



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**APR 15 2008**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Tim Albert  
Plant Manager  
DuPont Chemical Solutions Enterprise  
Wurtland Plant  
HC 66-400 Harris Road  
Wurtland, KY 41144

Dear Mr. Albert:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the August 21, 2007, discharge of a hazardous substance from the Wurtland Plant. Please note that pursuant to Paragraph 14, your company has 30 days from the effective date of the CA/FO to submit its payment of the \$1,000 penalty.

If you have questions regarding the CA/FO, please contact me at (404) 562-9567.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Newton".

Michael T. Newton  
Associate Regional Counsel

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
E. I. du Pont de Nemours and Company	)	FINAL ORDER
HC 66-400 Harris Road	)	UNDER 40 C.F.R. § 22.13(b)
Wurtland, Kentucky 41144	)	
	)	
Respondent.	)	Docket No.: CWA-04-2008-5126(b)
_____	)	

2008 APR 15 PM 1:57  
HEARING ELEMENT  
EPA REGION 4

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division ("Complainant").

**CONSENT AGREEMENT**

**Stipulations**

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. Respondent, E. I. du Pont de Nemours and Company, is a corporation organized under the laws of the State of Delaware with a place of business located at HC 66-400 Harris Road, Wurtland, Kentucky 41144. The Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 110.1.

2. The Respondent is the owner and operator within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 110.1 of a manufacturing facility located at HC 66-400 Harris Road, Wurtland, Kentucky 41144 ("the facility").

3. The facility is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10).

4. The Ohio River is a navigable water subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

5. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits the discharge of hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

6. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §§ 1321(b)(3) and (b)(4), discharges of hazardous substances into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or the environment of the United States are discharges of hazardous substances identified in 40 C.F.R. Part 116 in excess of the corresponding reportable quantities listed in 40 C.F.R. Part 117.

7. Respondent admits the jurisdictional statements contained herein for the limited purpose of this Consent Agreement and Final Order.

#### **Allegations**

Complainant alleges, and Respondent neither admits nor denies, that:

8. On August 21, 2007, Respondent discharged approximately 4,000 pounds of sulfuric

acid, which is designated as a hazardous substance in 40 CFR Part 116, from its facility into or upon the Ohio River.

9. Respondent's August 21, 2007 discharge of approximately 4,000 pounds of sulfuric acid was in excess of the reportable quantity of such substance established in 40 CFR Part 117, and, therefore, was in a quantity that has been determined may be harmful under Sections 311(b)(3) and (b)(4) of the Act.

10. Respondent's August 21, 2007, discharge of sulfuric acid into or upon the Ohio River in a quantity that has been determined may be harmful under 40 CFR Part 117 violated Section 311(b)(3) of the Act.

#### **Waiver of Rights**

11. Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

12. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

#### **Penalty**

13. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$1,000.00**.

**Payment Terms**

Based on the forgoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

14. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$1,000.00 by means of a cashier's or certified check, or by wire transfer. If paying by check, the Respondent shall submit a cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311." If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

If the Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency."

15. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit copies of the check (or, in the case

of a wire transfer, a copy of the wire transfer confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA- Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA- Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

16. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

**General Provisions**

17. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

18. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

19. The undersigned representative of Respondent hereby certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to this Consent Agreement.

20. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Michael T. Newton,  
Associate Regional Counsel  
U.S. EPA – Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9567

21. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

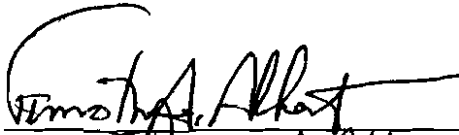
Tim Albert  
Plant Manager  
DuPont Chemical Solutions Enterprise  
Wurtland Plant  
HC 66-400 Harris Road  
Wurtland, Kentucky 41144  
606-833-1212

**Effective Date**

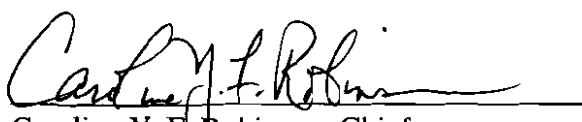
19. This Consent Agreement and attached Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

E. I. DU PONT DE NEMOURS AND COMPANY]

Date: March 24, 2008   
Name: Timothy A. Albert  
Title: Plant Manager - DUPONT, Wurtland Ky

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: April 14, 2008   
Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division




**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

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	)	CONSENT AGREEMENT AND
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HC 66-400 Harris Road	)	UNDER 40 C.F.R. § 22.13(b)
Wurtland, Kentucky 41144	)	
	)	
Respondent.	)	Docket No.: CWA-04-2008-5126(b)
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 15<sup>th</sup> day of April, 2008.

BY:   
Susan Schub  
Regional Judicial Officer

In the Matter of. E. I. du Pont de Nemours and Company  
Docket Number: CWA-04-2008-5126(b)

**CERTIFICATE OF SERVICE**

I hereby certify that on APR 15 2008, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of. E. I. du Pont de Nemours and Company, Docket Number: CWA-04-2008-5126(b), and that on APR 15 2008

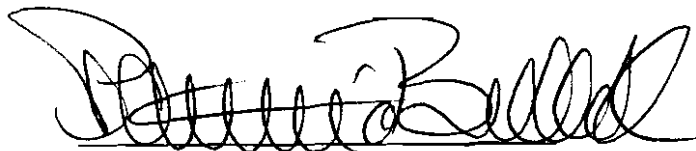
I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail - Return Receipt Requested

Tim Albert  
Plant Manager  
DuPont Chemical Solutions Enterprise  
Wurtland Plant  
HC 66-400 Harris Road  
Wurtland, Kentucky 41144

Via EPA's internal mail

Michael T. Newton  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511