State of California
Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
BASF 3000 Continental Drive North Mount Olive, NJ 07828-1234	)))	Complaint No. R8-2003-0079 for Mandatory Penalties
Attention: J. Douglas Reid-Green	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. BASF is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board), must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).

2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on August 22, 2003. BASF or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting and the staff report related to the Complaint will be mailed to you not less than 10 days prior to the hearing date.

3. If a hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.

4. This complaint is based on the following facts:

   a. BASF owns the former Mobil Chemical Plant Facility property located at 2530 S. Birch Street in Santa Ana. A groundwater treatment system at the site treated and discharged groundwater from the site. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit includes effluent limits for a number of constituents including ethylbenzene and tertiary butyl alcohol (TBA). On June 17, 2002, BASF was authorized to discharge treated water from its groundwater cleanup system and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 02-0007-083.

   b. BASF submitted quarterly self-monitoring reports and the August 5, 2002, report indicated that BASF discharged ethylbenzene at 16 micrograms per liter (μg/l) or ppb on June 21, 2002. This concentration exceeded the

average monthly concentration limit of 10 ppb for ethylbenzene. In addition, the September 13, 2002, quarterly self-monitoring report indicated that TBA was discharged at 34 micrograms per liter (µg/l) or ppb on August 9, 2002. This concentration exceeded both the effluent maximum daily concentration of 18.6 ppb and the average monthly concentration limit of 12 ppb for TBA. Furthermore, these exceedences are serious violations as defined under Water Code Section 13385(h).

5. Water Code Section 13385(h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars ($3,000) for each serious and/or other specific types of violations.

6. In accordance with Water Code Section 13385(h), the mandatory minimum penalty for the effluent limitation violations cited in Section 4, above, is $9,000.

7. In addition, the Board may also assess administrative civil liability of $10,000 per day for each day of violation and $10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for the June 21, 2002, violation is $15,190 ($10,000 for one day of violation and $5,190 based on 1, 519-1,000=519 gallons @ $10 per gallon). In addition, the maximum administrative civil liability that may be imposed for the August 9, 2002, violation is $342,660 ($140,000 for fourteen days of violation and $202,660 based on 21,266-1,000 = 20,266 gallons @ $10 per gallon).

8. The Executive Officer proposes that the mandatory minimum penalties of $9,000 be imposed on BASF by the Board for the violations cited above.

9. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver form and return it together with a check for $9,000 payable to the State Water Resources Control Board and the bottom portion of the invoice to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (909) 782-4496 or Nancy Olson-Martin at (909) 782-4497, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

7/21/03
Date

G J Thibeault
Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
BASF	)	Complaint No. R8-2003-0079
3000 Continental Drive	)	for
North Mount Olive, NJ 07828-1234	)	Mandatory Penalties
Attention: J. Douglas Reid-Green	)	

WAIVER OF HEARING

I agree to waive the right of BASF to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0079. I have enclosed a check for $9,000 made payable to the State Water Resources Control Board. I understand that I am giving up the right of BASF to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2003-0079, and against the imposition of, and amount of, the mandatory penalties.

_____ _____

Date for BASF

State Water Resources Control Board

Winston H. Hickox
Secretary for Environmental Protection

The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.ca.gov

Gray Davis
Governor

To:
BASF C/O ENSR
2850 RED HILL AVENUE, #110
SANTA ANA, CA 92705

Invoice No: 35322
Invoice Date: 07/17/2003
Enforcement Action ID: 72566
Enforcement Order No: R8-2003-0079

INVOICE

Milestone ID	Description	Amount	Due Date
47863	LIABILITY AMOUNT	$9,000.00	07/21/2003
	TOTAL AMOUNT DUE	**$9,000.00**	

California Environmental Protection Agency

Recycled Paper

Retain above portion for your records

Please return bottom portion with your payment

BASF C/O ENSR
2850 RED HILL AVENUE, #110
SANTA ANA, CA 92705

Milestone ID	Description	Amount	Due Date
47863	LIABDUE	$9,000.00	07/21/2003
	TOTAL AMOUNT DUE	**$9,000.00**	

Make your check payable to:
State Water Resources Control Board

Mail payment to:
SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Amount Enclosed: $_____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: **35322**

Invoice Date: 07/17/2003
Enforcement Action ID: 72566
Enforcement Order No.: R8-2003-0079

California Regional Water Quality Control Board
Santa Ana Region

Winston H. Hickox
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

July 21, 2003

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Mr. J. Douglas Reid-Green
BASF
3000 Continental Drive
North Mount Olive, NJ 07828-1234

MANDATORY PENALTY COMPLAINT NO. R8-2003-0079

Dear Mr. Reid-Green:

We are enclosing a certified copy of Complaint No. R8-2003-0079, proposing a mandatory penalty of $9,000. The complaint is issued pursuant to California Water Code Section 13385(h), for three serious violations of the effluent limitations specified in Waste Discharge Requirements, Order No. R8-2002-0007. An invoice for this amount is also enclosed.

A public hearing on this matter is scheduled for the Regional Board meeting on August 22, 2003. The staff report regarding this complaint and a meeting agenda will be mailed to you no less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you decide to waive your right and pay the proposed assessment, the Regional Board will not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check or money order for $9,000. The waiver form, the bottom portion of the invoice and the check should be mailed to Sacramento using the enclosed envelope. All other correspondence regarding this complaint should be directed to this office at the address listed on this letterhead.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please contact us prior to August 1, 2003. At that time, you may submit information that may not have been previously available to staff regarding this violation. This information should address the accuracy of the findings in the complaint.

If you have any questions regarding this complaint, you may contact Ken Williams at (909) 782-4496 or Michael Adackapara at (909) 782-3238. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2003-0079, Waiver Form, Invoice, and Envelope

cc: Regional Board
State Water Resources Control Board, Division of Clean Water – UST Chief
State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore
BASF, L.A. Area Sites Manager – Fred E. Baier
ENSR – Geoff Knight

NOM/BASFcomplaintltr