

PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE
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April 9, 2011

Dear Claimant,

THIS IS A PROPERTY PROGRAM QUESTIONNAIRE TO GET YOUR INPUT. FOR YOUR VOTE TO COUNT, PLEASE COMPLETE AND RETURN TO ABOVE ADDRESS BY MAY 1, 2011.

I am the Claims Administrator appointed by the Honorable Thomas A. Bedell of the Harrison County Circuit Court to administer this Settlement. As you know, one part of the Perrine Dupont Settlement involves cleaning up the property in the Settlement Class Area, a map of which is enclosed. The first step in the design of the clean-up program was the town meetings we held with you during the weeks of February 28th and March 7th, 2011. About 1,000 claimants attended the meetings, and they provided very valuable input on how to best design the property clean-up program.

The purpose of this letter is to update you with respect to the property clean-up program in the Settlement and to ask for your input in designing the property clean-up. We respectfully request that you fill out the attached questionnaire and return it to us at the above address by May 1, 2011 to help us design the property clean-up program. Please mail us the completed questionnaire at the above address, or bring it to the Claims

Office at the Spelter Fire Station, or e-mail it to us at perrinedupont@gtandslaw.com.

Once we have received the questionnaire results, we will publish them on the above website and provide them to Judge Bedell for his review.

Judge Bedell will then hold a Fairness Hearing at the Harrison County Courthouse, which will allow any and all Claimants to speak their minds about the design of the property clean-up program. The Fairness Hearing will be held on June 2, 2011, at 9:30am, in Judge Bedell's Courtroom on the Fourth Floor of the Harrison County Courthouse. If necessary, the Fairness Hearing will continue on June 3, 2011, until everyone's voice is heard.

After hearing your input, via the questionnaire and the Fairness Hearing, Judge Bedell will determine the design of the property clean-up program.

I.

WHY SHOULD I ANSWER THIS QUESTIONNAIRE?

This questionnaire is a way for us to receive your input as we work to design a successful clean-up program for the Class Area. As many of you already know from the Town Hall meetings at the Spelter Fire Hall, informational mail-outs, the www.perrinedupont.com website, and from

community members, Judge Bedell has approved a Settlement which includes approximately \$34 million for clean-up of the Class Area.

To ensure the best use of these funds, Judge Bedell has allowed us to engage Marc Glass to provide professional recommendations about the design of the clean-up program.

Mr. Glass is a Licensed Remediation Specialist (LRS) in West Virginia with experience in performing environmental clean-ups. While all final decisions will be made by Judge Bedell, the Court has asked for recommendations from you, Mr. Glass and your Claims Administrator.

Judge Bedell is very interested in obtaining the input of the most important person in this matter, you, the Claimant. This questionnaire is one way that we are trying to gather your feedback to present to Judge Bedell.

II.

WHAT DOES THE CLEAN-UP MEAN?

At the Town Hall meetings held between February 28th, 2011, and March 11th, 2011, Mr. Glass presented the scientific basis for the property clean-up. What we currently know about the environmental conditions in the Class Area is based on work performed by Dr. Kirk Brown and Dr. George Flowers, who sampled and tested soil and dust samples in the Class Area and provided expert testimony in the case, concerning possible zinc, arsenic, cadmium and lead (the "hazardous metals") contamination resulting from the former zinc smelter in Spelter.

In certifying the class, the Court established four zones (1A, 1B, 2 and 3) for properties within the Class Area. A property's status in a particular zone is based upon the distance of the property from the former smelter site. Properties in Zone 1A are in the closest proximity to the former smelter. Zone 1A consists of 285 acres and 182 homes immediately surrounding the former zinc smelter in Spelter and a small amount of land in Erie, Meadowbrook, and New Quarters. Based upon their sampling, Dr. Brown and Dr. Flowers believe that Zone 1A is the only area where the soil may be contaminated enough with the hazardous metals to need to be cleaned. For properties in Zones 1B, 2 and 3, no soil removal is anticipated. Zone 1B is the remaining area of Zone 1, is further from the former zinc smelter, and it includes part of Meadowbrook, lower Lambert's Run, and Erie. Zone 2 is the next area away from the smelter site, and it is made up of Hepzibah, Gypsy, Seminole, and other areas that are roughly the same distance from the site. Finally, Zone 3 includes part of Arlington, Edgewood, Smith Chapel, part of Shinnston, Haywood, and part of Lumberport. All of these Zones are on the attached Class Area map. A larger map is available on the website or at our office in the Spelter Fire Hall.

