



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 29 2016

CERTIFIED MAIL 7009 1680 0000 7662 5920
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF

Mr. David L. Wynn
Site Manager
BASF Coating Group Greenville
1175 Martin Street
Greenville, Ohio 45331

Re: Expedited Settlement Agreement
BASF Coating Group Greenville, Greenville, Ohio
Docket No: **RCRA-05-2016-0008**

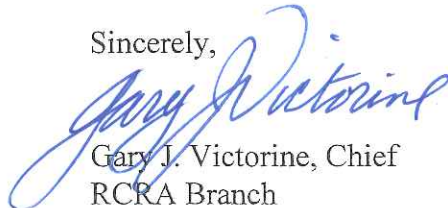
Dear Mr. Wynn:

Enclosed please find an original signed fully-executed Expedited Settlement Agreement (ESA) in resolution of the above case. The original was filed on March 29, 2016, with the Regional Hearing Clerk (RHC).

The ESA is binding on the U.S. Environmental Protection Agency and BASF Coating Group Greenville. EPA will take no further action against the Respondent for the violations cited in the ESA.

Please pay the civil penalty in the amount of \$9,000 in the manner prescribed in paragraph 14 of the ESA, and reference all checks with the docket number **RCRA-05-2016-0008**. Your payment is due within 30 calendar days of the effective date of the ESA. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Teri Finfrock, Ohio Environmental Protection Agency
(teri.finfrock@epa.ohio.gov)
Mitch Mathews, Ohio Environmental Protection Agency
(mitchell.mathews@epa.ohio.gov)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:

BASF COATING GROUP GREENVILLE
GREENVILLE, OHIO
EPA ID Number OHD 076 796 887,

Respondent.

) Docket No.
)
) **RCRA-05-2016-0008**

)
) **EXPEDITED SETTLEMENT**
) **AGREEMENT AND**
) **FINAL ORDER**
)
)

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that BASF Coating Group Greenville (“Respondent”), owner or operator of the facility at 1175 Martin Street, Greenville, Ohio (the “Facility”), failed to label containers and tanks of hazardous waste, failed to maintain training records related to hazardous waste management; and failed to maintain secondary containment systems pursuant to the Resource Conservation and Recovery Act (“RCRA”) and the EPA approved and authorized Ohio hazardous waste management program.
2. EPA inspected Respondent’s Facility on May 15, 2014 (the “inspection”).
3. Under OAC Rule 3745-52-34(A)(3) [40 C.F.R. § 262.34(a)(3)], Respondent was required to label each container and tank with the words “Hazardous Waste.” During the EPA inspection, the inspector observed a tank marked as T-109 accumulating hazardous waste distillates, a tank marked as T-102 accumulating hazardous waste distillates, and one 55-gallon drum storing an unknown waste marked as “Pending Analytical.” The August 21, 2015 BASF response to the EPA NOV letter documented that a marking of “Hazardous Waste” was in the vicinity of each tank, but failed to demonstrate that the two tanks accumulating hazardous waste and the one 55-gallon drum accumulating hazardous waste were marked as hazardous waste. BASF stated that the drum marked as “Pending Analytical” was later determined to be a corrosive (D002) characteristic hazardous waste. BASF has now documented to EPA that containers and tanks are properly marked with the words “Hazardous Waste” at the facility.
4. Under OAC Rule 3745-52-34(A)(4) and 3745-65-16(D)(1) [40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(1)], the Respondent was required to maintain the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job. During the review portion of the inspection, records provided did not identify the names of the employees filling job titles related to hazardous waste tank management. The August 21, 2015 BASF response to the EPA NOV Letter provided the names and job titles of employees related to the management of hazardous waste tanks at

the facility. BASF has now documented to EPA that this information is being maintained at the facility.

