

**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 16-2-29591-6 SEA
	)	
MONSANTO COMPANY, et al.,	)	
	)	
Defendants.	)	
_____	)	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is entered into as of this 24th day of June, 2020, by and among Plaintiff the State of Washington, by its Attorney General, and Defendant (collectively, “the Parties”) to settle and compromise the Action and to discharge the Released Persons as set forth herein.

**I.    DEFINITIONS**

1.    As used in this Settlement Agreement, the following terms shall have the defined meanings set forth below.
2.    “Action” means the case captioned *State of Washington v. Monsanto Co., et al.*, Case No. 16-2-29591-6 SEA, filed in the Superior Court of King County, Washington.
3.    “CERCLA” means the federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*
4.    “Court” means the Superior Court of King County, Washington.
5.    “Defendant” means Monsanto Company, Solutia Inc., Pharmacia Corporation, and Pharmacia LLC (the former Monsanto Company), including each and all, direct or indirect, predecessors, successors (including but not limited to successors by merger or acquisition), parents

(including intermediate parents and ultimate parents), subsidiaries, affiliated or related companies, divisions, partnerships, and joint ventures; and any officer, director, member, shareholder, employee, partner, trustee, representative, agent, servant, insurer, attorney, predecessor, successor, or assignee of any of the above.

6. “Effective Date” means the date on which the last Party executes this Settlement Agreement.

7. “Facility” has the meaning ascribed to it in CERCLA and MTCA.

8. “KCLCR” means the Local Civil Rules of the King County, Washington Superior Court.

9. “MTCA” means the Washington Model Toxics Control Act, RCW Chapter 70.105D.

10. “Parties” means Plaintiff and Defendant.

11. “PCBs” means polychlorinated biphenyls.

12. “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, business, legal entity, government or any political subdivision or agency thereof.

13. “Plaintiff” or “State” means the State of Washington.

14. “Regulatory Action” means any instance in which the State has provided as of the Effective Date, or in the future provides, written notice to Defendant of potential liability for response costs under CERCLA or MTCA with respect to a Facility.

15. “Released Claims” means all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, and causes of action of every nature and description whatsoever, ascertained or unascertained, suspected or unsuspected, existing now or arising in the

future, whether known or unknown, both at law and in equity, which were or could have been alleged related to the manufacture, sale, testing, disposal, release, marketing or management of PCBs by Defendant, including but not limited to any and all claims based upon or related to the alleged presence of or damage caused by PCBs in the environment, groundwater, stormwater, stormwater and wastewater drainage systems, waterbodies, sediment, soil, air, vapor, natural resources, fish and/or wildlife within the State, and regardless of the legal theory or type or nature of damages claimed; provided, however, that nothing in this Settlement Agreement will preclude any Regulatory Action brought by the State—in conjunction with or separate from other parties—seeking response costs under CERCLA or MTCA and applicable regulations related to Defendant’s discharge or disposal of PCBs. “Released Claims” also include any claim for attorneys’ fees, expenses, and costs under state or federal law.

16. “Released Persons” means Defendant and any Affiliate of Defendant, including but not limited to Bayer AG, Pfizer Inc., and Eastman Chemical Company. “Affiliate” under this Settlement means each and all, direct or indirect, predecessors, successors (including but not limited to successors by merger or acquisition), parents (including intermediate parents and ultimate parents), subsidiaries, affiliated or related companies, divisions, partnerships, and joint ventures; and any officer, director, shareholder, employee, partner, trustee, representative, agent, servant, insurer, attorney, predecessor, successor, or assignee of any of the above.

17. “Releasing Persons” shall mean the State of Washington, and each of its officers acting in their official capacities, agencies, departments, boards, and commissions and any predecessor, successor or assignee of any of the above.

18. “Settlement” means the settlement set forth in this Settlement Agreement.

19. “Settlement Agreement” or “Agreement” means this document which describes the Settlement.

20. “Settlement Funds” means the amount to be paid by Monsanto, on behalf of the entities described in Paragraphs 5 and 16, to the State pursuant to Section III, below.

## **II. REQUIRED EVENTS**

21. By June 24, 2020, and in accordance with KCLCR 41(e)(1) and KCLCR 41(e)(3), the Parties shall jointly file a Notice of Settlement with the Court.

## **III. PAYMENT OF SETTLEMENT FUNDS**

22. Within sixty (60) days of the Effective Date, Monsanto, on behalf of the entities described in Paragraphs 5 and 16, agrees to pay to the State, as full and final settlement of the Action, the sum of ninety-five million dollars (\$95,000,000.00).

## **IV. RELEASES AND COVENANT NOT TO SUE**

23. In exchange for the payment of Settlement Funds, the Releasing Persons hereby fully and finally release and discharge the Released Persons, and each of them, from the Released Claims.

