



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**DuPont Fabros Technology, Inc.
For Rhino Equity LLC, Grizzly Ventures LLC, and
Porpoise Ventures LLC**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1307(D), 10.1-1316, and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and DuPont Fabros Technology, Inc., for the purpose of resolving certain violations of the State Air Permit and Regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in the Va. Code §§ 10.1-1301 and 10.1-1184.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in the Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality.

4. “DuPont Fabros” means DuPont Fabros Technology, Inc.
5. “Grizzly” means Grizzly Ventures LLC (hereinafter referred to as Grizzly) controlled by DuPont Fabros Technology, Inc. and with its operations located at 44480 Hastings Drive in Ashburn, Virginia.
6. “MNSR” means Minor New Source Review.
7. “NOx” means Nitrogen Oxides.
8. “NOVEC” means Northern Virginia Electric Cooperative.
9. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
10. “Order” means this document, also known as a Consent Order.
11. “Porpoise” means Porpoise Ventures LLC (hereinafter referred to as Porpoise) controlled by DuPont Fabros Technology, Inc. and with its operations located at 8217 Linton Hall Road in Ashburn, Virginia.
12. “Regulations” refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
13. “Rhino” means Rhino Equity LLC (hereinafter referred to as Rhino and formerly named Eden Ventures LLC) controlled by DuPont Fabros Technology, Inc. and with its operations located at 44490 Chilum Place, Ashburn, Virginia.
14. “VAC” means the Virginia Administrative Code.
15. “Va. Code” means the Code of Virginia (1950), as amended.
16. “VOC” means Volatile Organic Compounds.

SECTION C: Findings of Fact

In support of this Order, DEQ makes the following findings of fact:

1. DuPont Fabros Technology, Inc. (hereafter referred to as DuPont Fabros) is the sole general partner of, and owns a majority of the economic interests in, DuPont Fabros Technology, L.P. (the “Operating Partnership”). Through the Operating Partnership, DuPont Fabros develops, operates and manages wholesale data centers in Northern Virginia and currently owns five separate entities, including the following three that

are the subject of this Order: VA4, owned by Porpoise and located in Bristow, VA, which was acquired in 2005; ACC2, owned by Rhino and located in Ashburn, VA, which was constructed in 2005; and ACC4 owned by Grizzly and located in Ashburn, VA, which was constructed in 2007.

2. The common stock of DuPont Fabros was listed and began trading on the New York Stock Exchange on October 19, 2007.
3. Data centers are highly specialized, secure facilities that provide space and equipment to tenants to house, power, and cool the computer servers that support their business practices. Diesel engine-generator units provide emergency power to the equipment when electricity of suitable quality from the main power grid is unavailable.
4. Northern Virginia is designated as a moderate non-attainment area for ozone under the National Ambient Air Quality Standards (NAAQS) 8 hour-standard. However, with the current changes in air quality regulations, this designation may soon be modified which could place Northern Virginia into the serious or severe non-attainment area status.
5. The following describe the compliance issues at the three facilities subject to this Order.

A. Rhino Equity LLC

6. Rhino (Facility Registration No. 73322) operates a data center facility at 44490 Chilum Place, Ashburn, Virginia. The facility was formerly named Eden Ventures LLC. The facility operates 14 diesel engine-generators: 10 rotary uninterruptible power supplies (UPS) that use diesel generators, each nominally rated at 1,800 kilowatt (kW) electrical output – five manufactured by Detroit Diesel (DDEC units) and five by MTU Friedrichshafen (MDEC units), and four emergency diesel generator (EDG) units manufactured by Detroit Diesel, each nominally rated at 2,000 kW electrical output. Under the July 14, 2005, permit, each diesel engine-generator shall be equipped with a Steuler Selective Catalytic Reduction (SCR) unit to reduce emissions of nitrogen oxides (NO_x).
7. The four EDG units provide emergency power to the chiller units for facility air conditioning and the 10 DDEC and MDEC units provide emergency power to the data center itself. These generators are permitted under a Stationary Source Permit to Construct and Operate (MNSR Permit) which was issued on July 14, 2005. The permit requires Rhino to operate pollution control equipment – selective catalytic reduction (SCR) - at all times that the generators are operating and to test the equipment to ensure it is effectively reducing emissions within 180 days of startup of the facility. The permit states that the short-term emission limits for the generators are 3.6 lbs/hr and 4.0 lbs/hr for the MDEC and DDEC units, respectively. There are

additional emission limits for other criteria pollutants included in the permit as well as a number of recordkeeping requirements.

