

Return to:
PASSAIC VALLEY SEWERAGE COMMISSIONERS
790 Broad Street
Newark, N. J. 07102

Date: April 12, 1972

Plant Ref. No. 1BHD 892

WASTE EFFLUENT SURVEY

(For Industries Served by the Passaic Valley Sewerage Commissioners)

Plant Name: MONSANTO INDUSTRIAL CHEMICALS COMPANY

Address: PENNSYLVANIA AVENUE KEARNY NEW JERSEY Zip 07032

Person and Title to whom any further inquiries should be directed:

R. F. HARTMANN, MAINT. SUPERINTENDENT

Phone No.: (201) 589-0350

Number of Employees: 100

Number of Working Days Per Week: 7

Number of Shifts Per Day: 3

Area of Property: 27 Acres, or Sq. Ft.

Type of Industry and 4 digit U. S. Standard Industrial Classification No.: SIC 2818

~~Manufacture of Inorganic and Organic Chemicals~~

Finished Product(s): Industrial Phosphates & Steroxes (Wetting Agents)

Average Production: Confidential

Raw Materials Used: Elemental Phosphorus, Soda Ash

Brief Description of Operations:

Elemental phosphorus converted to phosphoric acid which is reacted with soda ash and calcined to produce a sodium phosphate.

**ANSWER THE FOLLOWING QUESTIONS ONLY IF THE
PLANT WASTE INCLUDES WASTE ATTRIBUTABLE TO INDUSTRIAL OPERATIONS**

(Note: Analyses should be based on a 24-hour composite sample)

Characteristics of Plant Waste discharged to sanitary or combined sewer, after treatment if any. Indicate units of measure where applicable (e.g. Mg/l).

- a) pH: b) Turbidity:
- c) Temperature: d) Radioactive? Yes No
- e) Solids Concentration:
1) Total Solids Volatile Mineral
2) Suspended Solids Volatile Mineral
- f) Oil and Grease Concentration:
1) Floatable Oils
2) Emulsified Oils
- g) Chlorides
- h) Chemical Oxygen Demand (C.O.D.):
- i) 5-day Bio-chemical Oxygen Demand (B.O.D.):
- j) Total organic carbon (T.O.C.):
- k) Metallic Ions—Name and concentration (Important—list each metal in waste, e.g., chromium hex. and triv. Antimony, Lead, Mercury, Copper, Vanadium, Nickel; give concentration and total daily discharge of each metal.)
.....
.....
.....
- l) Toxic Material—Name and concentration e.g., cyanide salts, etc.):
- m) Solvents—Name and concentration:
- n) Resins—Name and concentration (Lacquers, Varnishes, Synthetics):
- o) Date and time span of sample

Explain hours, method of discharge of waste to Sanitary Sewer and peak rate of flow, e.g., (continuing for 8 hours per day, 5 days per week at 100 gal./day rate) (batch twice a day for 20 minutes at 100 gal./min.) (Continuous 24 hours steady or with peaks at 2 P.M., peak rate 3 M.G.D.) etc.
.....
.....
.....

Water received in *Gallons* (Note: multiply cu. ft. x 7.48)

Purchased water in 1971 from: Kearny, N. J.

1st Quarter 52,012,500 Gal.

2nd Quarter "

3rd Quarter "

4th Quarter "

Total Purchased 1971: 208,050,000 Gals.

Well Water

1st Quarter None

2nd Quarter

3rd Quarter

4th Quarter

Total well water received in 1971: None

River Water

1st Quarter None

2nd Quarter

3rd Quarter

4th Quarter

Total river water taken in in 1971: None

TOTAL OF ALL WATER RECEIVED IN 1971: 208,050,000 Gal.

Water Use in 1971:

Water to Product (include evaporated and lost water): 167,900,000

Water to Sanitary Sewer: 19,345,000

Water to Storm Sewer, River or Ditch: 20,805,000

TOTAL WATER USE IN 1971: 208,050,000

Name of River, Stream, or Tributary, and location of storm sewer or ditch outlet to river, stream, or tributary: Passaic River 2.7 miles up from river mouth on east side.

