

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

v.

Case No. 04-C-296-2  
Judge Thomas A. Bedell

E. I. DUPONT DE NEMOURS &  
COMPANY, et al.,

Defendants.

**FINAL ORDER APPROVING SOIL TESTS  
FOR 24 UPPER B STREET PROPERTIES**

Presently pending before the Court is the Claims Administrator's August 24, 2011 Report respecting 24 properties along Upper B Street in Spelter, West Virginia, (the "Upper B Street Properties") that are not currently eligible for soil testing and clean-up because they were not classified as Zone 1A in Dr. Kirk Brown's Report adopted by this Court in the June 27, 2011 Property Remediation (Clean-Up) Order, as apposed to Zone 1A property, which merits both house and soil testing followed by a possible clean-up of both under Dr. Brown's Report, but instead are classified as Zone 1B or Zone 2, despite their close proximity to the Zinc Smelter Site. The Claims Administrator relates that 6 of the properties are adjacent to the fenced-in Zinc Smelter Site.

After a careful review of the issue and the information provided to the Court by the Claims Administrator, which specifically identifies the 24 Upper B Street Properties, the Court **ORDERS** that these 24 Upper B Street Properties shall be eligible and at the expense of the Settlement, to have heavy metals contamination soil tests performed in the same manner as for Zone 1A Properties.

The Claims Administrator shall then compare the Zone 1A Test results with the Upper B Street Properties soil test results, with the Claims Administrator, based on such a comparison and other facts and circumstances deemed to be appropriate, and after further consultation with the Claimants Advisory Committee and the Finance Committee, to make a recommendation to the Court for a possible resolution to this matter.

Further, the Court has reviewed the proposed letter to the affected property owners of the 24 properties attached hereto as Exhibit A and approves its use in this matter.

Lastly, pursuant to Rule 54(b) of the West Virginia Rules of Civil Procedure, the Court directs entry of this Order as a Final Order as to the claims and issues above upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment.

**IT IS SO ORDERED.**

The Clerk of this Court shall provide certified copies of this Order to the following:

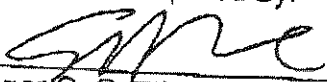
Stephanie Thacker, Esq.  
Guthrie & Thomas, PLLC  
P.O. Box 3394  
Charleston, WV 25333-3394  
*DuPont's Finance Committee Representative*

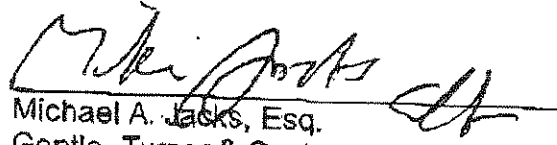
Virginia Buchanan, Esq.  
Levin, Papantonio, Thomas, Mitchell,  
Rafferty & Proctor, P.A.  
P.O. Box 12308  
Pensacola, FL 32591  
*Plaintiffs' Finance Committee Representative*

Meredith McCarthy, Esq.  
901 W. Main St.  
Bridgeport, WV 26330  
*Guardian Ad Litem*

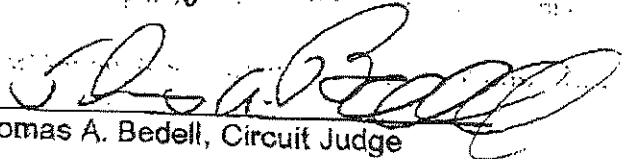
Edgar C. Gentle, III, Esq.  
Settlement Claims Office  
P.O. Box 257  
Spelter, WV 26438  
*Claims Administrator*

This Order Prepared By:

  
 Edgar C. Gentle, III, Esq.  
 Gentle, Turner & Sexton  
 P. O. Box 257  
 Spelter, WV 26438  
 Claims Administrator

  
 Michael A. Jacks, Esq.  
 Gentle, Turner & Sexton  
 W. Va. Bar No. 11044  
 P.O. Box 257  
 Spelter, WV 26438

