

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

2004 APR 20 12 21
U.S. DEPT. OF JUSTICE
DEPUTY ATTORNEY GENERAL
(cc ensc. 4/21/04)

MAINE PEOPLES ALLIANCE
and
NATURAL RESOURCES DEFENSE
COUNCIL, INC.,

Plaintiffs

v.

HOLTRACHEM MANUFACTURING
COMPANY, LLC, and
MALLINCKRODT, INC.,

Defendants

Civil No. 00-69-B-C

**ORDER AMENDING IMPLEMENTING ORDER FOR
PENOBSCOT RIVER STUDY PURSUANT TO
MEMORANDUM OF DECISION AND ORDER DATED JULY 29, 2002**

I.

This Court's Implementing Order for Penobscot River Study Pursuant to Memorandum of Decision and Order Dated July 29, 2002 (Docket Item No. 159) is hereby **AMENDED** as follows:

- 1) The language "[n]either the Consultant nor Study Panel Members shall undertake to initiate or have any *ex parte* communication or contact with any party to this litigation or any of their agents, servants, attorneys, or employees without prior permission of the Court" in paragraph 4 at 4 is hereby **STRICKEN**, and there is inserted in place thereof the following language:

The Study Panel Members and the Consultant may individually have *ex parte* contact with counsel, parties, or agents and employees thereof, for the purpose only of acquiring information or data relevant and necessary to the performance of the work of the Study Panel provided each such contact is approved in advance by the three Study Panel members and that any information or data so

acquired is made known to all the members of the Study Panel.

- 2) The language "[b]y May 4, 2004, the Study Panel shall propose to the Court and the parties a Study Plan for Phase 1 ('Phase 1 Study Plan')" in paragraph 5 at 5 is hereby **STRICKEN**, and there is inserted in place thereof the following language:

The Court will subsequently specify the date by which the Study Panel shall propose to the Court its Study Plan for Phase I as the work of the Study Panel progresses.

II.

The Court's Procedural Order (Docket Item No. 160) is hereby **AMENDED** as follows:

The language "so long as no *ex parte* contact or discussions shall occur" is hereby **STRICKEN**, and there is inserted in place thereof:

so long as the provisions of paragraph 4 at 4 of this Court's Implementing Order for Penobscot River Study Pursuant to Memorandum of Decision and Order Dated July 29, 2002 (Docket Item No. 159), as amended, are fully complied with.

In all other respects, both Orders shall remain in full force and effect.



Gene Carter
Senior United States District Judge

Dated at Portland, Maine this 20th day of April, 2004.