For homes in all Zones, Dr. Brown recommends professional cleaning to reduce the potential for exposure to household dust containing elevated levels of hazardous metals to reduce residents' potential exposure. Even in Zone 1A where Dr. Brown recommends soil removal, he does not believe that we need to disturb trees, brush or exterior structures such as patios. As a result, only interior cleaning is contemplated for Zones 1B, 2 and 3.

If you are unsure which Zone your land or home is in, please contact us and we will do our best to find out and tell you.

III.

OUR LIMITED CLEAN-UP BUDGET

Dr. Brown believes that it will take **\$57 million** to clean up all the Class Member soil in 1A that has more hazardous metals contamination than is safe for human health, and to clean up all the Class Member homes in Zones 1, 2 and 3 with hazardous metals exceeding safe levels for human health. If not all the Class Member soil in Zone 1A is contaminated, this amount may be less. We only have **\$34 million** for the clean-up.

In a nutshell, we do not have enough money to do exactly what Dr. Brown recommends. This is one big reason why we need your help in designing the property clean up by answering the questionnaire below.

IV. THE QUESTIONNAIRE

PLEASE LET US HEAR YOUR VOICE – WE WANT YOUR INPUT
PLEASE FILL OUT THIS SURVEY AND RETURN IT TO US BY MAY 1,
2011

1. We anticipate that the clean-up should improve the value of individual properties. The more clean properties there are in the Class Area, the more valuable all of the properties in the Class Area should be.

1. QUESTION: Do you agree or disagree with these statements?

☐ YES, cleaning the Class Area of hazardous metals contamination will improve property values, the more clean-up, the better.

☐ NO, hazardous metals clean-up will not improve property values.

2. Dr. Brown, a scientist and recognized clean-up expert hired by Plaintiffs' Counsel, with the help of Dr. Flowers who sampled the soil, conducted a detailed Class Area interior dust study of contamination of homes for cadmium, arsenic, zinc and lead, which are the hazardous metals resulting from the operation of the former zinc smelter. These test results are the basis for Dr. Brown's clean-up plan: (a) remove soil in Zone 1A with heavy metals contamination above safe levels for people; and (b) clean homes in Zones 1, 2 and 3 with heavy metals contamination above safe levels for people ("Dr. Brown's Clean-Up Plan"). Note: Dr. Brown only took a sample. He did not test every property.

a. To duplicate Dr. Brown's interior dust study would cost approximately \$350,000.00. To duplicate Dr. Flowers' soil study would cost approximately \$346,000.00. These amounts total \$696,000 and were paid by Plaintiffs' Counsel.

b. Any additional testing expenses would be subtracted from the \$34 million which we have for the property clean-up, and would therefore reduce the money available for the clean-up itself.

2. QUESTION:

Should we carry out Dr. Brown's Clean-Up Plan, or should we conduct additional area-wide testing of the entire Class Area to develop possibly another clean-up plan at a cost of about \$696,000?

☐ YES, Conduct additional Class Area testing at a cost of about \$696,000.

☐ NO, DO NOT Conduct Additional Class Area testing, but carry out Dr. Brown's Clean-Up Plan.

3. QUESTION:

Some property owners in Zones 1B, 2, and 3, where Dr. Brown believes the soil does not need to be cleaned, have asked for Settlement funds to pay for testing of their soil. Should Settlement funds be used to test soil that Dr. Brown stated was safe?

☐ NO, DO NOT conduct additional testing of soil that Dr. Brown stated was safe.

