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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

UNITED STATES OF AMERICA and STATE OF CALIFORNIA, Plaintiffs, v. MONTROSE CHEMICAL CORPORATION OF CALIFORNIA, et al., Defendants. AND RELATED COUNTER, CROSS, AND THIRD PARTY ACTIONS.	NO. CV 90-3122-~~AAH~~ R (JRx) THIRD AMENDED COMPLAINT FOR NATURAL RESOURCE DAMAGES, RESPONSE COSTS AND DECLARATORY RELIEF UNDER 42 U.S.C. § 9607(a)

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The United States of America, by authority of the Attorney General of the United States at the request and on behalf of the Secretary of Commerce and the Secretary of the Interior and on behalf of the public as trustees for natural resources under their trusteeship, and at the request and on behalf of the Administrator of the Environmental Protection Agency ("EPA"), and the State of California ("State"), on behalf of the Department of Fish and Game, State Lands Commission, and Department of Parks and Recreation on behalf of the public as trustees for the natural resources of the State of California and on behalf of the State of California Department of Toxic Substances Control ("DTSC"), allege:

NATURE OF THE ACTION

1. This is a civil action brought under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. § 9607(a). In the First Claim for Relief, the United States and the State seek on behalf of the public pursuant to Section 107(a) and (f) of CERCLA, 42 U.S.C. § 9607(a) and (f), declaratory relief and recovery of response costs and damages for injury to, destruction of or loss of natural resources under their trusteeships resulting from releases of hazardous substances into the environment in and around Los Angeles, California, including those parts of the San Pedro Channel area in the vicinity of the Palos Verdes Peninsula ("the Palos Verdes Shelf"), the Los Angeles-Long Beach Harbors and the environs of Santa Catalina Island and the Channel Islands.

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2. In the Second Claim for Relief, the United States, at the request and on behalf of the Administrator of EPA, and the State, at the request of DTSC, under Section 107(a)(1-4)(A) of CERCLA, 42 U.S.C. § 9607(a)(1-4)(A), seek recovery of costs incurred and to be incurred by the United States and the State in response to the release or threatened release of hazardous substances into the environment at and from the Montrose Chemical Corporation of California plant ("Montrose DDT Plant") formerly located at 20201 South Normandie Avenue, Los Angeles, California ("Montrose Plant Property"), and property and locations in the vicinity of the Montrose DDT Plant and Montrose Plant Property, where hazardous substances have come to be located, which includes at least: groundwater areas impacted by hazardous substances from the former operations at the Montrose DDT Plant; other nearby commercial and residential land where releases of hazardous substances from the Montrose DDT Plant and Property have come to be located; surface water drainage areas downstream of the Montrose DDT Plant, including the Kenwood Drain, the Torrance Lateral, the Dominguez Channel, and terminating at the downgradient extremity of the Consolidated Slip; two Los Angeles County Sanitation District sewer lines referred to as the J.O. "D" line and the District 5 Interceptor from the immediate vicinity of the Montrose DDT Plant and Property continuing downgradient and terminating at the entrance to the Joint Water Pollution Control Plant; and the environment at the Palos Verdes Shelf. In addition, the Second Claim for Relief seeks recovery of the costs incurred and to be incurred by the United States and the State in response to the release or threatened release of hazardous substances, including PCBs from the Westinghouse

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Electric Company plant, into the environment at, and from, marine sediments at the Palos Verdes Shelf.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331(a) and 1345.

4. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c), because the releases of hazardous substances into the environment alleged in this action have occurred from facilities located in this judicial district.

DEFENDANTS

5. Defendant Montrose Chemical Corporation of California ("Montrose"), a corporation incorporated under the laws of the State of Delaware, operated the Montrose DDT Plant, at the Montrose Plant Property. At that location, Montrose engaged in the manufacture of dichloro-diphenyl-trichloroethane ("DDT") and the formulation of DDT-based products during the period from 1947 until 1982.

6. Defendant Chris-Craft Industries, Inc.("Chris-Craft"), a corporation incorporated under the laws of the State of Delaware, is the successor by merger to Baldwin-Montrose Chemical Company, Inc. ("Baldwin-Montrose"), which was the successor by merger to Montrose Chemical Company of New Jersey. Montrose Chemical Company of New Jersey and Stauffer Chemical Company ("Stauffer Chemical") formed Montrose in 1946, with each company holding 50 percent of the stock of Montrose. Chris-Craft and its predecessor companies, Baldwin-Montrose and Montrose Chemical Company of New Jersey, actively participated with Montrose and

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Stauffer Chemical in the operation of the Montrose DDT Plant during its period of operation.

