

PERRINE DUPONT SETTLEMENT
SPELTER VOLUNTEER FIRE DEPARTMENT CLAIMS OFFICE

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February 27, 2014

VIA HAND DELIVERY

The Honorable Thomas A. Bedell
Circuit Judge of Harrison County
301 West Main Street, Room 321
Clarksburg, West Virginia 26301

Re: Perrine, et al. v. DuPont, et al.;
Civil Action No. 04-C-296-2 (Circuit Court of Harrison County, West Virginia) -
Settlement Property Remediation Program - Update on the Zone 1A Proposed
Road Repair and Improvement Plan; Our File No. 4609-1 {DD-48}

Dear Judge Bedell:

We hope this letter finds the Court well.

I. OVERVIEW - ZONE 1A ROAD REPAIR AND IMPROVEMENT PLAN

I am writing to provide the Court with an updated Report regarding the Zone 1A Proposed Road Repair and Improvement Program, which will be paid for by the Road Repair line item in the Settlement Property Remediation Program's Court-approved budget.

During our soil remediation process in Spelter and in the rest of Zone 1A, some damages have occurred to road surfaces due to the use of heavy equipment. We have had concerns about water drainage and road damages raised by some area residents.

To respond to these concerns, we have worked with the West Virginia Department of Highways (the "WVDOH"), regarding the following list of proposed repairs and improvements to existing roadways in Zone 1A. The WVDOH has jurisdiction over all of the public roads in Zone 1A, with the exception of the alleys.

Our plan below, subject to Court approval, is to conduct the majority of these repairs and improvements at the conclusion of the Settlement Property Remediation Program in Zone 1A, with repairs to Fourth Street to begin as soon as possible. Thereafter, once we have completed remediation in an area we will work on road, drain, and alley repairs in that area. Once all of the remediation is complete in Zone 1A, we will resurface the roads, as described below.

We are currently scheduled to continue soil remediation in Zone 1A during the spring, summer, and possibly fall, depending on circumstances, of 2014.

The following is a proposed list of storm drains, alleys, and roads that could be included in the Zone 1A Road Repair and Improvement Program, pending Court approval.

II. PROPOSED ZONE 1A DRAIN REPAIRS AND INSTALLATION

The first projects to be completed under the Road Repair and Improvement Program would be underground and roadside storm drain systems, with our recommending that repairs to Fourth Street to begin as soon as possible.

- A. **Fourth Street Drain Repair and Installation.** Your Claims Administrator proposes and recommends that improvements and repairs to Fourth Street be completed first, as soon as possible. On Fourth Street, there are two clogged drains near the middle of the street. Because the drains do not function, the street floods during heavy precipitation and standing water lasts for several days. It is proposed that the collapsed and/or clogged drainage system below Fourth Street be replaced and additional drainage system installed to run to the North under "B" Street and down the hill in the ravine between Third Street and Fourth Street, County Route 19/9.

The Settlement proposes to pay for the materials for this task, with the WVDOH to perform the work and provide the inspection services. Please find attached correspondence with the WVDOH outlining the proposed scope of repairs in **ATTACHMENT A**. The WVDOH has surveyed this area and drawn up plans for the work. Accordingly, please find attached a Letter Agreement with the WVDOH in **ATTACHMENT B**, which outlines the responsibilities of both the Settlement and the WVDOH, and includes an estimated amount of \$9,773.41 for materials to be paid by the Settlement, should the Court approve the proposed Fourth Street repairs. Based on the Letter Agreement, the WVDOH will be responsible for the labor and management costs, as well as any unforeseen costs.

