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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,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - ESSEX COUNTY
Plaintiffs,	DOCKET NO.: L-009868-05
vs.	<u>Civil Action</u>
OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS, INC., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLH HOLDINGS,	DEFENDANT OCCIDENTAL CHEMICAL CORPORATION'S ANSWERS AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES ON SUCCESSOR, CONTRACT AND <u>INDEMNIFICATION ISSUES</u>
Defendants.	

To: Michael Gordon, Esq., Kelly-Ann Pokrywa, Esq., Special Counsel to the Attorney General, GORDON & GORDON, 505 Morris Ave., Springfield, NJ 70801, Attorneys for Plaintiffs, 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.

Defendant, Occidental Chemical Corporation ("Occidental") answers and objects to Plaintiffs' First Set of Interrogatories on Successor, Contract and Indemnification Issues, pursuant to the New Jersey Rules of Court, as follows.

Dated: March 25, 2009

By:



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that an original and true and correct copies of Defendant Occidental Chemical Corporation's Answers and Objections 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 on March 25, 2009:

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**OCcidental'S PRELIMINARY STATEMENT
AND GENERAL OBJECTIONS**

All of Occidental's responses to the discovery request being answered are subject to the following, in addition to any and all objections stated in Occidental's answer or response to any particular request below:

A. Solely for ease of reference, Occidental is attaching the definitions and instructions set forth in the discovery request being answered. Occidental objects to such definitions and instructions to the extent: (1) they are inconsistent with any applicable statutes, regulations, laws, legal precedents, or the terms of any applicable agreements or other legal documents; (2) they are overly broad or inclusive, e.g., defining "Occidental Chemical Corporation" as including "its agents, employees, successors and predecessors"; or (3) they seek to impose on Occidental obligations that exceed the requirements of the New Jersey Rules of Court.

B. Occidental objects to any and all requests to the extent they seek or may be interpreted to seek disclosure of information not within the scope of R. 4:10-2(a).

C. Occidental objects to any requests to the extent they exceed the maximum number of requests allowed by applicable rules, laws, orders or agreements of the parties.

D. Occidental objects to any and all requests to the extent they seek or may be interpreted to seek disclosure of any information which (1) is subject to the attorney-client privilege; (2) is covered by the "work product" doctrine; (3) is subject to the self-critical analysis privilege; (4) is subject to the required reports privilege; (5) is subject to a joint defense or common interest privilege; (6) was generated in anticipation of litigation or for trial by or for Occidental or any representatives of Occidental including attorneys, consultants or agents; (7) relates to the identity or opinions of consultants or experts who have been retained or specially employed in anticipation of litigation and who are not expected to be called as witnesses at trial; (8) is protected as a trade secret; (9) is subject to a protective order or confidentiality order or agreement which was entered or made in another matter, to the extent the same prevents disclosure in this matter; and/or (10) is otherwise privileged, protected from disclosure, or beyond the scope of discovery under applicable rules and laws. Occidental does not intend to disclose or produce any such information in response to the request being answered, and the following responses should be read accordingly. Any disclosure of information which is privileged or otherwise protected from disclosure is inadvertent, and all rights to demand return and/or destruction of any such information are reserved.

E. Occidental is continuing its discovery and investigation in this matter, and its responses to the requests being answered necessarily cannot currently present all information Occidental may ultimately utilize or rely upon in this matter. Occidental reserves all rights to supplement or amend its answers in accordance with applicable rules, laws, orders or agreements of the parties.

OCCIDENTAL'S ANSWERS AND OBJECTIONS

Interrogatory No. 1: Identify the section and subsection numbers of all of the provisions of the Stock Purchase Agreement that you contend obligate Maxus to indemnify you for Environmental Liabilities associated with the Diamond Facility.

Answer to Interrogatory No. 1: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 2: Has Maxus or Tierra ever informed you that the Stock Purchase Agreement did not provide indemnification to you for the contamination of the Passaic River and/or Newark Bay Complex attributed to the operations of the Diamond Facility? If your answer is anything other than an unqualified "No," explain in detail.

Answer to Interrogatory No. 2: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 3: Has Maxus or Tierra ever informed you that the obligation to indemnify you for damages assessed against you as a result of the contamination of the Passaic River and/or Newark Bay Complex under the Stock Purchase Agreement is subject to a monetary limit? If your answer is anything other than an unqualified "No," explain in detail.

Answer to Interrogatory No. 3: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 4: Other than in this lawsuit, has Maxus or Tierra ever presented you with a claim for indemnification pursuant to Section 9.03(b) of the Stock Purchase Agreement? If your answer is anything other than an unqualified "No," explain in detail.

Answer to Interrogatory No. 4: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 5: Please identify the factual basis for and evidence supporting your contention that Diamond Shamrock acquired the Ag Chem business and other assets and liabilities of DSCC through a series of assumption and assignment agreements, as alleged in Paragraph 12 of the Occidental Crossclaim.

Answer to Interrogatory No. 5: There are no such allegations in paragraph 12 of Occidental's Crossclaim, filed on October 6, 2009. Occidental objects to the question to the extent it purports to require Occidental to identify and marshal all or any particular documents or information which may support or on which Occidental may rely to support its allegations and contentions in this case, including privileged information. Occidental's discovery and other investigation is ongoing. Occidental will comply with applicable rules and orders concerning disclosure of evidence Occidental will or may offer at trial in support of its allegations or defenses, as and when required. Further, Occidental objects because and to the extent the question seeks a proposition of law and/or the formulation of a legal theory. Occidental's investigation is continuing, and it reserves all rights to supplement or amend this answer if and as circumstances may warrant. Subject thereto, Occidental states as follows.

