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IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

v.

Case No. 04-C-2962
Judge Thomas A. Bedell

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

Defendants.

**FINAL ORDER DETERMINING THE FINAL SURPLUS PAYMENT PROGRAM
CALCULATIONS**

Presently before the Court in camera is the proposed breakdown of approved claims by Participating and Nonparticipating Properties along with the recommended calculation and disposition of payments under the Remediation Surplus Payment Program. The Claims Administrator, Ed Gentle, also filed a public Report with the Court on this matter on November 23, 2016, which is incorporated by reference and made part of the record herein.

Under the Remediation Surplus Payment Program, there are 1,269 participating and nonparticipating properties that comprise of 929 unique Claimant Units* for payment purposes.

Based on the budget calculations and the reserves for the remainder of the Property Remediation Program, the Claims Administrator has allocated \$3,729,396 for use in determining the initial surplus payments. Therefore, based on computations by the Claims Administrator, one payment share is equal to \$4,180. A Claimant Unit may qualify for a double payment share equaling \$8,360 if the Zone 1A property has both a house and soil that participated in the Property Remediation Program.

*A Claimant Unit is defined as the same group of individuals.

The Claims Administrator's proposed letter transmitting the surplus payment to each Claimant Unit is in Attachment A. This letter will break down how the Claims Administrator calculated and determined the share to be received for each Claimant Unit and will also enclose the same Questions and Answers for further explanation on the Remediation Surplus Payment Program. Since the surplus payment is to satisfy any remaining repairs or other claims that the Claimant Unit believes were caused by the Remediation Program, the Claims Administrator proposes that release language be included on the back of each check. See Attachment B.

In an effort to answer Claimant questions regarding the surplus payment program, the Claims Administrator will be at the Spelter Volunteer Fire Department on December 14 and 15, 2016, to distribute surplus payment checks. The Claims Administrator's proposed letter to the Claimants notifying them of this check distribution town meeting is in Attachment C.

After a careful review of the facts of the matter and of the pertinent law, the Court hereby **ORDERS** the following:

- 1) The Court approves the Claimant Payment Breakdown;
- 2) The Court approves the form of the letter to Claimants notifying them of the check distribution town meetings, with the remaining checks not picked up to be mailed via U.S. postal service;
- 3) The Court approves the form of the most frequently asked Questions and Answers;
and
- 4) The Court approve the form of the letter transmitting the surplus payment including the check release language.

Provided the Claims Administrator acts strictly in accordance with the protocols and the directives of this Order, he and his staff are granted Judicial Immunity.

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 for judgment.

IT IS SO ORDERED.

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

David B. Thomas
James S. Arnold
Thomas Combs & Spann, PLLC
P.O. Box 3824
Charleston, WV 25338-3824

Meredith McCarthy
901 W. Main St.
Bridgeport, WV 26330
Gardian Ad Litem

Virginia Buchanan
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591

Edgar C. Gentle, III
Claims Administrator
Gentle, Turner, Sexton & Harbison, LLC
P.O. Box 257
Spelter, WV 26437

Jacks Legal Group, P.L.L.C.
3467 University Ave, Suite 200
Morgantown, WV 26505

Order Prepared by:

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

Michael A. Jacks, Esq.
Jacks Legal Group, P.L.L.C.
W.Va. Bar No 11044
3467 University Ave, Suite 200
Morgantown, WV 26505

ENTER: November 28, 2016


Thomas A. Bedell, Circuit Judge

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

55 B Street
P. O. BOX 257
Spelter, West Virginia 26438
(304) 622-7443
(800) 345-0837
www.perrinedupont.com
perrinedupont@gtandslaw.com

December 14, 2016

VIA U.S. MAIL
CONFIDENTIAL

Claimant Unit
Claimant Unit Address
Claimant Unit Address

**Re: The Perrine DuPont Settlement - Property Remediation Program Surplus
Dividend Payment; Our File No. 4609-1{DD-89}**

**Parcel ID: PROPERTY 1 HOUSE/SOIL PARTICIPATING/NON
PROPERTY 2 HOUSE/SOIL PARTICIPATING/NON**

Dear Claimant:

I hope that you are well.

