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Attorneys for Third-Party Defendant, Pharmacia Corporation

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION and
THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION FUND,

Plaintiffs

v.

OCCIDENTAL CHEMICAL
CORPORATION, TIERRA SOLUTIONS,
INC., MAXUS ENERGY CORPORATION,
REPSOL YPF, S.A., YPF, S.A., YPF
HOLDINGS, INC. and CLH HOLDINGS,
INC.,

Defendants.

MAXUS ENERGY CORPORATION and TIERRA
SOLUTIONS, INC.,

Third-Party Plaintiffs,

vs.

3M COMPANY, *et al.*,

Third-Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05

CIVIL ACTION

**THIRD-PARTY DEFENDANT
PHARMACIA CORPORATION'S
INITIAL DISCLOSURE**

Third-Party Defendant Pharmacia Corporation ("Pharmacia"), by and through its undersigned counsel, and in accordance with Case Management Order V provides the following specific information for its Initial Disclosure:

RESERVATIONS AND OBJECTIONS

1. These disclosures are not intended to prejudice or waive any privileges or objections Pharmacia may have with respect to any outstanding or subsequent requests for discovery. Pharmacia reserves the right to object to the production of any documents or other information on any ground, including relevance and undue burden, and to assert any applicable privilege or protection, including the attorney-client privilege, the work product doctrine, and the common interest doctrine.

2. Pharmacia's investigation of the identity of persons with relevant knowledge and the existence of relevant documents is ongoing. Accordingly, these initial disclosures are made in good faith based on information that is available to Pharmacia at this time. Pharmacia reserves the right to supplement, clarify, and revise these disclosures at any time in the event that additional information becomes available to Pharmacia or is obtained by Pharmacia through discovery. Further, Pharmacia reserves the right to amend these disclosures to the extent the claims brought by or alleged against Pharmacia in this litigation are amended. Pharmacia likewise reserves the right to introduce at trial additional evidence as warranted by the development of the facts underlying this litigation.

3. The scope of inquiry required by Plaintiffs and Third-Party Defendants is overly broad and unduly burdensome. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint spans at least six decades. The geographic scope of the Second Amended Complaint is also overly broad, covering the "Newark Bay Complex," which spans the "lower 17 miles of the Passaic River, Newark Bay, the lower reaches of the Hackensack River, the Arthur Kill, the Kill van Kull, and into adjacent waters and sediments." Second Amended Complaint, ¶ 1.

4. Pharmacia objects to the form of the Initial Disclosures requested in “a.”, “d.”, and “e.”, as set forth below, to the extent that they assume that there were Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined below) from either of the Sites with which Pharmacia is alleged to be associated pursuant to Third-Party Complaint “B”: the former Pharmacia facility in Kearny, New Jersey (“Kearny Site”) and/or or the former Bayonne Barrel and Drum Company property in Newark, New Jersey (“Bayonne Barrel and Drum Site”).

INITIAL DISCLOSURES

a. *The name, address and telephone number, as may be known of each individual likely to have discoverable information, along with the subjects of that information, that relates to any alleged discharge or release of pollutants, contaminants and/or hazardous substances (“Pollutants”) into the Newark Bay Complex (as these terms are defined in the Second Amended Complaint and the Third-Party Complaints) from the site(s) and/or properties with which the disclosing party is associated in the Third-Party Complaint (“Alleged Discharges”);*

Response:

Kearny Site

Pharmacia denies that there was an Alleged Discharge of Pollutants into the Newark Bay Complex from the Kearny Site and/or that Pharmacia has any liability, responsibility and/or obligation with respect to any Alleged Discharges of Pollutants from the Kearny Site.

Pharmacia (formerly known as Monsanto Company) further responds that numerous individuals worked at the Kearny Site throughout Pharmacia’s ownership and operation thereof and, based on the breadth and ambiguity of Third-Party Plaintiffs’ claims, any of these individuals could have relevant knowledge of this matter. However, without waiver and subject to the Reservations and Objections set forth above, Pharmacia has identified the following individuals or entities in response to Initial Disclosure “a” who may have discoverable information concerning environmental conditions, operational history, the absence of discharges to the

Newark Bay Complex, and site investigation and remediation activities related to Pharmacia's period of ownership and/or operations at the Kearny Site. Pharmacia may identify additional individuals in the course of discovery.

Pharmacia requests that notice be given to undersigned counsel before any of the individuals identified below are contacted in this matter.

