

TCEQ DOCKET NO. 2009-1515-AIR-E

IN THE MATTER OF AN) BEFORE THE
ENFORCEMENT ACTION AGAINST)
ALBEMARLE CORPORATION) TEXAS COMMISSION ON
RN100218247)
) ENVIRONMENTAL QUALITY

REPLY TO EXECUTIVE DIRECTOR’S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE’S PROPOSED ORDER

COMES NOW, the Respondent, Albemarle Corporation, and for its Reply to Executive Director’s Exceptions to the Administrative Law Judge’s Proposed Order states that:

Albemarle Corporation files this Reply to Executive Director’s Exceptions to the Administrative Law Judge’s Proposed Order pursuant to 30 Tex. Admin. Code 80.257.

The Executive Director’s (ED) argument that the settlement offer was conditioned upon subsequent approval of the ED is contrary to the terms of the ED’s settlement offer. The Proposed Order accurately reflects the undisputed facts and the legal consequences that flow from those facts; i.e. the ED made an unconditional settlement offer that was accepted by Albemarle.

The Executive Director also argues that enforcing the settlement offer will “disrupt the ED’s ability to negotiate agreements and force the ED to present inaccurate Proposed Orders for the Commission’s consideration.” This “policy” argument is neither germane to the issue at hand, nor correct. All that had to be done to achieve that policy objective was to draft the settlement offer to state that it was conditional upon subsequent approval of the ED. The ED chose to make an unconditional settlement offer to Albemarle, and the Proposed Order correctly found that Albemarle’s acceptance of the ED’s settlement offer was binding.

Respectfully submitted,
CHISENHALL, NESTRUD & JULIAN, P.A.
400 W. Capitol, Suite 2840
Little Rock, Arkansas 72201
(501) 372-5800

By: /s/ Charles R. Nestrud
Charles R. Nestrud, AR BAR #77095
Attorneys for Respondent,
Albemarle Corporation

CERTIFICATE OF SERVICE

I hereby certify that on 20th of May, 2011, a true and correct copy of the foregoing was delivered via First Class Mail, postage paid, to:

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, TX 78711-3087

Laurencia N. Fasoyiro
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Blas J. Coy, Jr., Public Interest Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC 103
Austin, TX 78711-3087

Mark R. Vickery, P.G., Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087, MC 109
Austin, TX 78711-3087

The Honorable Steven D. Arnold
State Offices of Administrative Hearing
William P. Clements Building
300 West 15th Street, Room 502
Austin, TX 78701

/s/ Charles R. Nestrud
Charles R. Nestrud