

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

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March 26, 2013

VIA HAND DELIVERY

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

FILED IN 15TH
CIRCUIT COURT
2013 MAR 26 PM 3:54

Re: Perrine, et al. v. DuPont, et al.; Civil Action No. 04-C-296-2 - Report Regarding Remediation Property Clean-Up Program (the "Program") Issues on Which We Need the Court's Guidance; Our File Nos. 4609-1 {DD-48}, 4609-1 {DD-51}, 4609-1 {53}, and 4609-1 {NN-3}

Dear Judge Bedell:

We hope this letter finds the Court well.

The purpose of this letter is to: (1) provide the Court with proposed adjustments to the Program Working Budget for additional soil and house clean-up expenses, and address how the increased expenditures impact the previously approved Working Budget for the Program; (2) ask for Court approval of an enhancement program for the replacement soil used in the Program in 2012, and supplemental soil testing procedures which we propose to use for the remainder of the Program; (3) provide the Court with a proposed budget for projected expenses for possible public road remediation; and (4) request that the Court hold a Hearing on these matters on April 5, 2013, at 2:30 p.m.

I. Requested Adjustment to Working Budget
Based on Increased Soil and House Remediation Expenses

The previously approved Working Budget dated August 9, 2012 is in Exhibit A, and the suggested revised Working Budget is in Exhibit B, for the Court's convenience and review.

A. Increase in Estimated House Remediation Costs

As the Court will recall, your Claims Administrator, in our August 9, 2012 Report to the Court, estimated that approximately 750 houses and commercial structures would require remediation under the Program. The August 9, 2012 Working Budget, attached as Exhibit A, was calculated using this estimate.

After reviewing the number of houses and commercial structures testing dirty and needing to be cleaned, the Claims Administrator now estimates that a more accurate estimate of houses and commercial structures to be cleaned is approximately 850. The estimated additional costs associated with the additional 100 houses and/or commercial structures to be cleaned are itemized below:

1. Remediation Company Expenses (Dollar figure \$1,161,400
Calculated based on an average of the costs quoted by NCM for house cleaning by Zone ($\$15,130 + \$9,880 + \$9,830 = \$34,840/3 = \$11,614$) and multiplying the average by the additional 100 houses ($\$11,614 \times 100 = \$1,161,400$))
2. Claimant Relocation Expenses (Dollar figure \$ 116,125
calculated based on previous calculated rate of \$575 per family for room expenses, plus an assumption that 15% of the families to be relocated will need 2 rooms, and \$500 per diem/ \$100 per day for 5 days for each family ($\$575 \times 115 = \$66,125$ for rooms, and $\$500 \times 100 = \$50,000$ for per diem, or $\$66,125 + \$50,000 = \$116,125$))
3. Post-Remediation Sampling (Dollar figure calculated \$ 71,943
based on approved addendum cost from CORE of \$719.43 per house multiplied by the number of additional houses ($\$719.43 \times 100 = \$71,943$))

Total Additional Remediation Costs Associated with Additional 100 Houses/Commercial Structures	<u><u>\$1,349,468</u></u>
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B. Increase in Soil Remediation Costs

Your Claims Administrator previously reported to this Court that an estimated 160 soil properties were due to be remediated by the Settlement. Although we have approximately 160 soils to remediate based on the Settlement's contiguous property rules, for purposes of the Settlement's Agreement with NCM, a soil property may be defined as one that has a property tax id number.

March 26, 2013

Page -3-

When we total these properties that, although contiguous and treated as one property for Settlement Purposes, consist of more than one parcel and therefore more than one soil, we have an estimated 232 soil properties meeting such a definition at this time. Note: These statements in no way bind the Settlement in negotiating each bill submitted by NCM, the remediation contractor.

Taking into account that the average cost to remediate a soil property is \$40,000, this results in a potential additional cost to the Settlement of \$2,160,000 to remediate an additional 54 soil properties¹ (\$40,000 x 54).

C. Proposed Revised Working Budget

The resulting proposed revised Working Budget is in Exhibit B, for the Court's consideration.

Please note that the projected approximately \$5,000,000 surplus in the previous August 9, 2012 Working Budget is now estimated to have been reduced to approximately \$2.1 million. This is due to the fact that: (1) approximately \$7.74 million in Remediation Fund expenditures have been expended from the previously reported Remediation Fund balance of \$33.2 Million at May 15, 2012 (See our August 9, 2012 Working Budget in Exhibit A); (2) an approximate \$3.5 million is required for additional soil and house remediation expenses (see Sections A and B above); and (3) other Program Working Budget adjustments as noted in the March 18, 2013 Memorandum attached to the revised March 18, 2013 Working Budget in Exhibit B.

Finally, as noted in the attached March 18, 2013 Memorandum in Exhibit C, no revisions need to be made by the Settlement to the Court approved Settlement Administration Budget No. 3 as a result of the proposed revisions to the Program Working Budget.

II. Proposed Road Repair and Improvement Program and Related Budget

In this Section, we provide the Court with a Report on the Proposed Road Repair and Improvement Program, which will be paid from the Road Repair line item in the Property Remediation Program's approved budget.

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

To respond to these concerns, we have worked with the West Virginia Department of Highways ("DOH") to prepare for the Court's consideration the below list of proposed repairs and improvements to existing roadways in Zone 1A.

¹ 232 soil properties minus 160 soil properties minus 18 Upper B Street soil properties (232-160-18).

March 26, 2013

Page -4-

Our proposal is to conduct these repairs and improvements at the conclusion of the Property Remediation Program in Zone 1A.

We are currently scheduled to continue soil remediation in Zone 1A during the Spring, Summer, and possibly Fall, depending on circumstances, of 2013. As such, we do not plan on conducting any road repairs and improvements during 2013.

We are planning on conducting the road repairs and improvements during the Spring and Summer of 2014, so that none of our road repairs and improvements are damaged by further remediation processes and so that any and all repairs and improvements are known before the Road Repair Program is implemented.

