



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
GARY C. RIKARD, EXECUTIVE DIRECTOR

February 5, 2015

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Mark Smith
DuPont DeLisle Facility
PO Box 430
Pascagoula, MS 39571

**Re: DuPont DeLisle Facility
Agreed Order No. 6496 15**

Dear Mr. Smith:

Enclosed you will find a copy of Agreed Order No. 6496 15, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Gary Rikard, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Rick Sumrall at (601) 961-5791.

Sincerely,

Chris Sanders, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Rick Sumrall

Agency Interest No. 1832
ENF20140002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6496 15

DUPONT DELISLE FACILITY
7685 KILN DELISLE ROAD
PASS CHRISTIAN, MISSISSIPPI 39571

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality ("Commission"), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality ("MDEQ"), Complainant, and DuPont DeLisle Facility ("DuPont"), Respondent, in the above captioned cause and agree as follows:

1.

By letter dated June 4, 2014, Respondent was contacted by Complainant and notified of the following alleged violation of Title V Operating Permit ("TVOP") 1020-00115 for its facility located at 7685 Kiln DeLisle Road, Pass Christian, Mississippi in Harrison County:

Respondent failed to conduct a timely stack test for sulfur dioxide ("SO₂") for Emission Point AF-101. Permit requirement 5.B.2 of the TVOP required a demonstration of compliance for SO₂ by stack test within 24 months of the previous stack test conducted on September 19, 2011. The stack test should have been conducted no later than September 19, 2013. Respondent demonstrated compliance with a stack test on February 3, 2014 (137 days late).

2.

In lieu of a formal enforcement hearing concerning the violation listed above, Complainant and Respondent agree to settle this matter as follows:

A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$19,500.00 for the matter addressed herein. The penalty shall be paid as follows:

a. Respondent shall pay by check or money order \$4,875.00 to MDEQ within forty-five (45) days after the date this Agreed Order is executed by the MDEQ Executive Director or his designee (the "Effective Date"). Payment shall be submitted to the following address:

Mississippi Department of Environmental Quality
Attn: Jennifer Parish
P.O. Box 2339
Jackson, MS 39225

b. In accordance with the provisions of this Agreed Order and the Memorandum of Agreement ("MOA") between Complainant, Respondent and the Harrison County School District ("HCS D"), which is attached hereto as exhibit "A", Complainant shall allow Respondent credit as follows toward payment of the penalty. Within forty-five (45) days after the Effective Date, Respondent shall pay, by check or money order, \$14,625.00 to the HCS D in accordance with the terms and conditions of the MOA. The HCS D shall use these funds for the purpose of purchasing a school bus which meets the same requirements as those purchased under MDEQ's Diesel School Bus Replacement Program ("DSBRP"). Within ten (10) days after making the payment to the HCS D aforementioned in this subparagraph, Respondent shall provide MDEQ with written proof of such payment.

c. If Respondent fails to make the payment as described in paragraph 2.A.b above or should amount necessary for the HCS D's purchase be less than \$14,625.00, any balance remaining of the civil penalty shall be immediately due and payable to MDEQ.

B. Respondent further understands and agrees that as part of the referenced settlement, Respondent shall comply with the following:

a. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the payment described in paragraph 2.A.b

above shall include the following language: "This contribution was made in connection with the settlement of an environmental enforcement action taken by the Mississippi Department of Environmental Quality."

- b. Respondent shall not deduct Supplemental Environmental Project ("SEP") expenditures from its state or federal income taxes or receive any state or federal credit for these expenditures as current operating expenses in 2015. Respondent may capitalize the SEP expenditures.

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 5th day of February, 2015.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: Dary C. Rikard
GARY C. RIKARD
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 27th day of January, 2015.

DUPONT DELISLE FACILITY

BY: Mark H. Smith Mark H. Smith

TITLE: Plant Manager

STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named MARK H. SMITH who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the PLANT MANAGER of DuPont DeLisle Facility and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 27th day of JANUARY, 2015.

