



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 24 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Guy V. Johnson
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal – D-7090-2
1007 Market Street
Wilmington, DE 19898

SUBJ: In the Matter of E.I. du Pont de Nemours and Company, New Johnsonville Facility
Docket Number: RCRA-04-2009-4002(b)
EPA ID No.: TND004044491

Dear Mr. Johnson:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the Resource Conservation and Recovery Act matter for E.I. du Pont de Nemours and Company, New Johnsonville Facility (DuPont New Johnsonville) located in New Johnsonville, Tennessee. The CA/FO has been filed with the Regional Hearing Clerk and is effective on the date of filing.

In accordance with Paragraph 67, DuPont New Johnsonville is required to pay the civil penalty of \$23,000 within 30 days of the filing date. Payment instructions are outlined in Paragraphs 68 and 69 of the CA/FO.

If you have any questions regarding this letter or the CA/FO, please contact me at (404) 562-9544. Your cooperation in this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Joan Redleaf Durbin".

Joan Redleaf Durbin
Senior Attorney
Office of Environmental Accountability

cc: Mr. Mike Apple, Director
Division of Solid Waste Management, Tennessee Department of Environment & Conservation
5th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-1535

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
E.I. DU PONT DE NEMOURS AND)
COMPANY, NEW JOHNSONVILLE)
TENNESSEE FACILITY)
1 DUPONT ROAD)
NEW JOHNSONVILLE, TENNESSEE)
37134)
)
EPA ID NO.: TND004044491)
)
RESPONDENT)
_____)

DOCKET NO.: RCRA-04-2009-4002(b)
PROCEEDING UNDER SECTION
3008(a) OF THE RESOURCE
CONSERVATION AND RECOVERY
ACT, 42 U.S.C. § 6928(a)

2009 DEC 31 AM 9:39
EPA REGION 4
RECEIVED

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921 *et seq.*, and the Tennessee Code Annotated (T.C.A.) § 68-212-101 *et seq.*, as amended. This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA and T.C.A. and the regulations promulgated pursuant thereto, set forth at Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270, 273, and 279, and Tennessee Rule (TR) Chapter 1200-1-11.
2. 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, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA & OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is E.I. du Pont de Nemours and Company, New Johnsonville Facility (DuPont New Johnsonville), a corporation incorporated under the laws of Delaware and doing business in the State of Tennessee. The business is located at 1 DuPont Road, New Johnsonville, Tennessee 37134.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on February 5, 1985, the State of Tennessee received final authorization to carry out certain portions of RCRA, including those recited herein, in lieu of the federal program. The requirements of the authorized program are found at T.C.A. § 68-212-101 et seq. and TR Chapter 1200-1-11.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by EPA until the State is granted final authorization with respect to those requirements. On December 26, 2000, the State of Tennessee received authorization under HSWA.
8. Although EPA has granted the State authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to the State of Tennessee before the issuance of this CA/FO
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and T.C.A. 68-212-101, et seq., sets forth standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found in 40 C.F.R. Part 262 and TR Chapter 1200-1-11.
11. Section 3004 of RCRA, 42 U.S.C. § 6922, and T.C.A. 68-212-101, et seq., sets forth standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at 40 C.F.R. Part 264 and TR Chapter 1200-1-11-.06.
12. Section 3005 of RCRA, 42 U.S.C. § 6925, and T.C.A. 68-212-101, et seq., sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at

40 C.F.R. Parts 264 (permitted) and 265 (interim status) and TR Chapter 1200-01-11-.05 (interim status) and 1200-01-11-.06 (permitted).

