

# ALABAMA - MINNESOTA - LAWSUITS VS. 3M COMPANY FOR PFOA/PFA TOXIC POLLUTANTS IN SEWAGE SLUDGE AND INDUSTRIAL DISCHARGES

August 7, 2011

NOTE: “ **Perfluorooctanesulfonic acid (PFOS), or perfluorooctane sulfonate**, is a man-made fluorosurfactant and **global pollutant**. It was added to Annex B of the **Stockholm Convention on Persistent Organic Pollutants in May 2009**.<sup>[3]</sup> PFOS can form from the degradation of precursors in addition to industrial production. The PFOS levels that have been detected in wildlife are considered high enough to affect health parameters.

In 1949, 3M began producing PFOS-based compounds by electrochemical fluorination resulting in the synthetic precursor perfluorooctane sulfonyl fluoride.<sup>[4]</sup> In 1968, organofluorine content was detected in the blood serum of consumers, and in 1976 it was suggested to be PFOA or a related compound such as PFOS.<sup>[5][6][7]</sup> In 1997, 3M detected PFOS in blood from global blood banks.<sup>[8]</sup> In 1999, the U.S. Environmental Protection Agency began investigating perfluorinated compounds after receiving data on the global distribution and toxicity of PFOS, the key ingredient in Scotchgard.<sup>[9]</sup> “

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[http://www.waterworld.com/index/display/news\\_display/1472240143.html](http://www.waterworld.com/index/display/news_display/1472240143.html)

## 3M Company Half Yearly Report

London Stock Exchange Aggregated Regulatory News Service (ARNS)

August 5, 2011

The Company continues to work with the Minnesota Pollution Control Agency (MPCA) pursuant to the terms of the previously disclosed **May 2007 Settlement Agreement and Consent Order** to address the presence of **perfluorinated compounds** in the soil and groundwater at former disposal sites in Washington County, Minnesota (Oakdale and Woodbury) and at the Company's manufacturing facility at Cottage Grove, Minnesota.

Under this agreement, **the Company's principal obligations include (i) evaluating releases of perfluorinated compounds from these sites and proposing response actions; (ii) providing treatment or alternative drinking water upon identifying any level exceeding a Health Based Value ("HBV") or Health Risk Limit ("HRL") (i.e., the amount of a chemical in drinking water determined by the Minnesota Department of Health to be safe for people to drink for a lifetime) for any perfluorinated compounds as a result of contamination from these sites; (iii) remediating any source of other PFCs at these sites that is not controlled by actions to remediate PFOA and PFOS; and (iv) sharing information with the MPCA about perfluorinated compounds.** During 2008, the MPCA issued formal decisions adopting remedial options for the former disposal sites in **Washington County, Minnesota (Oakdale and Woodbury). In August 2009, the MPCA issued a formal decision adopting remedial options for the Company's Cottage Grove manufacturing facility.**

During the spring and summer of 2010, 3M began implementing the remedial options at the Cottage Grove and Woodbury sites. 3M commenced the remedial option at the Oakdale site in late 2010. At each location the remedial options were among those recommended by the Company. Remediation work will continue at all three sites during 2011. The Company cannot predict what additional regulatory actions arising from the

foregoing proceedings and activities, if any, may be taken regarding such compounds or the consequences of any such actions.

Environmental Litigation As previously reported, a former employee filed a purported class action lawsuit in 2002 in the Circuit Court of Morgan County, Alabama seeking unstated damages and alleging that the plaintiffs suffered fear, increased risk, subclinical injuries, and property damage from exposure to perfluorochemicals at or near the Company's Decatur, Alabama, manufacturing facility. The Circuit Court in 2005 granted the Company's motion to dismiss the named plaintiff's personal injury-related claims on the basis that such claims are barred by the exclusivity provisions of the state's Workers Compensation Act. The plaintiffs' counsel filed an amended complaint in November 2006, limiting the case to property damage claims on behalf of a purported class of residents and property owners in the vicinity of the Decatur plant.

Also, in 2005, the judge in a second purported class action lawsuit (filed by three residents of Morgan County, Alabama, seeking unstated compensatory and punitive damages involving alleged damage to their property from emissions of perfluorochemical compounds from the Company's Decatur, Alabama, manufacturing facility that formerly manufactured those compounds) granted the Company's motion to abate the case, effectively putting the case on hold pending the resolution of class certification issues in the first action described above filed in the same court in 2002.

Despite the stay, plaintiffs filed an amended complaint seeking damages for alleged personal injuries and property damage on behalf of the named plaintiffs and the members of a purported class. No further action in the case is expected unless and until the stay is lifted.