A. Itemized Road Repairs and Improvements

Road repairs and upgrades planned for Zone 1A include:

A. Main roadway re-surfacing with two (2) inches of asphalt paving material, which will cover scratches and dents caused by machinery during the remediation process and prevent them from becoming potholes;

B. Alleyway repair with rolled and compacted "crusher run" gravel on an as needed basis; and

C. Storm water and drainage systems installation and repair.

B. Main Roadway Resurfacing

Below are estimated tonnage values are for re-surfacing the main streets in Zone 1A with two (2) inches of asphalt. Our estimated placed per ton cost is eighty dollars (\$80) per ton, which is based on DOH estimates. The DOH has agreed to inspect the work and to provide contractors to do the work under existing DOH contracts, although the Settlement will pay for the work unless otherwise noted herein. Some Claimants have brought concerns to the Settlement staff about damages to the roads throughout Zone 1A which can be remedied by resurfacing, which will prevent later development of potholes or more significant cracks or road damages. All of the roads referred to herein are visible on the maps in Exhibit D. The proposed repairs by street and tonnage are itemized below:

1. "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. "B" Street runs from Route 19 across the bridge into Spelter and up on to the hill above Spelter, where it dead ends.

2. First Street, in Spelter, a.k.a. County Route 19/90, with a 14' pavement width, will require approximately 90 tons. First Street is immediately on your left when entering Spelter on "B" Street from Route 19.

3. Second Street, in Spelter, a.k.a. County Route 119/91, with a 17' pavement width, will require approximately 70 tons. Second Street is the second left when entering Spelter on "B" Street from Route 19, and it runs to "A" Street.
4. "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. 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.
5. Fourth Street, in Spelter, a.k.a. County Route 119/9, with a 16' pavement width will require approximately 130 tons. Fourth Street intersects with "B" Street in the middle of Spelter.
6. 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. 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.
7. Sixth Street in Spelter, a.k.a. County Route 24/12, with a 15' pavement width, will require approximately 150 tons. Sixth Street runs from "B" Street to the North down the hill towards New Quarters.
8. Maple Avenue, in Eire, a.k.a. County Route 19/32, with a 15' pavement width, will require approximately 150 tons.
9. River Road, in Eire, a.k.a. County Route 19/34, with a 12' pavement width, will require approximately 150 tons.

The total estimated amount of paving material needed is approximately two thousand six hundred and forty (2,640) tons of placed asphalt paving material at a cost of approximately \$211,200. (2,640 tons at \$80 per ton). We have asked the DOH 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 below are based on estimates provided by the DOH based on using their normal contractors who install similar materials for other DOH projects.

C. Alleyway Repair

Alleyways throughout Zone 1A will require an approximate total of 350 tons of "crusher run" gravel, which will be rolled in place to provide a firm driving surface and smooth over existing potholes. Our current estimate for an installed cost of this material is eighty dollars (\$80) per ton, for a total cost of approximately \$28,000. Because the DOH does not have jurisdiction over the alleyways, a contractor will be used, although contractor selection has not been made yet.

D. Storm Water Systems and Drainage Systems

(i) Main Road storm water drainage systems

An additional cost will be incurred to repair or replace the five (5) storm water drainage systems itemized below and some miscellaneous items. The current estimate of these costs is approximately \$50,000, to be performed by the DOH. Claimants and area residents have brought concerns to the Settlement staff about drains being clogged by dirt and/or gravel used during the remediation process, as well as collapsed drains allegedly caused by machinery and large trucks used during the remediation process.

Below is an itemized list of drains to be repaired and or replaced if necessary:

A. The collapsed drain at the corner of "A" Street and Third Street will be replaced. County Route 19/11. The Settlement will pay for this cost.

B. The insufficiently sized and partially clogged drainage system along Second Street (below the alley described below) between "A" Street and "B" Street, will be enlarged, cleaned, and repaired. County Route 19/91. The DOH has agreed to perform this specific task at it's own cost.

C. The collapsed and/or clogged drainage system running from the corner of "C" Street and Third Street towards the DuPont property will be cleaned and or replaced, as needed, once inspected to determine if replacement is necessary. County Route 19/10. The Settlement will pay for this cost.

D. The collapsed and or clogged drainage system below Fourth Street will 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 will pay for the materials for this task, and the DOH will perform the work and provide the inspection services.

E. The collapsed and or clogged drainage system along upper "B" Street will be replaced and or repaired as needed. County Route 19/33. The Settlement will pay for this cost.

(ii) Alleyway drainage systems

The drainage down the alleyway between "A" and "B" Streets in Spelter will be controlled by installation of a storm drain system. The total estimated cost of this storm drain system is approximately \$25,000. Itemized tasks for this alleyway drainage system are below. The DOH does not have jurisdiction over the alley so a contractor will be hired to perform the work. The Settlement has not yet determined who the contractor will be.

March 26, 2013

Page -7-

A. The alley way between "A" and "B" Streets will require 300 feet of 18" CPP pipe costing \$3,000. Optionally 24 inch CPP pipe could be used for an additional cost of \$2,000 to provide additional drainage capacity.

B. The alley way between "A" and "B" Streets will require 3 catch basins which will be 36 inches in diameter, 5 feet tall, and cost approximately \$1,500 in total. The same basins can be used for either the 18 or 24 inch pipes.

C. Three inlet grates are required for a total cost of \$3,000.

D. The labor to install the pipe in the alley between "A" and "B" Streets cannot be supplied by the DOH because they do not have jurisdiction over the alleys so it will be installed by another contractor, who is yet to be determined.

E. Summary of Estimated Costs of the Above Proposed Road Repair and Improvement Program

Based upon the foregoing and our research, we estimate the total costs of the Road Repair and Improvement Program as follows:

1. Zone 1A main road resurfacing and repair	\$211,200
2. Alleyway gravel repair and installation	\$28,000
3. Storm water system repairs and installation	\$75,000
4. Supervising and management of all road repairs and improvements by Settlement staff, including administrative costs and town hall meetings.	\$50,000
5. Contingency reserve for unforeseen repairs or costs	\$135,800
TOTAL ESTIMATED COST	\$500,000

This amount is well within the \$1,000,000 road repair amount contained in the Program Working Budget.

III. Proposed 2012 Replacement Soil Enhancement Procedures and Proposed Supplemental Replacement Soil Testing Procedures

The proposed Agreement between the Settlement and NCM respecting these items is in the March 14, 2012 letter in Exhibit E, which is supplemented by NCM's March 20, 2013 letter also in Exhibit E.

March 26, 2013

Page -8-

The Settlement and NCM anticipate resolving the 2 issues described in the March 20, 2013 letter prior to the hearing.

A. Proposed New Soil Supplemental Testing Procedures for 140 Remaining Soil Properties to Be Remediated

The portion of the Agreement respecting new soil properties to be remediated is to provide a supplemental testing procedure for new replacement soil, after it is installed on the Claimant's yard, to confirm that it is sandy loam, loam, or silty loam, in order to facilitate good sod growth.

