

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Unwarned Bystander Exposures to 1,3-Dichloropropene from Use of Soil Fumigants

June 29, 2023

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Kaya Sugerman is the Illegal Toxic Threats Program Director and a responsible individual within CEH.

Description of Violation:

- Violator: The name and address of each violator is:

The Dow Chemical Company
2211 H.H. Dow Way
Midland, MI 48674

Teleos Ag Solutions, Inc.
120 Applecross Road
Pinehurst, NC 28374

TriCal, Inc.
8100 Arroyo Circle
Gilroy, CA 95020

Nutrien Ag Solutions, Inc.
3005 Rocky Mountain Avenue
Loveland, CO 80538

- Provision of Proposition 65: This Notice covers California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is 1,3-Dichloropropene ("1,3-D"). 1,3-D is the active ingredient in soil fumigants manufactured, distributed, and/or applied by the alleged violators.

- Description of Exposure: This Notice addresses environmental exposures to 1,3-D. The exclusive source of these exposures is applications of soil fumigants containing 1,3-D (“Telone II”). The Dow Chemical Company (“Dow”) is the exclusive manufacturer of Telone II sold in California. Teleos Ag Solutions, Inc. (“Teleos”) is the exclusive distributor of Telone II used in California. In California, use of Telone II is regulated by placing annual caps on the amount of Telone II that can be used in each township in the state. Dow (historically) and Teleos (presently) pre-approve every application of Telone II in California, and are responsible for tracking, reporting, and ensuring township use limits are observed.

The use of Telone II to control pests in agricultural fields, which are manufactured by Dow and distributed by Teleos, results in human exposures to 1,3-D. 1,3-D is released into the air when Telone II is applied to agricultural fields in accordance with Telone II’s labels. No clear and reasonable warning is provided regarding the carcinogenic hazards of 1,3-D to bystanders. This Notice does not challenge the sufficiency of the labeling of Telone II.

- Time Period of Exposure: The exposures are caused by applications of Telone II on the specific dates identified on the attached Exhibit 1. Future violations caused by the same conduct are likely because Telone II continues to be applied on a regular basis. The exposures themselves occur after Telone II is applied to fields. CEH is not seeking to hold Teleos responsible for any exposures that occurred prior to January 1, 2021. CEH is only seeking to hold TriCal and Nutrien responsible for exposures caused by each company’s respective applications as indicated on Exhibit 1.
- Route of Exposure: The route of exposure for the violations is inhalation when individuals breathe the 1,3-D emitted in the air following applications of Telone II to the soil in agricultural fields.
- Location of Source of Exposures: The locations of the source of the exposures are identified on the attached Exhibit 1, which documents the Township, Range, Section, and Site ID for the locations of the source of the exposures. Township, Range, and Section identify where Telone II was applied within an approximately 1x1 square mile area, in accordance with the Public Land Survey System’s division of land. Site ID, which is a code assigned by the Kern County Agricultural Commissioner, identifies the field where Telone II was applied. These exposures occur beyond any property owned or controlled by the alleged violators.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to remedy the violations alleged herein and to pay an appropriate civil penalty in accordance with the factors set forth in Health and Safety Code Section 25249.7. CEH is not seeking any changes to the labels of Telone II. If any alleged violator is interested in resolving this dispute without resorting to expensive and time-consuming litigation, please contact CEH through its counsel identified below. It should be noted that CEH cannot: (1)

finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to exposures to 1,3-D caused by applications of Telone II by each alleged violator; efforts to comply with Proposition 65 with respect to such applications; and communications with any person relating to exposures to 1,3-D from such applications.

Please direct any inquiries regarding this Notice to CEH's counsel Howard Hirsch at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, hhirsch@lexlawgroup.com.

