

## LEGAL NOTICE

# Public opportunity to comment on a proposed settlement to fund remediation activities to address mercury contamination in the Penobscot River Estuary.

Maine People's Alliance (MPA), the Natural Resources Defense Council (NRDC), and Mallinckrodt US LLC (Mallinckrodt) have filed a proposed consent decree to settle litigation over mercury contamination in the Penobscot River estuary.

The United States District Court for the District of Maine authorized this notice. The Court will have a hearing to consider whether to approve the settlement.

### What happened and what areas are affected?

The Penobscot River estuary extends from the head of tide near Bangor to the northern end of Penobscot Bay around Cape Jellison. Beginning in 1967, a former chlor-alkali plant in Orrington released mercury into the estuary. The plant was most recently operated by HoltraChem Manufacturing Co. and was previously owned by a predecessor to Mallinckrodt.

### What has happened in the litigation?

In 2000, MPA and NRDC sued Mallinckrodt and HoltraChem, seeking a study and cleanup of the mercury. The Court found that Mallinckrodt was a source of the mercury and that the mercury could endanger health and the environment. The Court appointed scientists to study the River who found elevated mercury concentrations in sediment and wildlife.

After a second trial in 2014, the Court appointed an engineering firm to identify cost-effective remedial actions that could accelerate the recovery of the River. The structure of the proposed settlement is generally modeled on the engineering firm's recommendations.

### What would the settlement do?

Under the proposed consent decree, Mallinckrodt would agree to fund the following:

1. **Capping:** At least \$50 million for capping about 130 acres of intertidal sediments near Orrington.
2. **Targeted Removal of Sediment:** At least \$70 million for targeted removal of contaminated sediments that are trapped in the estuary by tides and currents. The specific locations and amounts will be determined later. Sediments will be beneficially reused if possible or safely disposed in upland areas.
3. **Orland River and East Channel Remediation:** \$30 million for remediation in the region of the Orland River and the channel east of Verona Island. The specific remedial actions will be determined later.
4. **Beneficial Environmental Projects:** \$20 million for projects to benefit the environment and affected communities. Specific projects will be selected later.
5. **Long-term Monitoring:** At least \$10 million for 30 to 45 years of monitoring of mercury concentrations in sediment, water, and wildlife.

An independent trustee, the Greenfield Environmental Trust Group, will manage the funds and the work. Mallinckrodt is also seeking a "bar order" from the Court to bar future claims related to the mercury contamination.

### What is a "bar order" and how could it affect you?

Mallinckrodt is requesting an order that would prevent future litigation against Mallinckrodt by private parties or

### Settlement Quick Facts

- ▶ Mallinckrodt agreed to pay \$187 million, with contingencies up to \$267 million, for work to remediate mercury in the Penobscot River estuary and environmentally beneficial projects
- ▶ Extensive Court-ordered scientific and engineering studies inform the proposed activities
- ▶ Cleanup activities will be directed by an experienced independent trustee
- ▶ Work will include at least capping, targeted removal of contaminated sediments, beneficial environmental projects, and long-term monitoring
- ▶ All remediation work will go through applicable local, state, and federal permitting and review processes
- ▶ Mallinckrodt is also seeking a "bar order" from the Court to bar future claims against Mallinckrodt related to the mercury contamination
- ▶ The Court will hold a hearing to determine whether to approve the proposed settlement

the government (1) seeking additional or different mercury remediation in the River or (2) for damage to natural resources arising from mercury contamination in the River. Such an order would prevent potential competing remediation measures and provide certainty and finality regarding the remedies in the Penobscot River and the extent of Mallinckrodt's liability. Such an order would not bar claims for natural resource damages by federal or state trustees or claims to enforce existing obligations.

MPA and NRDC share Mallinckrodt's goal of implementing the settlement without conflicting or inconsistent demands for alternative remediation. MPA and NRDC support Mallinckrodt's request to bar possible future claims against Mallinckrodt by other entities that may have contributed to the mercury contamination but do not support barring possible future claims by other private or governmental parties.

### How can you participate or get more details?

More information, including details about online public meetings, is at the following website: [www.PenobscotRiverRemediation.com](http://www.PenobscotRiverRemediation.com). Online public meetings will be held on **September 9, 2021, at 7:00 p.m. EDT** and **September 14, 2021, at 4:00 p.m. EDT**.

The Court will hold a hearing in this case (*Maine People's Alliance v. HoltraChem Mfg. Co.*, No. 1:00-cv-69-JAW) in Bangor on **October 1, 4, and 5, 2021**. Members of the public may appear and provide oral comments during the hearing on **October 5, 2021**.

To provide oral comments, you must notify the Parties and provide a one-paragraph summary of your anticipated comments by **September 21, 2021**, via the contact form at [www.PenobscotRiverRemediation.com/contact](http://www.PenobscotRiverRemediation.com/contact).

You also may submit written comments by **September 21, 2021**, via the contact form at [www.PenobscotRiverRemediation.com/contact](http://www.PenobscotRiverRemediation.com/contact).

For more information, visit [www.PenobscotRiverRemediation.com](http://www.PenobscotRiverRemediation.com).