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Via Certified U.S. Mail, Return Receipt Requests

Brian M. Krzanich
Chief Executive Officer
Intel Corporation
2200 Mission College Blvd
Santa Clara, CA 95054

Mckayla Garrett
Facility Contact Person
Ronler Acres Campus
2501 NW 229th Ave
Hillsboro, OR 97124

Jessie Taylor
Facility Contact Person
Aloha Campus
3585 SW 198th Ave
Aloha, OR 97007

CT Corporation System
Registered Agent
388 State St Ste 420
Salem OR 97301

Re: Notice of Intent to Sue Intel Corporation for Violations of the Clean Air Act at its Aloha and Hillsboro, Oregon Manufacturing Plants

To Those Addressed Above:

On behalf of Neighbors for Clean Air (“NCA”) and Northwest Environmental Defense Center (“NEDC”), we write to give you notice that NCA and NEDC intend to file a civil action against Intel Corporation (“Intel”) under the citizen suit provision of of the Federal Clean Air Act (“CAA”), 42 U.S.C. § 7404(b) for violations of the Oregon State Implementation Plan (“SIP”). These violations have occurred and continue to occur at Intel’s facilities in Aloha and Hillsboro, Oregon. This notice is being provided pursuant to 42 U.S.C. § 7604(b) and 40 C.F.R. Part 54.

A. Persons Providing Notice

Neighbors for Clean Air was founded in 2009 by residents of Northwest Portland who were concerned about the presence of air toxics in their local communities. Since its founding in Northwest Portland, NCA has expanded the scope of its mission. NCA is dedicated to helping communities around Oregon understand and address the affects of air pollution, especially hazardous air pollutants, in their neighborhoods.

The Northwest Environmental Defense Center was founded in 1969 by a group of professors, law students, and attorney alumni at Lewis & Clark Law School. NEDC is dedicated to the preservation and protection of the Pacific Northwest’s natural resources. NEDC’s members are lawyers, scientists, students, and citizens committed to using the law to advocate for cleaner water and air, to preserve public lands and wildlife habitat across the region.

NCA and NEDC have a direct stake in protecting Oregon's air because their members, staff, and volunteers live, work, recreate, and obtain aesthetic pleasure from locations that are adversely affected by the air pollution emitted from Intel.

B. Factual Background

Intel operates two semiconductor-manufacturing facilities in Hillsboro, Oregon area. Specifically, the Ronler Acres Campus at 2501 NW 229th Ave, Hillsboro, OR 97124, and the Aloha Campus at 3585 SW 198th Ave, Aloha, OR 97007. The manufacturing at these facilities is interrelated and therefore the Oregon Department of Environmental Quality ("DEQ") considers them one facility for Clean Air Act permitting purposes. Intel manufactures semiconductor devices, such as computer microprocessors at these facilities. This process involves etching, doping, deposition and film, photoresist masking, planarization, controlled collapse chip connection, and die prep. These processes result in the emissions of numerous chemicals including various volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"). The facilities also operate several boilers that emit particulate matter ("PM"),¹ carbon monoxide ("CO"), nitrous oxides ("NO_x"), sulfur dioxide ("SO₂"), greenhouse gases ("GHGs"), VOCs, and HAPs.

On October 1, 2010, Intel submitted a Notice of Intent to Construct, Form AQ104, to DEQ for the D1X expansion. On this application, Intel represented that the proposed construction qualified as a "Type 2" change. In a letter dated December 20, 2010, DEQ approved the Notice of Intent to Construct.

Since the time of this approval of construction, Intel has disclosed that they have been emitting fluorides² for many years but never disclosed these emissions to DEQ. According to the DEQ Title V Operating Permit Review Report, during the baseline period Intel was emitting approximately 0.5 tons per year ("tpy") of fluorides. Intel's modification of its facility to build the D1X expansion has the potential to emit 6.4 tons per year.

Fluorides are toxic, and in fact the fluoride ion is a cellular poison. Fluoride in the human body inhibits oxygen consumption, blood clotting and processing of nutrition. Fluoride in the body is also a contributing factor for problems with the rate or rhythm of the heartbeat. Fluoride emissions in the air can result in chronic health effects such as dental and skeletal fluorosis, weight loss, malaise, anemia, discoloration of teeth and brittle bones and calcified ligaments. Fluoride exposure can also contribute to developing asthmatic symptoms. Long-term exposure to elevated fluoride concentrations can also result in injury to animals and plants.

C. Overview of the Clean Air Act Citizen Suit Provision

42 U.S.C. 7604(a)(1) authorizes NCA and NEDC to sue Intel in the U.S. District Court for the District of Oregon for violations of an air emissions standard or limitation under the Clean Air Act. Relevantly, an air emissions standard or limitation is defined to include any provision of a SIP, and "any requirement to obtain a permit as a condition of operation." 42 U.S.C. 7604(f)(4). NCA and NEDC plan to seek declaratory and injunctive relief pursuant to 42 U.S.C. 7604(a), including corrective action to prevent future violations and remediation of past violations. NCA and NEDC also intend to seek penalties for violations occurring within the past 5 years. 28 U.S.C. 2462. Intel may be liable for penalties up to

¹ Particulate matter is categorized by the size of the particulates. PM10 is particulate matter less than 10 microns. PM2.5 is particulate matter less than 2.5 microns.

² Fluorides are soluble inorganic compounds that contain the fluoride ion (F⁻), excluding hydrogen fluoride.

