

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

)		
In re:)		
E. I. DuPont de Nemours & Co.)	RCRA Appeals Nos. 13-01 & 13-02	
HSWA Permit Modification)		
DuPont Pompton Lakes Works)		
EPA ID No. NJD002173946)		
)		

MOTION TO DISMISS

Region 2 of the U.S. Environmental Protection Agency (“Region”) respectfully submits to the Environmental Appeals Board (“E.A.B.”) this motion to dismiss RCRA Appeals Nos. 13-01 and 13-02.

GROUND FOR DISMISSAL

On December 19, 2012, the Region issued a Permit Modification to E.I. DuPont de Nemours & Co., (“DuPont”). The permit modification concerned remediation of the Acid Brook Delta of Pompton Lake, and the adjacent upland area.

Before the permit modification became effective, DuPont and the Passaic River Coalition (“Passaic”) each timely filed petitions with the E.A.B requesting review of the Permit Modification, pursuant to 40 C.F.R. § 124.19(a). By Order of the E.A.B., the appeals have been stayed until April 30, 2014.

By letter dated, April 30, 2014, the Region notified the E.A.B. and petitioners DuPont and Passaic that after considering all aspects of the matter, the Region was withdrawing the Permit Modification in its entirety pursuant to 40 C.F.R § 124.19(j). In the Region’s view, the

withdrawal of the Permit Modification accordingly has rendered the appeal petitions moot. *See, e.g., In re: City of Cambridge, Massachusetts, Department of Public Works, NPDES Appeal Nos. 6-01, 6-02, & 6-03 (E.A.B. February 9, 2006).*

REQUESTED RELIEF

The Region respectfully requests the Board to dismiss RCRA Appeals Nos. 13-01 and 13-02 as moot.

Respectfully submitted,

s/ Robert G. Hazen

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April 30, 2014

Certificate of Service

I certify that a pdf copy of the Motion to Dismiss RCRA Appeals Nos. 13-01 and 13-02 was sent electronically to each of the persons listed below. .

Environmental Appeals Board – By E.A.B. Electronic filing system

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April 30, 2014

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