8. An inspection and file review of this facility was conducted, beginning with an on-site inspection on January 10, 2007, to determine the facility's compliance with the applicable SAPCB regulations and the aforementioned Permit. The facility's stack test report was reviewed on January 26, 2007. DEQ staff determined from the report that the facility had failed its initial compliance testing and did not retest its generators. The inspection reports, dated January 11 and 26, 2007, state that the facility was apparently out of compliance with several permit conditions as detailed below:
 - a. Rhino's December 12, 2005, Stack Test Report indicated that a number of the generator units tested at the facility failed to meet their permitted short-term limits for NO_x emissions at various loads (as required in Permit Condition 13). During the inspection on January 10, 2007, the SCRs appeared to still not be working properly and the stack test was never repeated to meet initial compliance testing.
 - b. During a review of Rhino's December 12, 2005, Stack Test Report, it was noted that the facility appears to be exceeding its permitted short-term limits for NO_x emissions from its tested diesel engine generators as set forth in Permit Condition 9E. Of the 14 engine-generators operating at the facility, six (Units #R2, 6, 7, 8, 11, and 12) were tested as required by the permit. Unit #R2 appears to have not met the 4.0 pounds per hour (lbs/hr) short-term nitrogen oxides (NO_x) emission limit at either the 25% load (tested at 12.28 lbs/hr measured emissions) or the 100% load (tested at 10.13 lbs/hr measured emissions). Units #6, 7, and 8, appear to have not met the 3.6 lbs/hr short-term NO_x emission limit at 25% load (tested at 9.19 lbs/hr, 12.76 lbs/hr, and 10.26 lbs/hr measured emissions, respectively). Units #11 and 12 appear to have not met the 3.6 lbs/hr short-term NO_x emission limits at either 25%, 75%, or 100% loads (tested at 50.95 lbs/hr for Unit 11 and 48.75 lbs/hr for Unit 12, respectively).
 - c. According to a review of facility records during the inspection, facility personnel were unable to provide emissions calculations for PM-10, SO₂, or CO in accordance with Permit Condition 10.
 - d. According to the review of facility records during the inspection, facility personnel were unable to produce records concerning the selective catalytic operation (SCR) operation and controls such as urea injection rate, the temperature immediately downstream of the catalyst bed, and the generator loads. Facility personnel were also unable to produce records for other pollutants, including Volatile Organic Compounds (VOCs), nor maintenance records as required in Permit Condition 14. Subsequent to the inspection, the records were provided to DEQ.

- e. On January 10, 2007, DEQ staff inspected the facility and were informed by facility personnel that there were reliability problems with the SCR control equipment dating from when the SCR units were installed. Permit Conditions 3A, 4, and 5 requires the installation and proper operation and recordkeeping of the SCR units.
9. DEQ issued a Notice of Violation (NOV) to Rhino on March 13, 2007, alleging the aforementioned violations.
10. Rhino's personnel met with DEQ staff on several occasions and began to work on upgrades to the units based on an analysis of the engine-generators and SCR units completed by Rhino.