5. Under OAC Rule 3745-52-34(A)(4) and 3745-65-16(D)(4) [40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(4)], the Respondent was required to document the completion of the training or job experience for each employee filling job positions related to hazardous waste management. During the review portion of the inspection, documents did not indicate the completion date of training or job experience for each employee filling job positions related to hazardous waste management. The August 21, 2015 BASF response to the EPA NOV Letter failed to provide the completion date of training or job experience for each employee filling job positions related to hazardous waste management. BASF has now documented to EPA that this information is being maintained at the facility.
6. Under OAC Rule 3745-52-34(A)(1)(b) and 3745-66-93(E)(1)(c) [40 C.F.R. § 262.34(a)(1)(ii) and 265.193(e)(1)(iii)], Respondent was required to maintain secondary containment systems free of cracks and gaps. During the inspection of the hazardous waste tank secondary containment system, the inspector observed cracks and gaps within the secondary containment system for Tank T-102 and Tank T-109. The June 5, 2014 and August 21, 2015 BASF response to the EPA NOV Letter failed to demonstrate that the secondary containment system is free of cracks and gaps. BASF has now documented to EPA that the secondary containment system is free of cracks and gaps.
7. Under OAC Rule 3745-52-34(A)(1)(b) and 3745-66-93(E)(1)(f), Respondent was required to provide their external liner systems with an impermeable interior coating or lining that is compatible with stored waste to prevent the migration of waste into the concrete. The June 5, 2014 and August 21, 2015 BASF response to the EPA NOV Letter failed to demonstrate that an impermeable interior coating or lining that is compatible with the stored waste was installed to prevent the migration of waste into the concrete of the hazardous waste tank secondary containment system. BASF has now documented to EPA that a compatible interior coating or lining was applied to the secondary containment system.
8. EPA and Respondent agree that settlement of this matter for a penalty of \$9,000 is in the public interest.
9. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
10. In signing this Agreement, Respondent: (1) admits that Respondent is subject to OAC Rule 3745-52-34(B); (2) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged in this Agreement, (3) neither admits nor denies the factual allegations contained in this Agreement; (4) consents to the assessment of this penalty; and (5) waives any right to contest the allegations contained in this Agreement.
11. By its signature below, Respondent certifies that the alleged violations have been

corrected. Respondent shall be subject to civil and criminal penalties for making a false statement and/or submission to the United States Government.

12. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$9,000 for the RCRA violations identified in this Agreement by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state the case title ("In the Matter of BASF Coating Group Greenville") and the docket number of this Agreement.

To pay on line go to:

WWW.PAY.GOV

Use the Search Public Forms option and enter 'sfo 1.1' in the search field.
Open form and complete required fields.

Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number (along with a photocopy of the check) to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Cindy Dabner
U.S. EPA, Region 5
77 West Jackson Boulevard (LR-8J)
Chicago, IL 60604

Stuart Hersh
U.S. EPA, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

13. The civil penalty is not deductible for federal tax purposes.
14. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are

not reviewable in a collection action.

15. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.
16. This Agreement resolves Respondent's liability for federal civil penalties for the violations alleged in the Agreement.
17. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claim alleged in this Agreement.
18. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
19. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
20. Each party shall bear its own costs and fees, if any.
21. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

IT IS SO AGREED,

Name (print): DAVID L. WYNK

Title (print): SITE MGR

Signature: 

Date 2/5/16

APPROVED BY EPA:



Date 3/10/2016

Margaret Guerriero, Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

In the Matter of:
BASF Coating Group Greenville

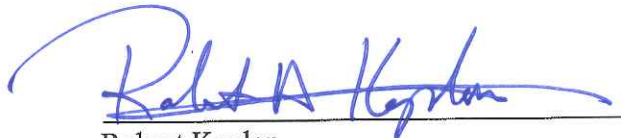
Docket Number RCRA-05-2016-0008

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

March 14, 2016
Date



Robert Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: BASF Coating Group Greenville
Docket Number: RCRA-05-2016-0008

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on 3/29/16, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

David L. Wynn
BASF Coating Group Greenville
1175 Martin Street
Greenville, Ohio 45331

Copy by e-mail to
Attorney for Complainant:

Stuart Hersh
hersh.stuart@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 29, 2016



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7662 5920