED ON YOUR PROPERTY AND WISH TO RECEIVE THIS SSDS**

BENEFIT UNDER THIS SETTLEMENT, YOU MUST TIMELY SUBMIT THE CLAIM FORM ENCLOSED WITH THIS SETTLEMENT NOTICE. THE DEADLINE FOR SUBMITTING THE CLAIM FORM IS [fill in deadline established by the Court], 2013;

B. **Soil Removal.** For each Class Area home whose property owner submits a Claim Form electing soil removal, MKC shall arrange for the removal of the top one foot (12 inches) of easily accessible exposed soil in areas that are currently lawn or garden areas (i.e., soil removal is not required in paved areas of these back yards, those areas on which garages or other permanent structures are affixed, or areas that would require removal of trees, bushes or shrubs) on that Class Area property's back yard which abuts the Facility, and replace the removed soil with clean fill and sod. MKC shall bear all costs of this work, including the disposal costs of the removed soils. If you are an owner of a property on Waubesa Street involved in the current PCB removal project, that project will continue on the terms in the written agreements you signed, and you will have the additional right to have the other areas in your back yards addressed pursuant to this provision of the settlement. **PLEASE NOTE THAT IF YOU WISH TO RECEIVE THIS SOIL REMOVAL BENEFIT UNDER THIS SETTLEMENT, YOU MUST TIMELY SUBMIT THE CLAIM FORM ENCLOSED WITH THIS SETTLEMENT NOTICE. THE DEADLINE FOR SUBMITTING THE CLAIM FORM IS [fill in deadline established by the Court], 2013;**

C. **SVE System.** MKC has installed a soil vapor extraction ("SVE") system at the Facility to mitigate the migration of vapors off-site from the Facility. MKC shall continue to operate the SVE system until it is deemed by the WDNR to be no longer required;

D. **Vapor Probes.** MKC has installed a network of vapor probes at the Facility to monitor vapor levels. MKC shall continue to maintain the existing vapor probe network and continue monitoring vapor levels until the WDNR deems this unnecessary;

E. **Groundwater Remediation.** MKC will commit to the actions directed by the WDNR relative to groundwater remediation, but at a minimum will deploy in situ chemical oxidation treatment to the shallow (unconsolidated) zone to mitigate against further vapor intrusion off-site from the Facility, but reserves the right to exercise appeal rights in accordance with applicable law;

F. **Public Drinking Water Supply.** MKC will continue to work with WDNR and Madison city officials to take such reasonable steps as necessary to protect City Well 8 or other public drinking water sources from any impact attributable to the Facility; and

G. **Facility Clean Up and Closure.** MKC will commit to other work as directed by the WDNR or USEPA to restore the environment to the extent practicable and to otherwise achieve regulatory closure or a determination that no further active remediation is needed with respect to the Facility.

Release: The Agreement provides that the Class Representatives and all members of the Class shall broadly release the Settling Defendants and all of their affiliated entities from all claims, damages or remedies which were or could have been asserted in this lawsuit concerning environmental conditions or other conditions of any kind at the Facility or in the Class Area, including but not limited to any property damage or diminution in property value in any way related to or based upon the presence in the Class Area of contaminants allegedly originating

from the Facility. The release provision in the Agreement, however, does not preclude or limit in any way the Class Representatives or any Class member from asserting individual claims against any of the Settling Defendants alleging sickness, disease, physical injury or death caused by exposure to chemicals alleged to have been released from the Facility, and does not preclude or limit in any way the Settling Defendants' defenses to any such preserved claims or allegations. The Class Representatives, each Class member who does not opt out of this settlement, and Class Counsel warrant and represent to the Settling Defendants that they have not been diagnosed with, are not aware of, and do not have any symptoms that they suspect could be associated with any sickness, disease, or physical injury which may have been caused to them by the action or inaction of any of the Settling Defendants and all of their affiliated entities. In the event the Settling Defendants or their contractors perform future environmental investigation or remediation in the Class Area, the Agreement does not act to release MKC from any damage to real or personal property in the Class Area which is caused by such future investigation or remediation work and does not act to release MKC from any claims for compensation related to required relocation during future investigations or remediation work. The full text of the release provision is contained at Paragraph 4 of the Agreement and can be viewed by you at www.vblhc.com.

FAIRNESS HEARING

A hearing will be held on the fairness of the proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement. The hearing will take place on [fill in date], 2013 at [fill in time] before Judge Barbara B. Crabb, Courtroom 260, Unites States District Court Building, 120 N. Henry Street, Madison, Wisconsin 53703.

