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Clifford A. Chanler, State Bar No. 135534  
Jenny Cohn, State Bar No. 169973  
CHANLER & SOMERS  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111  
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Fax: (415) 391-1157

Attorneys for Plaintiff  
AS YOU SOW

**FILED**  
San Francisco County Superior Court

JAN 2 1988

ALAN M. CARLSON, Clerk  
BY: E. de Lina  
Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN FRANCISCO

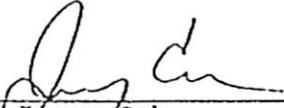
AS YOU SOW, a non-profit corporation,  
  
Plaintiff  
  
v.  
  
HACH COMPANY, and DOES 1 through 1000,  
  
Defendants.

Case No. 974534  
  
STIPULATION FOR ENTRY OF JUDGMENT AND JUDGMENT ON STIPULATION

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IT IS HEREBY STIPULATED, by and between plaintiff As  
You Sow and defendant Hach Company, through their respective  
representatives, that judgment in the above-entitled action be  
entered in accordance with the terms of the settlement  
agreement between the parties, which is attached hereto as  
Exhibit A.

Dated: December 11, 1995


by:   
Jenny Cohn  
Attorney for Plaintiff  
AS YOU SOW

Dated: December 15, 1995

by:   
Jeane Struck  
Attorney for Defendant  
HACH COMPANY

IT IS HEREBY ORDERED that judgment be entered in  
accordance with the terms of the stipulation between the  
parties.

Dated: December 2e, 1995

  
Judge of the Superior Court  
STUART R. POLLAK  
PRESIDING JUDGE

# **Exhibit A**

SETTLEMENT AGREEMENT

On December 20, 1995 in San Francisco, California, As You Sow ("AYS") and Hach Company ("Hach") agreed to the following terms and conditions:

**WHEREAS:**

AYS is a not-for-profit public interest foundation dedicated to promoting consumer awareness, protecting the environment and improving human health; and

Hach is a Delaware corporation that currently manufactures, sells and distributes systems for water analysis some of which contain chemicals listed pursuant to Proposition 65 as known carcinogens and/or reproductive toxins; and

A list of the products which contain chemicals listed pursuant to Proposition 65 and which are covered by this Agreement is provided in Exhibit A (the "Products"). The Products were distributed or sold by Hach for sale or use in California since January 1, 1987; and

On April 20 and July 19, 1995, AYS served Hach with documents entitled 60-Day Notice, which provided Hach with notice that it was allegedly in violation of Health & Safety Code §25249.6 ("Proposition 65") for failing to warn purchasers that certain products it sells in California expose users to chemicals listed pursuant to Proposition 65; and

On December 7, 1995, AYS filed a Complaint entitled As You Sow v. Hach Company; et al. (No. 974534) in San Francisco Superior Court, alleging violations of Business & Professions Code §17200 and Health & Safety Code §25249.6 on behalf of individuals in California who allegedly are exposed to Proposition 65-listed chemicals contained in certain Hach products; and

In order to avoid costly and time-consuming litigation, AYS and Hach have agreed to settle all claims that have been brought or that could have been brought against Hach for exposures to Proposition 65-listed chemicals arising from Hach's distribution or sale of the Products listed in Exhibit A.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Product Warning.** Hach agrees that as of January 12, 1996, it shall not ship (or cause to be shipped) any of the Products in Exhibit A for sale or use in the State of California, unless the packaging in which such product is shipped contains an 8.5" X 11" placard which sets forth one

of the following warning statements in compliance with Health & Safety Code §25249.6 and 22 California Code of Regulations §12601:

- 1.1 For products that contain one or more chemicals listed as known to the state to cause cancer:

"WARNING: This product contains a chemical(s) known to the State of California to cause cancer."

- 1.2 For products that contain one or more chemicals listed as known to the state to cause reproductive toxicity:

"WARNING: This product contains a chemical(s) known to the State of California to cause birth defects or other reproductive harm."

- 1.3 For products that contain one or more chemicals listed as known to the state to cause cancer and one or more chemicals listed as known to the state to cause reproductive toxicity:

"WARNING: This product contains a chemical(s) known to the State of California to cause cancer."

