

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

In the Matter of :

E. I. DuPont de Nemours and Company,  
  
Hazardous & Solid Waste Amendments  
(HSWA) Permit Modification  
DuPont Pompton Lakes Works  
EPA I.D. No. NJD002173946

RCRA Appeal Nos. 13-01 & 13-02

**STATUS REPORT AND MOTION FOR EXTENSION OF TIME**

Pursuant to the Environmental Appeals Board (“EAB”), December 29, 2013 Order, Region 2 of the United States Environmental Protection Agency (“EPA”) herewith submits a Status Report on the above-captioned matter. The Status Report includes a Motion for Extension of Time, which is supported by DuPont and the Passaic River Coalition. Also pursuant to the Board’s December 19 Order, EPA Region 2 HAS separately filed the Index to the Administrative Record for the Acid Brook Delta RCRA permit modification.

DuPont and EPA held a further senior level in person meeting on January 27, 2014 in which substantial progress was achieved with respect to approaches for resolving the issues outstanding in the DuPont Appeal. As a result, EPA staff now is optimistic that a settlement can be reached in the matter, although further technical discussions, final negotiations and management approval by each party lie ahead. EPA has also consulted with representatives of the Passaic River Coalition concerning its appeal, and has briefed the Coalition on the DuPont-EPA negotiations.

In EPA’s view, the remaining issues are: (1) the extent and technical framework of the major dredging area in the Acid Brook Delta; (2) delineation of potential “hot spots” outside the Acid Brook Delta to be designated for removal; (3) post-dredging activity to assess effectiveness of the dredging and evaluate lake system conditions; and (4) the nature and timing of future ecological risk assessment. Progress toward settlement has been made on each of the foregoing as well as on the other issues outlined in EPA Region 2’s December 12, 2013 Status Report.

Accordingly, in order to provide sufficient time for additional technical work and negotiations to take place, EPA hereby requests that the EAB approve a Motion for Extension of Time to stay the proceedings before the EAB until April 30, 2014. EPA would file a Status Report by April 15, and file a response to the petitions by April 30, 2014, or as the Board otherwise directs.

EPA notes that major parts of the technical work have been performed by DuPont during the time since the appeals were filed, which are tasks that are required under the permit modification itself. For example, DuPont carried out a major sediment sampling program that is helping to inform the discussions concerning possible “hot spots” that may require removal; in addition, DuPont is preparing a plan to carry out a sampling program in the Ramapo River below the Pompton Lake dam, which is also a program contained within the permit. Technical work has been carried out by DuPont with respect to the lake’s bottom stability and analyses of ecological risk assessment factors as well. In EPA Region 2’s view, the remedial work for the Acid Brook Delta and other additional studies of adjacent area are moving ahead through the performance of the foregoing permit related work, notwithstanding the time extensions the parties have requested the Board to approve.

EPA Region 2 has consulted with counsel for Petitioners DuPont and the Passaic River Coalition in preparing this Status Report. The petitioners support the Motion for Time Extension contained herein.

### **Conclusion**

For good cause, EPA Region 2 respectfully requests that the Board grant the Motion for Extension of Time, and enter a stay of the proceedings and order a filing schedule as set forth above. A proposed form of Order is submitted herewith.

Respectfully submitted,

          s/Robert G. Hazen            
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February 10, 2014

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

In the Matter of :

E. I. DuPont de Nemours and Company,

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**ORDER**

And now, this \_\_\_\_\_ day of \_\_\_\_\_, upon consideration of the Status Report and Motion for Extension of Time submitted by the U.S. Environmental Protection Agency, Region 2, it is hereby ORDERED that the Motion is GRANTED and the proceedings in the Consolidated Appeal are stayed until April 30, 2014. IT IS FURTHER ORDERED that EPA Region 2 shall file a Status Report in the matter with the Board by April 15, 2014, and that EPA Region 2 shall file its response to the Consolidated Appeal petitions by April 30, 2014.

BY THE BOARD:

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**Certificate of Service**

I certify that the foregoing Status Report and Motion for Extension of Time in the matter of E. I. DuPont de Nemours and Company, RCRA Appeal Nos. RCRA 13-01, and RCRA 13-02, was filed by electronic submission to the Environmental Appeals Board through the EAB eFiling system this tenth day of February, 2014.

I hereby also certify that identical paper copies of the foregoing Status Report and Motion for Extension of Time in the matter of E.I. DuPont de Nemours and Company, RCRA Appeal Nos. 13-01, and 13-02, were sent to the following persons in the manner indicated:

Environmental Appeals Board – By Overnight Mail

Clerk of the Board  
U. S. Environmental Protection Agency  
Environmental Appeals Board  
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WJC East, Room 3334  
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February 10, 2014

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