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23 COMMUNITIES FOR A BETTER ENVIRONMENT

24 UNITED STATES DISTRICT COURT  
25 NORTHERN DISTRICT OF CALIFORNIA

26 COMMUNITIES FOR A BETTER  
27 ENVIRONMENT,

28 Plaintiffs,

v.

CORTEVA, INC. &  
DOW AGROSCIENCES LLC

Defendant.

Civil Case No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 **COMPLAINT**

2 Plaintiff, Communities for a Better Environment (“CBE”), by and through its counsel, the  
3 Environmental Integrity Project and Environmental Advocates, file this Complaint against Corteva, Inc.  
4 and Dow AgroSciences LLC (together, Defendants) and allege:

5 **NATURE OF THE CASE**

6 1. This is a civil action for injunctive relief and civil penalties brought pursuant to the Solid  
7 Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et*  
8 *seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984 (hereinafter “RCRA”).  
9 Plaintiff alleges serious and ongoing violations of Subtitle C of RCRA at a chemical manufacturing  
10 facility (the “Pittsburg Operations”), located at 901 Loveridge Road, Pittsburg, California, that was  
11 owned and operated by Corteva or its predecessor, Dow Chemical Company, at all times relevant to this  
12 Complaint.

13 2. Defendants, Corteva, Inc., doing business as Corteva Agrisciences LLC (Corteva), and  
14 Dow AgroSciences LLC, are the owners and operators of the Pittsburg Operations, a roughly 1000-acre  
15 facility where agricultural and intermediate chemical products are produced. This site has been used as a  
16 chemical manufacturing facility since 1916 and was purchased by Dow Chemical Company in 1938.  
17 Dow Chemical Company owned and operated the facility from 1938 until ownership and operational  
18 control of the facility was transferred to Corteva on June 1, 2019. Corteva is an independent corporation  
19 formed from the merger and subsequent reorganization of Dow Chemical Company and E.I. du Pont de  
20 Nemours & Company.<sup>1</sup>

21 3. Defendants’ operations at Pittsburg Operations, at all times relevant to this Complaint,  
22 render them a large quantity generator of hazardous waste, as designated by 40 C.F.R. § 262.13 tbl 1 (a  
23 large quantity generator is one who generates at least 1000 kilograms of hazardous waste per month or 1  
24 kilogram of acutely hazardous waste).

25  
26  
27 <sup>1</sup> See, [https://www.envirostor.dtsc.ca.gov/public/hwmp\\_profile\\_report?global\\_id=CAD076528678](https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD076528678).

1           4.       The Pittsburg Operations has been assigned U.S. Environmental Protection Agency  
2 (EPA) identification number CAD 076528678.

3           5.       The Pittsburg Operations currently operates and has operated at all relevant times to this  
4 Complaint as a RCRA-permitted hazardous waste treatment, storage, and disposal facility (TSDF) as  
5 defined by 42 U.S.C. § 6925.

6           6.       On May 15, 2019, Plaintiff sent a Notice of Intent to Sue letter (NOI) for violations of  
7 Subpart C of RCRA to Dow Chemical Company and other recipients as required by 42 U.S.C. § 6972  
8 (b)(1) and 40 C.F.R. § 254.2 (Dow NOI).

9           7.       On July 17, 2019, Plaintiff sent a letter to Corteva with the Dow NOI enclosed and  
10 incorporated in its entirety by reference. In that letter, counsel for CBE relayed to Corteva that it had  
11 become aware of the change in ownership of the facility and that in an abundance of caution, Corteva  
12 was being notified that the violations alleged against Dow Chemical Company were violations CBE  
13 intended to pursue against Corteva. By separate cover, counsel for CBE also sent a letter to those  
14 recipients required to receive notice pursuant to 40 C.F.R. § 254.2. In that letter, the recipients were  
15 provided an electronic link to the Dow NOI, which was previously sent to them as a hard copy when the  
16 May 15, 2019 NOI was mailed to Dow. A copy of the July 17, 2019 letter sent to Corteva was enclosed  
17 as well.

18           8.       On September 6, 2019, Plaintiff sent an NOI letter to Dow AgroSciences LLC, which, on  
19 information and belief, became a wholly owned subsidiary of Corteva, Inc. on June 1, 2019. In that  
20 letter, counsel for CBE relayed to Dow AgroSciences LLC that it had become aware of the change in  
21 ownership of the facility and that in an abundance of caution, Dow AgroSciences LLC was being  
22 notified that the violations alleged against Dow Chemical Company were violations CBE intended also  
23 to pursue against Corteva and its subsidiary, Dow AgroSciences LLC. Those entities required to receive  
24 notice pursuant to 40 C.F.R. § 254.2 were also notified. In the September 5, 2019 letter, Dow  
25 AgroSciences LLC and the other recipients were provided an electronic link to the May 15, 2019 NOI  
26 sent to Dow Chemical Company. Together, the NOI letters referenced in paragraphs 6-8 are referred to  
27 hereafter as “the NOI.”  
28



1 herein will continue until this Court enjoins Defendants from violating RCRA and orders them to  
2 address and remedy the underlying causes of the violations.

3 **VENUE**

4 15. Pursuant to Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), venue is correct because the  
5 RCRA violations alleged in this Complaint occurred and are occurring in this District.

6 **INTRADISTRICT ASSIGNMENT**

7 16. Intradistrict assignment of this matter to the San Francisco Division of the Court is  
8 appropriate pursuant to Civil Local Rule 3-2(d) because Plaintiffs' principal counsel resides in San  
9 Francisco County.

10 **THE PARTIES**

11 17. Plaintiff CBE is a California-based 501(c)(3) non-profit focused on environmental  
12 justice. CBE's mission is to build people's power in California's communities of color and low-income  
13 communities to achieve environmental health and justice by preventing and reducing pollution and  
14 building green, healthy, and sustainable communities and environments. CBE has long been concerned  
15 about pollution from Defendants' Pittsburg Operations facility in Pittsburg, California. CBE has many  
16 members who live in the area around the Pittsburg Operations facility. Their members are concerned  
17 about pollution from the facility and potential impacts to their health and the environment resulting from  
18 the failure to properly manage hazardous waste. These concerns include the fact that large quantities of  
19 hazardous waste are being managed without the protections that proper RCRA permitting provides,  
20 including air pollution control equipment on tanks.