YOUR OPTIONS

You have the following three options in connection with this settlement:

1. If you are in favor of the settlement being approved, you do not need to attend the Final Approval Hearing. If you are an owner of property in the Class Area and wish to receive the monetary and/or remediation benefits available to you under this settlement, you must complete and return the Claim Form enclosed with this Settlement Notice. The Claim Form is also available at www.vblhc.com. **To be valid, your Claim Form must be postmarked no later than [fill in deadline], 2013 and be mailed to Class Counsel at either of the addresses listed below.**

2. If you object to the settlement, you must file your objection in writing with the Clerk of the United States District Court for the Western District of Wisconsin, Room 320, Unites States District Court Building, 120 N. Henry Street, Madison, Wisconsin 53703 and serve a copy of your objection on Class Counsel at the address listed below. **To be valid, the objection must be received by the Clerk of the Court on or before [fill in deadline], 2013,** and must include your name and address, proof of your membership in the Class, refer to the name and number of the case, and include a statement of the reasons why you believe that the Court should find that the proposed settlement is not in the best interests of the Class. Please note that it is not sufficient to simply state that you object. You must in writing state reasons why you believe that the settlement should not be approved. In case the Court might decide to overrule your objection and approve the settlement over your objection, you should mail a completed

Claim Form to Class Counsel at the same time you file your objection if you wish to receive settlement benefits if the settlement is approved.

3. You have the right to opt out, or exclude yourself, from the Class. If you opt out of the Class, you will not be bound by the result in this case, whether favorable or unfavorable to the Class. However, if you opt out of the Class you will not be entitled to share in any of the monetary and remediation benefits described above. If you wish to opt out of the Class, you must send a first class mail letter setting forth your name, present address, and a statement that you wish to opt out of the Class. **To be valid, the opt out request must be postmarked on or before [fill in deadline], 2013 and be mailed to Class Counsel at either of the addresses listed below.**

If the settlement is not approved, the lawsuit will proceed against the Settling Defendants as if no settlement had been attempted. In that event, the Settling Defendants will retain the right to contest the merits of the claims being asserted against them in the lawsuit. There can be no assurance that if the settlement is not approved, the Class will recover more than is provided for in the settlement, if anything.

INQUIRIES

Any questions concerning this Settlement Notice or the proposed settlement can be directed to Class Counsel at the addresses below or by calling Class Counsel:

Edward J. Manzke
Shawn M. Collins
The Collins Law Firm, PC
1770 North Park Street
Suite 200
Naperville, IL 60563
Telephone: (630) 527-1595

Michael D. Hayes
Norman B. Berger
Varga Berger Ledsky Hayes & Casey
125 South Wacker Drive
Suite 2150
Chicago, IL 60606
Telephone: (312) 341-9400

PLEASE DO NOT CALL OR WRITE THE COURT OR THE CLERK OF THE COURT WITH ANY QUESTIONS CONCERNING THE LAWSUIT OR THE SETTLEMENT. THE COURT AND THE CLERK OF THE COURT CANNOT ANSWER QUESTIONS CONCERNING THE LAWSUIT OR THE SETTLEMENT.

Dated: _____, 2013

**BY ORDER OF THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF WISCONSIN**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

**KATHLEEN McHUGH and
DEANNA SCHNEIDER,
Individually and on behalf of
all persons similarly situated,**

Plaintiffs,

-v-

Case No. 11-cv-724-bbc

**MADISON-KIPP CORPORATION,
CONTINENTAL CASUALTY
COMPANY, COLUMBIA CASUALTY
COMPANY, and UNITED STATES FIRE
INSURANCE COMPANY,**

Defendants.

CLAIM FORM

My name is _____ (fill in your name) and I am one of the owners of _____ (insert property address), which is located within the Class Area. As an owner of record of this Class Area property, I am submitting this Claim Form to claim the following benefits available to me under the settlement in this case:

1. Monetary (Cash) Benefits:

I want to share in the settlement's monetary (cash payment) benefits (check yes or no below).

Yes _____
No _____

2. Sub Slab Depressurization System ("SSDS") Benefit

I want a SSDS system installed on my Class Area property (check yes or no below). Note: leave this item blank if you already have a SSDS

Yes _____
No _____

3. Soil Removal Benefit

I want soil removed and replaced from my back yard per the terms of the settlement (check yes or no below).

Yes _____
No _____

Certifications

I hereby certify that I am a member of the certified Class in this lawsuit and am one of the owners of the above referenced property.

I hereby certify that I have not been diagnosed with, am not aware of, and do not have any symptoms that I suspect could be associated with any sickness, disease, or physical injury which may have been caused to me by the action or inaction of any of the Released Parties as defined in Paragraph 4 of the Settlement Agreement and Limited Release.

If I checked "Yes" in response to either question 2 or question 3, I give MKC a right of reasonable access subject to reasonable advance notice (at least seven days advance notice to the property owners) during normal business hours to perform such actions as necessary to install and inspect SSDSs and/or to remove and replace soil and sod within the timeframe contemplated by the Settlement Agreement.

(sign your name here)

(print your name here)

_____, 2013
(fill in date here)

IN ORDER FOR THE ELECTIONS MADE IN THIS CLAIM FORM TO BE EFFECTIVE, YOU MUST COMPLETE AND MAIL THIS CLAIM FORM TO THE ADDRESS LISTED BELOW, POSTMARKED NO LATER THAN [fill in deadline], 2013:

Michael D. Hayes
Varga Berger Ledsky Hayes & Casey
125 South Wacker Drive, Suite 2150
Chicago, Illinois 60606

Telephone number for questions: (312)341-9400