B. Grizzly Ventures LLC

11. Grizzly (Facility Registration No. 73370) operates a data center facility at 44480 Hastings Drive in Ashburn, Virginia.
12. An initial air permit application to operate engine-generators at the data center was submitted to DEQ for Grizzly on August 11, 2006. DEQ requested additional information from Grizzly on September 12, 2006, which was submitted to DEQ on September 21, 2006.
13. The application called for the facility to operate: 32 Caterpillar Model 3516B diesel engine-driven electrical generator sets, 16 of which would have Steuler CERNOX selective catalytic reduction (SCR) and the remaining 16 would have Caterpillar Inc.'s low NOx B package. Per the application and associated documents, the engine-generators would provide back-up power to the data center and related equipment when reliable electricity from the primary power service provider is unavailable.
14. On May 29, 2007, DEQ requested a "Local Governing Body Certification Form" from Grizzly to complete the permit application. The form was submitted to DEQ on or about June 5, 2007.
15. On September 7, 2007, DEQ Northern Virginia Regional Office Air Compliance Staff conducted an on-site inspection of the Grizzly data center. At that time, Grizzly did not have a permit to construct and operate from DEQ. However, upon inspection, DEQ Air Compliance Staff found that the generators had all been installed and were operating.
16. The inspection report found that the facility was apparently out of compliance with several of the state air regulations as detailed below:
 - a. According to 9 VAC 5-80-1120.A of the Air Pollution Control Board Regulations, "No owner or other person shall begin actual construction,

reconstruction, or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source.” During the inspection, DEQ staff observed operation of two of the 32 generators on-site and obtained records of operation for all 32 of the engine-generators.

- b. During the inspection, DEQ staff received records of engine-generator run hours that indicated the facility had been in operation since June 2007. SAPCB’s regulations require a permit prior to beginning operation of a stationary source under 9 VAC 5-80-1210.D.
 - c. According to facility records, Grizzly has operated the generators for a total of 1508.5 engine-hours since initial installation in December 2006.
 - d. DEQ did not receive any notice of construction, notice of anticipated start-up, or notice of actual start-up of the 32 engine-generators in accordance with SAPCB’s regulations - 9 VAC 5-50-50.A.
17. DEQ issued a Notice of Violation to Grizzly Ventures LLC on October 5, 2007, which alleged the violations stated above. Grizzly Ventures submitted a written response to DEQ on October 25, 2007, which outlined the steps that the facility had taken to obtain a permit.
18. A Draft Permit was sent to the facility on September 27, 2007, for review and Grizzly sent comments back to DEQ on October 26, 2007.
19. DEQ conducted another inspection of the facility on October 23, 2007. At that time, DEQ inspectors gathered additional data from the facility that showed that a number of the generators had been operating since March 2007, rather than June 2007 as previously believed by the DEQ.
20. Under 9 VAC 5-50-20, the generators were required to undergo stack testing within 180 days of startup and therefore, with an initial startup date of March 2007, stack testing should have been completed by the end of August 2007.
21. DEQ issued Grizzly a second Notice of Violation on November 28, 2007, which updated the previous NOV and alleged the additional violation noted in paragraph 20 above.

C. Porpoise Ventures LLC

22. Porpoise (Facility Registration No. 73180) operates a data center facility at 8217 Linton Hall Road in Bristow, Virginia (site also known as being located in Gainesville, VA). The facility currently operates: 13 Caterpillar diesel engine-generator units, six of which have Steuler CERNOX Selective Catalytic Reduction

(SCR) installed on them. The generator sets provide emergency power to the data center and related equipment when electricity from the main power grid is unavailable. The facility operates pursuant to the terms and conditions of a Minor New Source Review permit issued on June 19, 2007.

23. On August 21, 2007, DEQ Air Compliance Staff conducted an on-site inspection of the Porpoise data center. At that time, Porpoise representatives discussed with DEQ staff the fact that Porpoise has a load curtailment agreement with the Northern Virginia Electrical Cooperative (NOVEC) to operate the generators during times other than emergency power use. Porpoise's September 5, 2006, permit application stated that "Each engine is being used for backup electrical power without specific hours of limitation." Under the load curtailment agreement, Porpoise is using the engine generators at other times besides for emergency purposes, such as when NOVEC asks them to operate. Based on DEQ's review of Porpoise's records, the diesel generator sets have approximately 5,178.5 engine-hours from August 2005 through July 2007, of which only 230.5 engine-hours were for maintenance or utility disturbances and the other 4,948 engine-hours of operation were under load curtailment conditions. The inspection report found that the facility was apparently out of compliance with several SAPCB regulations and permit conditions. The alleged violations identified in the inspection report are detailed below:

