



IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al., individuals  
residing in West Virginia, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

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

E.I. DU PONT DE NEMOURS AND COMPANY, et al.,

Defendants.

ORDER PROVIDING GUIDANCE RESPECTING  
PROPERTY REMEDIATION PROGRAM ISSUES

Presently before the Court is the Claims Administrator's March 26, 2013, Report, which seeks the Court's guidance concerning three issues respecting the Property Remediation Program (the "Program").

The three matters requiring the Court's guidance are (i) a requested adjustment to the previous Court-approved April 9, 2012 Working Budget for the Program based upon an increase in the number of houses and commercial structures to be remediated and an increase in soil remediation costs; (ii) proposed Program road repairs and improvements; and (iii) proposed 2012 Replacement Soil Enhancement Procedures and proposed Supplemental Replacement Soil Testing Procedures.

After due and proper notice, this matter came on to be heard on Friday, April 5, 2013 at 2:30 p.m. Appearing were the Settlement Administrator, the Finance Committee, Representative for DuPont, James S. Arnold, Esq., Meredith H. McCarthy, Esq., the Guardian *ad litem* for Minor and Incompetent Claimants, and Cy A. Hill, Esq., Counsel for NCM Demolition and Remediation ("NCM"). Also appearing were Michael

A. Jacks, Esq., the Executive Director for the Settlement Claims Office, Diandra S. Debrosse-Zimmerman, Esq., the Settlement Administrator's law partner, Mr. Billy Sublett, the Settlement Construction Supervisor, Mr. Marc Glass and Mr. Duane Truax the Remediation and Soil Experts for the Settlement, and Dr. Eugenia M. Penayewtukhiw, NCM's Soil Expert.

The Court considered the submissions of the Settlement Administrator, the Finance Committee, the Guardian *ad litem*, and NCM, and took such testimony as the Court deemed to be appropriate

After careful review of the Claims Administrator's report, and in consideration of applicable law, the Court makes the following findings and decisions:

1. The Court hereby approves the requested adjustment to the Working Budget for the Program.
2. The Court approves the proposed Road Repair and Improvement Program and Related Budget in the Report.
3. The Court hereby approves the 2012 Replacement Soil Enhancement Procedures and Supplemental Soil Replacement Procedures described in Exhibit A, subject to their being finalized by the experts for the Settlement and NCM and approved by this Court in a subsequent Order.

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 for judgment.

**IT IS SO ORDERED.**

Finally, it is **ORDERED** that the Clerk of this Court shall provide certified copies

of this Order to the following:

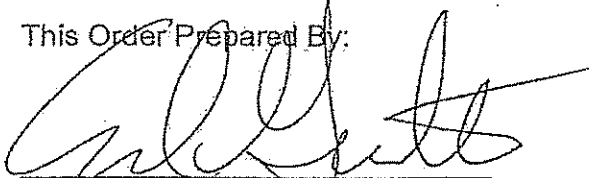
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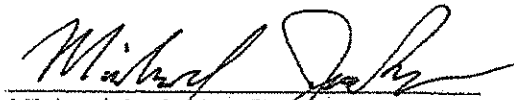


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Thomas A. Bedell, Circuit Judge

April 12, 2013

The Perrine DuPont Settlement - Soil Remediation Remedy for Old and New Soil

Below is the remedy for Old and New Soil.

I. New Soil

For the remaining approximately 140 soil properties still to be remediated, the Settlement, at its expense, at the same time that the new soil is tested for contaminants and, to the extent practicable, as rapidly as contaminant testing is conducted, will sample the new soil to confirm that it is sandy loam, loam or silt loam, in accordance with the USDA soil classification system ("Compliant Soil"). If the soil fails the test, the remedies of the current Agreement pertaining to soil failing contaminants testing apply. NCM's and the Settlement's experts will reasonably agree to the Compliant Soil Testing Procedures, and NCM's experts are drafting them for review by the Settlement's experts.

II. Old Soil

For the approximately 92 properties (the Settlement and NCM will reasonably agree to the list of such properties) whose soil was remediated during the 2012 season, the following terms apply:

1. For soils that are subjected to the below described optional old soil testing, based upon voluntary Claimant participation and are found to be non-Compliant Soil, only, NCM shall extend the sod warranty under the current Agreement to November 15, 2014.

2. NCM and the Settlement, using a script reasonably agreed to, will notify all Claimants who received soil remediation during 2012 of the soil quality issue, and will meet with the impacted Claimants to offer optional testing and optional aeration and sanding using procedures reasonably agreed to by NCM's and the Settlement's soil experts, to promote long term successful sod growth (the "Soil Enhancement Procedures"). The Settlement's experts and NCM's experts will reasonably agree to the Soil Enhancement Procedures. They have one sand application. The Settlement's experts are drafting the Soil Enhancement Procedures for review by NCM's experts.

3. Claimants who opt to have their soil tested will be paid a \$50 annoyance and inconvenience fee by the Settlement. The deadline for Claimants to sign up for optional testing is November 30, 2013. If the testing results show non-Compliant Soil, then NCM will pay the reasonable costs of such testing. If the testing results show Compliant Soil, then the Settlement will pay the reasonable costs of such testing. For each claimant who opts to have their yard tested and has test results that indicate the soil is not sandy loam, loam, or silt loam, in accordance with the USDA soil classification system (the "non-Compliant Soil"), NCM will provide, at the Claimant's option, the Soil Enhancement Procedures.

Exhibit A to  
The Court's Order

To the extent practicable, the Soil Enhancement Procedures will be administered once in the Spring and once in the Fall. Claimants with non-Compliant Soil, based on testing, who agree to receive the Soil Enhancement Procedures will receive an annoyance and inconvenience payment of \$175 for each of the two (2) procedures, to be paid by the Settlement and reimbursed by NCM.

III. Court Approval of Compliant Soil Testing Procedures and Soil Enhancement Procedures Required

After the Settlement and NCM reasonably agree to the Compliant Soil Testing Procedures and the Soil Enhancement Procedures, the Settlement shall submit them to the Court for review and possible approval.

The above remedy shall become effective only upon Court approval of such procedures.

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18<sup>th</sup>  
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 22 day of April, 2013.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix  
the Seal of the Court this 22 day of April, 2013.

Donald L. Kopp II  
Fifteenth Judicial Circuit & 18<sup>th</sup> Family Court  
Circuit Clerk  
Harrison County, West Virginia