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November 1, 2011

***VIA REGISTERED MAIL -
RETURN RECEIPT REQUESTED***

Hugh Grant, President and CEO
Monsanto Company
800 North Lindbergh Blvd.
St. Louis, MO 63167

Site Manager/Owner
1778 Monsanto Way
Martinez, CA 94553

**Re: Notice of Violations and Intent to File Suit under the Resource
Conservation and Recovery Act**

Dear Mr. Grant, Owner, Site Manager and Responsible Parties:

The federal Resource Conservation and Recovery Act ("RCRA,") 42 U.S.C. § 6901 *et seq.*, requires that sixty days prior to the initiation of an action for violation of a permit, standard, regulation, condition, requirement, prohibition or order effective under the RCRA, a private party must give notice of the violation to the alleged violator, the Administrator of the U.S. Environmental Protection Agency and the State in which the violation is alleged to have occurred. [42 U.S.C. § 6972(b)(1)(A)]. The RCRA also requires that a private party provide ninety days prior notice to the alleged violator, the Administrator of the Environmental Protection Agency and the State in which the violation is alleged to have occurred before initiating an action for an imminent and substantial endangerment to human health or the environment. [42 U.S.C. § 6972(b)(2)(A)].

On behalf of Northern California River Watch ("River Watch,") I am providing statutory notification to Monsanto Company ("Monsanto") of continuing and ongoing violations of the RCRA in conjunction with former or continuing operations at the hazardous product release site located at 1778 Monsanto Way in the City of Martinez, California. Notice of these violations is provided to the owners of the real property on which the site is

situated. Pursuant to the provisions of RCRA, the current owner of the real property underlying the site is also responsible for ongoing contamination due to ownership of the real property under which hazardous contamination has been found.

River Watch hereby notifies Monsanto that at the expiration of the appropriate notice periods provided under RCRA, River Watch intends to commence a civil action against Monsanto on the following grounds:

1. Monsanto's handling, transportation and unauthorized releases of various petroleum products at the Martinez site identified in this Notice has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding the past and/or present handling, storage, treatment, transportation and/or disposal of hazardous products [42 U.S.C. § 6972 (a)(1)(A)];
2. Past and current operations at the Martinez site identified in this Notice have caused petroleum and other contamination in soils, in groundwater and in surface waters which contamination presents an imminent and substantial endangerment to human health and the environment [42 U.S.C. § 6972 (a)(1)(B)];
3. Past and current operations at the Martinez site identified in this Notice violate the provisions of RCRA sub-chapter III (Subtitle C) which governs the handling of hazardous wastes. River Watch contends Monsanto has inadequately maintained records of the manner in which its hazardous wastes have been treated, stored and/or disposed of; inadequately monitored, reported and/or complied with existing regulations concerning its wastes; inadequately provided storage or transportation facilities for its wastes; and in the past has not developed adequate contingency plans for effective action to minimize damage from the unauthorized releases of hazardous contaminants – all of which has presented and continues to present a substantial endangerment to human health and to the environment.

THE SITE - 1778 MONSANTO WAY, MARTINEZ, CALIFORNIA

This site is situated on property formerly used by the Monsanto Chemical Company commencing in 1953 to produce a variety of chemicals including sulfuric acid (1953 to 1982) phenol (1953 to 1963) phenolsulfonic acid (1961 to 1967) platinum catalysts (1970 to 1979) and sulfuric acid catalysts (1970 to 2005). Benzene was also used and stored at the site until at least 1963 in an area to the north of the existing catalyst plant. Benzene facilities were used in the production of phenol. In 2005 Monsanto Chemical Company sold the chemical producing facilities to MECS, Inc. which continues to produce sulfuric acid

catalysts at the site. Monsanto, however, retains responsibility for groundwater conditions at the site and continues to own the underlying real property at 1778 Monsanto Way.

The facility is located adjacent to wetlands in direct surface water communication with Suisun Bay. During operations at this location, Monsanto utilized two principal areas for on-site disposal and storage of production wastes: 1) two unlined solar evaporation ponds and 2) a salt cake storage area at the north end of the property.

In 1984 Monsanto initiated an investigation of soil and groundwater quality as affected by its plant operations, which consisted of monitoring wells, 6,000 feet of exploratory trenches adjacent to the solar ponds and salt cake areas, and benthic invertebrate and sediment studies in Hastings Slough, approximately 400 ft. to the northwest (downgradient) of the property. Observation wells were installed intending to monitor shallow, intermediate and deep water bearing zones. Depth to groundwater at the site ranges between 3 and 23 feet.

Documents available for review by River Watch at this time, which cover the past 10 years of work conducted at the site, indicate that efforts since approximately 2000 have been limited to only monitoring of hydrocarbon levels and other chemicals found at the site. No records have been located which establish that site excavation has ever been conducted to eliminate contaminants and achieve some measure of source control. At the present time there are no extraction processes in place and none planned. There is no apparent interest in site remediation, despite the proximity of downgradient surface waters, and despite levels of hydrocarbon constituents in groundwater that remain dangerously high.

