

MONTANA ELEVENTH JUDICIAL DISTRICT COURT,  
FLATHEAD COUNTY

<p>RICHARD P. MATTSON, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p>vs.</p> <p>PPL MONTANA, LLC, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendant.</i></p>	<p style="text-align: center;">Cause No. DV-99-548A Honorable Katherine R. Curtis</p> <p style="text-align: center;">SUPPLEMENTAL NOTICE OF CLASS ACTION SETTLEMENT WITH PPL MONTANA, LLC</p>
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**TO ALL PERSONS AND ENTITIES WHO HAVE OWNED PROPERTY ON THE  
SHORELINE OF FLATHEAD LAKE OR PORTIONS OF THE BANK OF THE  
FLATHEAD RIVER AT ANY TIME BETWEEN NOVEMBER 9, 1991 AND  
DECEMBER 1, 2006**

The Court has directed that this supplemental notice be sent to you because you may be a person or entity included in the class certified by this Court, pursuant to its July 23, 2014 Order. In that Order the Court defined the class to include:

All persons and entities (other than the United States, the defendants, and the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana) that have since November 9, 1991 to December 1, 2006, owned real property either: i) with frontage on the shoreline of Flathead Lake in Flathead County or Lake County, Montana, or ii) which contains a bank of the Flathead River located in Flathead County, Montana, south of the point at which Lower Valley Road (east of U.S. Highway 93) intersects with the Flathead River, or both.

(the "Class"). Please read this supplemental notice carefully, as it concerns a settlement of the Class's claims against PPL Montana, LLC ("PPLM") in this lawsuit that may affect your rights.

**I. BACKGROUND**

1. The named plaintiffs filed the above-captioned lawsuit (the "Mattson Case") on November 8, 1999, alleging that Montana Power Company ("MPC") owned, operated and managed Kerr Dam, a hydroelectric dam located on Flathead Lake in Flathead and Lake Counties, Montana, in a manner that altered the natural water level of the lake and resulted in continuing erosion, property damage, and loss of shoreline on lakefront and riverfront properties owned by members of the Class. In December 1999, MPC transferred Kerr Dam to PPLM pursuant to a sale transaction. The named plaintiffs then added PPLM as a defendant in the Mattson Case, asserting that PPLM was a successor to MPC. PPLM denied any liability in the Mattson Case.

2. The Mattson Case has been litigated for over fifteen years, and has been to the Montana Supreme Court on four previous appeals. Following years of discovery and motion practice, the Mattson Case was set for trial on October 11, 2016.
3. This supplemental notice is sent to members of the Class, who did not opt out, concerning a settlement of claims against PPLM. A class settlement with MPC and its insurer National Union Fire Insurance Company of Pittsburgh, Pa. was previously approved by the Court on August 19, 2015.

## **II. PROPOSED SETTLEMENT OF CLAIMS AGAINST PPLM**

4. The named plaintiffs and PPLM, through their respective counsel, have entered into a stipulation of settlement and general release which, if approved by the Court after a hearing, would resolve this case.
5. A copy of the stipulation of settlement and general release may be viewed on the website of The Law Offices of Michael M. Mulder at [www.mmulderlaw.com](http://www.mmulderlaw.com).
6. The proposed stipulation of settlement and general release includes the following terms:
  - a. Within thirty (30) calendar days of the settlement approval order becoming final, PPLM will be provided instructions to pay Two Million Two Hundred and Fifty Thousand Dollars (\$2,250,000.00) (“the Settlement Amount”) by wire transfer or check to be deposited in an interest bearing trust account.
  - b. If the Court approves the stipulation of settlement and general release, the settlement approval order will provide that the Settlement Amount, minus any Court-approved attorney’s fees and costs and any administrative costs, be invested in an interest-bearing account to be held for the benefit of the Class. The balance of the fund will be held at interest until allocation and distribution of the Settlement Fund to the Class.
  - c. You are being provided a Claim Form with this supplemental notice which contains a description of the plan of distribution including the claims procedure. Each Class Member wishing to receive proceeds from the Settlement Fund must submit a timely Claim Form, which, *inter alia*, releases PPLM and MPC, is signed under oath, and is supported by proof as set out in the Claim Form. All claims will be due to be postmarked to the Special Master within sixty (60) days after the final approval of the settlement. Late claims will not be accepted and will be automatically denied.
  - d. At least fifty (50) days before the date of the Court hearing on the settlement, the named plaintiffs will apply to the Court for approval of up to 33% of the Settlement Amount as a common fund attorney’s fee award, and for an award of the actual costs those attorneys have incurred in bringing the Mattson Case, as well as costs incurred in bringing and defending relating appeals, and the costs of

administering this settlement. The undersigned Class counsel will file a petition for fees and costs detailing the amounts they seek and post it on their website. The petition for fees and costs can be viewed at [www.mmulderlaw.com](http://www.mmulderlaw.com) after that date. Any Class Member that would like a copy of Class counsel's petition for fees and costs can call Class counsel at (312) 263-0272 to have a copy mailed to them via first class mail.

