

NEW JERSEY 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, 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. L-009868 05

**CIVIL ACTION**

**ORAL ARGUMENT REQUESTED**

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**BRIEF IN SUPPORT OF DEFENDANT REPSOL YPF, S.A.'S MOTION TO  
DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT FOR LACK OF  
PERSONAL JURISDICTION**

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PRELIMINARY STATEMENT

Plaintiffs filed suit against Occidental Chemical Corporation ("OCC"), Maxus Energy Corporation ("Maxus), Tierra Solutions, Inc. ("Tierra"), Repsol YPF, S.A. ("Repsol"), YPF, S.A. ("YPF"), YPF Holdings, Inc. ("YPFH"), and CLH Holdings, Inc. ("CLHH") (the last three collectively referred to as the "YPF Defendants") for pollution allegedly caused by a former industrial site (the "Lister Site"). The Lister Site is located on the banks of the Passaic River in New Jersey.

It is undisputed that Repsol has **never** owned or operated the Lister Site. Repsol is a Spanish corporation with its principal place of business in Madrid, Spain. Plaintiffs are, therefore, seeking damages from a foreign corporation to address problems allegedly caused decades ago by entities which, at the time, had no relationship to Repsol.

Clearly, plaintiffs are aware that Repsol does not have the required contracts with New Jersey to establish either general or specific personal jurisdiction. Accordingly, Plaintiffs have sought to subject Repsol to the jurisdiction of this Court based on an "alter ego" or a "cohesive economic unit" vicarious liability theories. After two years of discovery, however, including the production of thousands of pages of documents, four sets of written interrogatories, and four depositions,

including the fourteen-hour-long depositions - through interpreters - of the YPF corporate representative and the Repsol corporate representative, Plaintiffs have been unable to make out even a prima facie case to establish jurisdiction over Repsol. Thus, pursuant to Rule 4:6-2(b), Repsol should be dismissed from this lawsuit for lack of personal jurisdiction.

#### STATEMENT OF FACTS

On December 13, 2005, Plaintiffs filed suit under the New Jersey Spill Compensation Control Act, the Water Pollution Control Act and for public nuisance, trespass, and strict liability. Shortly thereafter, this case was removed to federal court. After approximately four months of jurisdictional discovery, the case was remanded. Following the remand, and after months of **further** discovery, Plaintiffs filed a Second Amended Complaint to add claims for fraudulent transfer and civil conspiracy/aiding and abetting against Repsol. [Pls.' 2d Am. Compl. at ¶¶ 118-130]. The YPF Defendants have moved to dismiss for lack of personal jurisdiction by separate motion.

OCC<sup>1</sup> is alleged to be the successor of the single corporation (hereinafter "Diamond")<sup>2</sup> that owned and operated the

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<sup>1</sup> For the purposes of this motion, the current names of the defendants are used. Allegations concerning the history of the involved sale transactions appear in paragraphs 19 to 32 of Plaintiffs' Second Amended Complaint.

<sup>2</sup> For ease of reference, the name "Diamond" is used to refer to the succession of corporate names by which Occidental's



manufacturing plant at the Lister Site during the time the plant operations were discharging pollutants from the Lister Site [Id. ¶¶ 26, 27]. Maxus did not even exist until 1983, fourteen years after Diamond discontinued plant operations at the Lister Site [Id. ¶¶ 20, 24]. Maxus agreed to indemnify OCC for certain liabilities and environmental sites, including the Lister Site, in connection with Maxus' sale of Diamond to OCC in 1986. [Id. ¶ 30; Certification of Marc J. Gross ("Gross Cert.") at ¶ 2, Exh. A.]. Tierra was uninvolved until 1986, when it received title to the Lister Site to facilitate remediation [Id. ¶¶ 31, 32]. Tierra contractually assumed the OCC indemnification obligations of Maxus in 1996. [Gross Cert. ¶ 3, Exh. B.].