Enclosed is your payment of \$_____ under the Court approved Final Order Determining the Use and Distribution of the Remediation Fund Surplus dated July 13, 2016 (the "Dividend Order") and Amendments therewith. A copy of which can be found on our website.

The surplus dividend payment of one share is equal to \$4,180. The breakdown of your surplus dividend payment is as follows, with each applicable box checked for your reference in determining the calculation of your payment under the surplus payment program rules. Please note that if you own(ed) multiple participating and/or nonparticipating properties, the property with the largest share will take precedence and is reflected in the boxes checked below. Also, please see the attached Q & A for further definitions and explanation.

- Nonparticipating Claimant
- Property not sold or transferred while alive between November 1, 2011 and July 13, 2016
- Property sold or transferred while alive between November 1, 2011 and July 13, 2016
- Original Registered Owner - 20% of a one-fifth share
- Owner as of July 13, 2016 - 80% of a one-fifth share

- Zone 1A participating house and soil property
 - Property not sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Property sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Received Initial Annoyance and Inconvenience Payment - 20% of a double share
 - Received Final Annoyance and Inconvenience Payment - 80% of a double share

- Zone 1A participating house property
 - Property not sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Property sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Received Initial Annoyance and Inconvenience Payment - 20% of one share
 - Received Final Annoyance and Inconvenience Payment - 80% of one share

- Zone 1A participating soil property
 - Property not sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Property sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Received Initial Annoyance and Inconvenience Payment - 20% of one share
 - Received Final Annoyance and Inconvenience Payment - 80% of one share

- Zone 1B, 2 and 3 participating house property
 - Property not sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Property sold or transferred while alive between November 1, 2011 and July 13, 2016
 - Received Initial Annoyance and Inconvenience Payment - 20% of one share
 - Received Final Annoyance and Inconvenience Payment - 80% of one share

Please be advised that this payment is considered income and may be subject to State and Federal income taxes. We will be sending you a Federal Form 1099 with respect to this payment if this payment and any additional payment you receive this year for the Property Remediation Program total \$600 or more. It may be advisable for you to make an estimated tax payment to the Internal Revenue Service and to the West Virginia Department of Revenue in connection with this payment. You may want to consult a tax professional for advice about the tax consequences of this payment to you under your personal circumstances. See enclosed IRS Statement.

This letter shall confirm that payment of this amount may eliminate your eligibility or otherwise negatively affect your ability to receive State or Federal benefits, such as social security, unemployment compensation, welfare, food stamps or other Governmental programs. However, we are not in a position to advise you of the legal consequences that may result in your accepting this payment. Before you accept this payment, you may wish to consult with an attorney about the consequences of doing so. If you do not have an attorney who can advise you of these matters, you may contact the West Virginia State Bar at (304) 558-2456, who should be able to refer you to an attorney.

If you have any questions, feel free to stop by our office at the Spelter Volunteer Fire Department or call us at (304) 622-7443, and we will answer your questions.

Thank you for the opportunity to administer this Settlement.

Yours very truly,

Edgar C. Gentle, III
Claims Administrator

ECGIII/jlb

Surplus Payment Questions and Answers

What is a Claimant Unit?

A Claimant Unit is defined as the same group of individuals.

What is a nonparticipating property?

A nonparticipating property is defined as a property, at the option of the claimant owners, that did not participate in the Property Remediation Program. A property is a nonparticipating property if a claim form was filed, the property tested with remediation levels of heavy metals, and it was not remediated.

What is a participating property?

A participating property is defined as a property that participated in the Property Remediation Program. A property is a participating property if a claim form was filed, the property (house or soil) was tested, and either (i) it tested clean and was paid; or (ii) it tested with remediation levels of heavy metals and was subsequently remediated.

Is the surplus payment made on a per claimant unit or per property basis?