7. If you have any questions about this supplemental notice, the stipulation of settlement and general release, or any other aspect of the Mattson Case, you may contact the attorneys for the Class, free of charge by writing them at Michael M. Mulder, Law Offices of Michael M. Mulder, 1603 Orrington Avenue, Suite 600, Evanston, Illinois 60201 or emailing them at [mmmulder@mmulderlaw.com](mailto:mmmulder@mmulderlaw.com).

### Final Approval Hearing

8. The named plaintiffs, on their own behalf and on behalf of the Class, have preliminarily agreed to the terms of the stipulation of settlement and general release with PPLM. On March 9, 2017 at 10:00 a.m., the Court will hold a hearing to determine whether to grant approval of the stipulation of settlement and general release (the "Final Approval Hearing"). Although you need not attend the Final Approval Hearing, you may do so if you choose. The Final Approval Hearing will be held at the Montana Eleventh Judicial District Court for Flathead County, 920 South Main, Kalispell, Montana, 59901. If you intend to be present at the Final Approval Hearing, please send a notice of intent to appear to the Court at the following address:

Clerk of the Court  
Montana Eleventh Judicial District Court  
920 South Main  
Suite 310  
Kalispell, Montana 59901

You must send copies of your notice of intent to appear to the attorneys for the Class, as well as counsel for PPLM, at the following addresses:

Michael M. Mulder  
THE LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, IL 60201  
T 312-263-0272; F 312-263-2942  
[mmmulder@mmulderlaw.com](mailto:mmmulder@mmulderlaw.com)

*One of the Attorneys for the Class*

Martin S. King  
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P.O. Box 4747  
Missoula, MT 59806-4747  
T 406-721-3400; F 406-721-6985  
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*One of the Attorneys for PPLM*

9. You may also object to the terms of the stipulation of settlement and general release by submitting your objection in writing, stating the reasons for your objection, and your name, address, and telephone number to:

Clerk of the Court  
Montana Eleventh Judicial District Court  
920 South Main  
Suite 310  
Kalispell, Montana 59901

You must also send copies of your objection to the attorneys for the Class, as well as counsel for PPLM, at the following addresses:

Michael M. Mulder  
THE LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, IL 60201  
T 312-263-0272; F 312-263-2942  
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T 406-721-3400; F 406-721-6985  
mking@wordenthane.com

*One of the Attorneys for PPLM*

If you object, you will still be part of the settlement if the Court approves it.

### **III. YOUR OPTIONS IN THIS LAWSUIT**

10. The attorneys for the Class will continue to represent you.
11. The attorneys for the Class are as follows:

Michael M. Mulder  
LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, IL 60201  
(312) 263-0272

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BRYAN & TRAVIS, PLLP  
The Montana Building  
33 Second Street East, Suite 1  
Kalispell, MT 59901  
(406) 407-7355

*Attorneys for the Plaintiffs and the Class*

12. You may also enter your own appearance in this matter yourself or through your own attorney, at your own expense, by filing it with the Court, although there is no requirement that you do so. However, even if you file your own appearance, you will still be bound by the outcome in the Mattson case.
13. If you have any questions about this supplemental notice, the settlement, or any other aspect of the Mattson Case, please contact Michael M. Mulder, one of the attorneys for the Class, by mail at Law Offices of Michael M. Mulder, 1603 Orrington Avenue, Suite 600, Evanston, Illinois 60201, or by e-mail at [mmmulder@mmulderlaw.com](mailto:mmmulder@mmulderlaw.com).
14. Please do not contact the Montana Supreme Court or the Eleventh Judicial District Court with any questions about this supplemental notice or the Mattson case. The Court staff is not permitted to give legal advice.
15. This supplemental notice has been approved by Judge Katherine Curtis of the Montana Eleventh Judicial District Court, Flathead County, Montana.
16. The content of this supplemental notice is not an expression of an opinion by the state court about the merits of the settlement, the Mattson case or the outcome of the Mattson case.