

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
Honorable Thomas A. Bedell

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.

INDIVIDUAL NOTICE TO CLASS MEMBERS

NOTICE OF CLASS ACTION LAWSUIT

DO NOT BE ALARMED. YOU ARE NOT BEING SUED.

TO: THOSE WHO CURRENTLY OWN, OR WHO ON OR AFTER DECEMBER 1, 2003 HAVE OWNED, PRIVATE REAL PROPERTY LYING WITHIN THE CLASS AREA DEFINED BELOW (“PROPERTY CLASS”); AND THOSE WHO CURRENTLY RESIDE, OR WHO AT ANY TIME IN THE PAST HAVE RESIDED, FOR A TOTAL OF 277 DAYS, ON PRIVATE REAL PROPERTY LYING WITHIN THE CLASS AREA DEFINED BELOW (“MEDICAL MONITORING CLASS”).

- Exclusions.**
- (1) **If you owned property only before December 1, 2003 or only after September 14, 2006 (the date of entry of the Order Granting Class Certification), you are not a Property Class member.**
 - (2) **If your total residence time is less than 277 days, you are not a Medical Monitoring Class member.**
 - (3) **You are not a class member if you are a defendant in this case, an entity in which a defendant in this case has a controlling interest, or a current employee, officer, director, legal representative, heir, successor, assign, or spouse of a defendant in this case.**

Class Area Definition. The class area is generally depicted on the map attached hereto as Exhibit “A” to include, but not be limited to, several communities around the former Spelter Smelter facility. **If you have questions about whether a particular parcel lies within the boundaries of the class area, you may contact the below-referenced Class Administrator for assistance.** The class area is more specifically defined to include all parcels in Harrison County, West Virginia, within the boundaries formed by the following boundary parcels:

Northerly Boundary (generally from Lumberport to Shinnston):

Eagle – Outside Eagle – Lumberport Clay Map No. 207, parcels 17, 6, 5, 4, 3, and 2 of Sheet 18-05, parcels 46 and 46.1, parcels 156, 169, 170, 144, 152, 153, 154, 155, 190, 214, 235, and 236 of Sheet 18-01 southward of Jones Run, parcel 41, parcels 314, 243, 246, 247, 248, 249, 250, 258, 257, 255, 97, 96, 94, 91, 90, 89, 107, 108, 22, 25, 27, and 28 on Sheet 18-01 northward of Jones Run, parcels 156, 148, 140, 132, 124, 117, 110, 103, 96, 89, 82, 75, 68, 61, 51, 52, 53, 54, 173, 174, 176, 10, 9, 8, 7, 6, 5, 4, 3, 2, and 1 of Sheet 17-04, and parcels 1.2, 1, 2, and 1.4;

Eagle Map No. 206, parcel 31;

Clay – Eagle Map No. 187, parcels 58, 63, 10, and 14.1; and

Clay – Outside Clay – Shinnston Map No. 188, parcel 4, 54, 33, 37, 38, 39, 46, parcels 1, 2, 10.1, 10, 30, 41 through 49, and 107 of Map No. 10-06, parcels 260, 334, 337.1, 259, 258, 256, 255, 254, 253, 251, 250, 249, 248, 247, 247.1, 246, 243, 276, of Map No. 10-04, parcels 199.1, 199, 199.2, 200, and 200.1 of Map No. 10-05, and parcels 74, 81, 85, 110, 109, 108, 121, 124, 133, and 165 of Map No. 09-11.

Easterly Boundary (generally from Shinnston to Smith Chapel):

Clay Map No. 189, parcels 30 and 76.1;
Clay Map No. 209, parcels 6, 7.1, 7.5, 10, 12, 30, 13.7, 63, 44, 46, and 57;
Clay – Simpson Map No. 229, parcels 7, 7.1, 27, 26, 53, 53.2, and 53.25;
Clay – Simpson Map No. 249, parcels 7.2, 16, 30.3, 30.5, and 30.6;
Coal – Clarksburg Map No. 35, parcel 2; and
Simpson Map No. 269, parcel 2.

