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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 RESPECTING THE WINDING UP OF REMAINING ISSUES
BETWEEN THE SETTLEMENT AND NORTHSTAR DEMOLITION AND
REMEDICATION (FORMERLY "NCM")**

Presently before this Court is the August 22, 2016 Report of the Claims Administrator, summarizing the status of various remaining issues between the Settlement and NCM, and requesting that the Court find that neither the Settlement nor NCM have any further monetary obligations to each other, with the understanding that the Settlement and NCM will continue to cooperate in facilitating the winding up of remaining remediation issues through the exchange of information and suggestions.

This matter came to be heard on September 7, 2016 at 10:00 A.M., with Cy Hill, Esq. appearing on behalf of NCM, together with Tom Archer, an employee of NCM. Also attending the hearing were Edgar C. Gentle, III, the Claims Administrator for the Settlement, and Meredith H. McCarthy, the Settlement guardian *ad litem* for children and the local proxy for Class Counsel. The Spelter claims office staff comprised of Paul Emerson, Christy Mullins, and Sarah Cayton, also attended the hearing.

Mr. Marc Glass, the Settlement's Scientific and Technical Expert for Remediation, attended the hearing telephonically.

The hearing began with Mr. Glass' presentation of the Settlement Property Remediation Summary Report that he prepared, and which is contained in Exhibit A. Remediation of the four zones designed by Plaintiff Expert Dr. Kirk Brown has been performed, being completed at June 30, 2016. Zone 1A had soil and house remediation, while the remaining zones only had house remediation. In order to make frugal use of Settlement resources, all target soil and house properties were sampled, and only those found to have heavy metals above Settlement standards were remediated.

Zone 1A soil remediation was almost ubiquitous, with 166 of the 167 contaminated soil properties being remediated. 45,000 tons of contaminated soil were removed and replaced.

Throughout the Class Area, 992 properties participated in house remediation, and 235 declined, with 583 houses owned by participants that were contaminated being cleaned.

Through the frugal use of Settlement resources, the \$34 Million allocated to the Remediation Program was ample to complete the project, with there being an estimated surplus of about \$4 Million. By contrast, Dr. Brown's initial estimate for the completion of the Remediation Program was \$57 Million.

The surplus is now being used to make infrastructure repairs in Zone 1A and to repair the Zone 1A roads that were damaged through the Remediation Program, with the remaining balance to be paid to the Claimants as a dividend.

The Court expressed satisfaction with the Remediation Program and its frugal management.

The Court then turned its attention to the proposed final accounting of the financial relationship between the Settlement and NCM in the August 22, 2016 Claims Administrator Report. Mr. Gentle summarized the Report, and Cy Hill confirmed that it was satisfactory to NCM. Meredith McCarthy, on behalf of the Class, related that she had met with Mr. Gentle and Mr. Hill, together with Mr. Gentle's claims office staff, in an effort to understand fully the remaining matters between NCM and the Settlement, and to be able to determine a fair resolution thereof. She confirmed that the proposed reconciliation of the accounts between NCM and the Settlement, so that neither owes the other anything, is acceptable to the Class and that she recommended it.

Mr. Gentle noted that there are four remaining matters involving NCM and the Settlement that he is aware of, being the Shawn Shingleton matter, in which the Settlement recently paid Mr. Shingleton \$10,640.85, which is jointly owed by NCM and Mr. Greg Cesario dba Tri-State Turf, the Athal Canaday matter, in which flooding is being rectified at an expense of \$4,800, to be charged to NCM, and the pending appeals of Rhonda Blosser, and Harold Oldaker, which have yet to be decided by the Court.

The parties agreed that, though NCM would no longer be obligated to pay for the Shawn Shingleton amount, NCM will cooperate with the Settlement in helping the Settlement collect this amount from Tri-State Turf. The Canaday, Blosser, and Oldaker matters would be obligations of the Settlement and not NCM.

After a careful review of the facts in this matter and of the pertinent law, the Court hereby **ORDERS** that the Report and the request of the Claims Administrator, NCM, and Class Counsel that the Court find that neither the Settlement or NCM have any further financial obligations to each other, be **GRANTED**, with the understanding that NCM and the Settlement will continue to

cooperate with each other in sharing information and advice on winding up matters respecting the Remediation Program, and that NCM will work with the Settlement in helping the Settlement collect the remaining obligation owed by Mr. Greg Cesario dba Tri-State Turf as described above.

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

IT IS SO ORDERED.

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

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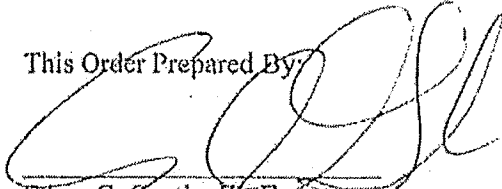
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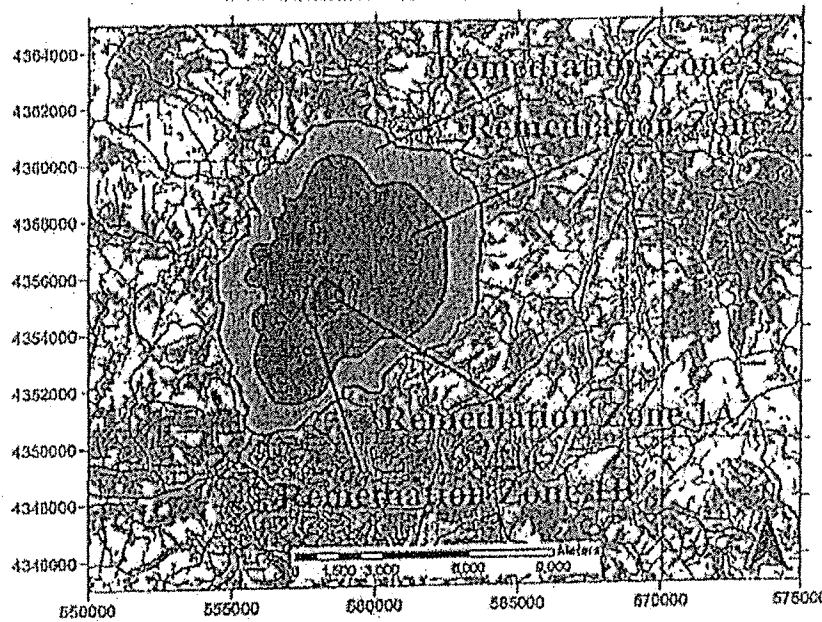
Thomas A. Bedell, Circuit Judge

