

IN THE CIRCUIT COURT  
OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, CAROLYN HOLBERT,  
WAUNONA MESSINGER CROUSER,  
REBECCA MORLOCK, ANTHONY BEEZEL,  
MARY MONTGOMERY,  
MARY LUZADER, TRUMAN R. DESIST,  
LARRY BEEZEL, and JOSEPH BRADSHAW,  
individuals residing in West Virginia,  
on behalf of themselves and all others similarly situated,

Plaintiffs,  
v.

Case No. 04-C-296-2

E.I. DU PONT NEMOURS AND COMPANY, a  
Delaware corporation doing business in West Virginia,  
MEADOWBROOK CORPORATION, a dissolved  
West Virginia corporation, MATTHIESSEN & HEGELER  
ZINC COMPANY, INC., a dissolved Illinois corporation  
formerly doing business in West Virginia, NUZUM  
TRUCKING COMPANY, a West Virginia corporation,  
T.L. DIAMOND & COMPANY, INC., a New York  
Corporation doing business in West Virginia, and  
JOE PAUSHEL, an individual residing in West Virginia

Defendants.

AMENDED FINAL JUDGMENT ORDER

Before this Court is the "Joint Motion to Alter or Amend "Final Judgment Order"  
filed by the parties. The Joint Motion seeks the amendment of the Final Judgment Order  
entered on November 8, 2007. Upon mature consideration of the Joint Motion and the  
record herein, the Joint Motion is GRANTED and this Amended Final Judgment Order  
hereby does and shall be deemed to supersede the Judgment Order entered on November  
8, 2007.

Pursuant to W. Va. R. Civ. Rule 54(b), the Court directs the entry of this Final Judgment as to the claims above upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. Any post-trial motions seeking relief from this Judgment shall be filed no later than 10 days after the entry of this "Amended Final Judgment Order."

On the 10th day of September 2007, came the Plaintiffs, Lenora Perrine, as representative of a class of plaintiffs, and her attorneys, Gary Rich, Michael Papantonio, Jerald Jones, J. Keith Givens, Perry Jones, and Farrest Taylor, and the Defendant E. I. du Pont de Nemours and Company and its attorneys, David Thomas, Stephanie Thacker, Jeffrey Hall, and John Phillips, and this case having regularly matured upon the docket of this Court, thereupon came a jury of the following named persons who were selected according to law, and sworn to well and truly try the issues joined in this action and render a true verdict according to the law and the evidence.

1. David Mires (Foreperson)
2. Melissa Rosenberger
3. Toni Alfero
4. Debbie Snyder
5. Kimberly Lewis
6. Rebecca Gaskins
7. Cindy J. Morrison
8. Natasha Rokisky
9. Peggy Miller
10. Vina Whitehair
11. Amy Simons

12. Jarrod West (Excused from Service on September 17, 2007)
13. Virginia Miller (Excused from Service on September 13, 2007)
14. Tammy Perrine (Excused from Service on September 19, 2007)

This class action case was tried in four phases as set forth below.

#### **Members of the Class**

The Court finds that this class action involves groups of plaintiffs consisting of two classes: the Property Class and the Medical Monitoring Class.

The Property Class includes all persons who meet the following criteria: those individuals who owned properties as of September 14, 2006, or who on or after December 1, 2003, have owned, private real property lying within the Class Area as depicted in the evidence.

The Medical Monitoring class includes the following: All those individuals who currently or at anytime in the past, since 1966, have resided on private real property in the Class Area for at least the minimum total residency time for a zone depicted on the map of the Class Area: (1) in Zone 1 and Zone 1A for a minimum total residency time of one year since 1966; (2) in Zone 2 for a minimum total residency time of three years since 1966; and (3) in Zone 3 for a minimum total residency time of five years since 1966. Attached hereto is a map of the specified zones.

Notice to these classes was provided pursuant to West Virginia Rule of Civil Procedure 23(c)(2) on June 20, 2007, via mail and publication.<sup>1</sup> All individuals falling within the definition of either class and who have not requested exclusion from this class action are hereby found to be members of one or both classes, as applicable.

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<sup>1</sup> Plaintiffs' counsel provided notice, by Order of the Court, with publication in the Clarksburg Exponent and Shinnston News consecutively for fourteen days beginning on June 20, 2007, and notices mailed to class members on or before June 20, 2007.

### Phase I

Whereupon in Phase I, the Plaintiffs presented their evidence before the Court and jury, and upon the conclusion of which, Defendant DuPont moved for judgment as a matter of law upon all issues, which was denied by the Court.

