

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH**

STATE OF OREGON, by and through Ellen
F. Rosenblum, Attorney General for the
STATE OF OREGON

Plaintiff,

v.

MONSANTO COMPANY, SOLUTIA, INC.,
PHARMACIA LLC, and Does 1-10

Defendants.

Case No. 18 CV00540

Honorable Benjamin Souede

FILED
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4th JUDICIAL DIST.

CONSENT GENERAL JUDGMENT

WHEREAS, Plaintiff, the State of Oregon, by its Attorney General, in this Action asserts various claims against Defendant (as defined herein) on Plaintiff's own behalf and acting in its *parens patriae* capacity on behalf of its citizens for alleged environmental impairments related to PCBs, including alleged natural resource damages and impairments to waterbodies and other natural resources;

WHEREAS, the Plaintiff and Defendant (collectively, the "Parties") have agreed to resolve their claims without the need for further litigation and agree to entry of this Consent General Judgment without trial or adjudication of any issue of fact or law, and to waive any appeal if the Consent General Judgment is entered by the Court as submitted by the Parties;

WHEREAS, Defendant, by entering into this Consent General Judgment, does not admit any allegations in the Complaint or to any wrongdoing, fault, violation of law, or liability of any kind on the part of any Defendant;

WHEREAS, the Parties discussed financial terms for payment of \$800 million over an extended number of years, but have now agreed instead to the single immediate payment of \$698 million referenced below;

WHEREAS, the Settlement Funds will be directed at environmental remediation or restitution projects as determined by the State in its sole discretion as provided herein related to restoring, maintaining and enhancing the quality of Oregon's air, land, water and other natural resources, and for payment of costs and expenses associated with the Action, including attorney's fees and other litigation expenses;

AND WHEREAS, the intention of the State in effecting this settlement is to fully and finally resolve the State's claims against Defendant as provided herein.

NOW, THEREFORE, without trial or adjudication of issues of fact or law, without this Consent General Judgment constituting evidence against Defendant or the State, and upon stipulation and consent of Defendant and the State, the Court finds that there is good and sufficient cause to enter this Consent General Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

DEFINITIONS

1. As used in this Consent General Judgment, in addition to terms otherwise defined, the following terms shall have the defined meanings set forth below.
2. "Action" means the case captioned *State of Oregon v. Monsanto Company, et al.*, Case No. 81CV00540, filed in the Circuit Court of Oregon, Multnomah County.
3. "CERCLA" means the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*
4. "Claim" means all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, and causes of action of every nature and description whatsoever, including

civil penalties, punitive damages (including the State's share of punitive damage awards pursuant to ORS § 31.735), attorney's fees, expert witness fees, expenses, and costs, whether ascertained or unascertained, suspected or unsuspected, existing now or arising in the future, known or unknown, both at law and in equity, on any theory whatever, whether legal, equitable, statutory, or regulatory, and regardless of the type or nature of damages claimed.

5. "Court" means the Multnomah County Circuit Court.

6. "Defendant" means Monsanto Company, Solutia, Inc., and Pharmacia LLC ("Old Monsanto Company"). Monsanto Company is an indirect wholly owned subsidiary of BCS US Holding, LLC, which is an indirect subsidiary of Bayer Corporation, a wholly owned indirect subsidiary of Bayer AG.

7. "Effective Date" means the date of entry of this Consent General Judgment in the register of the Court.

8. "PCBs" means polychlorinated biphenyls and any products that intentionally contain polychlorinated biphenyls, including any substance found in such products where such substance was released along with polychlorinated biphenyls, and any substances into which any of the foregoing were transformed through weathering, heating, degradation, or other chemical process.

9. "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.

10. "Plaintiff" or "State" means the State of Oregon.

11. "Released Claims" means all Claims arising out of or related to, directly or indirectly, the Defendant's manufacture, sale, distribution, testing, or marketing of PCBs, or the disposal or release of such PCBs, or damages caused by any of the above. "Released Claims" shall not include, and nothing in this Consent General Judgment will preclude: (a) liabilities under CERCLA or under

ORS § 465.255(1)(a), (b), or (c) for a Released Person's or Releasing Person's release, if any, of PCBs at or to the Portland Harbor Superfund Site, or at or from the Rhone-Poulenc site listed as ECSI Site ID 155; (b) the right of any city, county or other political subdivision or public entity within Oregon that is and remains a member of the settlement class in *City of Long Beach v. Monsanto Company et al.*, No. 2:16-cv-03493-FMO-AS (C.D. Cal.), to participate in and obtain its designated recovery under the class settlement approved by the court in that case; or (c) any Claim or action for breach of the obligations of this Consent General Judgment.