☐ YES, conduct additional soil testing at the property owners' request in Zones 1B, 2 and 3, at the expense of the Settlement.

4. Dr. Brown advised that \$57 million is required for a thorough clean-up of the Class Area. This amount could be less if not all the Class Member soil in Zone 1A is contaminated. However, because the Settlement was a compromise between the Plaintiffs and DuPont, we only have \$34 million, with DuPont paying a total of \$70 million in cash to settle the case, and with the other cash being used to pay Class Counsel fees and expenses, Medical Monitoring registration

cash payments, Medical Monitoring start-up expenses and some case administration costs. In order to be frugal with your money, we are considering using Dr. Brown's prior property test results to the extent we can and testing each untested individual property for contamination before doing any clean-up. We would only clean up property with test results showing hazardous metal levels above safe levels for human health. We are considering using the prior testing results provided by Dr. Brown or any other reliable source, and only testing other properties that have not been tested yet to find out if each individual property needs to be cleaned up.

- a. Testing each home or property before conducting a clean-up will allow us only to clean homes that are contaminated. This type of testing is relatively inexpensive and we can test up to 500 individual homes for the cost of cleaning one home.
- b. Testing in homes that are not contaminated will allow us to provide homeowners with test results that show that their homes are safe.
- c. Testing in homes that are contaminated would result in a clean-up of those homes.

4. QUESTION:

Should we have a test for each property before we clean it to make sure we don't waste money by cleaning properties that aren't contaminated?

☐ **YES, have a test for each property and only clean those that are hazardous to human health.**

☐ **NO, DO NOT test each property and clean each home until the money runs out.**

5. Approximately 1/4th of the properties in the Class Area are called the Grasselli Properties, which are ineligible for the

clean-up under a previous Order of West Virginia Supreme Court of Appeals because in the 1920s the owners of these properties settled with the Grasselli Company, which was the original smelter owner. These properties are not eligible to participate in the clean-up program according to the Order of the West Virginia Supreme Court of Appeals. In addition, approximately 250 property owners opted-out of the Class that has the current Settlement with DuPont and those properties are also not part of this Settlement. There are approximately 3,000 Class Member properties in the Class Area.

5. QUESTION:

Because this is a Settlement only for Class Members, and not all the property will be cleaned-up because of the ineligible Grasselli Properties and the opt-outs, do you agree that only properties owned by a Class Member should be subject to the clean-up?

☐

YES.

☐

NO, clean all Class Area properties to reduce contamination.

6. Dr. Brown advised that the clean-up should focus, first, on contaminated soils immediately surrounding the zinc smelter in Spelter, in Zone 1A, which contains about 285 acres and has approximately 182 homes. Zone 1A is the only area where Dr. Brown advised cleaning the soil. Dr. Brown advised that, if this soil is not removed, it may continue to contaminate the Class Area as a whole through wind dispersal of soils. This is called the "inside out" approach, because the contaminated area in the center of the Class Area would be cleaned first. IF WE TAKE THE INSIDE OUT APPROACH AND ONLY CLEAN-UP CLASS MEMBER SOIL IN ZONE 1A THAT TESTS POSITIVE FOR HIGH CONTAMINATION LEVELS, WE WILL HAVE ENOUGH MONEY TO CLEAN-UP ALL CLASS MEMBER CONTAMINATED SOIL IN ZONE 1A.

6. QUESTION:

In light of these observations, do you agree that the first step in the clean-up should be testing and cleaning the contaminated soil in Zone 1A so that there will be no more contaminated soil spreading to other areas?

- ☐ YES, test and clean the contaminated soil in Zone 1A before anything else to halt further contamination.
- ☐ NO, do not test and clean the contaminated soil in Zone 1A first.

7. We may not have adequate funds for a complete clean-up of the Class Area.

7. QUESTION:

Should we prioritize cleaning Class Area homes over parks or other common areas that may be subject to the clean-up if there may not be enough money to clean-up all Class Member properties in the Class Area?