As of the last published groundwater monitoring data (October 2009), benzene levels alone are in the range of 140,000 µg/l. TPHg levels last tested in 2007 were found as high as 340,000 µg/l at MW-33S. Sulfate levels in groundwater was found as high as 2,200 mg/l in 2009 (2,200,000 µg/l).

On the basis of the current condition of this Martinez site, River Watch believes the following investigatory and remediation work must be implemented without delay:

1. Complete site delineation (including vertical contaminant delineation) for the purpose of enabling a comprehensive evaluation of the extent of underlying contamination so that adequate remediation work may proceed. This should include an evaluation of the potential for migration into the surface waters of Hastings Slough and Suisun Bay;

2. Initiation of an effective remediation strategy either by over-excavation, or by means of other methods, such as bioremediation, which have a strong likelihood of achieving state mandated Maximum Contaminant Levels or pre-existing background levels within a reasonable time frame, and are designed to eliminate the current threat to the environment and human health;
3. Initiation of vapor intrusion testing in any buildings or work areas (if any) above the plume to determine whether nearby employees at the site and/or third parties are being exposed to injurious levels of hydrocarbon, benzene or other toxic vapors;
4. Completion of preferential pathway studies to determine whether there are conduits, sewer lines, storm drains, gravel lenses or other avenues by which hydrocarbons and constituents may be migrating offsite; and,
5. Current residual mass calculations which will allow the measurement of remediation progress once remediation processes are initiated.

REGULATORY STANDARDS

The Resource Conservation and Recovery Act of 1976 is a federal environmental law of the United States the goals of which are to protect the public and the environment from harm caused by waste storage and disposal, and to mandate the proper remediation of soil and groundwater which has been contaminated by hazardous waste and hazardous products, including petroleum hydrocarbons and gasoline formula constituents. The RCRA establishes a national policy that, wherever feasible, the generation of hazardous waste must be reduced or eliminated as expeditiously as possible. The RCRA is a strict liability statute with a statute of limitations of five years. Pursuant to its provisions, California has enacted laws and regulations that must be observed in conjunction with RCRA regulations.

California's "Water Quality Objectives" exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent Water Quality Objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions need to be considered which evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Existing and potential beneficial uses of area groundwater at the site in Martinez include domestic, agricultural, industrial and municipal water supply.

The Regional Water Quality Control Board has adopted a Water Quality Control Plan or “Basin Plan” which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Regional Board has adopted Maximum Contaminant Levels (“MCLs”) and/or Water Quality Objectives (“WQOs”) for petroleum constituents in surface and groundwater within the region of 50 ppb for TPHg, 1 ppb for benzene, 150 ppb for toluene and 13 ppb for MTBE.

VIOLATIONS

Permits, Standards and Regulations

[42 U.S.C. § 6972(a)(1)(A)]

River Watch contends Monsanto’s use, storage, handling and transportation of petroleum products at the Martinez site identified in this Notice has violated and continues to violate permits, standards, regulations, conditions, requirements and/or prohibitions effective pursuant to RCRA regarding the storage of petroleum in underground storage tanks. [42 U.S.C. § 6972(a)(1)(A).]

From November 1, 2006 through November 1, 2011, Monsanto has caused or permitted, causes or permits, or threatens to cause or permit, petroleum contaminants, petroleum constituents and other hazardous waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State and now creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

Mishandling of Hazardous Waste

[42 U.S.C. § 6924 et seq.]

From November 1, 2006 through November 1, 2011, Monsanto has used, handled, stored and transported petroleum products at the Martinez site in a manner which has allowed significant quantities of hazardous petroleum constituents and other toxic chemicals to be discharged to soil and groundwater beneath the site and beneath adjacent properties. Contaminant levels of TPHg, benzene, sulfates and phenols in groundwater at the site are significantly greater than the allowable MCLs and/or WQOs for said constituents.

River Watch alleges that Monsanto has, at all times material, engaged in the following activities or omissions in violation of the RCRA’s waste handling provisions:

1. Failure to adequately maintain records of hazardous wastes which were used, handled, treated, stored or otherwise disposed of on or offsite [42 U.S.C. §6924(a)(1)];
2. Failure to satisfactorily monitor, inspect, and report the discharge of hazardous waste [42 U.S.C. §6924(a)(2)];
3. Failure to adequately use, handle, treat, store or properly dispose of hazardous waste [42 U.S.C. §6924(a)(3)];
4. Failure to adequately locate, design and construct hazardous waste treatment, storage or disposal facilities [42 U.S.C. §6924(a)(4)]; and,
5. Failure to properly implement contingency plans for effective action to minimize unanticipated damage from the handling, transportation, treatment, storage or disposal of hazardous waste [42 U.S.C. §6924(a)(5)].

