

Description of Settlement
South River, VA
7-1-05

This matter is about mercury in the South River and South Fork of the Shenandoah River in Virginia. Between the years 1929 and 1950 DuPont operated an acetate fiber manufacturing facility in Waynesboro, Virginia. Acetate manufacturing was discontinued in 1950.

In October 2003 Sierra Club and NRDC gave notice of intent to sue DuPont under RCRA, alleging that DuPont caused mercury contamination in these rivers, that levels in fish are too high and that the risks are unacceptable. Sierra Club, NRDC and DuPont negotiated a settlement and submitted a Consent Decree to the federal court in Virginia for approval. Judge James H. Michael, Jr. entered an Order approving the settlement and the Consent Decree on July 1, 2005. The settlement requires DuPont to perform a six-year ecological study, a fish consumption survey and to facilitate certain local health advisories. The settlement does not address the question of whether remedial measures are feasible or necessary.

Since 1984 the rivers and fish in the rivers have been monitored for mercury. A fish consumption advisory due to mercury is presently in effect for the South River and the South Fork of the Shenandoah River in Virginia. There are fish mercury advisories in the community and actions are being taken by the *South River Science Team* to address the problem. The *South River Science Team* was established in 2000 to determine why the levels of mercury in some species of fish in the South River and South Fork of the Shenandoah River were not declining as previously predicted and what could be done to improve the situation. The *South River Science Team* is an ongoing collaborative effort

by DuPont, the VA Department of Environmental Quality, the US Environmental Protection Agency, the VA Department of Health, the VA Department of Game & Inland Fisheries, the U.S. Fish & Wildlife Service, various universities, local citizens groups and a panel of recognized mercury science experts.

The Settlement will not impair the ability of the *South River Science Team* to perform its work or take any action it believes is necessary regarding mercury in the South River and the South Fork of the Shenandoah River. Experts for NRDC, Sierra Club, DuPont and the *South River Science Team* will consult and evaluate results of studies during the course of the six-year ecological study. After completion of the six-year ecological study, if DuPont believes that remediation is feasible and necessary, DuPont will have one year to prepare and present to NRDC and Sierra Club a proposal for a voluntary program of remediation and a modification of the Consent Decree regarding remediation. If NRDC, Sierra Club and DuPont do not agree, then the Parties will terminate the Consent Decree, and after giving a new 90-day notice of intent to sue, NRDC and Sierra Club may file suit against DuPont on remediation.

Under the settlement the Parties release DuPont for past, present and future legal claims related to performance of studies of mercury in the ecosystem of the South River and South Fork of the Shenandoah River. The Parties do not release DuPont for remediation of the ecosystem of the South River and South Fork of the Shenandoah River. DuPont will reimburse NRDC and Sierra Club for their legal and expert fees and costs in the matter. NRDC and Sierra Club preserve their claims for remediation and DuPont preserves its defenses to any action for remediation.