"WARNING: This product contains a chemical(s) known to the State of California to cause birth defects or other reproductive harm."

- 1.4 This warning statement shall be prominent and displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual. An exemplar of a satisfactory warning placard is attached hereto as Exhibit B.

2. MSDS Revisions. Hach agrees to initiate revisions to the Products' Material Safety Data Sheets ("MSDS") to add Proposition 65 warnings consistent with the warnings outlined in §1. These revisions shall be completed by Hach by January 12, 1996. An example of a proper MSDS is attached hereto as Exhibit C.

////

3. Settlement Amount.

3.1. Penalties. Pursuant to Health & Safety Code §25249.7(b), Hach agrees to pay \$5,000 as a civil penalty, pursuant to Health & Safety Code §25249.7(b), upon execution of this Agreement. Penalty monies shall be apportioned by AYS in accordance with Health & Safety Code §25192.

3.2. Restitution. Hach agrees to pay \$3,100 to AYS upon execution of this Agreement as restitution. This payment, which is made pursuant to Business & Professions Code §17203, shall be forwarded by AYS to the Rainforest Action Network, a non-profit advocacy group dedicated to saving rain forests from destruction, and to the AYS Proposition 65 Investigation Fund. The money transferred to the AYS Proposition 65 Investigation Fund shall be used to further AYS' statewide investigation of unwarned exposures to Proposition 65-listed chemicals.

3.3 Reimbursement of Fees and Costs. Hach agrees to reimburse AYS for its investigation fees and costs, expert fees, reasonable attorneys' fees, and any other costs incurred as a result of investigating, bringing this matter to Hach's attention, litigating and negotiating a settlement in the public interest. Upon execution of this agreement, Hach shall pay AYS \$2200 as reimbursement of its investigation fees and costs and \$5500 as reimbursement of its attorney fees and costs.

4. AYS Release. AYS, by this Agreement, waives all rights to institute action against Hach, its subsidiaries, agents, attorneys, representatives, directors, officers, partners and employees, and its distributors, dealers, customers or assigns, which manufacture, sell, distribute or use the Products containing Proposition 65-listed chemicals, whether under Health & Safety Code §25249.5 et seq., Business & Profession Code §§17200 et seq., or any other statute or common law claim based on Hach's failure, pursuant to Proposition 65, to warn individuals about exposure to Proposition 65-listed chemicals from any of the Products identified in Exhibit A.

5. Hach Release. Hach, by this Agreement, waives all rights to institute any form of legal action against AYS, its members, officers, directors, attorneys and representatives (the "AYS Releasees") based on any statute or provision of common law and for all actions or statements made by the AYS Releasees in the course of seeking enforcement of Proposition 65 and Business and Professions Code §17200 against Hach.

6. **Dismissal With Prejudice.** Upon receipt of a written certification from Hach that it has complied with Paragraphs 1 and 2 of this agreement, AYS shall promptly file a Request for Dismissal With Prejudice of its complaint against Hach, pursuant to Code of Civil Procedure Section 581.
7. **Civil Code § 1542.** The undersigned, and each of them, relinquish all rights conferred upon the undersigned by the provisions of §1542 of the Civil Code of the State of California, and hereby waive all future and unknown claims against the other, in connection with the alleged violations or enforcement of Proposition 65 and/or Business and Professions Code §17200 et seq.
8. **Stipulated Judgment.** The parties shall file a stipulated judgment to be approved pursuant to CCP §664.6 by the San Francisco Superior Court in accordance with the terms of this agreement.
9. **Construction and Modification.** Each party herein has cooperated in the drafting and preparation of this Agreement and, therefore, any construction of the intent of the parties herein or language hereof to be made by a court of law shall not be construed against any of the parties herein. It is further expressly understood and agreed that this Agreement may not be altered, amended, modified or otherwise changed in any respect, except by a writing duly executed by authorized representatives of the parties herein.
10. **Severability.** In the event that any of the provisions of this Agreement are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
11. **Attorney's Fees.** In the event that a dispute arises with respect to any provision(s) of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.
12. **Governing Law.** The terms of this Agreement shall be governed by the laws of the State of California.
13. **Correspondence.** All correspondence to AYS shall be mailed to:

Jenny Cohn, Esq.  
Chanler & Somers  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111