\$37,500 per day per violation for violations after January 12, 2009. 42 U.S.C. 7413(b); 73 Fed. Reg. 75346 (Dec. 11, 2008).

D. Applicable DEQ Rules Regarding Construction Approvals and Permitting

OAR 340-210-0215 states that any modifications that “will cause an increase, on an hourly basis at full production, in any regulated pollutant” require notification to DEQ. DEQ divides changes into four types. When Intel notified DEQ of the D1X expansion it submitted that the change was a “Type 2” change, requiring Intel to submit a Notice of Intent to Construct. Type 2 changes must meet certain requirements: (1) they must not increase the Plant Site Emission Limit (PSEL) for the source by more than the de minimis level,³ (2) they must not increase emissions by more than the Significant Emission Rate (SER)⁴ above the netting basis, (3) they do not establish federally enforceable limits on emissions, (4) they must not require a Typically Available Control Technology (TACT) demonstration. OAR 340-210-0225.

The D1X expansion does not qualify as a Type 2 for at least one of three reasons. First, the D1X expansion requires an increase in the PSEL for fluoride by more than the de minimis level of 0.3 tpy. Second, the D1X expansion increased fluoride emissions by more than the Significant Emission Rate (“SER”) of 3 tpy over the baseline rate of 0.5 tpy. Or third, because the D1X expansion requires an increase in the PSEL for fluorides, the PSEL is a federally enforceable limit on potential emissions, and therefore the D1X expansion requires the establishment of a federally enforceable limit on emissions.

NCA and NEDC believe that the D1X expansion qualifies as a Type 4 change because the resulting fluoride emissions are more than the SER above both the PSEL and the netting basis. OAR 340-210-0225(4). Alternatively, NCA and NEDC believe that the D1X expansion qualifies as a Type 3 change because either it requires a federally enforceable limit or it increases emissions of fluorides by more than the de minimis level over the PSEL. OAR 340-210-025(3).

Both Type 3 and Type 4 changes require that the source submit “an application for either a construction ACDP, new permit, or permit modification, whichever is appropriate.” OAR 340-210-0230(2). Type 4 changes require that the source receive a new or modified Standard ACDP before beginning construction. OAR 340-210-0240(1)(d). Type 3 changes require that the source receive a Construction Air Contaminant Discharge Permit (ACDP) or a new or modified Standard ACDP before proceeding with construction. OAR 340-210-0240(1)(c). For modifications that qualify as Type 3 or Type 4 changes, the source must receive a modified Standard ACDP as a condition of operation. OAR 340-210-0250(3)(b).

The D1X expansion is a Type 4 or Type 3 change and therefore Intel has, and will continue to both construct and operate the D1X expansion in violation of OAR Chapter 340, Division 210. This is a violation of the Federal Clean Air Act because this Division has been incorporated in the Oregon State Implementation Plan (SIP) and approved by the U.S. Environmental Protection Agency. 40 C.F.R. § 52.1970(139(i)(A)). Intel is in the best position to know the exact date that it commenced construction of the D1X expansion. On the Notice of Intent to Construct form, Intel indicated that it would commence construction in October 2010 and would begin actual construction in May 2011. From the date that Intel commenced construction until the date of this Notice Letter Intel has violated the Clean Air Act and will

³ The de minimis level for fluorides is 0.3 tpy. OAR 340-200-0020(33); OAR 340-200 Table 4.

⁴ The SER for fluorides is 3 tpy. OAR 340-200-0020(133); OAR 340-200 Table 2.

continue to violate the Clean Air Act. Therefore, NCA and NEDC notify you of our intent to sue Intel for violations of the Clean Air Act described in this Notice Letter or for which this Notice Letter provides you sufficient notice.

E. Persons/Attorneys Giving Notice

The full name, address and telephone number of the parties providing notice is:

Neighbors for Clean Air
Attn: John Krallman, Staff Attorney
1714 NW Overton St
Portland, OR 97209
(540) 903-0534
john@whatsinourair.org

Northwest Environmental Defense Center
Attn: Andrew Hawley, Staff Attorney
10015 SW Terwilliger Blvd
Portland, OR 97219
(503) 768-6673
hawleya@nedc.org

The attorney representing the parties in this notice is:

Aubrey Baldwin
Earthrise Law Center
at Lewis & Clark Law School
10015 SW Terwilliger Blvd
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F. Conclusion

As set forth above, NCA and NEDC have evidence that Intel has violated and remains in violation of the federal Clean Air Act and the Oregon State Implementation Plan. Intel is in the best position to provide detailed information about the alleged violations and NCA and NEDC intends to seek this information through discovery. NCA and NEDC intend to file suit against Intel 60 days from the date of this notice in the U.S. District Court for the District of Oregon, and request declaratory and injunctive relief and civil penalties. During this sixty-day notice period NCA and NEDC will be available to discuss effective remedies and actions that might be taken to assure Intel's compliance in the future. If you wish to discuss any aspect of this notice or to discuss settlement prior to commencement of suit, please contact undersigned counsel.

Sincerely,



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abaldwin@lclark.edu

Copies to:

Gina McCarthy
Administrator, U.S. Environmental Protection Agency
Office of the Administrator
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1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dennis McLerran
Regional Administrator, U.S. Environmental Protection Agency
Regional Administrator's Office, RA-140
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VIA FIRST CLASS MAIL

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