

**FILED** [Exempt from Filing and  
San Francisco County Superior Court Motion Fees – Govt.  
Code § 6103]

NOV 10 2020

CLERK OF THE COURT

BY: *Spencer Liu*  
Deputy Clerk  
**BOWMAN LIU**

1 Todd E. Robins (SBN 191853)  
2 Jed J. Borghei (SBN 257049)  
3 Taeva C. Shefler (SBN 291637)  
4 ROBINS BORGHEI LLP  
5 369 Pine Street, Suite 400  
6 San Francisco, CA 94104  
7 Telephone: (415) 848-8850  
8 Facsimile: (415) 276-5875

6 Attorneys for Plaintiffs, COUNTY OF MADERA, MADERA COUNTY MAINTENANCE  
7 DISTRICT 28 (RIPPERDAN) and MADERA COUNTY MAINTENANCE DISTRICT 36  
8 (EASTIN ARCOLA)

9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

11 COUNTY OF MADERA, MADERA COUNTY )  
12 MAINTENANCE DISTRICT 28 (RIPPERDAN) and )  
13 MADERA COUNTY MAINTENANCE DISTRICT 36 )  
14 (EASTIN ARCOLA) )

15 Plaintiffs,

16 vs.

17 THE DOW CHEMICAL COMPANY; SHELL OIL )  
18 COMPANY, individually and doing business as )  
19 SHELL CHEMICAL COMPANY; OCCIDENTAL )  
20 CHEMICAL CORPORATION; J.R. SIMPLOT )  
21 COMPANY; PUREGRO COMPANY; NUTRIEN )  
22 AG SOLUTIONS, INC., WILBUR-ELLIS )  
23 COMPANY LLC ; and DOES 1 through 300, )  
24 INCLUSIVE, )

25 Defendants. )

CGC -20-587618  
CASE NO.  
Date Filed:

COMPLAINT FOR DAMAGES,  
AND OTHER RELIEF:  
(1) STRICT PROD. LIABILITY  
(DESIGN DEFECT);  
(2) STRICT PROD. LIABILITY  
(FAILURE TO WARN)  
(3) NUISANCE;  
(4) TRESPASS; and  
(5) NEGLIGENCE.

**JURY TRIAL DEMANDED**

26 Plaintiffs COUNTY OF MADERA, MADERA COUNTY MAINTENANCE DISTRICT  
27 28 (RIPPERDAN) and MADERA COUNTY MAINTENANCE DISTRICT 36 (EASTIN  
28 ARCOLA) hereby allege as follows, based on information and belief and investigation of  
counsel:

**I. SUMMARY OF THE CASE**

1. Plaintiff COUNTY OF MADERA (“Plaintiff”), by and through its duly formed  
MAINTENANCE DISTRICT 28 (RIPPERDAN) (hereafter, “MD28-Ripperdan”) and

1 MAINTENANCE DISTRICT 36 (EASTIN ARCOLA) (hereafter, "MD36-Eastin Arcola") and co-  
2 plaintiffs herein, owns and operates public water systems that provide drinking water to residents  
3 and businesses in the unincorporated places in the County of Madera known as Ripperdan,  
4 California, and Eastin Arcola, California, respectively. Plaintiffs seek to recover by this action  
5 the substantial costs necessary to protect the public and restore certain of their drinking water  
6 supply wells, which are contaminated by the toxic chemical, 1,2,3-trichloropropane ("TCP").

7 2. TCP is a highly toxic substance that is an ingredient, component, constituent,  
8 contaminant and/or impurity in certain commercial products. In years past, TCP and/or products  
9 containing TCP (collectively referred to hereinafter as "TCP Products"), were applied, released,  
10 discharged and/or disposed of by others in the vicinity of drinking water supply wells owned and  
11 operated by Plaintiffs. TCP has migrated through the subsurface and into the groundwater, and  
12 now contaminates the water pumped from certain of Plaintiffs' wells.

13 3. The defendants in this action are the manufacturers, distributors and releasors of  
14 the TCP Products that caused the contamination of Plaintiffs' water supply. Among other things,  
15 the manufacturer defendants knowingly and willfully manufactured, promoted and sold TCP  
16 Products when they knew or reasonably should have known that TCP would reach groundwater,  
17 pollute drinking water supplies, render drinking water unusable and unsafe, and threaten public  
18 health and welfare, as it has done with respect to Plaintiffs' water supply.

19 4. Plaintiffs file this lawsuit to recover compensatory and all other damages,  
20 including all necessary funds to compensate Plaintiffs for the costs of designing, constructing,  
21 installing, operating and maintaining the treatment facilities and equipment required to comply  
22 with state and federal safe drinking water laws and to remove TCP from their water supply, and  
23 to ensure that the responsible parties bear such expense, rather than Plaintiffs and their  
24 ratepayers.

## 25 II. THE PARTIES

26 5. Plaintiff COUNTY OF MADERA is a California general law county that, by and  
27 through Plaintiff MADERA COUNTY MAINTENANCE DISTRICT 28 (RIPPERDAN) and  
28 MADERA COUNTY MAINTENANCE DISTRICT 36 (EASTIN ARCOLA), which are

1 maintenance districts duly formed pursuant to the Government Code, owns and operates public  
2 water systems that provide drinking water to residents and businesses in the unincorporated  
3 places in the County of Madera known as Ripperdan, California, and Eastin Arcola, California,  
4 respectively. Plaintiffs' public water systems include, among other elements, drinking water  
5 production wells that draw from one or more groundwater aquifers, well sites, associated  
6 pumping, hydro-pneumatic tanks, and distribution systems and equipment, all of which will be  
7 referred to collectively in this Complaint as Plaintiffs' "Water Systems." Plaintiffs' Water  
8 Systems include the right of Plaintiffs to extract and use groundwater from their wells to supply  
9 drinking water to residents and business within each such System's service area. Plaintiffs have  
10 a significant property interest in the waters they extract and use from the Water Systems' wells.  
11 The past, present and continuing contamination of such waters by TCP constitutes physical  
12 injury to such waters for which Plaintiffs are entitled to, and Plaintiffs hereby do, seek damages  
13 and other appropriate relief.

