Judge OKs Class-Action Suit against Recycler

ELKHART, Ind. (AP) — A federal judge has approved class-action status for a lawsuit alleging that dust and other emissions from a northern Indiana wood recycling plant pose a health threat and nuisance to nearby residents.

About 150 people who live near the Elkhart plant sued VIM Recycling in 2009, two years before the plant was sold to Soil Solutions.

Environmental attorney Kim Ferraro told The Elkhart Truth (http://bit.ly/12pkg0D [1]) that last week's decision by a federal judge in South Bend to approve the plaintiffs' September 2011 request for class-action status means more than 1,700 people could become part of the lawsuit.

"This decision ensures that all of the residents of this impacted community who might not otherwise be able to afford to legally protect their rights to clean air and a safe home, can take action to protect their homes and families," she said.

Ferraro, who is the water policy director of the Hoosier Environmental Council, said notices will now be sent to residents near the plant advising them of their status as class-action members and, if desired, how they can opt out of the court proceedings.

Neighbors near the wood-recycling plant, which grinds scrap wood into animal bedding and mulch, have complained for years that its dust and other emissions has impacted their health and is a nuisance.

Indiana regulators have taken several actions against the recycling plant, including fines, over the years. The Indiana Department of Environmental Management filed its own lawsuit against the plant, alleging that it has improperly accepted waste wood containing glues, resins and other substances.

The class-action lawsuit against Soil Solutions Company, VIM Recycling, Inc., K.C. Industries, LLC, and Kenneth R. Will alleges that waste materials were dumped and processed at the plant in unsafe and negligent ways.

The case received media attention in the summer of 2007 when the site's massive waste piles caught fire, prompting fire departments from Elkhart and surrounding communities to the scene. One worker died in the incident.

Ferraro said the goal of the lawsuit is to put an end to the "harmful dust, pollutant runoff, smoke and extreme noxious odors" nearby residents endure from wood waste scraps processed at the site or from smoldering emissions from the waste piles.

Carmine Green, one of six plaintiffs who will represent the 1,700 residents in the class action suit, said in a statement from Ferraro that when winds blow particles and fumes away from the plant toward her home she had to go inside and close her doors and windows.

She said the smell would make her sick to her stomach.

"Surely we can run businesses in Elkhart and preserve our way of life at the same time," Green said.

Jim Brotherson, an attorney for Soil Solutions, said the class-action status "will make it easier for us" because the merits of litigants arguments can be decided in a single case. He said Soil Solutions, the current owner of the site, disavows the actions of the VIM Recycling, the previous owner.

Messages seeking comment were left Tuesday for attorneys for the other defendants.

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Information from: The Elkhart Truth, www.etruth.com *[2]*

Source URL (retrieved on *09/20/2014 - 8:31pm*):
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