

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE: New Indy Emissions Litigation) Case No.: 0:21-cv-01480-SAL
) 0:21-cv-01704-SAL
)

NOTICE OF PROPOSED SETTLEMENT

A federal 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 from a proposed settlement with New-Indy Catawba, LLC (“New-Indy Catawba”), and New-Indy Containerboard, LLC (“New-Indy Containerboard”) for alleged environmental contamination at or emanating from a pulp and paper mill located at 5300 Cureton Ferry Rd, Catawba, SC 29704. Read this Notice carefully as it concerns your legal rights and contains deadlines for participation.
- An \$18,000,000.00 proposed settlement (“Settlement Amount”) has been reached that offers payments to the “Settlement Class” consisting of: all Persons who meet any of the following criteria: (a) during the period from January 31, 2021, until September 11, 2021, owned a single-family home located in whole or part within the Class Settlement Impact Area, which is geographically bounded by the solid blue line on Exhibit A; or (b) spouses or children of those who, during the period from January 31, 2021, until September 11, 2021, owned a single-family home located in whole or in part within the Class Settlement Impact Area, and resided at that home for at least 30 days between January 31, 2021 until September 11, 2021; or (c) retained the representation of Plaintiffs’ Counsel in connection with alleged emissions from New-Indy on or before April 25, 2024. 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 \$18,000,000.00 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 claims for nuisance and negligence against Defendants relating to alleged environmental contamination at or emanating from a pulp and paper mill located at 5300 Cureton Ferry Rd, Catawba, SC 29704. Specifically, Plaintiffs alleged that Defendants, New-Indy Catawba, LLC, and New-Indy Containerboard, LLC (collectively, “NI” or “Defendants”), engaged in wrongful and negligent conduct in their operation of the New-Indy Catawba paper mill (the “Mill”), causing emissions of hydrogen sulfide (“H2S”), methyl mercaptan, dimethyl disulfide, dimethyl sulfide (collectively, “total reduced sulfur” or “TRS”) and other noxious chemical contaminants to be released from its wastewater treatment facility into the air, resulting in damages. 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, separate resolutions have been reached in three other cases involving New-Indy Catawba and/or New-Indy Containerboard. These include: (1) *Butler et al. v. New-Indy Catawba, LLC et al.*, Civil Action No. 0:22-cv-02366-SAL which alleged that the New-Indy defendants failed to obtain a necessary Prevention of Significant Deterioration (“PSD”) permit when the Catawba Mill was converted from making bleach paper to making kraft paper; (2) *Chin et al. v. New-Indy Catawba, LLC et al.*, Civil Action No. 0:23-cv-00602-SAL brought under the Clean Water Act and the Resource Conservation and Recovery Act, against both of the New-Indy defendants, and alleges that pollutants, including dioxins and cobalt, have migrated or seeped from the unlined wastewater sludge lagoons into groundwater beneath the Mill and subsequently have been discharged into the Catawba River; and (3) a Motion to Intervene in *United States of America v. New Indy Catawba, LLC*, Civil Action No. 0:21-cv-02053 SAL seeking to intervene in the lawsuit filed by the USEPA against New-Indy under the Federal Clean Air Act (“CAA”). Resolution of these three matters involve agreements on the part of New-Indy Catawba to engage in certain activities designed to reduce additional emissions of H2S and TRS, as well as preventing migration of dioxin into the Catawba River. These activities include: the installation of a new steam stripper, which will remove 98% of TRS from foul condensate; restoring and modifying their existing steam stripper as backup capacity; retrofitting the New-Indy Catawba recovery boiler to incinerate the condensed methanol, which will result in more than 98% of TRS from the wastewater treatment system; covering the post-aeration basin; dredging the equalization basin and aerated stabilization basin, and capping two lagoons. The Parties estimate that the aggregate value of these separate commitments is expected to be at least \$85 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies. Further information about these resolutions 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 New-Indy Settlement website at www.newindyclassaction.com, and completing the Registration Form online at that site, or (2) mailing the completed Registration Form attached to this Notice as Attachment 2 to the following address:</p> <p style="text-align: center;">New-Indy Emissions Litigation Settlement Administrator RG/2 Claims Administration LLC P.O. Box 59479 Philadelphia, PA 19102-9479 Phone: (866) 742-4955 Web: www.newindyclassaction.com Email: newindy@rg2claims.com</p> <p>You must complete the Registration Form and submit it by mail postmarked on or before August 14, 2024 or online through the New-Indy Settlement website on or before August 14, 2024, 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 New-Indy 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 meet the Class definition and you wish to opt out of the Settlement Class, you must send a written Request for Exclusion, postmarked on or before August 5, 2024 to the following address:</p> <p style="text-align: center;">New-Indy Emissions Litigation Settlement Administrator RG/2 Claims Administration LLC P.O. Box 59479 Philadelphia, PA 19102-9479 Phone: (866) 742-4955 Web: www.newindyclassaction.com Email: newindy@rg2claims.com</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 August 5, 2024. 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 September 5, 2024 at 10:00 a.m., at the Matthew J. Perry Courthouse, 901 Richland Street, Columbia, SC 29201. 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 New-Indy Catawba, LLC and New-Indy Containerboard, LLC for injuries or damages related to 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 *New Indy Emissions Litigation*, C.A. No.: 0:21-cv-01480-SAL; 0:21-cv-01704-SAL (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 Sherri A. Lydon of the United States District Court for the District of South Carolina, Rock Hill Division, is overseeing this case. The people who sued are called the “Plaintiffs.” New-Indy Catawba LLC and New-Indy Containerboard, LLC are the “Defendants.”