All correspondence to Hach shall be mailed to:

Jeane Struck, Esq.  
Grunsky, Ebey, Farrar & Howell  
240 Westgate Drive  
Watsonville, CA 95076

15. No admission. Nothing in this Agreement shall be construed as an admission by Hach of any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Hach of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligation, responsibilities, and duties of Hach under this Agreement.
16. Authority to execute. The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

AGREED TO:

By:  \_\_\_\_\_

As You Sow

AGREED TO:

By:  \_\_\_\_\_

Hach Company



# **Exhibit A**

EXHIBIT A  
(Product List)

back set

DESCRIPTION
BATTERY, LEAD ACID BY
BENZENE, ACS
BUFFER SOLN, PHOSPHATE
CADMIUM GRANULES, TREATED
CADMIUM METAL
CADMIUM STD SOLN, 1000MG/L
CADMIUM STD SOLN, 100MG/L
CADMIUM, 25MG/L
CARBON TETRACHLORIDE, ACS
CHLORIDE Z POWDER
CHLORIDE INDICATOR POWDER
CHLOROFORM, ACS
CHROMATE SOLN, 2500MG/L
CHROMIC ACID CLEANING SOLN
CHROMIUM STD SOLN, 50MG/L
CHROMIUM STD, 1000MG/L
CITRATE BUFFER POWDER
COD DIGESTION VIAL, COOZ HA
COD DIGESTION VIAL, COOZ LR
COD DIGESTION VIAL, HR
COD DIGESTION VIAL, HR+
COD DIGESTION VIAL, LR
COD DIGESTION VIAL, LUR
COPPER Z REAGENT
COPPER B REAGENT
COPPER CADMIUM GRANULES
DETERGENT REAGENT
DIGESTION REAGENT, JELDAM
EDTA SOLN, STRONG
FERROUS AMMONIUM SULFATE
FERROUS AMMONIUM SULFATE, 0.025M
FERROUS AMMONIUM SULFATE 0.0125M
FERROUS AMMONIUM SULFATE 0.125M
FERROUS AMMONIUM SULFATE 0.1M
FERROUS ETHYLENEDIAMMONIUM SULFATE
FERROUS ION STD SOLN
HEXAVALENT CHROMIUM SOLN, 10.0MG/L
HEXAVALENT CHROMIUM SOLN, 12.5MG/L
HYDRAZINE SULFATE
LEAD ACETATE, ACS
LEAD STD SOLN, 1000MG/L
LEAD STD SOLN, 100MG/L
LEAD STD SOLN, 50MG/L
LIME REQUIREMENT BUFFER
MERCURIC CHLORIDE SOLN
MERCURIC NITRATE 2.570M
MERCURIC NITRATE 0.0141M
MERCURIC NITRATE 0.141M
MERCURIC NITRATE 1 HYDR, ACS
MERCURIC NITRATE 2.254M
MERCURIC NITRATE STD, 0.01M
MERCURIC SULFATE
MERCURIC THIOCYANATE SOLN
MERCURY STD SOLN, 1000MG/L
NESSLER'S REAGENT, EXTRA ALKALI
NEUTRAL DETERGENT CONCENTRATE
NICKEL SOLN
NITRATE-NITROGEN STD SOLN
NITRAYER'S NITRATE RGT
NITRAYER'S REAGENT
NITRAYER'S REAGENT
NITROGEN NITRATE SOLN
NITROGEN STD 18.77M N
NITROGEN STOCK SOLN
POTASSIUM CHROMATE SOLN
POTASSIUM CHROMATE, ACS
POTASSIUM DICHROMATE
POTASSIUM DICHROMATE 0.25M
POTASSIUM DICHROMATE 0.1M
POTASSIUM DICHROMATE 0.25M
SMP BUFFER SOLN, COMPNT 2
SODIUM CHROMATE STD 1000MG/L
STOCK NITRATE SOLN
SULFIDE Z REAGENT SOLN
THIOACETAMIDE SOLN
TOLUENE, ACS
TRISODIUM NTA SOLN