7. Defendant Rhone-Poulenc, Inc. ("Rhone-Poulenc") is a corporation incorporated under the laws of the State of Delaware. Rhone-Poulenc, through its ownership of Rhone-Poulenc Basic Chemicals Company, now a division of Rhone-Poulenc, is the corporate successor to Stauffer Chemical, which from 1943 to 1987 held title to the Montrose Plant Property, including the entire period during which Montrose operated its DDT Plant at that location. The title to that land was transferred in 1987 from Stauffer Chemical to Atkemix Thirty-Seven, Inc. ("Atkemix"). Stauffer Chemical also held fifty percent of the stock in Montrose from the inception of Montrose in 1946 until 1987, and actively participated with Montrose and Chris-Craft in the operation of the Montrose DDT Plant during its period of operation. Stauffer Chemical also operated a facility on the Montrose Plant Property, where it manufactured benzene hexachloride ("BHC") from approximately 1954 until approximately 1963.

8. Defendant ZENECA Holdings, Inc.("ZENECA"), formerly ICI American Holdings, Inc., a corporation incorporated under the laws of the State of Delaware, through its ownership, dominance and control of Stauffer Management Company ("Stauffer Management") and Atkemix, is current owner of the Montrose Plant Property, and is the current holder of the stock interest in Montrose formerly held by Stauffer Chemical. ZENECA, through Stauffer Management and pursuant to contract, has agreed to defend and indemnify Rhone-Poulenc with respect to liabilities of

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Rhone-Poulenc as corporate successor to Stauffer Chemical in this action.

9. Defendant Stauffer Management Company ("Stauffer Management"), a corporation incorporated under the laws of the State of Delaware, is a wholly-owned subsidiary of ZENECA. Stauffer Management is the current owner of the stock interest in Montrose Chemical formerly held by Stauffer Chemical, and, through its ownership, domination and control of Atkemix, is the current owner of the Montrose Plant Property.

10. Defendant Atkemix Thirty-Seven, Incorporated ("Atkemix"), a corporation incorporated under the laws of the State of Delaware, is a wholly-owned subsidiary of Stauffer Management. Atkemix is the current holder of the title to the Montrose Plant Property, and is successor to Stauffer Chemical as holder of that title.

11. Defendant Westinghouse Electric Corporation ("Westinghouse"), a corporation incorporated under the laws of the Commonwealth of Pennsylvania and doing business in the State of California, operated from approximately 1958 to 1992 a plant located at 18020 South Santa Fe Avenue ("Westinghouse Plant"), in an unincorporated part of Los Angeles County, California. At that Plant, Westinghouse engaged in the manufacture, repair and servicing of electrical equipment, including transformers and capacitors.

14. Defendant County Sanitation District No. 2 of Los Angeles County (hereafter "District No. 2") is a unit of local government established pursuant to the laws of the State of California. Pursuant to an agreement entitled the Joint Outfall Agreement, District No. 2, acting on its own behalf and on behalf

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of fourteen other county sanitation districts in Los Angeles County (collectively "LACSD"), is an owner and operator of the Joint Outfall System ("JOS"). The JOS consists of a collection, conveyance and treatment system for wastewater from areas within Los Angeles County and includes the Joint Water Pollution Control Plant ("JWPCP"). At the JWPCP, LACSD treats wastewater from the LACSD collection system and discharges the effluent through a system of ocean outfall pipes located at White's Point (White's Point Outfall") into the San Pedro Channel. The other signatories, in addition to District No. 2, to the Joint Outfall Agreement, as most recently amended on July 1, 1980, are County Sanitation Districts Nos. 1, 3, 5, 8, 15, 16, 17, 18, 19, 21, 22, 23, and 29 of Los Angeles County and South Bay Cities Sanitation District of Los Angeles County.

GENERAL FACTUAL ALLEGATIONS

15. Montrose operated the Montrose DDT Plant at the Montrose Plant Property, from 1947 until 1982. During that period Montrose was the largest producer of DDT in the United States. In 1972, domestic agricultural use of DDT was prohibited in the United States. Montrose continued production of DDT at the Montrose DDT Plant primarily for export, and was the only manufacturer of DDT in the United States from that time until 1982, when the Montrose DDT Plant was closed.