13. Pursuant to 40 C.F.R. § 261.2 and TR Chapter 1200-01-11-.02(1)(b), a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3 and TR Chapter 1200-01-11-.02(1)(c), a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and TR Chapter 1200-01-11-.02(1)(d) and it meets any of the criteria set out in this section.
15. Pursuant to 40 C.F.R. § 260.10 and TR Chapter 1200-01-11-.01, a “generator” is defined as “any person, by site, whose act or process produces hazardous waste identified or listed in TR Chapter 12-01-11-.02.” [40 C.F.R. § 261.3]
16. Pursuant to 40 C.F.R. § 260.10 and TR Chapter 1200-01-11-.01, a “small quantity generator” is defined as “a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.”
17. Pursuant to 40 C.F.R. § 262.11 and TR Chapter 1200-01-11-.03(1)(b), a person who generates a solid waste as defined in 40 C.F.R. § 261.2 and TR Chapter 1200-01-11-.02(1)(b), must determine if that waste is a hazardous waste.
18. Pursuant to 40 C.F.R. § 262.34(d)(4) and TR Chapter 1200-1-11-.03(e)(6), a small quantity generator may accumulate hazardous waste on site for 180-days or less without a permit or without having interim status provided that the generator complies with the management requirements listed in this subpart.
19. Pursuant to 40 C.F.R. § 262.34(a)(2) and TR Chapter 1200-1-11-.03(e)(6)(iv)(I), a small quantity generator may accumulate hazardous waste on site for 180-days or less without a permit or without having interim status provided that the generator clearly marks the date accumulation begins on the container.
20. Pursuant to 40 C.F.R. § 262.34(a)(3) and TR Chapter 1200-1-11-.03(e)(6)(iv)(II), a small quantity generator may accumulate hazardous waste on site for 180-days or less without a permit or without having interim status provided that the generator marks each container with the words “Hazardous Waste” while the waste is being accumulated onsite.
21. Pursuant to 40 C.F.R. § 265.173 and TR Chapter 1200-01-11-.05(9)(d)1, a small quantity generator may accumulate hazardous waste on site for 180-days or less without a permit or without having interim status provided that the generator keeps containers holding hazardous waste closed during storage, except when it is necessary to add or remove waste.
22. Pursuant to 40 C.F.R. §§ 268.7, 268.9, and 268.40(a), and TR Chapter 1200-01-11-.10, a

small quantity generator of hazardous waste must determine if the waste has to be treated before it can be land disposed, and must comply with other notice, certification, and waste analysis requirements of these sections.

23. Pursuant to 40 C.F.R. § 273.9, and TR Chapter 1200-01-11-.12(1)(b), a “small quantity handler of universal waste” is defined as a “universal waste handler who does not accumulate 5,000 kilograms or more of universal wastes at any time.”
24. Pursuant to 40 C.F.R. § 273.14(e), and TR Chapter 1200-01-11-.12(2)(e)5, a small quantity handler of universal waste lamps must label or mark each lamp, container, or package, in which universal waste lamps are contained with one on the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
25. Pursuant to 40 C.F.R. § 273.14(e), and TR Chapter 1200-01-11-.12(2)(d)4(i)(I), a small quantity handler of universal waste lamps must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
26. Pursuant to 40 C.F.R. § 279.9, and TR Chapter 1200-01-11.11(1)(a), “used oil” means “any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.”
27. Pursuant to 40 C.F.R. § 279.9, and TR Chapter 1200-01-11.11(1)(a), “used oil generator” means “any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.”
28. Pursuant to 40 C.F.R. § 279.22(c)(1), and TR Chapter 1200-01-11.11(3)(c)3(i), containers and aboveground storage tanks used to store used oil at used oil generator facilities must be labeled or marked clearly with the words “Used Oil.”
29. Pursuant to 40 C.F.R. § 279.22(d), and TR Chapter 1200-01-11.11(3)(c)4, upon detection of a release of used oil to the environment that is not subject to the requirements of Part 280, Subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located, a generator must perform the following cleanup steps: (1) Stop the release; (2) Contain the released used oil; (3) Clean up and manage properly the released used oil and other materials; and (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

IV. EPA ALLEGATIONS AND DETERMINATIONS

30. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C.

§ 6903(15), 40 C.F.R. § 260.10, and TR Chapter 1200-01-11-.01(2)(a).

