



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 06 2009

James B. Allen
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal - D-7084
1007 Market Street
Wilmington, DE 19898

SUBJ: E. I. du Pont de Nemours and Company, DeLisle, MS Facility
Consent Agreement and Final Order, Docket No. RCRA-04-2009-4254(b)

Dear Jim,

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the Resource Conservation and Recovery Act matter for E.I. du Pont de Nemours and Company, DeLisle Facility (DuPont DeLisle) located in DeLisle, Mississippi. The CA/FO has been filed with the Regional Hearing Clerk and is effective on the date of filing.

In accordance with Paragraph 67, DuPont DeLisle is required to pay the civil penalty of \$45,000 within 30 days of the filing date. Payment instructions are outlined in Paragraphs 77 and 78 of the CA/FO.

Thank you for your assistance in getting this matter resolved. If you have any questions, please call me at (404) 562-9544. Your cooperation in this matter is appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan".

Joan Redleaf Durbin
Senior Attorney
US EPA, Region 4

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2009-4254(b)
)	
E.I. DU PONT DE NEMOURS AND)	
COMPANY, DELISLE MISSISSIPPI	)	PROCEEDING UNDER SECTION
FACILITY	)	3008(a) OF THE RESOURCE
7685 KILN-DELISLE ROAD	)	CONSERVATION AND RECOVERY
PASS CHRISTIAN, MISSISSIPPI	)	ACT, 42 U.S.C. § 6928(a)
39571)	
)	
EPA ID NO.: MSD096046792)	
)	
RESPONDENT)	
_____)	

2009 MAY -6 PM 1:51
HEARINGS CLERK
ENVIRONMENTAL

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921 *et seq.*, and the Mississippi Code Annotated (Miss. Code Ann.) §§ 17-17-1 *et seq.*, and 49-17-1 *et seq.*, as amended. This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA and Miss. Code Ann. and the regulations promulgated pursuant thereto, set forth at Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270, 273, and 279, and Mississippi Hazardous Waste Management Regulations (MHWMR) Parts 260 through 270, 273, and 279.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA & OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is E.I. du Pont de Nemours and Company, DeLisle Facility (DuPont DeLisle), a corporation incorporated under the laws of Delaware and doing business in the State of Mississippi. The business is located at 7685 Kiln-DeLisle Road, Pass Christian, Mississippi 39571.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on June 27, 1984, the State of Mississippi received final authorization to carry out certain portions of RCRA, including some of those recited herein, in lieu of the federal program. The requirements of the authorized program are found at Miss. Code Ann. §§ 17-17-1 et seq., and 49-17-1 et seq., as amended, and MHWMR Parts 260 through 270, 273, and 279. The MHWMR incorporates by reference EPA's RCRA regulations. Therefore, for the purpose of this CA/FO, a citation hereinafter to the requirements of 40 C.F.R. Parts 260 through 270, 273 and 279 shall constitute a citation to the equivalent requirements of the MHWMR.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by EPA until the State is granted final authorization with respect to those requirements.
8. Although EPA has granted the State authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to the State of Mississippi before the issuance of this CA/FO
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and Miss. Code Ann. § 17-17-27(1), sets forth standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found in 40 C.F.R. Part 262.
11. Section 3004 of RCRA, 42 U.S.C. § 6922, and Miss. Code Ann. § 17-17-27(1), sets forth standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at 40 C.F.R. Part 264.

12. Section 3005 of RCRA, 42 U.S.C. § 6925, and Miss. Code Ann. § 17-17-27(1), sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 40 C.F.R. Parts 264 (permitted) and 265 (interim status).
13. Pursuant to 40 C.F.R. § 261.2, a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3, a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and it meets any of the criteria set out in this section.
15. Pursuant to 40 C.F.R. § 260.10, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. § 261.3.
16. Pursuant to 40 C.F.R. § 260.10, a “contingency plan” means a document setting out an organized, planned, and coordinated course of action to be followed in case of fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
17. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.
18. Pursuant to 40 C.F.R. § 262.34(a), a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in this subpart.
19. Pursuant to 40 C.F.R. § 262.34(a)(2), a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator clearly marks the date accumulation begins on the container.
20. Pursuant to 40 C.F.R. § 262.34(a)(3), a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator marks each container with the words “Hazardous Waste” while the waste is being accumulated onsite.
21. Pursuant to 40 C.F.R. § 265.52(d), a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator has a contingency plan that lists the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

