

# NOTICE OF PROPOSED SETTLEMENT OF TCE CLASS ACTION AGAINST NORTHSTAR AEROSPACE COMPANIES

Read this notice carefully as it may affect your legal rights and/or those of your family members

## PURPOSE OF THIS NOTICE

This notice is to all persons owning property in the Class Area (defined below) as of August 23, 2005 excluding the defendants and their officers and directors (the "Class Members").

Class Area means the area bounded by a line commencing at the corner of Bishop Street North and Industrial Road, south along Industrial Road to Dunbar Road, west to the Grand River Railway ("GRR") right-of-way, east along the GRR right-of-way up to and including 2005 Coronation Boulevard, along the eastern perimeter of 2005 Coronation Boulevard, and thereafter east along Coronation Boulevard to Highland Park, and following Highland Park and the Grand River to a point south of the southwest limit of Bishop Street South, north to Bishop Street South and then northeast along Bishop Street South to the Canadian National Railway ("CNR") right-of-way, north along the CNR right-of-way to the west of 300 Bishop Street North to the northwest corner of 1382 Pineview Avenue, along the northern perimeter of 1382 Pineview Avenue to the southeast corner of 343 Montrose Street, along the eastern perimeter of 343 Montrose Street to the northwest corner of 1334 Pineview Avenue, along the northern perimeter of 1334 Pineview Avenue, south along Pineview Avenue to the northwest corner of 1393 Pineview Avenue, along the northern perimeter of 1393 Pineview Avenue to the northeast corner of 1393 Pineview Avenue, south to the northwest corner of 1422 Concession Road, along to northern perimeters of 1422 and 1418 Concession Road, across Concession Road and continuing along the northern perimeter to 1485 Concession Road, along the western and northern perimeters of 1470 Fairview Road, south along Fairview Road to Bishop Street North and then along Bishop Street North to Industrial Road but including all of the properties on the north side of Bishop Street North between Fairview Road and 695 Bishop Street North (including 1475 Mary Street) (a map of the Class Area is posted on the websites referenced at the end of this notice).

In 2007, a number of plaintiffs commenced a class action against Northstar Aerospace, Inc. ("Northstar Aerospace") and Northstar Aerospace (Canada) Inc. ("Northstar Canada", and together "Northstar") in the Ontario Superior Court of Justice, Court File No. 06-CV-307624-CP. The plaintiffs allege that Northstar is responsible for the escape of Trichloroethylene and Chromium from Northstar Canada's Bishop Street North, Cambridge, plant through improper handling, storage and disposition of the chemicals.

The plaintiffs in the action have reached a proposed settlement with Northstar, subject to obtaining necessary court approval.

Northstar does not admit any wrongdoing or liability. The settlement is a compromise of disputed claims.

## TERMS OF THE PROPOSED SETTLEMENT

The parties have agreed to a settlement which contemplates the following:

- Northstar will pay \$1 million to a property damage fund;
- Northstar Canada will execute a promissory note in the amount of \$3 million also to be paid to the property damage fund within 3 years following its issuance after court approval. The promissory note will bear simple interest at 3.3% and will be payable at any time by Northstar Canada within the 3 year period and can be paid either in cash and/or, subject to regulatory approval, by issuance of Northstar Aerospace treasury shares of equivalent value which may be converted into cash on issuance;
- Northstar will pay a further \$500,000.00 to an extraordinary damage fund which will be used for purposes of extraordinary damage claims over and above the base amounts to be paid from the property damage fund;
- Class Members will be able to make property damage-related claims with respect to the plan of distribution, which is summarized below and which will be put before the Court for approval at the settlement approval hearing;
- The settlement does not apply to nor affect personal injury claims;
- A claims process will be developed and if there are funds remaining in the extraordinary damage fund after the claims process is complete, the excess money will revert to the property damage fund;
- Northstar will be under a reporting obligation with respect to remediation efforts and the Court will retain supervisory jurisdiction;
- Northstar will make a legal costs contribution in the amount of \$550,000.00; and

- The settlement contains a revocation clause that provides an option to both the plaintiffs and the defendants to terminate the settlement if a certain threshold number of class members opt out of the settlement.