- a. 9 VAC 5-80-1150.B requires that permit applications include information as may be required "to determine the effect of the proposed source on the ambient air quality and to determine compliance with the emissions standards which are applicable. The information required shall include but, is not limited to, the following:
 - i. information needed to determine or regulate emissions as follows: fuel, fuel use, raw materials, production rates, loading rates and operating schedules"

In this case, Porpoise's August 21, 2006, permit application informed DEQ that the generators would be used for backup electrical power, which was the basis for the permit. The inspection determined that the generators were used for purposes other than backup power since the permit was issued. DuPont Fabros Technology, Inc. asserts, and DEQ disagrees, that the permit authorizes this activity. However, DEQ should have been informed of this change in operation and the permit should have been modified accordingly. Regulation 9 VAC 5-80-1110 states that, "emergency" means "a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences."

- b. The DEQ's review of the facility records determined that Porpoise is calculating NO_x emissions based on emission factors that assume that the

SCR equipment is operational and effectively reducing NOx emissions. However, Porpoise had not conducted performance testing on the SCR equipped engine-generators and until doing so, is unable to support their NOx emissions calculations. Based on calculations using uncontrolled emission factors, the facility exceeded the 24.4 tons per year NOx emission limit in permit condition 11 of the October 24, 2003, permit and permit condition 11 of the June 19, 2007, permit from January 2007 through June 2007. Subsequent stack testing was performed in December 2007.

- c. DEQ's review of facility records found that facility personnel do not appear to be calculating emissions for CO, VOC, PM-10 and SO2 on a rolling twelve month basis. Calculating the emissions in this manner, based on the hours of operation data provided by Porpoise to DEQ on September 7, 2007, the source appears to have exceeded the permitted annual emission limits for CO, VOC, PM-10, and SO2 in permit condition 12 of the October 24, 2003, permit from August 2006 through May 2007. At the time of the inspection, facility personnel were also unable to produce records of the rolling twelve month total facility wide emissions of CO, VOC, PM-10, and SO2 in accordance with condition 15 of the October 24, 2003, permit.
- d. In accordance with condition 3 of the June 19, 2007, permit, Porpoise is required to record actual engine run hours of the engines. Based upon DEQ review of facility records, Porpoise was not recording actual engine run hours.
- e. DEQ found upon review of the facility files, that the facility engine-generators do not appear to be operating at greater than 75% load. It appears that the engine-generators are not being brought on-line and taken off-line in accordance with the procedures outlined in permit condition 5 of the June 19, 2007, permit. Condition 5 requires that the operating units are operating at a minimum of 75% capacity when other engine-generators are being taken off-line but Porpoise appears to be shedding units when the remaining units are not at 75% minimum capacity.
- f. According to August 31, 2007, correspondence from Porpoise, the SCRs were started in December 2006 and were not tested for initial performance testing within 180 days of start-up as required by condition 15 of the June 19, 2007, permit.
- g. Porpoise was not able to produce records of SCR system status and the catalyst bed temperature for each engine-generator in accordance with condition 21 of the June 19, 2007, permit until September 2007. At the time of the inspection, the facility did not produce records of this data from December 2006 through August 2007.

