

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS,)	
individually and on behalf of all others)	
similarly situated,)	
Plaintiffs,)	
)	C.A. No.: S18C-06-009 CAK
v.)	
)	
MOUNTAIRE CORPORATION, an)	
Arkansas corporation, MOUNTAIRE)	
FARMS, INC., a Delaware corporation, and)	
MOUNTAIRE FARMS OF DELAWARE,)	
INC., a Delaware corporation.)	
Defendants.)	
)	
)	

NOTICE OF PROPOSED SETTLEMENT

A state court directed this notice. This is not a solicitation from a lawyer. You are not being sued. However, your legal rights are affected by the information contained in this Notice.

SUMMARY

- This Notice concerns your potential entitlement to recover compensation for alleged groundwater and air contamination from the Millsboro, Delaware poultry processing facility owned by Mountaire Farms of Delaware, Inc. Read this Notice carefully as it concerns your legal rights and contains deadlines for participation.
- A \$65,000,000.00 proposed settlement (“Class Action Settlement”) has been reached that offers payments to the “Mountaire Settlement Class” consisting of: all Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit A**, and not the Air Area, which is bounded by the dashed red line on **Exhibit A**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.
- Excluded from the definition of the class are: (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.
- The total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member’s injuries and damages. Each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 after a Court-approved deduction of attorneys’ fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.
- Plaintiffs alleged that Defendants disposed of contaminated wastewater and liquefied sludge on lands near Plaintiffs’ residences and properties. Plaintiffs alleged that this wastewater and sludge have seeped

into the groundwater throughout the area, causing nitrates and other contaminants to enter Plaintiffs' drinking water wells, resulting in health effects and reduced property values. Plaintiffs further alleged that Defendants' wastewater treatment plant and their spray irrigation and sludge disposal operations emit air pollutants, including malodorous hydrogen sulfide and ammonia that reach Plaintiffs' residences and properties at levels causing Plaintiffs to suffer health effects and to endure nuisance conditions preventing and devaluing the use of their properties. Defendants deny Plaintiffs' allegations but have chosen to settle the case in order to achieve a final resolution of this matter and resolve the uncertainty associated with litigation.

- In addition to this Class Action Settlement, in another case in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc., C.A. No. 18-838 (MN)*, Mountaire has agreed to engage in certain additional activities to prevent future harm to the groundwater, reduce air emissions and provide residents an avenue to report and receive follow-up on air pollution complaints in the form of a First Amended Consent Decree before the Federal Court for approval. These additional activities include: refraining from land application of sludges and biosolids pending certain wastewater treatment upgrades; continuing to provide bottled water to certain residents; installing at least 60 acres of phytoremediation; and establishing a process to respond to odor complaints. The Parties estimate that the aggregate value of these separate commitments is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies. Further information about the Federal Case, including resolution of claims by Intervenors in that case, is set forth below.
- The Court in charge of this case still has to decide whether to approve the Settlement. If it does, and after any appeals are finally resolved, payments will be made to those who have filed a valid claim and suffered compensable injuries and damages.

**Your legal rights are affected whether you act or don't act.
Please read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