Class Members will be eligible to receive compensation based on a point system taking into account circumstances such as the recorded level of TCE readings, installation of or dependence on a Soil Vapour Extraction Unit, installation of Heat Recovery Units, sealants/passive barriers, testing wells, and required evacuation from the property while remediation was being performed. Complete information on the proposed settlement including the distribution plan may be found at [www.classactionlaw.ca](http://www.classactionlaw.ca) and [www.classaction.ca](http://www.classaction.ca).

Class Counsel legal fees and disbursements must be approved by the Court. Class Counsel will request a maximum legal fee of 25% of the Settlement Amount plus disbursements and applicable taxes. Class Counsel will request to have all approved legal fees paid over time in accordance with the timing of the settlement payments.

Class Members who consider it desirable or necessary to seek the advice and guidance of their own lawyer may do so at their own expense.

## THE COURT HEARING

The Court will be asked to certify the class action against Northstar, appoint the class representatives and approve the proposed settlement as recommended by the plaintiffs and class counsel. The Court will also be asked to approve Class Counsel fees and disbursements at this hearing.

**The Court hearing will be held on June 18, 2009 at 10:00 a.m. at Osgoode Hall, 130 Queen Street West, Court Room 5, Toronto, Ontario.**

Class members who do not oppose the proposed settlement do **NOT** need to appear at the hearing or take any other action at this time to indicate their desire to participate in the proposed settlement.

## OBJECTIONS TO THE PROPOSED SETTLEMENT

At the hearing, the Court will consider objections to the proposed settlement by Class Members. Class Members should submit their objections in writing on or before June 12, 2009:

by mail to: The Northstar Class Action  
Siskinds LLP  
Barristers & Solicitors  
680 Waterloo Street  
London, ON N6A 3V8  
ATTENTION: MATTHEW BAER

or by fax to: 519.660.7783;  
or by email to: [matthew.baer@siskinds.com](mailto:matthew.baer@siskinds.com)

A written objection should include the following information:

- (a) the Class Member's name, address, telephone number, fax number, mail and e-mail address;
- (b) a brief statement of the nature of and reason for the objection; and
- (c) whether the Class Member intends to appear at the hearing in person or by counsel and, if by counsel, the name, address, telephone number, fax number mail and e-mail address of counsel.

If the Court approves the proposed settlement, all Class Members will be bound by the terms of the settlement, unless they opt-out. If the proposed settlement is approved, there will be a further Court-approved notice instructing Class Members how to make a claim to receive settlement monies or how to opt-out of the settlement.

#### ADDITIONAL INFORMATION

If you have questions or require additional information, you are directed to contact Class Counsel as follows:

Matthew Baer Siskinds LLP Barristers & Solicitors 680 Waterloo Street London, ON N6A 3V8  Tel: 519.660.7782 Fax: 519.660.7783 Email: matthew.baer@siskinds.com	David Thompson Scarfone Hawkins LLP Barristers & Solicitors One James Street S, 14 <sup>th</sup> Floor Hamilton, ON L8N 3P9  Tel: 905.523.1333 (245) Fax: 905.523.5878 Email: thompson@shlaw.ca	Neena Gupta Gowling Lafleur Henderson LLP Barristers & Solicitors 50 Queen Street North, Suite 1020 Kitchener, ON N2H 6M3  Tel: 519.575.7501 Fax: 519.571.5001 Email: neena.gupta@gowlings.com
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Information regarding the settlement can be found at [www.classaction.ca](http://www.classaction.ca) and [www.classactionlaw.ca](http://www.classactionlaw.ca).

#### Interpretation

This notice contains a summary of some of the terms of settlement. If there is a conflict between the provisions of this notice and the Settlement Agreement, including schedules, the terms of the Settlement Agreement shall prevail.

This notice has been approved by the Ontario Superior Court of Justice. Questions about this notice should NOT be directed to the court.