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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)
)
E. I. du PONT de NEMOURS and CO.) Docket No. FIFRA 95-H-11
)
Respondent)

ORDER DENYING RESPONDENT'S MOTION TO POSTPONE FILING ITS
RESPONSE TO COMPLAINANT'S MOTION TO AMEND COMPLAINT

Following the filing by Respondent¹ of a Motion for Summary Judgment, dated July 26, 1995, Complainant² filed a motion to amend its complaint to include alternate legal grounds for liability. Complainant asserts that these alternate arguments were previously set forth by Complainant in its answer to Respondent's motion.³ Complainant asserts that Respondent will not be unduly prejudiced by the granting of Complainant's motion to amend, and notes that the amended complaint proposes no increase in penalty nor any addition of counts. Further, Complainant notes that Respondent, pursuant to 40 C.F.R. § 22.14(d), has 20 days from the date of service of the amended complaint to file an answer. Complainant concludes by arguing that following the filing of its answer to the

¹ Respondent is E. I. duPont de Nemours and Company of Wilmington, Delaware.

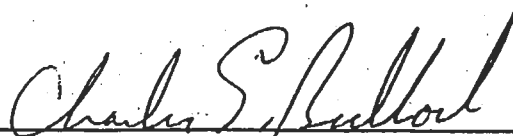
² Complainant is the U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Toxics and Pesticides Enforcement Division.

³ Complainant's Opposition to Respondent's Motion for Summary Judgment and Complainant's Motion for Accelerated Decision (dated August 9, 1995). (See pp. 12-13.)

amended complaint, Respondent may file an amended motion for summary judgment.

Respondent opposes Complainant's motion to amend. It asserts that granting of its motion for summary judgment may very well obviate the need to consider this alternate theory of legal liability contained in Complainant's motion to amend. Therefore, Respondent urges that it not be required to file a response to Complainant's motion to amend until the Judge rules on its motion for summary judgment. It is this request by Respondent that is the subject of this order.

For good cause shown, Respondent's motion to postpone filing its response to Complainant's motion to amend the complaint is denied. Respondent has not shown good cause for acting upon its motion for summary judgment prior to Respondent filing a response to Complainant's motion to amend its complaint. No undue burden or prejudice to Complainant has been demonstrated. Respondent shall file its response to Complainant's motion to amend its complaint on or before August 21, 1996.



Charles E. Bullock
Administrative Law Judge

Dated: July 30, 1996
Washington, D.C.

CERTIFICATE OF SERVICE

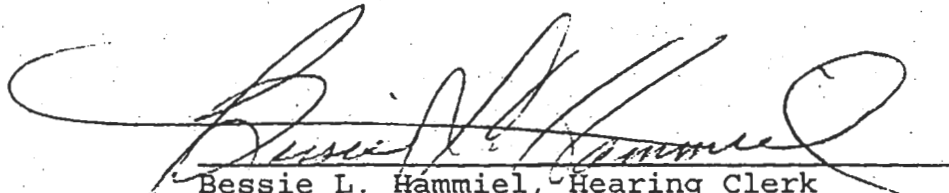
I do hereby certify that the foregoing Order Denying Respondent's Motion To Postpone Filing Its Response To Complainant's Motion To Amend Complaint was filed in re E.I. du Pont de Nemours & Company; Docket No. FIFRA 95-H-11 and copies of the same were served upon the following:

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Dated: July 30, 1996