- B. Repair and Enlarge Second Street Drains and Alley Between "A" Street and "B" Street. The Second Street Alley storm drain would be enlarged and repaired and an additional drain will be installed across the street. The WVDOT is planning to work with the Settlement to correct the drainage. Pending Court approval, the Settlement would agree to purchase the materials and assist the WVDOT due to the extent of the damage caused to the existing drain by the delivery and shipping of soil remediation materials. The estimated cost for the drain repairs to the Settlement is \$12,000.
- C. Repair the drain at the corner of "A" Street and Third Street. This trench drain has suffered some damage in the inside of the curve due to the weight of passing heavy-load vehicles. Pipe replacement and proper end basins would be required to repair the drain. The estimated cost for pipe replacement and end caps is estimated at \$7,000, which the Settlement proposes to pay subject to Court approval. The WVDOT would perform the work because the drain is in a street over which they have jurisdiction.
- D. Clean and Repair the drain at the corner of "C" Street and Third Street. This drain has also suffered some damage in the inside of the curve. The replacement of the drain intake on the inside of the curve should solve the issue and is estimated to cost \$2,000, which the Settlement proposes to pay, subject to Court approval. The WVDOT would perform the work because the drain is in a street over which they have jurisdiction.
- E. Install Drain Under "B" Street. Water is crossing "B" Street at the intersection of the alley between Fourth Street and Fifth Street and appears to be originating on the southwest side of the intersection and crossing the street diagonally toward Sixth Street. This water is of unknown origin and flows most of the year across "B" Street causing a dangerous condition during periods of freezing temperatures. There is no apparent connection between this issue and the Settlement remediation efforts, but concern has been voiced by some of our claimants. This issue appears to have pre-dated Settlement presence in the area. No formal estimate has been prepared on this issue; however, the solution should be similar to others in the area costing the Settlement approximately \$4,000, including the installation of a drain under "B" Street by the WVDOT.
- F. Repair Drain Under Sixth Street and "B" Street Intersection. The large drain crossing "B" Street near Sixth Street purportedly has been damaged by the remediation efforts. Repairs to this large drain system could cost the Settlement as much as \$50,000 or more. Inspection of this drain by an engineer has not yet been performed and allegations of damages have not yet been verified by Settlement Staff.

The drain appears to be functioning as intended at this time, and does not appear to be damaged, but some claimants have voiced concerns about the drain.

- G. Install Drain Under Seventh Street intersection with "B" Street. Water traveling down the graveled road identified as Seventh Street is passing water across "B" Street and resulting in water damage in one claimant's basement. No Settlement remediation has been performed in this area yet, but the complaint has been placed with the Settlement Office. A rough estimated cost would be \$8,000, although this drainage issue clearly pre-dated Settlement remediation efforts.
- H. Install Drain Upper "B" Street. Water is crossing upper "B" Street, similar to the issue discussed in paragraph G above, at the Seventh Street intersection. No Settlement remediation has been performed in this area yet. A rough estimated cost would be placed at \$8,000, although this concern clearly pre-dated Settlement remediation efforts.
- I. Install Additional Drain On Lower "A" Street. There is one existing drain across lower "A" Street which is not functioning as intentioned where new sod placement near "A" Street has been blamed for redirecting the flow of drainage. The complaint alleges that the water that would have entered the existing drain on the north side of the road is being redirected by the new sod to follow the south edge of the road and is causing erosion in the area near the area where a claimant parks vehicles and further down the road past the gate and near the sewage plant. No investigations have been performed by a licensed West Virginia engineer on this site. The potential solution requested by the claimant is the addition of a storm water inlet drain on the south side of "A" Street to be connected to the existing storm drain pipe. The estimated cost for this repair is \$2,000. Soil remediation is not yet complete in this area so this repair would be conducted in 2014.

III. PROPOSED ZONE 1A ALLEY REPAIRS AND DRAINAGE CONCERNS

The alleys in Spelter are covered in gravel. Most have already had grading performed and gravel installed by NCM after remediation efforts were performed on properties adjacent to the alleys. The alleys are public right of ways, but are considered "orphan roads," per Terri Schulte of the Harrison County Planning Commission, and the County and State will not expend funds to work on orphan roads. Therefore there are no public funds for maintenance of the alleys, and they are normally not maintained, unless area residents do so on their own. The Settlement and NCM have replaced and installed additional gravel on all of the alleys where work has been performed. Additional gravel has been installed in some alleys on multiple occasions as needed for continued maintenance.

