

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF NATURAL RESOURCE RESTORATION

Notice to Receive Interested Party Comments on Proposed Natural Resource Damages Settlement with BASF Corporation in the Matter of Ciba Geigy Toms River Superfund Site

Take notice that the New Jersey Department of Environmental Protection, its Commissioner, and the Administrator of the New Jersey Spill Compensation Fund (collectively “NJDEP”) hereby give notice of a proposed settlement of claims for damages to natural resources at the site referred to as the “Ciba-Geigy Site” or “the Site” (277 Oak Ridge Parkway, Toms River Township, Ocean County, New Jersey, also designated as Block 411, Lot 6.01; Block 411, Lot 6.02; Block 411, Lot 6.03; and Block 409, Lot 62 on the Tax Map of Toms River Township). The Site encompasses approximately 1,255 acres.

The NJDEP hereby proposes to enter a settlement agreement with BASF Corporation, the successor to Ciba Specialty Chemicals Corporation, formerly known as the Ciba-Geigy Chemical Corporation Ciba-Geigy (hereinafter “BASF”), to resolve alleged liability for injuries to natural resources that the NJDEP asserts were caused, or contributed to, by Ciba-Geigy’s discharge of hazardous substances into the environment during the manufacture of dyes, pigments, resins, epoxy additives, and other historic operations at the Site. The proposed settlement agreement would be executed by the NJDEP, consistent with its obligations and authorities as the trustee of New Jersey’s natural resources N.J.S.A. 58:10-23.11a et seq., and 13:1D-150. Pursuant to the

proposed settlement agreement, BASF, through its placement of deed restrictions, would effectuate the permanent preservation of approximately 1,000 acres of the Site on portions of which BASF would implement the proposed multi-component ecological uplift projects (Restoration Projects) that also feature public access, passive recreation, and natural resource interpretative and educational opportunities. The ecological restoration would include the creation of a freshwater wetlands complex, restoration of riparian areas, flood plain and wetland enhancements, creation of upland grasslands and pollinator habitat, public access trails and boardwalks for wildlife viewing, and passive recreation. BASF would also construct an environmental education center for, *inter alia*, natural resource interpretation. Finally, BASF would pay \$100,000 to the NJDEP as compensation for costs associated with assessing damages to natural resources at the Site and overseeing the performance of the agreed-upon activities pursuant to the settlement agreement.

The Site has undergone extensive environmental investigation and remediation, some of which is ongoing, as part of Federal Superfund program administered by the U.S. Environmental Protection Agency (EPA). The Site was placed on the National Priorities List in 1983 and its cleanup was divided into Operable Unit (OU) 1 for groundwater, and Operable Unit 2 for contamination source areas. The EPA approved remedies for OU1 in 1989 and OU2 in 2000. In 2020, the EPA established a revised groundwater classification exception area for the Site, which identifies the extent, estimated duration, and contaminants of concern present in groundwater. The proposed settlement would not alter, modify, or relieve any remaining remedial obligations that BASF is required to perform at the Site.

Pursuant to the settlement agreement, BASF would permanently preserve approximately 1,000 acres within the Site (Preservation Acreage). Of this, approximately 255 acres constitutes

the “Projects Parcel” upon which BASF would undertake nine proposed restoration projects over a four-year period (2023-2027), which projects are specifically enumerated in a Scope of Work appended to and incorporated within the settlement agreement. The proposed Restoration Projects would be designed to enhance natural resource values and support future public access, interpretational, and educational uses of the Site. The proposed Restoration Projects would feature the following inter-connected elements:

- Perched Wetland/Pond/Wooded Buffer (approximately 25 acres) - Conversion of a 12-acre lined pond into a diverse wetland ecosystem with a forested buffer that will provide connectivity to adjacent habitats and public access for walking, hiking, and birding among other recreational and educational opportunities.
- Environmental Education Center/Grassland/Meadow (approximately nine acres) - Construction of a Leadership in Energy and Environmental Design (LEED) certified educational center with enhancements to native grassland vegetation and wet meadow habitat that will provide educational opportunities for the public, as well as critical habitat for threatened and endangered bird, reptile, and plant species.
- Grassland/Pollinator Habitat (approximately four acres) - Improvements to grassland and meadow vegetation that are critical for grassland birds and pollinator insects which will promote wildlife viewing and education.
- Floodplain/Wetland Enhancement (approximately 27 acres) - Restoration and enhancement of floodplain wetlands and the creation of trails/boardwalks to minimize human impacts to the ecosystem while providing recreational opportunities, such as walking and birding to the public.

- Grassland/Observation Platform (approximately eight acres) - Creation of a grassland habitat to support local threatened and endangered species such as songbirds, reptiles, and pollinator insects with the addition of an observation platform to provide the public with wildlife viewing opportunities.
- Northern Pine Snake, Bat, and Turtle Conservation Project - Habitat improvement throughout the Forested Parcel and Projects Parcel to increase and support population growth of local reptile, bat, and amphibians with long-term university partnership research and monitoring.
- Forest Restoration (approximately five acres) - Removal of invasive species and conversion to a forested and shrub habitat that will promote and support forest wildlife.
- Winding River Park Connection (approximately 42 acres) - Connection of the existing trail to a 42-acre forested parcel to promote passive recreation and educational opportunities.
- Uplifted Grassland/Pollinator Habitat/Solar Array (approximately 120 acres) - Replacement of impervious surfaces with grassland/pollinator habitat and a solar array.

Within 60 days after the NJDEP acceptance of the full completion of all Restoration Projects, BASF would establish a funding mechanism, in an amount acceptable to the NJDEP, for the purposes of maintaining all Restoration Projects for a period of 10 years.

Outside of the Project Parcel, 535 acres of currently forested area (Forested Parcel) would remain preserved and made available for future passive recreational use. The remaining 210 acres of Preserved Acreage would remain substantially undeveloped but under the direct control of

BASF (the Retained Parcel) for purposes of maintaining the Superfund remedial features present at this portion of the Site and to which public access would be restricted.

Finally, the Project Parcel, Forested Parcel, and Retained Parcel would together provide significant undeveloped land area upon which precipitation would recharge the underlying groundwater aquifer, further compensating the public for the alleged injuries to this natural resource, adding further value to the ecological uplift, public access, and resource interpretative elements of the settlement. To effectuate preservation of the Preserved Acreage, BASF would record deeds of conservation restrictions with the County of Ocean for each of the foregoing parcels.

In consideration of the natural resource restoration and public trust benefits described in this notice, the valuation of the natural resource damages at issue, payment of natural resource damage assessment and project oversight costs, together with the ongoing Superfund remediation activities at the Site, the NJDEP, as trustee of the public's natural resources, believes that the proposed settlement terms are fair, reasonable, faithful to the intent of the aforementioned statutes, and in the public interest.

It is the intent of the NJDEP and BASF that this settlement agreement constitutes an administratively approved settlement for which the NJDEP is seeking public comment pursuant to N.J.S.A. 58:10-23.11e2 for matters addressed in this settlement agreement.

A copy of the proposed settlement agreement is available for inspection through the internet at <http://www.nj.gov/dep/nrr/settlements/index.html> and at the NJDEP Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a paper copy of the proposed settlement agreement should be directed to records.custodian@dep.nj.gov. Interested persons may submit comments on the entry of this settlement agreement to David Bean, Chief,

Office of Natural Resource Restoration, NJDEP, 501 East State Street, Mail Code 501-03, PO Box 420, Trenton, NJ 08625-0420. All comments must be submitted within 30 calendar days of the date of this public notice. The NJDEP will consider all comments received and may decide to withdraw or withhold consent to the entry of the settlement agreement if comments received disclose facts or considerations that show that the settlement agreement is inappropriate, improper, or inadequate.