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**Attorneys for Defendants,
Tierra Solutions, Inc. and Maxus Energy Corporation**

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

Plaintiffs,

vs.

OCCIDENTAL CHEMICAL CORPORATION,
TIERRA SOLUTIONS, INC., MAXUS
ENERGY CORPORATION, REPSOL YPF,
S.A., YPF, S.A., YPF HOLDINGS, INC., AND
CLH HOLDINGS,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION -ESSEX COUNTY
:
: DOCKET NO. ESX-L-9868-05
:
: **DEFENDANT TIERRA SOLUTIONS,**
: **INC.'S OBJECTIONS AND**
: **RESPONSES TO PLAINTIFFS'**
: **FIRST SET OF**
: **INTERROGATORIES TO**
: **DEFENDANT TIERRA SOLUTIONS,**
: **INC. ON SUCCESSOR, CONTRACT**
: **AND INDEMNIFICATION ISSUES**
:
:
:
:

TO: Plaintiffs, by and through their attorney of record, William Jackson, JACKSON GILMOUR & DOBBS, PC, 3900 Essex Lane, Ste. 700, Houston, Texas 77027

Pursuant to Rules 4:17-4 and 4:17-5 of the New Jersey Rules of Court, Defendant Tierra Solutions, Inc. ("Tierra") hereby responds to Plaintiffs' First Set of Interrogatories on Successor, Contract and Indemnification Issues.

GENERAL OBJECTIONS

A. Tierra objects to all instructions, definitions, and interrogatories to the extent that they call for Tierra to do more than is required under the rules of this Court. Tierra further objects to the instructions and definitions accompanying Plaintiffs' interrogatories to the extent they are overly broad, not relevant, and not reasonably calculated to lead to discoverable evidence.

B. Tierra objects to each interrogatory to the extent that it calls for disclosure or publication of any information, communication, and/or document:

- (i) which is protected by any absolute or qualified privilege, including, but not limited to, the attorney-client privilege, the work product doctrine, the common interest doctrine, and the identity and work product of non-testifying experts, all of which Tierra hereby asserts;
- (ii) which is not relevant to the subject matter of this litigation or not reasonably calculated to lead to the discovery of admissible evidence; or
- (iii) which is otherwise not subject to discovery pursuant to the New Jersey Rules of Court.

C. In the event that any information, communication, and/or document that is subject to a claim of privilege or protection is inadvertently produced, upon notice from Tierra of the inadvertent disclosure any party receiving the information, communication, and/or document

must promptly return or delete the specified information and any copies made thereof as instructed by Tierra and may not disclose or use the information. The party shall provide written confirmation of its compliance with Tierra's request.

D. Tierra objects to these instructions, definitions, and interrogatories to the extent the Plaintiffs' are requesting that Tierra produce information that is not in the possession, custody or control of Tierra.

E. Definitions of Parties and Entities

- (i) Tierra objects to the definitions of "CLH Holdings", "Maxus", "OCC", "Repsol", "Tierra", "YPF Holdings", "YPF International Ltd.", and "YPF" as overly broad, vague, and ambiguous. The definition used in Plaintiffs' interrogatories attempts to combine "each predecessor, successor, parent, subsidiary, divisions or affiliate" into the entity listed in the interrogatory. These are separate and distinct legal entities.
- (ii) In response to each interrogatory herein, Tierra is limiting its response to only the entity named in the interrogatory.
- (iii) Tierra objects to the term "Repsol Group" as vague, ambiguous, undefined, and/or unintelligible.

F. Definitions of General Terms

- (i) Tierra objects to the definitions listed under "General Terms" to the extent the definition includes electronically stored information including, but not limited to, email, voicemail, analog media, magnetic media, and digital media. The scope of electronically stored information required to be preserved, collected, reviewed, and produced in this litigation is still being discussed and reviewed by the parties,

now with the assistance of the Special Master. Therefore, Tierra will be limiting its response to information available in hard copy format.

- (ii) Tierra objects to the definition of the terms “you” and “your” as overly broad, vague, and ambiguous. The definition used in Plaintiffs’ interrogatories attempts to include “successors” and “predecessors” in Tierra’s responses. In response to each interrogatory herein, Tierra is limiting its response to only Tierra, its agents, and employees.

