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November 2, 2009

To Counsel for all Defendants (per attached list)

Re: *Solutia Inc. & Pharmacia Corporation v. McWane, Inc. et al.*,
Case Number CV-03-PWG-1345-E, USDC (N.D. Ala.)

Dear Counsel:

Pursuant to the procedures agreed upon by Plaintiffs and Defendants, as set forth in Robert Schick's email of October 28, 2009, this letter constitutes Plaintiffs' responses to Defendants' Notice of Rule 30(b)(6) Deposition ("Notice") served on or about August 26, 2009. This letter includes objections to the Notice, and sets forth a plan for responding to the twenty-seven (27) topics in the Notice. This response is submitted jointly by Solutia Inc. and Pharmacia Corporation, and Plaintiffs contemplate that all discovery responses described herein will be made on behalf of both Plaintiffs.

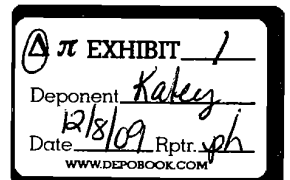
This letter describes each method by which Plaintiffs plan to respond to the topics in the Notice, and concludes with a cross-reference of responses by topic.

Production of responsive documents, accompanied by authenticity affidavit, for the following topics:

26. All settlements or judgments resulting in injunctive relief, and/or funding of injunctive relief, including those resulting from the lawsuits identified in Plaintiffs' disclosures.
27. All cost sharing agreements with third parties relative to each project undertaken or to be undertaken by Plaintiffs for which Plaintiffs seek response costs from defendants.

Written response, accompanied by documents, with an interrogatory-style affidavit, for the following topics:

2. Topic 2 as to the ferroalloy process.
6. Topic 6 as to the ferroalloy process.
15. All locations, on a parcel-by-parcel basis (or, where the parcel number is not known, the street address; if no street address, then the GIs or other similar location description), that you contend are or were contaminated with a) lead; b) PCBs; or c) both, generated by or emanating from Defendants' facilities.



16. For each parcel identified in response to topic 15, whether or not that property is within the Anniston Facility's downstream floodplain.
18. For each parcel identified in response to topic 15, whether foundry sand, foundry waste, other foundry-related material, or other material believed by Plaintiffs to have originated from any of the Defendants' facilities (collectively, "alleged Defendants' Material") was present at the parcel. This topic specifically includes, but is not limited to, the following information:
 - a. the nature and characteristics of such alleged Defendants' Material;
 - b. the identity of the individual or individuals making the determination that alleged Defendants' Material was present;
 - c. whether any of the initial environmental samples obtained from the parcel for analysis contained any alleged Defendants' Material, including any analytical data or other testing results;
 - d. whether any alleged Defendants' Material was isolated or separated and subject to laboratory analysis, including any analytical data or other testing results of; and,
 - e. for any alleged Defendants' Material, any evaluation of i) the source, ii) the age; iii) the date or time when such material was taken to the parcel; and iv) whether the material, when taken to the parcel, had any contaminants in or on it and, if so, a) what contaminants, b) the basis for making such conclusion, and c) the identity of the person(s) reaching such conclusion.

Note: Pursuant to the objection set forth below, testimony on topic 18 and all subparts thereof will not cover facts known or opinions held by experts who may testify at trial or who were employed in anticipation of litigation but are not expected to be called as a witness at trial. This objection applies only to facts obtained or developed by such experts, and not otherwise known to plaintiffs.

25. All real property currently owned by Plaintiffs in Calhoun County, Alabama and in the watershed of Snow Creek and Choccolocco Creek.

Testimony of Jerry Brown – Plaintiffs will stipulate that Mr. Brown's previous deposition in *Solutia v. McWane* constitutes Rule 30(b)(6) testimony by Plaintiffs on the following topics, and will produce Mr. Brown for an additional 30(b)(6) deposition on these topics, not to exceed 7 hours.

