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COMPANY SETTLES PRIVATE SUIT OVER CLEAN AIR ACT

By Todd Woody

RECORDER STAFF WRITER

A New York manufacturer will eliminate the use of an ozone-depleting chemical to settle a federal Clean Air Act citizens suit brought by a San Francisco-based environmental group, attorneys announced Tuesday.

The settlement is apparently the first in the western U.S. resulting from a citizens suit seeking compliance with a Clean Air Act provision that requires companies to label products made with such chemicals, according to Hannah Bentley, a San Francisco attorney representing Citizens for a Better Environment.

Under a proposed consent decree filed

Monday in Los Angeles federal court, Foamex International Inc. agreed to place warning labels on pillows and carpet cushion containing foam made with the chemical methyl chloroform.

The foam manufacturer also pledged to spend at least \$3 million to eliminate the use of the chemical by the end of 1996.

The company will pay \$225,000 to several California environmental foundations, \$25,000 to the U.S. Environmental Protection Agency, and \$68,851 in attorneys fees and costs.

"I think this [citizens suit] has been very effective with this company," said Bentley, lead counsel for the environmentalists. Citizens for a Better Environment also was rep-

resented by its in-house counsel, Nora Chorover, and by partner Suzanne Bevash of Bevash & Fugere.

Bentley noted that the EPA already plans to prohibit the production of methyl chloroform by the end of 1996 under an international agreement known as the Montreal Protocol. But this settlement goes further, she said, because it secures Foamex's agreement to stop using the chemical by that date.

Foamex attorney Susan Sakai, a partner at Los Angeles' Irell & Manella, referred calls to a company spokesman, who said Tuesday that Foamex would have no comment until the consent decree is approved by the Justice Department.

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