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

13. "Releasing Persons" means:

(i) the State, including 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; and

(ii) all cities, counties, and other political subdivisions and public entities within Oregon, including special districts, and all Persons or entities to the extent they are bringing a Claim in a private attorney general or *parens patriae* capacity (each of the foregoing set forth in this Paragraph 13(ii), a "Potential Claimant"), to the extent that the State Attorney General has the authority to release a Claim of the Potential Claimant without its prior written consent.

14. "Settlement Funds" is defined in Paragraph 17 below.

15. Nothing in this Consent General Judgment constitutes an admission or waives any arguments made by the Parties or the state agencies in this Action or other proceedings with respect to the extent or scope of the powers and authorities of, respectively, the Attorney General's Office, the Governor's Office, or the State proceeding in the State's capacity as *parens patriae*.

I. JURISDICTION AND VENUE

16. Defendant stipulates to the personal jurisdiction, subject matter jurisdiction, and venue of this Court for the purposes of the entry, modification and enforcement of this Consent General Judgment.

II. PAYMENT OF SETTLEMENT FUNDS

17. Monsanto Company, on behalf of Pharmacia LLC ("Old Monsanto Company") and Solutia, Inc. (pursuant to an indemnity agreement between Monsanto Company and Solutia, Inc.), as full and final settlement of the Action, shall pay the State the sum of Six Hundred Eighty-Eight Million US Dollars (\$688,000,000) (the "Remaining Funds") in the manner provided in this Paragraph 17, which sum reflects a credit equal to Ten Million US Dollars (\$10,000,000) for non-refundable amounts previously paid by Monsanto Company to the State for a total amount to be paid to the State under this Consent General Judgment of Six Hundred Ninety-Eight Million US Dollars (\$698,000,000) (the "Settlement Funds"). If Monsanto Company fails to pay the full amount due as provided under this Paragraph 17, any unpaid amount shall bear interest from the date that is ten (10) days after the date due at the statutory post-judgment interest rate of nine percent per annum (9%) from the date due until paid.

If no appeal has been taken to the Court's entry of this Consent General Judgment, Monsanto will pay to the State the Remaining Funds thirty-one (31) days after the Effective Date in the manner set forth in Paragraph 19.

In the unlikely event that one or more appeals to the Court's entry of this Consent General Judgment is timely filed before the 31st day following the Effective Date (each, a "Timely Appeal"), then Monsanto will hold the Remaining Funds until the date that all Timely Appeals are resolved and the time for further appeal or review of such Timely Appeals has expired (the "Appeals Resolution Date"). If all Timely Appeals are resolved as of the Appeals Resolution Date in a manner that affirms the entry of this Consent General Judgment, then Monsanto will pay the Remaining Funds to the State within thirty (30) days of the Appeals Resolution Date, together with interest thereon determined in accordance with Exhibit A attached hereto for the period commencing on the 32nd day after the Court's entry of this Consent General Judgment through the date of Monsanto's payment of the Remaining Funds to the State. If the resolution of one or more Timely Appeals as of the Appeals Resolution Date has the effect of reversing or modifying the terms of this Consent General Judgment without the consent of the Parties, then Monsanto shall retain the Remaining Funds, and the effect of, and the Parties' rights and obligations under, this Consent General Judgment shall be as set forth in Paragraph 25.

18. The State agrees that, except for the portion thereof used to pay costs and expenses associated with the Action, including attorney's fees, expert fees and other litigation expenses (collectively "Costs and Expenses"), the Settlement Funds will be used for environmental remediation or restitutionary projects or environmental remediation or restitutionary purposes having a nexus or connection with the types of environmental harm alleged by the State (i.e., harm to air, water, soil, or natural resources) as determined by the State in its sole discretion. Such environmental remediation or restitutionary projects or purposes include restoring, maintaining and enhancing the quality of Oregon's air, land, water and other natural resources and will consist of projects having a nexus or connection with brownfields remediation or redevelopment, environmental or natural resource damage assessment or restoration, improvements to air and water

quality, cleanup of contaminated sites, remediation of impaired waterbodies, sediments, or soil, or restoration or protection of wildlife or wildlife habitats, including fish, aquatic life, marine mammal, or bird habitats, but may also include at the State's sole discretion other similar air, water, soil, or natural resource environmental remediation or restitutionary projects or purposes within the scope of the projects and purposes described above.

19. Payment of the Settlement Funds due under Paragraph 17 shall be made by electronic funds transfer pursuant to signed wiring instructions to be provided by the State Attorney General's Office.