22. Pursuant to 40 C.F.R. § 265.173, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator keeps containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste.
23. Pursuant to 40 C.F.R. §§ 268.7, 268.9, and 268.40(a), a generator of hazardous waste must determine if the waste has to be treated before it can be land disposed, and must comply with other notice, certification, and waste analysis requirements of these sections.
24. Pursuant to 40 C.F.R. § 270.30(a), Respondent must comply with all conditions of its permit.
25. Pursuant to 40 C.F.R. § 273.9, a “small quantity handler of universal waste” is defined as a “universal waste handler who does not accumulate 5,000 kilograms or more of universal wastes at any time.”
26. Pursuant to 40 C.F.R. § 273.14(e), a small quantity handler of universal waste lamps must label or mark each lamp, container, or package, in which universal waste lamps are contained with one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
27. Pursuant to 40 C.F.R. § 273.14(e), a small quantity handler of universal waste lamps must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
28. Pursuant to 40 C.F.R. § 279.9, “used oil” means “any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.”
29. Pursuant to 40 C.F.R. § 279.9, “used oil generator” means “any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.”
30. Pursuant to 40 C.F.R. § 279.22(c)(1), containers and aboveground storage tanks used to store used oil at used oil generator facilities must be labeled or marked clearly with the words “Used Oil.”
31. Pursuant to 40 C.F.R. § 279.22(d), upon detection of a release of used oil to the environment that is not subject to the requirements of 40 C.F.R. Part 280, Subpart F and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located, a generator must perform the

following cleanup steps: (1) Stop the release; (2) Contain the released used oil; (3) Clean up and manage properly the released used oil and other materials; and (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

32. Respondent was issued State of Mississippi Hazardous Waste Management Permit number MSD096046792 on October 15, 2003. The permit authorizes the Respondent to store hazardous wastes in the Deepwell Storage Vault, the Primary Filter Storage Tanks (2), the Thickener Tanks (2), and the Splitter Feed Tanks (2).

IV. EPA ALLEGATIONS AND DETERMINATIONS

33. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10.
34. Respondent is the “owner” and “operator” of a “facility,” as those terms are defined in 40 C.F.R. § 260.10.
35. Respondent began its operation at its current location in 1976 and was assigned the site specific EPA ID number MSD096046792 by the Mississippi Department of Environmental Quality (MDEQ).
36. On October 23 – 26, 2006, EPA and MDEQ conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s facility, accompanied by Becky S. Pietras, DuPont DeLisle Safety, Health and Environmental Manager, and Linda K. Bernard, DuPont DeLisle Senior Consultant, Environmental.
37. Respondent manufactures titanium dioxide pigment (TiO₂ or pigment) using the chloride-ilmenite process. Respondent uses ilmenite ore in this process.
38. Respondent owns approximately 2,500 acres, of which approximately 200 acres have been developed and are used in support of pigment manufacturing operations. An additional 92 acres are dedicated to an NPDES permitted surface pond wastewater treatment system used to handle rainwater and pigment process wastewater. An additional 156 acres are dedicated to a permitted solid waste disposal area authorized under a State of Mississippi Solid Waste Management permit.
39. Respondent, as a result of facility operations, generates waste that is a “solid waste” as defined in 40 C.F.R. § 261.2.
40. At the time of the October 23 – 26, 2006, CEI, Respondent had not made a hazardous waste determination on the wastewater from the Titanium Tetrachloride Wash House that was being discharged directly to the ground.
41. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.11.

42. Respondent's wastewater from the Titanium Tetrachloride Wash House is characteristically hazardous for corrosivity (D002) as those terms are defined at 40 C.F.R. § 261.22.
43. At the time of the October 23 – 26, 2006, CEI, Respondent had not made a hazardous waste determination on the waste solvent in the 5-gallon container in the dumpster of the Paint Shop and Sandblasting Area.
44. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.11.
45. At the time of the October 23 – 26, 2006, CEI, Respondent had not made a hazardous waste determination on the 55-gallon drum of waste paint and solvent located in the Paint Yard.
46. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.11.
47. Respondent, as a result of facility operations, is a "generator" of hazardous waste as defined in 40 C.F.R. § 260.10.
48. At the time of the October 23 – 26, 2006, CEI, Respondent was storing hazardous waste in a container that was not labeled with the beginning date of accumulation.
49. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted in Miss. Code Ann. 17-17-27(1), for storing hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 262.34(a)(2).
50. At the time of the October 23 – 26, 2006, CEI, Respondent was storing hazardous waste in a container that was not labeled with the words "Hazardous Waste."
51. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted in Miss. Code Ann. 17-17-27(1), for storing hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 262.34(a)(3).
52. At the time of the October 23 – 26, 2006, CEI, Respondent had not designated a primary emergency coordinator in the Contingency Plan.
53. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted by Miss. Code Ann. 17-17-27(1), for storing hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 265.52(d).
54. At the time of the October 23 – 26, 2006, CEI, Respondent was discharging D002

hazardous waste wastewater from the Titanium Tetrachloride Wash House directly to the ground without performing necessary notice, certification, and waste analysis requirements.