Characteristics of Plant Discharge to Storm Sewer, River, or Ditch, after treatment if any.
Indicate units of measure where applicable (e.g., Mg/l).

a) pH: 7.2 b) Turbidity: 15 APHA

c) Temperature: 60° d) Radioactive? Yes _____ No X

e) Solids Concentration:

1) Total Solids 15000 mg/L Volatile 100 mg/L Mineral _____

2) Suspended Solids 100 mg/L Volatile Nil Mineral _____

f) Oil and Grease Concentration:

1) Floatable Oils _____ None _____

2) Emulsified Oils _____ None _____

g) Chlorides _____ 100 mg/L

h) Chemical Oxygen Demand (C.O.D.): _____ 70

i) 5-day Bio-chemical Oxygen Demand (B.O.D.): _____ <5

j) Total Organic Carbon (T.O.C.): _____ 15 mg/L

k) Metallic Ions—Name and concentration (Important—list each metal in waste, e.g., chromium hex. and triv. Antimony, Lead, Mercury, Copper, Vanadium, Nickel; give concentration and total daily discharge of each metal.):

Iron 10 mg/L

l) Toxic Material—Name and concentration (e.g., cyanide salts, etc.): _____

None

m) Solvents—Name and concentration: _____

None

n) Resins—Name and concentration (Lacquers, Varnishes, Synthetics): _____

None

o) Date and time span of sample: Data based on continuous sampling for more than one year

Do you pretreat any waste before discharge? _____ No _____

If so, describe process and disposal of residue removed: _____

Certification of Laboratory doing sampling and making analyses shall be given. Procedures shall be those shown in the 13th edition of Standard Methods for the Examination of Water and Wastewater, where applicable. If no procedure is applicable, the laboratory is to describe method and procedure used in analyses.

Donald M. Widdows

Signature and title of person preparing report
D. M. Widdows - Chief Chemist

THOMAS LAZZIO
CHAIRMAN

WALTER J. DAVIS
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LOUIS BAY, 2ND
COMMISSIONERS

PASSAIC VALLEY SEWERAGE COMMISSIONERS
790 BROAD STREET
NEWARK, N.J. 07102

SEYMOUR A. LUBETKIN
CHIEF ENGINEER

JAMES V. SEGRETO
CHIEF COUNSEL

MRS. CHARLES T. SCHADEL
CLERK-TREASURER

R# : _____

Company: MONSANTO COMPANY Date : 3/14/72

Address : PENNSYLVANIA AVE

KEARNEY N.J.

JOSEPH COLELLO

P.V.S.C. Inspector

I hereby acknowledge receipt of Passaic Valley
Sewerage Commissioners' letter and Waste Efflu-
ent Survey which was hand delivered on the date
and by the inspector as noted above.

Accepted by :

Lee Rogers

Secretary
Name & Title (please print)

JC

Inspector's Initial

Monsanto

Monsanto Company
Pennsylvania Avenue
Kearny, New Jersey 07032
Phone: (201) 589-0350

004141

July 25, 1975

Passaic Valley Sewerage Commissioners
600 Wilson Avenue
Newark, N.J. 07105
Attn: Mr. John Kinder

Dear Mr. Kinder:

We received your request to complete the questionnaire concerning our industrial discharge into the P.V.S.C. system. In reviewing this request, we must call your attention to the fact that while our plant is located adjacent to the Passaic River in South Kearny, all of our discharge goes to the South Kearny treatment plant which empties to the Hackensack system. At one time we had a storm drain from our property which emptied into the Passaic River, but this no longer exists.

With no discharge which would come under your jurisdiction, we find no reason to comply with your request. Please advise if this conclusion is incorrect.


D. M. Widdows

cc: M. Mullins

DMW/ert
ENCLOSURE

May 12, 1961

that the violation is rather a serious one as the material that is leaking is not only highly acid, but contains a large amount of chromium, which is highly toxic.

On April 13, 1961, Mr. Lubetkin received a letter from Mr. Polite. In the letter Mr. Polite stated that the company will forward weekly progress reports.

Apr. 24 Violation - Fiske Brothers Refining Company, 129 Lockwood St., Newark, NJ

A sample of material discharging from the above plant, taken on April 24, 1961, was found to be polluted and containing solvents which registered 5% on an explosimeter.

Chief Engineer Lubetkin wrote a letter to the company on May 5, 1961, requesting a report. On May 8, 1961, the company replied, stating it was their desire to cooperate with the Passaic Valley Sewerage Commissioners, and that the source of pollution would be completely eliminated by the end of the day. (Violation has been reported eliminated as of May 12, 1961.