III. RELEASES AND COVENANT NOT TO SUE

20. In exchange for the payment of the Remaining Funds to the State, (i) the Releasing Persons hereby fully and finally release and discharge the Released Persons, and each of them, from the Released Claims, (ii) the Releasing Persons hereby covenant not to sue or take any other civil or administrative action against any Released Person for any Released Claim, and (iii) the Releasing Persons' releases of the Released Persons from, and the Releasing Persons' covenant not to sue the Released Persons for, the Released Claims will constitute a dismissal of the Action with prejudice. In addition, as of the Effective Date the Releasing Persons hereby covenant not to sue or take any other civil or administrative action against any Released Person for any Released Claim; provided that the covenant not to sue or take other action effective as of the Effective Date shall be null and void and of no further force and effect (x) if this Consent General Judgment becomes null and void under the terms of Paragraph 25, or (y) upon Monsanto Company's failure to pay the Remaining Funds in accordance with this Consent General Judgment.

21. In the event the State (including any of its officers acting in their official capacities, agencies, departments, boards, or commissions) asserts a Claim against a Person who is not a Released Person and the Claim would be a Released Claim if asserted against a Released Person (a

“Third Person Claim”), the Released Persons are entitled to protection against contribution and/or indemnity actions or other claims asserted against them by such Person relating to such Third Person Claim to the fullest extent provided or allowable under any provision of federal, state, or local law, including but not limited to CERCLA § 113(f)(2), 42 U.S.C. § 9613(f)(2), ORS § 465.257, and ORS § 31.815, for the matters addressed in this Consent General Judgment and for all Released Claims. Among other things, the Parties agree, and the Court finds, that this Consent General Judgment constitutes a good-faith settlement and covenant not to sue within the meaning of ORS § 31.815, that it entitles the Released Persons to the protection of ORS § 31.815(1)(b), and that the State will give the notice described in ORS § 31.815(2) to any Person against whom the State asserts a Third Person Claim.

22. This Consent General Judgment is not intended to and does not release any claims the State may hold against any Person who is not a Released Person, and nothing in this Consent General Judgment shall prevent the State from asserting any Third Person Claim; provided, however, that the State will, as part of any settlement of any Third Person Claim, obtain a release from the defendant or defendants in the Third Person Claim, for the benefit of the Released Persons, of any claim for contribution or indemnification or other claim-over arising from or related to any Third Person Claim settled or released by the State in such settlement; provided that if State fails to obtain any release required by this Paragraph 22 with respect to a Third Person Claim, the State shall be liable only to Monsanto, and not any other Released Person, for such failure, and Monsanto’s recovery of any damages for such failure may not exceed the amount awarded in damages to be paid by Defendant to the defendant or defendants in the Third Person Claim.

23. The Parties agree and acknowledge, and the Court finds, that this Consent General Judgment was entered into in good faith and the amount of the Settlement Funds provided for in Paragraph 17 is reasonable as of the Effective Date.

24. Defendant releases the State and its officers, employees, agents, and attorneys from the Released Claims of Defendant, if any, arising from or relating to the Action, other than a Claim, if any, arising from or related to an alleged breach of this Consent General Judgment

IV. OTHER TERMS

25. If (i) the Court does not enter this Consent General Judgment without modification (unless such modification is acceptable to both the State and Defendant in their individual discretion), or (ii) if the Court's entry of this Consent General Judgment is reversed or modified without the consent of the Parties, or (iii) any insolvency, state proceedings for dissolution or winding up, or any proceedings under Title 11 of the United States Code is commenced for Monsanto Company prior to payment in full of the Remaining Funds, or (iv) in any insolvency, state proceedings for dissolution or winding up, or any proceedings under Title 11 of the United States Code that is commenced for Monsanto Company an order or judgment for avoidance or recovery of the Remaining Funds is entered and becomes final and no longer appealable or reviewable and any Remaining Funds paid to the State have been returned pursuant to such order or judgment, this Consent General Judgment shall become null and void and of no further force and effect. In such instance, this Consent General Judgment and any negotiations, statements, communications, proceedings, and pleadings relating thereto, and the fact that the Parties agreed to the Consent General Judgment, 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 Consent General Judgment does not become effective, or becomes null and void, Plaintiff and Defendant shall be restored without prejudice to their respective positions as if this Consent General Judgment had not been agreed upon or entered.

26. Each Party to this litigation shall bear its own attorney's and expert fees and costs.

27. 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 II of this Consent General Judgment, except for the portion thereof used to pay Costs and Expenses, is restitution or for remediation of property or both. The State agrees to file any returns required by the Internal Revenue Service or other tax authorities reporting on payment of the Settlement Funds consistent with this Paragraph 27.

28. This Consent General Judgment represents the complete agreement as to each and every term agreed to by and among the Plaintiff and Defendant and supersedes (i) all prior agreements and understandings relating to the subject matter hereof, whether written or oral, and (ii) all purportedly contemporaneous oral agreements and understandings relating to such subject matter. The settlement contemplated by this Consent General Judgment is not subject to any condition not expressly provided for herein. In entering into this Consent General Judgment, no Party has made or relied on any warranty, promise, inducement or representation not specifically set forth herein. Neither Party will disclose any prior agreement or understanding (or draft thereof) relating to the subject matter hereof except pursuant to valid legal process or when required by a court of competent jurisdiction and, unless prohibited by valid legal process or such court, each Party will give the other Party reasonable notice and opportunity to object if a request for disclosure of any such material is made pursuant to legal process or if a court requires disclosure.

