

Merck Settles Clean Water Act Violations Related to June 2006 Fish Kills in Wissahickon Creek

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PHILADELPHIA (December 13, 2007) U.S. Attorney Pat Meehan, the U.S. Environmental Protection Agency and Pennsylvania Department of Environmental Protection, today, announce a settlement with Merck in a federal-state lawsuit over violations of federal and state water pollution control regulations at its Pharmaceutical plant. On June 13, 2006 Merck discharged potassium thiocyanate causing extensive fish kills in the Wissahickon Creek on June 14th and 15th and also resulting in the Philadelphia Water Department temporarily closing its Schuylkill River drinking water intake.

In one of the most comprehensive remediation settlement agreements for the Eastern District of Pennsylvania, Merck will pay \$10 million to put into place systems that will prevent future dangerous discharges at their facility. Merck will spend approximately \$9 million for extensive environmental projects. A Consent Decree requires Merck to pay \$1,575,000 in penalties for past violations divided as follows: \$750,000 to the United States; \$750,000 to the Commonwealth of Pennsylvania; \$75,000 to the Pennsylvania Fish and Boat Commission.

“Perhaps more than anything else,” said Meehan, “this settlement says to every company that discharges dangerous chemicals as part of its operations that it is accountable to the environment and to the community. Because when you get right down to it, no one should have to wonder, when they walk into the kitchen for a glass of water, if what they are about to drink is going to make them or their children sick.”

“Merck’s actions led to an extensive fish-kill and caused the Philadelphia Water Department to temporarily shut down its drinking water operations,” said Acting Assistant U.S. Attorney General Ron Tenpas. “This settlement ensures that Merck will take steps to prevent future illegal discharges including installing an early warning system to protect drinking water.”

The Merck facility, a pharmaceutical plant located in West Point Montgomery County, houses pharmaceutical and vaccine research as well as the manufacturing of pharmaceutical products and vaccines. The facility consists of approximately 400 acres, 110 buildings employing approximately 8500 employees. Merck discharges pollutants from this facility to the Upper Gwynedd Township Publicly owned Treatment Works (UGT POTW). The treated effluent is discharged into the Wissahickon Creek, a tributary of the Schuylkill River.

The federal court complaint, filed today, along with the settlement papers, alleges that Merck violated the Clean Water Act with several discrete discharges that caused numerous pass through and interference violations at the UGT POTW:

- On June 13, 2006 Merck discharged potassium thiocyanate (“KSCN”) which reacted with the chlorination at UGT POTW and after discharge caused extensive fish kills in the Wissahickon Creek on June 14th and 15th; also resulting in the Philadelphia Water Department to close its Schuylkill River drinking water intake on June 14th and 15th; and resulting in PA DEP and Montgomery County to issue health advisories to ban all recreational uses on the Wissahickon Creek for the period June 14, 2006 through July 10, 2006.
- On August 8th and 9th, 2006 Merck discharged a large batch of spent substrate used for vaccine production which when treated at UGT POTW caused extensive foam discharge into the Wissahickon Creek.
- On August 16th, 2006 Merck discharged a large amount of cleaning agents which when treated at UGT POTW caused extensive foam discharge into the Wissahickon Creek.

The proposed consent decree includes interim measures undertaken already to: prevent discharges without preapproval; create a tracking system for waste handling; create a task force to assess the system throughout the facility and impose increased testing and assessment tools for waste stream. The decree contains Merck’s commitment to long term remedial measures including: a prevention program; enhanced wastewater management program and chemical management accountability system for the facility. The estimated costs of these measures is in excess of \$10 million.

“The resolution of this case and its special projects will bring both short and long-term environmental benefits to the community and the Wissahickon,” said Donald S. Welsh, EPA’s mid-Atlantic regional administrator. “When you consider

that the source of 40 percent of Philadelphia's drinking water is just downstream of this facility, these improvements and Merck's environmental accountability has implications extending beyond the boundaries of its facility.”

“This spill of dangerous chemicals last year left its mark on communities and waterways from Upper Gwynedd Township all the way to Philadelphia,” said DEP secretary Kathleen McGinty. “We're pleased that Merck has agreed to measures that will improve operational oversight at its facility, and has responded in a responsible manner. This settlement will help return the Wissahickon watershed to environmental health, provide the public with access to new areas of open space, and help restore the quality of life to the community.”

Additionally, the secretary noted, “The Commonwealth of Pennsylvania is grateful for the partnership we enjoyed with our federal counterparts at the Department of Justice and EPA in reaching this important settlement.”

The proposed consent decree also includes extensive environmental projects designed to improve the water quality and/or protect the Wissahickon as a source of drinking water. Merck has committed to: restoration of a segment of the Wissahickon Creek to improve the water quality of this key tributary of the Schuylkill River; creation of a wetlands on a 10 acre parcel of property adjacent to the creek; purchase and installation of an aquatic biomonitoring system that monitors fish activity to give the Philadelphia Water Department an early warning system regarding materials in the Wissahickon Creek that may constitute a threat to the drinking water; the purchase and installation of an enhanced Automated Dissolved Oxygen Controls at the Upper Gwynedd Treatment Plant.

Each SEP is designed to improve water quality and/or protect the Wissahickon as a source of drinking water.

In addition the Decree calls for Merck to contribute \$4.5 million toward the purchase of a parcel of land adjacent to the creek that will have restricted use and open space easements in perpetuity.

The proposed consent decree is subject to a 30 day public comment period and final court approval. Assistant United States Attorney Margaret L. Hutchinson handled the case for the United States, with attorney Chris Day representing the Environmental Protection Agency, and Martha Blasberg, Supervisory Counsel, PADEP, representing the Commonwealth of Pennsylvania. The matter was investigated by EPA Region III Water Protection Division, PADEP, the Pennsylvania Fish and Boat Commission, and the Pennsylvania Attorney General's office.