Whereupon, Defendant DuPont presented evidence before the Court and jury and at the conclusion of which Defendant DuPont renewed its motion for judgment as a matter of law and the Court again denied the motion.

At the conclusion of all the evidence, after hearing the instructions of the Court and the argument of counsel, the jury on September 28, 2007, returned to its jury room to consider its verdict.

On October 1, 2007, the jury returned its verdict in favor of the Plaintiffs in Phase I. The jury's verdict is attached as Exhibit A to this prior Final Judgment Order. This Court enters a judgment in favor of the Medical Monitoring and Property Classes based upon the jury's finding that Defendant DuPont was guilty of negligence, public nuisance, private nuisance, trespass, and strict liability. All liability was attributed to Defendant DuPont and no other defendant.

### Phase II

Whereupon in Phase II, the Plaintiffs presented their evidence before the Court and jury, and upon the conclusion of which, Defendant DuPont moved for judgment as a matter of law upon all issues, which was denied by the Court.

Whereupon, Defendant DuPont presented evidence before the Court and jury and at the conclusion of which, Defendant DuPont renewed its motion for judgment as a matter of law and the Court again denied the motion.

At the conclusion of all the evidence, after hearing the instructions of the Court and the argument of counsel, the jury on October 9, 2007, returned to its jury room to consider its verdict.

On October 10, 2007, the jury returned a verdict in favor of the Plaintiffs in Phase II. The jury's verdict is attached as Exhibit B to prior Final Judgment Order. This Court enters a judgment in favor of the Medical Monitoring Class based upon the jury's finding that Defendant DuPont is responsible for medical monitoring.

### Phase III

Whereupon in Phase III, the Plaintiffs presented their evidence before the Court and jury, and upon the conclusion of which, Defendant DuPont moved for judgment as a matter of law upon all issues, which was denied by the Court.

Whereupon, Defendant DuPont presented evidence before the Court and jury and at the conclusion of which, Defendant DuPont renewed its motion for judgment as a matter of law and the Court again denied the motion.

At the conclusion of all the evidence, after hearing the instructions of the Court and the argument of counsel, the jury on October 12, 2007, returned to its jury room to consider its verdict.

On October 15, 2007, the jury returned its verdict in favor of the Plaintiffs in Phase III. The jury's verdict is attached as Exhibit C to the prior Final Judgment Order. This Court enters a judgment in favor of the Property Class based upon the jury's finding that Defendant DuPont is responsible for remediation costs in the amount of \$55,537,522.25.

### Phase IV

Whereupon in Phase IV, the Plaintiffs presented their evidence before the Court and jury, and upon the conclusion of which, Defendant DuPont moved for judgment as a matter of law upon all issues, which was denied by the Court.

Whereupon, Defendant DuPont presented evidence before the Court and jury and at the conclusion of which, Defendant DuPont renewed its motion for judgment as a matter of law and the Court again denied the motion.

At the conclusion of all the evidence, after hearing the instructions of the Court and the argument of counsel, the jury on October 18, 2007, returned to its jury room to consider its verdict.

On October 19, 2007, the jury returned its verdict in favor of the Plaintiffs in Phase IV. The jury's verdict is attached as Exhibit D to the prior Final Judgment Order. This Court enters a judgment in favor the Plaintiffs based upon the jury's finding that Defendant DuPont is responsible for punitive damages in the amount of \$196,200,000.00.

#### **Costs and Interest**

It is further ORDERED that these judgment amounts shall bear interest at the rate of nine and three quarters per centum (9.75%) per annum from the entry of this Judgment, until paid and that the Plaintiffs recover their costs of action as taxed by the Clerk of this Court.

#### **Court Retains Jurisdiction to Determine Post-Trial Issues**

As contemplated by the Court's trial management plan, this Court retains jurisdiction to determine the management, scope, and duration of the medical monitoring plan, the management and distribution of the monies for the remediation costs, the management and distribution of punitive damages, and any other post-trial issues necessary to implement the jury's verdict, and provide such other relief as may be appropriate. The Court hereby sets a hearing for December 20 and 21, 2007, to resolve all outstanding post-trial issues.

Parties have ten days from the entry of this Amended Judgment Order file any post-trial motions.

It is further ORDERED that the Clerk of the Court shall provide copies of this order to counsel of record.

Enter: November 16, 2007



Thomas A. Bedell, Judge of the  
Circuit Court of Harrison County