29. The provisions of this Consent General Judgment shall be construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles.

30. This Consent General Judgment shall be binding according to its terms upon, and inure to the benefit of, Plaintiff and Defendant, and shall not give any legal or equitable right, remedy, or claim to any other Person, provided, however, that the release and covenant not to sue set forth in Paragraph 20 and the requirements of Paragraphs 21 and 22 shall be enforceable by the Released Persons. This Consent General Judgment does not limit the rights of any private party to

pursue any private remedies allowed by law; provided that this Consent General Judgment is not intended to create any private right of action by other parties.

31. The failure of Plaintiff or Defendant to exercise any rights under this Consent General Judgment shall not be deemed a waiver of any right or any future rights.

32. The headings in this Consent General Judgment are for the convenience of the reader only and shall not affect the meaning or interpretation of this Consent General Judgment.

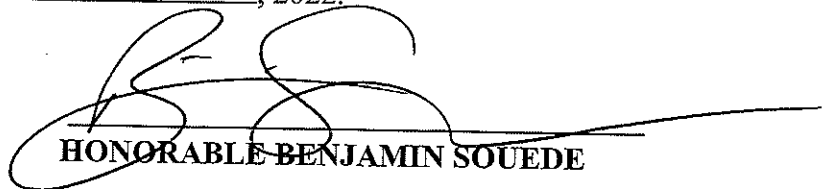
33. None of the Parties shall be considered to be the primary drafter of this Consent General Judgment or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

34. The undersigned representatives of the Parties certify that they are fully authorized to enter into and execute this Consent General Judgment and to bind that Party on whose behalf they are signing.

35. Neither the fact of, nor any provision contained in, this Consent General Judgment, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as an admission of (i) the validity of any claim or allegation by Plaintiff, or of any defense asserted by Defendant in the Action; or (ii) any wrongdoing, fault, violation of law, or liability of any kind on the part of any Defendant or Released Person.

36. This Court retains jurisdiction of this Consent General Judgment to enforce its terms. The Parties may jointly seek to modify the terms of this Consent General Judgment, subject to the approval of the Court. This Consent General Judgment may be modified only by order of this Court.

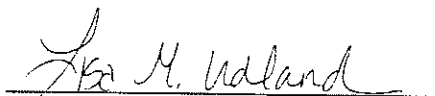
SO ORDERED this 15th day of December, 2022.


HONORABLE BENJAMIN SOUEDE

APPROVED AND AGREED TO BY:

OREGON ATTORNEY GENERAL

Ellen F. Rosenblum



Lisa Udland

Deputy Attorney General

Oregon Department of Justice

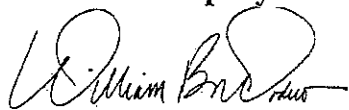
100 SW Market Street

Portland, OR 97201

Date: 12/12/22

On behalf of the State

Monsanto Company



Date: December 9, 2022

William B. Dodero
Vice President & Assistant General Counsel
Global Head Litigation
Bayer U.S. LLC
100 Bayer Boulevard
Whippany, NJ 07981
United States

Monsanto Company as power of attorney for Pharmacia LLC



Date: December 9, 2022

William B. Dodero
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United States

Monsanto Company as power of attorney for Solutia, Inc.



Date: December 9, 2022

William B. Dodero
Vice President & Assistant General Counsel
Global Head Litigation
Bayer U.S. LLC
100 Bayer Boulevard
Whippany, NJ 07981
United States

Exhibit A

In the event payment of the Remaining Funds is not due under Paragraph 17 until later than the 31st day after the Effective Date, the interest applicable to the Remaining Funds for the period commencing on the 32nd day after the Effective Date through the date of Monsanto's payment of the Remaining Funds to the State will be an annual rate equal to the average daily Secured Overnight Financing Rate ("SOFR") for the days beginning with the 32nd date after the Effective Date through the day prior to the date on which payment of the Remaining Funds is due under Paragraph 17 (or the day on which such funds are paid, if earlier than the day on which they are due).

Example: Assume the Remaining Funds are due and paid on the 91st day after the Effective Date, and that during the 59-day period from the 32nd to the 90th day after the Effective Date daily SOFR is 3% for 25 days, 3.5% for 20 days, and 4% for 14 days. The interest on the Remaining Funds would be an annual rate of 3.407% (i.e., the average daily SOFR for that period) and the actual interest owed on the Remaining Funds would be 0.560% (i.e., the 3.407% annual rate times 60/365, to reflect the portion of a year for which payment was not due subsequent to the 31st day after the Effective Date).