

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

MAINE PEOPLE’S ALLIANCE and	)
NATURAL RESOURCES DEFENSE	)
COUNCIL, INC.,	)
	)
Plaintiffs,	)
	)
v.	)
	)
HOLTRACHEM MANUFACTURING	)
COMPANY, LLC and	)
MALLINCKRODT US LLC,	)
	)
Defendants.	)
	)

Case No. 1:00-cv-00069-JAW

**JOINT MOTION TO APPROVE PROPOSED CONSENT DECREE  
AND FOR STATUS CONFERENCE**

Plaintiffs Maine People’s Alliance and Natural Resources Defense Council, Inc., and Defendant Mallinckrodt US LLC (collectively, “the Parties”), by and through their undersigned counsel, hereby jointly move for approval of the attached proposed Consent Decree in this matter. The Parties further move for a status conference to discuss public notice procedures, a schedule for briefing and a fairness hearing, and other aspects of the Court’s evaluation of the proposed Consent Decree.

In the proposed Consent Decree, the Parties have agreed to a settlement of the remaining issues in this matter regarding remediation activities to address mercury contamination in the Penobscot River Estuary. The Parties propose to establish two trusts to undertake remediation activities, which would be managed and directed by independent trustees that are affiliates of Greenfield Environmental Trust Group, Inc.

The Parties selected Greenfield Environmental Trust Group because it specializes in this role and has thirty years of experience overseeing similar environmental response trusts nationwide.

The Parties have agreed on remediation measures that include a combination of capping contaminated sediments with clean materials; targeted removal of contaminated sediments and wood waste; beneficial environmental projects; and long-term monitoring. To fund these activities, Mallinckrodt has agreed to provide \$187 million in committed funding to the trusts, and to provide up to an additional \$80 million in contingent funding if certain conditions occur.

In reaching this agreement, the Parties recognize that the Penobscot River Estuary is a complex ecosystem, that uncertainties remain even after the scientific and engineering studies conducted pursuant to prior orders of the Court, and that technical experts have varying opinions regarding the remediation options for the Estuary. The remediation measures set forth in the proposed Consent Decree are intended to accelerate the recovery of the Estuary, but any potential benefits of the remediation measures may be difficult to predict and measure. Nevertheless, after more than two decades of litigation and studies, the Parties believe it is in their mutual interest, and in the public interest, to work cooperatively to implement these remediation actions so as to avoid the delay, costs, and uncertainties of further litigation and instead focus resources on improving the condition of the Penobscot River Estuary. The Parties believe the proposed measures will provide benefits to the Estuary, its communities and wildlife, and the people of Maine.

As discussed during the February 23, 2021 status conference, Mallinckrodt is filing contemporaneously herewith a motion for entry of a bar order. Because all of the terms of the consent decree as well as the request for bar order are important to the Parties, the Parties reserve the right to re-evaluate their approval of the proposed Consent Decree if the Court proposes modifications to any of the terms or does not grant the request for a bar order.

As discussed during the January 8, 2021, status conference, the Parties anticipate that the Court will require written briefing, a public notice process, and a fairness hearing regarding the proposed Consent Decree.

WHEREFORE, subject to the reservations set forth above, the Parties respectfully request that the Court approve the attached Consent Decree, after such review and evaluation processes as the Court may prescribe, and respectfully request that the Court set a status conference to determine the process and schedule for the Court's review of the proposed Consent Decree.

Respectfully submitted,

Date: March 19, 2021

/s/ Mitchell S. Bernard

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Date: March 19, 2021

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Date: March 19, 2021

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 19, 2021, I electronically filed the Parties' Joint Motion to Approve Proposed Consent Decree and Motion for Status Conference with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record in the above-captioned matter.

/s/Jared J. Thompson  
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Attorney for Plaintiffs