In 1967, Diamond Alkali Company merged with Shamrock Oil and Gas Company, and the merged company's name was changed to Diamond Shamrock Corporation ("DSC-I"). See Maxus Answer to Plaintiffs' Second Amended Complaint, ¶20.

In June 1983, a purported class action lawsuit was filed against DSC-I alleging liability as a result of the manufacture of herbicides at the Lister Plant. See DSC-II 1983 10-K, OCCNJ0002516.

On July 14, 1983, New Diamond Corporation ("DSC-II") was incorporated in Delaware. See Maxus Answer to Plaintiffs' Second Amended Complaint, ¶24; Maxus Answer to Occidental's Crossclaim, ¶5; Certificate of Incorporation of New Diamond Corporation, OCCNJ0002536. Upon information and belief, DSC-II's formation occurred pursuant to a Plan and Agreement of Reorganization and a Plan and Agreement of Merger under which, at the time of the merger, each outstanding share of common and

preferred stock of DSC-I became one share of common or preferred stock of DSC-II. *See* DSC-II 1983 10-K, OCCNJ0002796.

Further, DSC-II's 1983 10-K represents that DSC-II was incorporated "as the successor to various corporations, the oldest of which was founded in 1910. *See* OCCNJ0002502. DSC-II's representation that it was incorporated "as the successor to various corporations, the oldest of which was founded in 1910," clearly acknowledged DSC-II as successor to Diamond Alkali Company, which was founded in 1910, and to DSC-I, into which Diamond Alkali Company merged in 1967. *See* Maxus Answer to Plaintiffs' Second Amended Complaint, ¶¶2, 20. Occidental also notes that Plaintiffs, based on evidence or information known to them, have alleged that DSC-II is successor to DSC-I with respect to the environmental liability Plaintiffs allege in this action. *See* Plaintiffs' Second Amended Complaint, ¶¶1, 24, 28, 63. Occidental's investigation is continuing, but upon information and belief, DSC-II, having full knowledge of the above described corporate reorganization, understood and thus represented to the public that it is successor to DSC-I and DSC-I's predecessors, including in respect of any liabilities arising from DSC-I's discontinued agricultural chemicals business and operations of the Lister Plant or other activities at the Lister Site. Maxus admits that it is the same entity as DSC-II. *See* Maxus Answer to Plaintiffs' Second Amended Complaint, ¶28; Maxus Answer to Occidental's Crossclaim, ¶21.

Also on July 14, 1983, DSC-I's agricultural chemicals and animal health businesses were conveyed to SDS Biotech Corporation, a 50/50 joint venture formed with Showa Denko, K. K., a Japanese company, to carry on a worldwide agricultural chemicals business. According to DSC-II's 1983 10-K, SDS Biotech Corporation assumed certain preexisting debts of DSC-I related to those businesses and assumed other liabilities arising out of those businesses. *See* DSC-II 1983 10-K, OCCNJ0002513. According to DSC-II's 1985 10-K, the stock of SDS Biotech Corporation was purchased by Fermenta AB, a Swedish-based pharmaceuticals company, in December 1985. *See* DSC-II 1985 10-K, OCCNJ0003145.

On or about September 1, 1983, the entity then known as Diamond Shamrock Corporation changed its name to Diamond Chemicals Company, and DSC-II changed its name from New Diamond Corporation to Diamond Shamrock Corporation. *See* Maxus Answer to Plaintiffs' Second Amended Complaint, ¶24; Maxus Answer to Occidental's Crossclaim, ¶5; Certificate of Amendment of Certificate of Incorporation of New Diamond Corporation, OCCNJ0002534.

On or about October 26, 1983, Diamond Chemicals Company changed its name to Diamond Shamrock Chemicals Company ("DSCC"). *See* Maxus Answer to Occidental's Crossclaim, ¶5.

Also in 1983, in connection with and as a part of the corporate reorganization of DSC-I and related entities, Diamond Shamrock Corporate Company ("DS Corporate Company") was formed. *See* Maxus Answer to Plaintiffs' Second Amended Complaint,

¶29. According to DSC-II's 1983 10-K, DS Corporate Company was a wholly owned subsidiary of DSC-II.

DSCC and DS Corporate Company entered into an Assignment and Assumption Agreement dated January 1, 1984. See OCCNJ0004026. That Assignment and Assumption Agreement provided, *inter alia*, that:

(1) DSCC assigned and conveyed to DS Corporate Company, and DS Corporate Company accepted, "all assets of whatsoever kind of the Company [DSCC] both real and personal, tangible and intangible, wherever situated," except for (1) any assets comprising DSCC's "Chemicals Businesses" as defined therein, and (2) "the capital stock and notes payable to the Company [DSCC] of Diamond Shamrock Exploration Company, Diamond Shamrock Refining and Marketing Company and Diamond Shamrock Coal Company (the 'Principal Subsidiaries')." As defined in such Assignment and Assumption Agreement, DSCC's "Chemicals Businesses" comprised "all assets that are necessary for the operation of or used principally in connection with or related principally to the industrial and proprietary chemicals business of the Company [DSCC]," and did not include any current or former agricultural chemicals ("Ag Chem") business of DSCC or its then-existing subsidiaries. DSCC thereby assigned and conveyed to DS Corporate Company, and the latter accepted, *inter alia*, all DSCC assets "other than those designated as assets of the Chemicals Businesses," and all of DSCC's "stock ownership in and all advances shown on the Company's [DSCC's] books and records to" a specified list of entities including SDS Biotech Corporation.

