

MEMORANDUM

TO: The Honorable Alan D. Moats and All Parties
Jack Leach, et al. v. E.I. du Pont de Nemours and Co.,
C-8 PFOA Medical Monitoring Program

FROM: Michael K. Rozen, Director of Medical Monitoring

RE: Status Report of the Director

DATE: November 21, 2014

On November 20, 2012, the Court appointed Michael K. Rozen, Esq. as Director of Medical Monitoring (the "Director") in the above-referenced matter to oversee the implementation of the Medical Panel Protocols for the Medical Monitoring Program (the "Program"). The Director previously submitted to the Court reports summarizing the progress and status of planning for implementation of the Medical Panel Protocols on September 20, 2013, November 19, 2013 and April 28, 2014.

The Program has now been launched. Notice was mailed to approximately 98,000 potential Class Members in the beginning of September and claimants are now registering, making appointments for monitoring and receiving monitoring pursuant to the Medical Panel Protocols. This Status Report of the Director summarizes the progress of the Program to date.

I. Background

In February 2005, the Circuit Court of Wood County, West Virginia approved a class action settlement ("the Settlement") between Plaintiffs and E.I. du Pont de Nemours and Co. ("DuPont"), the defendant, in a civil class action lawsuit styled *Jack Leach, et al. v. E.I. du Pont de Nemours and Co.*, Civil Action No. 01-C-608. The litigation involved claims arising from alleged contamination of human drinking water supplies with a chemical known as ammonium perfluorooctanoate (hereinafter "C-8") attributable to releases from DuPont's Washington Works Plant in Wood County, West Virginia.

As part of the Settlement, Class Counsel and DuPont selected an independent panel of three epidemiologists (the "Science Panel") to conduct and evaluate studies to answer the question whether a "Probable Link" exists between exposure to C-8 among Class Members and serious human disease ("Human Disease"). After lengthy studies, in which many Class Members participated, the Science Panel found that there is a "Probable Link" between exposure to C-8 and the following Human Diseases: (1) pregnancy-induced hypertension (including preeclampsia), (2) kidney cancer, (3) testicular cancer, (4) thyroid disease, (5) ulcerative colitis, and (6) diagnosed high cholesterol (hypercholesterolemia). The Settlement Agreement defines a "Probable Link" to mean that, "based upon the weight of the available scientific evidence, it is more likely than not that there is a link between exposure to C-8 and these

Human Diseases among Class Members.” The Science Panel did not find that a Probable Link exists for any other Human Diseases.

As called for by the Settlement, the parties selected an independent panel of three medical doctors (the “Medical Panel”) to determine whether and when medical monitoring for Class Members is appropriate for the six Human Diseases linked to C-8 exposure by the Science Panel. The Medical Panel released a final Protocol identifying initial recommended medical monitoring procedures for Class Members for each of these Human Diseases. The Medical Panel will issue an additional Protocol specifying the frequency and duration of these recommended tests, and Class Members will receive an additional notice addressing those issues when that additional Protocol is released. The Medical Panel has not yet provided an estimated time for release of the additional Protocol. In the Director’s view, it is unlikely to be issued before the first quarter of 2015 since there will be limited results from screening tests by the end of the year and the Panel will need to study de-identified data derived from the current monitoring Program.

II. Implementation of the Program

The Director is administering and supervising the daily operation of the Program and the activities of the two primary vendors through daily interaction including review of all Program documents, quality control of the tasks delegated to the vendors, review and approval of provider invoices for services rendered to Class Members and ongoing decision-making for issues arising throughout the course of the Program. The two vendors assisting the Director in implementing the Program and with which the Director interacts on a daily basis, are: (1) Garden City Group Inc., (“GCG”) the Administrator of the Settlement Agreement, which has mailed notice and is managing the electronic claims and paper claims filing system, the supporting documentation repository and the Call Center; and (2) HealthSmart, which is providing approximately 400 primary care providers and 100 specialists in the affected target areas of the Program. The Director is assuring that the provision and training of health care providers meets the standards of the Program and the needs of the Class Members. Claimants have been submitting Class Member Registration and Eligibility Forms. Eligibility determinations are being made, Class Members are making appointments with participating physicians and are now beginning to be monitored by participating physicians. The Daily Summary Report for November 20, 2014, which sets forth statistics relating to the progress of the Program, is attached to this Status Report as Exhibit A. The status of the Program, including greater explication of the statistics shown in Exhibit A, is set forth below.