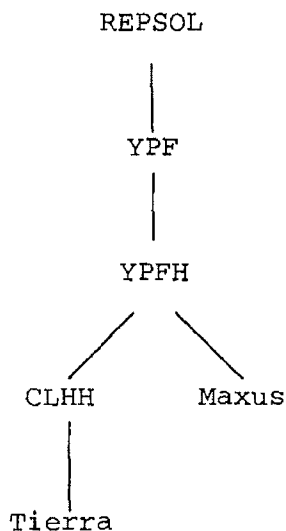
In addition, Plaintiffs have named Repsol's direct and indirect subsidiaries - YPF, YPFH, and CLHH - who have also moved to dismiss for lack of personal jurisdiction.<sup>3</sup> Repsol is the corporate parent of co-defendant YPF. [Gross Cert. ¶ 4, Exh. C.] YPF is the corporate parent of both YPFH and CLHH. [Gross Cert. ¶ 5, Exh. D.] YPFH is the corporate parent of

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predecessors were known before Occidental acquired Diamond Shamrock Chemicals Company in 1986, namely: Kolker Chemical Works, Inc.; Diamond Alkali Company; "Old" Diamond Shamrock Corporation; Diamond Chemicals Company; and Diamond Shamrock Chemicals Company.

<sup>3</sup> YPF, S.A., YPF Holdings, Inc., and CLH Holdings, Inc. have filed their own Motion to dismiss because their ownership interest in Maxus and Tierra occurred at the same time - 1995 and 1996, whereas Repsol's ownership interest occurred in 1999.

Maxus and CLHH [Id.] CLHH is the corporate parent of Tierra. [Id.] Thus, Repsol has been sued as the corporate parent of the corporate parent of the corporate parents of Maxus and Tierra.



YPF did not acquire Maxus until **1995** [Gross Cert. ¶¶ 6, 7, Exhs. E, F], YPFH and CLHH did not exist until **1996** [Gross Cert. ¶ 8, Exh. G], and Repsol did not acquire YPF and its subsidiaries until **1999** - [Gross Cert. ¶ 9, Exh. H]- all decades **after** the alleged polluting acts referenced in Plaintiffs' Second Amended Complaint had occurred. Thus, neither Repsol nor the YPF Defendants had anything to do with the alleged pollution, which pollution allegedly occurred **before** they acquired their ownership interests in Maxus and Tierra. Repsol and the YPF Defendants do not have any corporate relationship with OCC.

**1. History of the Plant and of Maxus' Indemnity Obligations**

Numerous entities owned and operated the Lister Site, where pesticides were manufactured for a period of time until plant operations ceased in 1969. [Pls.' 2d Am. Compl. at ¶ 20].

Diamond acquired the Lister Site in 1951 from Kolker Chemical Works, Inc. [Id.]. Kolker had operated on the site since 1940 [Id. ¶ 19.] In August 1969, operations at the Lister Site ceased. [Id. ¶ 20.] Diamond sold the plant site to a third party in 1971. [Id. ¶ 21.]

In 1983, Maxus was incorporated to be the parent company of Diamond. [Id. ¶¶ 24, 28.] The impacts of historic operations at the Lister Site drew regulatory attention in 1983. [Id. ¶ 68.] In 1984 and 1986, Diamond acquired the parcels of property that comprise the Lister Site to facilitate the investigation and clean-up. [Id. ¶ 32.]

On September 4, 1986, Maxus sold its subsidiary, Diamond, to an affiliate of OCC, and Diamond was subsequently merged into OCC in 1987. [Id. ¶ 26.] Under the 1986 Stock Purchase Agreement ("SPA") between Maxus and OCC for the sale of Diamond, Maxus agreed to indemnify OCC against certain liabilities related to the business or activities of Diamond prior to the September 4, 1986 closing date. [Gross Cert. ¶ 2, Exh. A]. Maxus and OCC had identified the Lister Site as one of the

Diamond properties included in the indemnity obligations. [Gross Cert. ¶ 10, Exh. I.], although Maxus's indemnity obligations under the 1986 SPA were not at all limited to sites or liabilities in New Jersey.

Before the sale, Diamond transferred the Lister Site and other inactive plant sites to Tierra. [See Pls. 2d Am. Compl. at ¶ 32 ("Old Diamond Shamrock then transferred title to both 80 and 120 Lister Avenue to Tierra, which continues to own the Lister Site today")].

## **2. YPF's Acquisition of Maxus**

Nine years after the sale of Diamond, YPF acquired Maxus. [Gross Cert. ¶¶ 6,7, Exhs. E,F.]

