

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

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In the Matter of:	:	
	:	
E.I. DUPONT DE NEMOURS AND	:	
COMPANY,	:	
	:	RCRA Appeal No. 13-01
Permittee	:	and
	:	RCRA Appeal No. 13-02
HSWA Permit Modification	:	
DuPont Pompton Lakes Works	:	
EPA I.D. No. NJD002173946	:	
	:	

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**STIPULATION AND JOINT MOTION TO STAY**

Petitioner E.I. du Pont de Nemours and Company (“DuPont”), Petitioner Passaic River Coalition (“Passaic”) and Respondent U.S. Environmental Protection Agency, Region 2 (“Region 2”) hereby jointly move the Board to stay all proceedings in the above-referenced appeals, as set forth below, so that the parties can seek to resolve the issues raised in the appeals. In support of their Joint Motion, the parties jointly state and stipulate as follows:

1. On December 19, 2012, Region 2 issued to DuPont the final RCRA Corrective Action Permit Modification I (the “Permit Modification”) to modify the above-captioned HSWA Permit.
2. On January 31, 2013, DuPont timely filed with the Board a Petition for Review challenging the Permit Modification. On February 1, 2013, Passaic timely filed with the Board a Petition for Review challenging aspects of the Permit Modification.
3. On February 8, 2013, the Clerk of the Board issued to Eric Schaaf, Regional Counsel for Region 2, a letter requiring that Region 2 file with the Board a response to the petitioners’ contentions by March 26, 2013.

4. DuPont and Region 2 are undertaking technical work, analyses and discussions in an effort to cooperatively resolve the matters in the DuPont Petition for Review without the need for action by the Board, and require additional time and opportunity in this regard. EPA and Passaic also are attempting to resolve issues contained in the Passaic Petition.

5. The parties therefore request that the Board stay all proceedings in the appeals until October 25, 2013. Region 2 shall file a response to the petitions by October 25, 2013, and Region 2 will file a certified copy of the index of the entire administrative record for the Permit Modification no later than October 11, 2013, unless the matters are resolved or the Board otherwise directs. In addition, Region 2 will file a Status Report by no later than August 26, 2013 on the discussions to resolve the challenges to the Permit Modification contained in the appeals.

6. DuPont and Region 2 agree and stipulate that all conditions in the Permit Modification are stayed, and need not be implemented by Petitioner DuPont, by virtue of its filing of a Petition for Review, except that DuPont and EPA note that the technical work and analyses undertaken during the stay, as more fully described in paragraph 4 above, are part of efforts to reach a settlement.

7. DuPont and Region 2 further agree and stipulate that all conditions in the Permit Modification shall remain stayed, and need not be implemented by Petitioner DuPont until the Board takes final action on the DuPont Petition for Review and Region 2 takes appropriate action consistent with the Board's final decision. Passaic and Region 2 further agree and stipulate that Section E. (1) (d) (4) of the permit Modification is stayed until the matter is resolved by final action of the Board and Region 2 takes appropriate action consistent with the Board's final decision.

8. With the exception of the stipulations of the parties in paragraphs 6 and 7 above, nothing herein is intended to or shall be construed to waive or otherwise limit any claim, assertion, position or argument associated with the Petitions for Review otherwise available to any party.

**CONCLUSION**

For good cause, DuPont, Passaic and Region 2 respectfully request that the Board grant this Joint Motion and enter a stay of all proceedings on the conditions set forth above. A proposed form of Order is submitted herewith.

Respectfully submitted,

*For Petitioner DuPont*

/s/ Stephen Rahaim  
Stephen Rahaim, Esquire  
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/s/ Kathleen B. Campbell  
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*For Respondent EPA Region 2*

/s/ Robert G. Hazen

Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection Agency Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866  
(212) 637-3215.

*For Respondent Passaic River Coalition*

/s/ Stuart J. Lieberman

Mr. Stuart J. Lieberman, Esq.  
Lieberman & Blecher  
Counsel to Passaic River Coalition  
(732) 355-1311

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**ORDER**

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 2013, upon consideration of the Stipulation and Joint Motion to Stay submitted by DuPont, Passaic and Region 2, it is hereby ORDERED that the Stipulation is APPROVED and the motion is GRANTED. IT IS FURTHER ORDERED that all proceedings in the appeals are STAYED in accordance with the terms of the parties' Stipulation and those set forth in the Joint Motion to Stay.

BY THE BOARD:

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