UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

AUG 2 3 2016

PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Wayne T. Smith, Chairman and CEO
BASF Corporation
100 Park Avenue
Florham Park, NJ 07932

RE: Pierson's Creek Superfund Site
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Smith:

This letter seeks your cooperation in providing information relating to the contamination of the Pierson's Creek Superfund Site ("Site") located in Newark, New Jersey. We encourage you to give this matter your immediate attention. We request that you provide a complete and truthful response to the attached Request for Information **within 30 business days** of your receipt of this letter.

The United States Environmental Protection Agency ("EPA") is investigating the presence of hazardous substances located at the Site and hazardous substances that are or were discharged into the Creek. EPA has documented the release or threatened release of hazardous substances, pollutants and contaminants into the Site. Under Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority. EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and disposal methods of these hazardous substances at the **former Engelhard facility that was located at 429 Delancy Street in Newark, New Jersey**. EPA believes that you might possess information pertaining to the former Engelhard facility which may assist EPA in its investigation of the Site.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. In preparing your response to this Request for Information, please follow the instructions provided in Attachment A. When you have prepared your response to the Request for Information, contained in Attachment B, please sign and have

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notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply or for failure to respond adequately to this Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold from EPA the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information, you must immediately turn over the additional or different information to EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Request for Information should be postmarked or received by EPA within **30 business days** of your receipt of this letter. Your response should be mailed to:

Pamela Tames, P.E., Remedial Project Manager
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway - 20th Floor
New York, NY 10007-1866

with a copy to:

Amelia Wagner, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, NY 10007-1866

If you wish to discuss this further, please contact Ms. Tames at (212) 637-4255 with technical questions or Ms. Wagner at (212) 637-3141 with legal questions. Please note that all communications from attorneys should be directed to Ms. Wagner.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

Nicoletta DiForte

Nicoletta DiForte, Deputy Director for Enforcement
Emergency and Remedial Response Division

Enclosures

cc: Matthew Lepore, Esq., BASF
Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA

ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. In answering these questions, every source of information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the company should be consulted.

2. A complete and separate response should be given for each question and subpart. Provide all documents that relate to each question. For each question contained in this letter, if information or documents responsive to this request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.

4. Provide responses to the best of your ability, even if the information sought was never put in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.

5. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.

6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.

7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages and all recipients of the documents with their addresses.

8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.

9. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.

10. Sign and notarize the Certification of Answers where indicated.

11. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 CFR §2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

A. the portions of the information alleged to be entitled to confidential treatment;

B. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);

C. measures taken by you to guard against the undesired disclosure of the information to others;

D. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;

E. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and

F. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the

information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. The term **"you"** shall mean the addressee of this Request for Information, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.

2. As used herein, the terms **"Company"** or **"your Company"** refer not only to your Company as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of your Company and all of its predecessors or successors in interest. The term "Company" is not limited to corporations.

3. The term **"Site"** shall mean the Pierson's Creek Superfund Site, which includes the Creek and all tributaries to the Creek. The Site is located in Newark, NJ and begins in the vicinity of Avenue L and proceeds through open drainage ditches and culverts and covered pipes until it discharges into Port Newark.

4. The terms **"facility"**, **"hazardous substance"**, and **"person"**, shall have the meanings set forth in Section 101(9), (14), and (21) of CERCLA, 42 U.S.C. §9601(9), (14), and (21) respectively.

5. The terms **"hazardous waste"**, **"disposal"** and **"storage"** shall have the meanings contained in Sections 1004(5), (3) and (33) of Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6903(5), (3) and (33), respectively.

6. The term **"pollutant or contaminant"** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.

7. The term **"identify"** means, with respect to a natural person, to set forth the person's name, present or last known employer, business address and business telephone number, present

or last known home address and home telephone number, and present or last known job title, occupation, position or business.

8. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term **"identify"** means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.

9. The term **"document"** and **"documents"** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company's possession, custody, or control or known by the company to exist, including originals and all non-identical copies.

10. The term **"arrangement"** shall include every separate contract or other agreement between two or more persons, whether written or oral.

11. The term **"material"** or **"materials"** shall include any and all objects, goods, substances, or matter of any kind, including, but not limited to, wastes.