Apr. 25 Violation Lockwood Street Storm Sewer, Newark, New Jersey

Industrial waste flowing into the Passaic River from the above outlet was discovered on April 25, 1961. Inspector Robert Van Volkenburgh took sample to the P.V.S.C. Labs on April 25 and April 26.

On May 5, 1961, Chief Engineer Lubetkin wrote to Mr. Robert Van Riper of the City of Newark. Mr. Lubetkin told of the polluting material being discharged, and asked Mr. Van Riper for a report on what is causing this pollution and what is being done to correct this situation.

Apr. 3-30 Violation - Marcal Paper Mills, Inc., 1 Market Street, East Paterson, N.J.

This violation of the discharge of industrial waste into the Passaic River is continuous.

Apr. 17-30 Violation - Monsanto Chemical Company, Pennsylvania Ave., So. Kearny, N.J.

On April 17, 1961, Inspector John K. McLaughlin, found a slight turbid liquid from a twenty inch concrete pipe discharging into the Passaic River. pH test paper indicated pH 2-3. The violation was brought to the attention of Mr. Robert M. Erickson, plant manager, who promised quick action to correct this matter. (Weekly report of May 1-5 shows the above violation eliminated.

ANNUAL REPORT

by

Chief Engineer
S. A. LUBETKIN

to the

**PASSAIC VALLEY
SEWERAGE COMMISSIONERS**

FOR THE YEAR

1972

Violation-Town of Kearny

July, 1972 to December 31, 1972

(M. Colello)

There is a 24" storm pipe in Pennsylvania Ave., Kearny that discharges into the Passaic River at the Monsanto property near Pennsylvania Avenue. The discharge into the river is polluting, some of it attributable to the Monsanto Co. (See Violation-Monsanto). However, some of the pollution comes from Kearny upstream of Monsanto. This is a small flow and difficult to trace.

On July 20, 1972, Mr. Lubetkin wrote to the Town of Kearny, informing them of the polluting discharge, and directing that they locate the source of pollution and have it halted. Mr. Lubetkin also requested a reply. No reply had been received; however, Inspector Colello reports that Supt. McDonald has been working on this but has not yet been able to locate the source of pollution.

On October 3, 1972, Mr. Lubetkin again wrote to the Town of Kearny, but as of the end of the year, no reply had been received.

Violation-Marcas Paper Mills, Inc., East Paterson, N.J.

June 5 to December 31, 1972

(J. Perrapato)

This company takes in Passaic River water, treats it, and then uses it in its industrial process. Its industrial waste is treated and returned to the river. The Commissioners have monitored this waste for many years and, except for occasional accidents, have found the quality of this discharge satisfactory, and no problem occurred in this area.

However, in its treatment of the river water, two things occurred. First, the river water was settled in a lagoon and the silt removed from this water was put back into the river once a week (usually on Sunday) for about one or two hours. Secondly, the treatment of this river water contained filters which were periodically back-washed (about 14 minutes every 1½ hours). This backwash liquid (also river water material) was also returned to the river.

In the past, since this was material from the river containing no industrial waste, and it was being returned to the river, the practice was allowed. In addition, samples of their discharge had been analyzed and found non-polluting, since evidently the samples were taken by the inspector at times when the filter backwash was not in process. On the few times that pollution was detected (samples taken when backwash in operation), it was usually attributed to other causes (such as spills in loading areas), and Marcal was requested to relay certain sewers and reconnect to the sanitary sewers a loading area catch basin. Marcal was cooperative and, to date, did all work requested of them.

Upon review of the Industrial Waste Survey Forms, it was realized that even though the filter backwash liquid and settled silt were materials removed from the river, that with higher river standards the discharge in its concentrated form was definitely polluting, and these discharges would have to be halted.

Violation-Monsanto Company, Pennsylvania Avenue, Kearny, N.J.
January- December 31, 1972 (J. Colello)

Samples taken from 24" and 27" pipes discharging to the river were found to be polluting. On January 27, Mr. Lubetkin wrote to this company, informing them of their pollution and directing them to cease pollution at once.