- h. Porpoise Ventures did not notify the DEQ upon initial start-up of the SCR units with the engine-generator sets in accordance with 9 VAC 5-50-50 and 9 VAC 5-80-1180.
24. A Notice of Violation (NOV) was issued to the facility by DEQ on October 19, 2007, alleging the violations set forth above. Porpoise sent a written response to the DEQ on October 25, 2007. In the response, Porpoise representatives confirmed that they have a load curtailment agreement with the Northern Virginia Electric Cooperative (NOVEC), which requires them to run the diesel electric generators during periods of peak electricity demand.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders DuPont Fabros Technology, Inc., and DuPont Fabros Technology, Inc., or its subsidiaries, voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders DuPont Fabros Technology, Inc., and DuPont Fabros Technology, Inc., or its subsidiaries, voluntarily agrees to pay a civil charge in the amount of \$500,000.00. The civil charge is due within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Either on a transmittal letter or as a notation on the check, DuPont Fabros Technology, Inc. shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for DuPont Fabros Technology, Inc.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of DuPont Fabros Technology, Inc., for good cause shown by DuPont Fabros Technology, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking

subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, DuPont Fabros Technology, Inc. admits the jurisdictional allegations, but neither admits nor denies the factual findings and conclusions of law contained herein.
4. DuPont Fabros Technology, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. DuPont Fabros Technology, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by DuPont Fabros Technology, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. DuPont Fabros Technology, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. DuPont Fabros Technology, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. DuPont Fabros Technology, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director in writing within 72 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and DuPont Fabros Technology, Inc. Notwithstanding the foregoing, DuPont Fabros Technology, Inc. agrees to be bound by any compliance date that precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to DuPont Fabros Technology, Inc. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve DuPont Fabros Technology, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable. Upon completion of the last obligation under this Order, DuPont Fabros Technology, Inc. may request termination of this Order.
- 12. By its signature below, DuPont Fabros Technology, Inc. voluntarily agrees to the issuance of this Order.
- 13. The undersigned representative of DuPont Fabros Technology, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind DuPont Fabros Technology, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of DuPont Fabros Technology, Inc.

And it is so ORDERED this day of August 16, 2008.


Thomas A. Faha, Northern Regional Director
Department of Environmental Quality

DuPont Fabros Technology, Inc. voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

August 4, 2008

District of Columbia

City of Washington

The foregoing document was signed and acknowledged before me this 4th day of

August, 2008, by Lammot J. du Pont, who is
(name)

Executive Chairman of DuPont Fabros Technology, Inc., on behalf of the
Organization.

(title)

Jada Smiga
Notary Public

My commission expires: _____

10/14/08

APPENDIX A

In order to comply with the provisions of the State Air Pollution Control Law and Regulations, the Board orders DuPont Fabros Technology, Inc. to undertake, and DuPont Fabros Technology, Inc. agrees to implement the following terms and conditions of this Appendix:

DuPont Fabros Technology, Inc. – ACC2, ACC3, ACC4, ACC5, and VA4

1. Within 90 days of the effective date of this Order, DuPont Fabros Technology, Inc. shall develop, and submit to DEQ for review and approval, an environmental management system (EMS) plan to include provisions for conducting and documenting inspections and maintenance of permitted equipment as well as all necessary recordkeeping requirements. DuPont Fabros Technology, Inc., or its subsidiaries, shall implement said plan within 60 days of DEQ approval of the plan.
2. When the generators at any DuPont Fabros Technology, Inc. facility are operated, record the following information and make it available to DEQ upon request:
 - i. period of operation for each generator;
 - ii. engine load data for each generator;
 - iii. reason for operation; and
 - iv. for those generators equipped with SCR, SCR operation data for each generator recorded not less than every fifteen minutes (e.g. urea injection rate, catalyst bed exhaust temperature, etc.).
3. DuPont Fabros Technology, Inc. shall respond to DEQ requests for information within 5 business days until the application to consolidate the Ashburn campus facilities (ACC2, ACC3, ACC4 and ACC5) as well as the modifications to its existing facility permits is deemed complete by DEQ.
4. DuPont Fabros Technology, Inc. shall purchase only ultra low sulfur diesel for use in the engine-generators.
5. Alternate Power Generation: Selective Catalytic Reduction (SCR) shall be installed and operational on each engine-generator set at any new or existing facility owned or operated by DuPont Fabros Technology, Inc., as set forth above, that operates voluntarily for the purposes of alternate power generation, including peak-shaving, load curtailment, demand response, or as part of an interruptible power supply arrangement with a power provider, other market participant or system operator. The engine shall be equipped with SCR that achieves the manufacturer's guaranteed maximum emissions reduction based on fuel type. The permittee shall submit appropriate documentation to the DEQ for the change in the method of operation of the engine-generator set prior to construction of the SCR unit when changing to alternate power generation from emergency power or critical power generation as defined below:

Emergency Power Generation:

- i. Emergency: The engine-generator set(s) may be operated in situations where immediate action on the part of the facility is needed due to a failure or loss of electrical power service resulting from the failure of the primary power provider and the failure or loss of power service is beyond the reasonable control of the facility. Operation under these circumstances shall be allowed for the period of time the primary electrical power provider service is unavailable. Once primary electrical power provider service is available the engine-generator sets may be operated in accordance with Critical Power Generation as defined below.
- ii. Critical Power Generation: The engine-generator set(s) may be operated in situations where immediate action on the part of the source is needed due to a loss or anticipated loss of acceptable electrical power service from the primary power provider and the loss or anticipated loss of power service is beyond the reasonable control of the facility. Operation under these circumstances shall be allowed until such time as acceptable power provider service is restored or the loss of acceptable power provider service is no longer reasonably anticipated.

The engine-generator set(s) may be operated for periodic maintenance, testing, and operational training.

Rhino Equity LLC

6. Stack testing at Rhino shall be completed in accordance with the requirements of the Ashburn Campus Consolidated Permit.

Grizzly Ventures LLC

7. Stack testing at Grizzly shall be completed in accordance with the requirements of the Ashburn Campus Consolidated Permit.

Fox Properties LLC

8. DuPont Fabros Technology, Inc. shall install at least 24 SCR units among the 32 engine-generators at the Fox facility. The 24 SCR units shall be evenly split between the two phases of construction, resulting in 12 of the 16 engine-generators in each phase being equipped with SCR. In order to properly install the SCR units, DuPont Fabros Technology, Inc. shall:

- i. Submit to DEQ a construction and installation schedule for all of the engine generator units and SCR units at Fox within 60 days of the execution of this Order; and
- ii. Submit to DEQ quarterly progress reports to DEQ Enforcement staff on the construction project by the 10th day of each month following the end of each quarter.

Porpoise Ventures LLC

9. DuPont Fabros Technology, Inc. shall obtain a permit prior to installation of the additional 4 SCR units on the existing engine-generators at the Porpoise facility. The engine-generators that shall have SCR units installed on them are EG-3, EG-4, EG-7, and EG-8. These engine-generator units shall not be operated for alternate power generation purposes until the SCRs have been installed, tested, and test results approved by DEQ. These SCR units shall be installed by March 1, 2009 and be tested in compliance with the timelines and requirements set forth in the Minor NSR Permit dated June 19, 2007, to be amended in accordance with the permit application submitted by Dupont Fabros Technology, Inc. on April 29, 2008. DuPont Fabros Technology, Inc. shall submit a schedule of installation of the new SCR units within 60 days of the execution of this Order and shall notify DEQ upon completion of the installation and startup of each SCR unit.

10. DuPont Fabros Technology, Inc. shall submit an application to modify its existing permit in order to operate under alternate power generation at the Porpoise facility. Once DuPont Fabros Technology, Inc. receives written notification from the DEQ that the permit application has been received, and after the execution of this Order, DuPont Fabros Technology, Inc. may operate only the engine-generators that are equipped with SCR for alternate power generation purposes at the Porpoise facility. Records of the dates, times and reason for operation must be kept by the facility and make it available to DEQ for review upon request.

All correspondence required by this Order, with the exception of the civil charge as listed in section D, shall be submitted to the NRO mailing address:

Department of Environmental Quality
Northern Regional Office
Attn: Enforcement Manager
13901 Crown Court
Woodbridge, VA 22193