- ☐ YES, prioritize cleaning of Class Members' homes over cleaning up parks or common areas.
- ☐ NO, clean parks and common areas with the same priority as Class Members' homes.

8. To the extent we can afford it, we will be advising the Court that homes in the Class Area should be tested and those with levels of toxic metals that are a danger to human health should be cleaned.

8. QUESTION:

Should we start our home clean-up in Zone 1A, in and

around Spelter, where Dr. Brown's study showed the highest levels of contamination, and work our way outwards to less contaminated areas until the money runs out?

☐ YES, clean the homes in Zone 1A and then work outwards to less contaminated areas. First clean up Zone 1A. Second, clean up Zone 1B, if there is adequate money. Third, clean up Zone 2, if there is adequate money. Fourth, clean up Zone 3, if there is adequate money.

☐ NO, do not clean the most contaminated homes in Zone 1A first.

9. At the town meetings, there was much debate on whether the soil clean-up in Zone 1A should be mandatory or optional. On the one hand, freedom of choice is very important. On the other hand, we may have a responsibility to our neighbor to provide a safe environment to the extent we can. We believe that this question only applies to soil remediation in Zone 1A, and not to the clean-up of homes in any Class Area, because the home structure, itself, already helps prevent further spreading of the hazardous metals.

9. QUESTION:

Should clean-up of the soil in Zone 1A be mandatory, so that every Class Member with soil hazardous metal levels in Zone 1A above standards safe for human health is required to participate in the clean-up, or should it be voluntary, so that any Zone 1A Class Member with hazardous metal levels dangerous to human health in his or her soil can decide whether to participate or not?

- ☐ YES, clean-up of soil in Zone 1A with hazardous levels of contamination should be mandatory, whether the property owner wants the clean-up or not.
- ☐ NO, landowners in Zone 1A should each decide whether they want the clean up on their own, even if soil is contaminated with hazardous metals and hazardous to human health.

10. QUESTION:

Some Class Members in Zone 1A have asked us to provide soil test results for their neighbors so they will know if the immediate area needs to be cleaned-up. Other Class Members in Zone 1A disagree, believing this information is private, with the Claims Administrator only to provide general testing and clean-up information for the soil in Zone 1A. What is your opinion?

- ☐ YES, make individual soil test results in Zone 1A public.
- ☐ NO, keep individual soil test results in Zone 1A private.

11. QUESTION:

In order to encourage Class Members in Zone 1A to participate in the soil clean-up, do you think it fair to provide participating Zone 1A Class Members an incentive payment of \$1,000 to have their soil tested, and with the claimant agreeing, by cashing the \$1,000 check, to have his or her soil tested and to have his or her soil cleaned if it turns out that the soil has hazardous metals contamination levels dangerous to human health?

☐ YES, pay \$1,000 to each land owner in Zone 1A who is willing to participate in soil clean-up to allow us to test their soil for hazardous metals contamination. Each land owner who cashes the \$1,000 check will agree to allow their soil to be cleaned if it is contaminated.

☐ NO, do not pay each land owner in Zone 1A.

12. QUESTION:

In order to encourage Class Members with homes in all three Zones to participate in testing for hazardous metals contamination in their homes, should we pay a \$500 incentive payment to allow us to test the home, with the owner agreeing, by cashing the \$500 check, and to the extent we have enough money, to have his or her home tested and to have his or her home cleaned if it has hazardous metal levels dangerous to human health?

☐ YES, pay \$500 to each home owner in Zones 1, 2, and 3, which is the entire Class Area, who is willing to participate in home clean-up to allow us to test their home for contamination. Each homeowner who cashes the \$500 check will agree to allow their home to be cleaned if it is contaminated and to the extent we have enough money.

☐ NO, do not pay each home owner an incentive payment for testing.

13. QUESTION:

Do you agree that, for claimants agreeing to have their soil or homes tested, that we provide them, confidentially, the written test results?

☐ YES, provide each home or land owner with their confidential test results.

☐ NO, do not provide test results to each home or land owner.

