



**A. Parties**

1. On July 27, 2023, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2020), against the BASF Corporation.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020).

3. At all times relevant to the Complaint, Defendant BASF Corporation was and is a Delaware corporation.

4. From March 4, 2003 to May 31, 2021, BASF Corporation was the owner and operator of a chemical manufacturing facility located at 2525 South Kensington Road, Kankakee, Kankakee County, Illinois (the "Facility").

5. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

**B. Allegations of Non-Compliance**

Plaintiff contends that BASF Corporation has violated the following provisions of the Act and Illinois Pollution Control Board Regulations:

Count I: Violation of National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pharmaceutical Manufacturing, in violation of Section 63.1254(A)(3) of NESHAP Subpart GGG, 40 C.F.R. § 63.1254(A)(3), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020); and

Count II: Violation of Clean Air Act Program (CAAPP) Permit Conditions, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2020), and Conditions 7.1.3(f)(i) and 7.1.5(a) of CAAPP Permit No. 96030030.

**C. Non-Admission of Violations**

BASF Corporation represents that it has entered into this Consent Order for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Consent Order and complying with its terms, BASF Corporation does not affirmatively admit the allegations of violation within the Complaint and referenced above, and this Consent Order shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

1. During the week of August 18, 2020, BASF Corporation performed a stack test on its carbon absorption system at the Facility.
2. On October 16, 2020, BASF Corporation submitted stack test results to Illinois EPA from the Facility.
3. On April 28, 2021, BASF Corporation submitted its application to Illinois EPA for a construction permit to replace the carbon absorption system with the thermal oxidizer with downstream wet scrubber at the Facility.
4. Prior to the date of sale on May 31, 2021, BASF Corporation coordinated with the new owner of the Facility, Kensing, LLC, to ensure an efficient transition of compliance obligations.

**II. APPLICABILITY**

This Consent Order shall apply to and be binding upon the Parties to the Consent Order. BASF Corporation waives as a defense to any enforcement action taken pursuant to this Consent Order the failure of any of its officers, directors, agents, employees or successors or assigns, other than Kensing, LLC, to take such action as shall be required to comply with the provisions of this Consent Order. This Consent Order may be used against BASF Corporation in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation

of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2020).

### **III. JUDGMENT ORDER**

This Court has jurisdiction of the subject matter herein and of the Parties to the Consent Order and, having considered the stipulated facts and being advised in the premises, finds the following relief appropriate:

#### **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

##### **A. Civil Penalty**

1. BASF Corporation shall pay a civil penalty of One Hundred and Eight Thousand Dollars (\$108,000.00). Payment shall be tendered at time of entry of the Consent Order.
2. The civil penalty payment shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF").
3. The case name and case number shall appear on the face of the certified check or money order.

##### **B. Future Compliance**

1. This Consent Order in no way affects the responsibilities of BASF Corporation to comply with any other federal, state or local laws or regulations as related to activities at the Facility, including but not limited to the Act and the Board Regulations.
2. BASF Corporation shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint.

##### **C. Enforcement of Consent Order**

This Consent Order is a binding and enforceable order of this Court. This Court shall retain jurisdiction of this matter and shall consider any motion by any party for the purposes of

interpreting and enforcing the terms and conditions of this Consent Order. BASF Corporation agrees that notice of any subsequent proceeding to enforce this Consent Order must be made by both mail and electronic delivery, combined, and waives any requirement of service of process.

**D. Release from Liability**

In consideration of BASF Corporation's payment of a \$108,000.00 penalty, and its commitment to cease and desist as contained in Section III.B.2 above, the Plaintiff releases, waives and discharges BASF Corporation from any further liability or penalties for the alleged violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Plaintiff's Complaint filed on July 27, 2023. The Plaintiff reserves, and this Consent Order is without prejudice to, all rights of the State of Illinois against BASF Corporation with respect to all other matters, including but not limited to the following:

- a. criminal liability;
- b. liability for future violations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. BASF Corporation's failure to satisfy the requirements of this Consent Order.

Nothing in this Consent Order is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, other than BASF Corporation.

**E. Execution and Entry of Consent Order**

This Order shall become effective only when executed by all Parties to the Consent Order and the Court. This Order may be executed by the parties in one or more counterparts, all of

which taken together shall constitute one and the same instrument. The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Consent Order and to legally bind them to it.

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WHEREFORE, the parties, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

AGREED:


FOR THE PLAINTIFF:

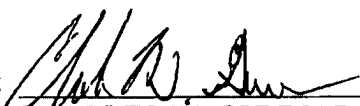
PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 5/31/23

DATE: 5/30/23

FOR THE DEFENDANT:

BASF CORPORATION

BY: \_\_\_\_\_

Its: See Page 8

DATE: \_\_\_\_\_

ENTERED:

  
JUDGE

DATE: 7.28.23

WHEREFORE, the parties, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

AGREED:

FOR THE PLAINTIFF:

PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois

ILLINOIS ENVIRONMENTAL  
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MATTHEW J. DUNN, Chief  
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BY: \_\_\_\_\_  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

FOR THE DEFENDANT:

BASF CORPORATION

BY: Catherine A. Finkbe

Its: Vice President + Deputy General Counsel

DATE: 7/13/23

ENTERED:

Andrew P. [Signature]  
JUDGE

DATE: 7.28.23