- A. The alley extending from "B" Street. This alley has been resurfaced with gravel by NCM after the last remediation work was performed in 2012. The only current rough area is where cars enter "B" Street, where there is a rough gravel to asphalt meeting. Estimated cost to smooth intersection is \$300.
- B. The Second Street Alley. A request has been made to install underground drainage to better control water flow and provide good access to home owners. An engineered solution has been provided to the Settlement Office for consideration by Doug Forni of Thrasher Engineering. The estimated cost to install the proposed drain system is \$30,000. This repair cannot be completed until the Second Street drains, mentioned above, are enlarged and repaired on the downhill end of the alley.
- C. 3½ Street Alley South. 3½ Street Alley South has been resurfaced and is considered complete. Additional concerns may involve drainage along the alley but appear to involve continued maintenance and are not related to remediation efforts.
- D. 3½ Street Alley North. Complaints have been received by the Settlement Office concerning additional traffic and rough surface conditions on the north end and drainage issues toward the south end of 3½ Street Alley North. This alley is behind the old Spelter Fire Department Building, which NCM rents from the Fire Department and uses as its office. NCM has been providing continued maintenance of this alley because they continue to use it, and NCM has provided additional gravel on an as-needed basis, which should continue.
- E. 4½ Street Alley South. The "B" Street end of the 4½ Street Alley South allows gravel to migrate into the road with normal usage. The south end has large stone that at least one claimant has complained damaged his car. The Settlement's position is that the stone size is appropriate for traffic conditions and to control erosion. Accordingly, the Settlement does not recommend any further work on this alley at this time.
- F. 4½ Street Alley North. 4½ Street Alley North was recently used for remediation and has received a surface coating of crushed stone. No further efforts are planned because remediation has been completed on the properties adjacent to this alley.
- G. Alley in Erie. One alley in Erie may have been damaged during the soil remediation process. We plan to resurface it when we finish work in that area during the summer of 2014.
- H. Second Street Alley. Additional grading and correction of drainage was performed by NCM during 2012 and 2013. New gravel has been installed on multiple

occasions. No further actions are planned, although installation of the drainage system in the Second Street Alley will be adjacent to this alley.

IV. PROPOSED ZONE 1A MAIN ROADWAY RESURFACING

Some Claimants have brought concerns to the Settlement staff about damages to the roads throughout Zone 1A, which can be remedied by resurfacing and will prevent later development of potholes or more significant cracks or road damages. Below are estimated tonnage values for resurfacing the main streets in Zone 1A with two inches of asphalt. Our estimated installation cost is \$80 per ton, which is based on the WVDOH's estimates. The WVDOH has agreed to inspect the work and to provide contractors to do the work under existing WVDOH contracts, although the Settlement will pay for the work unless otherwise noted herein.

- A. "B" Street. "B" Street, in Spelter, a.k.a. County Route 19/33, with 50', 24', and 15' pavement widths, will require approximately 1,300 tons of paving material, or \$104,000. "B" Street runs from Route 19 across the bridge into Spelter and up on to the hill above Spelter, where it dead ends.
- B. First Street. First Street, in Spelter, a.k.a. County Route 19/90, with a 14' pavement width, will require approximately 90 tons of paving material, or \$7,200. First Street is immediately on your left when entering Spelter on "B" Street from Route 19.
- C. Second Street. Second Street, in Spelter, a.k.a. County Route 119/91, with a 17' pavement width, will require approximately 70 tons of paving material, or \$5,600. Second Street is the second left when entering Spelter on "B" Street from Route 19, and it runs to "A" Street.
- D. "A" Street. "A" Street, and Third Street between "A" Street and "B" Street, in Spelter, a.k.a. County Route 119/11, with a 16' pavement width, will require approximately 300 tons of paving material, or \$24,000. This County Route runs from the West end of "A" Street through the intersection of "A" Street and Third Street, along Third Street to the intersection of Third and "B" Street.
- E. Fourth Street. Fourth Street, in Spelter, a.k.a. County Route 119/9, with a 16' pavement width will require approximately 130 tons of paving material, or \$10,400. Fourth Street intersects with "B" Street in the middle of Spelter.
- F. Third Street. Third Street, "C" Street, and Fifth Street, in Spelter, a.k.a. County Route 119/10, with a 17' pavement width, will require approximately 300 tons of paving material, or \$24,000. This County Route runs from the intersection of "B" and Third Street along Third Street to the intersection of Third and "C" Street,

continuing along "C" Street through the intersection of "C" and Fifth Street, then along Fifth Street to the intersection of Fifth Street and "B" Street.

- G. Sixth Street. Sixth Street in Spelter, a.k.a. County Route 24/12, with a 15' pavement width, will require approximately 150 tons of paving material, or \$12,000. Sixth Street runs from "B" Street to the North down the hill towards New Quarters.
- H. Maple Avenue. Maple Avenue, in Eire, a.k.a. County Route 19/32, with a 15' pavement width, will require approximately 150 tons of paving material, or \$12,000.
- I. River Road. River Road, in Eire, a.k.a. County Route 19/34, with a 12' pavement width, will require approximately 150 tons of paving material, or \$12,000.
- J. Paving Materials. The total estimated amount of paving material needed is approximately 2,640 tons of paving material, or \$211,200. We have asked the WVDOH to provide inspection services for the entire paving and resurfacing operation to insure that it is done to their standards and in accordance with applicable law and regulations. The cost estimates provided herein are based on estimates provided by the WVDOH based on using their normal contractors who install similar materials for other WVDOH projects.