Southerly Boundary (generally from Smith Chapel to Edgewood):

Coal – Simpson Map No. 268, parcels 12, 9, 7, 17, 28, 38.1, 50, 48, 37, 26, 24.1, and 35;
Coal – Eagle Map No. 267, parcel 152;
Coal Map No. 287, parcels 7, 41, 40, 40.3, 40.4, 43, and 34, parcels 27, 28, 29, 30, 32, 34, 36, 43.1 and 19 of Sheet 11-21, parcels 127, 122, 121, 116, 514, and 95 of Sheet 11, parcels 177, 176, 153, and 121 of Sheet 10; and
Coal Map No. 286, parcel 31, and parcels 1, 2, 3 and 12 of Sheet 11-30.

Westerly Boundary (generally Edgewood to Lumberport):

Coal Map No. 266, parcels 68, 59, 46, 49, 27.6, and 77;
Eagle – Sardis Map No. 266-A, parcels 11, 10, and 6.3;
Eagle – Sardis Map No. 246, parcels 41, 34, 35, 10.9, 8, 7, and 6;
Eagle Map No. 226, parcels 97, 96, 86, 52, 100, and parcels 30, 25, 27, 28, 29, and 24 of Sheet 17-10; and
Eagle Map No. 227, parcel 1.

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO THE ABOVE-CAPTIONED CLASS ACTION AND IF YOU ARE A MEMBER OF THE PROPERTY CLASS AND/OR THE MEDICAL MONITORING CLASS, THIS CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHTS TO REMAIN A CLASS MEMBER AS FURTHER DESCRIBED BELOW.

THIS NOTICE IS NOT INTENDED TO BE, AND SHOULD NOT BE CONSTRUED AS, AN EXPRESSION OF ANY OPINION BY THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN THE ACTION OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED. THIS NOTICE IS MERELY TO ADVISE YOU OF THE PENDENCY OF THE ACTION AND OF YOUR RIGHTS THEREUNDER.

Your rights may be affected by a class action pending in this Court, Case No. 04-C-296-2, against defendants E.I. Dupont De Nemours and Company, Inc., Meadowbrook Corporation, Matthiessen & Hegeler Zinc Company, Inc., Nuzum Trucking Company, T.L. Diamond & Company, Inc., and Joe Paushel. The Court has certified claims in this lawsuit as a class action. The purpose of this Notice is to advise you of the potential effect of this ruling on your rights.

I. DEFINITION OF THE PLAINTIFF CLASSES

By Order Granting Class Certification entered September 14, 2006, the Court determined that claims in this lawsuit shall be maintained as a class action, pursuant to West Virginia Rule of Civil Procedure 23.

The Property Class consists of:

THOSE WHO CURRENTLY OWN, OR WHO ON OR AFTER DECEMBER 1, 2003 HAVE OWNED, PRIVATE REAL PROPERTY LYING WITHIN THE CLASS AREA DEFINED ABOVE.

The Medical Monitoring Class consists of:

THOSE WHO CURRENTLY RESIDE, OR WHO AT ANY TIME IN THE PAST HAVE RESIDED, FOR A TOTAL OF 277 DAYS, ON PRIVATE REAL PROPERTY LYING WITHIN THE CLASS AREA DEFINED ABOVE.

- Exclusions.**
- (1) **If you owned property only before December 1, 2003, or only after September 14, 2006 (the date of entry of the Order Granting Class Certification), you are not a Property Class member.**
 - (2) **If your total residence time is less than 277 days, you are not a Medical Monitoring Class member.**
 - (3) **You are not a class member if you are a defendant in this case, an entity in which a defendant in this case has a controlling interest, or a current employee, officer, director, legal representative, heir, successor, assign, or spouse of a defendant in this case.**

The Court has named Lenora Perrine, Carolyn Holbert, Waunona Messinger Crouser, Rebecca Morlock, Anthony Beezel, Mary Montgomery, Mary Luzader, Truman R. Desist, Larry Beezel, and Joseph Bradshaw, as Class Representatives of the Property and Medical Monitoring Classes.