G. Definitions of Specific Terms

- (i) Tierra objects to the definition of “Diamond Shamrock” on the grounds that it is unclear to which entity named “Diamond Shamrock Corporation” Plaintiffs are referring in their interrogatories. Tierra objects to the definition to the extent Plaintiffs attempt to include and combine “predecessors” in that definition. Tierra will be using the following defined terms in Tierra’s responses:

- “DSC-I” – Refers to the Diamond Shamrock Corporation that resulted from the 1967 merger of Diamond Alkali Company and Shamrock Oil and Gas Corporation; and which changed its name to Diamond Chemicals Company on September 1, 1983, and to Diamond Shamrock Chemicals Company (“DSCC”) on October 26, 1983.
- “DSC-II” – Refers to the Diamond Shamrock Corporation that was first incorporated as New Diamond Shamrock Corporation, a non-operating holding company, in July 1983; and which changed its name to Diamond Shamrock Corporation on August 31, 1983, and to Maxus Energy Corporation in April 1987.

- (ii) Tierra objects to Plaintiffs' definition of the term "DSCC" as overly broad, vague, and ambiguous. The definition used in Plaintiffs' interrogatories attempts to include "predecessors" in that definition. In response to each interrogatory herein, Tierra is limiting its response to only DSCC, its agents, and employees.
- (iii) Tierra objects to the term "Lister Plant" because the chemical manufacturing facility at issue in this litigation was not located at 120 Lister Avenue. Plaintiffs' definition of "Lister Avenue property" explicitly relied on in the definition of "Lister Plant" includes both 80 Lister Avenue and 120 Lister Avenue.
- (iv) Tierra objects to the term "Maxus v. OCC" as vague and ambiguous. Tierra does not know what litigation Plaintiffs are referring to in their definitions and interrogatories. The litigation with cause number 02-09156 in the District Court of Dallas County, Texas, A-14th Judicial Court was styled Occidental Chemical Corporation vs. Maxus Energy Corporation and Tierra Solutions, Inc.

H. Tierra's investigation in this matter is continuing. Accordingly, Tierra reserves the right to supplement, clarify, and revise these responses to the extent additional information becomes available or is obtained through discovery. Further, Tierra reserves the right to amend these responses to the extent the claims brought by or alleged against Tierra in this litigation are amended.

I. To the extent Plaintiffs' interrogatories seek information that is beyond the scope of discovery allowed under Case Management Order III, Tierra reserves the right to assert any additional applicable objections if Plaintiffs' interrogatories are served on Tierra at a later date.

J. Tierra expressly asserts the foregoing objections to each and every interrogatory below and specifically incorporates the general objections enumerated above to each and every response made below as though they were stated in full.

As to Objections:

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Attorneys for Defendants Tierra Solutions,
Inc. and Maxus Energy Corporation

William Warren (by MMB)
William L. Warren, Esq.

ANDREWS KURTH LLP
Attorneys for Defendants Tierra Solutions,
Inc. and Maxus Energy Corporation

Charles Crout (by MMB)
Charles M. Crout, Esq.

Dated: March 16, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Defendant Tierra Solutions, Inc.'s Objections and Responses to Plaintiffs' First Set of Interrogatories on Successor, Contract and Indemnification Issues was served via electronic mail and first class regular mail to the following counsel of record:

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Charles M. Crout (by MUR)
Charles M. Crout, Esq.

Dated: March 16, 2009

**TIERRA'S OBJECTIONS AND RESPONSES TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES ON
SUCCESSOR, CONTRACT AND INDEMNIFICATION ISSUES**

INTERROGATORY NO. 1:

Please identify each and every person assisting in answering these interrogatories and for each such person identify the interrogatory for which such person provided assistance.

RESPONSE:

Subject to and without waiving the General Objections above, Tierra answers as follows: Counsel for Tierra assisted in preparing these responses which were verified by David Rabbe, President of Tierra Solutions, Inc.

INTERROGATORY NO. 2:

Please set out the corporate history of Tierra Solutions, Inc. (for the purpose of this interrogatory only, the "Corporation"), including the following, from 1940 to the present:

- a) the date of incorporation of the Corporation or any predecessor;
- b) the business form under which the Corporation or any predecessor was formed or has been in existence, to date;
- c) the state or location of incorporation of the Corporation or any predecessor;
- d) the location of the principal place of business or corporate headquarters of the Corporation or any predecessor;
- e) all names by which the Corporation was formerly known;
- f) the names of all affiliates of the Corporation for all time periods the Corporation or a predecessor company has been in existence and each such entity's relationship to the Corporation;
- g) the parent corporations of the Corporation and its predecessors, including corporate ownership of each parent ascending up the ownership chain to the ultimate parent;
- h) the subsidiaries of the Corporation, and whether or not each such subsidiary is wholly owned. If a subsidiary was or is not wholly owned by Corporation, please provide the percent ownership;
- i) names of individuals serving as president or CEO of the Corporation, dates of service in that position and contact address and telephone number.