**V. REQUEST FOR HEARING REGARDING PROPOSED
ZONE 1A ROAD REPAIR AND IMPLEMENTATION PLAN
AND REQUESTED AUTHORITY TO BEGIN REPAIRS ON FOURTH STREET**

With this Report, we request that the Court set a hearing regarding the above proposed Zone 1A Plan in full, with Settlement Property Remediation Program Zone 1A residents being given prior notice thereof, and allowing your Claims Administrator to execute the Letter Agreement with the WVDOH with respect to the repairs and improvements to Fourth Street, to commence as soon as possible.

Two proposed Orders are attached: (i) one setting the requested hearing in ATTACHMENT C, and (ii) one approving the proposed Zone 1A Road Improvement and Repair Plan in ATTACHMENT D.

The proposed Order setting a hearing contemplates inviting the Zone 1A claimants, as some claimants have expressed a concern that road repair monies may be paid in an inequitable manner by favoring some roads or alleys over others in the community. With respect to notification to Zone 1A claimants, we request the Court's input on whether the hearing notice should apply to all property claimants, or only the Zone 1A property claimants, as the Final Order Establishing Property Remediation (Cleaned-Up) Program entered on June 27, 2011 (the "Property Remediation Order"),

provides that any "extra remediation funds shall be distributed equally to all participants," following the completion of all remediation.

Our recommendation is that the hearing notice apply only to the Zone 1A participating Settlement Remediation Program Class Members as the only damaged roads and alleys are located in Zone 1A.

Prior to the hearing, we will hold a Zone 1A Claimant town meeting to obtain input on this Report, and we will update the Court at the hearing.

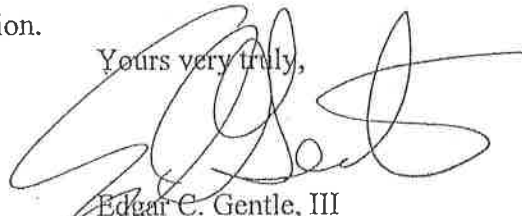
**VI. DESCRIPTION OF COURT-APPROVED ROAD IMPROVEMENT
AND REPAIR BUDGET**

For the Court's convenience, please find attached the Court's April 22, 2013 Order Providing Guidance Respecting Property Remediation Program Issues (the "April 2013 Order"), and your Claims Administrator's Report (the "March 2013 Report") regarding same are attached in **ATTACHMENT E**.

According to page 7 of the March 2013 Report, the total estimated cost of the Road Improvement and Repair Program is \$500,000. We believe that this budget is adequate to fund the execution of the above Plan.

Thank you for the Court's consideration.

Yours very truly,



Edgar C. Gentle, III
Claims Administrator

ECGIII/maj
Enclosures:

1. ATTACHMENT A: Correspondence with the WVDOH
2. ATTACHMENT B: Letter Agreement with the WVDOH
3. ATTACHMENT C: Proposed Order Setting Hearing
4. ATTACHMENT D: Proposed Order Approving Proposed Road Improvement and Repair Plan
5. ATTACHMENT E: April 2013 Order

February 27, 2014
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cc: (with enclosures)(by e-mail)

David B. Thomas, Esq.
James S. Arnold, Esq
DuPont Representatives on the Settlement Finance Committee

Virginia Buchanan, Esq.
Plaintiff Class Representative on the Settlement Finance Committee

Meredith McCarthy, Esq.
Guardian ad Litem

Terry D. Turner, Jr., Esq.
Michael A. Jacks, Esq.
Mr. Billy Sublett
Mr. Stan Keifer, NCM

Clerk of Court of Harrison County,
West Virginia, for filing (via hand delivery)

ATTACHMENT A:
Correspondence with the
WVDOH

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

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December 20, 2013

Mr. Greg Phillips
West Virginia Division of Highways
P.O. Box 4220
Clarksburg, WV 26302

Re: Perrine DuPont Settlement - Installation of 4th Street (CO 119/9)
Drains in Spelter; Our File No. 4609-1 {DD-62}
Revised Proposed Letter Agreement

In order to perform a storm water management improvement project in Spelter to convey storm water from 4th St. (CO 119/9) to an unnamed tributary of Simpson Creek ("the 4th Street Drainage System,"), upon Court approval, the Perrine DuPont Settlement will work with the West Virginia Division of Highways (WVDOH) to assist in facilitation of the following by paying for the below materials totaling \$9,773.41:

- A. Installation of 6 Type B inlets with urban grates (\$4,228.78 delivered),
- B. Installation of approximately 480 LF of 15 IN smooth lined corrugated polyethylene pipe (\$2,620.63, based on per foot price and band price, as shown on attached Design Plan).
- C. Disposal of material, and backfill of material for the pipe (\$2,924.00, based on a 4 FT deep trench, 2.5 FT wide and 170 TONS at \$17.20 per TON delivered, as shown on attached Design Plan).