16. The DDT manufacturing process employed at the Montrose DDT Plant involved monochlorobenzene ("MCB"), chloral and concentrated sulphuric acid, and produced caustic and acid process wastes that contained DDT, MCB and other hazardous substances. Montrose arranged for the disposal of wastes containing hazardous substances, including DDT, from the Montrose

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DDT Plant in various ways, including through storage and disposal of process waste in a pond located on the Montrose Plant Property, discharge of process and sanitary wastewater to the LACSD sewer system, which system discharged that wastewater through an ocean outfall on to the Palos Verdes Shelf in the San Pedro Channel; deposit of process wastes at landfills in the Los Angeles area, including the Stringfellow Acid Pits, the BKK Company landfill, and a public landfill in Los Angeles County; and ocean dumping of process wastes, which occurred at and in route to sites located in the San Pedro Channel and in the environs of Santa Catalina Island and the Channel Islands. Hazardous substances, including DDT, MCB, and BHC were also released from the Montrose DDT Plant and/or the Montrose Plant Property, through surface water runoff from that site, aerial dispersion from that site, and discharge from that site through the LACSD sewer system to the Palos Verdes Shelf.

17. Montrose, at least during the period from 1947 until 1961, arranged for the disposal through ocean dumping of process waste containing hazardous substances, including DDT, from the Montrose DDT Plant. That disposal was arranged for by Montrose with waste haulers, including the California Salvage Company. The disposal of the waste material occurred at and in route to ocean dump sites located in and around the San Pedro Channel, and in the environs of Santa Catalina Island and the Channel Islands. The Los Angeles Regional Water Quality Control Board ("RWQCB") has estimated that Montrose arranged for the disposal of waste including as much as 700 metric tons of DDT through ocean dumping during the period 1947-1961.

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18. Montrose, at least from 1953 until 1971, discharged process wastewater containing hazardous substances, including DDT, from the Montrose DDT Plant and/or Montrose Plant Property into the LACSD collection system that conveys wastewater to the JWPCP and from the JWPCP through the White's Point outfall into the San Pedro Channel on the Palos Verdes Shelf. The RWQCB has estimated that Montrose discharged into the LACSD system process wastewater containing as much as 1800 metric tons of DDT in the period from 1953 to 1971.

19. The soil on the Montrose DDT Plant and Montrose Plant Property contains concentrations of DDT in excess of 10 mg/kg, with the DDT concentrations on a large part of that Site exceeding 100 mg/kg, and local concentrations exceeding 10,000 mg/kg. On information and belief, hazardous substances, including DDT, have been released into Los Angeles-Long Beach Harbors from the Montrose DDT Plant and Property through storm water runoff from that location into the Torrance Lateral, the Dominguez Channel and the Consolidated Slip. MCB and DDT have been found in the groundwater at the Montrose Plant Property.

20. On information and belief, at some time during the 1950's, DDT and other hazardous substances from the Montrose DDT Plant were disposed of in certain fill areas located on residential properties in the vicinity of the Montrose DDT Plant, including at least those properties on 204th Street where EPA has undertaken removal actions (the "residential fill areas"). DDT has been found in the soil of these residential properties.

21. On information and belief, hazardous substances, including DDT, have been released into the environment from the Montrose DDT Plant and Montrose Plant Property through release

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into the air, with subsequent deposit into areas including into the Los Angeles-Long Beach Harbors and the San Pedro Channel.

22. The sewer discharge of process wastewater from the Montrose DDT Plant and Montrose Plant Property into the LACSD system ceased in 1971. After that date until plant operations ceased in 1982, Montrose continued to discharge into the LACSD system wastewater from washroom and other facilities at the Montrose DDT Plant. That wastewater discharge from the Montrose DDT Plant into the LACSD collection system continued to contain measurable amounts of DDT up to the time of the plant's closure in 1982. That wastewater was transported through the LACSD system to the JWPCP and from the JWPCP through the White's Point outfall into the San Pedro Channel and onto the Palos Verdes Shelf.

23. Rhone-Poulenc, through its corporate predecessor, Stauffer Chemical, and Chris-Craft, and its corporate predecessors Baldwin-Montrose and Montrose Chemical Company of New Jersey, actively participated with Montrose in the operation of the Montrose DDT Plant during times at which there was disposal of hazardous substances at, and releases and threatened releases of hazardous substances from the Montrose DDT Plant, and the land on which that Plant was located, and during times that Montrose arranged for the disposal or treatment by other entities of hazardous substances, including DDT, from the Montrose DDT Plant.

24. Rhone-Poulenc, through its corporate predecessor, Stauffer Chemical, was owner of the Montrose Plant Property during the entire period of the operation of the Montrose DDT Plant at that location, and including times during which there

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was disposal of hazardous substances, including DDT, at, and releases or threatened releases of hazardous substances, including DDT, from the Montrose DDT Plant and Property.

25. On information and belief, Rhone-Poulenc, through its corporate predecessor, Stauffer Chemical, was operator of the BHC plant on the Montrose Plant Property, during the entire period of the operation of the BHC plant. During the operations of the BHC plant, BHC (including the alpha, beta, and gamma isomers of BHC) was released into the environment at and from the Montrose Plant Property.