21 18. The Defendants in this action are corporations with headquarters in Wilmington,  
22 Delaware. Their contact information are as follows:

23 Corteva Inc. and Dow AgroSciences LLC  
24 PO Box 80705  
25 CRP 705/L1S11  
26 Wilmington, DE 19880-0705  
27 (302) 485-3000

28 19. Defendant Corteva Inc. is the legal owner and/or operator of the manufacturing facility in  
Pittsburg, California. Corteva, Inc. also operates as Corteva Agrisciences, LLC.

20. Defendant Dow AgroSciences LLC is a wholly owned subsidiary of Corteva, Inc., with

1 headquarters in Wilmington, Delaware and is in control of day to day operations of the Pittsburg  
2 Operations facility.

### 3 LEGAL REQUIREMENTS

4 21. Federal regulation of hazardous waste is achieved through implementation of RCRA,  
5 which was enacted in 1976 as an amendment to the Solid Waste Disposal Act of 1965. Subtitle C of  
6 RCRA (the “base hazardous waste program”), authorized cradle-to-grave regulation of hazardous waste.  
7 RCRA was amended in 1984 by the Hazardous Waste and Solid Waste Amendments, which included  
8 additional requirements. These acts are jointly referred to as RCRA. 42 U.S.C. § 6901 et seq.

9 22. Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922, 6924, required the EPA  
10 administrator to promulgate regulations establishing standards applicable to generators of hazardous  
11 waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities  
12 (“TSDFs”) as may be necessary to protect human health and the environment. These regulations, which  
13 were promulgated and became effective on November 19, 1980, are set forth, as amended, in 40 C.F.R.  
14 Parts 260, 261, 262, 264, 265, and 268.

15 23. Section 3005 of RCRA, 42 U.S.C. § 6925, required the EPA administrator to promulgate  
16 regulations requiring each person owning or operating a TSDF to obtain a permit from EPA. These  
17 regulations, which were promulgated and became effective on April 1, 1983, are set forth in 40 C.F.R.  
18 Parts 264 and 270.

19 24. A RCRA permit application consists of two parts, Part A and Part B. Under Section  
20 3005(e) of RCRA, 42 U.S.C. § 6925(e), facilities that were in existence at the time the hazardous waste  
21 regulations were promulgated could obtain interim status authorization by timely submitting a  
22 notification to EPA of hazardous waste activity (pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930)  
23 and by timely submitting a complete Part A permit application.

24 25. Interim status means that a facility will be treated as having been issued a RCRA permit  
25 until such time as final administrative disposition of the application is made. 40 C.F.R. Part 270 sets  
26 forth the regulatory requirements for Part A and Part B permit applications, including the content of  
27 those applications. The standards for interim status TSDFs, also applicable to TSDFs that should have  
28 obtained but failed to obtain interim status, are set forth in 40 C.F.R. Part 265.

1           26.     The Part B permit application requires the owner or operator of a TSDF to submit all of  
2 the information necessary for EPA to determine compliance with the regulations for permitted facilities  
3 set forth in 40 C.F.R. Part 264, and also requires the submittal of information specific to individual site  
4 conditions and practices as set forth in 40 C.F.R. §§ 270.14 through 270.29. Once a hazardous waste  
5 application is approved, the procedures and practices identified in the Part B permit application become  
6 incorporated by reference into a TSDF permit.

7           27.     The standards for TSDFs set forth in 40 C.F.R. Parts 264 and 265 are analogous; the Part  
8 264 standards are applicable to permitted TSDFs and the Part 265 standards are applicable to interim  
9 status TSDFs or TSDFs that should have obtained interim status.

10          28.     Owners and operators of TSDFs who operate boilers or industrial furnaces burning  
11 hazardous waste (known as “BIFs”) must comply with all conditions of their hazardous waste operating  
12 permit as well as the regulations applicable to BIFs set forth in 40 C.F.R. § 266.102, including the  
13 operating requirements set forth in 40 C.F.R. § 266.102(e).

14          29.     Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), provides that states may apply for and  
15 receive authorization from EPA to implement the RCRA Subtitle C hazardous waste management  
16 program. Pursuant to Section 3006 of RCRA and 40 C.F.R. Part 271, the State of California applied for  
17 and received authorization to administer the hazardous waste management program, in lieu of the  
18 federal program, on August 1, 1992. The state’s authorized hazardous waste program was established  
19 pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and  
20 Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code  
21 of Regulations, 22 C.C.R. § 66001 *et seq.*

22          30.     The Department of Toxic Substances and Control (“DTSC”), a department of the  
23 California Environmental Protection Agency, has been and is authorized to implement all of the  
24 hazardous waste management regulations referenced in this Complaint. A violation of California’s  
25 authorized hazardous waste program, found at Health & Safety Code §§ 25100 *et seq.*, constitutes a  
26 violation of Subtitle C of RCRA, and therefore a person who violates California’s authorized hazardous  
27 waste program is subject to enforcement either by EPA pursuant to Section 3008 of RCRA or citizen  
28 enforcement pursuant to Section 7002 of RCRA. 42 U.S.C. §§ 6928, 6972.





1 entity, which was established on June 1, 2019. The ultimate corporate parent entity of this Agriculture  
2 entity is Corteva, Inc, with the facility named Corteva Agriscience – Pittsburg Operations, the owner &  
3 operator named Dow AgroSciences, LLC and the owner of real property named Centen Ag LLC.  
4 Corteva, Inc is currently requesting a Class 1\* permit modification to transfer the responsibility,  
5 coverage and liability for hazardous waste facility permits to Dow AgroSciences, LLC.”

### 6 *Hazardous Waste Permitting Status*

7 35. The Pittsburg Operations facility operates pursuant to three hazardous waste permits: 1) a  
8 2003 Hazardous Waste Facility Permit Boiler and Industrial Furnace Permit, which expired 6 years ago  
9 but is administratively continued pending renewal, Permit No. 01-NC-08 (the 2003 BIF Permit); 2) a  
10 Hazardous Waste Post Closure Facility Permit, issued in December 2007, which expired in December  
11 2017 but is administratively continued pending renewal, Facility EPA ID No: CAD076528678-  
12 HYHQ36006940 (the 2017 Post-Closure Permit); 3) and a Hazardous Waste Facility Permit regarding  
13 the facility’s Block 560 Drum Storage area, which was renewed in October 2018, Facility EPA ID No:  
14 CAD076528678 (the 2018 Drum Storage Permit).<sup>3</sup>

