

Suit Accusing Monsanto of Polluting Baltimore Waterways Advances

JACK RODGERS April 1, 2020

BALTIMORE (CN) — Agrochemical giant Monsanto cannot duck a lawsuit accusing it of contaminating Baltimore waterways, a federal judge ruled Tuesday.

Known best for its flagship weed-killer Round-Up, Monsanto operates three facilities that release toxins known as polychlorinated biphenyls during the production process. Studies have linked these PCBs to cancer as well as various damage to human nervous and immune systems.



The Port of Baltimore in Maryland. (AP Photo/Patrick Semansky)

Maryland regulators determined that PCB contamination made approximately 921 square miles of the state's estuarine waters unsafe in 2016. Impairments were observed in 223 miles of Maryland's rivers and streams, as well as approximately 3,150 acres of the state's lakes and reservoirs, making fish unsafe for human consumption and causing heron populations to shrink.

Baltimore had to restrict the consumption of striped bass from its Patapsco River and Jones Falls, and it wrote off certain fish from the Back River completely. In a February 2019 federal complaint, it said Monsanto should pay for the cost of the clean-up, having known about and concealed the toxic effects of these chemicals since 1937.

Monsanto moved to dismiss, saying Baltimore cannot establish monetary damages without studying the PCB content of storm water.

U.S. District Judge Richard Bennett [rejected the maneuver](#) Tuesday, finding the city's claims are more than speculative.

"Specifically, the city alleges that Baltimore's water systems are currently contaminated with PCBs produced by Monsanto, and that such contamination has led to unsafe levels of PCB in fish and shellfish in Lake Roland, rendering them unfit for human consumption," wrote Bennett, a George W. Bush appointee.

In a statement Tuesday, Monsanto's parent company, German pharmaceutical powerhouse Bayer, denied that Monsanto ever manufactured or disposed of PCBs in Baltimore, or that it had control over them at the time the chemicals entered Baltimore's waterways.

"While we are disappointed in the court's decision and continue to believe this lawsuit is without merit, this is only a preliminary ruling and the Company will continue to defend against these claims," Bayer said.

Bennett on the other hand found that Baltimore has done enough at this stage to claim that Monsanto actively suppressed reports about PCB toxicity for decades.

Maryland's Economic Loss Doctrine states that a party cannot sue for economic fraud, negligence or other infractions when they do not have a contractual relationship.

Bennett found this doctrine inapplicable, however, due to the public-safety exception.

“Studies have also shown that PCBs are also toxic to aquatic species and wildlife, with exposure resulting in death, compromised immune system function, adverse effects on reproduction, development, and endocrine functions,” Bennett wrote.

The 28-page ruling also notes that political subdivisions such as Baltimore are exempt from statutes of limitations in actions “arising out of a governmental function,” in this case public health.

Baltimore partnered on its lawsuit with the Dallas firm Baron & Budd; the Wilmington, Delaware, firm Grant & Eisenhofer; and Gordon, Wolf and Carney in Towson, Maryland. None of these firms returned a request for comment by the close of business hours Wednesday.

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