RESPONSE:

In addition and subject to its General Objections, Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under Case Management Order III ("CMO III"), and because information regarding Tierra's corporate history is irrelevant to the subject matter of the claims made in this action, and is not reasonably calculated to lead to the discovery of admissible evidence. Among other things, there is no

contention, by any party, that Tierra is the successor of any entity that ever operated the Lister Site. Tierra further objects to this interrogatory to the extent the information requested has been previously produced in this litigation, including by Plaintiffs themselves, or the information is publicly available from a source that is more convenient, less burdensome or less expensive than Tierra.

Subject to and without waiving these objections and the General Objections above, Tierra answers as follows:

Tierra states that it was first incorporated in the State of Delaware on March 21, 1986, as Diamond Shamrock Process Chemicals, Inc. The corporation's name was changed to Diamond Shamrock Chemical Land Holdings, Inc., on July 11, 1986. On September 4, 1986, the stock of Diamond Shamrock Chemical Land Holdings, Inc. was transferred by Diamond Shamrock Chemicals Company ("DSCC") to Diamond Shamrock Corporate Company. The name of Diamond Shamrock Chemical Land Holdings, Inc., was changed to Chemical Land Holdings, Inc. ("CLH"), on December 4, 1987, and to Tierra Solutions, Inc. ("Tierra"), on February 25, 2002. On August 14, 1996, CLH Holdings, Inc., acquired the stock of CLH from Maxus Corporate Company, which was the name to which Diamond Shamrock Corporate Company had been changed on March 16, 1988.

INTERROGATORY NO. 3:

Do you contend that YPF, YPF International, YPF Holdings, CLH Holdings, or Maxus have made cash contributions to the equity capital of Tierra Solutions, Inc. sufficient to fully satisfy their contractual obligations pursuant to the Contribution Agreement? If you [sic] answer is anything other than an unqualified "No," explain in detail, including, but not limited to, identifying all such contributions.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 4:

What amount of cash has YPF contributed to you or for your benefit pursuant to the Contribution Agreement for costs or expenses related to the Diamond Facility or the Lister Site?

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 5:

What was the basis for the \$108,400,000 figure contained in the Contribution Agreement and what portion of that figure was attributed to liabilities associated with the Diamond Facility or the Lister Site?

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 6:

Please describe the process by which you obtain funding for costs, expenses or damages related to the indemnification of Occidental Chemical related to the Diamond Facility or the Lister Site pursuant to the Contribution Agreement.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 7:

Please identify, including, but not limited to the name, title, business, address, telephone number and time period for which each position, each and every Tierra employee, officer, director, or agent whose job responsibilities include or have in the past included or were related to supervising, planning or conducting activities related to the Assumption Agreement or Contribution Agreement as those agreements pertain to the Diamond Facility, Lister Site, or the Passaic River.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III. Tierra objects to this interrogatory as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.

INTERROGATORY NO. 8:

What was the business purpose, rationale, or justification for your acquisition of the Lister Site?

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 9:

Do you contend that there is a maximum amount of money you are contractually obligated or otherwise obligated to pay for the indemnification of Occidental Chemical for liabilities related to the Diamond Facility? If your answer is anything other than an unqualified

“No,” explain in detail, including, but not limited to, the factual or contractual basis for your answer.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery envisioned by or allowed under CMO III to the State, which has no interest in the Stock Purchase Agreement between Occidental and Maxus, or any indemnity provisions therein, and which has asserted no claim based on that agreement or any such provisions.

INTERROGATORY NO. 10:

If you contend that there is a maximum amount of money you are contractually or otherwise obligated to pay for the indemnification of Occidental Chemical for liabilities related to the Diamond Facility, and the Plaintiffs obtain a money judgment from Occidental Chemical in this lawsuit in excess of such maximum amount, who do you contend has the contractual or other obligation to pay the remaining damages?

RESPONSE:

In addition and subject to its General Objections, Tierra objects to this interrogatory on the grounds that it seeks information that is outside the scope of discovery allowed under CMO III, because it asks a hypothetical question, and because it seeks a conclusion of law.

Subject to and without waiving these objections and the General Objections above, Tierra answers as follows:

If the “Plaintiffs obtain a money judgment from Occidental Chemical in this lawsuit,” it would be entitled to recover that judgment from Occidental, no one else.

INTERROGATORY NO. 11:

Explain the business purpose, rationale, or justification for your entering into the Assumption Agreement. In answering this Interrogatory, please refer to paragraph 38 of the Answer and Defenses of YPF, S.A.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 12:

Other than the funds provided to you or for your benefit pursuant to the Contribution Agreement, identify each and every of your sources of income used or to be used to meet your obligations under the Assumption Agreement?