(2) DS Corporate Company expressly assumed certain liabilities and obligations of DSCC, specifically including "[a]ll current liabilities relating to or based upon any of the assets or business activities assigned and transferred," and "[a]ny and all liabilities for claims and causes of action which any third party has asserted or may asset [sic] against the Company [DSCC] ... based upon an obligation or duty that the Company [DSCC] allegedly owed or owes to such third party in the Company's [DSCC's] capacity as the owner of any of the assets and businesses so assigned and transferred and which would not have arisen but for such ownership."

Under the Assignment and Assumption Agreement dated January 1, 1984, DSCC conveyed to DS Corporate Company the entire Ag Chem business of DSCC and/or its then-existing subsidiaries, and DS Corporate Company assumed all liabilities associated therewith.

In an Officers' Certificate of DSCC, dated January 26, 1984, R. M. Alstrom as Vice President of DSCC, and W. L. Evans as Assistant Treasurer of DSCC, certified that DSCC "is a wholly owned subsidiary of Diamond Shamrock Corporation, a Delaware corporation" [DSC-II, n/k/a Maxus] and that "Effective January 1, 1984, all assets of whatsoever kind of the Company [DSCC], both real and personal, tangible and

intangible, wherever situated, excluding all assets that were necessary for the operation of or used principally in connection with or related principally to the industrial chemicals businesses of the Company [DSCC] ... were transferred and delivered to Diamond Shamrock Corporate Company, a Delaware corporation [DS Corporate Company]." See Officers' Certificate of DSCC, dated January 26, 1984, OCCNJ0002481.

Similarly, in a letter to Mellon Bank, N.A., dated January 26, 1984, Jones, Day Reavis & Pogue, in its capacity as counsel to DSCC, confirmed that "[a]s a result of the consummation of the Reorganization, (i) DSCC's assets consist solely of its industrial and proprietary chemicals businesses and (ii) DSCC and the Subsidiaries [including DS Corporate Company] are wholly owned subsidiaries of DSC [DSC-II, n/k/a Maxus]." See Letter dated January 26, 1984, OCCNJ0002479.

Upon information and belief, DS Corporate Company was later merged into Maxus pursuant to an Agreement and Plan of Merger under which Maxus succeeded to the liabilities of DS Corporate Company. See Maxus Answer to Plaintiffs' Second Amended Complaint, ¶29.

On or about March 4, 1986, DSC-II announced that it was investigating the sale of its chemicals and coal businesses. See DSC-II 1985 10-K, OCCNJ0003134.

In a letter dated April 4, 1986, from James P. Kelley, Vice President and General Counsel of DSC-II, to Dr. Ray Irani, President of Occidental Petroleum Corporation (OCCNJ0001213), DSC-II set forth terms and conditions applicable to DSC-II's proposed sale of DSCC, including, *inter alia*, the following:

"1. The closing of the sale of the DSCC shares will pass to the purchaser all liabilities of DSCC, whether fixed, accrued, contingent, unknown or otherwise, including pending litigation, potential environmental claims and cleanup costs, except those arising from operations of DSCC which have previously been sold or discontinued or products no longer manufactured or sold, as more fully described below."

"3. Also excluded are damages, judgments and costs, including attorneys fees, which arise out of the following litigation against Diamond Shamrock [DSC-II] or DSCC (whether now pending or filed in the future):

(b) All litigation arising out of DSCC's manufacturing operations at 80 Lister Avenue, Newark, New Jersey, and other sites where manufacturing operations have been permanently abandoned, including claims for property damage and personal injury arising from the cleanup of such sites.

(c) Litigation relating to products or operations of DSCC which had been permanently discontinued or sold to third parties on or before April 1, 1986, including but not limited to agricultural chemicals”

Prior to consummation of the Stock Purchase Agreement, on September 4, 1986, DSCC's board of directors ratified and approved, *inter alia*, the above-referenced Assignment and Assumption Agreement dated January 1, 1984, by which all DSCC assets and businesses, other than its Chemicals Business, were transferred and conveyed and DSCC's liabilities were assumed initially by DS Corporate Company, stating in a board resolution that “the conveyance, assignment, lease or other transfer or other transfer and delivery by one or more of the DSCC Companies to DSC [DSC-II, n/k/a Maxus] or one or more of its other subsidiaries, including Diamond Shamrock Corporate Company (‘DS Corporate Company’), Diamond Shamrock Chemical Land Holdings, Inc. (‘DS Land Holdings’), Diamond Shamrock Exploration Company (‘DS Exploration’), and Diamond Shamrock Corporation Acquisitions (‘DS Corporation Acquisitions’), of all properties, rights and assets owned or leased by any of the DSCC Companies which are not principally related to or principally used in the Chemicals Business, are hereby approved” *See* DSCC Board Resolution, OCCNJ002487.

Consistent with the foregoing, the Stock Purchase Agreement, dated September 4, 1986, clearly reflects that the Buyer, Oxy-Diamond Alkali Corporation, acquired only DSCC's active, ongoing Chemicals Business, not any historical or active Ag Chem business of DSCC and/or its subsidiaries. For example:

(1) The Stock Purchase Agreement recites, on page 1, that “pursuant to this Agreement Buyer desires to acquire from Seller and Seller desires to transfer to Buyer substantially all of the Chemicals Business of the DSCC Companies, other than the Cogeneration Business Unit (as all of those terms are defined in Section 2.02 hereof)” *See* Stock Purchase Agreement, OCCNJ0000225.

(2) Section 2.02(b)(iii) of the Stock Purchase Agreement defines the Chemicals Business as follows: “(iii) the ‘Chemicals Business’ shall mean the DSCC Companies taken as a whole and the Business Units taken as a whole, and the business being conducted by them in the aggregate as of the date of this Agreement, after giving effect to the change up to the Closing Date permitted or contemplated by this Agreement (except for the consummation of the transactions contemplated by the Cogeneration Assets Purchase Agreement ...).” *See* Stock Purchase Agreement, OCCNJ0000226.

