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August 8, 2018

Via e-mail & Federal Express

Ann Coyle, The Presiding Officer
Region 5, U.S. EPA
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3590



Re: BASF Corporation
Docket No. CWA-05-2018-0008

Dear Ms. Coyle:

This firm represents Respondent, BASF Corporation in the above referenced matter. Enclosed for filing is an original and one copy of Respondent BASF Corporation's Motion for an Extension of Time to Answer the Complaint. If you have any questions please do not hesitate to contact me. Thank you for your consideration.

Very truly yours,

Donald J. Camerson, II

DJC/mmd
Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:

BASF Corporation,
Respondent.

Docket No. CWA-05-2018-0008

RESPONDENT BASF CORPORATION'S
MOTION FOR AN EXTENSION OF
TIME TO ANSWER THE COMPLAINT

INTRODUCTION

Respondent BASF Corporation ("BASF") hereby moves, pursuant to 40 C.F.R. §22.16, for an extension of time to answer or otherwise respond to the Complaint in this matter on the grounds that additional time is needed due to the complexity of the matter at issue and intervening holiday schedules. BASF respectfully requests an extension of the deadline to file its response to the Complaint by thirty days, from August 25, 2018 to September 24, 2018. EPA has represented through counsel that it will not oppose this motion.

DISCUSSION

The Presiding Officer may grant an extension of time for filing "any document" if the motion is "timely" and "good cause" is shown. 40 C.F.R. §22.7(b). In addition, the Board must consider "prejudice to other parties." *Id.* A motion for extension of time must be filed "sufficiently in advance" of the due date so as to allow other parties "reasonable opportunity to respond" and allow the Presiding Officer "reasonable opportunity" to issue an order. *Id.*

EPA served BASF with the Complaint on July 26, 2018. This motion for an extension is timely, as it was filed approximately three weeks prior to BASF's response to EPA's complaint, which is currently due on August 25, 2018. The motion is also filed sufficiently in advance of

that date to permit the issuance of an order. The Presiding Officer will have a reasonable opportunity to rule on the motion prior to the response deadline. The only other party to this matter, EPA, has represented through counsel that it will not oppose a motion to seek a thirty-day extension of the time in which to file an answer. The undersigned spoke with EPA Counsel, Jeffrey Trevino, on August 6, 2018 and Mr. Trevino indicated that the EPA does not object to the extension. There is, therefore, no question of prejudice to EPA.

There is good cause for a brief extension of time in which to file a responsive pleading. The issues underlying this matter are complex, and BASF needs additional time to review the Complaint, investigate and conduct research regarding the claims therein, and prepare a response. To do so, BASF's counsel must confer with critical BASF personnel who are unavailable due to previously scheduled vacations. Accordingly, an extension of time is respectfully requested as a practical matter to allow for coordination of a response.

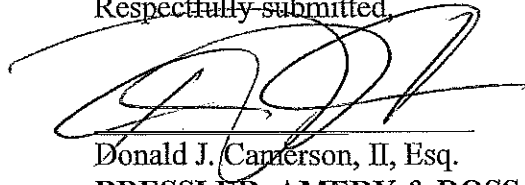
Finally, BASF and EPA had previously entered into a tolling agreement, that tolled the statute of limitations period from September 1, 2017 to September 1, 2018 to facilitate settlement negotiations between parties. The tolling agreement required the parties to provide seven days written notice prior to terminating the agreement before the expiration of the tolling period on September 1, 2018. While notice was not provided before filing the Complaint, the extension requested herein will render the notice issue moot.

CONCLUSION

BASF respectfully requests that the Presiding Officer extend the date by which BASF must respond to EPA's Complaint from August 25, 2018 to September 24, 2018, as good cause exists to grant this timely motion.

DATED: August 8, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Camerson', written over a horizontal line.

Donald J. Camerson, II, Esq.

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Counsel for BASF Corporation

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**BASF Corporation,
Cleveland, Ohio,
Respondent.**

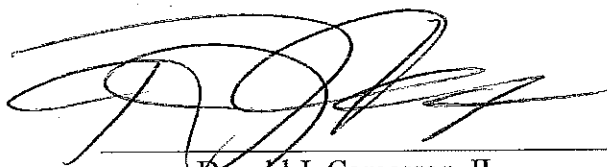
Docket No. CWA-05-2018-0008

CERTIFICATE OF SERVICE

I hereby certify that today I issued to Ann Coyle, The Presiding Officer, Region 5, U.S. EPA, 77 West Jackson Boulevard (C-14J), Chicago, Illinois, 60604-3590, coyle.ann@epa.gov, via Federal Express and e-mail a copy of this **RESPONDENT BASF CORPORATION'S MOTION FOR AN EXTENSION OF TIME TO ANSWER THE COMPLAINT.**

I hereby certify that today I also issued to Jeffery M. Trevino, Counsel to Complainant, via e-mail at trevino.jeffery@epa.gov a copy of this **RESPONDENT BASF CORPORATION'S MOTION FOR AN EXTENSION OF TIME TO ANSWER THE COMPLAINT.**

Dated: August 8, 2018



Donald J. Camerson, II
Counsel for Respondent

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

**BASF Corporation,
Cleveland, Ohio,

Respondent.**

Docket No. CWA-05-2018-0008

**[PROPOSED] ORDER GRANTING
RESPONDENT BASF CORPORATION'S
MOTION FOR AN EXTENSION OF
TIME TO ANSWER THE COMPLAINT**

Respondent BASF Corporation's Motion for an Extension of Time to Answer the Complaint was timely submitted and no opposition was received. Having considered the Motion, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

Respondent BASF Corporation's Motion for an Extension of Time to Answer the Complaint is hereby granted, and the date by which BASF Corporation must respond to the Complaint is September 24, 2018.

IT IS SO ORDERED.

Dated: August 8, 2018

REGIONAL JUDICIAL OFFICER