55. EPA therefore alleges that Respondent has violated 40 C.F.R. §§ 268.7, 268.9, and 268.40(a), for failing to perform necessary notice, certification, and waste analysis requirements of these sections.
56. At the time of the October 23 – 26, 2006, CEI, Respondent was discharging D002 hazardous waste wastewater from the Titanium Tetrachloride Wash House directly to the ground.
57. EPA therefore alleges that Respondent has violated 40 C.F.R. § 270.30(a) because Respondent failed to adhere to Module II.B of its State of Mississippi Hazardous Waste Management Permit number MSD096046792 by disposing hazardous waste to the ground.
58. Respondent, as a result of facility operations, is a “small quantity handler of universal waste” as defined in 40 C.F.R. § 273.9.
59. At the time of the October 23 – 26, 2006, CEI, Respondent had not labeled universal waste lamps, or the container or package in which they were stored with one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
60. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e).
61. At the time of the October 23 – 26, 2006, CEI, Respondent was not storing universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
62. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.13(d)(1).
63. Respondent, as a result of facility operations, is a “used oil generator” as defined in 40 C.F.R. § 279.9.
64. At the time of the October 23 – 26, 2006, CEI, Respondent was not storing used oil in containers with the words “Used Oil.”
65. EPA therefore alleges that Respondent has violated 40 C.F.R. § 279.22(c)(1).
66. At the time of the October 23 – 26, 2006, CEI, Respondent had not cleaned up releases of used oil.
67. EPA therefore alleges that Respondent has violated 40 C.F.R. § 279.22(d).

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

68. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
69. The Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
70. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
71. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
72. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
73. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
74. Respondent, by signing this CA/FO, certifies that all violations alleged in this CA/FO have been corrected.
75. Each party will pay its own costs and attorney's fees.

VI. PAYMENT OF CIVIL PENALTY

76. Respondent consents to the payment of a civil penalty in the amount of FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) within thirty (30) calendar days of the effective date of this CA/FO.
77. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(314) 418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street NW
Washington, DC 20074
Contact: Jesse White, (301) 887-6548

78. Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

And to:

Frank N. Ney, Acting Chief
South Section, RCRA & OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

79. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

80. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 28 U.S.C. § 162(f).

VII. PARTIES BOUND

81. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.

82. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
83. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

84. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
85. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
86. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
87. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

88. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

89. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909
(404) 562-9544

90. A copy of any documents that Complainant files in this action shall be sent to the following attorney who represents Respondent in this matter and who is authorized to receive service for Respondent in the proceedings:

James B. Allen
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal – D-7084
1007 Market Street
Wilmington, DE 19898
(302) 774-8553

XI. SEVERABILITY

91. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

92. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

E.I. du Pont de Nemours and Company, DeLisle Facility

By: *F. Marc Holman*
F. Marc Holman
Plant Manager

Dated: 4/23/09

U.S. Environmental Protection Agency

By: *Caroline Y. F. Robinson*
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Dated: 4/27/09

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2009-4254(b)
)	
E.I. DU PONT DE NEMOURS AND)	
COMPANY, DELISLE MISSISSIPPI	)	PROCEEDING UNDER SECTION
FACILITY	)	3008(a) OF THE RESOURCE
7685 KILN-DELISLE ROAD	)	CONSERVATION AND RECOVERY
PASS CHRISTIAN, MISSISSIPPI	)	ACT, 42 U.S.C. § 6928(a)
39571)	
)	
EPA ID NO.: MSD096046792)	
)	
RESPONDENT)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 5th day of MAY, 2009.

BY: A. Stanley Meiburg
A. Stanley Meiburg
Acting Regional Administrator
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of E.I. du Pont de Nemours and Company, DeLisle Facility, Docket Number: RCRA-04-2009-4254(b), on MAY 0 8 2009 2009, and on MAY 0 8 2009 2009, served the parties listed below in the manner indicated:

Joan Redleaf Durbin (Via EPA's internal mail)
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

James B. Allen (Via Certified Mail - Return Receipt Requested)
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal - D-7084
1007 Market Street
Wilmington, DE 19898
(302) 774-8553

Date:

5-5-09



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511