(3) Section 2.02(b) (iv) of the Stock Purchase Agreement describes the relevant “Business Units” as follows: “(iv) the ‘Business Units’ of the Chemicals Business shall be deemed to consist of the principal lines of business of the Chemicals Business relating to each of the following: (A) Chlor-Alkali, (B) Soda Products other than Chrome, (C) Process Chemicals, (D) Chrome, and (E) Cogeneration.” *See* Stock Purchase Agreement, OCCNJ0000226.

(4) A summary description of each such Business Unit is set forth in Schedule 2.02 to the Stock Purchase Agreement, which lists each of the above-referenced Business Units, the product lines of each, and the domestic physical plant facilities and foreign subsidiaries significantly associated with the operation of each such Business Unit. The Ag Chem business is not identified in the Schedule 2.02 list of Business Units, nor is the Lister Site or the Lister Plant identified as a domestic physical plant facility associated with the operation of any listed Business Unit. *See* Stock Purchase Agreement, OCCNJ0000618.

Moreover, other provisions of the Stock Purchase Agreement are consistent with DSC-II's representations that it (now Maxus) succeeded to DSCC with respect to the Ag Chem business and any associated liabilities. For example, Section 2.23 of the Stock Purchase Agreement defines "Historical Obligations" to mean "those obligations, liabilities, guarantees and contingent liabilities of the DSCC Companies, or any of them, which arose prior to or in connection with the Reorganization and which relate to any business, asset or property other than those of the Chemicals Business." *See* Stock Purchase Agreement, OCCNJ0000268. Schedule 2.23 to the Stock Purchase Agreement lists Historical Obligations and specifically refers to and includes:

"10. All liabilities and obligations assumed by Diamond Shamrock Corporate Company in the Assignment and Assumption Agreement executed as of January 1, 1984, with Diamond Shamrock Chemicals Company, as amended by the three amendments, each executed as of January 1, 1984, or otherwise, or related to the assets covered by any such assumption." *See* Stock Purchase Agreement, OCCNJ0001137.

Section 9.03(a) of the Stock Purchase Agreement further provides that DSC-II (now Maxus) shall indemnify, defend and hold harmless Occidental with respect to, *inter alia*:

"(viii) the Historical Obligations and any other obligations or liabilities (absolute or contingent) of any Diamond Company [DSC-II and subsidiaries, including DS Corporate Company] (including without limitation, any DSCC Company prior to the Closing) or any predecessor-in-interest thereof or of any DSCC Company unrelated to the Chemicals Business, including, without limitation, obligations and liabilities arising out of, resulting from or incurred in connection with, any ownership, use or operation of the business or assets of any Diamond Company other than a DSCC Company, whether before or after the Closing Date." *See* Stock Purchase Agreement, OCCNJ0000348.

In its 1986 10-K, DSC-II reported its sale of the Chemicals Business to Oxy-Diamond Alkali Corporation and represented, notwithstanding the purchase and sale of all common stock of DSCC, that "[i]n connection with the sale of Chemicals, the Company [DSC-II] retained the liability for certain environmental costs and other contingencies, the outcome of which is unknown at this time."

See DSC-II 1986 10-K, OCCNJ0003257. In the same 1986 10-K, DSC-II referred to its previously filed lawsuit against its insurers, the action known as *DSCC v. Aetna* (wherein the parties did not include Occidental or any of its affiliates), and in relation thereto stated: "The suit brought by the Company against its insurers, which is discussed above, also seeks a declaratory judgment of the rights and duties of all parties thereto in respect of the Company's claims for the cleanup of the Newark plant site and adjoining areas in the neighborhood and all claims against the Company for bodily injury and property damage allegedly related to the Newark plant site." See DSC-II 1986 10-K, OCCNJ0003305.

Interrogatory No. 6: Do you contend that at any time during the course of this lawsuit you, Maxus and Tierra were engaged in a joint defense? If your answer is anything other than an unqualified "No," explain in detail, including, but not limited to, the scope of such joint defense and when that joint defense terminated.

Answer to Interrogatory No. 6: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Further, Occidental objects because "joint defense" is undefined and ambiguous, and the question appears to seek a proposition of law or the formulation of a legal theory. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 7: Please identify the corporate transactions involving DSCC that followed your acquisition of DSCC's stock, from the date the Stock Purchase Agreement closed until the date of the merger of Occidental Electrochemicals Corporation into Occidental Chemical Corporation, including identifying name changes for all entities involved in the transactions.

Answer to Interrogatory No. 7: Pursuant to the Stock Purchase Agreement, all of the stock of DSCC was acquired by Oxy-Diamond Alkali Corporation (the "Buyer" as defined in the Stock Purchase Agreement). On September 29, 1986, DSCC was renamed Occidental Electrochemicals Corporation. On November 24, 1987, Oxy-Diamond Alkali Corporation was merged into Occidental. On November 30, 1987, Occidental Electrochemicals Corporation (f/k/a DSCC) was merged into Occidental.

Interrogatory No. 8: Do you contend that the Lister Avenue Property was an Excluded Asset under the Stock Purchase Agreement? If your answer is anything other than an unqualified "No," explain in detail.