EXHIBIT A

Perrine DuPont Settlement

Property Remediation Summary Report

Marc Glass



Downstream Strategies

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September 12, 2016

Property Remediation Summary Report

Marc Glass, LRS

ABOUT THE AUTHORS

Marc Glass, LRS, Principal, Environmental Monitoring and Remediation. Marc Glass L.R.S., is a principal at Downstream Strategies, LLC where he manages the Environmental Monitoring and Remediation Program. Projects in this program involve re-development and re-use of brownfield sites and field monitoring of surface water, groundwater, soil, and air. Mr. Glass has over fifteen years of experience in environmental consulting and management, including eleven years as a West Virginia Department of Environmental Protection Licensed Remediation Specialist (LRS). Since 2011, he has served as the Court-appointed Remediation Technical Expert for the Perrine-DuPont Settlement Class Area Remediation Program where he provides technical support for soil and interior structure remediation of heavy metals contamination associated with a former zinc smelter site in West Virginia. He is skilled in the evaluation and remediation of environmental contamination. Mr. Glass' experience includes Phase I and Phase II ESA, petroleum and chlorinated solvent site investigations, design and installation of monitoring well networks, aquifer testing, asbestos and biological remediation and project supervision, preparation of facility spill prevention plans for above ground and underground storage tank facilities, and mold investigation and remediation. Mr. Glass's experience includes management of remediation projects in the West Virginia Voluntary Remediation and Redevelopment Program (VRRP) and Pennsylvania Department of Environmental Protection Land Recycling Program. Mr. Glass has worked extensively within the environmental regulatory programs of Pennsylvania and West Virginia and has served clients throughout the mid-Atlantic region. He provides expert testimony relating to contamination at un-conventional shale gas development sites and other sources of industrial pollution.

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1. INTRODUCTION

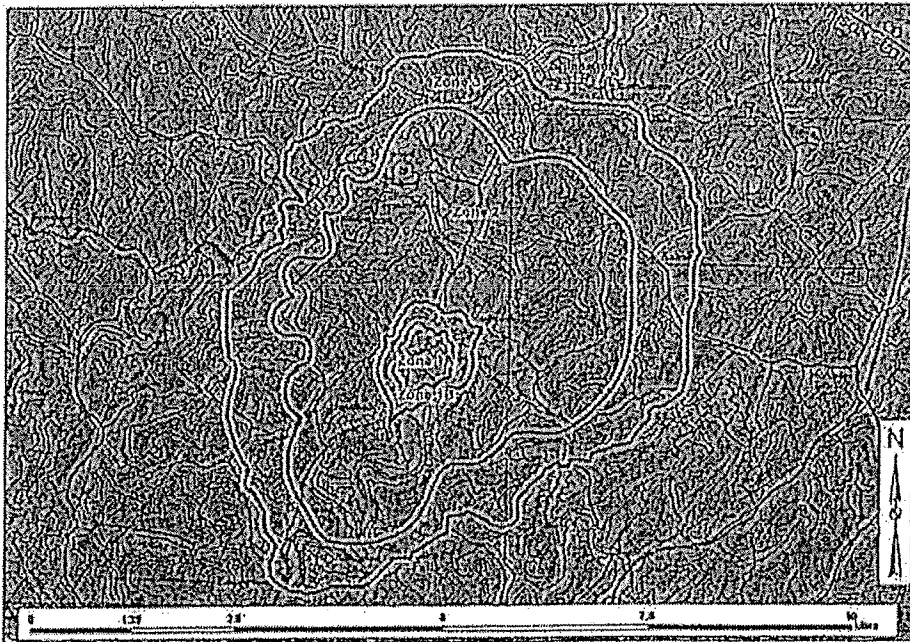
This report presents a summary of remediation activities performed in partial fulfillment of the Final Order Establishing Property Remediation (cleanup) Program (Final Order) as issued by Thomas A. Bedell, Circuit Judge, Circuit Court of Harrison County on June 27, 2011 in the matter of Lenora Perrine, et al. v. E.I DuPont De Nemours and Company, et al. (Case No. 04-C-296-2), henceforth referenced as the Perrine DuPont Settlement or "Settlement." Separate Orders issued previously by the Court had established Edgar C. Gentle, III, as the Settlement Claims Administrator and that Marc Glass be retained by the Settlement as the Remediation Technical Advisor.

The Settlement Property Remediation Program was initiated on November 1, 2011. This report provides a general summary of the Settlement Remediation Program and remedial progress through July 28, 2016. Progress statistics referenced in this report were compiled by Settlement staff from the project tracking database maintained by the Claims Administrator.

2. BACKGROUND

The Final Order established that a heavy metals remediation program would be implemented for the Settlement Class area and, recognizing prior testimony of plaintiff expert Dr. Kirk Brown, established that remediation would be performed in a tiered approach based on previous delineated Class Areas (as Zones 1A, 1B, 2, and 3, respectively). The Settlement Class Area is defined as any property (tax parcel) that lies within, or is intersected by the respective remediation zone boundaries show in red below on Figure 1.