December 20, 2013

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1. Indemnification. The first term which we would like to add to the letter agreement is indemnification. The purpose of requesting this term is to ensure that the Claims Administrator and the Perrine DuPont Settlement do not end up paying for damages or losses which arise out of the installation of the 4th Street Drainage System. For example, if a buried utility line is damaged during the installation of the 4th Street Drainage System, the West Virginia Division of Highways will be responsible for the cost to repair the damages. The proposed term follows:

The West Virginia Division of Highways agrees to indemnify and hold harmless the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and contractors from any and all losses, liabilities, damages, expenses and/ or other costs or obligations, resulting from or arising out of claims, demands, lawsuits, or judgments brought against the West Virginia Division of Highways and/ or the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and independent contractors as a result of, or arising out of, the West Virginia Division of Highways' performance of the installation of the 4th Street Drainage System.

2. Materials Cost Cap. The second term which we would like to add to the letter agreement states that the cost quoted for materials in the Letter Agreement is not to be exceeded absent extraordinary circumstances. The proposed term follows:

The Perrine DuPont Settlement, upon approval of this Letter Agreement by the Circuit Court of Harrison County and the signature of the Claims Administrator, hereby agrees to provide materials funding in the not-to-be-exceeded amount of \$9,773.41. Barring a showing of extraordinary circumstances, the Perrine DuPont Settlement will not be responsible for any greater cost than \$9,773.41 for the installation of the 4th Street Drainage System. Extraordinary circumstances may only be found by the Hon. Thomas A. Bedell after a presentation of the request for additional funds by the West Virginia Division of Highways to the Circuit Court of Harrison County.

3. Standard of Professional Workmanship. The third term which we would like to add relates to the professional standards to which the 4th Street Drain Installation shall be completed. The West Virginia Division of Highways agrees to provide the labor, equipment, and supervision necessary to install the 4th Street Drainage System to a professional standard in compliance with industry standards and in compliance with all applicable local, state and federal laws, rules, and regulations.

I have prepared a revised proposed Letter Agreement, which is attached for your review.

After we reach an agreement with the West Virginia Division of Highways about the terms of the Letter Agreement, we will provide the proposal to the affected area property owners and request a hearing before Judge Bedell to request approval of the project.

December 20, 2013

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We request that a representative of the West Virginia Division of Highways attend the hearing to answer any questions that may asked by residents or the Court.

Upon approval of the project by the Court, we will issue payment to the West Virginia Division of Highways in the amount of \$9,773.41.

We request that the work begin within thirty (30) days of the issuance of payment, absent extraordinary circumstances and/ or inclement weather.

Please let us know if you have any questions.

We greatly appreciate your assistance in working with us on this project.

Yours very truly,



Edgar C. Gentle, III
Claims Administrator

ECG/maj

Enclosures: 1. Your Proposed Letter Agreement from WVDOH dated 11-6-13
2. Your Proposed Design of the 4th Street Drainage System
3. Our Proposed Revised Letter Agreement from the Claims Administrator.

cc: (via email)(w/enclosures)(confidential)
Michael A. Jacks, Esq.
Mr. Billy Sublett

ENCLOSURE 1

**Your Proposed Letter Agreement from
WVDOH dated 11-6-13**

Perrine Dupont Settlement Claims Office
P.O. Box 257
Spelter, WV 26438

November 7, 2013

Mr. Greg Phillips
West Virginia Division of Highways
P.O. Box 4220
Clarksburg, WV 26302

In order to perform a stormwater improvement project in Spelter and to convey stormwater from 4th St. (CO 119/9) to an unnamed tributary of Simpson Creek, Perrine Dupont Settlement Claims Office (PDSCO) is willing to participate with the West Virginia Division of Highways (WVDOH) to assist in facilitation of the following: installation of 6 Type B inlets with urban grates (\$4,228.78 delivered), installation of approximately 480 LF of 15 IN smooth lined corrugated polyethylene pipe (\$2,620.63, based on per foot price and band price, as shown on attached sheet), disposal of material, and backfill of material for the pipe (\$2,924.00, based on a 4 FT deep trench, 2.5 FT wide and 170 TONS at \$17.20 per TON delivered, as shown on attached sheet). WVDOH will provide all labor, equipment and any materials in addition to those previously listed that are required to complete this project.