The share of the surplus dividend distribution shall be paid per Claimant Unit, regardless of the number of participating or nonparticipating properties owned by each Claimant Unit. Although, these payments are distributed by Claimant Unit, shares are calculated based on whether a Claimant Unit owned or owns a participating and/or nonparticipating property, with participating properties taking precedence when a Claimant Unit owns more than one property, as those shares, as defined below, are larger.

What is the amount of the surplus payment?

One share of the surplus dividend payment is \$4,180.

What share of the surplus payment will I receive if I have a participating property in Zone 1A?

Zone 1A properties that had both a house and a soil property will receive a double share, \$8,360 ($\$4,180 \times 2 = \$8,360$). If a Zone 1A property had only house or soil remediated, not both, then the participating property will receive one share.

What share of the surplus payment will I receive if I have a participating property in Zone 1B, 2 or 3?

Zones 1B, 2 and 3 will receive one share.

Surplus Payment Questions and Answers

What share of the surplus payment will I receive if I have a nonparticipating property?

Nonparticipating properties will receive a one-fifth share, \$836 ($\$4,180 \times 1/5 = \836), no matter what Zone the property is in.

How will the surplus payment be distributed if I sold or transferred while alive my participating property before the date of the Dividend Order, July 13, 2016?

If the property was sold or transferred while alive between November 1, 2011 and July 13, 2016, the distribution of the surplus payment for participating properties is as follows: (i) 20% of the surplus share shall be paid to the owners of the property at the time of the initial 20% annoyance and inconvenience payment, and (ii) 80% of the surplus share shall be paid to the owners of the property at the time of the final 80% annoyance and inconvenience payment.

How will the surplus payment be distributed if I sold or transferred my participating property after the date of the Dividend Order, July 13, 2016?

If a participating property was sold after the 80% annoyance and inconvenience payment was made, then the subsequent owners are not entitled to any share of the surplus payment.

How will the surplus payment be distributed if I sold or transferred while alive my nonparticipating property after it was registered and tested for contaminants?

If the nonparticipating property was sold or transferred while alive after the property was registered and tested for contaminants, the distribution of the surplus payment is as follows: (i) 20% of the one-fifth share shall be paid to the owners of the property at the time the property was tested for contaminants and the initial 20% annoyance and inconvenience payment was made, and (ii) 80% of the one-fifth share shall be paid to the owners as of the date of the Dividend Order, July 13, 2016.

How will the surplus payment be distributed if I sold or transferred my nonparticipating property after the date of the Dividend Order, July 13, 2016?

If a nonparticipating property was sold after the date of the Dividend Order, July 13, 2016, then the subsequent owners after that date will not be entitled to a share of the surplus payment.

What share of the surplus payment will I receive if I own multiple participating and/or nonparticipating properties?

A Claimant Unit that owns multiple participating and/or nonparticipating properties in the same Zone or different Zone(s) will only be eligible to receive the share(s) associated with the property that provides the largest payment. Each Claimant Unit is entitled to a maximum dividend of up to 1 share for participating properties, and Zone 1A properties, up to 2 shares for participating properties. When there are multiple partial shares, the largest payment for the Claimant Unit will take precedence.

Surplus Payment Questions and Answers

Why is my property not included in the surplus payment program?

If you owned a property that did not qualify for the Property Remediation Program because it was out of the Class Area, or subject to the Grasselli deed exclusion, or publicly owned, or previously denied eligibility by the Court, and so on, the property is not eligible to participate in the surplus payment program, and therefore will not be listed on any correspondence regarding the surplus payment program.

What should I do with the surplus payment if a Claimant on the check is deceased?

Please return the original check back to us along with a copy of the death certificate, will and probate papers, if available, along with your name, address, and contact phone number to our Alabama Office at Perrine DuPont Settlement, 501 Riverchase Parkway East, Suite 100, Hoover, AL 35244. If those documents are not available or if you have questions, please call the claims office at (800) 345-0837 so we may discuss further.