### 15 *Description of Operations*

16 36. At the Pittsburg Operations, many liquid and gaseous wastestreams are created from the  
17 manufacturing of chemical products. Some of these wastestreams are considered hazardous waste as  
18 defined by RCRA regulations. The Pittsburg Operations manages waste generated on-site in one of three  
19 ways: through thermal oxidation of hazardous waste in one of two halogen acid furnaces, through the  
20 Pittsburg Operations’ onsite Wastewater Treatment System, or through storage and then offsite transport  
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22 <sup>3</sup> The 2003 BIF Permit can be found at  
23 [https://www.hwmpenvirostor.dtsc.ca.gov/public/site\\_documents/5969358146/Dow\\_TSDF\\_Final\\_BIF\\_Permit.pdf](https://www.hwmpenvirostor.dtsc.ca.gov/public/site_documents/5969358146/Dow_TSDF_Final_BIF_Permit.pdf); the Part B permit application can be found at  
24 [https://www.hwmpenvirostor.dtsc.ca.gov/public/site\\_documents/1834751725/BIF%20Part%20A%20and%20Part%20B%20Permit%20App%20for%20Dow%20Chemical%20Co%20HAFs%20-%20Vol%201%20-%20Dec%202000.pdf](https://www.hwmpenvirostor.dtsc.ca.gov/public/site_documents/1834751725/BIF%20Part%20A%20and%20Part%20B%20Permit%20App%20for%20Dow%20Chemical%20Co%20HAFs%20-%20Vol%201%20-%20Dec%202000.pdf) the 2007 Post-Closure Permit can be found at  
25 [https://www.hwmpenvirostor.dtsc.ca.gov/public/site\\_documents/2914060294/Dow\\_Chemical\\_Pittsburg\\_Permit.pdf](https://www.hwmpenvirostor.dtsc.ca.gov/public/site_documents/2914060294/Dow_Chemical_Pittsburg_Permit.pdf); and the 2018 Drum Storage Permit can be found at  
26 [https://www.hwmpenvirostor.dtsc.ca.gov/public/site\\_documents/1834241569/Final%20Permit%20Dow%20Block%20560\\_October%202018%20\(signature%20covered\).pdf](https://www.hwmpenvirostor.dtsc.ca.gov/public/site_documents/1834241569/Final%20Permit%20Dow%20Block%20560_October%202018%20(signature%20covered).pdf).  
27  
28

1 and disposal.

2 37. The Pittsburg Operations facility is authorized to use two halogen acid furnaces pursuant  
3 to its DTSC-issued 2003 BIF Permit. Dow's Part B permit application is a part of and is specifically  
4 incorporated by reference into the 2003 BIF Permit. These furnaces treat waste streams including  
5 hazardous wastes, from various chemical manufacturing processes. Operation of these furnaces  
6 produces hydrochloric acid (HCl), which is either sold offsite or used onsite to control pH as part of the  
7 Wastewater Treatment System.

8 38. The 2003 BIF permit authorizes the treatment, storage, and disposal of hazardous waste,  
9 through thermal destruction and under strict operating conditions, in two onsite halogen acid furnaces.  
10 The hazardous wastes sent to the furnaces primarily consist of discarded commercial products (such as  
11 methylene chloride and trichloroethylene), spent solvents, reactive hazardous wastes such as chlorinated  
12 pyridines, metals such as arsenic, chromium, mercury, lead, and organics such as carbon tetrachlorides.  
13 The Syntet Halogen Acid Furnace ("ST HAF"), one of the two furnaces, has a maximum allowable  
14 flow rate of 548 pounds per hour. The Manufacturing Services Halogen Acid Furnace ("MS HAF"), the  
15 second furnace, has a maximum allowable flow rate of 461 pounds per hour.

16 39. In addition to thermal destruction, Defendants manage hazardous waste at the Pittsburg  
17 Operations through drum storage and offsite disposal. Hazardous waste drum storage is authorized  
18 pursuant to the 2007 Drum Storage Permit. The drum storage area is permitted to store 25-, 55-, and 80-  
19 gallon drums with a maximum of 6,000 gallons total of stored hazardous waste. Each hazardous waste  
20 container can be stored for no more than one year. *See*, FN 3.

21 40. Liquids generated at the Pittsburg Operations from different areas onsite are sent to the  
22 furnaces, to the onsite Wastewater Treatment System, or are disposed off-site.

23 41. The Wastewater Treatment System, historically referred to as such by the Dow Chemical  
24 Company, is now referred to by Corteva as the High Purity Water System. On information and belief,  
25 this is a change in name only; this change in name does not reflect a change in the processes that occur  
26 within the system. For purposes of this Complaint, the system of tanks and equipment used to manage  
27 certain liquids generated onsite is referred to the Wastewater Treatment System.

42. The Wastewater Treatment System consists of four parts: the Chlorinolysis Plant, the Process Stormwater Treatment Plant, the Brine Plant, and the Condensate Plant. It is illustrated in the following Dow Chemical Company schematic included in a December 2016 inspection report documenting the findings of EPA's National Enforcement Investigations Center (NEIC) April 4-8, 2016 site inspection.