# **Exhibit B**

**WARNING**

**THIS PRODUCT CONTAINS A CHEMICAL  
KNOWN BY THE STATE OF CALIFORNIA  
TO CAUSE CANCER**

**THIS PRODUCT CONTAINS A CHEMICAL  
KNOWN BY THE STATE OF CALIFORNIA  
TO CAUSE BIRTH DEFECTS  
OR OTHER REPRODUCTIVE HARM**

**PLEASE READ THE ENCLOSED  
MATERIAL SAFETY DATA SHEETS FOR  
ALL PRODUCTS CAREFULLY BEFORE  
HANDLING THE PRODUCT**

# **Exhibit C**

CAT. NO. 21194

MATERIAL SAFETY DATA SHEET

4931

MSDS DATE: 7/18/95  
CHANGE NO.: 15161

For Assistance, Contact:  
Regulatory Affairs Dept.  
PO Box 987 Ames, IA 50010  
(515) 227-4224

HACH COMPANY  
PO BOX 987  
AMES, IA 50010

Emergency Telephone #  
Rocky Mountain Palms Ctr.  
(313) 423-5216

I. PRODUCT IDENTIFICATION

PRODUCT NAME: Mercury Reagent  
CAS NO.: NA  
FORMULA: Not applicable  
MSDS NUMBER: 21194  
CHEMICAL NAME: Not applicable  
CHEMICAL FAMILY: Not applicable

II. INGREDIENTS

Mercuric Iodide  
PCI: 415 CAS NO.: 2774-29-2 SAFETY LISTED  
TLV: 0.15 mg/m<sup>3</sup> as Mg PEL: Cf 0.1 mg/m<sup>3</sup> Mg  
BCPA: D15  
HAZARD: Extremely toxic; causes severe burns

Sulfur Hexafluoride  
PCI: 429 CAS NO.: 3381-23-2 SAFETY NOT LISTED  
TLV: 2 mg/m<sup>3</sup> PEL: 2 mg/m<sup>3</sup>  
HAZARD: Corrosive, very toxic

Sulfur Trioxide  
PCI: 418 CAS NO.: 7448-82-5 SAFETY NOT LISTED  
TLV: Not established PEL: Not established  
HAZARD: Causes moderate eye irritation

Mercuric Sulfate Crystals  
PCI: 41 CAS NO.: 7553-51-2 SAFETY NOT LISTED  
TLV: 0.1 ppm ceiling PEL: 0.1 ppm ceiling  
HAZARD: Slightly toxic; causes severe burns

Deionized Water  
PCI: 100 CAS NO.: 7732-18-5 SAFETY NOT LISTED  
TLV: Not applicable PEL: Not applicable  
HAZARD: None

III. PHYSICAL DATA

STATE: Solid APPEARANCE: Clear, light yellow ODOR: Not determined  
SOLUBILITY IN WATER: Insoluble ACID: Not determined  
OTHER: Not determined BOILING POINT: NA MELTING POINT: NA  
SPEC GRAVITY: 5.265 @ 20°C VAPOR PRESSURE: Not determined  
VAPOR DENSITY (air=1): NA EVAPORATION RATE: NA  
METAL CORROSION: ALUMINUM: NA STEEL: NA STABILIZER: Stable  
STORAGE PRECAUTIONS: Store tightly closed.

IV. FIRE, EXPLOSION HAZARD AND REACTIVITY DATA

FLASH POINT: Not applicable METHOD: NA  
FLAMMABILITY LIMITS - LOWER: NA UPPER: NA  
SUSCEPTIBILITY TO SPONTANEOUS HEATING: None  
SHOCK SENSITIVITY: None AUTOIGNITION POINT: NA  
EXTINGUISHING MEDIA: Not applicable  
FIRE/EXPLOSION HAZARDS: May emit toxic fumes  
HAZARDOUS DECOMP. PRODUCTS: Fumes of mercury, iodine and sulfur compounds  
OXIDIZER: No AHA Class: Health 3 Flammability: 0 Reactivity: 1  
CONDITIONS TO AVOID: Extreme temperatures, tightly contact with acids,  
organics, ammonia, aldehydes.