Name and Contact Information, If Known	Subject
<p><i>Pharmacia Corporation</i> Larry Adams 8192 Deauville Drive Huntington Beach, CA 92646</p> <p>Celso A. Balan 8100 Byron Avenue Miami Beach, FL 33141</p> <p>Constantino J. Barrial 11309 SW 92nd Street Miami, FL 33176-1175*</p> <p>Chi K. (Charlie) Cheng Environmental Manager Monsanto Company 800 North Lindbergh Blvd Mail code – OC5D St. Louis, MO 63167 314-694-6178</p> <p>Jeff Felder 2060 Outlook Drive Pittsburgh, PA 15241 412-835-1589*</p> <p>Rita F. Hartmann 1598 Highway F Eolia, MO 63344 573-898-5857*</p>	<p>Environmental conditions and/or remediation activities at the Kearny Site including groundwater monitoring program.</p> <p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Former Director, Site Operations, Kearny Site. Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p>

* Contact information generated using publicly available database because information was not available through corporate records database.

Name and Contact Information, If Known	Subject
<p>Jeffrey R. Klieve <i>Director, Environmental Affairs</i> <i>Monsanto Company</i> <i>800 North Lindbergh Blvd</i> <i>Mail code – OC5D</i> <i>St. Louis, MO 63167</i> <i>314-694-3712</i></p> <p>Kathleen Duckett Moldthan <i>6219 McPherson Avenue</i> <i>St. Louis, MO 63130</i></p> <p>Ronald P. Panasiewicz <i>135 Hamilton Road, Apt. 1101</i> <i>Landenberg, PA 19350-9363</i> <i>601-274-0359*</i></p> <p>Bruce S. Yare <i>10858 Picadily Square Drive</i> <i>St. Louis, MO 63146-5548</i> <i>314-991-3043*</i></p>	<p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Environmental conditions, site investigation and/or remediation activities at the Kearny Site.</p> <p>Former Plant Manager, Kearny. Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p> <p>Environmental conditions, operational history, site investigation and/or remediation activities at the Kearny Site.</p>
<p><i>American President Companies/American President Lines/and/or American President Intermodal</i></p>	<p>Environmental conditions, operational history, site investigation and/or remediation activities at leased portion of Kearny Site.</p>
<p><i>Motor Carrier Services Corp.</i></p>	<p>Operational history of Kearny Site during Motor Carrier's ownership. Environmental conditions, investigation and assessment work at Kearny Site.</p>
<p><i>G.O.D. (Guaranteed Overnight Delivery)</i></p>	<p>Operations at Kearny Site during G.O.D. tenancy. Environmental conditions, investigation and assessment work at Kearny Site.</p>
<p><i>CSX Intermodal, Inc.</i> <i>301 West Bay Street</i> <i>Jacksonville, FL 32202</i></p>	<p>Environmental conditions, operational history, site investigation and/or remediation activities at Kearny Site.</p>
<p><i>O.H. Materials Co.</i></p> <p>Robert D. Haag</p> <p>Paul D. Kuhlmeier</p> <p>Shirley McMaster</p> <p>Robert F. Weiss-Malik</p>	<p>Consultant to Pharmacia. Environmental conditions, site investigation and/or remediation activities at Kearny Site.</p>

Name and Contact Information, If Known	Subject
<p><i>Roux Associates</i> 1222 Forest Parkway Suite 190 West Deptford, NJ 08066</p> <p>Patti Burns</p> <p>Michael Gonshor</p> <p>John Loper</p> <p>Gregory Martin</p> <p>Erin Palko</p> <p>Peter J. Palko</p> <p>Jeffrey C. Powley</p> <p>Sabrina Strautman</p> <p>Stephen Young</p>	<p>Consultant to Pharmacia. Environmental conditions, site investigation and/or remediation activities at Kearny Site.</p>
<p><i>Eder Associates, A Division of Gannett Fleming, Inc.</i></p> <p>Karl N. Werner</p> <p>D. Robert Gan</p> <p>Gary A. Rozmus</p>	<p>Consultant to CSX Intermodal. Environmental conditions, site investigation and/or remediation activities at Kearny Site.</p>
<p><i>Langan Environmental Services</i></p> <p>Joseph Torlucci</p> <p>Donald J. Murphy</p>	<p>Consultant to American President Lines. Environmental conditions, site investigation and/or remediation activities at American President Lines' leased portion of Kearny Site.</p>
<p><i>United States Environmental Protection Agency, Region 2</i> 290 Broadway New York, New York 10007-1866</p> <p>Lance R. Richman</p>	<p>Environmental conditions at the Kearny Site.</p>