12. The term **"release"** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. §9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

ATTACHMENT B

REQUEST FOR INFORMATION

The United States Environmental Protection Agency ("EPA") is investigating the release of hazardous substances into the Pierson's Creek Superfund Site. The information requested below pertains to the former Engelhard facility that was located at 429 Delancy Street in Newark, New Jersey. Please provide the requested information, including copies of all available documentation that supports your answers.

1) During what years did your company operate at the facility?

2) a) Did your company have a permit or permits issued pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq.? If "yes", please provide the years that your company held such a permit and its EPA Identification Number.

b) Did your company have a permit or permits issued pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.? If "yes", please provide the years that your company held such a permit and its Identification Number.

3) Did your company receive, utilize, manufacture, discharge, release, store or dispose of any materials containing the following substances:

	Yes	No
2,3,7,8 tetrachlorodibenzo-p-dioxin	—	—
2,4-Dichlorophenoxy acetic acid (2,4-D)	—	—
2,4,5-Trichlorophenoxy acetic acid (2,4,5-T)	—	—
2,4,5-Trichlorophenol (2,4,5-TCP)	—	—
or other dioxin compounds	—	—
Dichlorodiphenyl-trichloroethate (DDT)	—	—
Benzene	—	—
Ethyl benzene	—	—
Total Petroleum Hydrocarbons (TPEH)	—	—
Polyaromatic Hydrocarbons (PAH)	—	—
If "yes", please list specific compounds.	—	—
Toluene	—	—
Xylene	—	—
PCBs	—	—

Antimony	—	—
Arsenic	—	—
Cadmium	—	—
Chlorine	—	—
Chromium	—	—
Copper	—	—
Iron	—	—
Lead	—	—
Mercury	—	—
Nickel	—	—
Silver	—	—
Sodium	—	—
Titanium	—	—
Vanadium	—	—
Zinc	—	—
Cyanide	—	—
Acetone	—	—
Bis (2-ethylhexyl) pthalate	—	—
Dibutyl phthalate	—	—
Dichlorodifluoromethane	—	—
Naphthalene	—	—
Silver nitrate	—	—
Sodium bisulfide	—	—
Sodium hydroxide	—	—
Sodium nitrate	—	—

4) a) Provide a description of the manufacturing processes for which all hazardous substances, including, but not limited to, the substances listed in response to item (3), were a product or by-product.

b) During what parts of the manufacturing processes identified in the response to items (4)(a), above, were hazardous substances, including, but not limited to, the substances listed in response to item (3), generated?

i) Describe the chemical composition of these hazardous substances.

ii) For each process, what amount of hazardous substances was generated per volume of finished product?

iii) Were these hazardous substances combined with wastes from other processes? If so, wastes from what processes?

5) Describe the methods of collection, storage, treatment, and disposal of all hazardous substances, including, but not limited to, the substances listed in response to item (3) and (4). Include information on the following:

a) Identify all persons who arranged for and managed the processing, treatment, storage and disposal of hazardous substances.

b) If hazardous substances were taken off-site by a hauler or transporter, provide the names and addresses of the waste haulers and the disposal site locations.

c) Describe <u>all</u> storage practices employed by your company with respect to all hazardous substances from the time operations commenced until they terminated. Include all on-site and off-site storage activities.

i) If drums were stored outside, were the drums stored on the ground or were they stored on areas that had been paved with asphalt or concrete? Please provide a complete description of these storage areas.

ii) When drums were stored outside, were empty drums segregated from full drums?

d) What processes did you use to treat your waste? What did you do with the waste after it was treated?

6) a) For process waste waters generated at the facility which contained any hazardous substances, including, but not limited to, the substances listed in response to item (3) and (4):

i) Where was the waste water discharged and during what years?

ii) Was the waste water discharged into a sanitary sewer and if so, during what years?

iii) Was the waste water treated before being discharged to the sanitary sewer and if so, how? Please be specific.

iv) If the waste water was not discharged to the sanitary sewer, where was it disposed and during what years?

v) Please provide the results of any analyses performed on any waste process streams generated at the facility.

b) For floor drains or other disposal drains at the facility:

i) Did the drains connect to a sanitary sewer and if so, during what years?

ii) If the floor drains or other disposal drains at the facility did not discharge to the sanitary sewer, where did they discharge and during what years?

c) Did any storm sewers, catch basins or lagoons exist at any time at the facility and if so, during what years?

i) If catch basins or lagoons existed, were they lined or un-lined?

ii) What was stored in the lagoons?

iii) Where was the discharge from any of these structures released and during what years? Was this discharge treated before its release and if so, how and during what years? What was the chemical composition of any waste waters released?

d) Please supply diagrams of any waste water collection, transport or disposal systems on the property, including sub-floor piping within building foundations.