26. On information and belief, ZENECA, through its wholly-owned subsidiaries, Stauffer Management and Atkemix, is the current owner of the Montrose Plant Property, from which there have been releases and threatened releases of hazardous substances, including DDT, into the environment.

27. On information and belief, Westinghouse, in the operation of the Westinghouse Plant during the period since 1958, discharged wastewater containing hazardous substances, including polychlorinated biphenyls ("PCBs"), from its Plant into the LACSD collection system that conveys wastewater to the JWPCP, and from the JWPCP through the White's Point Outfall into the San Pedro Channel on to the Palos Verdes Shelf. LACSD identified the Westinghouse Plant in 1972 as a source of PCBs into the LACSD collection system, and discharges of PCBs from the Westinghouse Plant continued until at least 1990.

28. On information and belief, District No. 2, on its own behalf and, pursuant to the Joint Outfall Agreement, on behalf of the other signatories to the Joint Outfall Agreement, operates a jointly-owned system for the collection of wastewater from areas

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within Los Angeles County, conveyance of that wastewater to the JWPCP, and disposal of that wastewater from the JWPCP through the White's Point Outfall into the San Pedro Channel. The treatment processes used at the JWPCP during the period the JWPCP has received wastewater discharges containing DDT and PCBs from the Montrose and Westinghouse Plants, did not remove all DDT and PCBs from the wastewater received at the JWPCP.

29. On information and belief, LACSD did not monitor the DDT and PCB content of its discharge from the JWPCP through the White's Point Outfall prior to 1969. In the period since 1970, LACSD has estimated that the wastewater it discharged from the JWPCP through the White's Point Outfall into the San Pedro Channel contained approximately forty metric tons of DDT and twenty-two metric tons of PCBs.

30. Each named defendant is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

31. DDT and its metabolites, including DDE and DDD (collectively "DDT"), and MCB are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

32. PCBs are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

33. BHC is a hazardous substance within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

34. The terms "DDT" and "PCBs" refer to groups of chemical compounds found generically within the category of chlorinated hydrocarbons. DDT and PCBs have toxic effects on humans and other organisms, are listed as toxic substances pursuant to Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. § 1317(a)(1), and are listed by EPA as probable human

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carcinogens. These substances are associated in other organisms with skin diseases and abnormalities, diminished reproductive capacity, immunosuppression and other conditions resulting in reduced viability.

35. DDT and PCBs are manufactured chemicals, and are found in nature only if deposited there by human activity. DDT and PCBs are highly persistent in the environment and are bioaccumulative, that is, DDT and PCBs present in the environment, either suspended in water or present in sediments in the water, will remain in, rather than pass through, living organisms, and thereby accumulate in those organisms in concentrations substantially higher than the concentrations of those compounds found in the environment to which the organisms are exposed.

36. DDT and PCBs, including DDT and PCBs discharged by the defendants, are now and will remain available in the future in the environment, including the marine sediments of the Palos Verdes Shelf, in concentrations that endanger the public health and safety, and have caused and will continue to cause injury to natural resources subject to the trusteeship of the United States and the State, including the ocean and harbor sediments, fish, and birds, and have caused elevated contaminant levels in marine mammals. The geographic locations of these hazardous substances include the area in and around the Montrose DDT Plant site, areas surrounding the White's Point Outfall in the San Pedro Channel, including the area surrounding the Palos Verdes Peninsula ("the Palos Verdes Shelf"), in the Consolidated Slip portion of the Los Angeles Harbor, and the Torrance Lateral, Dominguez Channel leading to the Harbor, in the environs of Santa Catalina Island and the Channel Islands, and within the

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organisms, including species sought for commercial and recreational fishing, in the food web in those areas. The DDT and PCBs contamination is found in the San Pedro Channel at locations both within and beyond three miles seaward of the baseline from which the territorial sea is measured (hereafter "three mile limit").

37. The natural resources injured by the releases of hazardous substances, including DDT and PCBs, for which defendants are liable, are located in geographic areas both within and beyond the three mile limit, off the coast of California near the City of Los Angeles. The areas include the Palos Verdes Shelf, the Los Angeles-Long Beach Harbors, and the environs of Santa Catalina Island and the Channel Islands, including the Channel Islands National Park managed by the United States National Park Service. These areas lay partially within the Exclusive Economic Zone ("EEZ") as defined in Section 101 of the Magnuson Fishery Conservation and Management Act of 1974, as amended, 16 U.S.C. § 1811, and partially within the Coastal Zone as that term is defined by Section 304 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1453.

