



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

February 19, 2024

Sent electronically to: clement.j.hilton@chemours.com

Mr. Clement J. Hilton, Vice President, Minerals
The Chemours Company FC, LLC
Post Office Box 753
Starke, Florida 32091

SUBJECT: Department of Environmental Protection v. The Chemours Company FC, LLC
OGC File No. 23-1066
Facility ID No. FL0000051
Bradford County


Dear Mr. Hilton:

Enclosed is a copy of the executed Consent Order to resolve Case Number 23-1066. The effective date of this Order is February 19, 2024, and all timeframes will be referenced from this date.

As a reminder, a Consent Order is a binding legal document and was voluntarily entered into by both parties.

Should you have any questions concerning the Consent Order, please contact the case manager, Herndon Sims at (904) 256-1612, or via email at Herndon.Sims@floridadep.gov. Your continued cooperation in the matter is appreciated.

Sincerely,


Thomas G. Kallemeyn
Assistant Director

Enclosure: Executed Consent Order No. 23-1066

ec: FDEP-OGC: Lea Crandall
FDEP-NED: Abhi Maturi, Joni Petry, Herndon Sims, Thomas Kallemeyn, DEP_NED,
Rodney Christensen, Shannon Taylor
Connie Henderson, Connie.Henderson@chemours.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHEAST DISTRICT
)	
v.)	OGC FILE NO. 23-1066
)	
THE CHEMOURS COMPANY FC, LLC)	
<hr/>)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and The Chemours Company FC, LLC (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (“Fla. Stat.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“Fla. Admin. Code”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.031(5), Fla. Stat.
3. Respondent is the owner and is responsible for the operation of Florida Mine – Trail Ridge, a heavy mineral mining wastewater treatment system providing acidification with ferric chloride, sulfuric acid, aluminum sulfate, or ferric sulfate to a pH between 3.0 and 3.5 standard units for flocculation of colloidal material followed by settling in a series of dike ponds, neutralization with hydrated lime to a pH between 6.0 to 8.5, and additional settling with final discharge to Alligator Creek. A portion of the effluent is directed to the Southwest Quadrant Pond. The existing recycle line from D-001 (outfall discharge point) was tapped and a pipeline was constructed to route approximately 400 gallons per minute of treated wastewater to an existing ditch which then discharges into the Southwest Quadrant Pond

(location D-002) with eventual discharge into Blue Pond, which is the portion of Alligator Creek that flows south to Clay County (“Facility”).

4. Respondent operates the Facility under Department Wastewater Permit No. FL0000051, which was issued on June 29, 2017, and expired June 28, 2022. The Respondent submitted the renewal permit application timely on December 21, 2021.

5. The Facility is located at 5222 Treat Road, Starke, Florida, 32091, in Bradford County, Florida (“Property”). Respondent owns the Property on which the Facility is located.

Respondent conducted an investigation of potential sources of iron at the Facility as required by Administrative Order 185 (AO 185). Respondent submitted an investigation report, titled Evaluation of Iron Sources for the Trail Ridge Facility, to the Department by August 2021. Respondent submitted a revised investigation report to the Department on August 12, 2022. The Department closed AO 185 on June 28, 2021.

Respondent submitted a Corrective Action Plan to the Department related to a pH exceedance on July 27, 2018. Respondent submitted a Corrective Action Plan to the Department related to a total suspended solids (TSS) exceedance on March 24, 2021. Since submitting and implementing those Corrective Action Plans, Respondent has not had any additional exceedances for pH or TSS.

6. The Respondent requested a Variance for the Single Sample Maximum for Total Recoverable Iron to be increased from 1.0 mg/L to 2.0 (mg/L) to the Department on December 21, 2021, and to the Office of General Counsel (OGC) on October 17, 2022. The Variance Case # OGC 22-2724, is currently under Department review. See paragraph 11 below for more information on the Variance case.

7. The Department finds that the following violations occurred:

a) The Respondent did not meet the Administrative Order (AO 185) limit of 2.0 (mg/L) for Total Recoverable Iron at monitoring point EFF-1 between October 31, 2017 to June 28, 2021, in violation of Rule 62-302.530, Fla. Admin. Code, as noted in Table 1 below. **See Exhibit A - Administrative Order 185.** The Department acknowledges that Respondent made it aware of an adjacent landowner’s borrow pit dewatering project that sent water into

Monitoring Group	Date	Monitoring Location	Description	Result	Limit	Units	Statistical Basis
D-001	07/31/2018	EFF-1	pH	8.9	8.5	s.u.	DD - Daily Maximum
D-001	02/28/2021	EFF-1	Solids, Total suspended	33	30	mg/L	DD - Daily Maximum

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

8. Respondent shall comply with the following corrective actions within the stated time periods:

a) Within 90 days of the effective date of this Order, the Respondent shall submit a Compliance Plan (“Plan”) to meet the applicable permit limit for the single sample maximum for Total Recoverable Iron, Flow, pH and Solids, Total Suspended at monitoring point EFF-1.