A. Administration

Notice Packets

On September 2, 2014, 98,686, Notice Packets were mailed to potential Class Members; an additional 258 notice packets have been sent upon request subsequent to the initial mailing. The Notice Packets included: (1) a Transmittal Letter with instructions; (2) a Registration and Eligibility Form to be filled out by the claimant; and (3) a summary of the Medical Panel Protocols regarding the eligible population, screening tests and follow up/diagnostic pathways for each of the six diseases.

Website

- The Medical Monitoring website, <http://www.c-8medicalmonitoringprogram.com/>, went live on September 2, 2014. The website includes: (1) Notice; (2) a List of the Affected Water Sources; (3) Online Registration and Eligibility Forms for Download; (4) Information on the C-8 Medical Monitoring Program Screening Tests prepared by the Medical Panel; (5) an online filing portal for submitting Registration and Eligibility Forms or supporting documents electronically; (6) a search engine to enable Class Members to locate a participating physician in an area convenient to the Class Member;¹ (7) the Settlement Agreement; and (8) Frequently Asked Questions.

Publication Notice

- Publication of Summary Notice as set forth by the Court's Order Regarding Sending Class Notice Dated October 30, 2013, was published in local and regional publications the week of September 8, 2014 and in Parade Magazine on September 14, 2014.

Call Center

- The Call Center went live on September 2, 2014. Through November 20, 2014, a total of 2,498 calls have been received by the Call Center, 504 of which were handled by the Interactive Voice Response system and 1,994 of which were handled by a live operator.

Town Halls

- The Director held five town hall meeting at four separate locations on September 22, 2014 and September 23, 2014. The meetings were held in (1) Point Pleasant, West Virginia; (2) Parkersburg, West Virginia; (4) Pomeroy, Ohio and (5) Belpre, Ohio. At the town hall meetings, the Director made presentations addressing all aspects of the Program and also answered questions. In addition, vendor personnel were at the town halls answering questions and assisting claimants in filing Registration and Eligibility Forms online.

Eligibility Determinations

- After receipt of Eligibility and Registration Forms, the Program makes eligibility determinations. The Administrator reviews all documentation to determine eligibility. When an issue regarding a particular Registrant's eligibility arises, the Director's office

¹ Class Members call the Program's toll free number so that the Program can schedule a screening appointment for them with a conveniently located participating physician. Class Members may also, if they wish, search for a participating physician on the website so that they may request the Program to make an appointment with a specific participating provider.

reviews and determines the claim. Although initial determinations took longer, at the present time determination decisions are made within 48 hours.

- The data base which the Administrator obtained from the C-8 Health Project (“the C-8 Study”) includes documents submitted by potential Class Members to the C-8 Study. Registrants who participated in the C-8 Study may rely upon previously submitted documentation to demonstrate eligibility to the extent that the documentation complies with the eligibility requirements of the Program. For these Registrants, the Program will review the data from the C-8 Study to determine eligibility. Other potential Class Members will submit documentation of eligibility.
- After a determination regarding eligibility is made in accordance with the Program criteria, the Registrant is sent an eligibility determination letter either accepting the Registrant into the Program, denying the registration application, or notifying the Registrant that the application is deficient. Deficiency notices indicate why the Registration is deficient and how to cure the deficiency. Registrants who have not submitted proof of water consumption during the relevant period are advised that they may request a confirming letter from the relevant Water District to show eligibility. The Program provides the Registrant with telephone numbers for the Water Districts.
- Through November 19, 2014 a total of 5,849 Registrations were received, 5,804 of which have been processed. Of the Registrations processed, 4,200 Registrants have been deemed to be Eligible Class Members, 280 were determined to be duplicative of other registrations, 75 were deemed ineligible and 1,249 were deficient. Mailing of deficiency letters began on November 5, 2014. Through the deficiency process the Program will work with these Registrants to establish eligibility if possible.

Medical Monitoring

- All Registrants who are deemed to be an Eligible Class Member are sent a Medical Monitoring Packet which includes information about how to make an appointment with a conveniently located participating physician for medical monitoring. The Medical Monitoring Packet also includes a consent to release medical information (HIPAA) Form and Class Member Screening Questionnaire for the Class Member to fill out, along with Instructions for Physicians. Class Members are instructed to take these forms with them to their screening appointment.
- The Class Member Screening Questionnaire requests that the Class Member indicate if he or she has been diagnosed with any of the six Probable Link Conditions and repeats the statement in the Notice that Class Members who have been diagnosed with a Probable Link Condition do not need and the costs will not be paid for that particular screening test. DuPont has pointed out to the Director that some Class Members have filed personal injury claims against DuPont for a Probable Link Condition(s) and that these Class Members in all probability have been diagnosed with such Probable Link Condition(s).