The Court also has named the following law firms as Class Counsel:

Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A.
P.O. Box 12308
316 S. Baylen Street
Suite 600
Pensacola, Florida 32591
Toll-free: 1-888-435-7001
Fax: 850-436-6074

Cochran, Cherry, Givens, Smith, Lane & Taylor, P.C.
163 W. Main Street
Dothan, Alabama 36302
Toll-free: 1-888-526-2472
Fax: 334-793-8280

Law Office of Gary W. Rich, L.C.
Brock, Reed & Wade Building
212 High Street
Suite 223
Morgantown, West Virginia 26505
Telephone: 304-292-1215

West & Jones
360 Washington Avenue
Clarksburg, West Virginia 26302
Telephone: 304-624-5501

Kennedy & Madonna, L.L.P.
48 Dewitt Mills Road
Hurley, New York 12443
Telephone: 845-331-7514

Establishment by the Court of these Classes does not mean that any relief will be obtained for members of the Classes, for these are contested issues which have not been decided. Rather, the ruling means that the ultimate outcome of claims in this lawsuit - whether favorable to the plaintiffs or to the defendants - will apply in like manner to the class members who do not elect to be excluded from the class action.

II. DESCRIPTION OF THE CLASS ACTION

Plaintiffs allege that hazardous substances from the former Spelter Smelter facility located in Spelter, Harrison County, West Virginia, have been released onto private real property in the Class Area and that these substances have health risks. Plaintiffs allege that the released hazardous substances include arsenic, cadmium, and lead. Specifically, plaintiffs allege that, as a result of these substances, they are entitled to property damages, including remediation costs, and medical monitoring. Plaintiffs also seek punitive damages, litigation costs, and legal fees for their attorneys. Plaintiffs are pursuing counts of negligence and recklessness, negligence per se, public and private nuisance, trespass, strict liability, unjust enrichment, medical monitoring, and punitive damages.

Defendants dispute that plaintiffs are entitled to any damages, medical monitoring, or other relief. Defendants dispute that hazardous substances from the Spelter Smelter facility have covered the entire class area and that the health of class members is at risk. Defendants also raise various affirmative defenses.

To the extent plaintiffs' counts seek monetary damages, they only relate to property owners. To the extent plaintiffs' counts seek medical monitoring, they relate to past and present residents, whether or not they are property owners. **Plaintiffs do not seek damages for personal injuries, and class members may risk being barred from pursuing any such potential claims in the future if they do not opt out of the class.**

III. RIGHTS OF PLAINTIFF CLASS MEMBERS

A. Automatic Inclusion

If you are a member of the Property Class and/or the Medical Monitoring Class as defined above, you are automatically a member of the Class Action; you do not need to take any action to confirm your membership in the Class, and you will have the opportunity to share in any applicable relief obtained for your Class by way of settlement or trial. If money is awarded to the Property Class, you may be entitled to a share of that money. If remediation costs and/or medical monitoring are awarded, common funds may be established to efficiently manage remediation and/or medical monitoring on behalf of multiple class members.

If you remain a member of the Class Action, you will have no responsibility for any litigation costs or legal fees, although costs and fees awarded by the Court to Class Counsel may be deducted from the proceeds of any judgment or settlement.

In addition, if you do not exclude yourself from the Class Action in the manner provided for below, any judgment issued or settlement approved by the Court will be binding on you, and you will not be able to commence any other litigation, arbitration or other claim against the defendants in any other forum with regard to the claims resolved in this litigation.

B. Right to Seek Exclusion

You have the option of excluding yourself from the Class Action by mailing, postage prepaid, a timely and valid request for exclusion postmarked on or before February 15, 2007, addressed to the following:

**Class Administrator
Analytics, Incorporated
P.O. Box 2002
Chanhassen, Minnesota 55317-2002**

Any request for exclusion must be in writing and set forth the following information with respect to the person or entity requesting exclusion: (1) full name; and (2) current mailing address. An Exclusion Request form is attached for this purpose. See Exhibit "B". All requests for exclusion must be signed by or on behalf of the person or entity requesting exclusion and must clearly state the intention to be excluded from the Class.