Answer to Interrogatory No. 8: Occidental objects insofar as the question exceeds the scope of discovery Plaintiffs are currently allowed under the Court's Case Management Order III, dated November 14, 2008, and reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters. Further, Occidental objects to the extent that the question seeks a proposition of law or the formulation of a legal theory. Subject thereto, Occidental notes that the Lister Avenue Property (as defined in Plaintiffs' interrogatories) was not owned by DSCC as of the date DSCC's stock was purchased by Oxy-Diamond Alkali Corporation, and while reserving its rights in the event different facts come to its attention, Occidental is not contending that the Lister Avenue Property is within the definition of "Excluded Assets" set forth in Section 8.09(a)(i) of the Stock Purchase Agreement.

Interrogatory No. 9: Please identify any documents or legal proceedings in which you took the position that you did not assume the liabilities of Diamond Shamrock Chemicals Company's discontinued businesses, including but not limited to the operations at the Diamond Facility.

Answer to Interrogatory No. 9: Occidental objects to the question because it is irrelevant to the extent, at the very least, that it concerns any position relating to the liabilities of any of DSCC's discontinued businesses other than the Diamond Facility, and to that extent the question also exceeds the scope of discovery Plaintiffs are currently allowed under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters. Further, Occidental objects to the extent that the question seeks a proposition of law or the formulation of a legal theory.. Further, Occidental objects because, and to the extent that, the question invades attorney-client privilege, attorney work product or any other applicable privilege or protection from discovery. Subject thereto, Occidental states that it is not currently aware of any documents or legal proceedings, other than this litigation, in which it has asserted or had any occasion to assert, that Oxy-Diamond Alkali Corporation or Occidental did not assume any liabilities of DSCC's discontinued business(es) relating to the Diamond Facility. Occidental's investigation is continuing, and it reserves all rights to supplement or amend this answer if and as circumstances may warrant.

Interrogatory No. 10: Identify the basis for the statement that "Occidental denies that it is liable as the direct successor to DSCC" contained in Paragraph 28 of your Answer.

Answer to Interrogatory No. 10: Occidental objects to this question because it seeks a proposition of law or the formulation of a legal theory. Subject thereto, Occidental states that as between Maxus and Occidental, Maxus should be determined direct successor to DSCC with respect to any alleged liability associated with the "Diamond Facility" as

defined in Plaintiffs' interrogatories. Occidental's Crossclaim, filed October 6, 2008, substantially states the basis for that determination, and Occidental also refers to, adopts and incorporates by reference ¶¶5-19 thereof. Additionally, see Occidental's answer to Interrogatory No. 5 above. Regardless of who may be determined to be "direct successor" to DSCC, Occidental denies any liability to Plaintiffs, who bear the burden to prove the alleged liability of any party.

Interrogatory No. 11: Who do you contend is liable for the Environmental Liabilities associated with the Diamond Facility as the direct successor to DSCC and why?

Answer to Interrogatory No. 11: Occidental objects to this question because it seeks a proposition of law or the formulation of a legal theory. Subject thereto, Occidental states that Plaintiffs bear the burden to prove that any party or parties have legal liability for or associated with "Environment Liabilities" as defined in Plaintiffs' interrogatories; Occidental does not currently "contend" that any defendant has such liability but has asserted its rights and claims against other defendants with respect to the defense of Occidental in this action and in the event any such liability should be established against Occidental. For further answer, Occidental refers to, adopts and incorporates by reference its answers to Interrogatory Nos. 5 and 10 above.

Interrogatory No. 12: Do you contend that by DSCC transferring the ownership of 80 Lister Avenue to Diamond Shamrock Chemical Land Holdings, Inc. in August 1986, DSCC was absolved of any responsibility under the Spill Act for discharges from the property that had occurred prior to August 1986? If your answer is anything other than an unqualified "No," explain in detail.

Answer to Interrogatory No. 12: Occidental objects insofar as the question exceeds the scope of discovery Plaintiffs are currently allowed under the Court's Case Management Order III, dated November 14, 2008. Further, Occidental objects to this question because it seeks a proposition of law and/or the formulation of a legal theory, and objects to the extent the question assumes that as of August 1986 DSCC had "responsibility under the Spill Act for discharges from the property that had occurred prior to August 1986." Subject thereto, Occidental refers to, adopts and incorporates its answers to Interrogatory Nos. 5 and 10 above.

Interrogatory No. 13: Identify the officers and employees of Chemicaland who had previously been employees, officers, directors or agents of Diamond Shamrock or DSCC.

Answer to Interrogatory No. 13: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III,

dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 15 [sic]:¹ Identify Occidental Chemical's relationship, if any, to the Lister Avenue Property while the site was owned by Chemicaland.

Answer to Interrogatory No. 15: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 16: Identify the relationship between the principals of Chemicaland and Diamond Shamrock or DSCC.

Answer to Interrogatory No. 16: Occidental objects to this question because it exceeds the scope of discovery currently permitted under the Court's Case Management Order III, dated November 14, 2008. Occidental reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters.

Interrogatory No. 17: Is the Occidental Chemical Company identified in Maxus 16772, 16773, 16774 the same entity as Defendant Occidental Chemical Corporation in this lawsuit? If your answer is anything other than an unqualified "Yes," explain in detail.

Answer to Interrogatory No. 17: Occidental objects insofar as the question exceeds the scope of discovery Plaintiffs are currently allowed under the Court's Case Management Order III, dated November 14, 2008, and reserves all rights to assert any and all other objections to this question if and when the scope of permissible discovery may be broadened to include such matters. Subject thereto, Occidental states that the entity identified in documents produced by Maxus and Bates labeled Maxus016772, Maxus016773, and Maxus016774, is Occidental Chemical Company, a California corporation. On or about April 22, 1982, the name of Occidental Chemical Company was changed to Occidental Chemical Agricultural Products, Inc. ("OCAPI"). On or about December 23, 1987, OCAPI was merged into Occidental.