Prior to the implementation of this proposed supplemental testing, testing was done at the borrow pit, but actual in-place soil consistency testing of the soil on the Claimant's property, at the same time the soil is tested for contaminants, was not done.

It is submitted that this additional testing will provide an added safeguard to ensure good consistency of the soil.

Soil experts for the Settlement and NCM are finalizing the proposed supplemental new soil testing procedures, and they will sponsor it at the proposed hearing.

B. 2012 Replacement Soil Enhancement Procedures for the 92 Soil Properties Already Remediated.

Because the above proposed supplemental soil consistency testing was not used for the 92 properties whose soil was remediated in 2012, we are not certain that the replacement soil is ideal for sod growth.

The proposed optional soil enhancement procedures described in Exhibit E would help resolve this potential issue by providing the Claimant with an optional, two step soil enhancement procedure, to facilitate sod growth.

Claimants allowing the supplemental procedures on their property would also enjoy an extension of the one-year soil warranty under the Program to November 2014, so that we will have an additional growing season to make sure that sod growth on the replacement soil is sustainable.

The proposed soil enhancement procedures are being finalized by the experts for the Settlement and NCM, who will sponsor them at the proposed hearing.

IV. Suggested Hearing

Based on the foregoing, it is respectfully requested that the Court address these Program matters at its April 5, 2013, 2:30 p.m. Hearing.

March 26, 2013

Page -9-

In addition, please consider this Report to request the following relief from the Court:

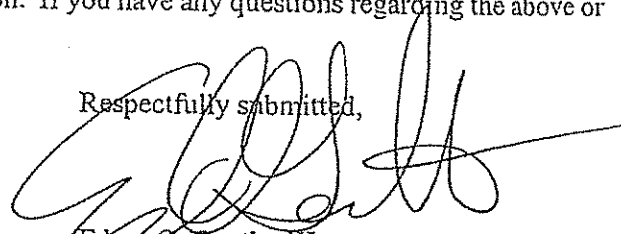
- (i) That the Court review this Report;
- (ii) That the Court consider approving the proposed revised Working Budget for the Program in Exhibit B;
- (iii) That the Court approve the 2012 replacement soil enhancement procedures, and the new soil supplemental testing procedures described in Exhibit D;
- (iv) That the Court approve the above proposed road remediation budget; and
- (v) That the Court provide such other, further, different and more general relief as the Court deems to be appropriate.

A proposed Order setting the hearing is provided for the Court's convenience.

This Report has been shared with the Finance Committee and NCM, and there are no objections.

Thank you for the Court's consideration. If you have any questions regarding the above or the attached, please let me know.

Respectfully submitted,



Edgar C. Gentle, III
Settlement Administrator

ECGIII/kah
Enclosures

cc: (confidential)(via e-mail)(with enclosures)
David B. Thomas, Esq.
James S. Arnold, Esq.
Virginia Buchanan, Esq.
William S. ("Buddy") Cox, Esq.
J. Keith Givens, Esq.
McDavid Flowers, Esq.
Farrest Taylor, Esq.
Ned McWilliams, Esq.
Angela Mason, Esq.
Meredith B. McCarthy, Esq.
Mr. Billy Sublett
Terry D. Turner, Jr., Esq.
Diandra S. Debrosse, Esq.
Katherine A. Harbison, Esq.
Michael A. Jacks, Esq.
Mr. Dennis Raver

March 26, 2013

Page -10-

cc: (continued)
Mr. George W. Hilton, III
Mr. Eddie Waskiewicz
Mr. Richard Heath
Cy A. Hill, Esq.
Robert L. Greer, Esq.

SCHEDULE OF EXHIBITS

- A. Court-Approved August 9, 2012 Program Working Budget
- B. Proposed March 18, 2013 Program Working Budget
- C. March 18, 2013 Memorandum Comparing the March 18, 2013 Program Working Budget to the Settlement Administrator Budget No. 3
- D. Proposed Road Repair and Improvement Program Maps
- E. Description of Proposed 2012 Replacement Soil Enhancement Procedures and Supplemental Soil Testing Procedures

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.

**ORDER SETTING HEARING FOR PENDING ISSUES IN THE PROPERTY
REMEDATION (CLEAN-UP) PROGRAM**

Presently before the Court is the Claims Administrator's request for a Hearing on pending issues in the Property Remediation (Clean-Up) Program, including review of a revised budget for the Program, the Road Repair and Improvement Program, and 2012 Soil Enhancement procedures and Supplemental Soil Testing procedures.

After a careful review of the Claims Administrator's request, the Court hereby sets a hearing on April 5, 2013, at 2:30 PM, and said hearing shall be held before the Honorable Thomas A. Bedell, Judge of the Circuit Court of Harrison County, West Virginia, in the Division 2 Courtroom, Room 321, located on the 4th Floor of the Harrison County Courthouse at 301 West Main Street, Clarksburg, West Virginia.

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
Guardian Ad Litem

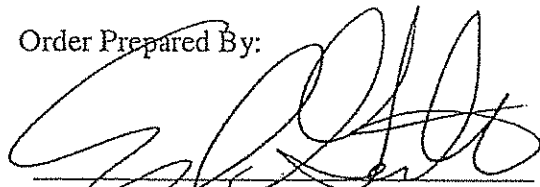
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Order Prepared By:



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

ENTER: _____

Thomas A. Bedell, Circuit Judge

EXHIBIT A

August 9, 2012

REVISED PROPERTY REMEDIATION PROGRAM WORKING BUDGET

PROJECTION OF REMEDIATION PROGRAM EXPENSES AND POSSIBLE SURPLUS,
ASSUMING A 30 MONTH LIFE COMMENCING MAY 15, 2012

A.	Estimated May 15, 2012 Remediation Fund Balance	<u>\$33,200,000</u>
B.	Estimated Remediation Expenses (Assuming only Contaminated Properties are cleaned) (160 Soils and 600 houses)	
	1. Remediation Company	
	a. Remediation Expense in Original Working Budget (Lowest Qualifying Bid Plus 10%)	\$16,302,000
	b. Additional Remediation Costs Associated With Trued-Up House Results (Calculations Included In August 9, 2012 Report to Court)	\$ 1,742,100
	2. Claimant Relocation Expenses	
	a. Claimant Relocation Expenses in Original Working Budget	\$ 700,000
	b. Additional Relocation Expenses Associated With Trued-Up House Results (Calculations Included In August 9, 2012 Report to Court)	\$ 174,475
	3. Post-Remediation Sampling	
	a. Post-Remediation Sampling Expenses (As Approved by July 11, 2012 Order of Court)	\$ 492,000
	b. Additional Post-Remediation Expenses Associated with Trued-Up House Results (Calculations Included In August 9, 2012 Report to Court)	\$ 107,915
	4. Costs for Remediation of Upper B Street Properties (As Approved by May 4, 2012 Order of Court)	\$ 700,000
	5. Balance of Claimant Annoyance Payments	\$ 1,600,000
	6. Reserve for Possible Road Deterioration Litigation (As Approved by May 4, 2012 Order of Court)	\$ 1,000,000
	7. Technical Advisor (\$25,000 per month)	\$ 750,000
	8. Claims Administrator and Related Expenses ((\$150,000 per month)	\$ 4,500,000
	9. Outside Auditor for 3 years	\$ 100,000
	10. Reserve for Contingencies (Original 10% Contingency in Working Budget of \$2,435,200 minus Increase in CORE Post-Sampling Contract of \$92,000 and Increased Costs Associated with Remediation of Trued-Up House Results totaling \$2,024,490)	\$ 318,710
	11. Total	<u>\$ 28,487,200</u>
C.	Possible Surplus (Original Surplus of \$6,412,800 minus Court Approved Working Budget Expenses of \$700,000 for Cleaning Upper B Street Properties and \$1,000,000 Reserve for Possible Road Deterioration Litigation)	<u>\$ 4,712,800</u>

EXHIBIT B

March 18, 2013

PROPERTY REMEDIATION PROGRAM WORKING BUDGET

PROJECTION OF REMAINING REMEDIATION PROGRAM EXPENSES AND POSSIBLE SURPLUS,
ASSUMING A 30 MONTH LIFE ENDING NOVEMBER 15, 2014

A.	Estimated January 31, 2013 Remediation Fund Balance	\$25,458,000
B.	Estimated Remediation Expenses (Assuming only Contaminated Properties are cleaned) (214 Soils ¹ and 850 houses)	
1.	Remediation Company (121.4 Soils and 747.2 Houses Remaining to be Cleaned)	
a.	Remediation Expense in Original Working Budget (Lowest Quality Bid Plus 10%) Remaining	\$10,843,255
b.	Additional Remediation Costs Associated with Trued-Up House Results for 250 Additional Houses	\$ 2,903,500
c.	Additional Remediation Costs Associated with Trued-Up Soil Results for 54 Soils	\$ 2,160,000
2.	Claimant Relocation Expenses	
a.	Claimant Relocation Expenses in Original Working Budget Remaining	\$ 587,361
b.	Additional Relocation Expenses Associated with Trued-Up House Results for 250 Additional Families	\$ 290,600
3.	Post-Remediation Sampling	
a.	Post-Remediation Sampling Expenses (\$492,000 Approved by June 11, 2012 Order of Court) Remaining	\$ 355,352
b.	Additional Post-Remediation Expenses Associated with Trued-Up House Results for 250 Additional Houses	\$ 179,858
4.	Remaining Costs for Remediation of Upper B Street Properties (\$700,000 Approved by May 4, 2012 Order of Court)	\$ 683,600
5.	Balance of Claimant Annoyance Payments	\$ 726,000
6.	Reserve for Possible Road Deterioration Litigation (As Approved by May 4, 2012 Order of Court)	\$ 1,000,000
7.	Technical Advisor and Project Administration ² (\$11,200 per month)	\$ 246,400
8.	Claims Administrator and Related Expenses (\$150,000 per month)	\$ 3,300,000
9.	Outside Auditor for 3 years	\$ 100,000
10.	Reserve for Contingencies (Approx. 8.9%)	\$ 2,082,074
11.	Total	<u>\$25,458,000</u>
C.	Possible Surplus	<u>\$ -0-</u>

¹ Excludes 18 Upper B Street soils (see B4).

² Projections for expenditures to the Property Technical Advisor, Securitas for property security, replacement soil expert services, web database design for the Settlement property remediation process, and other Property Project Administration expenses.

MEMORANDUM

TO: Edgar C. Gentle, III, Esq.

FROM: Terry D. Turner, Jr., Esq. π

DATE: March 18, 2013

RE: Perrine-DuPont Property Remediation Qualified Settlement Fund (the "Remediation Fund") - Revised Property Remediation Program Working Budget; Our File No. 4609-1 {DD-51}

The purpose of this memorandum is to provide you with: (1) support for the projections contained in the attached, March 18, 2013 Property Remediation Program Working Budget (the "New Working Budget"); and (2) the significant differences between the new expense projections and those contained in the attached, August 9, 2012 Revised Property Remediation Program Working Budget (the "Prior Working Budget").

A. Estimated January 31, 2013 Remediation Fund Balance

Attached, as Exhibit A, is the Remediation Fund's Balance Sheet at January 31, 2013, showing the balance of \$25,458,306.20. The Remediation Fund has disbursed approximately \$7,742,000 over the 8 ½ months from the estimated May 15, 2012 Remediation Fund balance (see Prior Working Budget).

B1a. Remediation Expense in Original Working Budget Remaining

This amount was calculated by taking NCM's Original Working Budget (\$16,302,000, as shown in the Prior Working Budget), and subtracting: (1) \$1,754,807 in Interior Residence Cleaning expenses incurred through January 31, 2013; and (2) \$3,703,938 in Soil Replacement expenses incurred through January 31, 2013. This results in having \$10,843,255 in remediation expenses remaining (see New Working Budget) (\$16,302,000 - \$1,754,807 - \$3,703,938 = \$10,843,255).

B1b. Additional Remediation Costs Associated with Trued-Up House Results

First, please note that we increased our estimated number of houses to be remediated to 850 houses, up from 600 houses on the Prior Working Budget. Our August 9, 2012 Prior Working Budget Report (attached as Exhibit B1b) estimated approximately 750 houses and commercial structures to be cleaned, and, since that time, we have about 800 houses and commercial structures testing dirty and we estimate that another 50 may also test dirty. Thus, we have an estimated, additional 250 houses (850 - 600) to be remediated by the Settlement.

Next, as shown on Page 3 of our August 9, 2012 Prior Working Budget Report, the average cost to remediate a house is \$11,614. This results in a potential cost to the Settlement of \$2,903,500 to remediate an additional 250 houses (\$11,614 x 250).

