

Towns along Penobscot River threatened with lawsuit

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WINTERPORT, Maine - The company that owned the former Holtrachem plant in Orrington has threatened to sue communities along the Penobscot River unless they sign off on all future claims against the mercury-contaminating firm.

The Chicago-based law firm Sidley Austin LLP, with offices across the globe, notified the communities by letter last week that unless they signed a "Tolling and Standstill Agreement," by Wednesday they would be slapped with a federal suit accusing them of complicity in polluting the river. Communities with businesses or sewer plants that have a record of discharging mercury into the river were sent the notice. The firm was acting on behalf of Mallinckrodt LLC, the parent company of Holtrachem.

Under the "Tolling and Standstill" agreement, the listed communities and businesses would waive all future claims against the company. The list of all the communities sent the letter was not immediately available, but Winterport officials confirmed the town had received the notice, along with several other towns.

Mallinckrodt is currently in the process of cleaning up the 235-acre Holtrachem site in Orrington and evaluating what will be required to scrub the river of mercury. The firm has spent \$35 million to date but thousands of tons of contaminated soil remain on-site and untold amounts of mercury-laden sediments are still in the river. The Holtrachem plant, which used mercury to produce industrial chemicals, closed in 2000.

Sewage treatment plants and businesses are required by state law to report the elements or compounds that are discharged into the river. Sidley Austin obtained that information and contacted the communities and businesses on the list. The Winterport Water District, which operates the town's sewage treatment plant, received the threatening letter last week.

"Because of these releases, Mallinckrodt believes you are legally responsible for addressing the mercury contamination at the Penobscot Sites," under federal and state law, attorney J. Andrew Schlickman stated in the letters.

The thrust of the agreement is that each party would agree not to sue the other with respect to claims involving the Penobscot sites and that each party would concurrently agree to "toll" and statute of limitations or other possible restrictions that might apply to such claims.

Mallinckrodt emphasized that it was not seeking any financial contributions toward the cleanup effort and that the agreement would not be deemed an admission of responsibility for contaminating the river.

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