Settlements — Taxability

If you receive proceeds from settlement of a lawsuit, you may have questions about whether you must include the proceeds in your income. This publication provides information about whether you must include the proceeds of certain kinds of settlements in your income. Whether you must include the settlement proceeds in your income depends on all the facts and circumstances in your case.

A settlement payment may consist of multiple elements that have been allocated by the parties. For example, an agreement may include allocations to back pay, emotional distress, and attorneys' fees. Generally, the IRS will not disturb an allocation if it is consistent with the substance of the settled claims.

Personal physical injuries or physical sickness

- If you receive a settlement for personal physical injuries or physical sickness and did not take an itemized deduction for medical expenses related to the injury or sickness in prior years, the full amount is non-taxable. Do not include the settlement proceeds in your income.

BUT

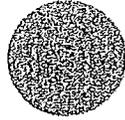
- If you receive a settlement for personal physical injuries or physical sickness, you must include in income that portion of the settlement that is for medical expenses you deducted in any prior year(s) to the extent the deduction(s) provided a tax benefit. If part of the proceeds is for medical expenses you paid in more than one year, you must allocate on a pro rata basis the part of the proceeds for medical expenses to each of the years you paid medical expenses. See Recoveries in [Publication 525](#) for details on how to calculate the amount to report. The tax benefit amount should be reported as "Other Income" on line 21 of [Form 1040](#).

Emotional distress or mental anguish

- The proceeds you receive for emotional distress or mental anguish originating from a personal physical injury or physical sickness are treated the same as proceeds received for Personal physical injuries or physical sickness above.

BUT

- If the proceeds you receive for emotional distress or mental anguish do not originate from a personal physical injury or physical sickness, you must include them in your income. However, the amount you must include is reduced by: (1) amounts paid for medical expenses attributable to emotional distress or mental anguish not previously deducted and (2) previously deducted medical expenses for such distress and anguish that did not provide a tax benefit. Attach to your return a statement showing the entire settlement amount less related medical costs not previously deducted and medical costs deducted for which there was no tax benefit. The net taxable amount should be reported as "Other Income" on line 21 of [Form 1040](#).



Settlements — Taxability (continued)

Lost wages or lost profits

- If you receive a settlement in an employment-related lawsuit; for example, for unlawful discrimination or involuntary termination, the portion of the proceeds that is for lost wages (i.e., severance pay, back pay, front pay) is taxable wages and subject to the social security wage base and social security and Medicare tax rates in effect in the year paid. These proceeds are subject to employment tax withholding by the payor and should be reported by you as "Wages, salaries, tips, etc." on line 7 of Form 1040.
- If you receive a settlement for lost profits from your trade or business, the portion of the proceeds attributable to the carrying on of your trade or business is net earnings subject to self-employment tax. These proceeds are taxable and should be included in your "Business income" reported on line 12 of Form 1040. These proceeds are also included on line 2 of Schedule SE (Form 1040) when figuring self-employment tax. For more information about reporting self-employment income and paying self-employment tax, see Publication 334, Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ).

Loss-in-value of property

- Property settlements for loss in value of property that are less than the adjusted basis of your property are not taxable and generally do not need to be reported on your tax return. However, you must reduce your basis in the property by the amount of the settlement.
- If the property settlement exceeds your adjusted basis in the property, the excess is income. For more information, see the Instructions for Schedule D, (Form 1040) Capital Gains and Losses and the Instructions for Form 4797, Sales of Business Property.

Interest: Interest on any settlement is generally taxable as "Interest Income" and should be reported on line 8a of Form 1040.

Punitive Damages: Punitive damages are taxable and should be reported as "Other Income" on line 21 of Form 1040, even if the punitive damages were received in a settlement for personal physical injuries or physical sickness.

Some settlement recipients may need to make estimated tax payments if they expect their tax to be \$1,000 or more after subtracting credits & withholding. Information on estimated taxes can be found in IRS Publication 505, Tax Withholding and Estimated Tax, and in Form 1040-ES, Estimated Tax for Individuals.