B1c. Additional Remediation Costs Associated with Trued-Up Soil Results

First, please note that we increased our estimated number of soils to be remediated to 232 soils, up from 160 soils on the prior Working Budget. Although we have 160 soils based on the Settlement's contiguous property rules, for purposes of the Settlement's Agreement with NCM, a soil property may be defined as one that has a property tax ID number, and we have an estimated 232 soils meeting such definition at this time.

Taking into account that the average cost to remediate a soil is \$40,000, this results in a potential cost to the Settlement of \$2,160,000 to remediate an additional 54¹ soils (\$40,000 x 54). Please note that this additional cost was not projected in the Prior Working Budget.

B2a. Claimant Relocation Expenses in Original Working Budget Remaining

This amount was calculated by taking the Claimant Relocation Expenses in the Prior Working Budget of \$700,000, and subtracting \$112,639 in Claimant Relocation Expenses incurred through January 31, 2013. This results in having \$587,361 in claimant relocation expenses remaining (see New Working Budget)(\$700,000 - \$112,639 = \$587,361).

B2b. Additional Claimant Relocation Costs Associated with Trued-Up House Results

As shown on Page 3 of our August 9, 2012 Prior Working Budget Report (attached as Exhibit B2b), additional claimant relocation expenses are calculated at a rate of \$575 per family for room expenses (plus assuming 15% of the families to be relocated will need 2 rooms), and \$500 per diem/\$100 per day for 5 days for each family. For 250 additional houses to be remediated, this results in \$290,600 of additional claimant relocation expenses (as shown on the New Working Budget), calculated as follows:

Room Expenses:	\$575 X 288 Families ²	=	\$165,600
Per Diem:	\$500 x 250 Families	=	<u>\$125,000</u>
Total Additional Relocation Expenses =			<u>\$290,600</u>

B3a. Post-Remediation Sampling Expenses Remaining

This amount was calculated by taking the Post-Remediation Sampling Expenses in the Prior Working Budget of \$492,000 (as approved by the Court's June 11, 2012 Order), and subtracting \$136,648 in Post-Remediation Sampling Expenses incurred through January 31, 2013. This results in having \$355,352 in post-remediation sampling expenses remaining (see New Working Budget)(\$492,000 - \$136,648 = \$355,352).

¹ 232 soils minus 160 soils minus 18 Upper B Street properties (232-160-18).

² Consists of 250 families plus 15% for families that need 2 rooms (250 x 1.15 = 288).

B3b. Additional Post-Remediation Sampling Costs Associated with Trued-Up House Results

As shown on Page 3 of our August 9, 2012 Prior Working Budget Report (attached as Exhibit B3b), the average cost for CORE to sample a house is \$719.43. This results in a potential cost to the Settlement of \$179,858 to sample an additional 250 houses ($\$719.43 \times 250$).

B4. Remaining Costs for Remediation of Upper B Street Properties

As shown in the Prior Working Budget, the Court approved a budget of \$700,000 for the remediation costs of Upper B Street properties on May 4, 2012. We are currently projecting 15 Upper B Street properties for remediation, and allocating \$600,000 for soil remediation and \$100,000 for claimant annoyance payments. After utilizing \$16,400 of the \$700,000 budget for the payment of claimant annoyance payments, we have \$683,600 in remaining Upper B Street property remediation costs (see New Working Budget)($\$700,000 - \$16,400 = \$683,600$).

B5. Balance of Claimant Annoyance Payments

Attached in Exhibit B5 you will find our projections for remaining Claimant Annoyance Payments to be paid from the Settlement. It is projected that \$308,000 remains to be paid in House Testing Fee Claimant Annoyance Payments³ and \$418,000 is projected to be paid in Soil Testing Fee Claimant Annoyance Payments⁴, for a total of \$726,000 remaining to be paid in claimant annoyance payments. This \$726,000 remaining balance to be paid in claimant annoyance payments is less than half the \$1,600,000 amount projected as the balance in claimant annoyance payments to pay at the time of the Prior Working Budget.

B6. Reserve for Possible Road Deterioration Litigation

This \$1,000,000 reserve remains the same as projected in the Prior Working Budget, with the amount having been approved by the Court's May 4, 2012 Order.

B7. Technical Advisor and Project Administration Expenses

Under the Prior Working Budget, it was projected that Technical Advisor expenses would be incurred at the rate of \$25,000 per month for the 30 month life of the Remediation Program, for a total outlay of \$750,000. The services of the Technical Advisor have been greatly diminished, and current outlay for the Technical Advisor is approximately \$1,500 per month. The New Working Budget includes additional project administration costs as follows: \$3,000 per month for soil expert fees; \$6,000 for property security; \$200 per month for web hosting of the Settlement property remediation database; and a total of \$10,000 for projected web database design costs for the Settlement property remediation database. Projecting these expenses over the remaining life of

³ Total of 1,014 houses to be cleaned minus 244 houses paid in full, resulting in 770 houses remaining to be paid; 770 houses X \$400 per house = \$308,000 to be paid.

⁴ Total of 217 soils to be cleaned minus 124 soils paid in full, resulting in 93 soils remaining to be paid (77 soils at \$4,000 each; 9 soils at \$6,000 each; 7 soils at \$8,000 each; for a total of \$418,000 to be paid).

the Remediation Program of 22 months (as of January 31, 2013) equals projected Technical Advisor and Project Administration Expenses of \$246,400.

B8. Claims Administrator and Related Expenses

Claims Administrator and related expenses were projected at \$150,000 per month and, at the time of the Prior Working Budget, were estimated at \$4,500,000 (\$150,000 X 30 months) for the 30 month life of the Remediation Program. As of January 31, 2013, 22 months remain for the projected completion of the Remediation Program, which results in estimated expenses of \$3,300,000 for the Claims Administrator and related expenses for the remainder of the Remediation Program.

B9. Outside Auditor for Three Years

I left the projected fees for the outside auditor the same as in the Prior Working Budget (\$100,000), as the Court, Finance Committee and the Claims Administrator may require an audit for 2012, 2013 and 2014.

B10. Reserve for Contingencies (Approx. 8.9%)

This amount in the New Working Budget (\$2,082,074) is approximately 8.9% of the total projected expenditures in B1 through B9, as there are no projected surplus reserves to provide for a 10% contingency reserve.

Looking at the New Working Budget, there is no projected Surplus, therefore, there is only \$2,082,074 projected to be available for additional or unforeseen remediation expenditures.


Let me know if you need anything further concerning this matter.