EXHIBIT 1

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
1/7/2020	SGS Ontario OR	28S25E Section 2 Site ID: 1	996	Nontarpaulin/Deep/Broadcast or Bed
1/12/2020	Simplot	29S25E Section 16 Site ID: 1	1200	Nontarpaulin/Deep/Broadcast or Bed
1/12/2020	Simplot	29S25E Section 16 Site ID: 1	1,309.2	Nontarpaulin/Deep/Broadcast or Bed
1/20/2020	Simplot	29S25E Section 27 Site ID: S5	301.5	Nontarpaulin/Deep/Broadcast or Bed
1/22/2020	Nutrien	29S24E Section 6 Site ID: 17	894	Nontarpaulin/Deep/Broadcast or Bed
2/7/2020	TriCal	27S24E Section 26 Site ID: 5	933.9	Nontarpaulin/Deep/Strip
2/12/2020	TriCal	27S24E Section 26 Site ID: 1	953.7	Nontarpaulin/Deep/Strip
2/16/2020	TriCal	29S25E Section 11 Site ID: PA11ALN	374.4	Tarpaulin/Deep/Broadcast-strip – with tarp eligible for 60% credit
2/25/2020	TriCal	27S24E Section 22 Site ID: 7	435.6	Nontarpaulin/Deep/Strip
3/2/2020	TriCal	29S25E Section 24 Site ID: SB5	521.4	Tarpaulin/Deep/Broadcast-strip
3/9/2020	TriCal	28S25E Section 12 Site ID: PA2AL04	377	Nontarpaulin/Deep/Strip
3/16/2020	TriCal	28S26E Section 7 Site ID: PA2AL05	1,303.5	Nontarpaulin/Deep/Strip
3/30/2020	TriCal	28S25E Section 12 Site ID: PA2AL04	2293	Nontarpaulin/Deep/Strip
3/30/2020	TriCal	28S25E Section 17 Site ID: FAF1	361.4	Nontarpaulin/Deep/Strip
4/4/2020	TriCal	29S25E Section 11 Site ID: PA11ALN	1808.4	Nontarpaulin/Deep/Strip
4/22/2020	TriCal	29S25E Section 11 Site ID: PA11ALN	1470.65	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
4/30/2020	TriCal	28S25E Section 17 Site ID: FAF1	420	Nontarpaulin/Deep/Strip
5/4/2020	TriCal	27S25E Section 13 Site ID: 16A1	656	Nontarpaulin/Deep/Strip
5/6/2020	TriCal	27S25E Section 13 Site ID: 16A3	669.3	Nontarpaulin/Deep/Strip
5/9/2020	Nutrien	27S24E Section 33 Site ID: 5	1273	Nontarpaulin/Deep/Strip
5/10/2020	Nutrien	27S24E Section 33 Site ID: 6	1273	Nontarpaulin/Deep/Strip
5/26/2020	TriCal	27S25E Section 10 Site ID: 11C2	752.3	Nontarpaulin/Deep/Strip
5/28/2020	TriCal	27S25E Section 10 Site ID: 11D2	677.3	Nontarpaulin/Deep/Strip
6/1/2020	TriCal	27S25E Section 15 Site ID: 13A3	651.5	Nontarpaulin/Deep/Strip
7/10/2020	TriCal	29S25E Section 6 Site ID: J3G1	799.2	Nontarpaulin/Deep/Strip
7/14/2020	TriCal	27S24E Section 15 Site ID: 33	435.3	Nontarpaulin/Deep/Strip
7/20/2020	TriCal	29S25E Section 6 Site ID: J3G2	810	Nontarpaulin/Deep/Strip
7/22/2020	TriCal	29S25E Section 6 Site ID: J3G4	812.7	Nontarpaulin/Deep/Strip
7/22/2020	TriCal	29S25E Section 6 Site ID: J3G3	801.9	Nontarpaulin/Deep/Strip
7/31/2020	TriCal	29S25E Section 6 Site ID: J3G8	785.7	Nontarpaulin/Deep/Strip
8/12/2020	TriCal	27S25E Section 5 Site ID: 61ROSE	1226	Tarpaulin/Deep/Broadcast – with tarp eligible for 60% credit
8/13/2020	TriCal	29S25E Section 6 Site ID: J3G7	810	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
8/21/2020	Simplot	29S26E Section 32 Site ID: PHASE4	561.13	Nontarpaulin/Deep/Broadcast or Bed
8/22/2020	Nutrien	28S25E Section 19 Site ID: 01C	1212	Nontarpaulin/Deep/Broadcast or Bed
8/31/2020	TriCal	27S25E Section 5 Site ID: 61ROSE	1186.7	Tarpaulin/Deep/Broadcast – with tarp eligible for 60% credit
10/6/2020	TriCal	27S25E Section 4 Site ID: HQRESIR	33.5	Tarpaulin/Deep/Broadcast – with tarp eligible for 60% credit
10/6/2020	TriCal	27S25E Section 5 Site ID: 62ROSERE	268	Tarpaulin/Deep/Broadcast – with tarp eligible for 60% credit
10/6/2020	Nutrien	27S24E Section 2 Site ID: AIRPORTZ	1206	Nontarpaulin/Deep/Broadcast or Bed
10/10/2020	TriCal	27S24E Section 5 Site ID: FRE4	303.7	Nontarpaulin/Deep/Strip
10/15/2020	Nutrien	28S25E Section 1 Site ID: NMCW1	152.4	Nontarpaulin/Deep/Broadcast or Bed
10/16/2020	Nutrien	28S26E Section 6 Site ID: NMCE1	153.2	Nontarpaulin/Deep/Broadcast or Bed
10/17/2020	Nutrien	28S26E Section 6 Site ID: NMD1	323.2	Nontarpaulin/Deep/Broadcast or Bed
10/22/2020	Nutrien	28S26E Section 17 Site ID: SMB1	523.2	Nontarpaulin/Deep/Broadcast or Bed
10/26/2020	Nutrien	27S24E Section 2 Site ID: AIRPORTZ	432	Nontarpaulin/Deep/Broadcast or Bed
10/30/2020	TriCal	27S26E Section 31 Site ID: 3682312	2590.5	Nontarpaulin/Deep/Strip
10/31/2020	TriCal	27S26E Section 31 Site ID: 36823134	1007	Nontarpaulin/Deep/Strip
11/4/2020	TriCal	27S26E Section 31 Site ID: 36823134	1597.2	Nontarpaulin/Deep/Strip
11/12/2020	Nutrien	28S25E Section 8 Site ID: CADFM	874	Nontarpaulin/Deep/Broadcast or Bed