If a request for exclusion is not timely submitted, or does not include all of the information required in this Notice, or is not signed as provided in this Notice, it will not constitute a valid request for exclusion, and the person or entity filing an invalid request for exclusion will remain a member of the Class and be bound by any judgment or settlement of claims in this matter.

By making this election to be excluded, (1) you will not share in any applicable relief that might be obtained for members of the Class as a result of trial or settlement; (2) you will not be bound by any decision on claims favorable to the defendant; and (3) you may present any claims you have against the defendants by filing your own lawsuit.

PLEASE DO NOT CONTACT THE COURT. IF YOU HAVE QUESTIONS CONCERNING WHETHER OR NOT YOU SHOULD SEEK EXCLUSION FROM THE CLASS ACTION, YOU ARE ENCOURAGED TO CONTACT PLAINTIFFS' CLASS COUNSEL LISTED ABOVE, OR CONSULT COUNSEL OF YOUR OWN CHOOSING, AT YOUR OWN EXPENSE, TO SEEK FURTHER ADVICE.

C. Appearance Through Counsel

If you are a member of the Property Class and/or Medical Monitoring Class, you may, but are not required to, enter an appearance in the Class Action through counsel of your own choosing at your own expense. If you do not do so, you will be represented by Class Counsel. Appearances by separate counsel must be filed by February 15, 2007.

D. Right and Obligations of Class Members

If you remain a member of the Class:

- The Class Representatives and Class Counsel will act as your representatives and counsel for the presentation of claims against the defendants. If you desire, you may appear by your own attorney. You may also advise the Court if at any time you consider that you are not being fairly and adequately represented by the Class Representatives and Class Counsel.
- Your participation in any applicable relief that may be obtained from the defendants through trial or settlement will depend upon the results of this lawsuit. If no recovery is obtained for the Class, you will be bound by that result.
- You may be required as a condition to participating in any relief obtained through settlement or trial to present evidence respecting your eligibility. You should, therefore, preserve records that may be evidence of ownership of private real property or residence within the Class Area boundaries.
- You will be entitled to notice of any ruling reducing the size or changing the membership of the Class and also to notice of any proposed settlement or dismissal of the Class claims. For this reason, as well as to participate in any applicable relief, you are requested to notify Class Counsel of any corrections or changes in your name or address.

IV. FURTHER PROCEEDINGS

As noted, the essential allegations of the claims against the defendants are contested by defendants. You may communicate with Class Counsel if you have evidence you believe would be helpful to the establishment of the claims, and you may be asked by the parties to provide information relevant to the claims.

PLEASE ALSO TAKE NOTICE that Plaintiffs are seeking Court approval to dismiss Nuzum Trucking Company and Joe Paushel from the case and to limit assets of T. L. Diamond & Company, Inc. which may be subject to execution ("Nuzum, Paushel and TLD Agreements"). Comments opposing the Nuzum, Paushel and TLD Agreements may be provided to the Court in person at a hearing on February 22, 2007, at 11:00 a.m., at the Harrison County Courthouse, Fifteenth Judicial Circuit, 301 West Main Street, Clarksburg, West Virginia. Copies of the Nuzum, Paushel and TLD Agreements are attached hereto as Exhibits "C" and "D".

V. ADDITIONAL INFORMATION

Any questions you have concerning the matters contained in this Notice (and any corrections or changes to name or address) should NOT be made to the Court, but should be directed to the **Class Administrator** who can be contacted **Toll-free at 1-866-233-0124** or at the following address:

**Class Administrator
Analytics, Incorporated
P.O. Box 2002
Chanhassen, Minnesota 55317-2002**

A website (www.Spelterclass.com) has also been established to provide information and updates on the litigation.

You may, of course, seek the advice and guidance of your own attorney, at your own expense, if you desire. The pleadings and other records in this litigation may be examined and copied at any time during regular office hours at the Office of the Clerk of Court, Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia 26301-2967.

VI. REMINDER AS TO TIME LIMIT

If you wish to be excluded from this class action, you must return the completed "Exclusion Request" to the Class Administrator by mail postmarked on or before February 15, 2007.

Dated: December 21, 2006



Honorable Thomas A. Bedell
Circuit Court Judge