Unpermitted Handling, Treatment, Storage, Transportation and/or Disposal of Hazardous Waste
[42 U.S.C. § 6925 et. seq.]

River Watch alleges that from November 1, 2006 through November 1, 2011, Monsanto has engaged in the following activities or omissions at the Martinez site in violation of the RCRA's waste handling provisions:

1. Deposition and maintenance of hazardous waste as described herein which causes and has caused the generation and discharge to the environment of hazardous waste;
2. Installation and maintenance of a system of conveyances to dispose of the hazardous generated and released from the Martinez facility;
3. Failure to possess permits for the handling, storage, treatment, transportation, and/or disposal of hazardous or solid waste at the Martinez facility; and,
4. Unpermitted handling, storage, treatment, transportation and/or disposal of hazardous waste in violation of RCRA § 3005, [42 U.S.C. § 6925].

Prohibition Against Open Dumping
[42 U.S.C. § 6945 et. seq.]

River Watch alleges that from November 1, 2006 through November 1, 2011, Monsanto has engaged in the following activities or omissions at the Martinez site in violation of the RCRA's waste handling provisions:

1. Open dumping by the discharge of hazardous waste to open ground where it will contaminate and has contaminated the soils, groundwater and surface waters as described in this Notice [42 U.S.C. § 6945];
2. Failure of the Martinez site and facility to qualify as a landfill under 42 U.S.C. § 6944, and failure of the Martinez site and facility to qualify as a facility for the disposal of hazardous waste; and,
3. Failure to possess a RCRA-authorized permit for the disposal, storage or treatment of solid or hazardous waste of the type currently and historically discharged at the Martinez site.

Imminent and Substantial Endangerment
[42 U.S.C. § 6972 (a)(1)(B)]

River Watch alleges that from November 1, 2006 through November 1, 2011, Monsanto has used, handled, transported and/or stored petroleum products and other chemicals at the site in Martinez identified above in a manner which has allowed significant quantities of hazardous petroleum and chemical constituents to be discharged to soil and groundwater beneath the site and beneath adjacent properties. The contaminant levels of TPHg, benzene, sulfates, and phenols in groundwater at the site are significantly greater than the allowable MCL and/or WQO for said constituents. Benzene, TPHg and various phenols are known or suspected carcinogens, and may produce central nervous system toxicity in humans. These substances are known to harm both plants and animals. In their concentrations at this location in Martinez, these pollutants are now creating an imminent and substantial endangerment to public health and the environment.

Monsanto's violations of the RCRA as set forth in this Notice are adversely affecting beneficial uses of groundwater and surface waters in and around the Martinez site. The level of pollutants poses an imminent and substantial threat to the health of any person who in the vicinity of the site as well as to the environment, including beneficial uses of the groundwater and surface waters and non-human organisms which are being exposed to these pollutants at levels that exceed water quality standards.

River Watch contends the violations alleged in this Notice are knowing and intentional in that Monsanto has used, stored and sold these chemical substances and products at the Martinez site which are known to contain hazardous substances for at least five years, and has intended that such products will be sold to and used by the public. Further, that Monsanto has also known that failing to promptly remediate the pollution allows the contamination to migrate through soil and groundwater at and adjacent to the site.

Information currently available to River Watch indicates that Monsanto's violations of the RCRA as alleged herein have occurred every day over the past five years, or on numerous separate occasions, and that those violations are continuing. In addition to the violations set forth above, this Notice is intended to cover all violations of the RCRA by Monsanto at the Martinez site evidenced by information which becomes available to River Watch after the date of this Notice.

Violations of RCRA of the type alleged herein are a major cause of the continuing decline in water quality and pose a continuing threat to existing and future water supplies of Northern California. With every discharge, groundwater supplies are contaminated.

IDENTIFICATION OF ENTITY BRINGING NOTICE

Northern California River Watch, the entity bringing this Notice, is a non-profit corporation organized under the laws of the State of California and dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. Its address is P.O. Box 817, Sebastopol, CA, 95472. The violations of Monsanto as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed areas. Members of River Watch use the watersheds for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by the violations of RCRA identified in this Notice.

River Watch has retained legal counsel with respect to the violations by Monsanto raised in this Notice. All communications should be addressed to:

Jack Silver, Esquire
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Santa Rosa, CA 95402-5469
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CONCLUSION

River Watch believes this Notice sufficiently states grounds for filing suit under the statutory and regulatory provisions of the RCRA as to the Martinez site referenced in this Notice. At the close of the notice periods, River Watch intends to file a suit against Monsanto for each of the violations as alleged herein, and with respect to the existing conditions at this site. However, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If Monsanto wishes to pursue such discussions in the absence of litigation, we would encourage Monsanto to initiate such discussions immediately so that the parties might be on track to resolving the issues raised in this Notice. River Watch will not delay the filing of a lawsuit if discussions have not commenced within a reasonable time following the mailing of this Notice.

Very truly yours,


Jack Silver

JS:lmh

cc: Administrator
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