2. History and description of the operations or chemical manufacturing processes at the Anniston Facility, throughout its operational history, that produced, handled, used in any way, or generated the following substances: PCBs, polycyclic aromatic hydrocarbons, -dibenz(a,h)anthracene, sand, and/or lead. This topic specifically includes, but is not limited, to the Aroclor process, the biphenyl process, the muriatic acid process, the chlorine process, ~~and the ferroalloy process~~, and specifically seeks, but is not limited to, the following information regarding each operation or process:
 - a. a description of the standard manufacturing process for these operations or processes, including any amendments or changes over time;
 - b. the time frame during which these operations or processes were utilized and reasons for their discontinuation;
 - c. any material balance information regarding these operations or processes;
 - d. where at the Anniston Facility these operations or processes were located;
 - e. the raw materials purchased and otherwise obtained or used in these operations or processes;
 - f. the total production, by year, for these operations or processes;

- g. the nature, chemical composition, and quantity of products, byproducts or wastes resulting from these processes;
- h. the amount of PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, and/or lead lost, escaped, or released to the environment or disposed of as a result of these operations or processes.

Note: 30(b)(6) deposition testimony will not cover the ferroalloy process.

- 3. Generation and management, including on-site and off-site disposal, of solid waste from or at the Anniston Facility that contained or may have contained the following substances: PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, and/or lead. This topic specifically includes, but is not limited to, the generation and management of the following materials:
 - a. "Montars" and/or sludges or bottoms generated as part of the Aroclor and biphenyl production processes;
 - b. Sands or cloths or other materials used to clean up spills or leaks or releases, including but not limited to the Aroclor and biphenyl departments;
 - c. PCB-containing electrodes used in the chlorine manufacturing process;
 - d. Lead residue contained in the lead traps used in the lead pot process;
 - e. Lead residue in the lead pots, in the furnace, or any other location of lead residue.

Note: witness will cover this topic through 1990.

- 5. History and operations of the South Landfill. This topic specifically includes, but is not limited to, the following information: years of use, materials disposed of there, the time periods in which various materials were disposed of there, activities undertaken upon cessation of use, and the capping/covering of this landfill.

Note: witness will cover this topic through 1990.

- 6. Air emissions of the following substances from the Anniston Facility, including any sampling, monitoring, or modeling of such air emissions: PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, and/or lead. As used in this topic, "air emissions" includes process emissions (whether stack or fugitive), material handling fugitive dust emissions, emissions associated with landfill operations, and emissions from areas where PCBs from the Anniston Facility have been located and/or remediated by Plaintiffs. This topic specifically includes, but is not limited to, air emissions from the following operations:
 - a. The Aroclor production processes, including the flaking and bagging operation;
 - ~~b. The ferroalloy process;~~
 - c. The muriatic acid process;
 - d. The West Landfill and the South Landfill, including from the burning of any waste at either landfill;
 - e. The biphenyl production process;
 - f. The incinerator;
 - g. Any other source of heat used in any process, including furnaces, ovens, or boilers.

Note: witness testimony will not cover the ferroalloy process. Witness will cover this topic through 1990.

- 13. The use or re-use of sand at or by the Anniston Facility for any purpose. This topic specifically includes, but is not limited to, the following information:
 - a. use as a drying agent;
 - b. use as a method to soak up or contain spills, leaks, or releases of liquids;

- c. use as a raw material for a process;
- d. use as a fill material;
- e. use as a landfill construction material (e.g., solidifying agent, temporary cover, cap, barrier, etc.);
- f. the type, purchase, quantity and source of the sand used;
- g. the method of handling, storing, and transporting of sand;
- h. methods, locations, and timing of on-site and off-site disposal of unused sand, waste sand or waste materials containing sand.

Note: witness will cover this topic through 1990.

- 14. The "teepee burner" or any other device or mechanism used to burn or incinerate waste used at the Anniston Facility. This topic specifically includes, but is not limited to, the following information:
 - a. a description of its use;
 - b. engineering design details;
 - c. from whom purchased;
 - d. dates of installation, start-up, operation, and decommissioning;
 - e. the type and quantity of materials or wastes disposed of by the teepee burner; and
 - f. where the device was located at the Anniston Facility.
- 19. All process and non-process wastewater currently or formerly generated at the Anniston Facility that may have contained the following substances: PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, sand, and/or lead. As used in this topic, wastewater means treated and untreated wastewater, non-contact cooling water, and stormwater, as well as the operations associated with the generation of that wastewater. This topic specifically includes, but is not limited to, the following information:
 - a. the nature and content of such wastewater, including any and all analytical data, testing, studies and analysis on the wastewater at any point from generation through and including direct or indirect discharge;
 - b. whether the wastewater was directly or indirectly discharged;
 - c. for direct discharges, the receiving water or waters;
 - d. for indirect discharges, the treatment works or other areas to which the wastewater was directed; and
 - e. whether such wastewater received any treatment or other control prior to direct or indirect discharge by the Anniston Facility.

Note: witness will cover this topic through 1990.

- 21. Historical discharges of wastewater or stormwater or other liquids or waters, directly or indirectly, to what has been called the 11th Street Ditch, including the levels of PCBs, lead, or other hazardous substances present in such discharge.

Note: witness will cover this topic through 1990.

- 23. Generation, use, and/or disposal of slag at or from the Anniston Facility.

Note: witness will cover this topic through 1990.

- 24. Generation, use, and/or disposal of refractory material at or from the Anniston Facility.

Note: witness will cover this topic through 1990

Testimony of Gayle Macolly – Plaintiffs will stipulate that Ms. McColly’s previous deposition in *Solutia v. McWane*, and the depositions of Jerry Brown, Alan Faust, Craig Branchfield, and John Loper in *Solutia v. McWane*, constitute 30(b)(6) testimony by Plaintiffs on the following topics, and in addition will produce Ms. McColly for an additional 30(b)(6) deposition on the following topics, not to exceed 5 hours in length.

6. Air emissions of the following substances from the Anniston Facility, including any sampling, monitoring, or modeling of such air emissions: PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, and/or lead. As used in this topic, “air emissions” includes process emissions (whether stack or fugitive), material handling fugitive dust emissions, emissions associated with landfill operations, and emissions from areas where PCBs from the Anniston Facility have been located and/or remediated by Plaintiffs. This topic specifically includes, but is not limited to, air emissions from the following operations:
 - a. ~~The Aroclor production processes, including the flaking and bagging operation;~~
 - b. ~~The ferroalloy process;~~
 - c. ~~The muriatic acid process;~~
 - d. The West Landfill and the South Landfill, including from the burning of any waste at either landfill;
 - e. The biphenyl production process;
 - f. The incinerator;
 - g. Any other source of heat used in any process, including furnaces, ovens, or boilers.

Note: witness will cover this topic only as to events after 1990.

7. The history of PCB and/or lead cleanup, remediation, or removal activities undertaken by Plaintiffs at the Anniston Lead Site, the Anniston PCB Site, the Anniston Facility, or at other locations within Calhoun County, Alabama. This topic specifically includes, but is not limited to, the following information:
 - a. A description of those activities, including the dates of those activities, the quantities of material removed, and the final disposition of any such materials removed;
 - b. Any analysis of the chemical constituents of the material removed;
 - c. The reason those activities were undertaken.

Note: witness will cover this topic with the exception of material covered by topics 4 and 5.

8. Any PCB and/or lead sampling and analysis undertaken by Plaintiffs at the Anniston Lead Site, the Anniston PCB Site, the Anniston Facility, at other properties nearby the Anniston Facility, and in the creeks and waterways (or associated floodplains) in the vicinity of the Anniston Facility, including but not limited to those downstream of the Anniston Facility. This topic specifically includes, but is not limited to, the following information:
 - a. The sampling techniques used, including whether those sampling techniques changed over time;
 - b. The analytical techniques performed to test for PCBs in environmental samples (e.g., Total PCB, Aroclor analysis, homologue analysis, congener analysis) and the reasons those techniques were chosen;
 - c. The data that resulted from those samples;
 - d. Any PCB congener analyses performed on samples from the Anniston environment;
 - e. Any PCB homologue analysis performed on samples from the Anniston environment;
 - f. Any PCB Aroclor analysis performed on samples from the Anniston environment.

Note: Pursuant to the objection set forth below, testimony on topic 8 and all subparts thereof will not cover facts known or opinions held by experts who may testify at trial or who were employed in anticipation of litigation but are not expected to be called as a witness at trial. This objection applies only to facts obtained or developed by such experts, and not otherwise known to plaintiffs.

9. PCB and/or lead concentrations in the air within the boundaries of the Anniston Facility or in the ambient air in Calhoun County, Alabama, including the results of any air sampling performed by or on the behalf of Plaintiffs.

Note: Pursuant to the objection set forth below, testimony on topic 9 will not cover facts known or opinions held by experts who may testify at trial or who were employed in anticipation of litigation but are not expected to be called as a witness at trial. This objection applies only to facts obtained or developed by such experts, and not otherwise known to plaintiffs.

22. The status, anticipated schedule, and associated costs related to Plaintiffs' anticipated future compliance with any administrative order or consent decree with U.S. EPA for which recovery is sought in this case. This topic specifically includes, but is not limited to, the following information:
- a. Sampling, analysis, and removals at residential properties;
 - b. Sampling, analysis, and removals at non-residential properties;
 - c. Sampling, analysis, and other investigations, feasibility studies, and implementation of all response actions in Operable Unit 4.

Testimony of John Loper – Plaintiffs will stipulate that Mr. Loper's previous deposition in *Solutia v. McWane*, and the depositions of Jerry Brown, Alan Faust, Craig Branchfield, and Gayle Macolly in *Solutia v. McWane*, constitute 30(b)(6) testimony by Plaintiffs on the following topics, and in addition will produce Mr. Loper for an additional 30(b)(6) deposition on the following topics, not to exceed 5 hours in length.

4. History and operations of the West End Landfill. This topic specifically includes, but is not limited to, the following information: years of use, materials disposed of there, the time periods in which various materials were disposed of there, activities undertaken upon cessation of use, the sale to Alabama Power, return from Alabama Power, and the capping/covering of this landfill.
5. History and operations of the South Landfill. This topic specifically includes, but is not limited to, the following information: years of use, materials disposed of there, the time periods in which various materials were disposed of there, activities undertaken upon cessation of use, and the capping/covering of this landfill.

Note – witness's testimony on topic 5 will cover events after 1990.

19. All process and non-process wastewater currently or formerly generated at the Anniston Facility that may have contained the following substances: PCBs, polycyclic aromatic hydrocarbons, dibenz(a,h)anthracene, sand, and/or lead. As used in this topic, wastewater means treated and untreated wastewater, non-contact cooling water, and stormwater, as well as the operations associated with the generation of that wastewater. This topic specifically includes, but is not limited to, the following information:

- a. the nature and content of such wastewater, including any and all analytical data, testing, studies and analysis on the wastewater at any point from generation through and including direct or indirect discharge;
- b. whether the wastewater was directly or indirectly discharged;
- c. for direct discharges, the receiving water or waters;
- d. for indirect discharges, the treatment works or other areas to which the wastewater was directed; and
- e. whether such wastewater received any treatment or other control prior to direct or indirect discharge by the Anniston Facility.

Note – witness's testimony on topic 19 will cover events after 1990.

- 21. Historical discharges of wastewater or stormwater or other liquids or waters, directly or indirectly, to what has been called the 11th Street Ditch, including the levels of PCBs, lead, or other hazardous substances present in such discharge.

Note – witness's testimony on topic 21 will cover events after 1990.

Testimony of Bob Kaley – Plaintiffs will produce Mr. Kaley for a 30(b)(6) deposition on the following topics, with a 3 hour time limit.

- 12. The behavior of PCBs in the environment. This topic specifically includes, but is not limited to, the following information:
 - a. mobility or motility of PCBs in the environment;
 - b. volatilization of PCBs contained in soils, sediments, and surface waters;
 - c. weathering of PCBs;
 - d. dechlorination of PCBs;
 - e. adsorption of PCBs to particles in air or water

Note: Pursuant to the objection set forth below, testimony on topic 12 and all subparts thereof will not cover facts known or opinions held by experts (other than Dr. Kaley) who may testify at trial or who were employed in anticipation of litigation but are not expected to be called as a witness at trial. This objection applies only to facts obtained or developed by such experts, and not otherwise known to plaintiff.