38. The areas within the San Pedro Channel, the Palos Verdes Shelf, the Los Angeles-Long Beach Harbors, and the environs of Santa Catalina Island and the Channel Islands provide habitat for shellfish, finfish and other organisms, and are areas utilized for commercial and recreational fishing. These areas also include breeding and feeding grounds for wildlife, including species of migratory birds, and for threatened and endangered species, such as the brown pelican, bald eagle and peregrine falcon.

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39. The releases of DDT and PCBs into the environment through discharge from the White's Point Outfall, ocean dumping, aerial deposition, and surface water runoff for which defendants are liable, have resulted in elevated levels of DDT and PCBs in and around the Montrose Plant Property, in certain residential properties located in the vicinity of the Montrose Plant Property (including the residential fill areas), in the LACSD sewers in the vicinity of the Montrose Plant Property, in an area of more than forty square kilometers of the sediments of the Palos Verdes Shelf in the areas surrounding the White's Point Outfall, and at an ocean dump site utilized by California Salvage Company for disposal of process waste containing DDT from the Montrose DDT Plant.

40. DDT and PCBs in sediments migrate through the food web into plankton and benthic organisms and into fish, marine mammals and birds using the contaminated areas as habitat for breeding and feeding. Elevated levels of DDT and PCBs are found in fish caught at locations in the San Pedro Channel near the White's Point Outfall and within the Los Angeles-Long Beach Harbors, with concentrations of DDT found that exceed the action level for sea food established for that chemical compound by the United States Food and Drug Administration. Species in those areas which have shown elevated levels of DDT and PCBs include species of croaker, queenfish, dover sole, English sole, kelp bass, corbina, sculpin, surf perch and rockfish. The State of California, based on its assessment of the health risk associated with the concentrations of PCBs and DDT found in fish caught at those locations, issued in 1985 a still-continuing health advisory regarding consumption of fish caught in those areas, followed in 1990 by a ban on

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commercial fishing for white croaker at locations near the White's Point Outfall, and in 1991 a broader health advisory regarding fish caught in those areas.

41. Species of marine mammals, including common and bottle-nose dolphins, and California sea lions, that breed or feed in the areas comprising the San Pedro Channel exhibit high levels of both DDT and PCBs in their tissues.

42. Species of migratory birds and threatened and endangered species of birds within the trusteeship of the United States and the State that inhabit, breed and feed in the areas near the San Pedro Channel, including the Los Angeles-Long Beach Harbors, Santa Catalina Island and the Channel Islands, have been eliminated or substantially reduced in population, or otherwise injured through the effects on the health, reproductive capacity and survival of those species of the elevated levels of DDT found in the environment in those areas, and on information and belief, through the effects of the elevated levels of PCBs found in the environment in those areas. Species affected by DDT, and on information and belief, PCBs, include bald eagles, peregrine falcons and California brown pelicans, which are endangered or threatened species. Elevated DDT levels have also been found in other bird species, including double-crested cormorants and Western, Heerman's, and California gulls.

43. DDTs and PCBs discharged by defendants have been mixed and commingled in the environment such that the injury to, destruction or loss of natural resources resulting from the releases of these contaminants for which defendants are liable is indivisible.

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44. DDTs and PCBs discharged by defendants have been mixed and commingled in the environment such that the injury to resources and the endangerment of the public health and safety from the releases of these contaminants for which defendants are liable is indivisible.

FIRST CLAIM FOR RELIEF

45. The United States and the State reallege and incorporate by reference paragraphs 1 through 44.

46. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that

(1) the current owner and operator of a facility;

(2) the owner or operator, at the time of disposal of hazardous substances, of a facility at which such hazardous substances were disposed of; and

(3) any person who, by contract, agreement or otherwise, arranged for disposal or treatment of hazardous substances owned or possessed by such person, by any other person or entity, at any facility owned or operated by another party or entity and containing such hazardous substances; and

(4) any person who accepts any hazardous substances for transport to disposal or treatment facilities selected by such person

shall be liable for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from a release of hazardous substances from such facility.

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47. Section 107(f)(1) of CERCLA, 42 U.S.C. § 9607(f)(1), provides that liability under Section 107(a)(1-4)(C) of CERCLA, 42 U.S.C. § 9607(a)(1-4)(C), for injury to, destruction of, or loss of natural resources shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State.