Figure 1: Settlement Class Area Remediation Zones, Harrison County, West Virginia

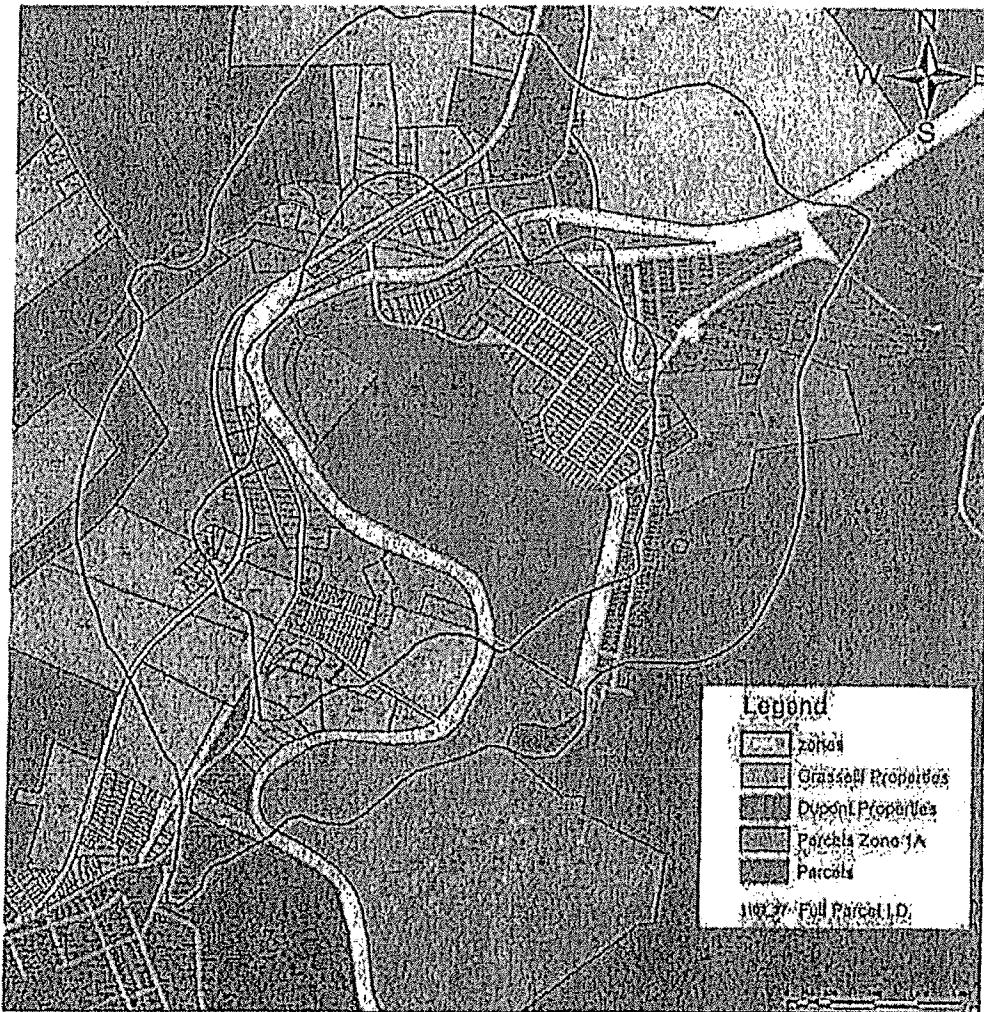


Remediation Zones

Sources: Plaintiff GIS database, Case No. 04-C-296-2., Brown, 2007, Figure 4.

Exceptions and additions to the Class area include exclusion of DuPont-owned properties, and the "Grasselli Properties" based on resolution of a prior legal proceeding with DuPont as Defendants and Grasselli et al., as Plaintiffs, as shown on Figure 2. Additions include a court-approved modification of Zone 1A to be expanded to include several Claimant properties situated along the south and east sides of B Street in Spelter. Referenced as the Zone 1A Bubble Properties, these properties were ordered to be evaluated and, if necessary, remediated in the same manner as Zone 1A Properties.

Figure 2: Remediation Zone 1A eligible Claimant properties and exclusions



Source: Harrison County Tax Parcel Shape Files, Perrine DuPont Settlement Class Area Database, Adapted by MG from MG/DF Version 7/21/11.

Zone 1A properties were to be remediated by soil removal and replacement, as well as an intensive interior remediation for all inhabited structures to recover settled and accumulated particulates containing elevated concentrations of heavy metals. All other Zones (1B, 2, and 3) were to receive tiered levels of interior remediation, based on radial distance from the former smelter site, with no soil remediation.

The Final Order further acknowledged that the remediation approach proposed by Dr. Brown would require a minimum of \$57 million to implement and that only \$34 million in funding would be available to the Settlement to implement the program. Therefore, a prudent, deliberate, and frugal remediation program was necessitated to make best use of limited funds to achieve the greatest remediation reasonably achievable.

To implement the remedial approach, separate contractors were retained by the Settlement through a competitive bidding process to perform sampling and remediation services independently.

3. SOIL REMEDIATION PROGRAM

Properties located within remediation Zone 1A were considered by the Plaintiff expert, Dr. Kirk Brown, to require both exterior soil remediation and interior structural remediation to sufficiently decrease lifetime exposure risk to heavy metals throughout all Settlement Class areas. Due to a number of factors, the most significant being that Settlement funding was insufficient to fully implement the remediation strategy proposed by Dr. Brown, the Claims Administrator and Remediation Technical Advisor developed a delineation strategy to evaluate each Claimant property within Zone 1A individually.

3.1 Pre-remediation soil testing

Prior to remediation, all participating Claimant properties located within Remediation Zone 1A were initially sampled by an independent, third-part soil testing consultant retained by the Settlement, Core Environmental Service, Inc. (CORE) to evaluate if soil remediation was warranted to meet cleanup goals. This approach was implemented to ensure efficient use of limited remediation funds and that only contaminated properties would be remediated. Pre-remediation sampling began during Fall of 2011 and with few exceptions, was largely completed and reported to the Settlement during January 2012.

Property sampling was performed according to a protocol developed by the Settlement. In general, a minimum of two composite samples were collected to evaluate each property consisting of 1/2-acre or less, while a greater number of composite samples were collected for larger properties according to the protocol developed by the Settlement and the remediation technical advisor.

Each soil sample was collected as a thoroughly mixed composite of five sub-samples from the area being represented and submitted to a West Virginia Department of Environmental Protection-certified analytical laboratory for analysis of total arsenic, cadmium, lead, and zinc by EPA Method 6020. Results were reported to the Settlement for evaluation against the Settlement Criteria presented below in Table 1.

Table 1: Settlement Criteria for heavy metals in soil

Analyte	Settlement Soil screening criteria (mg/kg)*
Arsenic	25
Cadmium	39
Lead	1000
Zinc	23,000

Notes: mg/kg equals milligrams per kilogram or parts per million (ppm).