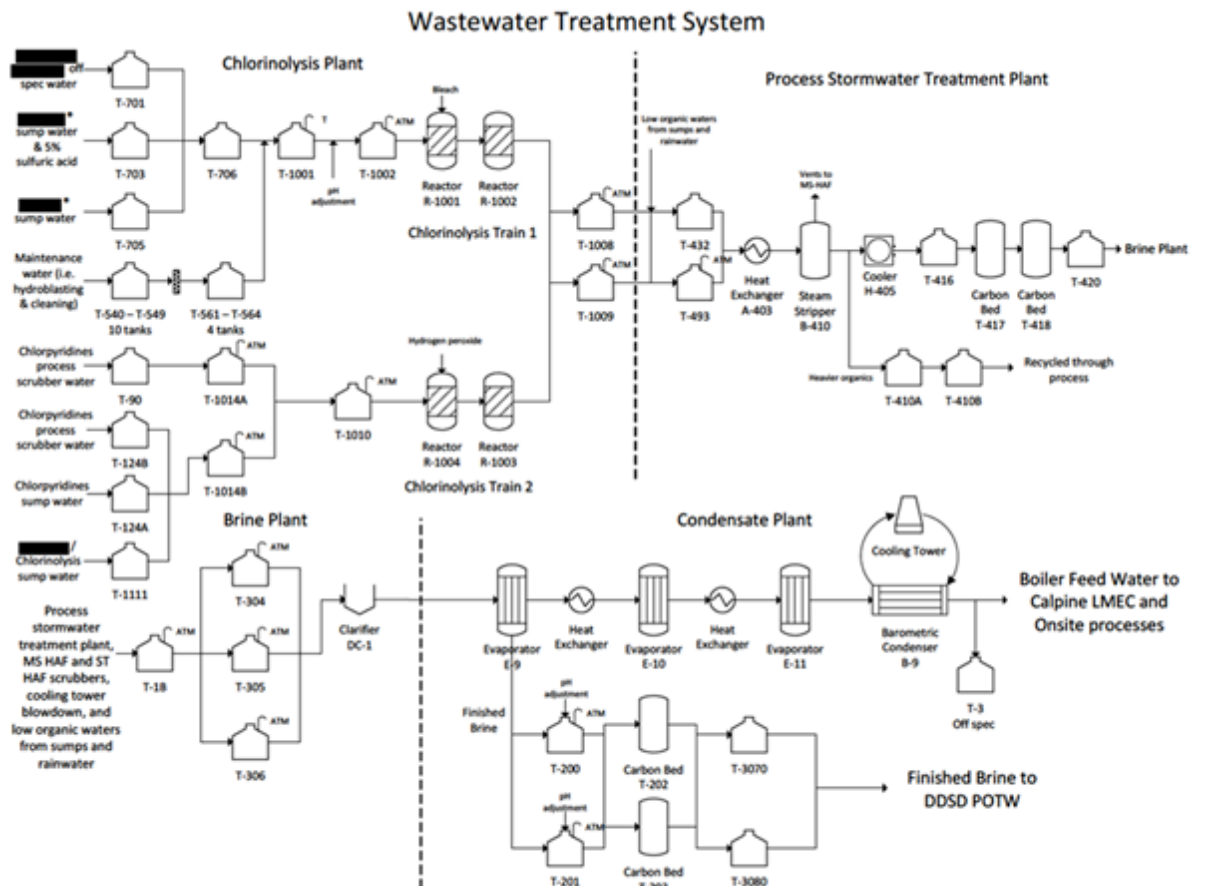


Figure 1. Wastewater treatment system  
Dow Chemical  
Pittsburgh, California

43. Defendants do not have a permit to treat, store, or manage hazardous waste in the Wastewater Treatment System.

*The 2016 Inspection and Report*

44. From April 4, 2016 through April 8, 2016, inspectors from DTSC, EPA Region 9, and

1 EPA’s National Enforcement Investigations Center (NEIC)<sup>4</sup> conducted a comprehensive inspection of  
2 the Pittsburg Operations. Following the inspection, EPA Region 9 and NEIC issued an inspection report  
3 in December 2016 (the 2016 NEIC Inspection Report), documenting numerous serious and ongoing  
4 violations of RCRA Subtitle C at Defendants’ facility.

5 45. The factual findings that form the bases for the claims in this Complaint were derived  
6 primarily from the 2016 NEIC Inspection Report.

7 46. Dow Chemical Company was the owner and operator of the facility in April 2016 when  
8 the NEIC inspection occurred. Because many of the violations identified in the 2016 NEIC Inspection  
9 Report, upon information and belief, are continuing and have not been resolved, the causes of actions  
10 described *infra* relate to Defendants’ liability for the violations that occurred after the transfer of  
11 ownership and operational control on June 1, 2019. However, for ease of pleading, reference to the  
12 owner and operator of the Pittsburg Operations, where serious violations of permit requirements and  
13 other RCRA violations were discovered by NEIC during the April 2016 inspection and documented in  
14 the 2016 NEIC Inspection Report, are described herein as “Defendants.”

15 47. The 2016 NEIC Inspection Report documented violations of multiple provisions of  
16 Defendants’ hazardous waste permits as well as the state and federal regulations applicable to the  
17 management of hazardous waste. The violations identified relate primarily to: 1) failure to properly  
18 determine hazardous wastes; 2) operation of the Wastewater Treatment System without a RCRA permit;  
19 3) failure to adhere to requirements in the 2003 BIF Permit regarding limits and proper operation of the  
20 ST HAF furnace; and 4) failure to accurately monitor and maintain required records, both of which are  
21 essential to achieving, maintaining, and demonstrating compliance with the health risk-based conditions  
22 and limits in the 2003 BIF Permit.

23 48. One set of findings of significant concern in the inspection report relate Defendants’  
24 failure 1) to operate the ST HAF furnace at all times in a manner that ensures automatic cutoff of the  
25

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26  
27 <sup>4</sup> NEIC inspectors use a process-based inspection approach and are used by EPA to inspect and  
investigate the most complex facilities with potentially complex compliance issues.

1 hazardous waste feed when cutoff conditions are triggered, as per Table 5 of the 2003 BIF Permit, 2) to  
2 properly calibrate the monitors that measure permit parameters, and 3) to retain the records necessary for  
3 regulators to evaluate compliance. Because of Defendants' failure to maintain records, they only  
4 provided NEIC two weeks' worth of information, so the true number of violations that occurred, and  
5 continue to occur, is unknown.

6 49. The 2003 BIF Permit requires Defendants to monitor parameters in the hazardous waste  
7 feed continually and to shut-off automatically the valve that feeds hazardous waste to the furnace  
8 whenever monitoring indicates a parameter exceedance based on an hourly rolling average of minute  
9 data.

10 50. The December 2016 NEIC Inspection Report identified hundreds of times in only a two-  
11 week period that the furnace continued to burn hazardous waste under conditions that required automatic  
12 shut-off due to parameter exceedances.

13 51. The limits in the 2003 BIF Permit are intended to limit cancer risk from ambient  
14 emissions. Those limits rely on the assumption that 99.99 percent of harmful constituents will be  
15 destroyed. Presumed 99.99 percent destruction occurs when Defendants operate the BIF-permitted  
16 furnaces in strict compliance with numerous feed rate limits and parameters, such as minimum  
17 combustion temperature, carbon monoxide limit, and gas flow rate. EPA estimates that when hazardous  
18 waste is fed to furnaces outside the strict limits and parameters of a BIF permit, risk of cancer from  
19 ambient air emissions increases by an order of  $10^4$  (10,000 times).<sup>5</sup>

20 52. According to the 2016 NEIC Inspection Report, some hazardous waste was being fed to  
21 the furnace when it should have been shut-off from December 1, 2014 through at least February 28,  
22 2016.

23 53. In a February 10, 2017 letter to EPA Region 9, Dow Chemical Company responded to  
24 the allegations set forth in the inspection report regarding the ST HAF furnace's automatic shut-off  
25

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26 <sup>5</sup> See EPA's Burning of Hazardous Waste in Boilers and Industrial Furnaces Rule (the BIF Rule), 56  
27 Fed. Reg. 7, 134 (Feb. 21, 1991) (internal citation omitted).