¹ Plaintiffs did not serve an interrogatory numbered Interrogatory No. 14.

Interrogatory No. 18: Identify each and every person assisting in answering these interrogatories and for each such person identify each interrogatory for which such person provided assistance.

Answer to Interrogatory No. 18: Occidental's attorneys assisted in answering these interrogatories, and the answers are verified by Dennis Blake, Senior Vice President - Business Analysis, Occidental Chemical Corporation.

**Defendant Occidental Chemical Corporation's
Answers and Objections to Plaintiffs' First Set of Interrogatories
On Successor, Contract and Indemnification Issues
March 25, 2009**

Dated: March 25, 2009

By:



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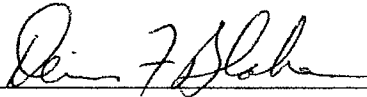
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**Attorneys for Defendant,
Occidental Chemical Corporation**

CERTIFICATION

I hereby certify that I am Senior Vice President - Business Analysis, of Occidental Chemical Corporation, and verify the foregoing Answers and Objections to Plaintiffs' First Set of Interrogatories to Occidental Chemical Corporation on Successor, Contract and Indemnification Issues on behalf of Occidental Chemical Corporation. I do not have personal knowledge of the information presented in the foregoing Answers and Objections, am informed and believe that no single officer or employee of Occidental Chemical Corporation has personal knowledge of all such information, and am informed and believe that such information has been assembled with the assistance of counsel for Occidental Chemical Corporation. The information presented is true and correct to the best of my knowledge, information and/or belief. I certify that the foregoing statements contained in this paragraph are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Dennis Blake
Senior Vice President - Business Analysis
Occidental Chemical Corporation
On Behalf of Occidental Chemical Corporation

ATTACHMENT TO
Defendant Occidental Chemical Corporation's
Answers And Objections To Plaintiffs' First Set Of Interrogatories
On Successor, Contract And Indemnification Issues
March 25, 2009

PLAINTIFFS' DEFINITIONS AND INSTRUCTIONS

DEFINITIONS

PARTIES AND ENTITIES

"Administrator" means the Administrator of the New Jersey Spill Compensation Fund, Plaintiff herein.

"CLH Holdings" means CLH Holdings, Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of CLH Holdings, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of CLH Holdings; and any other person acting on CLH Holding's behalf or otherwise subject to CLH Holding's direct or indirect control or influence.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection, Plaintiff herein.

"Defendants" means all defendants in this action, individually and/or collectively.

"Maxus" means Maxus Energy Corporation, Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of Maxus, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of Maxus; and any other person acting on Maxus's behalf or otherwise subject to Maxus's direct or indirect control or influence.

"New Jersey" means the State of New Jersey, including but not limited to its residents, citizens, denizens, political subdivisions and departments, and its natural resources and environment.

"NJDEP" means the New Jersey Department of Environmental Protection, Plaintiff herein, its agents, employees, counsel, and anyone acting on its behalf.

"NJDOJ" means the New Jersey Department of Law and Public Safety, its agents, employees, counsel, and anyone acting on its behalf,

"NJDOT" means the New Jersey Department of Transportation, its agents, employees, counsel, and anyone acting on its behalf.

"OCC" means Occidental Chemical Corporation, Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of OCC, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of OCC; and any other person acting on OCC's behalf or otherwise subject to OCC's direct or indirect control or influence.

"Plaintiffs" means all plaintiffs in this action, individually and/or collectively.

"PVSC" means the entity Passaic Valley Sewage Commissioners.

“Repsol Group” means Maxus, Tierra, CLH Holdings, YPF Holdings, YPF, Repsol, and/or YPF International Ltd., singularly or in any combination, whether in an individual, collective, or representative capacity.

“Repsol” means Repsol YPF, S.A., Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of Repsol, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of Repsol; and any other person acting on the Repsol’s behalf or otherwise subject to Repsol’s direct or indirect control or influence.

“Tierra” means Tierra Solutions, Inc., Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of Tierra, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of Tierra; and any other person acting on Tierra’s behalf or otherwise subject to Tierra’s direct or indirect control or influence.

“YPF Holdings” means YPF Holdings, Inc., Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of YPF Holdings, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of YPF Holdings; and any other person acting on YPF Holdings’ behalf or otherwise subject to YPF Holdings’ direct or indirect control or influence.

“YPF International Ltd.” means YPF International Ltd., a Cayman Islands corporation, as referred to in the Contribution Agreement, dated August 14, 1996, by and between the Repsol Group, and each predecessor, successor, parent, subsidiary, division or affiliate of YPF International Ltd., regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of YPF International Ltd.; and any other person acting on YPF International Ltd.’s behalf or otherwise subject to YPF International Ltd.’s direct or indirect control or influence.

“YPF” means YPF, S.A., Defendant herein, and each predecessor, successor, parent, subsidiary, division or affiliate of YPF, regardless of how acquired; each past and present joint venturer, general partner, limited partner, director, officer, shareholder, agent, servant, employee, representative or attorney of YPF; and any other person acting on YPF’s behalf or otherwise subject to YPF’s direct or indirect control or influence.

GENERAL TERMS

“Communication” or “Communications” refers to all written, magnetic, digital, analog, electronic, and oral transfers, discussions or exchanges of information or ideas, comprising or contained in conversations, conferences, meetings, seminars, presentations, correspondence, documents, brochures, pamphlets, records, facsimiles, telecopies, voice mail, electronic mail, digital media, analog media, magnetic media, and/or telex transmissions.

“Concerning” or “Concerns” includes, but is not limited to, the following meanings: relating to, referring to, pertaining to, regarding, constituting, discussing, mentioning, containing, reflecting, evidencing, describing, displaying, showing, and identifying.