## **3. Repsol, S.A.'s Acquisition of YPF**

In July 1999, Repsol acquired YPF, forming Repsol YPF, S.A. [Gross Cert. ¶ 9, Exh. H.] This acquisition came four years **after** YPF's acquisition of Maxus and three years **after** the execution of the Assumption and Contribution Agreements discussed on pages 10 through 12 of the YPF Defendants' Motion. There is no evidence that Repsol had any involvement whatsoever with either Maxus' restructuring and reorganization, discussed on pages 6 through 10 of the YPF Defendants' Motion to dismiss, or the Contribution or Assumption Agreements.

LEGAL ARGUMENT

POINT I

PLAINTIFFS HAVE NOT ESTABLISHED PERSONAL JURISDICTION OVER REPSOL.

**A. The Relevant Law.**

New Jersey's power to assert personal jurisdiction over non-resident defendants is limited by the Due Process Clause of the Fourteenth Amendment of the Constitution. See Helicopteros Nacionales de Columbia, S.A. v. Hall, 466 U.S. 408, 413-14 (1984); Pennoyer v. Neff, 95 U.S. 714, 733 (1878). The due process test for personal jurisdiction has two related components: the "minimum contacts" inquiry and the reasonableness inquiry.

A court must first determine whether a defendant's minimum contacts with the forum state justify the Court's exercise of personal jurisdiction. International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945). For purposes of this initial inquiry, a distinction is made between "specific" and "general" jurisdiction, which the Supreme Court explained in Helicopteros. Helicopteros, 466 U.S. at 414. Specific jurisdiction exists in a suit "arising out of or related to the defendant's contacts with the forum." Id. at 414 n.8. General jurisdiction, on the other hand, is based on the defendant's general business contacts with the forum state and permits a court to exercise its power in a

case where the subject matter of the suit is unrelated to those contacts. Id. at 414 n. 9.

"General jurisdiction exists when the plaintiff can show that the non-resident defendant had 'continuous and systematic contacts' with the forum." Id. at 415; see also Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437 (1952); In re Bulk, 2006 WL 1084093 (D.N.J. 2006). "To establish general jurisdiction, the plaintiff must show significantly more than mere minimum contacts with the forum state." In re: bulk, 2006 WL 1094093 (D.N.J. 2006). Additionally, the facts required to establish general jurisdiction must be "extensive and persuasive." Id.

The United States Supreme Court's decision in Perkins v. Benguet Consolidated Mining Company is illustrative. Perkins, 342 U.S. at 437. In assessing whether the nonresident defendant's Ohio contacts merited the exercise of general jurisdiction, the Court noted in Perkins that the company's president, who was also the general manager and principal shareholder, maintained an Ohio office in which he "did many things on behalf of the company." Id. at 447-48. He also maintained company files in Ohio, corresponded with others from there, drew and distributed salary checks from his Ohio office, had two Ohio bank accounts for company funds and an Ohio bank as transfer agent for the company's stock, held directors' meetings

in Ohio, and supervised the rehabilitation of the corporation's properties in the Philippines from Ohio, including sending funds from Ohio bank accounts to purchase machinery for the rehabilitation. Id. at 448 The Court concluded that the company "carried on in Ohio a continuous and systematic supervision of the necessarily limited wartime activities of the company," and even though "no mining properties in Ohio were owned or operated by the company, many of its wartime activities were directed from Ohio and were being given the personal attention of its president in that State at the time he was served with summons." Id. at 448. The Court held that "under the circumstances above recited, it would not violate federal due process for Ohio either to take or decline jurisdiction over the corporation in this proceeding." Id.

Alternatively, if the plaintiff cannot establish general jurisdiction, specific jurisdiction may be exercised if the plaintiff proves the following:

If the cause of action relates directly to a defendant's contacts with the forum state, the Court exercises "specific jurisdiction" over that defendant. Specific jurisdiction depends upon whether a defendant purposely created contacts with the forum state making it reasonable for him to "anticipate being haled into court there." . . . These contacts must be based on "some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws." . . .

What constitutes minimum contacts varies with the "quality and nature of defendant's activity." . . . In assessing the sufficiency of minimum contacts for personal jurisdiction, the court must focus on the "relationship among the defendant, the forum and the litigation." . . . There must be at least "a single deliberate contact" with the forum state that relates to the cause of action. . . . The unilateral acts of the plaintiff, however, will not amount to minimum contacts. . . .