ENTER: August 31, 2011

  
 Thomas A. Bedell, Circuit Judge

**EXHIBIT A**



FROM  
Aug. 31. 2011 10:42AM

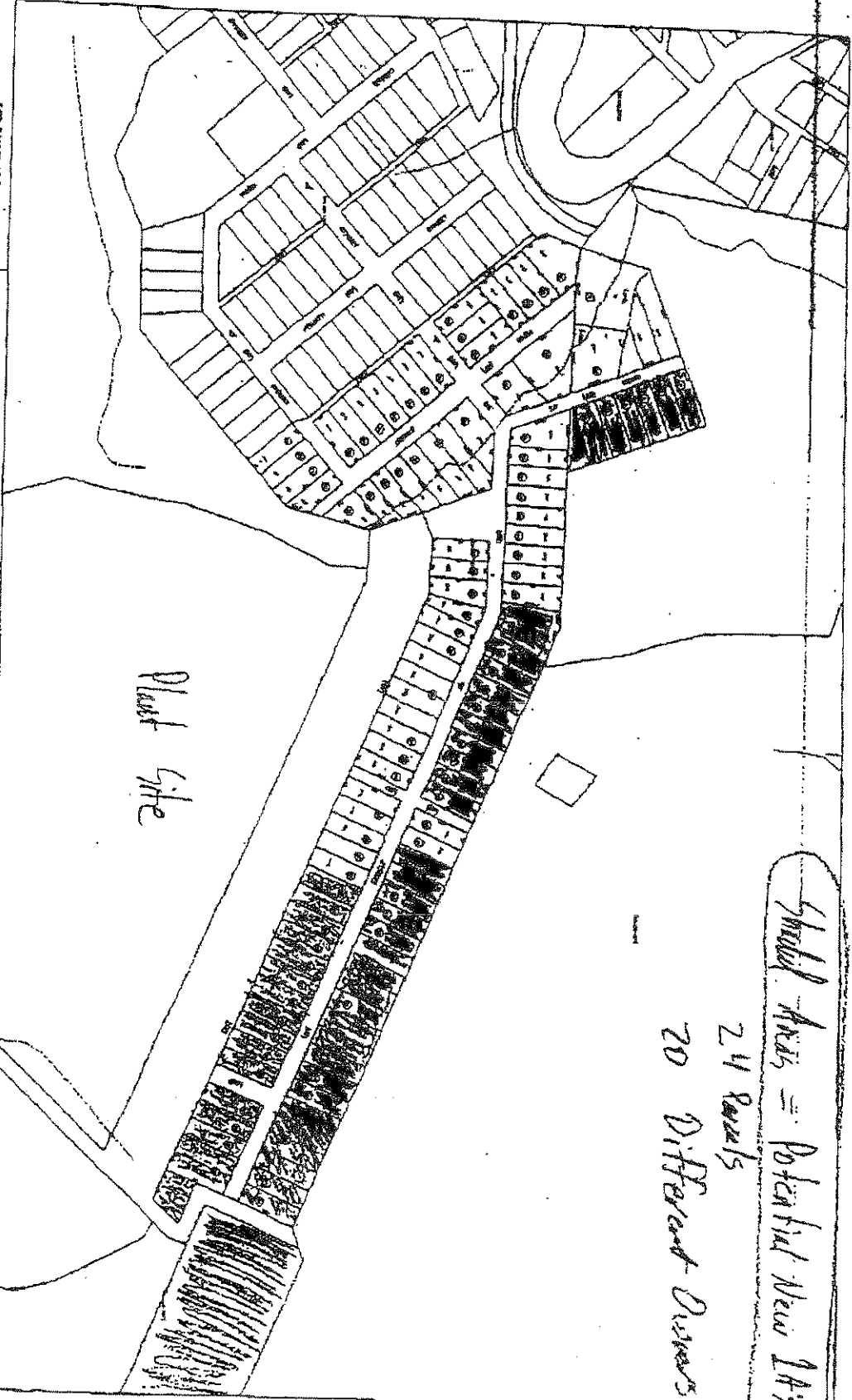
(WED) AUG 31 2011 10:54/ST. 10:52/No. 8300726563 P 7  
No. 0051 P. 7

**EXHIBIT B**



FEB 14 1988/0885 ONLY  
Checked by  
Cindy L. Romano  
Harrison County Assessor

Lot No.	Area (Acres)	Owner	Address
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Plant Site