In February 2009, a resident of Franklin County, Alabama, filed a purported class action lawsuit in the Circuit Court of Franklin County seeking compensatory damages and injunctive relief based on the application by the Decatur utility's wastewater treatment plant of wastewater treatment sludge to farmland and grasslands in the state that allegedly contain PFOA, PFOS and other perfluorochemicals. The named defendants in the case include 3M, its subsidiary Dyneon LLC, Daikin America, Inc., Synagro-WWT, Inc., Synagro South, LLC and Biological Processors of America. The named plaintiff seeks to represent a class of all persons within the State of Alabama who have had PFOA, PFOS and other perfluorochemicals released or deposited on their property.

In March 2010, the Alabama Supreme Court ordered the case transferred from Franklin County to Morgan County. In May, 2010, consistent with its handling of the other matters, the Morgan County Circuit Court abated this case, putting it on hold pending the resolution of the class certification issues in the first case filed there.

In March 2011, several residents of Lawrence County, Alabama, filed a lawsuit in the Circuit Court of Lawrence County seeking unspecified compensatory and punitive damages and other relief for alleged personal injuries due to the exposure to PFCs. The named defendants in the case include the City of Decatur, Alabama, 3M, its subsidiary Dyneon LLC, Daikin America, Inc., Toray Industries, Inc. and two of its US subsidiaries, Synagro-WWT, Inc., Synagro South, LLC and Biological Processors of America, and certain individuals not associated with 3M. According to the complaint, Synagro acquired wastewater treatment sludge that allegedly contained PFOA, PFOS and other

perfluorochemicals from the Decatur utility's wastewater treatment plant, and made it into a fertilizer that it sold to farmers who applied it to their farmland in Morgan, Limestone and Lawrence counties, including land adjacent to the plaintiffs' residence. Plaintiffs have dismissed the City of Decatur from the case.

On December 30, 2010, the State of Minnesota, by its Attorney General Lori Swanson, acting in its capacity as trustee of the natural resources of the State of Minnesota, filed a lawsuit in Hennepin County District Court against 3M to recover damages (including unspecified assessment costs and reasonable attorney's fees) for alleged injury to, destruction of, and loss of use of certain of the State's natural resources under the Minnesota Environmental Response and Liability Act (MERLA) and the Minnesota Water Pollution Control Act (MWPCA), as well as statutory nuisance and common law claims of trespass, nuisance, and negligence with respect to the presence of PFC's in the groundwater, surface water, fish or other aquatic life and sediments. The State also seeks declarations under MERLA that 3M is responsible for all damages the State may suffer in the future for injuries to natural resources from releases of PFCs into the environment, and under MWPCA that 3M is responsible for compensation for future loss or destruction of fish, aquatic life and other damages.

On January 14, 2011, the City of Lake Elmo filed a motion to intervene in the State of Minnesota lawsuit and seeks damages in excess of \$50,000 and other legal and equitable relief, including reasonable attorneys' fees, for alleged contamination of city property, wells, groundwater and water contained in the wells with PFCs under several theories, including common law and statutory nuisance, strict liability, trespass, negligence, and conversion. The court granted the City of Lake Elmo's motion to intervene in this lawsuit.

In June 2009, the Company, along with more than 250 other companies, was served with a third-party complaint seeking contribution towards the cost of cleaning up a 17-mile stretch of the Passaic River in New Jersey. After commencing an enforcement action in 1990, the State of New Jersey filed suit against Maxus Energy, Tierra Solutions, Occidental Chemical and two other companies seeking cleanup and removal costs and other damages associated with the presence of dioxin and other hazardous substances in the sediment of the Passaic. The third-party complaint seeks to spread those costs among the third-party defendants, including the Company. Based on the cleanup remedy currently proposed by the EPA, the total costs at issue could easily exceed \$1 billion. The Company's recent involvement in the case appears to relate to its past disposal of industrial waste at two commercial waste disposal facilities in New Jersey. Whether, and to what extent, the Company may be required to contribute to the costs at issue in the case remains to be determined. The Company does not yet have a basis for estimating its potential exposure in this case, although the Company currently believes its allocable share, if any, is likely to be a fraction of one percent of the total costs. The Company has not recorded any liabilities for the Company's environmental litigation described in this section because the Company believes that liability is not probable and estimable at this time. Because of the limited activity in these cases, the Company is not able to estimate a possible loss or range of loss, with the exception of the Passaic River litigation, where the Company indicated that its potential exposure, if any, is likely to be a fraction of one percent of the total costs. Environmental Liabilities and Insurance Receivables

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