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
11/12/2020	TriCal	27S24E Section 15 Site ID: 1	452.1	Nontarpaulin/Deep/Strip
11/19/2020	Nutrien	29S26E Section 17 Site ID: 293821SC	890	Nontarpaulin/Deep/Broadcast or Bed
11/22/2020	Nutrien	29S26E Section 17 Site ID: 291421SC	1310	Nontarpaulin/Deep/Broadcast or Bed
11/30/2020	TriCal	28S25E Section 4 Site ID: FIELD43	46.5	Nontarpaulin/Deep/Broadcast or Bed
1/12/2021	Nutrien	29S25E Section 27 Site ID: 8	304	Nontarpaulin/Deep/Broadcast or Bed
1/21/2021	Nutrien	29S24E Section 6 Site ID: 16	880	Nontarpaulin/Deep/Broadcast or Bed
2/6/2021	TriCal	28S25E Section 14 Site ID: SAOAL01	470	Nontarpaulin/Deep/Strip
2/16/2021	TriCal	29S25E Section 6 Site ID: J3G66	933.9	Nontarpaulin/Deep/Strip
2/18/2021	TriCal	29S25E Section 6 Site ID: J3G65	927.3	Nontarpaulin/Deep/Strip
3/1/2021	TriCal	28S25E Section 6 Site ID: JSK3	475.2	Nontarpaulin/Deep/Strip
3/2/2021	TriCal	28S25E Section 26 Site ID: SFW26E	1848	Nontarpaulin/Deep/Strip
3/16/2021	Nutrien	28S25E Section 13 Site ID: 5550	2611	Nontarpaulin/Deep/Broadcast or Bed
4/2/2021	Nutrien	28S25E Section 13 Site ID: 5550	933	Nontarpaulin/Deep/Broadcast or Bed
4/5/2021	TriCal	29S26E Section 5 Site ID: 992	935.4	Nontarpaulin/Deep/Strip
4/12/2021	TriCal	29S26E Section 5 Site ID: 991	947.1	Nontarpaulin/Deep/Strip
5/12/2021	TriCal	29S26E Section 18 Site ID: 2SLCG6	891.1	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
5/14/2021	TriCal	28S25E Section 1 Site ID: PA2AL02	43.2	Nontarpaulin/Deep/Broadcast or Bed
5/17/2021	TriCal	29S26E Section 18 Site ID: G7	954.75	Nontarpaulin/Deep/Strip
5/19/2021	TriCal	29S26E Section 19 Site ID: G8	1054.6	Nontarpaulin/Deep/Strip
5/26/2021	TriCal	29S26E Section 19 Site ID: G9	762	Nontarpaulin/Deep/Strip
5/28/2021	Simplot	27S26E Section 33 Site ID: 2	2512.5	Nontarpaulin/Deep/Strip
6/9/2021	TriCal	29S26E Section 19 Site ID: G10	1002.9	Nontarpaulin/Deep/Strip
6/14/2021	TriCal	29S26E Section 19 Site ID: G1W	429	Nontarpaulin/Deep/Strip
6/16/2021	TriCal	29S26E Section 19 Site ID: G1E	401.5	Nontarpaulin/Deep/Strip
6/23/2021	TriCal	29S26E Section 19 Site ID: G2W	402	Nontarpaulin/Deep/Strip
6/28/2021	TriCal	29S26E Section 19 Site ID: G2E	402	Tarpaulin/Deep/Broadcast-strip – with tarp eligible for 60 % credit
8/27/2021	TriCal	27S25E Section 5 Site ID: 62RESOS	167.5	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
8/30/2021	TriCal	27S25E Section 4 Site ID: HQRESIR	165	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/6/2021	TriCal	27S26E Section 19 Site ID: 20R	508	Nontarpaulin/Deep/Strip
9/7/2021	Simplot	27S24E Section 25 Site ID: AP31	878.71	Nontarpaulin/Deep/Broadcast or Bed
9/7/2021	TriCal	27S26E Section 19 Site ID: 20P	485.1	Nontarpaulin/Deep/Strip
9/8/2021	Simplot	27S24E Section 25 Site ID: AP41	841.52	Nontarpaulin/Deep/Broadcast or Bed