Shaded Areas = Potential New Lots

24 Rows  
20 Different Owners

07-1102

HARRISON COUNTY - WEST VIRGINIA  
COURT RECORDS

Subject: East Avenue  
Map No. 97-108  
Filed: Nov. 02, 2004  
Applicant: [unclear]

FROM

Aug. 31. 2011 10:42AM

(WED) AUG 31 2011 10:54/ST. 10:52/No. 9300723563 P 9

No. 0051 P. 9

# EXHIBIT C



D	E	F	H	I	J	K
1						
2	2	11-02 2	PO BOX 47 6TH ST	SPELTER	WV	26438
3	4	11-02 4	PO BOX 47 6TH ST	SPELTER	WV	26438
4	6	11-02 6	PO BOX 47 6TH ST	SPELTER	WV	26438
5	8	11-02 8	PO BOX 47 6TH ST	SPELTER	WV	26438
6	9	11-02 9	PO BOX 173	SPELTER	WV	26438
7	10	11-02 10	PO BOX 173	SPELTER	WV	26438
8	29	11-02 29	PO BOX 37	SPELTER	WV	26438
9	31	11-02 31	PO BOX 31	HEPZIBAH	WV	26438
10	31	11-02 31	PO BOX 31	SPELTER	WV	26359
11	32	11-02 32	PO BOX 31 %IVA FADLEY*06	SPELTER	WV	26438
12	32	11-02 32	PO BOX 31	SPELTER	WV	26438
13	33	11-02 33	PO BOX 31 %IVA FADLEY*06	SPELTER	WV	26438
14	34	11-02 34	158-B ST - PO BOX 181	SPELTER	WV	26438
15	35	11-02 35	158-B ST - PO BOX 181	SPELTER - Haywood	WV	26438-26366
16	36	11-02 36	PO BOX 134 - PO Box 324	SPELTER - Hepzibah	WV	26438-26366
17	37	11-02 37	PO BOX 134 - PO Box 324	SPELTER - Hepzibah	WV	26438-26369
18	38	11-02 38	PO BOX 134	SPELTER	WV	26438
19	39	11-02 39	PO BOX 128 %LLOYD PARKER	SPELTER	WV	26438
20	42	11-02 42	PO BOX 148	SPELTER	WV	26438
21	44	11-02 44	PO BOX 42	SPELTER	WV	26438
22	45	11-02 45	PO BOX 133	SPELTER	WV	26438
23	46	11-02 46	PO BOX 133	SPELTER	WV	26438
24	51	11-02 51	PO BOX 133	SPELTER	WV	26438
25	51	11-02 51	PO BOX 48	SPELTER	WV	26438
26	54	11-02 54	PO BOX 48	SPELTER	WV	26438
27	55	11-02 55	PO BOX 44	SPELTER	WV	26438
28	59	11-02 59	PO BOX 44	SPELTER	WV	26438
29	60	11-02 60	PO BOX 96	SPELTER	WV	26438
30	61	11-02 61	PO BOX 96	SPELTER	WV	26438
31	99	11-02 99	207 B STREET	SPELTER	WV	26438
32	100	11-02 100	898 EAST AVE	SPELTER	WV	26438
33	101	11-02 101	SHINNISTON	SPELTER	WV	26438
34	102	11-02 102	PO BOX 118	SPELTER	WV	26431
35	103	11-02 103	PO BOX 118	SPELTER	WV	26438
36	104	11-02 104	PO BOX 118	SPELTER	WV	26438
37	105	11-02 105	PO BOX 6	SPELTER	WV	26438

FROM: PRO Aug. 31, 2011 10:42AM

(WED) AUG 31 2011 10:55/ST. 10:52/No. 8300723563 P 11  
 No. 0051 P. 11  
 (TUE) AUG 16 2011 13:09/ST. 13:07/No. 8300720481 P 14

