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July 13, 2011

Charles M. Crout, Esq.  
Andrews Kurth LLP  
1350 I Street, NW  
Washington, DC 20005

Re: NJDEP et al. vs. Occidental Chemical Corp. et al. v. 3M Company et al.  
Docket No.: ESX-L-009868-05 (PASR)  
Our File No.: 12612

Dear Mr. Crout:

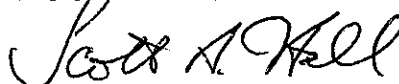
We represent Third-Party Defendants Merck Sharp & Dohme Corporation (formerly known as Merck & Co., Inc.) and Schering Corporation in the above litigation. Enclosed please find the following documents:

1. Supplemental Disclosure of Third Party Defendant Merck Sharp & Dohme Corporation (Formerly Known as Merck & Co., Inc.); and
2. Supplemental Disclosure of Third Party Defendant Schering Corporation.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

DUGHI & HEWIT



Scott A. Hall

shall@dughihewit.com

Enclosure

cc: Hon. Marina Corodemus (via CT Summation)  
All Counsel of Record (via CT Summation)

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 SCHERING CORPORATION

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW
ENVIRONMENTAL PROTECTION and	:	JERSEY
THE ADMINISTRATOR OF THE NEW	:	LAW DIVISION: ESSEX
JERSEY SPILL COMPENSATION FUND,	:	COUNTY
	:	
Plaintiffs,	:	DOCKET NO. L-9868-05 (PASR)
v.	:	
	:	
OCCIDENTAL CHEMICAL	:	CIVIL ACTION
CORPORATION, TIERRA SOLUTIONS,	:	
INC., MAXUS ENERGY CORPORATION,	:	<b>SUPPLEMENTAL DISCLOSURE</b>
REPSOL YPF, S.A., YPF, S.A., YPF	:	<b>OF THIRD PARTY DEFENDANT</b>
HOLDINGS, INC. and CLH HOLDINGS,	:	<b>SCHERING CORPORATION</b>
INC.,	:	
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and	:	
TIERRA SOLUTIONS,	:	
INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

Third-Party Defendant Schering Corporation (hereinafter “Schering”) hereby provides its Supplement to Initial Disclosures pursuant to Case Management Order (“CMO”) XII and prior CMOs incorporated therein by reference.

## Reservations and Comments

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

2. Due to the merger of Schering and Merck & Co., Inc., and the continuing reorganization of personnel and departments arising from same, Schering's investigation in this matter is continuing. Accordingly, Schering reserves the right to supplement, clarify, and revise these disclosures any time prior to trial to the extent additional information becomes available or is obtained through discovery. Further, Schering reserves the right to amend these disclosures to the extent the claims brought by or alleged against Schering in this litigation are amended.

3. Schering reserves its right to rely on any facts, documents or other evidence that may develop or come to Schering's attention during the course of this matter. Schering's responses are set forth herein without prejudice to its right to assert additional objections or supplement its responses should Schering discover additional grounds for doing so during the course of this matter.

4. Schering reserves its right pursuant to Rule 4:18-1 to produce documents for inspection as they are kept in the usual course of business.

5. "Documents," excluding electronic e-mail and Electronically Stored Information, shall have the meaning set forth in this Court's August 11, 2009 Order for Preservation of Documents and Data.

6. "Alleged Discharges" shall have the meaning set forth in the Court's CMO VIII, to the extent it refers to alleged discharges at the Schering Site.

7. "Sites," pursuant to CMO VIII, shall be defined as the site in which Schering is associated in a Third-Party Complaint.

8. Document Production requirements set forth in CMO XII, paragraph 21 are read in concert with CMO VIII, paragraph 3 and CMO V, paragraph 8 incorporated by reference in CMO XII, paragraph 1. CMO VIII, *inter alia*, called for a listing of those documents to be produced by Third-Party Defendants with certain excepted categories, the "Excepted Information Categories." To the extent requirements set forth in CMO XII, paragraph 21 are repetitive, burdensome and/or unfairly place a duty of inquiry on Schering as to Newark Bay Complex locations other than the Schering Site, disclosures herein are provided with reference to CMO XII paragraph 21(c) unless otherwise noted. With respect to CMO XII, paragraph 21(b), reference is made to information previously furnished by the JDG in connection with CMO V, paragraph 8.

9. Schering reserves its right to log and withhold publicly available documents from any supplements, clarifications, and/or revisions to its Supplemental

Disclosures and, to the extent applicable, from any subsequent discovery requests. The inclusion of publicly available documents in Schering's Supplemental Disclosures does not in any way waive Schering's right to withhold publicly available documents in accordance with CMO VIII.

10. Documents subject to claims of privilege, including but not limited to attorney-client privilege and the work product privilege, if any, will be furnished in a log as soon as practicable in accordance with the August 11, 2009 "Agreed Order Regarding documents Withheld from Production" as appended to CMO VIII.

11. Schering makes its document production and these supplemental disclosures without waiver of, and with full reservation of rights with respect to, any arguments it may have regarding the interpretation of CMO XII, and other applicable Orders, and, specifically, those arguments relating to the scope, nature, timing and manner of production and disclosure.

12. Schering denies that any Hazardous Materials that may have been released or discharged at the Schering Site were transported to or impacted the Newark Bay Complex.

**Production as to Paragraph 21(b)**

**Copies of all non-privileged Documents other than electronic email discovery, that relate to**

**(i) the alleged discharge of any hazardous wastes, hazardous substances, pollutants or contaminants ("Hazardous Materials") to the Newark Bay Complex;**

**Schering Response** - *See* reservations noted above. *See* Response to Paragraph 21(c) 1, i., below.

**(ii.) the potential pathways and methods by which the Hazardous Materials have been released to the Newark Bay Complex, as well as the quantity, nature and toxicity of such Hazardous Materials;**

**Schering Response** - *See* reservations noted above. *See* Response to Paragraphs 21(c), 1, i. - iv., below.

**(iii.) other actions relating to properties or operations that may have adversely impacted the environmental condition of the Newark Bay Complex**

**Schering Response** - *See* reservations noted above.

**(iv.) the costs and damages sought in connection with any alleged discharge of Hazardous Materials.**

**Schering Response** - *See* reservations noted above. Schering further notes that all cross-claims and counterclaims asserting statutory or common law contribution or indemnification and Fourth-Party claims are stayed in the present action and, as such, it has made no such claim against parties in this action at this time.

**Production as to Paragraph 21(c)**

**1. A copy of all Documents relating to the following information for the site(s), properties and/or operations with which the Third-Party Defendant is associated in the Third-Party Complaints:**

**i. the release or discharge of Hazardous Materials from or at that Third Party Defendant's properties or operations.**

**Schering Response-** As noted in Schering's Initial Disclosures, Schering has been associated with a pharmaceutical research and development facility located at 1011 Morris Avenue in Union, New Jersey ( the "Schering Site"). Schering has had an active cooperative relationship with both the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection since the mid-1980's with

regard to the Schering Site. Over the course of almost three decades, Schering has prepared and exchanged with governmental entities extensive records of investigations and remediation measures at the Site. Consequently, Schering reserves the right to object to the scope of this Paragraph on the grounds that it is overbroad, unreasonable, and unduly burdensome. Schering's response to this request does not constitute an admission that any Hazardous Materials that may have been discharged or released at the Schering Site were transported to or impacted the Newark Bay Complex.

Subject to and without waiving any of its rights and/or reservations as set forth herein, under the New Jersey Rules of Court, and/or the CMOs in this Litigation, in a good faith effort to satisfy its disclosure and document production obligations, Schering states the following:

Since the mid-1980's, pursuant to various Administrative Consent Orders and other agreements, Schering has engaged in comprehensive remediation projects at the Site. In furtherance of these efforts, Schering, its employees and consultants have generated an enormous volume of publically available Site History Reports, Site Investigation Reports, Remediation Action Plans, and other documents and data which chronicle the history of the Site, the storage of Hazardous Materials therein, potential releases at the Site and the environmental condition of the Site. Schering, with the assistance of its consultants, produced such materials in electronic form on June 7, 2011 (Schering-0000001- Schering 0008047). These documents represent Schering's ongoing effort to produce the most relevant and complete set of materials responsive to CMO XII paragraph 21(b) and (c). Schering hereby reserves the right to supplement this response as additional information is located.

**ii. [T]he operations, manufacturing and/or production processes, any Hazardous Materials stored or utilized on the property, and any sampling that took place on the property and any sampling or testing of the materials, by products or waste products used in connection therewith;**

**Schering Response-** *See* Schering's response to Paragraph 21(c) 1, i., above.

**iii. [S]ampling results from environmental, chemical, or biological testing conducted at that Third Party Defendant's properties;**

**Schering Response-** *See* Schering's response to Paragraph 21(c) 1, above.

**iv. [A]ny communications involving that Third-Party Defendant and any branch, department, agency or instrumentality of municipal, State or federal government relating to any discharges or releases of Hazardous Materials or this litigation.**

**Schering Response-** *See* Schering's response to Paragraph 21(c) 1, i., above.

**2. Any Documents relating to any industrial waste containing Hazardous Materials that was transported to, processed or treated at, or discharged from any of the sites and/or properties with which a Third Party Defendant is associated in the Third Party Complaints.**

**Schering Response -** *See* Schering's response to Paragraph 21(c) 1, i., above.

**3. Any insurance or indemnity agreement under which another person or entity may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy said judgment.**

**Schering Response -** *See* Schering's response to Paragraph 21(c) 1, i., above. Schering further responds that it is not currently aware of any insurance or indemnity agreements under which another person or entity may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy said judgment. Schering hereby reserves the right to supplement this response as additional information is located.



## August 11, 2009 CMO VIII Excepted Information Categories

Excepted Information includes the following:

“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”. *See* Paragraph 4(a).

“Information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including to the New Jersey Department of Environment 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”). *See* Paragraph 4(b).

“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 system;” *See* Paragraph 4(c).

“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;” *See*, Paragraph 4(d).

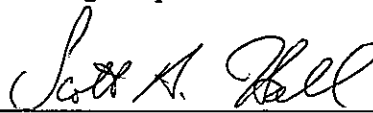
“Information produced by a third-party defendant to any third-party plaintiff pursuant to the New Jersey Open Records Act or other freedom of information law or regulation;” *See* Paragraph 4(e).

“Information previously produced to Defendants” *See*, Paragraph 4(f).

“Information that falls within the attorney-client privilege and/or the attorney work product privilege.” *See* Paragraph 4(g).

Dated: July 13, 2011

DUGHI & HEWIT, P.C.  
Attorneys for Third-Party Defendant,  
Schering Corporation



Scott A. Hall, Esq.