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
9/14/2021	TriCal	27S25E Section 5 Site ID: 63MIN	80.4	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/15/2021	TriCal	27S25E Section 5 Site ID: 63OR	519.25	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/15/2021	TriCal	27S25E Section 5 Site ID: 632YRBC	1641.5	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/16/2021	TriCal	27S25E Section 5 Site ID: 63IRIS	335	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/18/2021	TriCal	27S26E Section 18 Site ID: 20M	333.3	Tarpaulin/Deep/Broadcast
9/18/2021	TriCal	27S26E Section 18 Site ID: 20N	363	Nontarpaulin/Deep/Strip
9/23/2021	TriCal	28S24E Section 17 Site ID: 4	422.2	Nontarpaulin/Deep/Strip
10/2/2021	TriCal	27S26E Section 18 Site ID: 20H	669.9	Nontarpaulin/Deep/Strip
10/4/2021	TriCal	27S26E Section 18 Site ID: 20D	670	Nontarpaulin/Deep/Strip
10/4/2021	TriCal	27S26E Section 18 Site ID: 20G	518.1	Nontarpaulin/Deep/Strip
10/6/2021	TriCal	27S26E Section 18 Site ID: 20I	680	Nontarpaulin/Deep/Strip
10/8/2021	TriCal	27S26E Section 17 Site ID: 20J2	142	Nontarpaulin/Deep/Strip
10/8/2021	TriCal	27S26E Section 18 Site ID: 20E	680	Nontarpaulin/Deep/Strip
10/11/2021	TriCal	27S26E Section 18 Site ID: 20N	155	Nontarpaulin/Deep/Strip
10/12/2021	TriCal	27S26E Section 18 Site ID: 20M	313.5	Nontarpaulin/Deep/Strip
10/14/2021	TriCal	27S26E Section 18 Site ID: 20F	536	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
10/14/2021	TriCal	27S26E Section 18 Site ID: 20L	665	Nontarpaulin/Deep/Strip
10/16/2021	TriCal	27S26E Section 18 Site ID: 20J	386.7	Nontarpaulin/Deep/Strip
10/18/2021	Nutrien	28S26E Section 17 Site ID: SMC1	299.2	Nontarpaulin/Deep/Broadcast or Bed
10/18/2021	Nutrien	28S26E Section 17 Site ID: SMD	292.8	Nontarpaulin/Deep/Broadcast or Bed
10/18/2021	Nutrien	28S26E Section 15 Site ID: SMI	540.8	Nontarpaulin/Deep/Broadcast or Bed
10/19/2021	TriCal	27S26E Section 19 Site ID: 20P	194.04	Nontarpaulin/Deep/Strip
11/16/2021	TriCal	29S25E Section 36 Site ID: ELP361A	931.3	Nontarpaulin/Deep/Strip
11/23/2021	TriCal	28S26E Section 14 Site ID: 080053A	2847.5	Nontarpaulin/Deep/Broadcast or Bed
11/30/2021	TriCal	27S25E Section 28 Site ID: 5552	2566.1	Nontarpaulin/Deep/Broadcast or Bed
1/13/2022	TriCal	28S25E Section 15 Site ID: JMLEAST	462	Nontarpaulin/Deep/Strip
1/22/2022	Nutrien	28S24E Section 8 Site ID: 26	843.2	Nontarpaulin/Deep/Broadcast or Bed
1/29/2022	TriCal	27S25E Section 28 Site ID: 5552	896.8	Nontarpaulin/Deep/Broadcast or Bed
2/12/2022	Nutrien	27S24E Section 23 Site ID: WJ3	318.25	Nontarpaulin/Deep/Strip
2/25/2022	TriCal	27S24E Section 22 Site ID: WR221D	297	Nontarpaulin/Deep/Strip
2/25/2022	TriCal	27S24E Section 22 Site ID: WR224D	207.6	Nontarpaulin/Deep/Strip
2/25/2022	TriCal	27S24E Section 22 Site ID: WR222D	475.7	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
3/8/2022	TriCal	27S24E Section 23 Site ID: M4F2AM	102.3	Nontarpaulin/Deep/Strip
3/17/2022	Nutrien	27S26E Section 26 Site ID: CR29AAA	405.8	Other label method for 1,3-Dichloropropene (with or without chloropicrin)
4/2/2022	TriCal	27S24E Section 1 Site ID: RDGRP2	54.6	Tarpaulin/Shallow/Broadcast – with tarp eligible for 60% credit
4/13/2022	TriCal	27S25E Section 11 Site ID: 24F	653.4	Nontarpaulin/Deep/Strip
4/16/2022	TriCal	27S25E Section 11 Site ID: 24I	82.5	Nontarpaulin/Deep/Strip
4/18/2022	TriCal	27S25E Section 11 Site ID: 24A	627	Nontarpaulin/Deep/Strip
4/19/2022	TriCal	27S25E Section 11 Site ID: 24C	638	Nontarpaulin/Deep/Strip
4/21/2022	Nutrien	27S26E Section 26 Site ID: CR29N	318.2	Other label method for 1,3-Dichloropropene (with or without chloropicrin)
4/21/2022	TriCal	27S25E Section 11 Site ID: 24G	660	Nontarpaulin/Deep/Strip
4/23/2022	TriCal	27S25E Section 11 Site ID: 24B	633.6	Nontarpaulin/Deep/Strip
4/25/2022	TriCal	27S25E Section 11 Site ID: 24K	636.9	Nontarpaulin/Deep/Strip
4/27/2022	TriCal	27S25E Section 11 Site ID: 24J	643.5	Nontarpaulin/Deep/Strip
4/29/2022	TriCal	27S25E Section 11 Site ID: 24M	676.5	Nontarpaulin/Deep/Strip
5/2/2022	TriCal	27S25E Section 11 Site ID: 24I	536	Nontarpaulin/Deep/Strip
5/5/2022	TriCal	27S25E Section 11 Site ID: 24N	670	Nontarpaulin/Deep/Strip
5/7/2022	TriCal	27S25E Section 11 Site ID: 24L	670	Nontarpaulin/Deep/Strip