If any sample from a Claimant property exceeded any of the Settlement Criteria, soil remediation was performed for the entire claimant property according to the Settlement Soil Remediation Protocol. If a Claimant property was documented to already be in attainment of Settlement criteria, then a Certificate of Cleanliness was issued to the Claimant.

3.2 Overview of Soil Remediation Program methodology

Active soil remediation began during Spring 2012. Soil remediation was performed by excavation and off-site disposal of the upper six inches of soil and sod material within the Claimant property boundary. Small exceptions included limited protective buffer zones adjacent to structures, stationary personal property, or to protect vegetation root zones. After excavation to the desired depth was completed, replacement soils were imported and the topographic elevation was restored as near as possible to pre-remediation conditions. Sod was then imported from an off-site location and maintained until sufficiently established. After the soil and sod replacement, remediated properties were re-tested to confirm attainment of Settlement Criteria, as described in the following sub-section. If criteria were not met, remediation and testing was repeated until attainment was demonstrated. Owners of remediated properties received a Certificate of Cleanliness to document that remediation had been completed and to provide Claimants with a record of the post-remediation testing results.

3.2.1 Replacement soil testing

To determine if replacement fill soils, or any amendments necessary to meet Settlement Criteria, were suitable for use in the Settlement Soil Remediation Program, representative sampling and laboratory analysis was performed prior to use. To demonstrate that the candidate replacement source soil was free of contamination, representative samples were obtained and analyzed for the total heavy metals criteria presented above in Table 1, plus Mercury by Method SW7471B, volatile organic compounds by EPA Method 8260B, Semi-volatile organic compounds by EPA Method 8270D, PCBs by Method SW8082/3550B, and Pesticides by Method SW8081/3550. Only soils or amendment materials, such as sand to adjust soil texture, that met the Settlement criteria for the heavy metals presented in Table 1 and demonstrated non-detectable concentrations or otherwise were in compliance with applicable regulatory health-based concentrations for clean fill designations for the other criteria were used in the Settlement Soil Remediation Program.

3.3 Post-remediation soil testing

After sod and soil replacement were completed, Claimant properties were re-sampled to confirm attainment of the aforementioned Settlement Criteria for the heavy metals arsenic, cadmium, lead, and zinc (Table 1). Soils were also tested in place for texture, pH, and organic matter content. Acceptable soils were required to be classified as typical of Harrison County West Virginia and be composed of loam, silt loam, or sandy loam according to the USDA NRCS soil texture classification system, pH must range between 6.0 to 7.0, and organic matter content must be sufficient to support growth, greater than or equal to 5%. Replacement soils that did not meet these criteria were either amended in place and re-tested, or replaced until criteria were met.

3.4 Soil Remediation Program Results Summary

Initially, a total of 218 eligible Claimant properties were identified in Remediation Zone 1A and were tested to determine if soil remediation was required. Of these, 166 (76%) were determined to require remediation and 52 (24%) were confirmed to already meet Settlement Criteria and did not require remediation.

Of the 166 properties requiring remediation, one property was inaccessible to remediation equipment and soil excavation could not be performed. Two additional Claimants opted out of voluntary participation in the Settlement Soil Remediation Program, or were determined to be administratively or legally ineligible. Therefore, a total of three Zone 1A properties (1%) that were tested and found to exceed Settlement criteria were not remediated. However, all of the remaining 163 (99%) Claimant properties that originally exceeded Settlement Criteria were successfully remediated and the Claimants received Certificates of Cleanliness. This indicates voluntary participation and successful cleanup for 99% of the originally contaminated properties in Remediation Zone 1A.

3.4.1 Contaminated soil volume removed

Based on the initial pre-remediation soil testing results and calculations of the typical lot size (0.33-acres) to be remediated, an estimated soil volume of 268.6 cubic yards or 40,300 tons of contaminated soil was anticipated for removal. This estimate was referenced in contractor bid documents. However, the actual soil volume removed was approximated at 45,000 tons based on Settlement records. All excavated soils and associated construction debris were transported to Meadowfill Landfill in Harrison County, West Virginia for disposal.

4. INHABITABLE STRUCTURE INTERIOR REMEDIATION PROGRAM

In the same manner that soils for eligible Claimant properties in Zone 1A were tested to determine if soil remediation was warranted, the interior of eligible Claimant inhabitable structures (houses, mobile homes) for all remediation zones (Zone 1A, 1B, 2, and 3) were also tested to determine if interior remediation was warranted. As with the Soil Remediation Program, participation for eligible Class members was voluntary.

Prior to remediation, Settlement staff and the remediation contractor coordinated with Claimants to make Relocation and pet agreements that made temporary lodging accommodations for occupants and household pets at the Settlement expense. Claimants were asked to relocate unless there was a medical issue. Claimants that indicated they had a medical issue did not have to provide verification and were allowed to remain. Special arrangements for rooms with hospital beds and other medical equipment were made as needed. Claimants were asked to relocate pets or put them outside during the remediation process. Only one Claimant required special accommodation where a temporary exterior structure was purchased to house pets on the Claimant property outside the residence during the course of interior remediation.

4.1 Pre-remediation inhabitable structure testing

In the same manner that soils for eligible Claimant properties in Zone 1A were tested to determine if soil remediation was warranted, the interior of eligible Claimant inhabitable structures (houses, mobile homes) for all remediation zones (Zone 1A, 1B, 2, and 3) were also tested to determine if interior remediation was warranted. As with the Soil Remediation Program, participation for eligible Class members was voluntary.

Testing of the interior of habitable structures was performed for attics and interior functional living spaces by independent, third-party consultants retained by the Settlement under a competitive bidding process. To achieve representative results in a timely manner, a wipe sampling protocol was developed to evaluate interior settled and accumulated dust from interior locations not typically subject to routine household cleaning. Dust samples were submitted to a West Virginia Department of Environmental Protection-certified analytical laboratory for digestion and analysis of total arsenic, cadmium, lead, and zinc concentrations by EPA Method 6020. Results were reported in micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for comparison to the Settlement Criteria for interior dust as presented below in Table 2.