After discussion with the Director, the parties have agreed that the Program and the participating physicians may rely upon self-reporting by Class Members of a prior diagnosis without further investigation into the bases for individual lawsuits.

- The Program's network of providers gives 99.6% of the Class Members easy access to a primary care physician or specialty care physician. The average distance for Class Members to the closest Primary Care Physician is 4.5 miles and for Specialty Care Physicians is 2.7 miles.
- HealthSmart providers have been educated and continue to be educated about the Program. HealthSmart has mailed over 14,500 information packets to contracted providers, made in-person visits to providers, and conducted over 30 educational webinars. Webinars will be regularly scheduled throughout the life of the Program. HealthSmart has also established a dedicated telephone line to respond to questions by providers.

Through November 20, 2014, a total of 443 Class Members have made appointments with screening physicians. As shown in Exhibit B, Class Members from diverse locations in the impacted communities have made appointments. No Class member who has been deemed eligible and has requested an appointment to obtain screening under the Program has been denied an appointment through the Program. In any situation where the Director has been advised that there has been any appointment scheduling or physician participation issue, the Director has made sure that the issue is resolved promptly so that the eligible Registrant is able to proceed promptly with the requested appointment.

B. Communications

- The Director has been sending the Daily Summary Report, exemplified by Exhibit A, to the parties at the close of business every day. Daily reporting to the parties will continue throughout the month of November but will be reduced to weekly reporting thereafter. Such weekly reports will be circulated to the parties at the close of business every Friday.
- The parties and Director are in constant email communication discussing issues that arise regarding implementation of the Program (copied to both sides), although issues relating to any individual Registrant or potentially revealing any such Registrant's identity are not and will not be discussed or addressed with DuPont (per the agreement of all parties) so as to protect such individual's privacy. In addition, the Director holds weekly status calls with the parties every Thursday morning.
- The Director, GCG, and HealthSmart are in daily contact to respond to ongoing issues and to refine any aspects of the Program as necessary.

C. Further Outreach

- The Director is of the view that at this juncture in the Program further outreach to potential Class Members would be beneficial. The Program is now fully operational and an additional series of town hall meetings in the affected communities (publicized in local newspapers) would allow those potential and current Class Members who may have questions about the Program to hear a presentation from the Director and raise whatever issues they might have regarding either registration and eligibility or how the Program is progressing. A locally publicized announcement would further alert the communities that the Program is up and running and would be particularly beneficial to those potential Class Members who do not have access to computers and the Program's website.
- The Director has raised with the Parties his view that further town hall meetings—to be publicized in local newspapers—are appropriate at this point. The parties have agreed to proceed with publicized town hall meetings in accordance with the Director's recommendation set forth in Section D below, however they have clearly stated different views regarding the Director's authority to require the town hall meetings and announcements described below. DuPont believes that the recommended town hall meetings and associated publication are beyond its obligations under the Parties' Settlement Agreement and beyond the scope of authority granted to the Director. Reserving the right to refuse any further costs that DuPont contends fall outside the Settlement Agreement and the authority of the Director, DuPont has nevertheless agreed to pay for the town hall meetings and associated publication recommended by the Director at this juncture. Plaintiffs' Class Counsel disagree with DuPont's position and assert that the Director's authority to implement outreach activities was acknowledged and approved by the Honorable J.D. Beane in the Court's November 20, 2012 Order appointing Michael Rozen, Esq. as Director to oversee and implement the Medical Monitoring Program in a manner that is fair and efficient, including providing notice and information to Class Members of the availability of the services provided.

D. The Director's Recommendation as Agreed to by the Parties

The Director recommends that the Court approve the scheduling of additional town hall meetings and announcements regarding the Program and the town hall meeting schedule, to be printed in local newspapers prior to the town hall meetings. The Director's due diligence demonstrates that the town hall meetings and announcements in the local newspapers can be accomplished for a cost of no more than \$50,000. Accordingly, the Director requests that the Court approve the recommended outreach at a cost not to exceed \$50,000.²

² The Director has determined that the costs of a one-quarter page announcement in the nine local newspapers included in the Program's original Publication Notice would be approximately \$18,000; renting facilities for the town halls would be approximately \$2,000; and additional fees for Program personnel who participate in the town halls, including expenses would be approximately \$30,000, for a total of approximately \$50,000.