REGISTER PROPERLY	<p>You must register to be considered for payment from this Class Action Settlement. You may do so by either (1) visiting the Mountaire Settlement website at www.MountaireSettlement.com, and completing the Registration Form online at that site, or (2) mailing the completed Registration Form attached to this Notice as Exhibit B to the following address:</p> <p style="text-align: center;">Cuppels v. Mountaire Class Action Settlement Administrator RG/2 Claims Administration LLC P.O. Box 59479 Philadelphia, PA 19102-9479 Phone: (844) 951-2344 Web: www.MountaireSettlement.com Email: info@rg2claims.com</p> <p>You must complete the Registration Form and submit it by mail postmarked on or before by March 22, 2021 or online through the Mountaire Settlement website on or before March 22, 2021, in order to be considered for payment through the Class Action Settlement. Those who fail to register by this date by mail or through the Mountaire Settlement website will NOT be eligible for compensation.</p>
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OPT OUT	<p>You can exclude yourself from this settlement if you do not want to participate in this Class Action Settlement. If you own/owned, reside/resided, or are/were employed at property in the Settlement Class Area and you wish to opt out of the Settlement Class, you must send a written request to opt out, postmarked on or before February 22, 2021 to the following address:</p> <p style="text-align: center;">Cuppels v. Mountaire Class Action Settlement Administrator RG/2 Claims Administration LLC P.O. Box 59479 Philadelphia, PA 19102-9479 Phone: (844) 951-2344 Web: www.MountaireSettlement.com Email: info@rg2claims.com</p> <p>A Request for Exclusion (“Opt Out”) Form is attached hereto as Exhibit C</p>
OBJECT	<p>If you wish to participate in the Class Action Settlement, but wish to object in whole or part to the proposed Settlement, you must do so on or before February 22, 2021. Whether or not you object to the Settlement, you must register if you wish to be considered for compensation from this Settlement should the Settlement be approved. You cannot both request to be excluded and object.</p>
GO TO A HEARING	<p>The Court will hold a hearing on the fairness of the proposed settlement on April 12, 2021, at 9:30 a.m., either (a) the Sussex County Superior Court Courthouse, located at 1 The Circle, Georgetown, DE 19947 or (b) virtually (such as on-line through the internet), due to the ongoing threat to public health posed by COVID-19. At this hearing, you can ask to speak in Court about the fairness of the proposed Class Action Settlement if you have filed a timely objection to the proposed Settlement. You may be represented by an attorney if you choose to attend this hearing; however, you do not need to come to the hearing or speak to be considered for possible compensation. You only need to properly register to be considered for compensation.</p>
DO NOTHING	<p>You do not need to take any action if you do not wish to be excluded from the Settlement Class. However, if you take no action you will receive no benefits from the Class Action Settlement. You will also give up any rights you have to sue Mountaire Farms of Delaware, Inc.; Mountaire Farms Inc.; and Mountaire Corporation for injuries or damages related to groundwater contamination or air pollution (<i>See</i> question 7).</p>

- These rights and options—and the deadlines to exercise them—are explained in this notice.

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BASIC INFORMATION

1. Why is there a notice?

A Court authorized this notice because you have a right to know about a proposed settlement of a class action lawsuit known as *Cuppels v. Mountaire*, C.A. No.: S18C-06-009 CAK (the “Lawsuit”), and about all of your options before the Court decides whether to approve the Settlement. This notice explains the Lawsuit, the Settlement, and your legal rights.

Judge Craig Karsnitz of the Delaware Superior Court, in and for Sussex County, is overseeing this case. The people who sued are called the “Plaintiffs.” Mountaire Farms of Delaware, Inc; Mountiare Farms, Inc.; and Mountaire Corporation are the “Defendants.”

2. What is this litigation about?

Plaintiffs alleged that Defendants disposed of contaminated wastewater and liquefied sludge on lands near Plaintiffs’ residences and properties. Plaintiffs alleged that this wastewater and sludge have seeped into the groundwater throughout the area, causing nitrates and other contaminants to enter Plaintiffs’ drinking water wells, resulting in health effects and reduced property values. Plaintiffs further alleged that Defendants’ wastewater treatment plant and their spray irrigation and sludge disposal operations emit air pollutants, including malodorous hydrogen sulfide and ammonia that reach Plaintiffs’ residences and properties at levels causing Plaintiffs to suffer health effects and to endure nuisance conditions preventing and devaluing the use of their properties. Defendants have denied these allegations but have chosen to settle the case in order to to achieve a final resolution of this matter and resolve the uncertainty associated with litigation.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims are members of a “Settlement Class.” Plaintiffs have pursued this matter as a class action in an effort to efficiently resolve this litigation with respect to all who may be affected by Mountaire’s alleged groundwater contamination and air pollution.

4. Why is there a Settlement?

The Court has not decided in favor of the Plaintiffs or the Defendants. Instead, both sides have agreed to a proposed Settlement. By agreeing to the proposed Settlement, the parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, Settlement Class Members who have timely registered will be considered for compensation. The Class Representatives and Class Counsel believe the proposed Settlement is best for everyone who is affected. Although Defendants have agreed to this Settlement, they do not admit any factual allegations against them, any legal issues, or any liability.