Table 2: Settlement Criteria for interior dust sampling

Analyte	Settlement interior dust criteria ($\mu\text{g}/\text{ft}^2$)
Arsenic	43,695
Cadmium	144.65
Lead	43,695
Zinc	43,695

As with the pre-remediation soil testing protocol, a conservative approach was used and if any sample from the Interior of the habitable structure failed to meet Settlement Criteria, an Interior remediation was performed. For eligible Claimant properties that were evaluated and found to already be in attainment of Settlement Criteria, a Certification of Cleanliness and documentation of the sampling results was provided to the Claimant.

4.2 Overview of Inhabitable Structure Interior Remediation Program methodology

The Interior Remediation Program began shortly after the Soil Remediation Program was underway during the spring of 2012. The Interior Remediation Protocol developed by the Settlement Claims Administrator and Remediation Technical Advisor was in general accordance with the original recommendations of Dr. Brown.

Prior to remediation, Settlement staff and the remediation contractor coordinated with Claimants to make temporary lodging accommodations for occupants and household pets at the Settlement expense. Interior remediation typically required between five and seven days, although longer durations occurred if initial confirmatory post-remediation sampling results, discussed in the following sub-section, did not demonstrate attainment of Settlement Criteria. The cleaning protocol was repeated as necessary until all samples demonstrated attainment of Settlement Criteria and normal occupancy could be resumed.

For all Remediation Zones, interior remediation consisted of removal and replacement of attic insulation materials that tended to serve as a long-term reservoir for dust and to provide access for cleaning and sealing of the construction materials beneath insulation. After removal, cleaning, sealing (encapsulating), and collecting confirmatory testing samples, rolled fiberglass or blown-in insulation was restored to a minimum of R-19 value or consistent with pre-remediation conditions, whichever was greater. After the attic was remediated, interior functional living spaces were also thoroughly cleaned by high-efficiency particulate air (HEPA) vacuuming, followed by damp detergent wiping and an additional HEPA vacuuming for all accessible interior surfaces, furniture, finishings, and personal property. Special attention was paid to thoroughly recover dust from ceilings, walls, floors, baseboards, stairs and railings, light fixture and ceiling fans, HVAC vents, doors and windows, electrical outlets, sinks, stoves, and appliances. After cleanup of functional living spaces, the HVAC duct system and furnaces were cleaned or, if flexible duct work was present, replaced. Remediation Zone 1A carpets were replaced and in all other Zones, carpets were thoroughly cleaned.

4.3 Post-remediation interior testing

Post-remediation verification sampling and analysis was required prior to restoring structures to normal occupancy. The same dust-wipe protocol and criteria were used for post-remediation sampling and demonstration that Settlement Remediation Criteria were met before allowing occupants back into the structure. Once compliance with Settlement Remediation Criteria was demonstrated and the Claimants completed inspection and a sign-off form indicating their approval, a Certificate of Completion and documentation of the post-remediation sampling results was provided to the Claimant.

4.4 Interior Cleanup Program Results Summary

Initially a total of 1,008 Claimant properties were identified across all Remediation Zones and were tested to determine if remediation was required. Of these, 816 (81%) were determined to require remediation and 192 (19%) were confirmed to already meet Settlement Criteria and did not require remediation. All 192 Claimant properties that did not require further remediation were issued Certificates of Cleanliness.

Of the remaining 816 properties that required interior remediation to meet Settlement Criteria, 233 (29%) Claimant properties voluntarily opted out of participation in the Settlement Remediation Program or were determined to be administratively or legally ineligible. Interior remediation was successfully completed for a total of 583 (71%) eligible Claimant properties that required remediation.

Overall, Certificates of Cleanliness were issued for a total of 775 (77%) Claimant properties that were initially evaluated as clean or required remediation to meet Settlement Criteria.

5. VALUE ADDED TO THE COMMUNITY

The greatest benefit of the Settlement Property Remediation Program, and indeed its primary objective, was to achieve a reduction in potential health risks from increased exposure to heavy metals throughout the Class Area by contaminant source removal. By substantially reducing the mass of heavy metals from within the Class Area, particularly from the close living environment of residents, this benefit is realized and health risk from exposure to heavy metals is reduced. It is noted that this benefit is realized not only by participating Claimants, but for the entire Class Area and beyond, and for future generations.

To document this achievement, the Settlement issued Certificates of Cleanliness for all properties that were assessed and found to be in attainment, or successfully remediated. The Certificate of Cleanliness provides permanent documentation for Claimants and should provide improved confidence for any Claimants formerly concerned about potential health implications of increased exposure to heavy metals from their living environment. Confidence should also be improved for prospective purchasers during future real estate transactions and help to dispel any adverse public perceptions generated by the legal proceedings or knowledge of area history. It is reasonably presumed that the effects of the Remediation Program should act favorably on the local real estate market over the long-term.

5.1 Community road improvement program

With approval of the Court, the Settlement Claims Administrator maintained a budget for local road improvements to mitigate impacts from the operation of heavy equipment during the Soil Remediation Program. As a result, the Settlement will coordinate repaving all roads in the towns of Spelter and Erie (Remediation Zone 1A) at an estimated cost of \$243,348.70. A list of roads to be resurfaced is provided in Table 3.

Table 3: Settlement road re-surfacing projects for Zone 1A

Town of Spelter	Town of Erie
1st St - CR 19/90	Maple Ave - CR 19/32
2nd St - CR 19/91	Rose/Poplar St - CR 19/34
3rd St - CR 119/10	River Rd - 19/34
4th St - CR 119/9	
5th St - CR 119/10	
6th St - CR 24/12	
A St - CR 119/11	
B St - CR 19/33	
C St - CR 119/10	

Additional Infrastructure improvements, estimated at a value between \$200,000-\$250,000, will include installation of new drains, drop inlets, and repair of existing drains; cleaning of existing ditch lines; paving or re-surfacing of several alley-ways; and sidewalk repairs. These improvements will significantly enhance the accessibility and enjoyment of the community.