“Discharge” or “Discharged” shall have the meaning given to those terms under the Spill Act, N.J.S.A. 58:10-23:11b, and/or the Water Pollution Control Act, N.J.S.A. 58:10A-3e.

“Document” or “Documents” is synonymous in the meaning and equal in scope to the usage of the term under the New Jersey Rules of Court, R. 4:18-1, and includes, but is not limited to, any writings of every kind, source, and authorship, both originals and non-identical copies thereof, as well as all drafts, in your possession, custody, or control. The term shall include any and all handwritten, typewritten, printed, photocopied, or recorded matter, regardless of the media used, including, but not limited to, any and all correspondence, e-mails, transcripts of testimonies, letters, memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams, teletypes and other communications sent or received, diaries, calendars, telephone logs, drafts, work papers, agenda, bulletins, notices, announcements, instructions, charts, manuals, brochures, schedules, summaries, notes, minutes and other records and recordings of any conferences, meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other records of obligations and expenditures, cancelled checks, vouchers,

receipts, and other records of payments, financial data, analysis, statements, interviews, affidavits, printed matter (including public books, articles, speeches, newspaper clippings), press releases, and photographs, and all drafts and/or non-identical copies thereof.

“Environment” includes but is not limited to the waters of the United States, the waters of any state, the waters of the contiguous zone and the ocean waters, and any other surface water, groundwater, drinking water, water supply, property, premises, land surface, subsurface, subsurface strata, sediment, soil or air or atmosphere, as well as all human, animal, organisms, plants or natural resources located in, under or near thereon.

“Environmental Contamination” includes, but is not limited to the presence, suspected presence or threat of one or more Hazardous Substances in the Environment: (a) which may result in pollution, contamination, degradation, impacts, damage, threat or injury caused by, related to, or arising from, in connection with or concerning Hazardous Substances, (b) that may affect, or pose an actual or potential threat or impact to, human health or the Environment, or (c) which is not allowed by Environmental Laws or which is not in compliance with Environmental Laws.

“Environmental Laws” includes but is not limited to all domestic or foreign, federal, state and local statutes, laws, ordinances, regulations, codes, permits, licenses, authorizations and rules, and other provisions having the force and effect of law, in each case as amended, and including any judicial or administrative orders, determinations, writs, injunctions, judgments and decrees, relating to the Environment or Hazardous Substances, including but not limited to the generation, production, presence, use, distribution, handling, storage, treatment, transportation, testing, processing, discharge, Release, threatened Release, control, investigation or cleanup of any Hazardous Substances, noise control, or the protection of human health, safety, natural resources, ecological impacts or animal health or welfare, or the Environment.

“Environmental Liabilities” includes, but is not limited to, any and all actual or threatened administrative, regulatory, or judicial actions, suits, allegations, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, liabilities (including strict liabilities such as, but not limited to, liability under the New Jersey Spill Act, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or similar statutes (whether state or federal), accrued or unaccrued losses, liabilities and/or damages, costs (including remedial, investigative and/or monitoring costs), settlements, assessments, fines, penalties, interest, legal or attorney’s fees and costs of court relating in any way to or concerning the Environment, Hazardous Substances, Environmental Laws, Releases, or Environmental Contamination.

“Hazardous Substance” or “Hazardous Substances” shall have the meaning given those terms under the Spill Act, N.J.S.A. 58:10-23:11b, and shall include, but is not limited to, (a) any chemical, material, mixture, constituent, waste, water or substance defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “toxic chemicals,” “contaminants,” “pollutants,” “solid wastes,” “industrial wastes,” “industrial solid or hazardous wastes,” “wastes” or words of similar import, under Environmental Laws or considered toxic, explosive, corrosive, reactive, flammable, ignitable, infectious, radioactive, carcinogenic or mutagenic; (b) any pesticide, including, but not limited to, 2,3,7,8-tetrachlorodibenzo-p-dioxin (“TCDD”) and dichloro-diphenyl-trichloroethane (“DDT”) (or ingredients, degradation or daughter products or byproducts or constituents thereof), petroleum or petroleum products, petroleum hydrocarbons, gasoline, diesel fuel, natural gas or natural gas products, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls (“PCBs”), transformers or other equipment that contains dielectric fluid containing levels of PCBs, dioxin, radon gas, or noise; (c) any other chemical, material, waste, water or substance, (or constituent thereof), which is in any way regulated under the Environmental Laws or by any federal, state or local government authority, agency or instrumentality, including mixtures thereof with other materials, and including any regulated building materials such as asbestos and lead; or (d) any other chemical, material, waste, water or substance, or constituent thereof, concerning or that may affect or pose an actual or potential threat or impact to human health or the Environment.

“Identify” or “identity,” when referring to a person or persons, means to state the name, business position or title, address, and telephone number of such person or persons.

“Identify” or “identifying” when referring to a document or documents, means to state the type of document, the date of the document, a brief description of the contents of the document sufficient to enable ready identification of the document, and, if applicable, the production of said document.

“Including” or “includes” means including, but not limited to.

“Newark Bay Complex” shall have the meaning given that term in Plaintiffs’ Second Amended Complaint.

“Or” and “and” mean “and/or.”

“Passaic River” shall have the meaning given that term in Plaintiffs’ Second Amended Complaint.

“Person” and “Persons” include human beings, corporations, proprietorships, partnerships, professional corporations, joint ventures, associations, groups, governmental agencies (federal, state, local, and foreign) and any other entity.