1 valve. In that letter, Dow Chemical Company asserted that EPA NEIC improperly interpreted the two  
2 weeks' worth of raw minute data (which EPA NEIC needed to evaluate operation of the automatic shut-  
3 off valve requirement) that Dow provided during the inspection. Dow contended that in fact, the  
4 automatic shut-off valve operated at all times, except one, as intended and that no violations of the 2003  
5 BIF Permit or of RCRA occurred.

6 54. On October 11, 2019, Defendants shared with CBE some portion of the raw data upon  
7 which Dow Chemical Company may have relied to make the assertions set forth in the February 10,  
8 2017 letter to EPA with regard to whether the automatic-shut off valve to the ST HAF furnace was  
9 operating effectively. Corteva only produced for review the same two weeks' worth of raw minute data  
10 (March 25 to April 8, 2016) that were produced during the April 2016 inspection.

11 55. Some of the two weeks of raw minute data Corteva provided CBE on October 11, 2019  
12 indicates that the hazardous waste feed to the furnace was not automatically shut-off, as required by the  
13 2003 BIF Permit, when one or more parameter limits were exceeded.

14 56. Upon information and belief, like its predecessor, Defendants do not retain more than the  
15 most recent two weeks of raw minute data used to calculate and demonstrate compliance. Without  
16 reviewing the underlying minute data from which the hourly rolling averages are calculated, compliance  
17 with the hazardous waste feed cut-off limits contained in the 2003 BIF Permit cannot be evaluated  
18 beyond the information contained in the 2016 EPA NEIC Inspection Report. Without proper discovery,  
19 including the opportunity to depose, CBE cannot evaluate which position – EPA's or Defendants – is  
20 accurate.

### 21 CAUSES OF ACTION

22 57. Each paragraph alleged above is incorporated by reference herein as if restated in full.

23 58. Defendants, Corteva, Inc. and DowAgroSciences LLC, are each a "person" and the  
24 "owner" and "operator" of the Pittsburg Operations, a "facility" as those terms are defined in 40 C.F.R.  
25 § 260.10. Ownership and operational control of the facility was transferred from Dow Chemical  
26 Company to Defendants on June 1, 20

27 59. Defendants manage and handle "solid waste" at the Pittsburg Operations, as that term is  
28 defined in 40 C.F.R. § 261.2.

1           60.     A solid waste is a hazardous waste if it is specifically listed through EPA rulemaking as a  
2 hazardous waste in 40 C.F.R. §§ 261.31 through 261.33 or if it meets the characteristics of a hazardous  
3 waste as per 40 C.F.R. §§261.21 through 261.24. “Listed” hazardous wastes are known wastes from  
4 common manufacturing and industrial processes, wastes from specific industries, and wastes that are  
5 generated from discarded commercial products. “Characteristic” hazardous wastes are wastes that  
6 exhibit one or more of the following characteristic properties: ignitability, corrosivity, reactivity or  
7 toxicity.

8           61.     The “derived-from” rule for listed wastes, 40 C.F.R. §§ 261.3(c)-(h), states that any  
9 material derived from a listed hazardous waste is also a listed hazardous waste.

10          62.     EPA assigns waste codes depending on whether the waste is a listed waste (such as spent  
11 solvents, which are assigned EPA waste code F002) or a characteristic waste. All characteristic wastes  
12 are assigned a “D” waste code by EPA: ignitability (D001); corrosivity (D002); reactivity (D003); and  
13 toxicity (D004-D043).

14          63.     Defendants are “generator(s)” of hazardous waste that also engage in “storage”,  
15 “treatment”, and “disposal” of hazardous waste as those terms are defined in 40 C.F.R. § 260.10.

16          64.     Defendants generate, store, treat, and/or dispose of both listed and characteristic  
17 hazardous wastes at the Pittsburg Operations.

18  
19           **I. Count 1: Failure to Make Hazardous Waste Determinations in Violation of the**  
20           **Resource Conservation and Recovery Act**

21          65.     Each paragraph alleged above is incorporated by reference herein as if restated in full.

22          66.     40 C.F.R. § 262.11 provides that a person who generates a solid waste, as defined in 40  
23 C.F.R. Part 261.2, must make an accurate determination as to whether that waste is a hazardous waste in  
24 order ensure that wastes are property managed according to applicable RCRA regulations.

25          67.     Defendants failed to determine whether multiple wastes treated in the Wastewater  
26 Treatment System are listed hazardous wastes as per 40 C.F.R. Part 261, Subpart D, or whether they are  
27 hazardous wastes due to a characteristic, such as toxicity, as per 40 C.F.R. Part 261, Subpart C.

28          68.     On information and belief, Corteva has failed to conduct proper hazardous waste  
determinations with regard to waste streams contained in the tanks and associated piping throughout all

1 areas of Wastewater Treatment System, including but not limited to the seven specific waste streams  
2 identified in the 20167 NEIC Inspection Report.

3 69. NEIC sampling during the April 2016 inspection revealed the presence of listed  
4 hazardous wastes and characteristically hazardous wastes in the tanks and piping associated with the  
5 Chlorinolysis Plant, which is part of the Wastewater Treatment System, as well as wastes that were  
6 potentially hazardous due to organic constituents. The potential EPA waste codes applicable to the  
7 contents of the tanks sampled include: D019, D039, F002, U084, D032.

8 70. Because Defendants stored and treated these materials as nonhazardous waste when the  
9 waste was actually hazardous or potentially hazardous, Defendants are “person(s) and “generator(s)”  
10 who failed to make a proper hazardous waste determination pursuant to 40 C.F.R. § 262.11.

11 71. Defendants do not have a RCRA permit to store or treat hazardous waste in any part of  
12 the Wastewater Treatment System, including the Chlorinolysis Plant.

13 72. Defendants’ failures to make hazardous waste determinations regarding multiple  
14 wastestreams fed to the Wastewater Treatment System has occurred daily for at least the last five years  
15 and will continue until Defendants conduct proper hazardous waste determinations regarding each  
16 wastestream fed to and stored and treated within the Wastewater Treatment Plant.

17 73. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40  
18 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

19 74. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
20 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

21  
22 **II. Count 2: Treatment and Storage of Hazardous Waste without a Permit in Violation of  
the Resource Conservation and Recovery Act**

23 75. Each paragraph alleged above is incorporated by reference herein as if restated in full.

24 76. 40 C.F.R. § 270.1(c) prohibits the treatment, storage, or disposal of any hazardous waste  
25 as identified or listed in 40 C.F.R. part 261 without a RCRA permit.