Prior to commencement of the above described work, PDSCO shall provide WVDOH with a lump sum donation in the amount of Nine Thousand Seven Hundred Seventy Three Dollars and Forty One Cents (\$9773.41) to facilitate implementation of the project. Work shall proceed at a timeline set by WVDOH.


1-9-2014

By: Bill Sublett
Title: Remediation Site Superintendent



By: ~~Bryan Radabaugh~~ JEFF PIFER
Title: D4 Design Engineer MAINTENANCE
ENGINEER

ENCLOSURE 2

Your Proposed Design of the 4th Street Drainage System

ENCLOSURE 3

**Our Proposed Revised Letter Agreement
from the Claims Administrator**

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

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December 20, 2013



Mr. Greg Phillips
West Virginia Division of Highways
P.O. Box 4220
Clarksburg, WV 26302

Re: Perrine DuPont Settlement - Installation of 4th Street (CO 119/9) Drains in
Spelter; Our File No. 4609-1 {DD-62}

Dear Mr. Phillips:

I hope that you are well.

I am writing to acknowledge receipt of your November 7, 2013 letter about the installation of a new drainage system on 4th Street (CO 119/9) in Spelter, which we received on December 6, 2013. A copy of the letter is attached for your reference.

We have reviewed both the proposed design of the drainage system and the materials cost of \$9,773.41 discussed in the letter.

Subject to Court approval, described below, we are in agreement with both the design and the cost of materials, which, if approved by the Court, we will provide to the West Virginia Division of Highways prior to the commencement of work on the drain installation.

We need to take some preliminary actions before we can proceed with this project.

We need to provide the design plan of the drainage system to affected area residents, and we need to have a hearing before the Hon. Thomas A. Bedell to allow comment on the drainage system.

At the hearing, we will ask for Judge Bedell to approve the expenditure and design of the drainage system by Court Order.

Additionally, there are three terms that we would like to add to the letter agreement before it can be reviewed by the Court and approved.

Additional Terms


1. **Indemnification.** The West Virginia Division of Highways agrees to indemnify and hold harmless the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and contractors from any and all losses, liabilities, damages, expenses and/ or other costs or obligations, resulting from or arising out of claims, demands, lawsuits, or judgments brought against the West Virginia Division of Highways and/ or the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and independent contractors as a result of, or arising out of, the West Virginia Division of Highways' performance of the installation of the 4th Street Drainage System.

2. **Materials Cost.** The Perrine DuPont Settlement, as indicated by the approval of this Letter Agreement by the Circuit Court of Harrison County and the signature of the Claims Administrator, hereby agrees to provide materials funding prior to the commencement of the project in the not-to-be-exceeded amount of \$9,773.41. Barring a showing of extraordinary circumstances, the Perrine DuPont Settlement will not be responsible for any greater cost than \$9,773.41 for the installation of the 4th Street Drainage System. Extraordinary circumstances may only be found by the Hon. Thomas A. Bedell after a presentation of the request for additional funds by the West Virginia Division of Highways to the Circuit Court of Harrison County.

3. **Standard of Professional Workmanship.** The West Virginia Division of Highways agrees to provide the labor, equipment, and supervision necessary to install the 4th Street Drainage System to a professional standard in compliance with industry standards and in compliance with all applicable local, state and federal laws, rules, and regulations.

By: Edgar C. Gentle, III, Esq.
Title: Claims Administrator

AGREED BY THE WEST VIRGINIA DEPARTMENT OF HIGHWAYS


By: ~~Bryan Radabaugh~~ **JEFF PIFER**
Title: ~~D4 Design Engineer~~ **MAINTENANCE ENGINEER**

ATTACHMENT B:
Letter Agreement with the
WVDOH

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

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We have reviewed both the proposed design of the drainage system and the materials cost of \$9,773.41 discussed in the letter.

Subject to Court approval, described below, we are in agreement with both the design and the cost of materials, which, if approved by the Court, we will provide to the West Virginia Division of Highways prior to the commencement of work on the drain installation.

We need to take some preliminary actions before we can proceed with this project.