5.2 Distribution of Remediation Fund Surplus

After completion of remaining repairs to Claimant properties, approved road repairs, and other community Infrastructure Improvements the Claims Administrator estimates a surplus in the Qualified Settlement

Remediation Fund of \$4 million. The funds will be distributed to Claimants equitably according to a July 13, 2016 Order issued by Judge Bedell.

6. SUMMARY AND CONCLUSIONS

The Settlement Property Remediation Program is near completion with successful cleanup of soil from 163 Claimant properties and the interior of 583 habitable structures throughout the Settlement Class Area. In total, 1,226 Property Remediation claims (soil and structures combined) were filed with the Claims Administrator. Of these, approximately 991 properties were included by the voluntary participation of their Claimant owners, and 235 declined to participate in remediation. It is anticipated that remaining repairs to Claimant properties, approved road repairs, and other community infrastructure improvements will be completed by late 2016 or early 2017.

The removal of environmental media and personal property contaminated with heavy metals will substantially reduce potential health risk that would have otherwise remained a persistent component of the Spelter community and larger Class Area. In large part due to the frugal management of limited funds available for remediation by the Claims Administrator, and as requested by Judge Bedell in the June 2011, Final Order Establishing Property Remediation Program, additional community enhancements will be implemented and a surplus in the Property Remediation Qualified Settlement Fund of approximately \$4 million will be equitably distributed to Claimants.

**PERRINE DUFONT PROPERTY RECAP
ALL PRE-REMEDATION TESTED PROPERTIES**

ZONE 1A

- We pre-remediation tested 218 soil properties, 166 tested dirty (76%) and 52 tested clean (24%).
Of the 166 dirty soil properties, 2 opted out (1%) and 163 were remediated and 1 was not accessible, but paid (99%).
- We pre-remediation tested 196 house properties, 167 tested dirty (85%) and 29 tested clean (15%).
Of the 167 dirty house properties, 19 opted out (11%) and 148 were remediated (89%).

Zone 1A Properties Recap:

	<u>SOIL</u>	<u>HOUSE</u>	<u>TOTAL</u>	
Dirty				
Dirty - Remediated	163	148	311	
Dirty - Inaccessible (SVFD)	1	0	1	
Dirty - Opt-Out/Denied	2	19	21	
Dirty - Total	166	167	333	
Clean	52	29	81	
Total Properties	218	196	414	

ZONE 1B

- We pre-remediation tested 58 properties, 44 tested dirty (76%) and 14 tested clean (24%).
Of the 44 dirty properties, 6 opted out (14%) and 38 were remediated (86%).

Zone 1B Properties Recap:

Dirty			
Dirty - Remediated	38		
Dirty - Opt Out/Denied	6		
Dirty - Total	44		
Clean	14		
Total Tested Properties	58		

ZONE 2

- We pre-remediation tested 283 properties, 216 tested dirty (76%) and 67 tested clean (24%).
Of the 216 dirty properties, 59 opted out (27%) and 157 were remediated (73%).

Zone 2 Properties Recap:

Dirty			
Dirty - Remediated	157		
Dirty - Opt Out/Denied	59		
Dirty - Total	216		
Clean	67		
Total Properties	283		

ZONE 3

- We pre-remediation tested 471 properties, 389 tested dirty (83%) and 82 tested clean (17%).
Of the 389 dirty properties, 149 opted out (38%) and 240 were remediated (62%).

Zone 3 Properties Recap:

Dirty			
Dirty - Remediated	240		
Dirty - Opt-Out/Denied	149		
Dirty - Total	389		
Clean	82		
Total Properties	471		

ALL ZONES

- We pre-remediation tested 218 soil properties, 166 tested dirty (76%) and 52 tested clean (24%).
Of the 166 dirty soil properties, 2 opted out (1%) and 163 were remediated and 1 was not accessible, but paid (99%).
NOTE: NCM maintained soil properties by parcels. Therefore, the number of dirty soil properties remediated by NCM totaled 227.
- We pre-remediation tested 1,008 house properties, 816 tested dirty (81%) and 192 tested clean (19%).
Of the 816 dirty house properties, 233 opted out (29%) and 583 were remediated (71%).
NOTE: 5 of the house properties (3 dirty and 2 clean) included in the 1,008 were under the same roofline, but paid as a separate property.
- We pre-remediation tested 1,228 soil and house properties, 982 tested dirty (80%) and 244 tested clean (20%).
Of the total 982 dirty soil and house properties, 235 opted out (24%) and 748 were remediated and 1 was not accessible, but paid (78%).

**PERRINE DUPONT PROPERTY RECAP
ALL PRE-REMEDATION TESTED PROPERTIES**

All Zones - Property Counts

	Zone 1A SOIL	Zone 1A HOUSE	Zone 1B HOUSE	Zone 2 HOUSE	Zone 3 HOUSE	All Zones HOUSE	All Zones SOIL & HOUSE
Clean	52	29	14	67	82	192	244
Dirty	166	167	44	216	389	816	982
Total Properties	218	196	58	283	471	1,008	1,226
Dirty							
Dirty - Remediated	183	148	38	157	240	583	746
Dirty - Inaccessible, but Paid Soil	1	0	0	0	0	0	1
Dirty - Opt Out/Denied	2	19	6	59	149	233	235
Total Dirty	186	167	44	216	389	816	982
Overall Completed Properties (Includes Inaccessible Soil)	216	177	52	224	322	775	991

All Zones - Percentage Recap

	Zone 1A SOIL	Zone 1A HOUSE	Zone 1B HOUSE	Zone 2 HOUSE	Zone 3 HOUSE	All Zones HOUSE	All Zones SOIL & HOUSE
Clean	24%	15%	24%	24%	17%	19%	20%
Dirty	76%	85%	76%	76%	83%	81%	80%
Total	100%	100%	100%	100%	100%	100%	100%
Dirty							
Dirty - Remediated (Includes Inaccessible, but Paid Soil)	99%	89%	86%	73%	62%	71%	76%
Dirty - Opt Out/Denied	1%	11%	14%	27%	38%	29%	24%
Total Dirty	100%	100%	100%	100%	100%	100%	100%
Overall Completed Properties as a Percentage of Pre-Remediation Tested Properties (Includes Inaccessible Soil)	99%	90%	80%	79%	68%	77%	81%