48. The Montrose DDT Plant, the Montrose Plant Property, the residential fill areas, the Westinghouse Plant and the property on which it is or was located, the neighboring commercial or residential properties that are contaminated with DDT, MCB, BHC, PCBs, or other hazardous substances, the LACSD Joint Outfall System (including the JOS collection, treatment and disposal system and the White's Point Outfall leading to the San Pedro Channel), the area of the Palos Verdes Shelf surrounding the White's Point Outfall, the groundwater areas impacted by former operations at the Montrose DDT Plant, surface water drainage areas leading from the Montrose DDT Plant to the Los Angeles-Long Beach Harbors, including the Kenwood Drain, the Torrance Lateral, the Dominguez Channel, and consolidated Slip, and the ocean dump sites used for disposal of Montrose waste containing hazardous substances, including DDT, are one or more "facilities" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

49. Montrose, as holder of a lease on the property on which the former Montrose DDT Plant was located, and as operator of the Montrose DDT Plant at the time of disposal of hazardous substances, including DDT, at and from that facility, is the owner and operator of a facility at the time of disposal of

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hazardous substances within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2). Montrose, in arranging for the discharge of wastewater containing DDT from the Montrose DDT Plant to the LACSD sewer system, and the ocean dumping of process waste containing DDT, is a person who arranged for the disposal or treatment of hazardous substances by another entity at a facility within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

50. Chris-Craft, itself and through its corporate predecessors Baldwin-Montrose and Montrose Chemical Company of New Jersey, as an active participant in the operation of the Montrose DDT Plant, is an operator of a facility at the time of disposal of hazardous substances within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and a person who arranged for the disposal of hazardous substances by another entity at a facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

51. ZENECA and its subsidiaries, Stauffer Management and Atkemix, as current owners of the Montrose Plant Property, from which there have been releases of hazardous substances, including DDT, are owners of a facility from which there has been a release of hazardous substances, within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

52. Rhone-Poulenc, as the corporate successor of Stauffer Chemical, which was owner of the Montrose Plant Property, and which was an active participant in the operation of the Montrose DDT Plant, and which operated its BHC plant on the Montrose Plant Property, at a time at which hazardous substances were disposed of at the Montrose DDT Plant and Property and in the LACSD

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sewers, is an owner and operator of a facility at the time of the disposal of hazardous substances, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and is a person who arranged for the disposal or treatment of hazardous substances by another entity at a facility within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

53. Westinghouse, as operator of the Westinghouse Plant at the time of the discharge from that Plant of wastewater containing PCBs into the LACSD sewer system, is an owner and operator of a facility at the time of disposal of hazardous substances, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. 9607(a)(2), and is a person who arranged for the disposal or treatment of hazardous substances by another entity at a facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

54. District No. 2, acting on its own behalf and on behalf of the other sanitation districts signatory to the Joint Outfall Agreement with respect to the JOS, through its ownership and operation of the JOS, which accepted for disposal and treatment wastewater containing hazardous substances, and from which there were releases of hazardous substances, is an owner and operator of a facility within the meaning of Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) and (2), and is a person who accepted hazardous substances for transport to disposal or treatment facilities it selected, within the meaning of Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

55. Hazardous substances have been and continue to be released to the environment from the facilities identified in

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paragraph 48 above, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

56. There has been and continues to be injury to, destruction of, and loss of natural resources for which the United States and the State are trustees, within the meaning of Section 101(16) of CERCLA, 42 U.S.C. § 9601(16), resulting from the releases of hazardous substances by defendants alleged herein, within the meaning of Section 107(a)(4)(C) of CERCLA, 42 U.S.C. § 9607(a)(4)(C), with resulting damages to the United States and the State as trustees for those resources under Section 107(f) of CERCLA, 42 U.S.C. § 9607(f).

57. The United States and the State have incurred and continue to incur damages for the injury to, destruction of, and loss of natural resources resulting from the releases of hazardous substances for which defendants are liable, including the costs of the assessment of such injury, destruction and loss, and response costs.

58. The cost to the public of restoration and replacement of the natural resources injured, destroyed or lost as a result of the releases of hazardous substances for which defendants are liable, including the value to the public of the lost use of these resources, have been estimated in prior filings and discovery in this case.

59. The injury to, destruction of, and loss of natural resources alleged herein is not divisible as between defendants, or as between pre- and post-enactment of CERCLA, and pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), defendants are jointly and severally liable for all damages, including the cost of restoration and loss of use, for injury to, destruction of, or

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loss of natural resources for which the United States and the State are trustees, resulting from the release of hazardous substances for which defendants are liable, including the costs of assessing such injury and damages and response costs incurred by the United States and the State in connection with such injury and damages.

60. The United States and the State have satisfied all conditions precedent to the initiation of this action.

SECOND CLAIM FOR RELIEF

61. The United States and the State reallege and incorporate by reference paragraphs 1-44.

62. EPA and DTSC began investigations in 1982 of hazardous substance contamination at and around the Montrose DDT Plant and the Montrose Plant Property. The investigations, including remedial investigations and feasibility studies, are on-going.