TDTjr/
Attachments

EXHIBIT C

MEMORANDUM

TO: Edgar C. Gentle, III, Esq.

FROM: Terry D. Turner, Jr., Esq. 

DATE: March 18, 2013

RE: Perrine-DuPont Property Remediation Qualified Settlement Fund (the "Remediation Fund") - Property Remediation Program Working Budget; Our File Nos. 4609-1 {DD-51} and {NN-3}

The purpose of this memorandum is to compare and contrast the attached, March 18, 2013 Revised Property Remediation Program Working Budget ("Property Budget") with the Settlement's Administration Budget No. 3 for the period of September 1, 2012 through August 31, 2013 (the "Settlement Administration Budget").

I. Medical Monitoring Settlement Fund

The Property Budget only projects expenditures to be made during the life of the Property Remediation Program from the Remediation Fund, so the Medical Monitoring Settlement Fund expenses projected in the Settlement Administration Budget will remain unchanged at \$761,866.41 for the period of September 1, 2012 through August 31, 2013. Currently, the Medical Monitoring Settlement Fund (Post-Implementation Date) expenses are running \$110,237.51 under budget for the period of September 1, 2012 through January 31, 2013.

II. Property Remediation Settlement Fund

After comparing the Property Budget (taking into account that it is a 22 month budget) with the Settlement Administration Budget (a 12 month budget), it does not appear that any changes need to be made to the Settlement Administration Budget based upon the revised Property Budget.

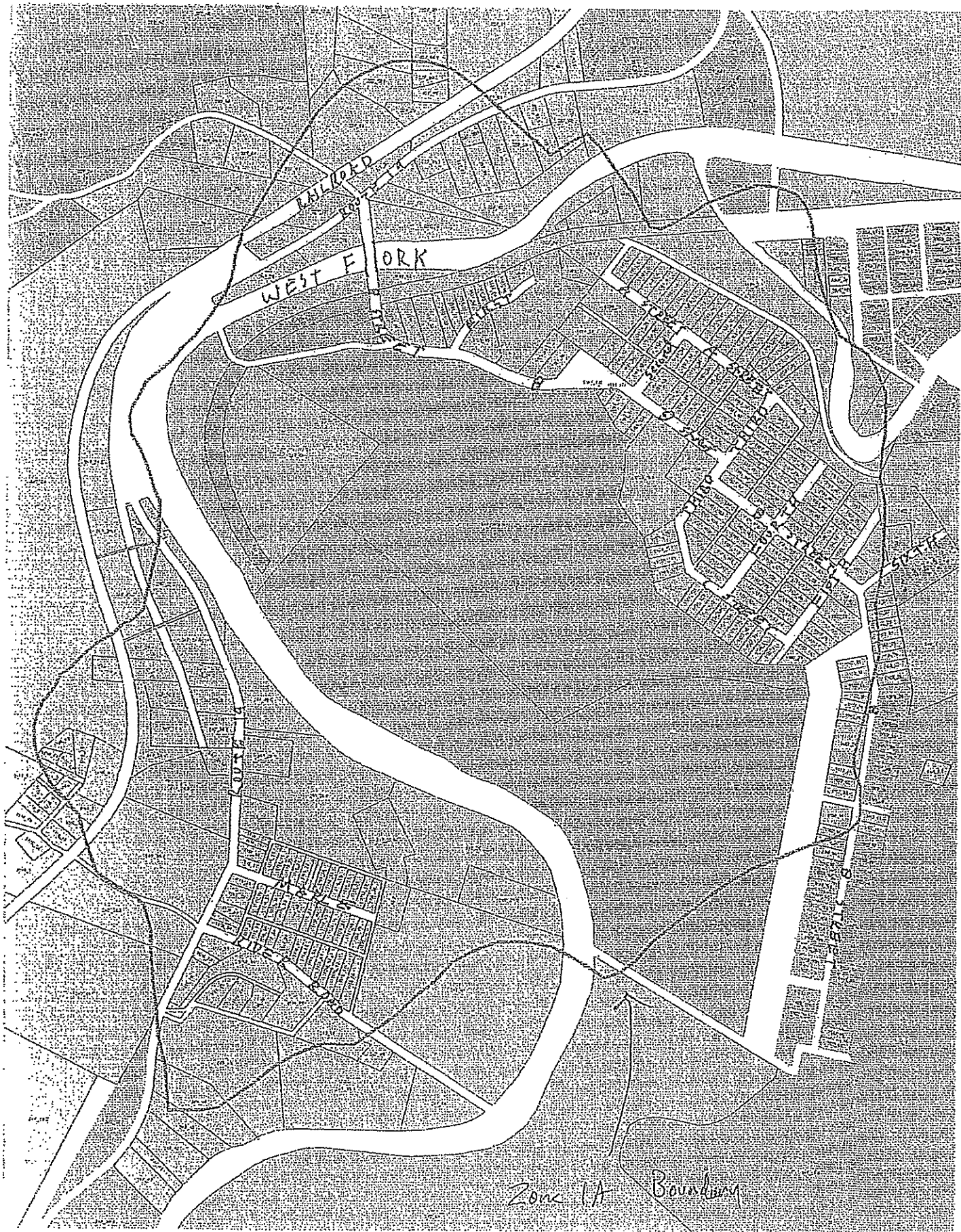
As of January 31, 2013, approximately \$5,174,000 was expended during the Settlement Administration Budget year, leaving \$13,031,000 of the Settlement Administration Budget remaining for the last seven (7) months of the Settlement Administration Budget year (February 2013 through August 2013). If we: (1) estimate the remediation of 95 soils and 280 houses during the last seven (7) months of the Settlement Administration Budget year (February 2013 through August 2013); (2) adjust Property Budget line items B7-9 to a seven (7) month period; and (3) leave the Property Budget line items 2-6 at their full amounts (although unlikely that 100% of these amounts would be expended in the seven (7) month period), then the total projected seven (7) month expenditure for the Property Budget would equal \$12,036,091, or \$994,780.50 less than the \$13,031,000 remaining Settlement Administration Budget available at January 31, 2013. This projected excess budget amount of \$994,780.50 would be more than sufficient to cover the

