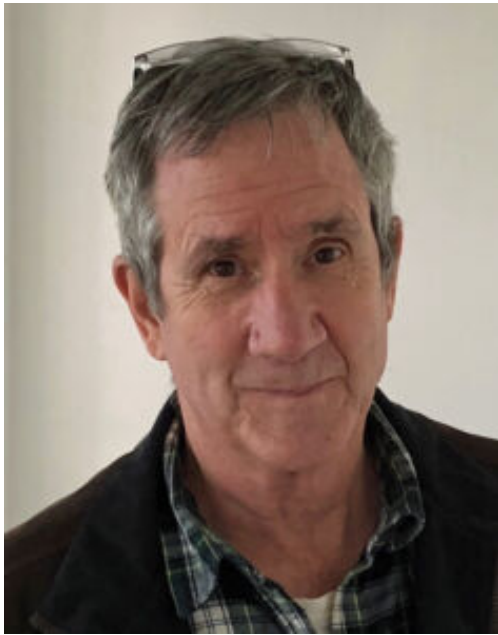


Op-Ed: NJ DEP must rethink proposed settlement on Ciba-Geigy site in Toms River

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Does BASF, the current owner of this Superfund site, really deserve a sweet deal?



With the possible exception of ocean dumping, no issue at the New Jersey Shore has ever exceeded in intensity the public concern generated by Ciba-Geigy, the industrial site that is today a not-yet-healed Superfund site in the heart of Toms River.

Actions by Gov. Phil Murphy's administration through the New Jersey Department of Environmental Protection have caused the Ciba-Geigy issue to resurface, inflaming the feelings of the residents of Ocean County and of those who love the Jersey Shore.

This issue goes all the way back to the 1950s, when industrial production of dyes and chemicals began on that site. Then in the 1980s, a leaking pipeline to the ocean, as well as polluted drinking water, brought Ciba's pollution into the consciousness of Shore residents. Ciba-Geigy became a notorious Superfund site.

Cancer cluster

Ciba-Geigy also became notorious as a possible cause of a documented childhood-cancer cluster in Toms River. The people of Ocean County suffered

disease, death and fear.

Today this Superfund site is owned not by Ciba-Geigy but by BASF, the huge German chemical corporation that acquired it in 2009.

Every Superfund site is more a process than a stationary situation. Cleanups, or one might better say attempted cleanups, are ongoing processes, literally for generations.

Today, at the discretion of the Murphy administration, the Ciba-Geigy site has been deemed ready to be assessed for what the state of New Jersey calls Natural Resource Damages. This is the process by which the owner of a polluting site compensates the local community and the state for the damage done.

In pursuit of this NRD settlement, the DEP has granted BASF what many experts — as well as the public's common-sense reaction — hold to be a sweetheart settlement that will allow BASF to escape further responsibility for the site, as did the previous owner, Ciba-Geigy.

Behind closed doors

How sweet is this deal for BASF? We know some things but not others. After closed-door meetings with BASF, Murphy's DEP has revealed only some of the ingredients that went into the settlement.

The DEP has opened a comment period during which the public has the opportunity to offer its opinions on the deal with BASF. But the validity of this comment period may legitimately be questioned given that the damage assessment, the document most essential for evaluating both the damage done and the fairness of the restoration proposed, has been kept secret.

The ways in which the DEP has procedurally handled this comment period have the heavy odor of a political fix:

- The 30-day comment period initially given ran from Dec. 5 to Jan. 3, encompassing precisely the season during which the public has the least availability to take note and react.
- The above-mentioned 30-day comment period is illegal because the law requires a minimum of 60 days. As career environmental regulators, the DEP officials surely know this.
- When, under public pressure, the DEP did extend the comment period to 60 days, they declined to publish that extension in the New Jersey Register, with the seemingly intended consequence that any comments the public makes during the extension would by law not be allowed into the legal record should there be an appeal.

The compensation granted the people of Ocean County in this proposed settlement is paltry: a nature center with some trails in a preserved forest of dubious economic value on account of its history of polluted groundwater.

Solar panel proposal

Meanwhile, this proposed settlement grants BASF the lucrative on-site operation of New Jersey's largest solar panel array plus the ability to sell off 255 valuable forested acres to developers.

Where in this manipulated settlement is legitimate compensation for the people of Toms River and of Ocean County, who have suffered some of the worst agonies that can be endured?

Why cannot Toms River, rather than the polluter, benefit from the entirety of solar panels' electricity production?

Why is Toms River awarded only the woods over the polluted groundwater, and not the 255 less polluted acres?

Why is no fund created to help childhood cancer victims in the future?

Why is BASF absolved of responsibility for such consequences as may reveal themselves in the future, thus leaving them to the citizens of Ocean County to further endure?

Where's the justice?

We hear often of the DEP's desire to seek environmental justice for the people of New Jersey, but we find little such justice here.

If this greenwashing settlement between the Murphy administration and BASF is approved, the people of Ocean County may end up embittered, but we will not have been fooled.

Perhaps Murphy — who was once ambassador to Germany, the home of the gigantic BASF — thinks of Ocean County as merely a place full of Republicans whom he can disregard. But Ocean County is also a place full of New Jerseyans who would like to be treated with respect.

Our governor would do well to rethink his proposal.

BASF CIBA-GEIGY DEP NATURAL RESOURCE DAMAGES
NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION NRD
SUPERFUND SITE TOMS RIVER