14. QUESTION:

Do you agree that, if a Class Member's soil or home interior is tested and has hazardous metals levels exceeding acceptable health levels, and it is subsequently cleaned, that we provide the Class Member with a Certificate of Completion so that it may be maintained with the Class Member's property records?

☐ YES, provide each home or landowner with a Certificate of Completion when soil (only for Zone 1A) or their home is cleaned.

☐ NO, do not provide Certificates of Completion for homes and or soil that is cleaned up through the Settlement.

15. At the town meetings, some landowners in the Class Area expressed the opinion that they should do the clean-up themselves and that we should merely pay them the cash. It is the expert opinion of Marc Glass that this approach would be dangerous. A lay person who tries to remove hazardous metals from the property may spread

the hazardous metals further in the Class Area, which would be harmful to all Class Members, and may create a health hazard to the person attempting the clean-up. Therefore, we do not recommend this approach as it is dangerous.

15. QUESTION:

Do you agree that Class Members who own land in Zone 1A or homes in Zones 1, 2, or 3 should be paid cash to do their own clean-up despite the health risks to them and their neighbors?

☐ **NO, Professionals should do the clean-up of the Class Area to make it safer for future generations and the people who live here now.**

☐ **YES, provide each home or landowner with cash to do their own clean-up.**

16. Our expert, Mr. Glass, does not recommend that lay persons do their own clean-up as it is dangerous to themselves and others. At the town meetings, some people stated that they have cleaned-up their properties and wanted reimbursement. This would be difficult to verify.

16.QUESTION:

Do you agree that people who claim to have renovated their homes and removed contamination at their own expense should receive cash since they may not need any clean-up?

☐ **NO, do not provide cash for already clean homes and land and use the property clean-up**

money to clean-up the class area and make it safer for future generations and the people who live here now.

- ☐ **YES, provide each home or landowner who has cleaned up their own property with a cash payment since they don't need clean-up through the Settlement.**

17. Soil clean-up in Zone 1A will reduce the level of hazardous metals in the environment and living spaces, and will benefit all Class Members by improving the overall environment for health. Some Zone 1A soils have more heavy metal contamination than others.

17. QUESTION:

Is it fair that more clean-up may be required for some Zone 1A soils than others?

- ☐ **YES, the clean-up should concentrate on the most contaminated soils in Zone 1A even if one Class Member's soil needs to have more clean up than others.**

- ☐ **NO, clean-up money and effort should be equal for each home even if one home is more contaminated than another.**

18. During clean-up work, workers will need to access the home and property of Class Members. We feel that it is important to protect the individual privacy of all Class Members.

18. QUESTION:

Do you agree that any access to a Class Member's property should be under a confidentiality and privacy agreement with the clean-up results being confidential?

☐ **YES, each Class Member's privacy should be protected during clean-up by a confidentiality and privacy agreement.**

☐ **NO, confidentiality and privacy agreements are unnecessary.**

19. In addition to soil sampling, Dr. Brown and other scientists sampled the interior of Class Area homes and found that accumulated dust typically had high metal concentrations. Areas where dust might accumulate for a long time, such as attics, wall cavities, and carpets, were worse than areas that are frequently and easily cleaned, such as hardwood floors and counter tops.

- a. We agree with Dr. Brown's conclusion that removing this dust will make Class Members' homes safer.**
- b. Some clean-up methods may make it inconvenient for residents or pets to stay in the homes. For example, if carpeting needs to be replaced or if temporary plastic sheeting is used to create protective walls between dusty and non-dusty areas, it may be inconvenient to stay there during the clean-up process.**
- c. We are considering recommending to Judge Bedell that the Settlement pay for short-term (typically a day or two) stays in Hotels for people and even pets while intensive interior cleaning is performed, if intensive cleaning is necessary.**

19. QUESTION:

Do you agree that Settlement funds should be used for hotel stays if it is needed?