7) a) For each hazardous substance, including, but not limited to, the substances listed in response to item (3) or identified in the responses to item (4), above, provide the total amount generated during the operation of the facility on an annual basis.

b) Were any hazardous substances, including, but not limited to, the substances listed in response to item (3) or identified in the responses to item (4), above, disposed of in or discharged to Pierson's Creek including its tributaries? If yes, identify the hazardous substances, estimate the amount of material discharged to or disposed of in Pierson's Creek including its tributaries and the frequency with which this discharge or disposal occurred. Also, please include any sampling of the Creek which you might have done after any discharge or disposal.

8) Please identify any leaks, spills, explosions, fires or other incidents of accidental material discharge that occurred at the facility during which or as a result of which any hazardous substances, including, but not limited to, the substances listed in response to item (3) or (4), were released on the property, into the waste water or storm drainage system at the facility or to Pierson's Creek including its tributaries. Provide any documents or information relating to these incidents, including the ultimate disposal of any contaminated materials.

a) Please provide the results of any sampling of the soil, water, air or other media after any such incident and before and after clean-up. Please provide in this information all sampling performed for or by New Jersey Department of Environmental Protection or EPA.

9) a) Was your facility ever subject to flooding. If so, was the flooding due to:

i) Overflow from sanitary or storm sewer back-up, and/or

ii) Flood overflow from Pierson's Creek?

b) Please provide the date and duration of each flood event.

10) Please provide a detailed description of any civil, criminal or administrative proceedings against your company for violations of any local, State or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport or disposal from the facility in Newark, New Jersey. Provide copies of all pleadings and depositions or other testimony given in these proceedings.

11) Provide a copy of each document which relates to the disposal of all hazardous substances, including, but not limited to, the substances listed in response to item (3) or (4). If you are unable to provide a copy of any document, then identify the document by describing the nature of the document (e.g. letter, file memo, invoice, inventory form, billing record, hazardous waste manifest, etc.). Describe the relevant information contained therein. Identify by name and job title the person who prepared the document. If the document is not readily available, state where it is stored, maintained, or why it is unavailable.

12) Did you or anyone else sample the soil, ground water, surface water, ambient air or other environmental media at the facility for purposes other than those identified in the questions above including CERCLA, RCRA, or ECRA/ISRA?

a) If so, please provide all other documents pertaining to the results of these analyses.

b) Please document the use of fill on the property. When and where it was used and its volume, along with sampling data, if it exists.

13) Did your company own the property on which the facility was located? If so, from whom did your company purchase the property and in what year? To whom did your company sell the property and in what year? Please provide copies of any deeds and documents of sale.

a) If your company did not own the facility, from whom did your company lease or rent the facility and for what years? Please provide copies of any lease or rental agreements.

b) To the extent that you know, please describe the relationship, if any, between your company and any of the parties that operated the facility prior to and after your company.

14) Answer the following questions regarding your business or company. In identifying a company that no longer exists, provide all the information requested, except for the agent for service of process. If your company did business under more than one name, list each name.

a) State the legal name of your company.

b) State the name and address of the president or the chairman of the board, or other presiding officers of your company.

c) Identify the state of incorporation of your company and your company's agent for service of process in the state of incorporation and in New Jersey.

d) If your company is a subsidiary or affiliate of another company, or has subsidiaries, or is a successor to another company, identify these related companies if these entities operated at the facility. For each related company, describe the relationship to your company; indicate the date and manner in which each relationship was established.

15) Provide the name, address, telephone number, title and occupation of the person(s) answering this "Request for Information" and state whether such person(s) has personal knowledge of the responses. In addition, identify each person who assisted in any way in responding to the "Request for Information" and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that my company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company's response thereto should become known or available to the company.

_____
NAME (print or type)

_____
TITLE (print or type)

_____
SIGNATURE

Sworn to before me this ____ day of _____ 20

_____
Notary Public Signature