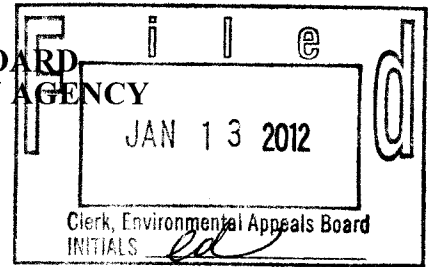


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

E.I. du Pont de Nemours
and Company

)
)
) Docket No. TSCA-HQ-2004-0016
) Docket No. RCRA-HQ-2004-0016
) Docket No. TSCA-HQ-2005-5001
)
)
)

SECOND ORDER GRANTING MOTION TO AMEND SETTLEMENT AGREEMENT

By joint motion filed on December 24, 2008, U.S. EPA's Office of Civil Enforcement ("EPA") and E.I. du Pont de Nemours and Company ("DuPont") (referred to jointly as "the parties"), requested that the Board approve an amendment to a Consent Agreement and Final Order ("CAFO") originally approved by the Board in December of 2005. *See In re E.I. Du Pont de Nemours and Co.*, Docket Nos. TSCA-HQ-2004-0016, RCRA-HQ-2004-0016, and TSCA-HQ-2005-5001 (EAB, Dec. 21, 2005) (unpub. order) ("Final Order"). In particular, the Joint Motion requested that the Board approve modifications to the CAFO that, among other things, extended the completion date for DuPont's supplemental environmental project ("SEP") to December 27, 2011. The Board granted the parties motion on January 8, 2009. Order Granting Motion to Amend Settlement Agreement (Jan. 8, 2009).

By Joint Motion filed with the Board on December 23, 2011,¹ the parties seek an additional modification to Appendix A of the CAFO. The Second Joint Motion states that the modification would:

extend the Completion Date by two (2) years and three (3) months, to March 27, 2014, and * * * incorporate several other changes to facilitate implementation of the SEP. The parties have inserted deadlines for certain deliverables, added greater flexibility for the duration of future pilot testing, and inserted a requirement that assures that either the levels of residuals in the test substance measured by the contracted characterization laboratory and the contracted biodegradation laboratory are substantially equivalent or that additional activities are performed in lieu of further testing. The Parties believe good cause exists to grant the relief because DuPont has been working in good faith on this project, major milestone activities have been completed under the SEP so that much of the start-up work has been performed, and additional time would provide an opportunity for completion of independent review of methods developed, performance of characterization testing and performance of biodegradation testing. The Parties believe that the remaining DuPont obligation (as of November 30, 2011) of \$2,265,237.00 (of the \$5 million required under the CAFO) would be best used on completion of the SEP dated December 22, 2011.

Joint Motion at 2

For good cause shown, the Second Joint Motion is granted. The Board's December 21, 2005 Final Order as well as the Board's January 8, 2009 order are hereby amended to reflect the above-mentioned CAFO modifications which are incorporated herein by reference.

So ordered.

Dated:

January 13, 2012

ENVIRONMENTAL APPEALS BOARD

By:

Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

¹ Joint Motion to Amend the Settlement to Allow a Second Extension of the Completion Date for Respondent's Biodegradation Supplemental Environmental Project (SEP) (Dec. 23, 2011) (hereinafter "Second Joint Motion").

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Second Order Granting Motion to Amend Settlement Agreement in the matter of E.I. duPont de Nemours and Company, Docket Nos. TSCA-HQ-2004-0016, RCRA-HQ-2004-0016, and TSCA-HQ-2005-5001, were sent to the following persons in the manner indicated:

Certified Mail:

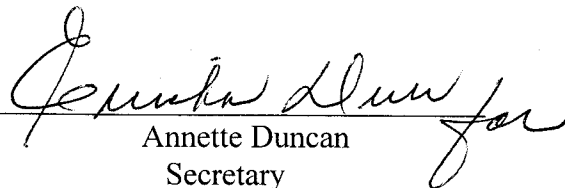
Andrea V. Malinowski
Corporate Counsel
Dupont Legal D-7078
1007 Market Street
Wilmington, DE 19898

Inter-office Mail:

Mark Garvey
Senior Attorney
Waste and Chemicals Enforcement Division
Office of Civil Enforcement (MC-2249A)

Dated:

January 13, 2012


Annette Duncan
Secretary