On February 9, Mr. J. H. Cannan, Plant Manager, wrote to Mr. Lubetkin stating the 24" sewer is a City sewer used by others besides Monsanto. Mr. Lubetkin replied on February 14, that in addition to the 24" sewer which contained polluting material coming from their company, that the 27" sewer discharging into the Passaic River also contained polluting material.

On February 22, a conference was held in Mr. Lubetkin's office, at the request of Monsanto. At the conference, it was pointed out to Monsanto that besides the high C.O.D., there was an exceptionally large amount of ortho phosphate being discharged by Monsanto of 1500 mg /l and 2240 mg/l from the 24" and 27" sewers respectively which could not be accepted. They were directed to prepare a program to halt the C.O.D. pollution and to drastically reduce the phosphate discharge. They agreed to have a report on such a program, together with a timetable on implementation, presented to the Commissioners by March 10, 1972.

On March 10, another conference was held with Monsanto's officials. Mr. J. H. Canaan presented a program and timetable to eliminate the pollution. Generally speaking, they feel the major pollution is caused by underground leaks and by-passing of a reclamation system. They plan to eliminate the leaks by replacing the old pipes with covered concrete lined trenches to be completed July 1, 1972. Another source of pollution was their discharge #002 from the boiler blow-down, which they would correct or divert to the sanitary sewer by September, 1972.

On June 28, Mr. Hartman of Monsanto submitted a progress report to the Commissioners. The report, complete with photographs, indicated that the program to eliminate leaks from the reclaim system interceptors by replacement of sewers with covered concrete lined trenches was complete; however, a source of phosphate loss was located in a loading area. They expect to find and correct this by October 1, 1972. They also expect to install equipment for dust collection on the loading facility, as this may be a significant source of phosphates to the sewer (Completion target date is January 1, 1973).

They also claimed that extensive sampling had shown that the source of the C.O.D. in the Pennsylvania Avenue Storm Sewer was not their #002 boiler blow-down, but originated upstream from them. This was checked and confirmed by the PVSC and the Town of Kearny was notified of the C.O.D. pollution (See Kearny).

Violation-Monsanto Company (continued)

On September 27, the Monsanto Co., submitted its quarterly progress report in which they stated:

1. Completed its program to eliminate leaks from reclaim system interceptors by replacement with covered concrete lined trenches, however, a source of phosphate loss was located in a loading area. Correction of this source will be completed by October 1, 1972.
2. Installation of dust collectors on S.T.P. loading facilities, scheduled to be completed January 1, 1973, is on target. Engineering is complete, funds have been appropriated, construction permit obtained, and equipment on order.

They admitted that there had been (as of the end of September) essentially no reduction in concentration of phosphates discharged in their effluent, but volume has been significantly reduced due to reduced flow. They cannot explain the relative constant concentration except to assume a quantity of phosphate in the soil above the water table that slowly dissolves after each rain, entering the water table, thence the sewer.

During the last quarter of 1972, analysis of samples indicated that a high concentration of phosphates remained (1100 to 1400 mg/l). On December 28, 1972, Monsanto submitted its quarterly report in which it stated all scheduled work had been completed except the following:

1. The dust collectors which had been scheduled for January 1, 1973, were rescheduled for February 9, 1973.
2. Verify results of program, Target date March 1, 1973.

The report also states that careful monitoring indicates that quantity of phosphates in discharge had decreased by 40% and the flow rate to the river had decreased 25%. They are involved in a testing program to establish the magnitude of the phosphates in the ground so as to estimate the rate of reduction. This should be completed April 1, 1973.

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APR 26 1996

GENERAL NOTICE LETTER
URGENT LEGAL MATTER
EXPRESS MAIL - RETURN RECEIPT REQUESTED

Mr. Richard J. Mahoney, Chief Executive
Monsanto Company
800 N. Lindbergh Blvd.
St. Louis, MO 63167

Re: Diamond Alkali Superfund Site
Notice of Potential Liability for
Response actions in the Passaic River Study Area

Dear Mr. Mahoney:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release and/or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. §9601 et seq.

EPA has documented the release or threatened release of hazardous substances, pollutants and contaminants into the Passaic River Study Area which is part of the Diamond Alkali Superfund Site ("Site"). By this letter EPA is notifying Monsanto Company of its potential liability relating to the Site pursuant to Section 107 of CERCLA.