Name and Contact Information, If Known	Subject
<p><i>New Jersey Department of Environmental Protection</i> <i>PO Box 402</i> <i>401 East State Street, 7th floor</i> <i>Trenton, NJ 08625-0402</i></p> <p>Steve Byrnes</p> <p>Dennis Hart</p> <p>Joe Karpa</p> <p>Chris Kanakis</p> <p>Glenn Savary</p> <p>John Sacco</p> <p>Dave Van Eck</p> <p>Richard Yarinsky</p>	<p>Environmental conditions at the Kearny Site.</p>
<p><i>Passaic Valley Sewerage Commission</i> <i>600 Wilson Avenue</i> <i>Newark, NJ 07105-4885</i></p>	<p>Discharges from the Kearny Site into the Passaic Valley Sewer System</p>

Bayonne Barrel and Drum Site

Pharmacia denies that there was an Alleged Discharge of Pollutants into the Newark Bay Complex from the Bayonne Barrel and Drum Site and/or that Pharmacia has any liability, responsibility and/or obligation with respect to any Alleged Discharges of Pollutants from the Bayonne Barrel and Drum Site. Further, Pharmacia never owned nor operated the Bayonne Barrel and Drum Site. However, without waiver and subject to the Reservations and Objections set forth above, Pharmacia has identified the following individuals in response to Initial Disclosure “a” who may have discoverable information indicating that Pharmacia (formerly known as Monsanto Company) is neither responsible nor liable for any discharge of hazardous substances from the Bayonne Barrel and Drum site because its only nexus to the Bayonne Barrel

and Drum Site was Pharmacia's shipment of empty drums to the Bayonne Barrel and Drum Site for reconditioning. Pharmacia may identify additional individuals in the course of discovery and as its investigation continues.

Pharmacia requests that notice be given to undersigned counsel before any of the individuals identified below are contacted in this matter.

Name and Contact Information, If Known	Subject
<p><i>Pharmacia Corporation</i></p> <p>William Killian 33 Gralia Drive Springfield, MA 01128-1309 313-796-7005*</p> <p>Leokadya (Lucy) Konieczny 43 Pine Street Ludlow, MA 01056-2917 413-583-2257*</p> <p>Warren (Bo) Mowry 6403 S. Callaway Drive Chandler, AZ 85249-4484 480-883-3253*</p> <p>Gerard A. Nolet 724 Frank Smith Road Longmeadow, MA 01106-2946 413-567-1268*</p> <p>Henry (Hank) Nowick 83 Ingersoll Grove Springfield, MA 01109-4010 413-209-8656*</p> <p>Jack Waring 1838 State Route 35 Wall Township, NJ 07719-3531 732-449-1630*</p>	<p>Reconditioned drum use at Pharmacia's former Indian Orchard plant.</p> <p>Reconditioned drum use at Pharmacia's former Indian Orchard plant.</p> <p>Reconditioned drum use at Pharmacia's former Indian Orchard plant.</p> <p>Reconditioned drum use at Pharmacia's former Indian Orchard plant.</p> <p>Reconditioned drum use at Pharmacia's former Indian Orchard plant.</p> <p>Reconditioned drum use by Pharmacia.</p>

In addition to the individuals identified above, others who may have relevant information with respect to the Bayonne Barrel Site include the United States Environmental Protection Agency (Region 2), the New Jersey Department of Environmental Protection, the Bayonne Barrel and Drum Company, parties to the 1996 Administrative Order on Consent for Removal Action, as referenced in Paragraph 3112 of Third-Party Complaint "B", parties to the July 1, 2003 Site Participation Agreement referenced in paragraph 3115 of Third-Party Complaint "B", parties to the December 22, 2003 Administrative Order on Consent for a Removal Action referenced in Paragraph 3116 of Third-Party Complaint "B", and/or parties to the August 24, 2004 Agreement for Recovery of Past Response Costs referenced in Paragraph 3117 of Third-Party Complaint "B".

b. The name, address and telephone number, as may be known, of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses (unless the use would be solely for impeachment);

Response:

Kearny Site

Third-party discovery is currently stayed in this action. As information is developed through discovery, Pharmacia may identify additional individuals or may more specifically identify individuals likely to have discoverable information that Pharmacia may use to support its claims or defenses with respect to the Kearny Site and reserves the right to update this list. Without further investigation, any of the individuals identified with respect to the Kearny Site in response to "a.", above, may possess information that Pharmacia may use to support its claims or defenses.