63. EPA proposed the Montrose site for placement on the NPL on October 15, 1984. The final rulemaking placing the Montrose site on the NPL was published in the Federal Register on October 4, 1989 (54 Fed. Reg. 41015). On August 21, 1997, EPA published a notice of proposed rulemaking to specify that the Montrose NPL Listing includes the Palos Verdes Shelf. 62 Fed. Reg. 44430.

64. The results of soil, groundwater and surface water sampling of locations at and around the Montrose Plant Property show DDT, MCB, and BHC contamination of the soil at and around the Montrose Plant Property, including residences near the Montrose DDT Plant and Property; DDT contamination of the surface water runoff from the Montrose DDT Plant and Property to surface water runoff channels leading to the Los Angeles-Long Beach

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Harbors; and DDT and MCB contamination of the groundwater underlying the Montrose DDT Plant and Property. EPA has removed approximately 5,000 cubic yards of DDT-contaminated soil from the yards of property owners in residential fill areas.

65. High concentrations of DDT in sediments are and have been located in the LACSD sewer line adjacent to and downstream from the Montrose DDT Plant and Montrose Plant Property, and high concentrations of DDT, along with high concentrations of PCBs, have been found in the marine sediments on the Palos Verdes Shelf, in the San Pedro Channel adjacent to the White's Point Outfall operated by LACSD. Montrose, with EPA oversight and at the direction of EPA, has removed approximately 150 tons of DDT-contaminated sediments from the LACSD sewer system.

66. In July of 1996, EPA began an investigation, termed an Engineering Evaluation and Cost Analysis, of the DDT and PCB contamination on the Palos Verdes Shelf, and an analysis of potential actions in response to the releases of DDT and PCBs to the Palos Verdes Shelf.

67. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that

(1) the current owner and operator of a facility;

(2) the owner or operator, at the time of disposal of hazardous substances, of a facility at which such hazardous substances were disposed of; and

(3) any person who, by contract, agreement or otherwise, arranged for disposal or treatment of hazardous substances owned or possessed by such person, by any other person or entity, at any facility owned or operated by another party or

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entity and containing such hazardous substances; and

(4) any person who accepts any hazardous substances for transport to disposal or treatment facilities selected by such person

shall be liable for all costs of removal or remedial action incurred by the United States and the State not inconsistent with the national contingency plan.

68. The Montrose DDT Plant, the Montrose Plant Property, the residential fill areas, the Westinghouse Plant and the property on which it is or was located, the neighboring commercial or residential properties that are contaminated with substances, the LACSD Joint Outfall System (including the JOS collection, treatment and disposal system and the White's Point Outfall leading to the San Pedro Channel), the area of the Palos Verdes Shelf surrounding the White's Point Outfall, the groundwater areas impacted by former operations at the Montrose DDT Plant, surface water drainage areas leading from the Montrose DDT Plant to the Los Angeles-Long Beach Harbors, including the Kenwood Drain, the Torrance Lateral, the Dominguez Channel, and consolidated Slip, and the ocean dump sites used for disposal of Montrose waste containing hazardous substances, including DDT, are one or more "facilities" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

69. At times relevant to this Complaint, hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including DDT, PCBs, BHC, and MCB, were

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treated, disposed of, released, and presented the threat of release at the facilities identified in paragraph 68.

70. Montrose, as holder of a lease on the property on which the former Montrose DDT Plant was located, and as operator of the Montrose DDT Plant located on that property at the time of the disposal of hazardous substances, is an owner and operator of a facility at the time of disposal of hazardous substances within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2). Montrose, in arranging for the discharge of wastewater containing DDT from the Montrose DDT Plant to the LACSD sewer system, and the ocean dumping of process waste containing DDT, is a person who arranged for the disposal or treatment of hazardous substances by another entity at a facility within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

71. Chris-Craft itself and through its corporate predecessors Baldwin-Montrose and Montrose Chemical Company of New Jersey, as an active participant in the operation of the Montrose DDT Plant, is an operator of a facility at the time of disposal of hazardous substances within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and a person who arranged for the disposal of hazardous substances by another entity at a facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

72. ZENECA, and its subsidiaries, Stauffer Management and Atkemix, as the current owners of the land which was the location of the former Montrose DDT Plant, are owners of a facility from which there has been a release or threatened release of hazardous

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substances, within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

73. Rhone-Poulenc, as corporate successor to Stauffer Chemical, which was the owner of the land which was the location of the former Montrose DDT Plant, and was an active participant in the operation of the Montrose DDT Plant, at a time at which hazardous substances were disposed of at the Montrose DDT Plant and Property and in the LACSD sewers, and which operated its BHC plant on the Montrose Plant Property, is an owner and operator of a facility within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and a person who arranged for the disposal of hazardous substances by another entity at a facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