31. Respondent is the “owner” and “operator” of a “facility,” as those terms are defined in 40 C.F.R. § 260.10 and TR Chapter 1200-01-11-.01(2)(a).
32. Respondent began its operation at its current location in 1958 and was assigned the site specific EPA ID number TND004044491 by the Tennessee Department of Environment and Conservation (TDEC).
33. On February 12-14, 2007, EPA and TDEC conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent’s facility, accompanied by Harold R. Williams, DuPont New Johnsonville Safety, Health and Environmental Manager, and David H. Alexander, DuPont New Johnsonville Senior Environmental Consultant.
34. Respondent manufactures titanium dioxide pigment (TiO₂ or pigment) using the chloride-ilmenite process. Respondent uses ilmenite and rutile ore in this process. Respondent also manufactures sodium chloride from by-products of the pigment manufacturing process.
35. Respondent owns approximately 1,500 acres, of which approximately 300 acres have been developed and are used in support of pigment and sodium chloride manufacturing operations. An additional 26 acres are dedicated to a surface pond wastewater treatment system used to handle rainwater and as settling ponds for pigment process wastewater.
36. Respondent, as a result of facility operations, generates waste that is a “solid waste” as defined in 40 C.F.R. § 261.2 and TR Chapter 1200-01-11-.02(1)(b).
37. At the time of the February 12-14, 2007, CEI, Respondent had not made a hazardous waste determination on the waste paint sludge generated in the 670 Building.
38. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.11 and TR Chapter 1200-01-11-.03(1)(b).
39. Respondent’s waste paint sludge generated in the 670 building is characteristically hazardous for ignitability (D001) as those terms are defined at 40 C.F.R. § 261.21 and TR Chapter 1200-1-11.02(3)(b).
40. Respondent, as a result of facility operations, is a “small quantity generator” of hazardous waste as defined in 40 C.F.R. § 260.10 and TR Chapter 1200-01-11-.01
41. At the time of the February 12-14, 2007, CEI, Respondent was storing hazardous waste in a container that was not labeled with the beginning date of accumulation.
42. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted in T.C.A. 68-212-105(4), for storing hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit

- exemption found at 40 C.F.R. § 262.34(a)(2) and TR Chapter 1200-1-11-.03(e)(6)(iv)(I).
43. At the time of the February 12-14, 2007, CEI, Respondent was storing hazardous waste in container that was not labeled with the words "Hazardous Waste."
 44. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted in T.C.A. 68-212-105(4), for storing hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 262.34(a)(3) and TR Chapter 1200-1-11-.03(e)(6)(iv)(II).
 45. At the time of the February 12-14, 2007, CEI, Respondent was storing hazardous waste in an open container.
 46. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, as adopted in T.C.A. 68-212-105(4), for storing/treating hazardous waste without a permit or interim status because Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 265.173 and TR Chapter 1200-01-11-.05(9)(d)1.
 47. At the time of the February 12-14, 2007, CEI, Respondent was sending treated hazardous waste off-site for land disposal without performing necessary notice, certification, and waste analysis requirements.
 48. EPA therefore alleges that Respondent has violated 40 C.F.R. §§ 268.7, 268.9, and 268.40(a), and TR Chapter 1200-01-11-.10 for failing to perform necessary notice, certification, and waste analysis requirements of these sections.
 49. Respondent, as a result of facility operations, is a "small quantity handler of universal waste" as defined in 40 C.F.R. § 273.9, and TR Chapter 1200-01-11-.12(1)(b).
 50. At the time of the February 12-14, 2007, CEI, Respondent had not labeled universal waste lamps, or the container or package in which they were stored with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."
 51. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e), and TR Chapter 1200-01-11-.12(2)(e)5.
 52. At the time of the February 12-14, 2007, CEI, Respondent was not storing universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.
 53. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e), and TR Chapter 1200-01-11-.12(2)(d)4(i)(I).
 54. Respondent, as a result of facility operations, is a "used oil generator" as defined in 40 C.F.R. § 279.9, and TR Chapter 1200-01-11.11(1)(a).

55. At the time of the February 12-14, 2007, CEI, Respondent was not storing used oil in containers with the words "Used Oil."
56. EPA therefore alleges that Respondent has violated 40 C.F.R. § 279.22(c)(1), and TR Chapter 1200-01-11.11(3)(c)3(i).
57. At the time of the February 12-14, 2007, CEI, Respondent had not cleaned up releases of used oil.
58. EPA therefore alleges that Respondent has violated 40 C.F.R. § 279.22(d), and TR Chapter 1200-01-11.11(3)(c)4.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

59. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
60. The Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
61. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
62. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
63. 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 CA/FO.
64. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
65. Respondent, by signing this CA/FO, certifies that all violations alleged in this CA/FO have been corrected.
66. Each party will pay its own costs and attorney's fees.