Bayonne Barrel and Drum Site

Third-party discovery is currently stayed in this action. As information is developed through discovery, Pharmacia may identify additional individuals or may more specifically identify individuals likely to have discoverable information that Pharmacia may use to support its claims or defenses with respect to the Bayonne Barrel and Drum Site and reserves the right to update this list. Without further investigation, any of the individuals identified with respect to the Bayonne Barrel and Drum Site in response to “a.”, above, may possess information that Pharmacia may use to support its claims or defenses.

c. *The name, address and telephone number, as may be known, of any and all past or present owners, lessees or operators at the site(s) and/or properties with which it is associated in the Third-Party Complaint and the dates of such ownership, lease or operation, as may be known;*

Response

Kearny Site

Name	Dates at Site: Ownership/Operation/Lease
Manor Real Estate and Trust Company	Unknown to February 20, 1923 (former owner, transferred ownership of its parcel to the United New Jersey Railroad and Canal Company).
United New Jersey Railroad and Canal Company	Unknown to approximately 1955 (former owner).
Pennsylvania Railroad Company	June 30, 1871 to approximately 1955 (former operator, lessee from United New Jersey Railroad and Canal Company).
Town of Kearny <i>0.63 acre parcel</i>	Unknown to December 27, 1955 (former owner, vacated westerly end of Pennsylvania Avenue to the Monsanto Chemical Company).
Monsanto Chemical Company and Monsanto Company (now known as Pharmacia Corporation). ¹ <i>Block 284, Lots 49 and 49R, and Block 289, Lots 19, 19R, and 20 on municipal tax maps for the Town of Kearny, NJ.</i>	Owner, approximately 1954 to December 1994. Operations, approximately 1955 to 1991.

¹ In 1964, Monsanto Chemical Company changed its name to Monsanto Company and in 2000 changed its name to Pharmacia Corporation.

Name	Dates at Site: Ownership/Operation/Lease
Motor Carrier Services Corp.	December 1994 to present (owner).
American President Lines/American President Intermodal Company 8.2 acre parcel	June 1, 1988 to December 1, 1999 (lessee).
G.O.D., Inc.	September 12, 1995 to July 8, 1998 (lessee).

Bayonne Barrel and Drum Site

With the exception of the Bayonne Barrel and Drum Company, unknown.

d. With respect to any individual identified pursuant to paragraph (a), (b) or (c) above, (or any other individual known to have material knowledge of an alleged discharge or release of a Pollutant at or from a site and/or property, or into the Newark Bay Complex), any known inability to testify due to age, infirmity, or incompetency within 12 months following the date of the Initial Disclosure;

Response

Kearny Site

As Pharmacia's operations at the Kearny Site began in or about 1955 and ceased in or about 1991 and Pharmacia sold the Kearny Site in 1994, many of the employees of Pharmacia identified in these Initial Disclosures are no longer employed by Pharmacia. Accordingly, Pharmacia is without knowledge of any inability to testify due to age, infirmity, or incompetency with regard to individuals who are not currently employed by Pharmacia. With respect to any remaining individuals identified in these Initial Disclosures, Pharmacia is not currently aware of any information regarding any known inability to testify.

Bayonne Barrel and Drum Site

With respect to employees of Pharmacia identified in these Initial Disclosures, Pharmacia is currently without knowledge of any inability to testify due to age, infirmity, or incompetency. Pharmacia has neither owned nor operated the Indian Orchard plant since 1997 and the employees of Pharmacia identified in these Initial Disclosures are no longer employed by Pharmacia.

e. A description by category and location (or copy at the discretion of the Third-Party Defendant) of all documents or electronically stored information that the disclosing party has in its possession, custody, or control with respect to Alleged Discharges including disclosure of the extent to which such documents or electronically stored information may fall within the Excepted Information.

Response

Kearny Site

Pharmacia denies that there was an Alleged Discharge of Pollutants into the Newark Bay Complex from the Kearny Site and/or that Pharmacia has any liability, responsibility and/or obligation with respect to any Alleged Discharges of Pollutants from the Kearny Site. Without waiver and subject to this objection and to the Reservations and Objections set forth above, Pharmacia has identified the following documents concerning environmental conditions, operational history, and site investigation and remediation activities during Pharmacia's period of ownership and/or operations at the Kearny Site which are in its possession, custody, or control:

Documents by Category	Applicable Exception(s)²
Documents regarding corporate history of Monsanto and/or Pharmacia.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Documents containing information relating to past operations at the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Administrative agency orders pertaining to environmental conditions at and/or the remediation of the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Documents containing information relating to real estate transactions involving the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Environmental reports, sampling data, and related documents pertaining to environmental conditions at and/or the remediation of the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Environmental permits and related documents pertaining to the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Correspondence with governmental agencies,	Some or all documents may consist of