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 13:

Identify your relationship to each of the other Defendants from 1960 to the present.

RESPONSE:

In addition and subject to its General Objections, Tierra objects to this interrogatory as beyond the scope of discovery allowed under CMO III, because information regarding Tierra's "relationships to each of the other Defendants" is irrelevant to the subject matter of the claims made in this action, and is not reasonably calculated to lead to the discovery of admissible evidence. Among other things, there is no contention, by any party, that Tierra is the successor of any entity that ever operated the Lister Site. Tierra further objects to this interrogatory to the extent the information requested has been previously produced in this litigation, including by Plaintiffs themselves, or the information is publicly available from a source that is more convenient, less burdensome or less expensive than Tierra.

Subject to and without waiving these objections and the General Objections above, Tierra answers as follows:

Tierra refers to and incorporates by reference as if fully stated herein Tierra's response to Interrogatory No. 2 herein.

INTERROGATORY NO. 14:

Identify any and all consideration you received for entering into the Assumption Agreement.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 15:

Please describe the existing or former relationships (i.e. wholly-owned subsidiary, affiliate, etc) between you or your predecessor and the following entities (specifying the previous name of any entities known by a previous name):

- a) Diamond Shamrock Chemical Land Holdings, Inc.
- b) Chemical Land Holdings, Inc.
- c) Maxus Energy Corporation
- d) Diamond Shamrock Corporation
- e) CLH Holdings

- f) CLH Holdings, Inc.
- g) Diamond Shamrock Chemicals Company

RESPONSE:

In addition and subject to its General Objections, Tierra objects to this interrogatory as beyond the scope of the discovery allowed under CMO III, because information regarding Tierra's "relationships to each of the other Defendants" is irrelevant to the subject matter of the claims made in this action, and is not reasonably calculated to lead to the discovery of admissible evidence. Among other things, there is no contention, by any party, that Tierra is the successor of any entity that ever operated the Lister Site. Tierra further objects to this interrogatory to the extent the information requested has been previously produced in this litigation, including by Plaintiffs themselves, or the information is publicly available from a source that is more convenient, less burdensome or less expensive than Tierra.

Subject to and without waiving these objections and the General Objections above, Tierra answers as follows:

Diamond Shamrock Chemical Land Holdings, Inc. and Chemical Land Holdings, Inc., are prior names for Tierra. The corporation was first incorporated in the State of Delaware on March 21, 1986, as Diamond Shamrock Process Chemicals, Inc. The corporation's name was changed to Diamond Shamrock Chemical Land Holdings, Inc., on July 11, 1986. On September 4, 1986, the stock of Diamond Shamrock Chemical Land Holdings, Inc. was transferred by DSCC to Diamond Shamrock Corporate Company, a subsidiary of DSC-II. The name of Diamond Shamrock Chemical Land Holdings, Inc., was changed to Chemical Land Holdings, Inc. ("CLH"), on December 4, 1987, and to Tierra Solutions, Inc. ("Tierra"), on February 25, 2002.

In 1982, DSC-I was a corporation engaged in multiple lines of business. DSC-I changed its name to Diamond Chemicals Company ("DCC") on September 1, 1983, and to DSCC on October 26, 1983.

On or about July 19, 1983, a holding company named New Diamond Shamrock Corporation was incorporated in Delaware. New Diamond Shamrock Corporation changed its name to Diamond Shamrock Corporation (DSC-II) on August 31, 1983, and it became the stockholding company of DSC-I/DCC/DSCC, until the stock of DSCC was sold in September 1986.

CLH Holdings, Inc. was incorporated in Delaware on August 2, 1996. On August 14, 1996, CLH Holdings, Inc., acquired the stock of CLH from Maxus Corporate Company, which was the name to which Diamond Shamrock Corporate Company had been changed on March 16, 1988.

Pursuant to New Jersey Rule 4:17-4(d), additional details regarding the corporate history and relationships between Tierra and the entities identified above can be derived by Plaintiffs from documents that will be produced by Tierra.

INTERROGATORY NO. 16:

Identify each and every person who participated in creating or drafting the Assumption Agreement and such person's role regarding same.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

INTERROGATORY NO. 17:

Identify each and every person who participated in creating or drafting the Contribution Agreement and such person's role regarding same.

RESPONSE:

Tierra objects to this interrogatory on the grounds that it seeks information that is beyond the scope of discovery allowed under CMO III.

CERTIFICATION

I hereby certify that, to the best of my knowledge or belief, the foregoing Objections and Responses to Plaintiffs' First Set of Interrogatories to Tierra Solutions, Inc. on Successor, Contract and Indemnification Issues are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



David E. Rabbe
On Behalf of Tierra Solutions, Inc.