26 77. 40 C.F.R. § 261.10 states that “treatment” means any method, technique, or process,  
27 including neutralization, designed to change the physical, chemical, or biological character or  
28 composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or



1 material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer  
2 to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

3 78. 40 C.F.R. § 261.22 provides that a solid waste is a hazardous waste due to exhibiting the  
4 characteristic of corrosivity if an aqueous waste has a pH of less than or equal to 2 or greater than or  
5 equal to 12.5. EPA has assigned waste code D002 for corrosive hazardous wastes.

6 79. 40 C.F.R. § 261.24 provides that a solid waste is a hazardous waste due to exhibiting the  
7 characteristic of toxicity if the extract from a representative sample of the waste contains any of the  
8 contaminants listed in Table 1 therein at concentrations equal to or greater than the respective value  
9 given in the table.

10 80. The concentration threshold for rendering a solid waste containing carbon tetrachloride a  
11 hazardous waste due to toxicity is 0.5 mg/L (EPA waste code D019). 40 C.F.R. § 261.24(a), Tbl 1.

12 81. The concentration threshold for rendering a solid waste containing tetrachloroethylene a  
13 hazardous waste due to toxicity is 0.7 mg/L (EPA waste code D039).

14 82. 40 C.F.R. § 261.3(a) provides that unless otherwise excluded, the following spent  
15 halogenated solvents are listed hazardous wastes that carry EPA waste code F002: tetrachloroethylene,  
16 methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-  
17 trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent  
18 solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or  
19 more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from  
20 the recovery of these spent solvents and spent solvent mixture.

21 83. The Chlorinolysis Plant, which is part of the Wastewater Treatment System, is the first  
22 stage of treatment for high organic wastewaters from various parts of the facility. A series of tanks  
23 provide the feed stream to the Chlorinolysis Plant. These tanks store wastewater from different parts of  
24 the facility and depending on the contents of a specific tank, treatment consisting of pH adjustment, the  
25 additional of hydrochloric acid or sodium hydroxide, or filtration for removal of solids.

26 84. All of the tanks associated with the Chlorinolysis Plant contain solid waste as that term is  
27 defined in 40 C.F.R. § 261.2.

28 85. During the April 2016 inspection, NEIC sampled 20 tanks that provide the feed stream to

1 the Chlorinolysis Plant. The list of tanks sampled for pH is set forth in Table 2 of the 2016 NEIC  
2 Inspection Report.

3 86. Sampling results indicated that the pH of the wastewater in the 20 tanks renders the  
4 wastewater characteristically hazardous due to corrosivity (EPA waste code D002).

5 87. Sampling results indicated that the concentrations of carbon tetrachloride and  
6 tetrachloroethylene in another tank (Tank 1014(A)) is sufficient to render the wastewater  
7 characteristically hazardous due to toxicity (EPA waste codes DO19 and D039, respectively).

8 88. Sampling results indicate that the contents of Tank 706, in addition to being hazardous  
9 due to the characteristic of corrosivity (low pH), also should be managed as F002 listed hazardous waste  
10 due to the presence of spent methylene chloride.

11 89. Defendants are engaged in the “treatment” of hazardous waste in the tanks associated  
12 with the Chlorinolysis Plant as that term is defined in 40 C.F.R. § 260.10.

13 90. Defendants do not have a hazardous waste permit to store or treat D002, D019, D039, or  
14 F002 hazardous waste or any other hazardous waste in the Chlorinolysis Plant.

15 91. Upon information and belief, Defendants are engaged in the “treatment” of hazardous  
16 wastes in the tanks associated with all other areas of the Wastewater Treatment System, including the  
17 Process Stormwater Treatment Plant, Brine Plant and Condensate Plant, as identified in paragraph 42.

18 92. Many of the wastes generated onsite as identified by Corteva and/or its predecessor are  
19 conveyed to the Wastewater Treatment System for storage and treatment. These include characteristic  
20 wastes, listed wastes, and “derived-from” listed wastes. Defendants cannot claim the materials in the  
21 tanks in the Chlorinolysis Plant or in areas of the Wastewater Treatment System are exempt from  
22 regulation under California law pursuant to the Excluded Recyclable Materials (ERM) exemption set  
23 forth in Cal. Health & Safety 25143.2(a), (d)(1) because the wastewater in the tanks meet the definition  
24 of hazardous waste under federal law (RCRA) and the exemption only applies to materials that are non-  
25 RCRA (i.e., state only) hazardous wastes.

26 93. Defendants cannot claim the materials in the tanks in the Chlorinolysis Plant or in other  
27 areas of the Wastewater Treatment System are exempt from regulation under California law pursuant to  
28 the “Intermediate Manufacturing Process Streams” exemption set forth in Cal. Health & Safety §

1 25116.5 because the wastewater in the tanks were wastes when they were generated, some of the wastes  
2 when generated were open to the environment (ie, sump and dirty wash water from cleaning operations),  
3 and they were never part of the manufacturing process.

4 94. The wastestreams sent to the Chlorinolysis Plant include millions of gallons of  
5 wastewaters from “maintenance water . . . from hydroblasting & cleaning”, “scrubber water” from  
6 pollution control equipment, and “sump waters” from different manufacturing areas.

7 95. The Wastewater Treatment System, including the Chlorinolysis Plant, is not subject to  
8 regulation pursuant to either section 307(b) or 402 of the Clean Water Act, 42 U.S.C. §§ 1317(b), 1342,  
9 and therefore is not eligible for the wastewater treatment unit exemption from RCRA regulation set forth  
10 in 40 C.F.R. §§ 260.10 and 264.1(g)(6).

11 96. The violations alleged herein occurred daily for at least the last five years and will  
12 continue until Defendants cease the unpermitted treatment of hazardous waste in the Wastewater  
13 Treatment System or obtain a RCRA permit for these activities.

14 97. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40  
15 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

16 98. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
17 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

18  
19 **III. Count 3: Failure to Operate within the Compliance Limits in Table 6 of the 2003 BIF**  
**Permit, in Violation of the Permit and the Resource Conservation and Recovery Act**

20 99. Each paragraph alleged above is incorporated by reference herein as if restated in full.

21 100. The 2003 BIF Permit authorizes the operation of two halogen acid furnaces to store and  
22 treat, through thermal destruction, certain identified hazardous wastes pursuant to compliance limits,  
23 monitoring conditions, and recordkeeping requirements set forth therein. The furnaces are known as the  
24 ST HAF and MS HAF furnaces.

