EXHIBIT B

FACTUAL BASIS

For many years defendant MONSANTO COMPANY (referred to as "Monsanto" or "defendant") has been a large agrochemical and biotechnology company. Monsanto’s multinational business operations include locations on the Hawaiian Islands of Maui, Molokai, and Oahu that Monsanto has used to grow both conventional and genetically modified seed crops. As part of Monsanto’s operations, Monsanto’s employees have purchased and sprayed various “restricted use pesticides” on the seed crops.

The Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") regulated the registration, sale, distribution, and use of pesticides. Under FIFRA, pesticides were classified as general use pesticides or “restricted use pesticides.” A “restricted use pesticide” could not be purchased or used by the general public and could only be used by a certified applicator due to the possible adverse effects to the environment and injury to applicators or bystanders that could result.

For years Monsanto occasionally sprayed and stored Penncap-M, a pesticide that contained methyl parathion as the sole active ingredient, on its research and seed crop locations on Oahu, Maui, and Molokai. Penncap-M had been classified as a restricted use pesticide under FIFRA. In March 2010, however, two manufacturers of Penncap-M voluntarily sought the cancellation of Penncap-M’s FIFRA registrations. Subsequently, on July 27, 2010, the Environmental Protection Agency ("EPA") issued a cancellation order ("the cancellation order") that canceled the FIFRA registrations for Penncap-M, prohibiting all sale and distribution of end-use Penncap-M
as of August 31, 2013, and further prohibited all use of existing
stocks of end-use Penncap-M as of December 31, 2013.

In addition to publishing notices about the cancellation order
in the Federal Register, the EPA also sent an email notice of the
cancellation order to an email listserv. This email notice was
received by Monsanto’s regulatory compliance department in April
2010. Due to the ban on Penncap-M, knowingly spraying Penncap-M on
any of Monsanto’s seed crop fields on or after December 31, 2013,
would constitute a criminal violation of FIFRA.

Further, because of the Penncap-M ban, as well as Monsanto’s
receipt and knowledge of the cancellation order, any Penncap-M in
excess of one kilogram (2.2 pounds) that Monsanto knowingly stored
after December 31, 2013, had to be managed as an acute hazardous
waste in compliance with the Resource Conservation and Recovery Act
(“RCRA”).

In July of 2013 Monsanto had stopped spraying Penncap-M at its
location on Molokai. From March 2013 through August 2014, Penncap-M
appeared on lists of chemicals to be disposed of at the Molokai
location. Nevertheless, during that period Monsanto’s Molokai
location knowingly stored 180 pounds of Penncap-M hazardous waste,
which it ultimately disposed of with a licensed hazardous waste
disposal company on September 17, 2014.

By virtue of its stop-use use date and Monsanto’s prior
decision to stop using Penncap-M, as of December 31, 2013, at the
latest, the Penncap-M stored by Monsanto on Molokai was an acute
hazardous waste under RCRA. Moreover, because Monsanto had
generated and stored more than one kilogram (2.2 pounds) of Penncap-
M at its Molokai location, Monsanto’s Molokai site was deemed under
RCRA to be a Large Quantity Generator of a hazardous waste. As a result, Monsanto knowingly stored an acute hazardous waste in violation of RCRA’s prohibition against knowingly storing a hazardous waste without a permit.

During 2013, prior to the December 31, 2013, stop use date, Monsanto sprayed and stored Penncap-M on its research and seed crop locations on Maui. On July 15, 2014, after Monsanto employees had been notified of Penncap-M’s stop use date, Monsanto knowingly sprayed Penncap-M on two acres of corn seed research crops at its Valley Farm location on Maui. At the time of that spraying, defendant was aware that years earlier the re-entry interval for Penncap-M, which was the period of time that had to elapse before workers could re-enter an area where Penncap-M was sprayed, had been increased from five to thirty-one days. Nevertheless, approximately seven days after the July 15, 2014, spraying, Monsanto’s employees were told to and did re-enter the site where the Penncap-M had been sprayed.

Shortly after its July 2014 spraying of Penncap-M, Monsanto took steps to identify which of its sites had Penncap-M and, ultimately, to dispose of the Penncap-M at the following Maui locations -- Valley, Maalaea, and Piilani. Nevertheless, on or about July 21, 2014, Monsanto knowingly stored approximately 111 gallons of Penncap-M hazardous waste among its Valley, Maalaea, and Piilani sites without having the required permit to store the hazardous waste at any of those locations.

Because Monsanto generated and stored more than one kilogram (2.2 pounds) of Penncap-M waste at each of its Maui sites, each of Monsanto’s Maui sites was deemed a Large Quantity Generator of
hazardous waste under RCRA and was required, but failed, to obtain a permit for hazardous waste storage and disposal. The Penncap-M stored at Monsanto’s Maui sites after December 31, 2013, was an acute hazardous waste under RCRA.

To facilitate the disposal of its Penncap-M hazardous waste, between July and September 2014 Monsanto consolidated its supplies of Penncap-M at its Valley location. The Penncap-M hazardous waste stored at each of Monsanto’s Maui sites was also considered a “hazardous material” under the Hazardous Materials Transportation Act (“HMTA”). As a result, in order to transport Penncap-M on a highway to its Valley site, Monsanto was required to use a shipping manifest that identified the hazardous material being transported. When it transported its Penncap-M hazardous waste to its Valley site, however, Monsanto knowingly failed to use a shipping manifest as required under the HMTA. Moreover, Monsanto’s Valley site did not have a permit under Title 42, United States Code, Chapter 82, Subchapter III or pursuant to Title I of the Marine Protection, Research, and Sanctuaries Act to treat hazardous waste. Accordingly, Monsanto knowingly transported its Penncap-M hazardous waste to its Valley site, a facility that defendant knew was not licensed to accept such hazardous waste.

Ultimately, on October 21, 2014, Monsanto knowingly disposed of approximately 2,250 pounds of waste which included Penncap-M, Carbaryl, and Carbofuran hazardous waste, and several other wastes, from its Valley site using a licensed hazardous waste disposal company.