WHO IS PART OF THE SETTLEMENT

5. Who is affected by the Settlement?

The Parties seek final approval of a Settlement Class that includes All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit A**, and not the Air Area, which is bounded by the dashed red line on **Exhibit A**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area. The final determination of the Groundwater Area and Air Area was based on a detailed analyses by Plaintiffs' technical experts, including but not limited to, the review of documents, the evaluation of data recovered from area monitoring wells and well tests, modeling of the flow of groundwater and air, and an assessment of those neighboring areas where Plaintiffs' claim harmful groundwater and air contamination from the Millsboro facility were allegedly transported in potentially sufficient quantities to cause personal injuries to individuals with substantial exposures to those contaminants (such as residents and full-time employees in those areas) or property damage. These efforts resulted in Plaintiffs' expert opinions concerning the final determination of the Groundwater Area and Air Area in the fall of 2020.

Excluded from the definition of the class are (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.

To participate in this settlement, and potentially qualify for compensation, you must register properly.

6. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or if you have any other questions about the proposed Settlement, visit the Mountaire Settlement website at www.MountaireSettlement.com. You also may contact Class Counsel. (See question 18 for contact information). Please do not call or write the Delaware Superior Court.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

The Defendants have agreed to pay \$65,000,000.00 (the "Class Action Settlement Amount") to resolve the Settlement Class Members' claims. In exchange for this payment, Settlement Class Members who do not request to be fully excluded will fully release any known or unknown claims, which were alleged or could have been alleged in the Lawsuit. Specifically, Settlement Class Members will not be permitted to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants for all allegations and claims of any kind, known or unknown, whether pursuant to federal, state, or local statutory law, common law, regulations, or other law that Plaintiffs made or could have made against any Defendant that arose, directly or indirectly, from or relate to (a) the matters alleged or that could have been alleged in the Lawsuit; (b) matters alleged or that could have been alleged in *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN); (c) matters alleged or that could have been alleged in connection with any challenge to the December 13, 2019 Conciliatory Agreement between the Delaware Department of Natural Resources and Environmental Control, Mountaire Farms of Delaware, Inc. and Mountaire Farms Inc.;

(d) matters alleged or that could have been alleged in *Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. S18M-06-002-RFS (Del. Sup. Ct.); (f) attorneys' fees, costs, and expenses; and (g) any other matters related to operation of, permitting of, or any alleged emissions from or at the Facility or environmental contamination of any kind (including but not limited to wastewater, sludge and/or other biosolids, groundwater, surfacewater, and air emissions or odors) at or released from the Facility.

The amount of Settlement funds paid out to each individual will depend on the number of valid and timely claims made by Settlement Class Members (*See* question 8 below), and the severity of injuries and damages suffered by each Class Member.

The Class Action Settlement Amount will be used to pay eligible Claimants as approved by the Court; the fund will also be used to pay attorneys' fees, enhancement awards to the Class Representatives, costs, and expenses approved by the Court. The Class Action Settlement Amount reflects the total amount that Defendants will pay in this matter, not including the amount paid in connection with another case in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN), the resolution of which requires Mountaire to comply with the First Amended Consent Decree, and requires MFODI to engage in certain additional activities to prevent future harm to the groundwater and provide residents an avenue to report and receive follow-up on air pollution complaints. These additional activities include: refraining from land application of sludges and biosolids pending certain wastewater treatment upgrades; continuing to provide bottled water to certain residents; installing at least 60 acres of phytoremediation; and establishing a process to respond to odor complaints. The Parties estimate that the aggregate value of these separate commitments is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies.

A portion of the Settlement funds may be set aside for eligible claimants who fail to timely register due to exigent circumstances and for latent injuries. The claims adjudicator will have the discretion to consider such claims, with any award subject to Court approval.

8. How much compensation will I receive?

Each Settlement Class Member who files a valid and timely claim as described herein shall be considered for possible compensation by an impartial third party adjudicator who will consider the facts of your claim. Your allocation will be paid from the Settlement Fund after a Court approves the allocation and deduction of attorneys' fees, any enhancement awards to Class Representatives, notice and administration costs, and related fees and expenses and/or payment of any liens.