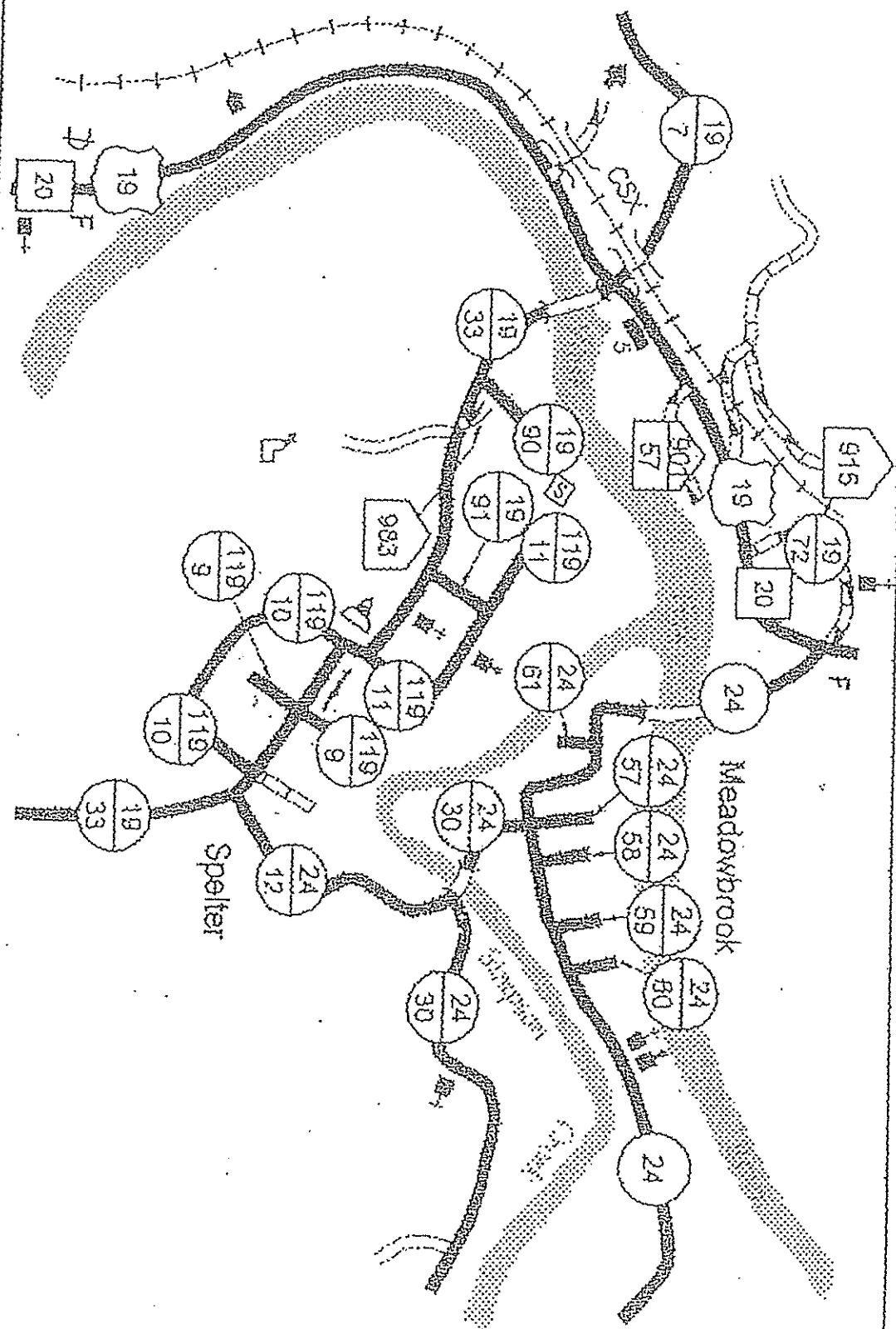
additional Settlement Administration Budget common overhead expenses that are not provided for within the Property Budget and that are shared by both Settlement Funds.

Let me know if you have any questions or need anything further concerning this matter.