Monica Choate N...
NOTARY PUBLIC

My Commission expires: JANUARY 31, 2016



ATTACHMENT A

**MEMORANDUM OF AGREEMENT BETWEEN MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL QUALITY,
DUPONT DELISLE FACILITY, AND
HARRISON COUNTY SCHOOL DISTRICT**

**MEMORANDUM OF AGREEMENT BETWEEN MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL QUALITY,
DUPONT DELISLE FACILITY, AND
HARRISON COUNTY SCHOOL DISTRICT**

Background. On June 4, 2014, the Mississippi Department of Environmental Quality (“MDEQ”) initiated an administrative enforcement action against DuPont DeLisle Facility (“DuPont”) for violation of Title V Operating Permit (“TVOP”) 1020-00115 issued on May 9, 2006. As part of the settlement and resolution of that enforcement action, MDEQ has agreed to allow DuPont to pay \$14,625.00 to the Harrison County School District (“HCSD”) and receive credit towards the agreed upon civil penalty. MDEQ now seeks to ensure that the HCSD expends the funds for the purpose set forth below.

Section 1. Parties to the Agreement: The parties to this Memorandum of Agreement (“MOA”) are MDEQ, DuPont and HCSD.

Section 2. Purpose of the Agreement: The purpose of this agreement is to ensure the HCSD expends the funds received from DuPont for the purchase of a school bus which meets the same requirements of those purchased under MDEQ’s Diesel School Bus Replacement Program (“DSBRP”) as required by Agreed Order No. 6496 15.

Section 3. Responsibilities of DuPont: DuPont shall make payments to the HCSD in the amount of \$14,625.00 after execution of this MOA and in accordance with the Agreed Order as contemplated by Section 5 of this MOA.

Section 4. Responsibilities of HCSD: The HCSD shall expend the funds received from

DuPont to replace an existing school bus with the purchase of a new school bus meeting the diesel emission reduction requirements as those purchased under MDEQ's DSBRP. HCSD shall notify MDEQ's Air Division to coordinate an observer to confirm HCSD makes an existing school bus inoperable. HCSD shall provide MDEQ with a copy of an Idle Reduction Policy which has been adopted by the School Board of HCSD. Should the HCSD fail to expend the funds received from DuPont or any portion of the funds as required by this MOA, the HCSD shall remit to MDEQ the portion of the funds not spent in accordance with this MOA, and any such funds remitted to MDEQ shall be considered a penalty collection and deposited into the Pollution Emergency Fund pursuant to Miss. Code Ann. § 49-17-43(6).

Section 5. Responsibilities of MDEQ: As consideration for the performance of this MOA, MDEQ agrees to grant DuPont credit in the amount of \$14,625.00 toward payment of a total civil penalty of \$19,500.00 for the violations cited in MDEQ's Notice of Violation dated June 4, 2014. This concession by MDEQ shall also be embodied in an Agreed Order between MDEQ and DuPont.

Section 6. Reporting and Certification Requirements: DuPont shall submit to MDEQ documentation (such as purchase orders, receipts, etc.) reflecting that it gave the funds to HCSD and that HCSD, in turn, used the funds in accordance with this MOA once the funds have been fully expended. DuPont shall submit a certification signed by both DuPont's Plant Manager and the Superintendent of the Harrison County School District that the funds were transferred and expended in accordance with the terms of this MOA.

Section 7. Period of Performance: The period of performance for this MOA shall be ninety (90)

days from the date the MOA is executed by all parties.

Section 8. Nullification of this Agreement: The parties to this MOA contemplate, and the MOA embodied in this document presumes, the issuance by MDEQ of an Agreed Order associated with, and referencing, this MOA and requiring DuPont to make the payment described herein. If, for any reason, the MDEQ and DuPont are unable to settle the enforcement action referenced above as contemplated by this MOA and/or MDEQ, for any reason, does not issue the contemplated Agreed Order, this MOA, and any obligations described herein, shall be null, void and without effect.

WITNESS OUR SIGNATURES:

PRESIDENT, HARRISON COUNTY SCHOOL DISTRICT

By: Henry Arledge

Printed name: HENRY ARLEDGE

Title: SUPT. OF EDUCATION

Date Executed: 1/28/15

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Gary C. Rikard

Gary C. Rikard, Executive Director

Date Executed: February 5, 2015

DUPONT DELISLE FACILITY

By: Mark H. Smith

Printed Name: Mark H. Smith

Titled: Plant Manager

Date Executed: 1/27/2015