FERRINE DUPONT PROPERTY RECAP
ALL PRE-REMEDATION TESTED PROPERTIES

All Zones - Property & Percentage Recap:

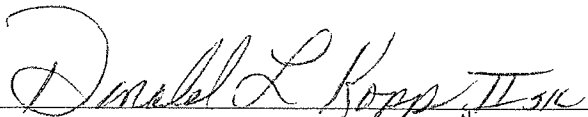
	Zone 1A SOIL		Zone 1A HOUSE		Zone 1B HOUSE		Zone 2 HOUSE		Zone 3 HOUSE		All Zones HOUSE		All Zones SOIL & HOUSE	
	Properties	Percentages	Properties	Percentages	Properties	Percentages	Properties	Percentages	Properties	Percentages	Properties	Percentages	Properties	Percentages
Clean	52	24%	29	15%	14	24%	67	24%	82	17%	192	19%	244	20%
Dirty	166	76%	167	85%	44	76%	216	76%	389	83%	616	61%	982	80%
Total Properties	218	100%	196	100%	58	100%	283	100%	471	100%	1,008	100%	1,226	100%
Dirty														
Dirty - Remediated (Includes Inaccessible, but Paid Soil)	164	75%	148	89%	38	86%	157	73%	240	62%	583	71%	747	76%
Dirty - Opt Out/Donied	2	1%	19	11%	6	14%	59	27%	149	38%	233	29%	235	24%
Total Dirty	166	100%	167	100%	44	100%	216	100%	389	100%	616	100%	982	100%
Overall Completed Properties (Includes Inaccessible Soil)	216	99%	177	90%	52	90%	224	79%	322	68%	775	77%	994	81%

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

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

IN TESTIMONY WHEREOF, I hereunto set my hand and affix

Seal of the Court this 28 day of September, 20 16.


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

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

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

August 22, 2016

BY HAND DELIVERY

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

Re: The Perrine DuPont Settlement Remediation Program (the “Remediation Program”) - Proposed Winding up of Remaining NCM Outstanding Issues; Our File No. 4609-1 {DD-92}

Dear Judge Bedell:

I hope this letter finds the Court well.

The purpose of this letter is to request a hearing regarding outstanding issues with NCM, the Settlement’s Remediation Contractor, which are described herein.

On June 8, 2016 and June 22, 2016, your Settlement Administrator and his staff met with Meredith McCarthy, Esq., local counsel for the Property Settlement Class, and Cy Hill, Esq., Counsel for NCM, to discuss outstanding matters between the Settlement and NCM. Many of these outstanding matters arose in the earlier years of the Settlement while NCM was under different management. Once Mr. Stan Keifer took over the operations of this project for NCM, as Project Manager, in 2013, NCM and the Settlement have been able to work well together, and the Remediation Program has now been completed, except for a few Claimant property issues, and winding up matters, such as Zone 1A road repairs and infrastructure improvements approved by the Court and to be carried out by the Settlement with a contractor other than NCM. After the conclusion of the Remediation Program and these winding up matters, there will be a surplus in the Remediation Fund.

As the Settlement Administrator, I propose that the Court set a hearing, so that the Settlement and NCM may be heard on remaining issues involving NCM and the Settlement, and at which time the Court may consider entering an Order in which the Settlement and NCM may consider calling

August 22, 2016

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it square, i.e., with neither party owing any monies to the other. The basis for this recommendation is given below.

Below is a summary of the status of various matters between the Settlement and NCM, other than a handful of Claimant appeals.

A. The Settlement's Lost Season Claim

The subject matter of this claim is reflected in the Court's previous May 27, 2013 Order Approving Compliant Soil Testing Procedures and Old Soil Enhancement Procedures, in Exhibit A. The Settlement claimed that a year (the Summer of 2013) was lost in productivity with respect to the Remediation Program due to unsuitable replacement soil that was used by NCM. NCM sued Mr. Todd Chalfont, the replacement soil provider, and settled its claims with Mr. Chalfont for \$175,000. However, NCM claimed an additional \$200,000 loss, which Mr. Chalfont was unable to pay.

During the claimed lost season, the Settlement paid Duane Truax, a remediation expert, \$70,092.05 for his expert advice in remedying the unsuitable soil problem. A breakdown of Mr. Truax's fees regarding this matter is also included in Exhibit A.

Your Settlement Administrator argues that the Settlement is entitled to at least half of the Chalfont/NCM settlement, or \$87,500, plus the expert fees, for a total of \$157,592.05. NCM disagrees, having paid its own expert to facilitate the enhancement of the replacement soil, and having not recovered \$200,000 from Mr. Todd Chalfont.

B. NCM Water Bill Claim

As shown in Exhibit B, the Settlement has remained steadfast in its position that NCM is contractually responsible for the costs of the provision of water for the purposes of sod support and other remediation duties pursuant to the Settlement/NCM Agreement for Soil and Property Remediation Services (hereinafter the "Agreement").

NCM's position, however, is that it should be paid \$40,762.81, for water used in the Remediation Program. See Exhibit C.

C. Claimed Excess Per Diem Charges

Your Settlement Administrator understands that NCM claims \$35,000 for claimed excess per diem charges, which NCM believes were incurred in allowing Claimants to stay out of their houses for longer periods than was required by the Remediation Program. The Settlement disputes these charges and asserts that NCM is not due these payments.

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D. Undetermined Case Sinking Fund

As shown in Exhibit D, there have been a number of unresolved charges for damages paid to various claimants for repairs or claims of property damage or personal property loss during or after the remediation process, which the Settlement claims NCM should pay, but which NCM claims it should not pay.

Found in Exhibit D is correspondence to various vendors and claimants with such payments. For example, Scott Arnold d/b/a Certified Electrical Services was paid \$18,253 for porch electrical damage to the property of James Morlock.

An invoice in the amount of \$587.64 from Four Seasons Heating & A/C was paid for repairs to the furnace of Phillip Elbon, after the furnace was allegedly damaged in the remediation process.