9. How do I register?

You must register to participate in this settlement on or before **March 22, 2021**. You may do so by visiting www.MountaireSettlement.com, and completing the Registration Form online at that site, or mailing the completed Registration Form attached to this Notice as Exhibit B to the following address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (844) 951-2344
Web: www.MountaireSettlement.com
Email: info@rg2claims.com

You must complete the Registration Form and submit it by mail postmarked on or before March 22, 2021 or online through the Mountaire Settlement website by March 22, 2021 in order to be considered for payment through the Class Action Settlement. Those who fail to register by mail or through the Mountaire Settlement website will **NOT** be eligible for compensation.

After you register, it is important to notify RG/2 Claims by phone or email of any change in your address or phone number.

After you have registered, and if this settlement is approved by the Court, you may be required to submit additional information and documentation to support your claim. You will be contacted to provide this information at a later date. You should also check the website at www.MountaireSettlement.com for any updates.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

The Court has appointed a number of lawyers as “Class Counsel” to represent all members of the Settlement Class. They include:

Philip C. Federico

Brent P. Ceryes

Schochor, Federico and Staton, P.A.,

Chase T. Brockstedt

Stephen A. Spence

Baird Mandalas Brockstedt, LLC

The court-approved fees for these lawyers will be paid out of the Class Action Settlement (*see* question 11). You may hire another attorney at your own expense to object to the Settlement or for any other purpose related to this notice. You do not need to have an attorney to participate in this Settlement. You only need to properly register once to be eligible for possible compensation.

11. How will the lawyers be paid?

Class Counsel intend to request a legal fee of up to 25 percent of the Class Action Settlement Amount, plus reimbursement of reasonable, actual out-of-pocket expenses incurred in prosecuting the Class Action, which are not to exceed \$2,500,000.00. The fees and expenses must be approved by the Court and will be paid out of the Class Action Settlement Amount that Defendants will pay under the Settlement Agreement. The Court will decide the amount of fees and costs to be paid. This does not include legal fees and reimbursement of expenses that Class Counsel will receive in connection with a separate settlement agreement for another lawsuit in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN) described further above.

Class Counsel will file with the Court a Motion for Attorneys’ Fees and Reimbursement of Expenses seeking approval of their request for a legal fee and for the reimbursement of expenses. That motion will be available for review on or before January 20, 2021 on the settlement information website at www.MountaireSettlement.com.

OPT-OUT OF THE SETTLEMENT

12. How can I exclude myself from the settlement?

If you owned, leased, resided on, or were employed on a full-time basis at, property in the Settlement Class Area, the geographic parameters of which are shown on the map attached as Exhibit A, on or after May 1, 2000, you may choose to opt-out and be excluded from the Settlement Class. If you opt out of the Settlement Class, you will not be eligible to participate in the distribution of the settlement proceeds. If you do not opt out of the Settlement Class, you will not be able to commence any other litigation, arbitration, or other proceeding against the Defendants in any other forum concerning the subject matter of this case and you will be bound by the terms of the Settlement Agreement. If you own property or reside in the Settlement Class Area and you wish to opt out of the Settlement Class, you must send a written request to opt out, postmarked on or before **February 22, 2021** to the following address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (844) 951-2344
Web: www.MountaireSettlement.com
Email: info@rg2claims.com

A Request for Exclusion (“Opt Out”) Form is attached hereto as Exhibit C

OBJECTING TO THE SETTLEMENT

13. How do I object to the Settlement?

If you wish to participate in this settlement, but wish to object to any part of the proposed Settlement, or the Settlement as a whole, you must submit a letter or other written document that includes the following:

- 1) Your full name, address and telephone number. If you have or if you hire your own attorney, your attorney’s full name, address and telephone number;
- 2) A written statement of all grounds for your objection accompanied by any legal support for the objection (if any);
- 3) A statement of whether you intend to appear at the Final Fairness (Approval) Hearing;
- 4) Proof of membership in the Class; and
- 5) Your signature or that of your attorney (if you have one or if you hire one).