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
6/22/2022	TriCal	29S26E Section 5 Site ID: 993	925.5	Tarpaulin/Deep/Broadcast
6/22/2022	TriCal	29S26E Section 5 Site ID: 994	869.2	Tarpaulin/Deep/Broadcast
7/6/2022	Nutrien	28S25E Section 7 Site ID: 1C	442	Nontarpaulin/Deep/Broadcast or Bed
7/6/2022	Nutrien	28S25E Section 7 Site ID: CAB20	204	Nontarpaulin/Deep/Broadcast or Bed
7/6/2022	Nutrien	28S25E Section 7 Site ID: CAF1	624	Nontarpaulin/Deep/Broadcast or Bed
7/9/2022	Nutrien	28S25E Section 30 Site ID: CAS80	969	Nontarpaulin/Deep/Broadcast or Bed
7/13/2022	TriCal	27S24E Section 23 Site ID: WR233D	246.3	Nontarpaulin/Deep/Strip
7/13/2022	TriCal	27S24E Section 23 Site ID: WR232D	473.85	Nontarpaulin/Deep/Strip
7/13/2022	TriCal	27S24E Section 23 Site ID: WR231D	473.85	Nontarpaulin/Deep/Strip
7/16/2022	Nutrien	27S24E Section 25 Site ID: DP1	1036	Nontarpaulin/Deep/Broadcast or Bed
7/21/2022	TriCal	27S25E Section 5 Site ID: 62RESROS	157.45	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
7/22/2022	TriCal	27S24E Section 14 Site ID: WR141D	471	Nontarpaulin/Deep/Strip
7/25/2022	TriCal	27S24E Section 22 Site ID: WR223D	491.9	Nontarpaulin/Deep/Strip
7/25/2022	TriCal	27S25E Section 4 Site ID: HQRESIR	46.9	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
8/1/2022	TriCal	27S25E Section 5 Site ID: 62RESROS	211.05	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
8/2/2022	Nutrien	27S25E Section 7 Site ID: DW7	552	Nontarpaulin/Deep/Broadcast or Bed

