

LAW OFFICES

SHORT CRESSMAN & BURGESS PLLC

999 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98104-4088

FAX: (206) 340-8856

(206) 682-3333

www.scblaw.com

May 20, 2003

JOHN P. AHLERS
MARK J. BARAK
PATRICIA BAUGHER
DAVID E. BRESKIN
KERRY S. BUCKLIN
SAMUEL S. CHUNG
BRUCE A. COHEN
BRIAN L. COMSTOCK ★
PAUL R. CRESSMAN, JR.
DEREK D. CRICK
MICHAEL J. CRISERA
PAUL J. DAYTON
WILLIAM L. DIXON V
RICHARD A. DU BEY

BRADLEY A. EVENS
CHRIS FARIAS
ROBERTA A. FARRIS
MICHAEL R. GARNER
TATYANA A. GIDIRIMSKI
J. BRITTON GOURLEY
ROBERT E. HEATON ★
DAVID A. HERRMAN
JOHN J. HOULIHAN, JR.
DANIEL F. JOHNSON
CLAUDIA KILBREATH
DAVID R. KOOPMANS
MURRAY T. S. LEWIS
VINCENT T. LOMBARDI

ANDREW W. MARON
CONNIE SUE MANOS MARTIN
ROBIN G. McPHERSON
SCOTT M. MISSALL
KENNETH L. MYER
CHRISTINA GERRISH NELSON
BRENT L. NOURSE
JAMES A. OLIVER
CHRISTOPHER R. OSBORN
RYAN D. REIN
ALEX J. ROSE
HEATHER M. ROY
JENNIFER L. SANSCRAINTE
ANNE-MARIE E. SARGENT

SCOTT R. SLEIGHT
SCOTT A. SMITH
THANE D. SOMERVILLE
ROBERT A. STEWART ★
JOHN H. STRASBURGER ★
JOHN D. SULLIVAN
ELIZABETH A. C. THOMPSON
SUSAN THORBROGGER
BRADLEY P. THORESON
PAUL R. WILLETT
LISA A. WOLFARD
ZACHARY A. WRIGHT
★ OF COUNSEL

Berg/Lumpkin Plaintiffs Newsletter

Published periodically by the law firms of Short Cressman & Burgess PLLC, Engstrom Lipscomb & Lack, Girardi and Keese, Robinson Calcagnie & Robinson, and the Johnson Law Group.

This Update is a general summary of recent events and is not intended to serve as legal advice or an attorney client communication

Judge McDonald Recuses Himself

On March 10, Judge Alan A. McDonald signed an order and recused himself from both the *Hanford* and *Berg* lawsuits. By recusing himself, he took himself off the cases. Judge McDonald had presided over the litigation since the first cases were filed in 1990.

In December 2002, Tom Foulds, one of the attorneys for the *Hanford* plaintiffs, filed a motion asking Judge Alan A. McDonald to recuse himself. A recusal motion asks a judge to withdraw himself from a case because there is a conflict of interest or the appearance of a conflict. Mr. Foulds discovered that Judge McDonald belonged to a partnership that owns several pieces of agricultural land in the Hanford area, including one near Ringold which is across the Columbia River from Hanford.

New Judge Assigned to Downwinders Litigation

On April 11, Judge William Fremming Nielsen was assigned to the three Hanford downwinder lawsuits: *In Re Hanford*, *In Re Berg*, and *Lumpkin v. DuPont*.

Judge Nielsen has been a federal district judge since 1991 and lives in the Spokane area.

In an order dated May 6, 2003, Judge Nielsen said his goal for the litigation is "the expeditious, economical, and just resolution of the cases with the avoidance of unnecessary and unproductive activity."

Case Management Conference – May 29-30 in Spokane

Judge Nielsen has set a case management conference for May 29, starting at 8:30 a.m. until 4:00 p.m. The conference will resume on May 30 at 9:00 a.m. It will be held in Spokane at the federal building, 920 W. Riverside Ave.

Judge Nielsen's stated purpose for the conference is four-fold:

- (1) establish a general roadmap for the litigation;
- (2) update the status of the cases;
- (3) establish a revised case management order; and
- (4) establish a revised discovery order.

The conference will clarify what the outstanding issues are, explore ways of addressing those issues, and assist the judge in setting a schedule for the three cases. The conference will be open to the public.

Most likely, Judge Nielsen will issue a scheduling order a week or two after the conference. Once we have that we will know better how the new judge will manage the case and how quickly things will proceed.

We understand the frustration that all of you must feel due to the extraordinary delays of this litigation over the last 12 years. We are hopeful that the case will move much more

quickly than before. However, until the judge sets a new case management schedule, we are unable to provide any estimate of how much longer it will take.

Help – Remember to Tell Us if You Move

If your name, address or telephone number changes, please tell us. This will save us much time and effort that can be better spent trying to win your claims against Hanford.

Updated Website

In addition to this newsletter, remember we also have a website (www.downwinders.com) that has information about the case. As the pace of the litigation picks up, we will try to keep you informed of developments by posting them on the home page. We have also updated the Related Sites and Upcoming Events pages.

Call Us for Information

If you have any questions about the status of the case or your files, please contact us:

- *Short Cressman & Burgess PLLC: David Breskin or James Thomas
Toll Free: 1-888-333-2374 E-Mail: jthomas@scblaw.com*
- *Engstrom, Lipscomb & Lack: Brian Depew or Mark Karter
E-Mail: bdepew@elllaw.com or mkarter@elllaw.com*
- *Johnson Law Group: Todd or Scott Johnson – 1-888-254-1997*

Please visit our web page, located at **<http://www.downwinders.com>**. If you do not have access to the Internet, check with your local library. Many libraries offer free Internet access to the public.