We need to provide the design plan of the drainage system to affected area residents, and we need to have a hearing before the Hon. Thomas A. Bedell to allow comment on the drainage system.

At the hearing, we will ask for Judge Bedell to approve the expenditure and design of the drainage system by Court Order.

Additionally, there are three terms that we would like to add to the letter agreement before it can be reviewed by the Court and approved.

Additional Terms


1. Indemnification. The West Virginia Division of Highways agrees to indemnify and hold harmless the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and contractors from any and all losses, liabilities, damages, expenses and/ or other costs or obligations, resulting from or arising out of claims, demands, lawsuits, or judgments brought against the West Virginia Division of Highways and/ or the Claims Administrator, the Perrine DuPont Settlement, and/ or any of its officers, employees, and independent contractors as a result of, or arising out of, the West Virginia Division of Highways' performance of the installation of the 4th Street Drainage System.

2. Materials Cost. The Perrine DuPont Settlement, as indicated by the approval of this Letter Agreement by the Circuit Court of Harrison County and the signature of the Claims Administrator, hereby agrees to provide materials funding prior to the commencement of the project in the not-to-be-exceeded amount of \$9,773.41. Barring a showing of extraordinary circumstances, the Perrine DuPont Settlement will not be responsible for any greater cost than \$9,773.41 for the installation of the 4th Street Drainage System. Extraordinary circumstances may only be found by the Hon. Thomas A. Bedell after a presentation of the request for additional funds by the West Virginia Division of Highways to the Circuit Court of Harrison County.

3. Standard of Professional Workmanship. The West Virginia Division of Highways agrees to provide the labor, equipment, and supervision necessary to install the 4th Street Drainage System to a professional standard in compliance with industry standards and in compliance with all applicable local, state and federal laws, rules, and regulations.

By: Edgar C. Gentle, III, Esq.
Title: Claims Administrator

AGREED BY THE WEST VIRGINIA DEPARTMENT OF HIGHWAYS


By: ~~Bryan Radabaugh~~ **JEFF PIFER**
Title: ~~D4 Design Engineer~~ **MAINTENANCE ENGINEER**

ATTACHMENT C:
Proposed Order Setting Hearing

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

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

CIVIL ACTION NO.
04-C-296-2
Thomas A. Bedell,
Circuit Judge

Before this Court is the Claims Administrator's February 27, 2014 Report providing an update on the proposed Zone 1A Road Improvement Program as part of the remediation component of the Settlement. The Court hereby sets a Hearing on the Report for April 2, 2014, at 1:00 P.M., in the Division Two Courtroom, Room 321, 4th Floor, Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia. The Hearing provides the opportunity for the Property Claimants in Zone 1A of the Property Class Area to be heard by the Court with respect to the Report. Prior to the Hearing, the Claims Administrator shall hold a town meeting to allow Zone 1A Claimants to provide feedback on the Report. The Zone 1A Property Claimants shall be notified by the Claims Administrator by First Class Mail, postage prepaid, of the Hearing, so they may appear and present their positions regarding the proposed Road Improvement and Repair Plan, or the decisions of the Claims Administrator will be final.

On February 27, 2014, Edgar C. Gentle, III, the Claims Administrator previously appointed by the Court for the Settlement established herein, submitted to the Court and the Finance Committee a Report describing a proposed Zone 1A Road Improvement and Repair Plan and requesting a hearing for the approval of same.

IT IS SO ORDERED.

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


David B. Thomas, Esq.
James S. Arnold, Esq.
Thomas Combs & Spann, PLLC
P. O. Box 3824
Charleston, WV 25338
DuPont's Finance Committee Representative

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

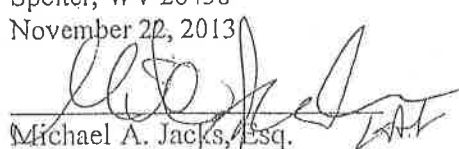
Meredith McCarthy, Esq.
901 West Main Street
Bridgeport, WV 26330
Plaintiffs' Class Finance Committee Proxy

Edgar C. Gentle, III, Esq.
Michael A. Jacks, 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, Debrosse & Harbison
P.O. Box 257
Spelter, WV 26438
November 22, 2013

Date: 2-27-14


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

Date: 2-27-14

ENTER this _____ day of _____, 2014.

Hon. Thomas A. Bedell
Circuit Judge of Harrison County,
West Virginia

ATTACHMENT D:
Proposed Order Approving
Proposed Zone 1A Road
Improvement and Repair Plan

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,

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

Defendants.