Appliance Center & Repair was paid \$68.90 for repairs to a refrigerator that NCM placed in Claimant Mary Rife's house after her refrigerator stopped working during the remediation process. But for NCM replacing the refrigerator, the Claimant would not have incurred the expense.

Claimant Ethel Glaspell lost 11 Blue Spruce trees on her property due to the remediation of her property by NCM. Cross Cut Tree Services, LLC removed and replaced these trees for a cost of \$6,410, for which the Settlement paid and now seeks reimbursement from NCM.

TreeSources, LLC was paid \$1,549.80 for the inspection and watering of 11 replacement Blue Spruce trees on the Ethel Glaspell property and for the inspection of 11 White Ash trees on the property of Mike Rogers.

TreeSources, LLC was also paid \$2,100 for 12 weekly inspections and monitoring of the 11 replacement Blue Spruce trees on the Ethel Glaspell property.

Graham-Simon Plumbing Co., LLC was paid \$339.21 for the installation of a frost-proof water valve at the home of Ethel Glaspell.

Tonya Drummond was paid \$812.16 for reimbursement of tire repairs and replacement due to damage on the roadway of Upper B Street.

Timothy and Soon Hinkle were paid \$500 to settle claims relating to lost groceries during the remediation of their house.

These Undetermined Case Sinking Fund amounts total \$31,470.71.

E. Summary (A+B+C+D)*

Settlement Claims total \$189,062.76.
NCM Claims total \$275,762.81.

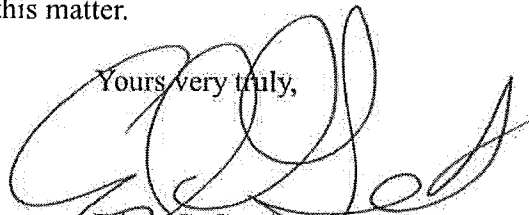
WHILE THIS REFLECTS A DIFFERENCE OF \$86,700.05, THE SETTLEMENT CLAIMS DO NOT INCLUDE ANY AMOUNTS FOR 1) COSTS ASSOCIATED WITH ADMINISTERING THE SETTLEMENT FOR THE "LOST SEASON;" 2) RELOCATION COSTS (PER DIEM AND HOTEL) FOR PROPERTIES THAT TOOK NCM LONGER THAN THE CONTRACTUAL "6 DAY WORK DAYS" TO COMPLETE; FOR THE PERIOD FROM INCEPTION THROUGH APRIL 30, 2014; AND 3) COSTS FOR TESTING RE-SAMPLES FOR PROPERTIES WHERE NCM FAILED TO ADEQUATELY INITIALLY REMEDIATE PROPERTIES. THE COSTS ASSOCIATED WITH THESE THREE CIRCUMSTANCES WOULD MORE THAN MAKE UP FOR THIS DIFFERENCE.

F. Conclusion

For your review and consideration, your Settlement Administrator has attached a proposed Order setting a hearing, so that NCM and the Settlement may be heard on this matter.

We appreciate your consideration of this matter.

Yours very truly,



Edgar C. Gentle, III
Settlement Administrator

ECGIII/jcs
Attachments

	<u>Settlement Claims</u>	<u>NCM Claims</u>
A	157,592.05	\$200,000.00
B	\$0.00	\$40,762.81
C	\$0.00	\$35,000.00
D	<u>\$31,470.71</u>	\$0.00
E	<u>\$189,062.76</u>	<u>\$275,762.81</u>

August 22, 2016

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cc: (via e-mail)(with attachment)
James S. Arnold, Esq.
Virginia Buchanan, Esq.
Meredith McCarthy, Esq.
Michael A. Jacks, Esq.
Cy Hill, Esq.
Mr. Stan Keifer
Mr. Tom Archer

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, <u>et al.</u> , individuals)	
residing in West Virginia, on behalf of)	
themselves and all others similarly situated,)	
)	
Plaintiffs,)	
)	
)	CIVIL ACTION NO.
)	04-C-296-2
)	Thomas A. Bedell,
)	Circuit Judge
E. I. DU PONT DE NEMOURS AND)	
COMPANY, <u>et al.</u> ,)	
)	
Defendants.)	

ORDER SETTING HEARING ON NCM/SETTLEMENT OUTSTANDING MATTERS

On August 22, 2016, Edgar C. Gentle, III, the Settlement Administrator previously appointed by the Court for the Settlement established herein, submitted to the Court and the Finance Committee his Report to review matters with respect to the winding up of unresolved issues between the Settlement and NCM, the Settlement's Property Remediation Contractor.

The Court hereby sets a hearing for September 7, 2016, at 10:00 a.m., in the Division Two Courtroom, Room 314, 4th Floor, Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia, so that all parties having an interest or objection may be heard.

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' Finance Committee Representative

Meredith McCarthy, Esq.,
901 West Main Street
Bridgeport, WV 26330
Guardian Ad Litem

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

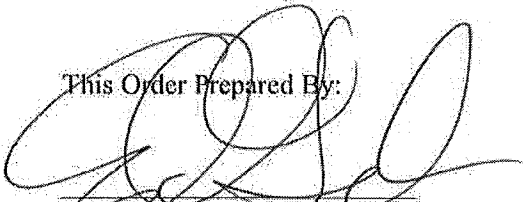
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Cy A. Hill, Jr.
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Laidley Tower
500 Lee Street East, Suite 900
Charleston, WV 25301
Counsel for NCM

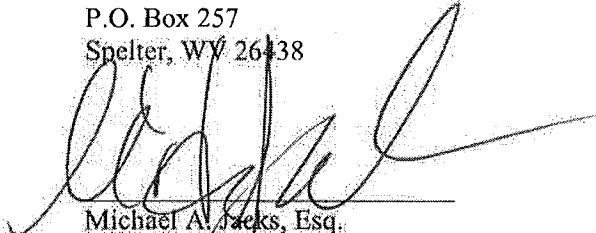
ENTERED this ____ day of _____, 2016.

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

This Order Prepared By:



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



Michael A. Jacks, Esq.,
W. Va. Bar. No. 11044
Jacks Legal Group, PLLC
378 Lawnview Drive
Morgantown, WV 26505