For additional information, see Publication 525, Taxable and Nontaxable Income, visit our website at www.irs.gov, or call toll-free at 1-800-829-1040.

Important Note about Health Insurance Coverage. If you, your spouse, or your dependent enrolled in health insurance coverage through the Health Insurance Marketplace and advance payments of the premium tax credit were made to the insurance company, let the Marketplace know if you have a change in circumstances such as a change in income. Reporting changes will help you get the proper type and amount of financial assistance so you can avoid getting too much or too little assistance in advance. Find out more about the tax-related provisions of the health care law at IRS.gov/aca. See IRS Publication 5121, Need help paying for health insurance premiums? and Publication 5152, Report changes to the Marketplace as they happen.

All of the forms and publications referenced in this publication are available from the IRS at www.irs.gov. Paper copies can be ordered by calling 1-800-829-3676 (1-800-TAX-FORM).

Attachment B

By endorsing this check, I agree that the Property Clean-Up portion of this Settlement, with respect to my house property and/or soil property, is completed. If my property was remediated, I am satisfied with the remediation with no further work and/or repairs to be done by the Settlement, and this check satisfies any remaining repairs or other claims I believe were caused by the Property Remediation Program.

By endorsing this check, I agree that the Property Clean-Up portion of this Settlement, with respect to my house property and/or soil property, is completed. If my property was remediated, I am satisfied with the remediation with no further work and/or repairs to be done by the Settlement, and this check satisfies any remaining repairs or other claims I believe were caused by the Property Remediation Program.

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By endorsing this check, I agree that the Property Clean-Up portion of this Settlement, with respect to my house property and/or soil property, is completed. If my property was remediated, I am satisfied with the remediation with no further work and/or repairs to be done by the Settlement, and this check satisfies any remaining repairs or other claims I believe were caused by the Property Remediation Program.

Attachment C

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE
55 B Street
P. O. BOX 257
Spelter, West Virginia 26438
(304) 622-7443
(800) 345-0837
www.perrinedupont.com
perrinedupont@gtandslaw.com

December 2, 2016

VIA U.S. MAIL
CONFIDENTIAL

Claimant Unit
Claimant Unit Address
Claimant Unit Address

Re: **The Perrine DuPont Settlement - Property Remediation Program Surplus Dividend; Our File No. 4609-1{DD-89}**

Parcel ID: **PROPERTY 1 HOUSE/SOIL PARTICIPATING/NON
PROPERTY 2 HOUSE/SOIL PARTICIPATING/NON**

Dear Claimant:

I hope that you are well.

The Court has approved the dividend surplus payments. Therefore, we will have two days for you to pick up your dividend surplus payment, Wednesday, December 14, 2016 and Thursday, December 15, 2016 from 8:30a.m. to 12:00p.m. and 2:00p.m. to 5:00 p.m., each day, at the Spelter Volunteer Fire Department meeting hall.

Please see the attached Q & A for further definitions and explanation.

You may pick up your check at the Spelter Volunteer Fire Department meeting hall during the times above by showing photo identification and telling us the social security number for the first person listed on this correspondence. If you do not have photo identification or know the correct social security number, we will not be able to give the check to you. If your check has not been picked up by Thursday evening, it will be mailed to the name and address listed above. We look forward to seeing you then.

If you have any questions, feel free to call us at (304) 622-7443, and we will answer your questions.

Thank you for the opportunity to administer this Settlement.

Yours very truly,


Edgar C. Gentle, III
Claims Administrator

ECGIII/jlb

STATE OF WEST VIRGINIA
COUNTY OF HARRISON, TO-WIT:

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18th
Family Court Circuit of Harrison County, West Virginia, hereby certify the
foregoing to be a true copy of the ORDER entered in the above styled action
on the 28 day of November, 2016.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix

Seal of the Court this 28 day of November, 2016.

Donald L Kopp II JWC
Fifteenth Judicial Circuit & 18th Family Court
Circuit Clerk
Harrison County, West Virginia