VI. PAYMENT OF CIVIL PENALTY

67. Respondent consents to the payment of a civil penalty in the amount of TWENTY-THREE THOUSAND DOLLARS (\$23,000.00) within thirty (30) calendar days of the effective date of this CA/FO.
68. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(314) 418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking

Environmental Protection Agency
 808 17th Street NW
 Washington, DC 20074
 Contact: Jesse White, (301) 887-6548

69. Payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: **Treasurer, United States of America**. The facility name and the docket number for this matter shall be referenced on the face of the check and in a cover letter transmitting the check. Payment shall be tendered to:

United States Environmental Protection Agency
 Cincinnati Finance Center
 P.O. Box 979077
 St. Louis, Missouri 63197-9000

Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk
 U.S. EPA - Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303-8909

And to:

Frank N. Ney, Acting Chief
 South Section, RCRA & OPA Enforcement and Compliance Branch
 RCRA Division
 U.S. EPA - Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303-8909

70. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
- c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

71. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 28 U.S.C. § 162(f).

VII. PARTIES BOUND

- 72. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
- 73. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 74. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

- 75. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.

76. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
77. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
78. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

79. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

80. 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:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909
(404) 562-9544

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

Guy V. Johnson
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal – D-7090-2
1007 Market Street
Wilmington, DE 19898
(302) 774-5113

XI. SEVERABILITY

82. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

83. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

E.I. du Pont de Nemours and Company, New Johnsonville Facility

By: *Kenneth P. Klein* Dated: *12/5/08*
Kenneth P. Klein
Plant Manager

U.S. Environmental Protection Agency

By: *Caroline Y. F. Robinson* Dated: *12/15/08*
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

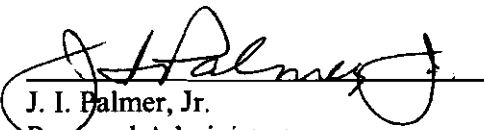
IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2009-4002(b)
)	
E.I. DU PONT DE NEMOURS AND)	
COMPANY, NEW JOHNSONVILLE)	PROCEEDING UNDER SECTION
TENNESSEE FACILITY)	3008(a) OF THE RESOURCE
1 DUPONT ROAD)	CONSERVATION AND RECOVERY
NEW JOHNSONVILLE, TENNESSEE)	ACT, 42 U.S.C. § 6928(a)
37134)	
)	
EPA ID NO.: TND004044491)	
)	
RESPONDENT)	
_____)	

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 22nd day of December, 2008.

BY:


J. I. Palmer, Jr.
Regional Administrator
EPA Region 4

Handwritten text, possibly a signature or name, located in the center of the page.

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of E.I. du Pont de Nemours and Company, New Johnsonville Facility, Docket Number: RCRA-04-2009-4002(b), on DEC 24 2008 2008, and on DEC 24 2008 2008, served the parties listed below in the manner indicated:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

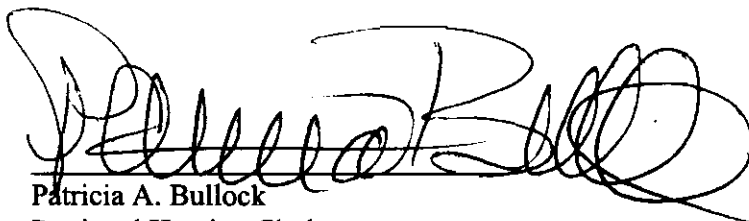
(Via EPA's internal mail)

Guy V. Johnson
Corporate Counsel
E. I. du Pont de Nemours and Company
Legal - D-7090-2
1007 Market Street
Wilmington, DE 19898

(Via Certified Mail - Return Receipt Requested)

Date:

12-24-08



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



EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Jean Redleaf Dubin on 12/24/08
(Name) (Date)

in the OEA/OES/RCRA at (404) 562-9544
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: E. I. du Pont de Nemours and Company, Inc Johnsonville TN
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 23,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: RCRA-04-2009-4002 (b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: R4/RCRA Division/ RCRA/OWE Enforcement & Compliance Branch

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at: (404) 562-5238

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |

