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ATTORNEYS FOR THIRD-PARTY DEFENDANT
MERCK SHARP & DOHME CORPORATION
(FORMERLY KNOWN AS MERCK & CO., INC.)

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

Third-Party Defendant Merck Sharp & Dohme Corporation (formerly known as Merck & Co., Inc.) (hereinafter "Merck"), in accordance with applicable Case Management Orders, hereby makes initial disclosures subject to the following Reservations:

Reservations

1. Merck 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, including the attorney-client privilege, the work product doctrine, the common interest doctrine, and any other applicable privilege or protection. These disclosures are not intended to prejudice or waive any privileges or objections Merck may have with respect to any outstanding or subsequent requests for discovery.

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

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint and Third-Party Plaintiff's Complaint "B" (collectively "Complaints") is quite long and encompasses at least six decades. The geographic scope of the Complaints is also quite 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. The scope of inquiry required is accordingly quite broad and potentially burdensome. Merck is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

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:

Merck objects to this request to the extent it concludes that there was a "discharge or release of pollutants, contaminants and/or hazardous substances" into the Newark Bay Complex from the Merck Sites. Merck denies that any Pollutants that may have been discharged or released at the Merck Sites were transported to or impacted the Newark Bay Complex. Accordingly, Merck does not have knowledge of any individual likely to have discoverable information relating to any alleged discharge of Pollutants into or affecting the Newark Bay Complex.

However, in a good faith effort to comply with applicable Case Management Orders, Merck discloses the following individuals who may have discoverable information relating to the environmental conditions, operational history, site investigation and remediation activities at the Merck Sites. This identification is not an admission that such persons have information relating to any Alleged Discharges, and no applicable privileges, doctrines, defenses, or protections should be deemed waived concerning these individuals. Merck reserves the right to amend this list as more specific information regarding the nature and basis of Third Party Plaintiffs' claims becomes available.

Merck requests that notice be provided in writing to undersigned counsel before any of its current or former employees are contacted.

Name	Subject
James Tittensor Environmental Manager Merck Sharp & Dohme Corporation	Remediation Current Remediation Project Manager (2005 – Present)
Diane Dona Environmental Manager Merck Sharp & Dohme Corporation	Remediation Former Remediation Project Manager (1997 – 2005)

Name	Subject
Mary Beth Baker Director, Safety & The Environment Merck Sharp & Dohme Corporation	Remediation Director, Safety & The Environment (2010 – present) Remediation Former Remediation Project Manager (1992 - 1997) Operations Former Environmental Control Section Head (1997 -2002)
Jennifer Hunt Director, RY Facilities Management Merck Sharp & Dohme Corporation	Operations Director, RY Facilities Management (2010 – present)
Robert Suozzo Former Merck Employee	Operations Former Environmental Control Section Head (2002 -2010)
Scott Higgins Director, Strategy & Planning Merck Sharp & Dohme Corporation	Operations Former Environmental Control Section Head (1990 - 1997)
William Hamilton Director, Remediation & Network Programs Merck Sharp & Dohme Corporation	Remediation Director, Remediation & Network Programs (2010 – present) Remediation Director, Safety & The Environment (1989 – 1997, 2007 - 2010)
Mayda Martinez Former Merck Employee	Remediation Director, Safety & The Environment (2004 - 2007)
Bruce Wallington Former Merck Employee	Remediation Director, Safety & The Environment (1997 - 2004)

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:

Merck is engaged in a continuing investigation and has not determined the identity of witnesses it may use to support its claims or defenses. However, some of the individuals identified in paragraph “a”, above, may be used.

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:

Subject to the Reservations set forth above, Merck responds as follows:

Merck Rahway Facility.

Name	Site Address	Dates at Site
Merck Sharp & Dohme Corporation (formerly known as Merck & Co., Inc.)	126 East Lincoln Avenue, Rahway, Union County, New Jersey	Approximately 1903 to present

Merck "Range Road" Property.

Name	Site Address	Dates at Site
Frederick A. Klawunn, Jr., and Lilian Klawunn	1959 Lower Road, Linden, Union County, New Jersey	December 28, 1943 and prior
Merck Sharp & Dohme Corporation (formerly known as Merck & Co., Inc.)	1959 Lower Road, Linden, Union County, New Jersey	December 28, 1943 to present

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:

None known at this time.

- 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:

Merck objects to this request to the extent that it concludes there were any "Alleged Discharges" to the Newark Bay Complex from the Merck Sites. Merck denies that there were any such discharges. Without waiving this objection, and subject to the Reservations, the following categories of documents are currently known to Merck to be in its possession, custody or control, and may relate to environmental conditions, operational history, remediation activities, environmental permitting and environmental compliance matters respecting the Merck Sites. Merck reserves the right to supplement this response in the event additional responsive documents become available. By disclosing the categories of documents identified below, Merck does not waive any applicable privileges attached to any such documents. Moreover, some of the documents listed within the categories below may consist of information that falls within a category of Excepted Information.¹

¹ Applicable Exception Codes are as follows:

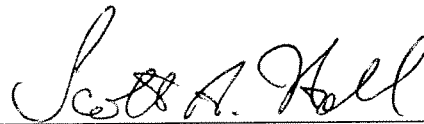
- a. Information, ("Information"), including, but not limited to, environmental, chemical and/or biological testing of groundwater, surface water, soil or sediment (hereinafter "Sampling Information") contained in the nexus packages produced pursuant to paragraph 8 (e) of CMO V;
- b. Information previously 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	Location
Responses to information requests; Environmental compliance; Environmental reports; Sampling data; Correspondence with environmental consultants and governmental agencies; Permits; Internal correspondence, documents and records; e-mail; Maps; Photos; Surveys; Drawings.	Merck Sharp & Dohme Corporation 126 E. Lincoln Avenue Rahway, NJ 07065 Merck Sharp & Dohme Corporation 2 Merck Drive Whitehouse Station, NJ 08889 Some, but not all documents are maintained by Merck in electronic form. Certain paper documents are stored/archived with Iron Mountain. Certain electronic and paper documents are maintained by URS Corporation, 200 Orchard Ridge Drive, Gaithersburg, MD 20878

Merck's Initial Disclosures are made without prejudice to Merck's right to change or supplement the responses, the right to assert privileges or objections with respect to any subsequent requests for discovery, and the right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Dated: July 29, 2010

DUGHI & HEWIT, P.C.
Attorneys for Third-Party Defendant,
Merck Sharp & Dohme Corporation (formerly
known as Merck & Co., Inc.)

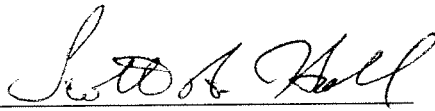


Scott A. Hall, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant Merck Sharp & Dohme Corporation's (formerly known as Merck & Co., Inc.) Initial Disclosure was served electronically on all parties which have consented to service by posting on www.sfile.com/njdepvocc on July 29, 2010. The following counsel of record were served on July 29, 2010 via first class, regular mail:

Borough of Hasbrouck Heights	Richard J. Dewland Coffey & Associates 465 South Street Morristown, NJ 07960 973.539.4500 rjd@coffeylaw.com
City of Orange	John P. McGovern Assistant City Attorney City of Orange Township 29 North Day St. Orange, NJ 07050



Scott A. Hall, Esq.

Dated: July 29, 2010