CIVIL ACTION NO.
04-C-296-2
Thomas A. Bedell,
Circuit Judge

**ORDER APPROVING CLAIMS ADMINISTRATOR'S
PROPOSED ZONE 1A ROAD IMPROVEMENT AND REPAIR PLAN**

Presently before the Court is the Claims Administrator's February 27, 2014, Report, which seeks the Court's approval of the proposed Zone 1A Road Improvement and Repair Plan respecting the Property Remediation Program (the "Program"). A Hearing was held on April 2, 2014. All Zone 1A Property Claimants were provided due and proper notice of the Hearing.

After due and proper notice, this matter came to be heard on April 2, 2014, at 1:00 P.M. Appearing were the Claims 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; Mr. Billy Sublett, the Settlement Construction Supervisor, Mr. Marc Glass and Mr. Duane Truax, the Remediation and Soil Experts for the Settlement.

The Court considered the submissions of the Claims Administrator, the Finance Committee, the Guardian *ad litem*, and NCM, and the concerns and submissions of Appearing Zone 1A Class Members, and took such testimony as the Court deemed to be appropriate. Following the Hearing, the Claims Administrator modified the Zone 1A Road Improvement and Repair Plan to accommodate the concerns, submissions and testimony presented at the Hearing, with the so-modified Report being referred to hereafter as the Zone 1A Modified Road Improvement and Repair Plan.

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 finds the Zone 1A Modified Road Improvement and Repair Plan to be fair and reasonable and hereby approves it;
2. The Court hereby authorizes, empowers, and directs the Claims Administrator to execute the December 20, 2013, Letter Agreement with the West Virginia Department of Highways (the "WVDOH") on behalf of the Settlement;
3. The proposed improvements and repairs to Fourth Street, Spelter, West Virginia as detailed in the Zone 1A Modified Road Improvement and Repair Plan and the December 20, 2013, Letter Agreement with the WVDOH attached thereto, are to commence as soon as practicable; and
4. Provided that the Claims Administrator and his staff carry out the Zone 1A Modified Road Improvement and Repair Plan substantially in accordance with EXHIBIT A, the Claims Administrator and his staff are granted judicial immunity.

IT IS SO ORDERED.

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

David B. Thomas, Esq.
James S. Arnold, Esq.
Thomas Combs & Spann, PLLC
P. O. Box 3824
Charleston, WV 25338
DuPont's Finance Committee Representative

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

Meredith McCarthy, Esq.
901 West Main Street
Bridgeport, WV 26330
Plaintiffs' Class Finance Committee Proxy

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

[ALL ZONE 1A PROPERTY CLAIMANTS]

ENTER this ____ day of _____, 2014.

Hon. Thomas A. Bedell
Circuit Judge of Harrison County,
West Virginia

ATTACHMENT E:
April 22, 2013 Order



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.J. 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:

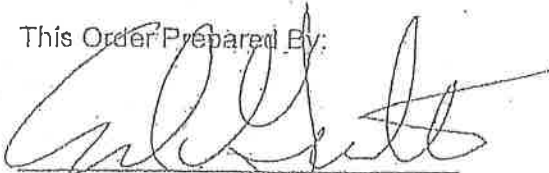
David B. Thomas
James S. Arnold
Guthrie & Thomas, PLLC
P.O. Box 3824
Charleston, WV 25338-3824

Edgar Gentle, III
Michael Jacks
Settlement Claims Office
P.O. Box 257
Spelter, WV 26438
Special Master

Virginia Buchanan
Levin, Papantonio, Thomas, Mitchell
Eshsner & Proctor, P.A.
316 South Baylen St., Suite 600
Pensacola, FL 32502-5996

Cy A. Hill, Esq.
Mannion & Gray, L.P.A.
122 Capitol Street, Suite 100
Charleston, WV 25301

This Order Prepared By:



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

Meredith McCarthy
901 W. Main St.
Bridgeport, WV 26330
Guardian ad litem

J. Farrest Taylor
Angela Mason
Cochran, Cherry, Givens, Smith,
Lane & Taylor, P.C.
163 West Main St.
Dothan, AL 36301

Steve Zbur
Tom Rebar
CORE Environmental Services, Inc.
4 Brookstone Plaza
Morgantown, WV 26508



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

ENTER: April 22, 2013



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 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 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 & 18th Family Court
Circuit Clerk
Harrison County, West Virginia