	D	E	F	H	I	J	K
38	11-02	106	11-02 106	PO BOX 6	SPELTER	WV	26438
39	11-02	107	11-02 107	PO BOX 6	SPELTER	WV	26438
40	11-02	108	11-02 108	PO BOX 6	SPELTER	WV	26438
41	11-02	109	11-02 109	PO BOX 6	SPELTER	WV	26438
42	11-02	110	11-02 110	BOX 167	SPELTER	WV	26438
43	11-02	111	11-02 111	BOX 167	SPELTER	WV	26438
44	11-02	112	11-02 112	BOX 167	SPELTER	WV	26438
45	11-02	114	11-02 114	PO BOX 85	SPELTER	WV	26438
46	247	59.2	247 59.2	PO BOX 135	SPELTER	WV	26436

**Letter to Be Sent to Upper  
B Street Property Owners**

**PERRINE DUPONT SETTLEMENT  
SPELTER VOLUNTEER FIRE DEPARTMENT CLAIMS OFFICE  
55 B. STREET  
P.O. BOX 257  
SPELTER, WV 26438  
304-622-7443  
1-800-345-0837  
www.perrinedupont.com  
perrinedupont@gtandslaw.com**

\_\_\_\_\_, 2011

John Doe  
PO Box XXX  
Spelter, WV 26438  
Parcel Tax ID

Re: Perrine, et al. v. DuPont, et al.;  
Civil Action No. 04-C-296-2 (Circuit Court of Harrison County, West  
Virginia) - The Claims Administrator's Proposed Possible Property Program  
Design Zone 1A/Zone 1B-2 Adjustment;  
Our File No. 4609-1{DD-3}

Dear Claimant,

The purpose of this letter is to update you with respect to your Settlement and to ask for your help.

Your property is one of 24 properties located along Upper B Street in Spelter (the "Upper B Street Properties") that is not in Zone 1A and is currently not eligible for soil testing and soil clean-up if necessary.

The Zone 1A boundary line was established by Dr. Kirk Brown, an expert utilized in the litigation of this case, with the Court subsequently adopting Dr. Brown's Report in the June 27, 2011 Property Remediation (Clean-Up) Order.

Due to the proximity of the Upper B Street Properties to the Zinc Smelter Site, and based on concerns of property owners such as you, we have asked the Court for permission to soil test the

Exhibit A

Upper B Street Properties for heavy metals contamination, to determine if there is or is not a significant difference in contamination of these properties compared to Zone 1A as a whole. After considering our concerns, the Court has Ordered that you can have your soil tested at the expense of the Settlement, and help us make this determination.

If you agree to this proposal, we will be contacting you to have your soil tested. We encourage you to be present for the soil test.

**BECAUSE OF THESE SPECIAL CIRCUMSTANCES, YOUR PROPERTY IS ONE OF ONLY 24 PROPERTIES IN THE ENTIRE CLASS AREA THAT IS NOT IN ZONE 1A AND IS HAVING SOIL TESTS PAID FOR BY THE SETTLEMENT.**

After your soil is tested, the results will be compared with the test results in Zone 1A as a whole. **If** the Upper B Street Properties soil is equally contaminated with that in Zone 1A, on average, we will recommend to the Court that your property be added to Zone 1A, that you receive a \$5,000 annoyance and inconvenience payment, and that any hazardous soil on your property be removed and replaced at the expense of the Settlement.

**If** the Upper B Street Properties are **not equally contaminated with Zone 1A, they will not be added to Zone 1A** and you will not receive soil clean-up or the \$5,000 annoyance and inconvenience payment, although we will share your soil test results with you and the comparison of the Upper B Street Properties test results with Zone 1A's soil test results.

This letter only applies to your soil. Your house is still eligible for testing and cleaning by the Settlement regardless of the soil test results. You are also entitled to \$500 for annoyance and inconvenience for testing of the house.

**IF YOU AGREE TO PARTICIPATE IN THIS VOLUNTARY UPPER B STREET PROPERTY SOIL TESTING PROGRAM, PLEASE CHECK THE YES BOX BELOW, AND RETURN THE EXTRA COPY OF THIS LETTER WE HAVE PROVIDED YOU IN THE ENCLOSED SELF-ADDRESSED AND STAMPED ENVELOPE.**

YES, I AGREE TO THE UPPER B STREET PROPERTY SOIL TEST.

Thank you for your consideration and patience.

Yours very truly,

Ed Gentle,  
Claims Administrator