2. What is this litigation about?

Plaintiffs alleged that Defendants, New-Indy Catawba, LLC, and New-Indy Containerboard, LLC (collectively, “NI” or “Defendants”), engaged in wrongful and negligent conduct in the operation of the New-Indy Catawba paper mill (the “Mill”), causing emissions of hydrogen sulfide (“H₂S”), methyl mercaptan, dimethyl disulfide, dimethyl sulfide (collectively, “total reduced sulfur” or “TRS”) and other noxious chemical contaminants to be released from its wastewater treatment facility into the air, resulting in damages. Defendants have denied these 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.

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 the Defendant’s alleged 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 Plaintiffs’ 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 meet any of the following criteria: (a) during the period from January 31, 2021, until September 11, 2021, owned a single-family home located in whole or part within the Class Settlement Impact Area, which is geographically bounded by the solid blue line on Exhibit A; or (b) spouses or children of those who, during the period from January 31, 2021, until September 11, 2021, owed a single-family home located in whole or in part within the Class Settlement Impact Area, and resided at that home for a period of at least 30 days between January 31, 2021, until September 11, 2021; or (c) retained the representation of Plaintiffs' Counsel in connection with alleged emissions from New-Indy on or before April 25, 2024.

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 New-Indy Settlement website at www.newindyclassaction.com. You also may contact Plaintiffs' Counsel. (See question 18 for contact information). Please do not call or write the Court.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

The Defendants have agreed to pay \$18,000,000.00 (the "Settlement Amount") funded in 3 installments over a 24-month period 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 Action related to acts or harm during the period of January 31, 2021, to the Effective Date of the Settlement of May 24, 2024; and (b) Attorneys' Fees and Costs and Expenses in the Action. 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 *Butler et al. v. New-Indy Catawba, LLC et al.*, Civil Action No. 0:22-cv-02366-SAL, *Chin et al. v. New-Indy Catawba, LLC*

et al., Civil Action No. 0:23-cv-00602-SAL and United States of America v. New Indy Catawba, LLC, Civil Action No. 0:21-cv-02053 SAL.

In addition to this Class Action Settlement, three other settlement agreements have been secured by which New-Indy agrees to engage in certain activities designed to reduce additional emissions of H₂S and TRS, as well as preventing migration of dioxin into the Catawba River. These activities include: the installation of a new steam stripper, which will remove 98% of TRS from foul condensate; restoring and modifying their existing steam stripper as backup capacity; retrofitting the New-Indy Catawba recovery boiler to incinerate the condensed methanol, which will remove more than 98% of TRS from the wastewater treatment system; covering the post-aeration basin; dredging the equalization basin and aerated stabilization basin, and capping two lagoons. The Parties estimate that the aggregate value of these separate commitments is expected to be at least \$85 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. 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 Participating 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 **August 14, 2024**. You may do so by visiting www.newindyclassaction.com, and completing the Registration Form online at that site, or mailing the completed Registration Form attached to this Notice as Attachment 2 to the following address:

New-Indy Emissions Litigation Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.newindyclassaction.com
Email: newindy@rg2claims.com

You must complete the Registration Form and submit it by mail postmarked on or before August 14, 2024 or online through the New-Indy Settlement website by August 14, 2024 in order to be considered for payment through the Class Action Settlement. Those who fail to register by mail or through the New-Indy 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.newindyclassaction.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 “Plaintiffs’ Counsel” to represent all members of the Settlement Class. They include:

Chase T. Brockstedt and Philip C. Federico

Baird Mandalas Brockstedt & Federico LLC

Richard A. Harpootlian

Richard A. Harpootlian Law Firm, P.A.

T. David Hoyle

Motley Rice LLC

The court-approved fees for these lawyers will be paid out of the Settlement Amount (*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?

Plaintiffs’ Counsel intend to request a legal fee of up to 20 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 \$4.5 million. The fees and expenses must be approved by the Court and will be paid out of the Settlement Amount that Defendants will pay under the Settlement Agreement. The Court will decide the amount of fees and costs to be paid. Class Counsel are anticipated to receive additional legal fees pursuant to separate settlement agreements in the matters of *Butler et al. v. New-Indy Catawba, LLC et al.*, Civil Action No. 0:22-cv-02366-SAL; *Chin et al. v. New-Indy Catawba, LLC et al.*, Civil Action No. 0:23-cv-00602-SAL; and the complaint in intervention *United States of America v. New Indy Catawba, LLC*, Civil Action No. 0:21-cv-02053 SAL, which have achieved agreements for the benefit of residents around the mill to engage in remedial actions to reduce emissions of TRS and migration of dioxin from holding lagoons into the Catawba River, as set forth above.

Plaintiffs’ 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 July 22, 2024 on the settlement information website at www.newindyclassaction.com.

OPT-OUT OF THE SETTLEMENT

12. How can I exclude myself from the settlement?

If you meet the Settlement Class definition, 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 wish to opt out of the Settlement Class, you must send a written request to opt out, postmarked on or before **August 5, 2024** to the following address:

New-Indy Emissions Litigation Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.newindyclassaction.com
Email: newindy@rg2claims.com

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 **August 5, 2024**:

CLERK OF THE COURT	PLAINTIFFS' COUNSEL DESIGNEE	DEFENDANTS' COUNSEL
Robin L. Blume Clerk of the Court United States District Court 901 Richland Street Columbia, SC 29201	T. David Hoyle Motley Rice LLC 28 Bridgeside Blvd. Mount Pleasant, SC 29464	Scott T. Schutte Morgan, Lewis & Bockius LLP 110 North Wacker Drive, Suite 2800 Chicago, IL 60606-1511

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 September 5, 2024, at 10:00 a.m., located at the Matthew J. Perry Courthouse, 901 Richland Street, Columbia, SC 29201. The hearing may be moved

to a different date, time or location. Please check the New-Indy Settlement website at www.newindyclassaction.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 Plaintiffs' 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. Plaintiffs' 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 **August 14, 2024**, 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 New-Indy 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 11.** 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.newindyclassaction.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:

New-Indy Emissions Litigation Settlement Administrator
RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.newindyclassaction.com
Email: newindy@rg2claims.com

2. Contact Plaintiffs' Counsel through the Class Action website at www.newindyclassaction.com.

3. Write or call Plaintiffs' Counsel:

Chase T. Brockstedt and Philip C. Federico
Baird Mandalas Brockstedt & Federico LLC
1413 Savannah Rd., Suite 1
Lewes, DE 19958

Richard A. Harpootlian Richard A. Harpootlian Law Firm, P.A.
1410 Laurel Street
Columbia, SC 29201

T. David Hoyle
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464

4. Request copies in person from the:

Clerk of the Court
United States District Court
901 Richland Street
Columbia, SC 29201

DO NOT CALL THE COURT OR NEW-INDY OR NEW-INDY'S COUNSEL.