

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 90-cv-00181-JLK

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MERILYN COOK, *et al.*,

Plaintiffs,

v.

ROCKWELL INTERNATIONAL CORPORATION  
and THE DOW CHEMICAL COMPANY,

Defendants.

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**PLAINTIFFS' AND CLASS COUNSEL'S MOTION FOR A THIRD AND FINAL  
DISTRIBUTION OF THE NET SETTLEMENT FUNDS**

For the reasons set forth in the accompanying memorandum in support and related materials, Class Counsel and Plaintiffs Marilyn Cook, Richard and Sally Bartlett, and William and Delores Schierkolk<sup>1</sup> respectfully move for an Order approving a Third and Final Distribution of the Net Settlement Funds to claimants who submitted valid, timely claims, to be distributed in the *pro rata* manner set forth in the attached memorandum in support, using the same methodology of calculating payment amounts that the Court approved with respect to the Second Distribution. *See* ECF No. 2539 (Order Granting Plaintiffs' and Class Counsel's Motion for a Second Distribution). Plaintiffs and Class Counsel also respectfully request that the Court authorize \$150,000 to be held in escrow for anticipated future administrative costs.

Dated: August 1, 2019

Respectfully submitted,

/s/ Merrill G. Davidoff

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<sup>1</sup> Delores Schierkolk is deceased, but William Schierkolk is her heir and representative.

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 1st day of August, 2019, he caused the foregoing submission to be served via the Court's ECF system on all participating counsel.

/s/ Merrill G. Davidoff  
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**[PROPOSED] ORDER GRANTING PLAINTIFFS' AND CLASS COUNSEL'S MOTION  
FOR A THIRD AND FINAL DISTRIBUTION OF THE NET SETTLEMENT FUNDS**

This matter comes before the Court on Plaintiffs' and Class Counsel's Motion for a Third and Final Distribution of the Net Settlement Funds, made pursuant to Paragraph 5 of the Order Granting Plaintiffs' and Class Counsel's Unopposed Motion for Initial Distribution, ECF No. 2501, which provides that the Court retains jurisdiction over any further application or matter that may arise in connection with this Action, and Paragraph 6 of the Order Granting Plaintiffs' and Class Counsel's Motion for a Second Distribution of the Net Settlement Funds, ECF No. 2539, which provides that Class Counsel shall submit a separate application requesting Court approval for any additional disbursements of Net Settlement Funds following the Second Distribution.

Upon review of Plaintiffs' and Class Counsel's Motion for a Third and Final Distribution of the Net Settlement Funds, the accompanying Memorandum in Support (the "Memorandum"),

and all other materials attached thereto, it is ORDERED, ADJUDGED AND DECREED as follows:

1. The Court approves the Third and Final Distribution from the Net Settlement Fund as proposed by Plaintiffs and Class Counsel, and directs the Settlement and Claims Administrator to distribute the *pro rata* Third Distribution awards as set forth in the Memorandum. As provided in the Memorandum, the methodology of calculating payment amounts for the Third Distribution shall be the same methodology that the Court approved, and the Settlement and Claims Administrator implemented, with respect to the Second Distribution. *See* Memorandum at 4-6; ECF No. 2539 (Order Granting Plaintiffs' and Class Counsel's Motion for a Second Distribution). Specifically, as with the Second Distribution, claimants who submitted claims regarding properties located within two miles of the southeast corner of the Rocky Flats plant will receive an extra weighting (relative to their initial distribution awards) of 50% for purposes of calculating their Third Distribution awards so that they will receive relatively more than properties that are farther from the Rocky Flats Plant; and this same adjustment will apply regardless of whether they are submitting a claim in connection with a residential, vacant, or commercial property.

2. The Court further orders that the Settlement and Claims Administrator will hold in escrow and not distribute \$150,000 to cover future claims administration expenses.

3. Class Counsel shall submit a separate application requesting Court approval for any additional or subsequent disbursements of Net Settlement Funds, including any *cy pres* distribution.

4. This Court retains jurisdiction over any further application or matter that may arise in connection with this Action.

IT IS SO ORDERED.

Date: \_\_\_\_\_

BY THE COURT:

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John L. Kane, Senior District Judge  
United States District Court