Sediment in the Passaic River contain numerous hazardous substances, pollutants and contaminants. Investigations undertaken by EPA indicated that hazardous substances were being released from the Monsanto Company's former Kearny facility located at the foot of Pennsylvania Avenue in Kearny, New Jersey, into the Passaic River Study Area. Hazardous substances, pollutants and contaminants released from the facility into the Passaic River Study Area present a risk to the environment and the humans who may ingest contaminated fish and shellfish. Therefore, Monsanto Company may be potentially liable for all response costs which the government may incur relating to the Passaic River Study Area.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §9606(a) and §9607(a) and other laws, potentially responsible parties

SYMBOL →	NNJS2	ORC-SUP	NNJS2	NJB2	NJP	DD	D	
SURNAME →	RICHMAN	WASNER	DIFORTE	BASSO	FRISCO	PAVLOU	CALLAHAN	
DATE →	4/22	4/25/96		4/22/96	4/22/96	8/27/96	4/20	

("PRPs") may be obligated to implement response actions deemed necessary by EPA to protect public health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. If response actions are performed by EPA rather than by the PRPs, those PRPs may be subject to legal action pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a), to recover public funds expended by EPA in response to the release and threatened release of hazardous materials at the Site. Such actions and costs may include, but need not be limited to, expenditures for conducting a Remedial Investigation/Feasibility Study ("RI/FS"), a Remedial Design/Remedial Action, and other investigation, planning, response, oversight, and enforcement activities. In addition, responsible parties may be required to pay damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

While EPA has the discretionary authority to invoke special notice procedures, EPA hereby notifies you that it will not utilize the special notice procedures contained in Section 122(e) of CERCLA, 42 U.S.C. §9622(e). EPA has concluded that use of the special notice procedures in Section 122(e) of CERCLA would delay the implementation of any RI/FS which is currently being performed at the Site to determine the extent of contamination and to evaluate possible actions to mitigate any adverse effects. EPA will determine at a subsequent time whether additional measures are required to mitigate releases from the Site in order to protect the public health, welfare, and the environment. The decision not to use the special notice procedures does not preclude you from entering into discussions with EPA regarding your participation in activities at the Site.

By this letter, EPA encourages you, as a PRP, to voluntarily participate in the EPA-approved activities underway at the Passaic River Study Area in conjunction with other PRPs. At the present time, the Occidental Chemical Corporation ("OCC") is performing an RI/FS at the Site under an Administrative Consent Order. OCC, through a successor, Maxus Energy Corporation, can be contacted at the addresses listed in the Attachment to this letter. Other PRPs who have received Notice letters are also listed in the Attachment. Be advised that notice of your potential liability at the Site is being forwarded to OCC by EPA.

EPA requests your cooperation in this matter. If you are interested in participating in the ongoing response action you should notify EPA of your intentions to join with OCC. Notification should be in writing and should be delivered to EPA no later than fourteen (14) days after the date that you receive

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this letter. Your letter should be sent to:

Lance R. Richman, P.G.
U.S. Environmental Protection Agency
Emergency and Remedial Response Division
290 Broadway, Floor 19
New York, NY 10007-1866,

with a copy to Ms. Amelia Wagner, Esq., of the Office of Regional Counsel at the same address.

If EPA does not receive a written response from you in the time specified above, EPA will assume that you voluntarily decline to participate in any of the response actions taking place at the Site. EPA reserves the right to pursue its available enforcement options with regard to the site.

If you wish to discuss this matter further, please contact Mr. Lance R. Richman, P.G., of my staff at (212) 637-4409 or Ms. Wagner at (212) 637-3141. Please note that all communications from attorneys should be directed to Ms. Wagner.

Sincerely yours,

Kathleen Callahan, Director
Emergency and Remedial Response Division

Attachment

CC: Mr. Peter H. Smith
Assistant Environmental Counsel
Monsanto Company

Ms. Carol Dinkins, Esq.
Vinson & Elkins, L.L.P.