V. HEALTH HAZARD DATA

THIS PRODUCT MAY BE CORROSIVE TO EYES AND SKIN  
ACUTE TOXICITY: Extremely toxic  
ROUTES OF EXPOSURE: Ingestion  
TARGET ORGANS: central nervous system, kidneys  
CHRONIC TOXICITY: Cumulative poison  
ROUTES OF EXPOSURE: Ingestion, skin absorption  
TARGET ORGANS: central nervous system, kidneys, liver  
CANCER INFORMATION: An ingredient of this mixture is an experimental  
carcinogen.  
ROUTES OF EXPOSURE: Not determined  
TARGET ORGANS: Not determined  
OVEREXPOSURE: Causes severe burns. Mercury is a general protoplasmic  
poison; it circulates in the blood and is stored in the liver, kidneys,  
spleen and brain. Main symptoms are numbness, tremor and psychic  
disturbances. May cause CNS effects, brain damage.  
MEDICAL CONDITIONS AGGRAVATED BY EXPOSURE: May aggravate allergies or  
susceptibility to mercury eye or skin conditions disorders of the central  
nervous system or kidneys.

VI. PRECAUTIONARY MEASURES

Avoid contact with eyes, skin and clothing  
Do not breathe mist or vapor.  
Wash thoroughly after handling.  
PROTECTIVE EQUIPMENT: Full face, lab grade goggles, disposable latex gloves,  
lab coat

VII. FIRST AID

EYE AND SKIN CONTACT: Immediately flush eyes and skin with water for 15  
minutes. Remove contaminated clothing. Call physician.  
INGESTION: Do NOT induce vomiting. Give 1 - 2 glasses of water. Call a  
physician immediately. Never give anything by mouth to an unconscious  
person.  
INHALATION: Remove to fresh air.

VIII. SPILL AND DISPOSAL PROCEDURES

IN CASE OF SPILL OR RELEASE: The toxicity of mercury is such that the  
element and its compounds should not be allowed to contaminate air or  
water. Seek up solution with inert material. Do not breathe fumes.  
Contaminate the area with mercury absorbing compounds available  
commercially. Dispose of all mercury contaminated material in an EPA  
approved hazardous waste facility.  
DISPOSE OF IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS.

IX. TRANSPORTATION DATA

D.O.T. PROPER SHIPPING NAME: Corrosive Liquid, H.O.S. (Mercuric  
Iodide/Sulfur Hexafluoride Solution)  
HAZARD CLASS: 8 ID: UN2818 GROUP: II

I.C.A.O. PROPER SHIPPING NAME: Corrosive Liquid, Toxic, H.O.S. (Mercuric  
Iodide/Sulfur Hexafluoride Solution)  
HAZARD CLASS: 8 ID: UN2818 GROUP: II  
SUBSIDIARY RISK: 6.1

I.M.C. PROPER SHIPPING NAME: Corrosive Liquid, Toxic, Inorganic, H.O.S.  
(Mercuric Iodide/Sulfur Hexafluoride Solution)  
HAZARD CLASS: 8 ID: UN2818 GROUP: II

X. REFERENCES

- 1) TLV's Threshold Limit Values and Biological Exposure Indices for 1988-  
1989, American Conference of Governmental Industrial Hygienists, 1988.
- 2) 49 CFR Regulations, Federal Register, Vol. 54, No. 12, Thursday, January  
19, 1989, pp. 2332-2343.
- 3) In-house information
- 4) Technical judgment

SAFETY: This product contains a chemical or chemicals subject to the reporting  
requirements of section 313 of Title III of the Superfund Amendments and  
Reauthorization Act of 1986 and 49 CFR Part 372.

PER CALIFORNIA PROPOSITION 65: "WARNING - This product contains a chemical  
known to the State of California to cause cancer." "WARNING - This product  
contains a chemical known to the State of California to cause birth  
defects or other reproductive harm."

THE INFORMATION CONTAINED HEREIN IS BASED ON DATA CONSIDERED TO BE ACCURATE. HOWEVER, NO WARRANTY IS EXPRESSED OR IMPLIED  
REGARDING THE ACCURACY OF THESE DATA OR THE RESULTS TO BE OBTAINED FROM THE USE THEREOF.

ICI HACH CO. 1995

Hach Company, WORLD HEADQUARTERS, PO Box 388, Loveland, CO 80539

Hach Company, 37 229, 25101 Manor 1, McLEUM

PAGE 1 OF 1