EXHIBIT A

C-8 Medical Monitoring Program

C-8MedicalMonitoringProgram.com

DAILY SUMMARY REPORT

(as of November 20, 2014 at 4:00 pm Eastern)

POTENTIAL PARTICIPANTS

	TOTAL PARTICIPANTS
Potential Participants Sent Notice Packet	98,944
Registrations Received*	5,849
a. Eligible for Medical Monitoring	4,200
b. Duplicate Registrations	280
c. Ineligible (see page 2 for details)	75
d. Deficient (see page 2 for details)	1,249
e. Under Review	45
Physician Appointments Made by Eligible Class Members	443
Physician Appointments Requested with Non HealthSmart Providers	4

*If confirmed as a participant in the C-8 Health Study, the Program will use documentation on hand to confirm eligibility for Medical Monitoring.

C-8 HEALTH STUDY PARTICIPANTS

	WEEK ENDING 11/21/2014	CUMULATIVE REGISTRANTS TO DATE
Participant	72	5,388
Non-Participant	5	461

WATER DISTRICTS / SOURCES (AS REPORTED BY REGISTRANT)*

	WEEK ENDING 11/21/2014	CUMULATIVE REGISTRANTS TO DATE
Little Hocking Water Association	30	1,217
Lubeck Public Service District	10	1,315
City of Belpre	7	877
Mason County Public Service District	12	1,214
Tuppers Plains - Chester Water District	17	1,178
Village of Pomeroy	3	391
Private Water Sources	3	322
Water District Not Identified by Registrant	4	334

*Registrant may indicate multiple Water Districts / Sources.

CALL CENTER ACTIVITY

	WEEK ENDING 11/21/2014	CUMULATIVE CALLS TO DATE
Calls Received	159	2,498
a. Interactive Voice Response ("IVR") Only	32	504
b. Live Operator	127	1,994

WEBSITE ACTIVITY

	WEEK ENDING 11/21/2014	CUMULATIVE TO DATE
Unique Visitors	107	4,076
Page Views	307	10,311

C-8 Medical Monitoring Program

C-8MedicalMonitoringProgram.com

REGISTRANT DEFICIENCY REASONS

	TOTAL PARTICIPANTS
Deficient Registrants**	1,249
Registrants with only Administrative Deficiencies <i>(Authorized Representative Documents insufficient or not Provided; Registrant DOB/SSN/Gender not Provided; Missing Signature; Identity not Verified; and/or Pending Address Confirmation by Water District)</i>	140
Registrants with Documentation Deficiencies ***	1,109
Documentation not Provided	75
Documents submitted do not establish a period of one year prior to December 4, 2004	288
Documents Submitted are not Legible	22
Documents with No Identification that Connects to Registrant	11
Documents with No Address	713

**Each Registrant may be deficient for one or more reasons

***100 Registrants with Documentation Deficiencies also have Administrative Deficiencies

INELIGIBLE REGISTRANTS

	TOTAL PARTICIPANTS
Ineligible Registrants	75
Previously Opted-Out of the Class	0
Registrant Born on or After December 4, 2003	3
Registrants Whose Private Water Sources Tested Below 0.05 ppb of PFOA	0
Registrations Filed on behalf of Deceased Individuals	72

TIME TO APPOINTMENTS

	TOTAL
7 days or less	114
8-15 days	131
16-24 days	69
More than 24 days	129

APPOINTMENTS BY MEDICAL MONITORING PARTICIPANT LOCATION

ZIP CODE	TOTAL
26101	37
45714	36
45769	24
25123	22
25550	21
45750	19
45723	16
26181	16
26104	13
45771	13
45772	11
26105	10
45760	10
45742	8
25241	8

25287	8
45784	7
26150	6
45724	6
26164	6
45631	5
45710	5
26184	5
26187	5
25541	5
25502	4
25801	4
25253	4
45743	4
45701	4
43105	4
43787	3
25239	3
25515	3
26133	3
26142	3
45775	3
45778	3
45770	2
45786	2
74959	2
78624	2
89130	2
26103	2
25701	2
25265	2
25414	2
40517	2
45177	2
43204	2
45623	2
43130	2
26180	2
29715	2
32533	2
45745	2
45720	2
45728	2
45729	2
45735	2
45740	2
45711	1
45694	1
45744	1
45764	1
39564	1
43140	1
43149	1
43160	1
45255	1
43026	1
45039	1

25314	1
25260	1
25559	1
25503	1
26161	1
26143	1
26146	1
26288	1
26330	1
26346	1
26421	1
26508	1
26554	1
45788	1
46311	1
45773	1
45779	1
45782	1
45783	1