Mr. Richard P. McNutt
Maxus Energy Corporation

bcc: A. Wagner, ORC-SUP

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ATTACHMENT

Contact for Maxus Energy Corporation:

Mr. Richard P. McNutt
Maxus Energy Corporation
1015 Belleville Turnpike
Kearny, New Jersey 07032

Counsel: Ms. Carol Dinkins, Esq.
Vinson & Elkins, L.L.P.
3700 Trammell Crow Center
2001 Ross Avenue
Dallas, Texas 75201-2916

PRPs in receipt of Notice Letters:

Mr. J. Roger Hirl
President and Chairman of the Board
Occidental Chemical Company
Occidental Tower
5005 LBJ Freeway
Dallas, Texas 75244

Brian C. Kelly, Esq.
Chris-Craft Industries, Inc.
600 Madison Avenue
New York, New York 10022

Counsel: Peter Simshauser, Esq.
Skadden, Arps, Slate, Meagher & Flom
300 South Grand Avenue
Los Angeles, California 90071-3144

Mr. Robert D. McNeeley, President
Reilly Industries, Inc.
1510 Market Square Center
151 North Delaware Street
Indianapolis, IN 46204

Counsel: Jacqueline A. Simmons, Esq.
Reilly Industries, Inc.

Mr. John G. Breen, Chairman of the Board
The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115-1075

Counsel: Donald J. McConnell, Esq., Environmental Counsel
The Sherwin-Williams Company

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Mr. Robert L. Ball, President
Alcan Aluminum Corporation
100 Erieview Plaza, 29th Floor
Cleveland, OH 44114

Counsel: Lawrence A. Salibra II, Esq., Senior Counsel
Alcan Aluminum Corporation
6060 Parkland Blvd.
Mayfield Hts., Ohio 44124

Mr. David J. D'Antoni, President
Ashland Chemical Company
P.O. Box 2219
Columbus, OH 43216

Counsel: Stephen W. Leermakers, Esq., Senior Litigation Counsel
Ashland Chemical Company
5200 Blazer Parkway
Dublin, Ohio 43017

Mr. Richard J. Mahoney, Chief Executive
Monsanto Company
800 N. Lindbergh Blvd.
St. Louis, MO 63167

Counsel: Peter H. Smith, Esq., Assistant Environmental Counsel
Monsanto Company

Mr. Maurice C. Workman, President
Benjamin Moore & Co.
51 Chestnut Ridge Road
Montvale, New Jersey 07645

Counsel: John T. Rafferty, Esq., General Counsel
Benjamin Moore & Co.

Mr. Edgar S. Woolard, Jr., Chairman
E.I. du Pont de Nemours and Company
1007 Market Street
Wilmington, Delaware 19898

Counsel: Bernard J. Reilly, Esq., Corporate Counsel
E.I. du Pont de Nemours and Company

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

SEP 15 2003

**GENERAL NOTICE LETTER
CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Richard Mahoney, CEO
Monsanto Company
800 N. Lindbergh Blvd.
St. Louis, Missouri 63167

RE: Diamond Alkali Superfund Site
Notice of Potential Liability for
Response Actions in the Lower Passaic River, New Jersey

Dear Mr. Mahoney:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release and/or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601 et seq.

You received a letter from EPA, dated April 26, 1996, notifying Monsanto Company ("Monsanto") of its potential liability relating to the Passaic River Study Area, which is part of the Diamond Alkali Superfund Site ("Site") located in Newark, New Jersey, pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a). Under CERCLA, potentially responsible parties ("PRPs") include current and past owners of a facility, as well as persons who arranged for the disposal or treatment of hazardous substances at the Site, or the transport of hazardous substances to the Site. Accordingly, EPA is seeking your cooperation in an innovative approach to environmental remediation and restoration activities for the Lower Passaic River.

EPA has documented the release or threatened release of hazardous substances, pollutants and contaminants into the six-mile stretch of the river, known as the Passaic River Study Area, which is part of the Site located in Newark, New Jersey. Based on the results of previous CERCLA remedial investigation activities and other environmental studies, including a reconnaissance study of the Passaic River conducted by the United States Army Corps of Engineers ("USACE"), EPA has further determined that contaminated sediments and other potential sources of hazardous substances exist along the entire 17-mile tidal reach of the Lower Passaic River. Thus, EPA has decided to expand the Study to include the areal extent of contamination to which hazardous substances from the six-mile stretch were transported; and those sources from which hazardous substances outside the six-mile stretch have come to be located within the expanded Study Area.