74. Westinghouse, as holder of a lease on the property on which the Westinghouse Plant was located, and as operator of the Westinghouse Plant at the time of the disposal and discharge from that Plant of wastewater containing PCBs into the LACSD sewer system, is an owner and operator of a facility at the time of disposal of hazardous substances, within the meaning of Sections 107(a)(2) of CERCLA, 42 U.S.C. §§ 9607(a)(2), and is a person who arranged for the disposal or treatment of hazardous substances by another entity at a facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

75. District No. 2, acting on its own behalf and on behalf of the other sanitation districts signatory to the Joint Outfall Agreement with respect to the JOS, through its ownership and operation of the JOS, which accepted for disposal and treatment wastewater containing hazardous substances, and from which there

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were releases of hazardous substances, is an owner and operator of a facility within the meaning of Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) and (2), and is a person who accepted hazardous substances for transport to disposal or treatment facilities it selected, within the meaning of Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

76. Hazardous substances have been and continue to be released or threaten to be released to the environment from the facilities identified in paragraph 68 above, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

77. The United States and the State have incurred response costs not inconsistent with the NCP in connection with response actions at some or all of the facilities identified in paragraph 68, within the meaning of Section 101(23) and 101(24) of CERCLA, 42 U.S.C. § 9601(23), (24), and will incur future costs in response to the release and threatened release into the environment of hazardous substances, including DDT and MCB from Montrose DDT Plant and Property and PCBs which were released from the Westinghouse Plant.

78. The United States and the State have satisfied all conditions precedent to the initiation of this claim for recovery of costs under Section 107(a)(4)(A) of CERCLA, 42 U.S.C. § 9607(a)(4)(A).

79. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Montrose, Chris-Craft, ZENECA, Atkemix, Stauffer Management, and Rhone-Poulenc are jointly and severally liable for all costs not inconsistent with the NCP incurred or to be incurred by the United States and the State in connection with removal and remedial actions taken in connection with the

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facilities identified in paragraph 68, except for any costs that may be incurred relating to the Westinghouse Plant. Westinghouse is jointly and severally liable with all defendants for costs incurred in connection with the facilities identified in paragraph 68, excluding the Montrose DDT Plant and the environment and sewers in the vicinity of the Montrose DDT Plant. LACSD is jointly and severally liable for costs incurred in connection with the facilities identified in paragraph 68, excluding the Montrose DDT Plant and the environment in the vicinity of the Montrose DDT Plant, but including the sewer system in the vicinity of the Montrose DDT Plant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America and State of California, respectfully request that the Court issue relief:

1. Entering a declaratory judgment under the First Claim for Relief holding all defendants strictly, jointly and severally liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all response costs incurred or to be incurred by the United States and the State, and all damages for injury to, destruction of, or loss of natural resources within the trusteeship of the United States and the State, including all reasonable costs incurred or to be incurred by the United States and the State in assessing such injury to, destruction of, or loss, resulting from defendants' releases of hazardous substances into the environment;

2. Ordering under the First Claim for Relief that defendants pay to the United States and the State the reasonable costs of assessing the injury to, destruction of, and/or loss of

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natural resources within the trusteeship of the United States and the State resulting from defendants' releases of hazardous substances into the environment;

3. Ordering under the First Claim for Relief that defendants pay damages for the injury to, destruction of, and/or loss of natural resources within the trusteeship of the United States and the State resulting from defendants' releases of hazardous substances;

4. Ordering under the First Claim for Relief that defendants reimburse the United States and the State for all response and damage assessment costs, including enforcement fees, costs and expenses, incurred in connection with the First Claim for Relief in this action, with prejudgment interest;

5. Entering a declaratory judgment under the Second Claim for Relief holding defendants strictly, jointly and severally liable to the United States and the State, under Section 107(a)(1)-(4)(A) of CERCLA, 42 U.S.C. § 9607(a)(1)-(4)(A), for all response costs not inconsistent with the NCP, incurred and to be incurred by the United States and the State in connection with response actions taken or to be taken by the United States and the State with respect to the Montrose DDT Plant, the Montrose Plant Property, and the Palos Verdes Shelf and other facilities identified in paragraph 68, except as set forth in paragraph 79;

6. Ordering under the Second Claim for Relief that defendants pay to the United States and the State all costs not inconsistent with the NCP incurred in connection with removal and remedial actions at the Montrose DDT Plant, the Montrose Plant

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Property, and the Palos Verdes Shelf and other facilities identified in paragraph 68; and

7. Awarding the United States and the State such other and further relief as this Court may deem appropriate.

Respectfully submitted,

DATED: 10/21/97

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