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## FOR IMMEDIATE RELEASE

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### **Federal Judge dismisses class-action suit targeting Denka Performance Elastomer**

LAPLACE, LA – A federal class-action suit filed against Denka Performance Elastomer alleging harm caused by chloroprene emitted by its facility in St. John the Baptist Parish was dismissed last week by a federal district court judge in New Orleans.

Judge Martin Feldman of the Eastern District of Louisiana found Ms. Juanea L. Butler had failed to sufficiently plead her case against DPE. He stated that the “plaintiff appears to invoke the EPA’s NATA figure as the source of DPE’s duty to keep chloroprene emissions below a designated level, a regulatory threshold.” But, the judge found that, “as DPE correctly contends, the Court has previously declined to extract a general standard of care from something less than a federal regulation.”<sup>1</sup>

DPE regards the Judge’s ruling as correctly reflecting the science. EPA has said the NATA, or National Air Toxics Assessment, isn’t designed to “pinpoint specific risk values in small areas such a census tract”<sup>2</sup> or “determine exactly how many people are exposed to precise levels of risk or if a certain area is ‘safe’ or not,”<sup>3</sup> and that “you should avoid using NATA results as an absolute measure of your risk from air toxics.”<sup>4</sup>

Since purchasing the facility in 2015, DPE has reduced its emissions by 85 percent. The company developed a voluntary reduction program with the Louisiana Department of Environmental Quality in 2016 and completed the projects outlined in the program in 2017 at a final cost of over \$35 million.

In addition, ambient air monitoring conducted by the company and the U.S. Environmental Protection Agency has shown a dramatic reduction in

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<sup>1</sup> Page 26, Doc. 102 (Order and Reasons for Judgment), Butler v. Denka

<sup>2</sup> EPA: <https://www.epa.gov/national-air-toxics-assessment/nata-overview>

<sup>3</sup> EPA: <https://www.epa.gov/national-air-toxics-assessment/nata-frequent-questions>

<sup>4</sup> EPA: <https://www.epa.gov/national-air-toxics-assessment/nata-frequent-questions>

concentrations of chemicals measured at sites around the facility as a result of the company's reduction effort.

"DPE company is focused on being a good neighbor in St. John the Baptist Parish, and strives to reduce its environmental footprint wherever possible," company spokesperson Jim Harris said. "DPE will continue to look for ways to improve its operations as the company moves forward."

The risk suggestion the suit relied on is contradicted by decades of objective health data collected by the state's Louisiana Tumor Registry show those risks to be nonexistent. In fact, St. John the Baptist Parish regularly exhibits average or below average rates of the illnesses described in the report compared with the state average.

The risk suggestion is under review after a more advanced model (physiologically-based pharmacokinetic, or "PBPK") commissioned by the company showed that a revised risk estimate based on the model could have been 130 times lower than the suggestion. EPA is currently reviewing that model and could use it to update the faulty suggestion. DPE continues to work with the agency to ensure the best science is used in any future rulemaking.

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#### **About Denka Performance Elastomer**

*Denka Performance Elastomer LLC acquired DuPont's Neoprene manufacturing operations at the Pontchartrain Works site in LaPlace in November 2015. DPE employs around 240 manufacturing jobs associated with the Pontchartrain Works production site.*

*DPE intends to make strategic investments in the Pontchartrain Works facility while adhering to a key DPE guideline to develop and supply products that are safe and environmentally friendly. DPE considers the careful handling of materials and products and the prevention of their unauthorized release into the environment as its most important mission as a chemical manufacturer.*