Internet Address (URL) • <http://www.epa.gov>

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In recognition of our complementary roles, EPA has formed a partnership with USACE and the New Jersey Department of Transportation-Office of Maritime Resources ("OMR") ["the governmental partnership"] to identify and to address water quality improvement, remediation, and restoration opportunities in the 17-mile Lower Passaic River. This governmental partnership is consistent with a national Memorandum of Understanding ("MOU") executed on July 2, 2002 between EPA and USACE. This MOU calls for the two agencies to cooperate, where appropriate, on environmental remediation and restoration of degraded urban rivers and related resources. In agreeing to implement the MOU, the EPA and USACE will use their existing statutory and regulatory authorities in a coordinated manner. These authorities for EPA include CERCLA, the Clean Water Act, and the Resource Conservation and Recovery Act. The USACE's authority stems from the Water Resources Development Act ("WRDA"). WRDA allows for the use of some federal funds to pay for a portion of the USACE's approved projects related to ecosystem restoration.

For the first phase of the Lower Passaic River Project, the governmental partners are proceeding with an integrated five- to seven-year study to determine an appropriate remediation and restoration plan for the river. The study will involve investigation of environmental impacts and pollution sources, as well as evaluation of alternative actions, leading to recommendations of environmental remediation and restoration activities. This study is being conducted by EPA under the authority of CERCLA and by USACE and OMR, as local sponsor, under WRDA. EPA, USACE, and OMR are coordinating with the New Jersey Department of Environmental Protection and the Federal and State Natural Resource Trustee agencies. EPA, USACE, and OMR estimate that the study will cost approximately \$20 million, with the WRDA and CERCLA shares being about \$10 million each. EPA will be seeking its share of the costs of the study from PRPs.

Based on information that EPA evaluated during the course of its investigation of the Site, EPA believes that hazardous substances were being released from the Monsanto facility located at the Foot of Pennsylvania Avenue in Kearny, New Jersey, into the Lower Passaic River. Hazardous substances, pollutants and contaminants released from the facility into the river present a risk to the environment and the humans who may ingest contaminated fish and shellfish. Therefore, Monsanto may be potentially liable for response costs which the government may incur relating to the study of the Lower Passaic River. In addition, responsible parties may be required to pay damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

Enclosed is a list of the other PRPs who have received Notice letters. This list represents EPA's findings on the identities of PRPs to date. We are continuing efforts to locate additional PRPs who have released hazardous substances, directly or indirectly, into the Passaic River. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site. Be advised that notice of your potential liability at the Site is being forwarded to all parties on this list.

We request that you consider becoming a "cooperating party" for the Lower Passaic River

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Project. As a cooperating party, you, along with many other such parties, will be expected to fund EPA's share of the study costs. Upon completion of the study, it is expected that CERCLA and WRDA processes will be used to identify the required remediation and restoration programs, as well as the assignment of remediation and restoration costs. At this time, the commitments of the cooperating parties will apply only to the study. For those who choose not to cooperate, EPA may apply the CERCLA enforcement process, pursuant to Sections 106 (a) and 107(a) of CERCLA, 42 U.S.C. §9606(a) and §9607(a) and other laws.

Pursuant to CERCLA Section 113(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this Site are located at EPA's Region 2 office (290 Broadway, New York) on the 18th floor. You may call the Records Center at (212) 637-4308 to make an appointment to view the administrative record for the Lower Passaic River Project.

EPA will be holding a meeting with all PRPs on October 29, 2003 at 10:00 AM in Conference Room 27A at the Region 2 office. At that meeting, EPA will provide information about the actions taken to date in the Lower Passaic River, as well as plans for future activities. After the presentation, PRPs will be given the opportunity to caucus, and EPA will return to answer any questions that might be generated during the private session. Please be advised that due to increased security measures, all visitors need to be registered with the security desk in the lobby in order to gain entry to the office. In order to ensure a smooth arrival, you will need to provide EPA with a list of attendees no later than October 15, 2003.

EPA recommends that the cooperating parties select a steering committee to represent the group's interest as soon as possible, since EPA expects a funding commitment for the financing of the CERCLA share of the \$20 million study by mid-November 2003. If you wish to discuss this further, please contact Ms. Alice Yeh, Remedial Project Manager, at (212) 637-4427 or Ms. Kedari Reddy, Assistant Regional Counsel, at (212) 637-3106. Please note that all communications from attorneys should be directed to Ms. Reddy.

Sincerely yours,



George Pavlou, Director
Emergency and Remedial Response Division

Enclosure

cc: L. William Higley, Esq.
Monsanto Company

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