You must mail your objection to each of the following three (3) addresses, **and** your objection must be postmarked no later than **February 22, 2021**:

PROTHONOTARY (Clerk of Court)	CLASS COUNSEL	DEFENDANTS’ COUNSEL
Superior Court, Sussex County RE: Mountaire Class Action Sussex County Courthouse 1 The Circle, Suite 2 Georgetown, DE 19947	Chase Brockstedt, Esq. Re: Mountaire Class Action Baird, Mandalas, Brockstedt, LLC 1413 Savannah Rd, Suite 1 Lewes, DE 19958	Michael W. Teichman, Esq. Re: Mountaire Class Action Parkowski, Guerke & Swayze, P.A. 1105 N. Market Street, 19th Fl Wilmington, DE 19801

If you are a member of the Settlement Class, and do not wish to participate in this settlement, you can exclude yourself from this settlement, as set forth above.

THE FINAL FAIRNESS (APPROVAL) HEARING

The Court will hold a hearing to decide whether to approve the proposed Settlement and any requests for attorneys' fees and expenses ("Final Fairness Hearing").

14. When and where will the Court decide whether to approve the proposed Settlement?

The Court has scheduled a Final Fairness Hearing on April 12, 2021, at 9:30 a.m., at the Sussex County Superior Court Courthouse, located at 1 The Circle, Georgetown, DE 19947. However, in light of the continuing threat COVID-19 poses to public health, the hearing may be held virtually (such as on-line through the internet). The hearing may be moved to a different date, time or location. Please check the Mountaire Settlement website at www.MountaireSettlement.com for updates regarding the date, time and location of the hearing. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for attorneys' fees, costs and expenses, and for any Enhancement Awards to the Class Representatives. If there are objections, the Court will also consider them at that time. At or after the hearing, the Court will decide whether to approve the Settlement, fees and expenses, and any Enhancement Awards.

15. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements set forth above, the Court will consider it.

YOU DON'T NEED TO COME TO THE HEARING OR SPEAK TO BE CONSIDERED FOR POSSIBLE COMPENSATION AS A CLASS MEMBER. YOU ONLY NEED TO PROPERLY REGISTER ONCE TO BE CONSIDERED FOR COMPENSATION AS A CLASS MEMBER.

16. May I speak at the hearing?

If you have timely and properly objected, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, your filed objection must include a statement of whether you intend to appear at the Final Fairness Hearing.

HOWEVER, YOU DON'T NEED TO COME TO THE HEARING OR SPEAK TO BE CONSIDERED FOR POSSIBLE COMPENSATION AS A CLASS MEMBER. YOU ONLY NEED TO PROPERLY REGISTER ONCE TO BE CONSIDERED FOR COMPENSATION AS A CLASS MEMBER.

IF YOU DO NOT REGISTER

17. What happens if I do not register?

If you **do not** register on or before **March 22, 2021**, and this proposed Settlement is approved by the Court, you will be bound by the Judgment entered by the Court, and by the terms and obligations of the Settlement Agreement, and you may not receive any benefits whatsoever from the Settlement. This also means that you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against any of the Mountaire entities described in Section 7 of this notice.

As referenced above, if this proposed Settlement is approved, you may be required to submit additional information and documentation to support your claim. You will be contacted to provide this information at a later date. **It is important that you keep your registration information current, by reporting any changes in your address or telephone number to RG/2 Claims at the contact information listed on page 9.** Failure to provide that information may also prevent you from being considered for compensation from this Settlement.

GETTING MORE INFORMATION

18. How do I get more information?

This Notice summarizes the proposed Settlement, and is also available at the website www.MountaireSettlement.com. If you are a member of the Settlement Class and have any questions about the terms of the Settlement Agreement or would like to review the Settlement Agreement or any other documents related to this notice, you may

1. Write or call the Class Action Administrator:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (844) 951-2344
Web: www.MountaireSettlement.com
Email: info@rg2claims.com

2. Contact Class Counsel through the Class Action website at www.MountaireSettlement.com.

3. Write or call Class Counsel:

Chase Brockstedt, Esq.
Re: Mountaire Class Action
Baird, Mandalas, Brockstedt, LLC
1413 Savannah Rd, Suite 1
Lewes, DE 19958
302-313-5288

4. Request copies in person at the Prothonotary's Office at the Sussex County Superior Court:

Sussex County Courthouse
1 The Circle, Suite 2
Georgetown, DE 19947

Do not call the Sussex County Superior Court or Mountaire or Mountaire's Counsel.