EXHIBIT B

APPOINTMENTS BY MEDICAL MONITORING PARTICIPANT LOCATION

City	State	Zip Code	Count
PARKERSBURG	WV	26101	36
BELPRE	OH	45714	36
POMEROY	OH	45769	24
LEON	WV	25123	22
MARIETTA	OH	45750	18
POINT PLEASANT	WV	25550	17
WASHINGTON	WV	26181	16
COOLVILLE	OH	45723	16
PARKERSBURG	WV	26104	13
RACINE	OH	45771	13
REEDSVILLE	OH	45772	11
MIDDLEPORT	OH	45760	10
VIENNA	WV	26105	9
EVANS	WV	25241	8
WEST COLUMBIA	WV	25287	8
LITTLE HOCKING	OH	45742	8
VINCENT	OH	45784	7
MINERAL WELLS	WV	26150	6
CUTLER	OH	45724	6
MILTON	WV	25541	5
RAVENSWOOD	WV	26164	5
WAVERLY	WV	26184	5
GALLIPOLIS	OH	45631	5
ALBANY	OH	45710	5
LETART	WV	25253	4
APPLE GROVE	WV	25502	4
PT PLEASANT	WV	25550	4
BECKLEY	WV	25801	4
WILLIAMSTOWN	WV	26187	4
BALTIMORE	OH	43105	4
ATHENS	OH	45701	4
LONG BOTTOM	OH	45743	4
COTTAGEVILLE	WV	25239	3
GALLIPOLIS FERRY	WV	25515	3
BELLEVILLE	WV	26133	3
DAVISVILLE	WV	26142	3
STOCKPORT	OH	43787	3
RUTLAND	OH	45775	3
STEWART	OH	45778	3
NEW HAVEN	WV	25265	2
CHARLES TOWN	WV	25414	2
HUNTINGTON	WV	25701	2
PARKERSBURG	WV	26103	2
WALKER	WV	26180	2
FORT MILL	SC	29715	2

APPOINTMENTS BY MEDICAL MONITORING PARTICIPANT LOCATION

City	State	Zip Code	Count
CANTONMENT	FL	32533	2
LEXINGTON	KY	40517	2
LANCASTER	OH	43130	2
COLUMBUS	OH	43204	2
WILMINGTON	OH	45177	2
CROWN CITY	OH	45623	2
CUTLER	OH	45728	2
FLEMING	OH	45729	2
GUYSVILLE	OH	45735	2
LOWER SALEM	OH	45745	2
PORTLAND	OH	45770	2
WATERFORD	OH	45786	2
SPIRO	OK	74959	2
FREDERICKSBURG	TX	78624	2
LAS VEGAS	NV	89130	2
CLIFTON	WV	25260	1
CHARLESTON	WV	25314	1
ASHTON	WV	25503	1
SALT ROCK	WV	25559	1
PARKERSBURH	WV	26101	1
PARKERSBURG	WV	26105	1
ELIZABETH	WV	26143	1
FRIENDLY	WV	26146	1
PETROLEUM	WV	26161	1
MURRAYSVILLE	WV	26164	1
WILLIAMSTOWN	WV	26187	1
WEBSTER SPRINGS	WV	26288	1
BRIDGEPORT	WV	26330	1
ELLENBORO	WV	26346	1
PULLMAN	WV	26421	1
MORGANTOWN	WV	26508	1
FAIRMONT	WV	26554	1
OCEAN SPRINGS	MS	39564	1
HILLIARD	OH	43026	1
LONDON	OH	43140	1
ROCKBRIDGE	OH	43149	1
WASHINGTON COURT HOUSE	OH	43160	1
MAINEVILLE	OH	45039	1
CINCINNATI	OH	45255	1
WHEELERSBURG	OH	45694	1
AMESVILLE	OH	45711	1
CHESTER	OH	45720	1
FLEMING	OH	45720	1
HACKSONVILLE	OH	45740	1
JACKSONVILLE	OH	45740	1

APPOINTMENTS BY MEDICAL MONITORING PARTICIPANT LOCATION

City	State	Zip Code	Count
LOWELL	OH	45744	1
VINCENT	OH	45750	1
NELSONVILLE	OH	45764	1
RENO	OH	45773	1
SYRACUSE	OH	45779	1
TRIMBLE	OH	45782	1
TUPPERS PLAINS	OH	45783	1
WHIPPLE	OH	45788	1
DYER	IN	46311	1