INTERNAL COMMUNICATIONS
ENFORCEMENT CONFIDENTIAL

SDWA Section 1431 Consent Order between U.S. EPA and E.I. du Pont de Nemours & Co.
EPA's Proposed Response to Robert A. Bilott's 1/20/2015 Letter to Susan Hedman

EPA's 2009 SDWA Section 1431 Emergency Consent Order

Ordered by Region 3 and 5 RAs and agreed to by the Plant Manager of DuPont's Washington Works Facility. The purpose of the consent order is to limit PFOA in drinking water for people who live near DuPont's Washington Works facility in Parkersburg, West Virginia.

DuPont is required to offer connection to a public water system, treatment, or temporary bottled water to people on public or private water systems if the level of PFOA detected in drinking water is equal to or greater than 0.4 parts per billion (ppb), which is a provisional, short-term exposure health advisory level and a site-specific action level established by EPA. This level was described as a temporary value that EPA will re-evaluate when it develops a reference dose under TSCA or a drinking water standard under SDWA.

Major Issues from Mr. Bilott's 1/20/2015 Letter to Susan Hedman

1. Mr. Bilott is from Taft Stettinius & Hollister LLP, and was lead counsel for approximately 70,000 West Virginia residents in a class action lawsuit brought against DuPont and settled in 2005[1].
2. Mr. Bilott's comments: Since the 2009 Consent Order, "extensive additional information has been released in the scientific and peer-reviewed literature confirming that the 0.4 ppb trigger level for clean water is not protective of human health for long-term exposures and should be revised."
3. He also notes, "Just this month, the European Chemicals Agency (ECHA) publicly released a report…recommending significant new restrictions on PFOA in light of the more current health effects data, specifically including the findings of the C-8 Science Panel linking very low level PFOA exposure in drinking water (as low as 0.05 ppb) with 6 diseases, including two forms of cancer."

Mr. Bilott's Request for EPA Action

1. "EPA should consider the new PFOA health effects data and European safety calculations…to evaluate whether there is a current or imminent and substantial threat or endangerment to human health that mandates steps be taken to modify the 2009 Consent Order to require DuPont to provide alternate/clean drinking water for any human drinking water supply"…"where PFOA has been detected at levels below the current 0.4 ppb trigger established in that Consent Order."

EPA Region 5 Response: Ex. 5 Deliberative Process (DP)

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[1] [HYPERLINK "http://www.taftlaw.com/news/story/250-rob-bilott-s-work-on-pfoa-cases-discussed-in-new-book"]

Ex. 5 Deliberative Process (DP)

2. "USEPA also should consider whether any steps need to be taken to insure that the appropriate parties remain bound under the Consent Orders and Memoranda of Understanding with DuPont on PFOA issues, in light of DuPont's recently announced intentions to 'spin-off' and/or jettison certain operations and liabilities of DuPont relating to PFOA to a new entity to be known as 'Chemours.'"

EPA Region 5 Response: Ex. 5 Deliberative Process (DP)

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