Plaintiffs propose to postpone discussion of the following topics pending the Court's ruling on the common-law counterclaims. If these claims remain in the case, Plaintiffs will tender one or more transcripts of 30(b)(6) deposition testimony by Plaintiffs from other litigation on the following topics.

- 10. Plaintiffs' awareness of the toxicity of PCBs or lead and the release of PCBs or lead into the environment during the period from 1927- 1977.
- 11. Plaintiffs' statements to customers and the public, including without limitation the warnings contained on Plaintiffs' product information, labels, and promotional material, regarding the toxicity of PCBs and the release of PCBs into the environment during the period from 1927-1977.

No 30(b)(6) testimony from plaintiffs is available on the following topic (topic assumes facts not in evidence)

20. Historical discharges of wastewater or stormwater or other liquids or waters, directly or indirectly, to what has been called the 9th Street Ditch, or Eulaton Ditch, including the levels of PCBs, lead, or other hazardous substances present in such discharge.

Objection to all topics: Plaintiffs object to all topics in the Notice, to the extent they may seek discovery of:

- a) Opinions of experts who may testify at trial. Discovery of such opinions is premature under Amended Case Management Order 4.
- b) Opinions held by experts who have been retained or specially employed in anticipation of litigation or to prepare for trial and who are not expected to be called as a witness at trial (Rule 26(b)(4)(B)).
- c) Facts known by experts and not otherwise known to plaintiffs. Discovery of such facts is premature under Amended Case Management Order 4, and/or is barred by Rule 26(b)(4)(B).

Objections to Topic 1:

- a) Improper use of a "contention interrogatory" as a 30(b)(6) deposition topic.
 - b) See Objections (a), (b) and (c) to all topics.
 - c) Topic is overbroad, encompassing all elements of Plaintiffs' liability case, and is unduly burdensome because of its overbreadth. The discovery sought by this topic is more appropriately addressed by other discovery mechanisms.
1. The facts or circumstances that form the basis of each Defendant's alleged liability for Response Costs pursuant to CERCLA Section 107(a)(1) or (2), 42 U.S.C. 5 9607(a).

Objections to Topic 17

- a) Improper use of a "contention interrogatory" as a 30(b)(6) deposition topic.
 - b) See objections (a), (b), and (c) to all topics
17. For each parcel identified in response to topic 15, whether you contend that all of the contaminants present were from Defendants' facilities, or whether some quantity or portion of the contaminants in or on the parcel were from the Anniston Facility or from parties not involved in this lawsuit.

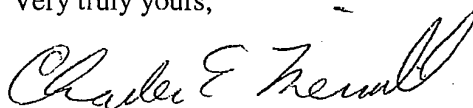
Cross-reference to responses, by topic number:

1. Objections
2. Written response, accompanied by documents, with interrogatory-style affidavit

3. Testimony
4. Testimony
5. Testimony
6. Written response, accompanied by documents, with interrogatory-style affidavit
7. Testimony
8. Testimony; objection
9. Testimony; objection
10. Postpone/ designation of 30(b)(6) depositions from other litigation
11. Postpone/ designation of 30(b)(6) depositions from other litigation
12. Testimony; objection
13. Testimony
14. Testimony
15. Written response, accompanied by documents, with interrogatory-style affidavit
16. Written response, accompanied by documents, with interrogatory-style affidavit
17. Objections
18. Written response, accompanied by documents, with interrogatory-style affidavit;
objections
19. Testimony
20. No testimony available
21. Testimony
22. Testimony
23. Testimony
24. Testimony
25. Written response, accompanied by documents, with interrogatory-style affidavit
26. Production of responsive documents, accompanied by authenticity affidavit.
27. Production of responsive documents, accompanied by authenticity affidavit.

I look forward to our conference call relating to Plaintiffs' responses to the Notice, as well as Defendants' responses to Plaintiffs' Rule 30(b)(6) notices, tentatively scheduled for November 5, 2009 at 11:30 AM CDT.

Very truly yours,



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