“Release” includes but is not limited to any actual, threatened or suspected release, spill, emission, leaking, pumping, pouring, injection, deposit, disposal, dumping, discharge, dispersal, leaching, escaping, emanation, transport, movement or migration of any Hazardous Substance in, into or onto the Environment of any kind whatsoever, including the movement of any Hazardous Substance through or in the Environment, exposure of any type in any workplace, or any release as defined under CERCLA or any other Environmental Law.

“Spill Act” means the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23:11, et seq.

“WPCA” means the New Jersey Water Pollution Control Act, N.J.S.A. 58:I OA-1, et seq.

“You” or “your” shall mean Occidental Chemical Corporation, including its agents, employees, successors and predecessors.

SPECIFIC TERMS

“Amount of Money” means the measure of your alleged damages, whether expressed as a dollar amount, a percentage of another dollar amount or another quantitative measure.

“Assumption Agreement” means that agreement dated August 14, 1999 between Chemical Land Holdings, Inc. and Maxus Energy Corporation.

“Contribution Agreement” means that agreement dated August 14, 1999 between YPF, S.A., YPF International, YPF Holdings, Inc., Chemical Land Holdings, Inc, CLH Holdings, Inc. and Maxus Energy Corporation.

“Diamond Facility” means any and all real property, and anything thereon or therein including improvements, operating or manufacturing facilities, other facilities, equipment, units, impoundments, ditches, trenches, and disposal sites that have been located at what is currently known as 80 Lister Avenue, and includes any and all real property, improvements, facilities, equipment, units, impoundments, ditches, trenches and disposal sites located south of the Passaic River, east of the former Sergeant Chemical Company and south and west of the Sherwin Williams property.

“Diamond Shamrock” means Diamond Shamrock Corporation (f/k/a Diamond Alkali Company), including its agents, employees and predecessors.

“DSCC” means Diamond Shamrock Chemicals Company, including its agents, employees, and predecessors.

“DSCC v. Aetna” means *Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co.*, No. C-3939-84, New Jersey Superior Court, Chancery Division.

“Due Diligence Materials” includes, but is not limited to, document and information requests, responses to document and information requests, inspections, sampling, testing, investigations, assessments, evaluations, reports, audits, disclosures and recommendations, whether internal or external, and whether intended for publication or intended to be confidential.

“Lister Avenue property” means the real property currently known as or located at 80 Lister Avenue and/or 120 Lister Avenue, in the Ironbound section of Newark, NJ.

“Lister Site” means the real property currently known as or located at 80 Lister Avenue and/or 120 Lister Avenue, in the Ironbound section of Newark, NJ.

“Lister Plant” means the chemical manufacturing facilities located on the Lister Avenue property.

“Maxus and Tierra Crossclaim” means the pleading in the instant lawsuit entitled “Defendants Maxus Energy Corporation and Tierra Solutions, Inc.’s Cross-claim.”

“Maxus and Tierra Counterclaim” means the pleading in the instant lawsuit entitled “Counterclaim of Defendants Maxus Energy Corporation and Tierra Solutions, Inc.”

“Maxus v. OCC” means *Maxus Energy Corporation v. Occidental Chemical Corporation*, Cause No. 02-09156-A in the 14th Judicial Court, Dallas, Texas.

“OCC Crossclaim” means the pleading in the instant lawsuit entitled “Defendant Occidental Chemical Corporation’s Answer, Affirmative Defenses and Crossclaim to Plaintiffs’ Second Amended Complaint.”

“Stock Purchase Agreement” means that agreement by and among Diamond Shamrock Corporation, Occidental Petroleum Corporation, Occidental Chemical Holding Corporation and Oxy-Diamond Alkali Corporation dated September 4, 1986.

INSTRUCTIONS

A. Whenever an interrogatory is framed in the conjunctive, it also shall be taken in the disjunctive, and vice versa.

B. Whenever an interrogatory is framed in the singular, it also shall be taken in the plural, and vice versa.

C. The use of any tense of any verb shall be considered also to include within its meaning all other tenses of the verb so used.

D. For any documents that are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner to preserve and identify the file from which such documents were taken.

E. If a claim of privilege is made with respect to all or any portion of a document that is identified or produced as responsive to these interrogatories, the following information shall be provided:

1. The place, date (or approximate date), and manner of recording or otherwise preparing the Document;
2. The name and title of sender, and the name and title of recipient of the document;
3. A summary of the contents of the document or any redacted portion thereof;
4. The identity of each Person or Persons (other than stenographic or clerical assistants) participating in the preparation of the document; and
5. A statement of the basis on which privilege is claimed.

F. In answering the interrogatories below, You shall furnish not only such information as is available to the particular individual(s) answering the interrogatories, but also such information as is known to each officer, employee, representative, or agent, including their attorneys, investigators and experts. Moreover, You shall furnish such information as is available to any party, government agency, or individual for whose benefit or on whose behalf You are asserting claims and such individuals, government agencies, or individuals shall be considered "You" as that term is used herein.

G. In the event that any information is sought to be withheld under a claim of privilege, provide the information requested in Paragraph (E) above for all documents related to or reflecting the information for which a claim of privilege is asserted.

H. Whenever in response to these interrogatories reference is made to a conversation or oral statement, give the date and place thereof, the identity of the Persons involved in the conversation or oral statement, the identity of any Persons present and the substance of the conversation or oral statement.

I. If there is insufficient space to answer an interrogatory, the remainder of the answer should be put on a supplemental sheet.

J. Whenever an interrogatory requests a response for which there is more than one answer, each answer to the interrogatory shall be set forth in detail.

K. These interrogatories shall be deemed to be continuing and any documents or information secured subsequent to the filing of the answers thereto, which would have been included in the answers to these interrogatories had it been known or available, shall be supplied by supplemental answers in accordance with the Rules of this Court.

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