TDTjr/
Attachment

EXHIBIT D





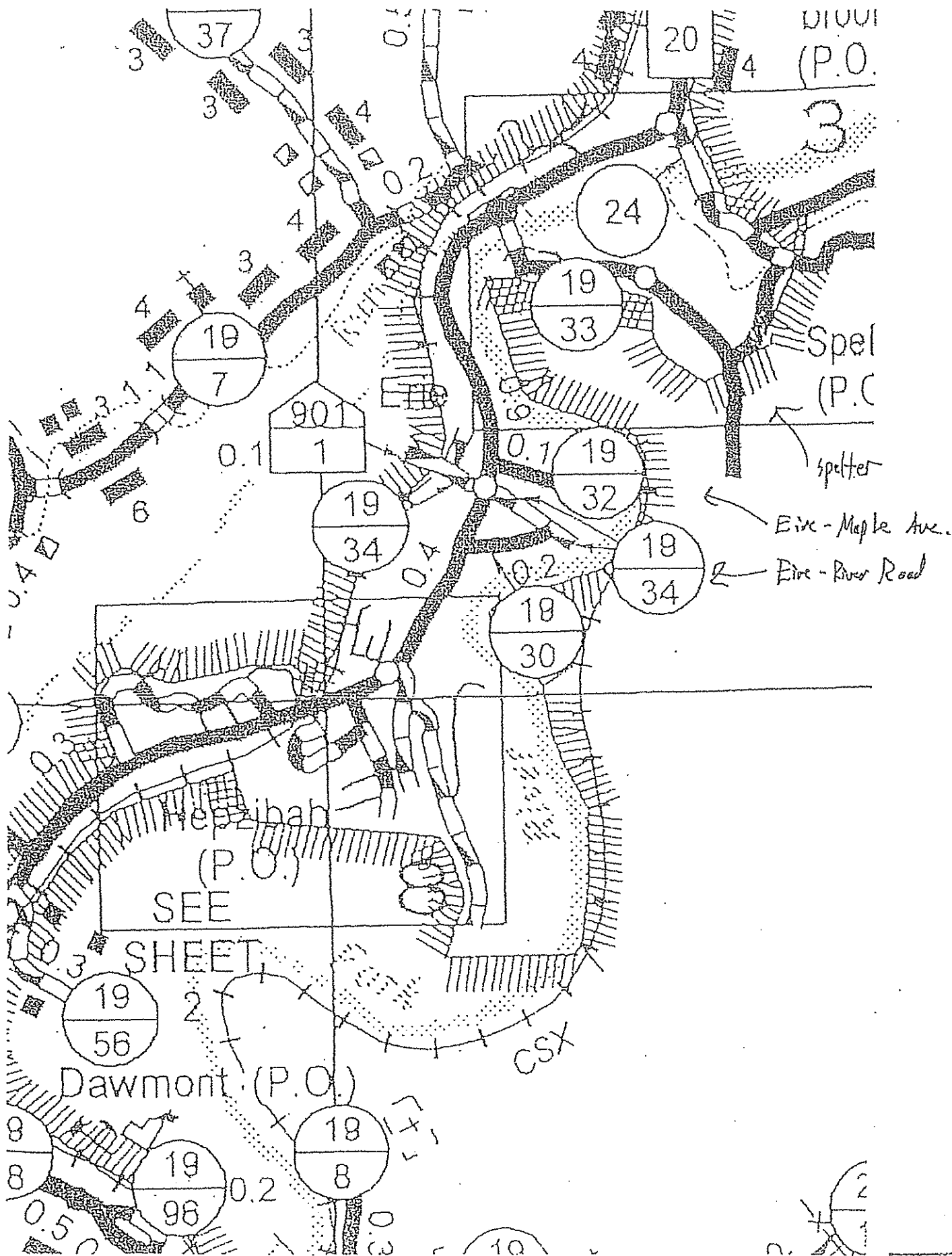


EXHIBIT E

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

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

March 14, 2013

VIA EMAIL

Mr. George W. Hilton, III
Vice President/ Branch Manager
NCM Demolition and Remediation, LP
3900 Vero Road
Baltimore, MD 21227
ghilton@ncmgroup.com

Mr. Dennis Raver
Program Manager
69 Third Street
Spelter, WV 26438
draver@ncmgroup.com

Mr. Eddie Waskiewicz
69 Third Street
Spelter, WV 26438
ewaskiewicz@ncmgroup.com

Mr. Richard Heath
69 Third Street
Spelter, WV 26438
raheath@yahoo.com

Re: The Perrine DuPont Settlement - Agreed Remedy for Old and New
Soil; 4609-1-{DD-36}, 4609-1{DD-40} and 4609-1{DD-53}

Dear George, Dennis, Eddie and Richard:

We hope that all is well.

The purpose of this letter is to formally outline below the agreed remedy based on our March 5, 2013 Mediation with Bob Greer.

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.

II. Old Soil

For the approximately 92 properties whose soil was remediated during the 2012 season, the following terms apply:

1. NCM agrees to extend the sod warranty under the current Agreement on the soil properties remediated during 2012 to November 30, 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 are drafting the Soil Enhancement Procedures for review by NCM's experts. 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.

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, NCM will provide, at the Claimant's option, the Soil Enhancement Procedures.

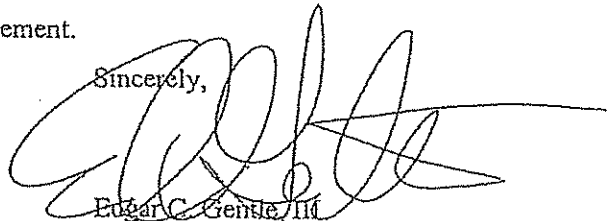
The Soil Enhancement Procedures will be administered once in the Spring and once in the Fall. Claimants with non-Compliant Soil, based on testing, who agree to receive the Soil Enhancement Procedures will receive an annoyance and inconvenience payment of \$175 for each of the two (2) procedures, to be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

III. Court Approval Required

This agreement is contingent on Court approval following a hearing. NCM and the Settlement will make their experts available for examination at the hearing. By copy of this letter, we are keeping the Finance Committee and Meredith McCarthy informed. We are also providing a copy to NCM's lawyer, Cy Hill, Esq., and to the Mediator, Bob Greer, Esq.

Many thanks to Bob for facilitating the Settlement.

Sincerely,



Edgar C. Gentle, III
Claims Administrator

cc: (via e-mail)(confidential)(w/enclosures)
Cy A. Hill, Esq. Counsel for NCM
Robert L. Greer, Esq., Mediator
Diandra S. Debrosse, Esq.
Katherine A. Harbison, Esq.
Michael A. Jacks, Esq.
Mr. Billy Sublett
Mr. Marc Glass
Mr. Duane Truax
James S. Arnold, Esq., DuPont Representative on the Finance Committee
Virginia Buchanan, Esq., Plaintiff Class Representative on the Finance Committee
Meredith McCarthy, Esq., Guardian ad litem for Children



707 Virginia Street East
Suite 260
Charleston, WV 25301
Phone: 304.513.4242
Fax: 304.513.4243

Cy A. Hill, Jr.
chill@mannongray.com

March 20, 2013

VIA US MAIL & ELECTRONIC MAIL

Ed Gentle
Spelter Volunteer Fire Department Office
55 B Street
Spelter, West Virginia 26438

Re: Perrine et. al v. DuPont- Settlement v. NCM Demolition and Remediation

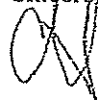
Dear Mr. Gentle:

I am in receipt of your March 14, 2013 correspondence which sets forth a summary of the terms of the new and old soil mediation agreement. NCM takes issue with a few of the items contained in the letter. With regard to paragraph 1, you state that NCM agreed to extend the soil warranty on the 2012 properties through November 30, 2014. First, NCM made it very clear to the mediator that it was only agreeing to extend the warranty for 2012 properties that "fail" the soil testing. NCM does not agree to extend the warranty for 2012 properties that "pass" the soil testing. For properties that "pass" the soil testing, only the existing one (1) year warranty would apply. Second, NCM agreed to extend the warranty for properties that "fail" the soil testing to November 1, 2014, not November 30, 2014. I am not sure if these discrepancies are the result of a miscommunication at mediation or if they were simply unintentional errors in the letter. Please advise as to your understanding on these issues as we would certainly like to clarify these points as soon as possible.

NCM also wishes to clarify another point that is not clear in the letter. The letter states that Soil Enhancement Procedures will be administered once in the Spring and once in the Fall for Claimants who have non-Compliant Soil and agree to receive the Soil Enhancement Procedures. NCM agrees to place sand on 2012 properties that "fail" soil testing in a manner to be agreed upon by the experts. However, NCM understands that the sand application would only take place once, not twice in both the Spring and Fall. Obviously, the experts will need to come up with the finer points for the agreed-upon Soil Enhancement Procedures. However, this is one issue NCM wanted to bring to your attention immediately to ensure that we are on the same page.

If you wish to discuss these matters in more detail, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'CH', written over the word 'Sincerely,'.

Cy A. Hill, Jr.
MANNION GRAY

Cc: George W. Hilton
Dennis Raver