25 101. The ST HAF furnace has a permitted maximum throughput of 584 pounds of hazardous  
26 waste per hour.

27 102. Table 6 of the 2003 BIF Permit contains compliance limits within which the ST HAF  
28 furnace must operate at all times.

103. Despite expressly noting that deficient recordkeeping and monitoring made it impossible to determine the full extent and number of compliance limit exceedances,<sup>6</sup> NEIC documented the following violations of Table 6 compliance limits in the 2016 NEIC Inspection Report:

Parameter	Compliance Limit (HRA unless otherwise specified)	Range of Exceeded Values	Number of Exceedances	Dates
Carbon Monoxide	100 ppmv	101.1 to 2861.9 ppmv	6,368	12/1/14 – 2/28/16
Min. PM Scrubber Blowdown	≥ 196 lb/hr	193.5 lb/hr	1	12/1/14 – 2/28/16
Min. PM Scrubber L/G Ratio	≥ 20.5 gpm/1,000 scfm	0.8 to 19.9 gpm/1,000 scfm	44	12/1/14- 2/28/16
Min. Combustion Temp	≥ 1021 degrees C instantaneous	930.3 to 1019.2 degrees C	45	3/23/16- 4/6/16
PM Scrubber Blowdown	≥ 196 lb/hr	69.2 to 188.6 lb/hr	29	3/25/16 – 4/08/16
Max. Stack Gas Flow Rate	≤ 511 scfm	512.1 to 512.7 scfm	6	3/25/16 – 4/08/16
CO Concentration	100 ppmv	101.1 to 1798.3 ppmv	313	3/25/16 – 4/08/16

104. NEIC inspectors stated in the 2016 NEIC Inspection Report that the true number of compliance limit exceedances was undeterminable due the deficient methods used to monitor and record data for the purpose of both ensuring and demonstrating compliance.

105. Defendants’ exceedances of the 2003 BIF Permit compliance limits at the ST HAF set forth in Table 6 have occurred at least since December 1, 2014 and until information and belief, will continue until Defendants take steps to remedy the violations.

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<sup>6</sup> NEIC stated in the 2016 NEIC Inspection Report that the way in which Defendants recorded and stored monitoring and other compliance data was so antiquated as to render a full compliance review impossible. Specifically, NEIC stated that “[t]he exceedances are based on useable data NEIC was able to review and do not constitute a complete compliance determination for the date ranges reviewed.”

1 106. Each day of each separate violation of each permit limit is a separate violation of the  
2 2003 BIF Permit and of RCRA for which penalties can be sought.

3 107. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40  
4 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

5 108. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
6 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

7 **IV. Count 4: Failure to Automatically Shut-Off the Hazardous Waste Feed to the ST HAF**  
8 **Furnace in Violation of the 2003 BIF Permit and the Resource Conservation and**  
9 **Recovery Act**

10 109. Each paragraph alleged above is incorporated by reference herein as if restated in full.

11 110. Table 5 of the 2003 BIF Permit contains the monitored values at which the automatic  
12 feed of hazardous waste to the ST HAF furnaces must be cutoff. The 2003 BIF Permit requires  
13 automatic cutoff whenever the results of monitoring indicate the exceedance of a compliance limit as  
14 calculated on a one hour rolling average basis (except for Minimum Combustion Temperature, which is  
15 an instantaneous limit).

16 111. The 2016 NEIC Inspection Report documented approximately 350 instances where  
17 hourly rolling average monitoring results between March 25, 2016 and April 8, 2016 should have  
18 resulted in the automatic shut-off of hazardous waste being fed to the ST HAF furnace:

19

Parameter	Cutoff Limit (HRA)	Range of Exceeded Values	Number of Exceedances	Dates
PM Scrubber Blowdown	$\geq 196$ lb/hr	69.2 to 188.6 lb/hr	29	3/25/16 – 4/08/16
Max. Stack Gas Flow Rate	$\leq 511$ scfm	512.1 to 512.7 scfm	6	3/25/16 – 4/08/16
CO Concentration	100 ppmv	101.1 to 1798.3 ppmv	313	3/25/16 – 4/08/16

20  
21  
22  
23  
24

25 112. For the time period between March 25, 2016 and April 8, 2016, EPA NEIC determined  
26 that Defendants burned hazardous waste in the ST HAF furnace even though the hazardous waste feed  
27 should have been *automatically* cut off.

28 113. There is significant likelihood that additional violations of the requirement to

1 automatically cut-off the hazardous waste feed to the ST HAF furnace occurred and continue to occur  
2 because: 1) the 2016 NEIC Inspection Report noted that Defendants admitted to only keeping two  
3 weeks' worth of raw minute data (rather than the required 5 years) necessary to compute hourly rolling  
4 averages of compliance limits; and 2) NEIC determined that the automatic feed cut-off valve(s) to the  
5 ST HAF furnace was not closed when it should have been from December 1, 2014 to at least February  
6 28, 2016.

7 114. The compliance limits and the automatic hazardous waste feed shut-off requirements in  
8 the 2003 BIF Permit are meant to minimize the risk of cancer from toxic organic emissions resulting  
9 from the burning of hazardous waste. EPA risk assessments indicate that under poor combustion  
10 conditions that achieve only 99 percent to 99.9 percent destruction and removal efficiency of organic  
11 compounds found in hazardous waste (as opposed to the regulatory requirement to demonstrate and  
12 achieve 99.99 percent destruction efficiency), the risk of cancer to exposed individuals increases by an  
13 order of 104 (or 10,000 times). 56 Fed. Reg. 7,134, 7,146 (Feb. 21, 1991) (internal citations omitted). In  
14 other words, a miniscule reduction in efficiency imposes enormous increases in cancer risk.

15 115. Defendants dispute EPA NEIC's conclusions set forth in the 2016 NEIC Inspection  
16 Report but despite requests, have not produced sufficient evidence to indicate that the automatic shut-off  
17 valve was closed as required when compliance limits in the 2003 BIF Permit were exceeded during the  
18 period from December 1, 2014 to February 28, 2016, or that similar violations are not currently  
19 occurring.

20 116. CBE requires discovery to determine whether EPA NEIC's conclusions in the inspection  
21 report are supportable with regard to the violations related to burning hazardous waste in the ST HAF  
22 furnace during periods when the hazardous waste feed should have been automatically shut-off.

23 117. Defendants' exceedances of the 2003 BIF Permit automatic shut-off requirements set  
24 forth in Table 5 occurred at least since March 25, 2016 and upon information and belief, are significant  
25 and ongoing and will continue until Defendants take steps to remedy the violations.

