

Dole Sues Dow Chemical, Shell Over Drinking Water Contamination

By Peter Hayes 2021-04-07T13:43:26000-04:00

- **COURT:** C.D. Cal.
- **TRACK DOCKET:** [No. 21-cv-02958](#) (Bloomberg Law Subscription)
- **COMPANY INFO:** [Dow Chemical Co.](#) (Bloomberg Law Subscription)

Dole Packaged Foods LLC filed suit against Dow Chemical Co. and Shell Chemical Co. in the Central District of California, alleging they contaminated the drinking water at its Atwater, Calif., plant with the chemical 1,2,3-trichloropropane.

The companies manufactured TCP and products containing TCP “when they knew or reasonably should have known that this harmful compound would reach groundwater, pollute drinking water supplies, render drinking water unusable and unsafe, and threaten the public health and welfare,” Dole alleges in the complaint filed in the U.S. District Court for the Central District of California.

Dole alleges that TCP has been detected in its contaminated wells “at levels substantially above” the state maximum contaminant level.

The complaint also asserts claims against unnamed parties who distributed or sold the TCP-containing products in California, and owner/operator defendants who allegedly “applied, discharged, disposed of or otherwise released” TCP “into or onto lands in the vicinity” of Dole’s contaminated wells.

TCP is “an inert ingredient, impurity and/or manufacturing byproduct” in certain soil fumigant products used to control microscopic worms that infest plant roots, according to the complaint. The products were primarily marketed from the 1940s through the 1980s, the complaint alleges.

Once TCP is released onto land, “it is readily transported through the subsurface and into groundwater,” and “does not readily biodegrade,” the complaint alleges.

A spokesman for Dow said the company believes there is no merit to the allegations. “Dow’s soil

fumigant products were continuously evaluated and approved for use by federal and state regulators,” the spokesman told Bloomberg Law.

“Dole’s claims are based on a California water quality standard that went into effect in 2018, several decades after the product formulations in question were discontinued. To the extent TCP was present in past product formulations, it would have been at levels so low as to pose no environmental risk. Dow will vigorously defend itself against these allegations,” he said.

Causes of Action: Strict product liability, nuisance, trespass, and negligence.

Relief: Damages, abatement of the nuisance, attorneys’ fees and costs.

Response: Shell Chemical didn’t immediately respond to a request for comment.

Attorneys: SL Environmental Law Group PC represents Dole.

The case is [Dole Packaged Foods LLC v. Dow Chemical Co.](#) , C.D. Cal., No. 21-cv-02958, 4/6/21 .

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