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
8/3/2022	Nutrien	27S25E Section 7 Site ID: DW6	252	Nontarpaulin/Deep/Broadcast or Bed
8/4/2022	Nutrien	28S25E Section 2 Site ID: CAS2	636	Nontarpaulin/Deep/Broadcast or Bed
8/13/2022	Nutrien	28S25E Section 5 Site ID: 4C	447	Nontarpaulin/Deep/Broadcast or Bed
8/19/2022	Nutrien	28S25E Section 29 Site ID: 34B	894	Nontarpaulin/Deep/Broadcast or Bed
8/19/2022	Nutrien	29S25E Section 36 Site ID: 364	1010	Nontarpaulin/Deep/Broadcast or Bed
8/24/2022	Nutrien	28S25E Section 17 Site ID: B16CG	465	Nontarpaulin/Deep/Broadcast or Bed
8/29/2022	TriCal	27S25E Section 5 Site ID: 51ROSE	1128.95	Tarpaulin/Deep/Broadcast – with tarp eligible for 60 % credit
9/21/2022	TriCal	27S25E Section 5 Site ID: 51ROSE	1340	Tarpaulin/Shallow/Broadcast – with tarp eligible for 60% credit
10/13/2022	Nutrien	28S26E Section 6 Site ID: NMF	277.18	Nontarpaulin/Deep/GPS-targeted
10/13/2022	Nutrien	28S26E Section 6 Site ID: NME	250.82	Nontarpaulin/Deep/GPS-targeted
10/15/2022	Nutrien	28S26E Section 18 Site ID: SMAW1	32	Nontarpaulin/Deep/Broadcast or Bed
10/15/2022	Nutrien	28S26E Section 17 Site ID: SMAE1	304	Nontarpaulin/Deep/Broadcast or Bed
11/26/2022	TriCal	28S26E Section 14 Site ID: 080053A	2082.3	Nontarpaulin/Deep/Broadcast or Bed
11/28/2022	Simplot	28S24E Section 2 Site ID: 6	909.19	Nontarpaulin/Deep/Broadcast or Bed
2/3/2023	Simplot	29S24E Section 6 Site ID: 17	888	Nontarpaulin/Deep/Broadcast or Bed
2/5/2023	Simplot	29S25E Section 27 Site ID: 9	81.9	Nontarpaulin/Deep/Broadcast or Bed

Date of Application	Applicator	Location (Township, Range, Section, Site ID)	Quantity Applied (gallons)	Application Method
2/5/2023	Simplot	29S25E Section 27 Site ID: 10A	572.7	Nontarpaulin/Deep/Broadcast or Bed

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Howard Hirsch, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the plaintiff’s case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code § 25249.7(h)(2), *i.e.*, (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

June 29, 2023



Howard Hirsch
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

2

3 I, Sam Litt, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
7 slitt@lexlawgroup.com.

8 On June 29, 2023, I served the following document(s) on all interested parties in this
9 action by placing a true copy thereof in the manner and at the addresses indicated below:

10 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
11 TOXIC ENFORCEMENT ACT;**

12 **CERTIFICATE OF MERIT;** and

13 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986
14 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
15 asterisk).

16 **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
17 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
18 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
19 ordinary course of business. On this date, I placed sealed envelopes containing the above
20 mentioned documents for collection and mailing following my firm's ordinary business practices.

21 *Please see attached service list.*

22 **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
23 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
24 on the date executed.

25 Stacey Grassini, Deputy District Attorney
26 Contra Costa County
27 900 Ward Street
28 Martinez, CA 94553
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 29, 2023 at San Francisco, California.



Sam Litt

SERVICE LIST

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