☐ **YES, each Class Member who has to leave their home for cleaning should have a stay in a hotel paid for by the Settlement.**

☐ **NO, Class Members should pay for hotel costs on their own.**

20. There is more metal dust contamination in Zone 1 than in Zone 2, and Zone 2 has more contamination than Zone 3. The more contaminated areas will cost more to clean up than less contaminated areas.

20. QUESTION:

Do you agree or disagree that if the budget requires it, a per home clean-up allowance should be established for homes depending on which Zone they are in with the allowance being greatest for Zone 1 homes, less for Zone 2, and even less for Zone 3, because Zone 1 has more contamination than Zone 2, and Zone 2 has more contamination than Zone 3.

☐ **YES, more contaminated home areas should have more money allocated as a home clean-up allowance than less contaminated home areas.**

☐ **NO, all three Zones should be treated equally in the amount spent to clean-up each home.**

21. Since property owners know the most about their individual property, we think it is a good idea to get their input before doing any

clean-up work. This might include information such as the location of utility lines, areas where gardens were or might be in the future, areas where children tend to play, areas where clean soil has already been placed in Zone 1A, and areas in the home that have been remodeled. To save steps and use Settlement funds most wisely, we think a good time to get that information from property owners would be when sampling technicians would visit a property to assess the need for clean-up.

21. QUESTION:

Do you agree that this is a good way to gather useful information?

☐ **YES, before testing or clean-up is conducted property owners should inform technicians about their property.**

☐ **NO, technicians should not gather information from property owners.**

22. Some Class Members have expressed concerns that, if their property is located in Zone 1A and therefore a potential candidate for soil removal as part of clean-up, excavation might damage their property. Mr. Glass, who is experienced with soil removal as a clean-up method, has advised that for soil removal in residential areas, small equipment, such as mini-excavators, single-axle dump trucks, and skid-steers are typically used to limit stress on foundations or buried utility lines. Also, a safe working distance is typically established to prevent direct contact with foundations or undermining of foundation footers. Finally, buried utility lines will be located and avoided when and if excavation is necessary. Soil removal, if needed, should only affect the top six inches of soil.

22. QUESTION:

This approach and these types of equipment have been used successfully on many clean-up projects in other areas; do you agree that this is a reasonable approach to excavating and removing contaminated soil, if necessary?

☐ YES.

☐ NO.

23. After the Court determines the design of the clean-up, we are thinking about mailing you the clean-up registration forms and having town meetings to review the forms with you and to help you sign-up for the clean-up at the Spelter Fire Station on July 11th through July 16th, 2011. In order to help us budget the clean-up, we are thinking about providing you with a three month period, beginning on July 1, and ending September 30, 2011, to sign-up for the clean-up. **After that time, any Class Member who has not signed-up for the clean-up would not be able to do so.** We would then be able to determine how many Class Members in Zone 1A have agreed to have their soil tested and cleaned-up if it is contaminated, and how many Class Members in each of Zones 1, 2 and 3 have decided to have the interior of their homes tested and to have them cleaned if they are contaminated. With this information, we will be able to develop a balanced clean-up budget.

23. Question:

Do you agree that this is a good way to conduct the clean-up registration?

☐ YES.

☐ NO.

24. Question:

In the unlikely event that money is left when the clean-up is totally completed, we are considering paying the left over money equally to all Property Class Members who

participated in the Property Clean-Up Program. Do you agree with this proposal?

☐ YES.

☐ NO.

25. Please provide us with any further comments you have about the Property Clean-Up Program. You may attach additional sheets or write us a letter if you need more space.

Thank you very much for taking the time to complete this Questionnaire.

Yours very truly,


Ed Gentle,
Claims Administrator

Attachment: Class Area Map

PLEASE RETURN THE SURVEY BY May 1, 2011
TO THE

**PERRINE DUPONT SETTLEMENT CLAIMS OFFICE
ATTN: ED GENTLE, CLAIMS ADMINISTRATOR
C/O SPELTER VOLUNTEER FIRE DEPARTMENT
55 B. STREET
P.O. BOX 257
SPELTER WV, 26438**

CONTACT US WITH QUESTIONS AT

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