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NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
THE COMMISSIONER OF THE  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION and THE  
ADMINISTRATOR OF THE NEW  
JERSEY SPILL COMPENSATION  
FUND,

Plaintiffs,

v.

OCCIDENTAL CHEMICAL  
CORPORATION, TIERRA  
SOLUTIONS, INC., MAXUS ENERGY  
CORPORATION, MAXUS  
INTERNATIONAL ENERGY  
COMPANY, REPSOL YPF, S.A.,  
YPF, S.A., YPF HOLDINGS, INC., YPF  
INTERNATIONAL S.A. (f/k/a YPF  
INTERNATIONAL LTD.) and  
CLH HOLDINGS,

Defendants.

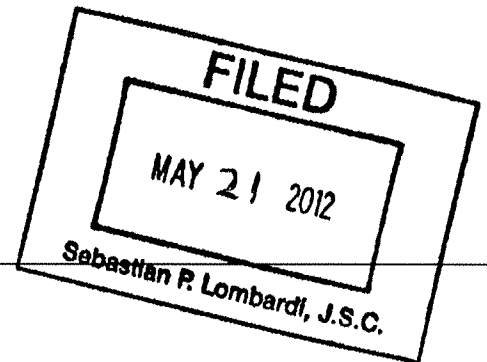
MAXUS ENERGY CORPORATION  
AND TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

v.

3M COMPANY, et al.,

Third-Party Defendants.



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505 Morris Avenue  
Springfield, New Jersey 07081

By: Michael Gordon, Special Counsel  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - ESSEX COUNTY  
DOCKET NO. ESX-L9868-05 (PASR)

Civil Action

ORDER GRANTING PLAINTIFFS' MOTION  
FOR PARTIAL SUMMARY JUDGMENT  
AGAINST MAXUS ENERGY  
CORPORATION AND DENYING MAXUS  
ENERGY CORPORATION'S TRACK III  
CROSS-MOTION FOR PARTIAL SUMMARY  
JUDGMENT

This matter having come before the Court on the motion of Marc-Philip Ferzan, Acting Attorney General; and Jackson Gilmour and Dobbs, P.C. and Gordon & Gordon, P.C., Special Counsel to the Acting Attorney General; attorneys for Plaintiffs, the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection, and Administrator of the New Jersey Spill Compensation Fund ("Plaintiffs"); and on the cross-motion of Drinker Biddle & Reath LLP, attorneys for Maxus Energy Corporation; and the Court, having reviewed the papers submitted by the parties, and having heard oral argument thereon, and for other good cause shown, is of the opinion for the reasons expressed on the record that Plaintiffs' motion should be granted and that Maxus Energy Corporation's cross-motion should be denied; in particular, the Court makes the following findings:

- Maxus Energy Corporation is, as a matter of law, a successor to Diamond Alkali Company and Diamond Shamrock Corporation a/k/a "Old Diamond," the owner and operator of the chemicals manufacturing facility at 80 Lister Avenue, commonly known as the "Lister Plant," from 1946 through 1969; *Denied;*  
*except was open to. Punitive Damages the matter is not decided and left open.*  
Tierra Solutions, Inc. f/k/a Chemical Land Holdings, Inc. and Diamond Shamrock Chemical Land Holdings, Inc., the current owner of the "Lister Site," located at 80 and 120 Lister Avenue in Newark, New Jersey, is the alter ego of Maxus Energy Corporation as a matter of law;
- Plaintiffs are an intended third-party beneficiary of the September 4, 1986 Stock Purchase Agreement, requiring, *inter alia*, Maxus Energy Corporation to pay directly all cleanup and removal costs imposed upon Occidental Chemical Corporation associated with the Lister Site; and *DENIED*

- Maxus Energy Corporation is in any way responsible under the Spill Compensation and Control Act for the hazardous substances discharged at and/or from the Lister Plant from 1946 until 1969. *on facts found by court for Maxus being alter ego of Trans.*
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IT IS therefore, on this 21<sup>st</sup> day of May, 2012,

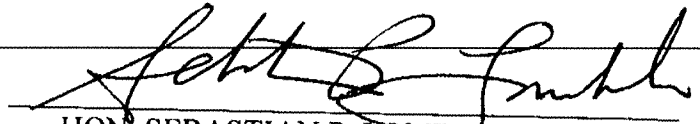
ORDERED that Plaintiffs' motion for partial summary judgment on Count I of Plaintiffs' Third Amended Complaint against Defendant Maxus Energy Corporation is hereby GRANTED; that Maxus Energy Corporation is strictly, jointly and severally liable under the Spill Compensation and Control Act for all past cleanup and removal costs incurred by Plaintiffs associated with the discharges of hazardous substances at and from the Lister Plant, commonly known to be located at 80 Lister Avenue in Newark, New Jersey, into the Passaic River, from 1946 through 1969; IT IS FURTHER,

ORDERED that a declaratory judgment is hereby entered against Defendant Maxus Energy Corporation, finding it strictly, jointly and severally liable under the Spill Compensation and Control Act for all future cleanup and removal costs incurred by Plaintiffs associated with the discharges of hazardous substances at and from the Lister Plant, commonly known to be located at 80 Lister Avenue in Newark, New Jersey, into the Passaic River from 1946 through 1969; IT IS FURTHER,

ORDERED that Defendant Maxus Energy Corporation's Track III cross-motion for partial summary judgment is hereby DENIED; and IT IS FURTHER, *in part (see other order of this date).*

ORDERED that counsel for Plaintiffs shall serve a copy of this Order on all counsel of record within seven (7) days of the date of entry of this Order by posting on the CT Summation electronic platform.

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HON. SEBASTIAN P. LOMBARDI, J.S.C.

**SEBASTIAN P. LOMBARDI, J.S.C.**

Opposed

Unopposed

For reasons stated on  
the record on May 17, 2012