24. Additionally, the Releasing Persons hereby covenant not to sue or take any other civil or administrative action against any Released Person for any Released Claim.

25. The Released Persons are entitled to protection from contribution and/or indemnity actions or claims to the fullest extent provided or allowable under any provision of applicable federal, state, or local law, including but not limited to CERCLA § 113(f)(2), 42 U.S.C. § 9613(f)(2); MTCA, RCW 70.105D.040; and RCW 4.22.060, for the Released Claims.

26. The Parties agree and acknowledge that the amount of the Settlement Funds is reasonable as of the Effective Date.

27. Defendant releases any claim arising from PCB contamination, regardless of legal theory or type or nature of damages claimed, that it has alleged or could allege against the State; provided, however, that nothing in this Settlement Agreement shall preclude any claims by Defendant against the State or a State agency for response costs or remedial action costs incurred in connection with or relating to the Lower Duwamish Waterway Superfund Site.

#### **V. DISMISSAL**

28. No later than ten (10) days following the State's receipt of the Settlement Funds, the Parties shall file with the Court a joint stipulation of voluntary dismissal of the Action, with prejudice and without costs, under State of Washington Civil Rule 41(a)(1)(A).

#### **VI. MISCELLANEOUS PROVISIONS**

29. The Settlement Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Agreement, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as an admission of: (a) the validity of any claim or allegation by Plaintiff, or of any defense asserted by Defendant in the Action; or (b) any wrongdoing, fault, violation of law, or liability of any kind on the part of any Defendant or Released Person.

30. In the event that this Agreement does not become effective for any reason, this Agreement shall become null and void and of no further force and effect. In such instance, this Agreement and any negotiations, statements, communications, proceedings, and pleadings relating thereto, and the fact that the Parties agreed to the Agreement, shall be without prejudice to the rights of Plaintiff or Defendant, shall not be used for any purpose whatsoever in any subsequent proceeding in this Action or in any other action in any court or tribunal, and shall not be construed as an admission or concession by any party of any fact, matter, or allegation. In the event that this

Agreement does not become effective, Plaintiff and Defendant shall be restored without prejudice to their respective positions as if the Agreement had not been made.

31. If any part of this Agreement shall be found or held to be invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Agreement.

32. Each Party shall bear its own attorneys' and expert fees and costs.

33. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), payment of the Settlement Funds pursuant to Section III of this Settlement Agreement is restitution or for remediation of property or both.

34. This Settlement Agreement represents the complete agreement as to each and every term agreed to by and among Plaintiff and Defendant. The Settlement contemplated by this Agreement is not subject to any condition not expressly provided for herein, and there exist no collateral or oral agreements relating to the subject matter of the Agreement. In entering into this Settlement Agreement, no Party has made or relied on any warranty, promise, inducement or representation not specifically set forth herein.

35. This Agreement may be amended or modified only by written agreement of the Parties.

36. The Parties agree that Washington law applies to the interpretation of this Agreement.

37. This Settlement Agreement shall be binding according to its terms upon, and inure to the benefit of Plaintiff and Defendant, and their respective agents, successors, and assigns.

38. The failure of Plaintiff or Defendant to exercise any rights under this Agreement shall not be deemed a waiver of any right or any future rights.

39. The headings in this Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

40. None of the Parties shall be considered to be the primary drafter of this Settlement Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

41. The undersigned representatives of the Parties certify that they are fully authorized to enter into and execute this Settlement Agreement and to bind that Party on whose behalf they are signing.

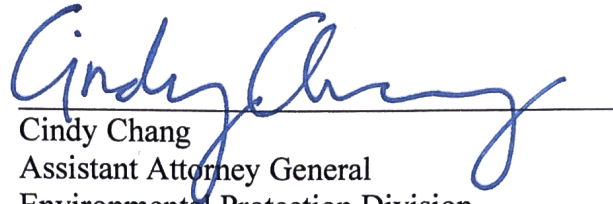
42. This Settlement Agreement may be executed in counterparts, and the execution of counterparts shall have the same effect as if all Parties had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date signed, although the original signature dates shall thereafter be appended to the Settlement Agreement.

IN WITNESS THEREOF, the Parties have executed this Settlement Agreement as of the dates set forth below.

For the State of Washington:

DATED: 6/24/20

ROBERT W. FERGUSON  
Attorney General



Cindy Chang  
Assistant Attorney General  
Environmental Protection Division  
Washington State Attorney General's Office  
800 5th Avenue, Suite 2000, TB-14  
Seattle, WA 98104-3188



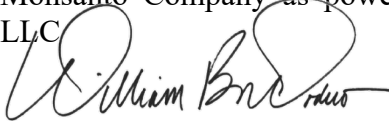
DATED: June 24, 2020

Monsanto Company  


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William B. Dodero  
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Monsanto Company as power of attorney for Pharmacia  
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