26 118. Each day of each violation is a separate violation of the 2003 BIF Permit and of RCRA  
27 for which penalties can be sought.

28 119. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40

1 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

2 120. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
3 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

4  
5 **V. Count 5: Failure to Accurately Calibrate the Monitors Used to Determine Compliance**  
6 **with the 2003 BIF Permit, in Violation of the Permit and the Resource Conservation**  
7 **and Recovery Act**

8 121. Each paragraph alleged above is incorporated by reference herein as if restated in full.

9 122. The 2003 BIF Permit and 40 C.F.R. § 266.102(e)(7)(ii) require that Defendants operate  
10 monitors that are accurately calibrated to automatically measure the parameters in Table 6 of the permit  
11 and to shut-off the feed of hazardous waste to the furnaces when parameters listed in Table 5 of the  
12 permit reach certain values.

13 123. As per Count 3, *supra*, on information and belief, Defendants exceeded Table 5  
14 compliance limits thousands of times.

15 124. As per Count 4, *supra*, Defendants burned, and on information and belief, continue to  
16 burn, hazardous waste when the hazardous feed to the ST HAF furnace automatically should have been  
17 cut-off the feed.

18 125. The ST HAF monitors were not, could not have been, and upon information and belief  
19 are not being, accurately calibrated as required by the 2003 BIF Permit and 40 C.F.R. § 266.103(e)(7)(ii)  
20 due to the presence of negative numbers, some of which were significantly negative as documented in  
21 the 2016 NEIC Inspection Report.

22 126. Defendants dispute EPA NEIC's conclusions set forth in the 2016 NEIC Inspection  
23 Report but have not produced, despite being requested to produce, evidence to support any contrary  
24 conclusion.

25 127. CBE requires discovery to determine whether EPA NEIC's conclusions and issues raised  
26 in the 2016 NEIC Inspection Report with regard to the presence of negative numbers within the ST HAF  
27 monitoring are accurate and whether these violations have been remedied or are ongoing.

28 128. Defendants' failure to properly calibrate the ST HAF monitors are violations of the 2003  
BIF Permit and 40 C.F.R. § 266.102(e)(7)(ii) and have occurred at least since December 1, 2014 and

1 will continue until Defendants take steps to remedy the violations.

2 129. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40  
3 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

4 130. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
5 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

6 **VI. Count 6: Failure to Accurately Maintain Records, Including the Operating Record in**  
7 **Violation of the 2003 BIF Permit and the Resource Conservation and Recovery Act**

8 131. Each paragraph alleged above is incorporated by reference herein as if restated in full.

9 132. The 2003 BIF Permit and 40 C.F.R. § 266.102(e)(10) require Defendants to maintain the  
10 facility operating record and all information and data required to demonstrate and ensure compliance for  
11 five years.

12 133. Defendants have failed to adhere to this permit and regulatory requirement since at least  
13 December 1, 2014 with regard to certain compliance and operational data necessary to demonstrate  
14 compliance with the limits and conditions applicable to the ST HAF furnace and the MS HAF furnace.

15 134. As documented in the 2016 NEIC Inspection Report, Defendants used outdated and  
16 inadequate data management software and recordkeeping methods, to calculate and maintain compliance  
17 data associated with the two BIF-permitted furnaces.

18 135. Defendants' reliance on antiquated methods prevented NEIC from conducting a full and  
19 complete inspection, including making it impossible for NEIC to determine the full extent of  
20 noncompliance with the 2003 BIF Permit and RCRA.

21 136. The December 2016 Inspection Report states: "Microfiche and Fortran are antiquated  
22 technologies and do not allow for the sorting of data to easily determine if permit limits are being met.  
23 Keeping records this way inhibits regulatory agencies from determining compliance. Records should be  
24 kept using current recordkeeping technologies (Microsoft Excel, Microsoft Access, etc.) to facilitate  
25 regulatory agency review). NEIC further stated that "Many data points were lost in converting the PDFs  
26 of microfiche into a text file that was then transferred to a Microsoft Excel spreadsheet so that the data  
27 could be sorted to make compliance determinations."

28 137. The 2016 NEIC Inspection Report also documents that Defendants were not maintaining



1 the operating record, no matter how incomplete, for the required 5-year timeframe.

2 138. At the time of the inspection, Dow only produced two weeks of ST HAF monitoring raw  
3 minute data despite the fact that the raw minute data is used to calculate the hourly rolling average  
4 compliance limits in Table 6 of the permit as well as calculate the point at which hazardous waste feed  
5 to the furnace must be automatically shut-off as per Table 5 of the permit.

6 139. Inspectors cannot evaluate compliance within the 5-year timeframe if the absence of the  
7 raw minute data.

8 140. Defendants claim that they no longer use the antiquated methods to calculate and record  
9 compliance data, as referenced in the 2016 NEIC Inspection Report but have not produced, despite  
10 having been requested to produce, information to demonstrate this fact. In addition, upon information  
11 and belief, Defendants currently do not maintain more than two weeks of raw minute data with regard to  
12 the ST HAF furnace.

13 141. CBE requires discovery to determine whether EPA NEIC's conclusions and issues raised  
14 in the 2016 NEIC Inspection Report with regard to recordkeeping requirements have been resolved or  
15 are ongoing and continuing.

16 142. The recordkeeping violations alleged have occurred for at least the past five years and  
17 will continue until Defendants take steps to remedy the violations.

18 143. Defendants are subject under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and 40  
19 C.F.R. § 19.4 tpls. 1, 2, to a civil penalty of up to \$74,552 for each day of each violation alleged herein.

20 144. Defendants are liable for all injunctive relief necessary to resolve the violations, all costs  
21 and attorneys and expert witness fees, and any other relief this Court deems appropriate.

22  
23 **PRAYER FOR RELIEF**

24 WHEREFORE, CBE respectfully requests that this Court:

- 25 a. Declare the Defendants were and are in violation of the 2003 BIF Permit and RCRA;  
26 b. Enjoin the Defendants from further violation of the 2003 BIF Permit and RCRA;  
27 c. Order Defendants to assess and remediate the harm caused by their violations;  
28 d. Assess civil penalties against Defendants;

- e. Award CBE the cost of litigation including costs and attorneys and expert witness fees;
- f. Retain jurisdiction to ensure compliance with the Court's decree; and
- g. Grant such other relief as the Court deems just and proper.

Dated: December 18, 2019

Respectfully submitted,

By:

*Christopher a. sproul*

Christopher Sproul  
Counsel for Communities For A Better Environment