14           6.       The following defendants designed, manufactured, formulated, marketed,  
15 promoted, distributed, sold (directly or indirectly), applied, discharged, disposed of and/or  
16 released the TCP Products that are sources of the TCP that contaminates Plaintiffs' wells and  
17 water supply.

18           7.       Defendant THE DOW CHEMICAL COMPANY ("Dow") is a Delaware  
19 corporation with its principal place of business in Midland, Michigan, which at all times relevant  
20 to this action was doing business in California.

21           8.       Defendant SHELL OIL COMPANY, individually and doing business as SHELL  
22 CHEMICAL COMPANY ("Shell") is a Delaware corporation with its principal place of business  
23 in Houston, Texas, which at all times relevant to this action was doing business in California.

24           9.       Defendant OCCIDENTAL CHEMICAL CORPORATION, individually and as  
25 successor by merger to Occidental Chemical Agricultural Products, Inc. (formerly known as  
26 Occidental Chemical Company, successor by merger to Associated Farm Supplies)  
27 ("Occidental"), is a New York corporation with its principal place of business in Dallas, Texas,  
28 which at all times relevant to this action was doing business in California.

1           10. Defendant NUTRIEN AG SOLUTIONS, INC. (formerly known as Crop  
2 Production Services, Inc.), individually and as successor in interest to Western Farm Service,  
3 Inc. (formerly known as Cascade Farm Services, Inc.) and as successor in interest to UAP  
4 Distribution, Inc. (individually and doing business as United Agri Products West, UAP West,  
5 and United Agri Products, and as successor in interest to United Agri Products Financial  
6 Services, Inc.) (“Nutrien”), is a Delaware corporation with its principal place of business in  
7 Loveland, Colorado, which at all times relevant to this action was doing business in California.

8           11. Defendant PUREGRO COMPANY (“PureGro”) is a California corporation with  
9 its principal place of business in San Ramon, California, which at all times relevant to this action  
10 was doing business in California.

11           12. Defendant J.R. SIMPLOT COMPANY (formerly known as Simplot Company),  
12 individually and doing business as Simplot Grower Solutions and Simplot Soilbuilders, and as  
13 successor by merger to Simcal Chemical Company (formerly known as Valley Nitrogen  
14 Producers, Inc.) (“Simplot”), is a Nevada corporation with its principal place of business in  
15 Boise, Idaho, which at all times relevant to this action was doing business in California.

16           13. Defendant WILBUR-ELLIS COMPANY LLC (“Wilbur-Ellis”) is a California  
17 corporation with its principal place of business in San Francisco, California, which at all times  
18 relevant to this action was doing business in California.

19           14. The names and capacities, whether individual, corporate or otherwise, of  
20 defendants named herein as DOES 1 through 300, inclusive, are unknown at this time to Plaintiff  
21 who therefore sues said defendants by such fictitious names. Plaintiff will amend the Complaint  
22 to show the true names and capacities of said defendants when their identities and capacities  
23 have been ascertained.

24           15. The defendants named in paragraphs 7-13 above and defendant DOES 1 through  
25 300, inclusive, are referred to collectively herein as “Defendants.”

26           16. Defendants Dow and Shell and DOES 1 through 100, inclusive, are referred to  
27 collectively herein as “Manufacturer Defendants.”  
28

1 17. Defendants Occidental, Simplot, PureGro, Nutrien, Wilbur-Ellis and DOES 101  
2 through 200, inclusive, are referred to collectively herein as “Distributor Defendants.”

3 18. DOES 201 through 300, inclusive, are referred to collectively herein as  
4 “Owner/Operator Defendants.”

5 19. When reference is made in this Complaint to any act or omission of any of the  
6 Defendants, it shall be deemed that the officers, directors, agents, employees or representatives  
7 of the Defendants committed or authorized such act or omission, or failed to adequately  
8 supervise or properly control or direct their employees while engaged in the management,  
9 direction, operation or control of the affairs of Defendants, and did so while acting within the  
10 scope of their duties, employment or agency.

### 11 III. JURISDICTION AND VENUE

12 20. The California Superior Court has jurisdiction over this action pursuant to  
13 California Constitution Article VI, Section 10, which grants the Superior Court “original  
14 jurisdiction in all cases except those given by statute to other trial courts.” The statutes under  
15 which this action is brought do not grant jurisdiction to any other trial court.

16 21. This Court has jurisdiction over Defendants because, based on information and  
17 belief, each is a corporation or other business that has sufficient minimum contacts in California,  
18 is a citizen of California, or otherwise intentionally availed itself of the California market either  
19 through the distribution or sale of TCP Products in the State of California or by having a  
20 manufacturing, distribution or other facility located in California so as to render the exercise of  
21 jurisdiction over it by the California courts consistent with traditional notions of fair play and  
22 substantial justice.

23 22. Venue is proper in San Francisco Superior Court because at least one Defendant’s  
24 principal place of business is located within the County of San Francisco.

### 25 IV. ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION

#### 26 **A. The Contaminant: TCP.**

27 23. TCP does not occur naturally. Rather, TCP is and/or was produced as a  
28 byproduct of certain chemical processes used to produce allyl chloride, epichlorohydrin and

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.