² Applicable Exception Codes are as follows:

- a. Information, (“Information”), including, but not limited to, environmental, chemical and/or biological testing of groundwater, surface water, soil or sediment (hereinafter “Sampling Information”) contained in the nexus packages produced pursuant to paragraph 8 (e) of CMO V; and
- b. Information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including to the New Jersey Department of Environmental Protection (“NJDEP”) or Information produced to any other governmental agency or entity whose responsibility it is to oversee environmental compliance in the Newark Bay Complex Area, including, but not limited to, the United States Environmental Protection Agency and the United States Army Corps of Engineers (hereinafter “Governmental Recipients”);
- c. Information produced to any Licensed Site Remediation Professional (hereinafter “LSRP”) who is duly licensed by the State of New Jersey at the time of receipt of such Information where such disclosure of Information is intended to be used in connection with any remedial investigation or remedial action having an assigned case number in the NJDEP’s NJEMS data system;
- d. Sampling Information compiled with the expectation of being produced to a Governmental Recipient or an LSRP under Paragraphs 4(b) or 4(c) but which Sampling Information has not yet undergone quality assurance/ quality control or similar analysis;
- e. Information produced by a third-party defendant to any third-party plaintiff pursuant to the New Jersey Open Public Records Act or other freedom of information law or regulation;
- f. Information previously produced to Defendants; and
- g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

Documents by Category	Applicable Exception(s)²
including Governmental Recipients (as defined) pertaining to environmental conditions at and/or the remediation of the Kearny Site.	information that falls within Exception Codes (a), (b), and/or (g).
Correspondence with environmental consultants pertaining to environmental conditions at and/or the remediation of the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Court documents and discovery produced in the course of litigation involving the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).
Other documents containing information pertaining to environmental conditions at and/or the remediation of the Kearny Site.	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).

The above referenced documents may be located at the offices of: Manko Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004; Patton Boggs 1 Raymond Boulevard, Newark, NJ 07102; Solutia Inc., 575 Maryville Centre Drive, St. Louis, MO 63141; or Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167.

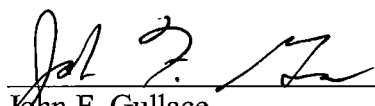
Bayonne Barrel and Drum Site

Pharmacia denies that there was an Alleged Discharge of Pollutants into the Newark Bay Complex from the Bayonne Barrel and Drum Site and/or that Pharmacia has any liability, responsibility and/or obligation with respect to any Alleged Discharges of Pollutants from the Bayonne Barrel and Drum Site. Further, Pharmacia never owned or operated the Bayonne Barrel and Drum Site. Subject to this objection and clarification and to the Reservations and Objections set forth above, there are only two categories of documents and/or electronically stored information that we currently believe may be responsive to this Initial Disclosure request: (1) information pertaining to environmental agency involvement at the Bayonne Barrel and Drum Site including, but not limited to environmental reports, sampling activity, and agreements between potentially responsible parties and the United States (information that falls within Exception Codes (a), (b), and/or (g)); and (2) information pertaining to drum transactions

between Pharmacia and the Bayonne Barrel and Drum Company including, but not limited to invoices, tickets, or correspondence (information that may fall within Exception Codes (a), (b), and/or (g)). Pharmacia is not currently aware of any other documentation or electronically stored information in its possession, custody, or control which is responsive to this Initial Disclosure request. Documentation in Pharmacia's possession, custody, or control is maintained at the offices of: Manko Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004; Solutia Inc., 575 Maryville Centre Drive, St. Louis, MO 63141; or Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167.

Dated: February 3, 2010

Respectfully submitted,



John F. Gullace
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Attorney for Third-Party Defendant,
Pharmacia Corporation

CERTIFICATION OF SERVICE

I, John F. Gullace, an attorney-of-law of the State of New Jersey, do hereby state upon my oath that I have served the Initial Disclosures of Pharmacia Corporation electronically via posting on Sfile upon all parties which have consented to service by posting, and upon counsel of record listed below by depositing the same with the United States Postal Service.

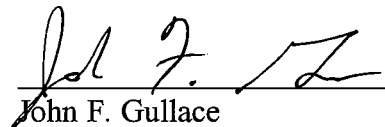
I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willingly false, I am subject to punishment.

Richard J. Dewland
Coffey & Associates
465 South Street
Morristown, NJ 07960
***Attorney for Third-Party Defendant
Borough of Hasbrouck Heights***

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John F. Gullace
Attorney for Third Party-Defendant,
Pharmacia Corporation

Dated: February 3, 2010