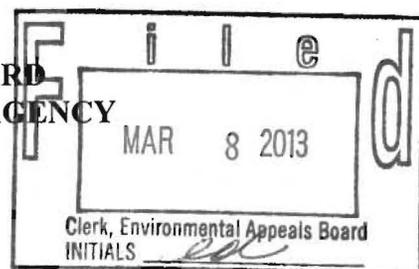


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



In re:)
)
E.I. DuPont De Nemours & Co.)
)
HSWA Permit Modification)
DuPont Pompton Lakes Works)
EPA ID No. NJD002173946)
)

RCRA Appeal Nos. 13-01 & 13-02

**ORDER CONSOLIDATING PETITIONS FOR REVIEW AND GRANTING MOTION TO
STAY PROCEEDINGS**

Region 2 (“Region”) of the U.S. Environmental Protection Agency (“EPA”) issued a final Resource Conservation and Recovery Act (“RCRA”) Corrective Action Permit Modification I (“Permit Modification”) to E.I. DuPont De Nemours and Company (“DuPont”) on December 19, 2012, containing corrective action measures selected for specific areas of concern at DuPont’s Pompton Lakes Works facility. DuPont timely filed a petition for review of the Permit Modification on January 31, 2013, and the Passaic River Coalition timely filed a petition for review on February 1, 2013. The Region’s response to the petitions for review is currently due on March 26, 2013.

On March 4, 2013, DuPont, Passaic River Coalition, and the Region jointly filed a motion to stay the proceedings before the Environmental Appeals Board (“Board”) to allow the parties more time to resolve the issues raised in the petitions for review. The parties aver that DuPont and Region 2 are undertaking technical work, analyses, and discussions in an effort to cooperatively resolve the matters raised in DuPont’s petition for review, and similarly that the Region and Passaic River Coalition are working to resolve the issues raised in Passaic River Coalition’s petition for review. Stipulation and Joint Motion to Stay at 2 (Mar. 4, 2013). Among other things, the parties

request the stay of proceedings to extend through October 25, 2013. *Id.* The Region and DuPont agree and stipulate that all conditions in the Permit Modification are stayed, while the Region and Passaic River Coalition agree and stipulate that section E.1.d.(4)¹ of the Permit Modification is stayed, in both cases until the matter is resolved by final action of the Board and “Region 2 takes appropriate action consistent with the Board’s final decision.” *Id.*

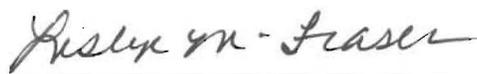
As an initial matter, the Board hereby consolidates review of these petitions for administrative convenience. Upon consideration, the Board grants the parties’ joint motion to stay the proceedings in the above-captioned appeals until October 25, 2013. The Region, in consultation with DuPont and Passaic River Coalition, shall file a status report no later than August 26, 2013, to update the Board on the progress of the parties’ efforts to resolve the challenges to the Permit Modification contained in the petitions for review. The Board will decide whether to establish a briefing schedule or take other action based on the contents of the status report.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Date:

By:



Leslye M. Fraser

Environmental Appeals Judge

March 8, 2013

¹ Section E.1.d of the Permit Modification addresses the Sediment Sampling Plan (“SSP”), and requires DuPont to design and submit a SSP that will be used, among other things, to delineate the mercury concentration in the sediment for the area east of the Remedial Action Objective (“RAO”) line. DuPont Petition for Review (Jan. 31, 2013), Ex. 1 (Permit Modification § E.1.d.(1)). Subsequent remedial activity shall be determined based on the findings of the SSP. *Id.* Section E.1.d.(4) states that upon EPA approval of the SSP report, EPA will use the report to determine whether any areas east of the RAO line, in effect the area of Pompton Lake that is not targeted for dredging, require remedial activity. DuPont Petition for Review (Jan. 31, 2013), Ex. 1 (Permit Modification § E.1.d.(4)); *see also* Passaic River Coalition Petition for Review at 5 (Feb. 1, 2013).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Consolidating Petitions for Review and Granting Motion to Stay Proceedings in the matter of E.I. DuPont De Nemours and Company, RCRA Appeal Nos. 13-01 & 13-02, were sent to the following persons in the manner indicated:

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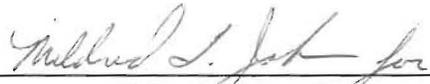
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Dated: **MAR - 8 2013**



Annette Duncan
Secretary