i) The Plan shall be prepared and submitted under seal by a professional engineer registered in the state of Florida pursuant to Rule 62-620.310(4), Fla. Admin. Code, and shall ensure the Facility and treatment system will function in full and consistent compliance with all applicable rules. The Plan shall include, at a minimum, the necessary tasks with completion dates and project costs.

ii) The Department shall review the Plan and provide the Respondent with its findings within 30 days of receiving the Plan. The Department may request revisions in writing to the Plan or request additional information until the Plan is deemed sufficient and approved by the Department for the purpose of correcting any deficiencies. The Respondent shall reply in writing to any Department requests for revision or additional information within 30 days of receipt.

iii) Upon Department written approval, the Plan shall be incorporated herein and made a part of this Order and Respondent shall implement the proposed corrective actions pursuant to the schedule in the approved Plan.

iv) If a permit is required to construct any proposed modifications included in the Plan required under subparagraph (i), such permit application shall be submitted no later than 270 days after the Department's written approval of the Plan.

v) In the event the Department requires additional information to process the permit application described in subparagraph (iv) of this paragraph, Respondent shall provide a written response containing the information requested by the Department within 30 days of the date of the request.

b) Beginning on the effective date of this Order and lasting until five years from the issuance date of Renewal Permit No. FL0000051, the interim limits for the Total Recoverable Iron shall be as shown in Table 2 below. Respondent shall comply with the timelines for the following discharge limitations, and other requirements set forth in the Facility's Permit:

Table 2 - Single Sample Max Interim Limit

<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>	<u>Monitoring Location Site Number</u>
Iron, Total Recoverable	mg/L	2.0	Weekly	24-hr FPC	EFF-1

i) Tests conducted pursuant to this monitoring program shall conform to Rules 62-4.246, 62-160 and 62-601, Fla. Admin. Code, and 40 CFR 136.

ii) These monitoring requirements do not act as State of Florida Department of Environmental Protection Wastewater Permit effluent limitations, nor do they authorize or otherwise justify violation of the Florida Air and Water Pollution Control Act ("Act"), Part I, Chapter 403, Fla. Stat., during the pendency of this Order.

c) Analyses shall be reported monthly using the electronic Discharge Monitoring Report ("DMR") system approved by the Department (EzDMR) and shall electronically submit the DMR form using the DEP Business Portal at

<http://www.fldepportal.com/gp/>. The DMRs must be received by the Department no later than the 28th day following the end of the reporting period (e.g., an August report would be due no later than September 28th).

9. Respondent shall submit in writing to the Department every six months a report containing information concerning the status and progress of projects being completed under this Order, information as to compliance or noncompliance with the applicable requirements of this Order including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work to be performed pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days of the end of each six-month period.

10. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 8-9 within 5 years from the issuance date of Renewal Permit No. FL0000051 and be in full compliance with Chapters 62-4, 62-302, 62-620 Fla. Admin. Code and Chapter 403, Fla. Stat., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, such as permitting or as described in paragraph 18.

11. If Variance Case #22-2724 or some other similar legal mechanism agreed to for Total Recoverable Iron is approved, Respondent shall have the option to terminate this Order. The request to terminate this Order shall be submitted in writing to the Department for approval.

12. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$10,750.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$10,000.00 for civil penalties and \$750.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalties are proportioned as follows \$8,000.00 for violations of Rule 62-302.530, Rule 62-620 Fla. Admin. Code and \$2,000.00 for a history of noncompliance for violation of Chapter 403.121(7)(c) Fla. Stat (OGC # 18-1240).

13. Respondent agrees to pay the Department stipulated penalties in the amount of \$200.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 8-10 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in Paragraph 14, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in Paragraph 12 of this Order.

14. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order (23-1066) and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

15. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Department of Environmental Protection, Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256.

16. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

17. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order

with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

18. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The Order to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

19. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations

described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

20. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

21. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

22. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

23. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Fla. Stat.

24. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

25. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

26. This Consent Order is a final order of the Department pursuant to section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter

120, Fla. Stat. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

27. Respondent shall publish the following notice in a newspaper of daily circulation in Bradford County, Florida. The notice shall be published one time only within 14 days of the effective date of the Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order with THE CHEMOURS COMPANY FC, LLC pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the exceedances for the Total Recoverable Iron at 5222 Treat Road, Starke, Florida, 32091. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Northeast District Office.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department’s final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The name and address of each agency affected and each agency’s file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner’s substantial

interests will be affected by the agency determination;

- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida, 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

28. Rules referenced in this Order are available at:

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT:

Clement J. Hilton

Clement J. Hilton
Vice President, Minerals
The Chemours Company FC, LLC

2/14/2024

Date

DONE AND ORDERED this 19th day of February 2024, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Gregory J. Strong

Gregory J. Strong
District Director
Northeast District

TBK

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.

HFord

Clerk

February 19, 2024

Date

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35 (executed copy)

FDEP: Herndon Sims, Joni Petry, Ian Watkins

Connie Henderson/ (executed copy)