In re Bulk, No. Civ. 02-6030, 2006 WL 1084093 \*\*5-6 (D.N.J. Apr. 24, 2006) (internal citations omitted).

The connection between the defendant and the forum state "'must come about by an action of the defendant purposefully directed toward the forum State." Waste Management, Inc. v. Admiral Ins. Co., 138 N.J. 106, 122 (1994), cert. den., 513 U.S. 1183 (1995) (quoting Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 112 (1987)) (emphasis original). The United States Supreme Court has noted:

[I]t is essential that in each case there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.

Burger King Corp. v. Rudzewicz, 471 U.S. at 475; see also International Shoe, 326 U.S. at 319; World-Wide Volkswagen v. Woodson, 444 U.S. at 297; Charles Gendler & Co. v. Telecom Equip. Corp., 102 N.J. 460, 471 (1986). "This 'purposeful availment' requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of 'random,'



'fortuitous,' or 'attenuated contacts'" or by the unilateral activity of another person. Burger King Corp. v. Rudzewicz, 471 U.S. at 475; Narco Avionics, Inc. v. Sportsman's Market, Inc., 792 F. Supp. 398, 407 (E.D. Pa. 1992) (holding that "jurisdiction cannot be premised on a stream of commerce theory absent some deliberate forum-related conduct by the defendant" for sales of product in forum state by independent distributor over which manufacturer had no control).

Specific jurisdiction is a claim-specific inquiry. Seiferth v. Helicopteros Atuneros, Inc., 472 F.3d 266, 274 (5th Cir. 2006). A plaintiff bringing multiple claims that arise out of different forum contacts of the defendant must establish specific jurisdiction for each claim. Id. Permitting the legitimate exercise of specific jurisdiction over one claim to justify the exercise of specific jurisdiction over a different claim that does not arise out of or relate to the defendant's forum contacts would violate the Due Process clause. Id.

Thus, if a plaintiff's claim relates to different forum contacts of the defendant, specific jurisdiction must be established for each claim. Id.; see also Sunward Electronics v. McDonald, 362 F.3d 17, 24 (2d Cir. 2004) (holding that a plaintiff must establish the Court's specific jurisdiction with respect to each claim asserted).

The second component of the due process analysis requires the Court to evaluate the reasonableness of exercising its jurisdiction in the specific circumstances before it.

Assuming minimum contacts have been established, a court may inquire whether "the assertion of personal jurisdiction would comport with 'fair play and substantial justice.'". . . For personal jurisdiction to comport with "fair play and substantial justice," it must be reasonable to require the defendant to defend the suit in the forum state.. . .

In re Bulk, 2006 WL 1084093 at \*6 (internal citations omitted).

The fundamental purpose of the minimum contacts requirement is to ensure the fairness and reasonableness of requiring a non-resident to defend a lawsuit in the forum state. See, e.g., International Shoe, 326 U.S. at 317; World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291 (1980). The dispositive consideration in determining whether it is fair and reasonable to subject a defendant to suit in a forum is whether the defendant should reasonably have anticipated being sued in the forum state. See, e.g., Charles Gendler, 102 N.J. at 470-71 ; World-Wide Volkswagen v. Woodson, 444 U.S. at 297; Burger King, 471 U.S. at 474; Narco Avionics, 792 F. Supp. at 407.

**B. Time for Determining Applicable Minimum Contacts**

The time period for determining a non-resident defendant's contacts with the forum state differs between general and specific jurisdiction. Unlike general jurisdiction, where contacts are assessed up to the time when the lawsuit is filed

(Met. Life Ins. Co. v. Robertson-Ceco Corp. 84 F.3d 560, 569 (2d Cir. 1996), specific jurisdictional contacts should be determined as of the time when the incident made the basis of the lawsuit occurred. Harlow v. Children's Hosp., 432 F.3d 50, 61 (1st Cir. 2005); see also 16 James Wm. Moore et al., Moore's Federal Practice 108.42[2][a] (2007) ("The proper focus in the specific jurisdiction analysis is on those contacts leading up to and surrounding the accrual of the cause of action. Later events are not considered.").

**C. Burden of Proof**

Procedurally, once personal jurisdiction is contested, "the Plaintiff bears the burden of demonstrating that the defendant's contacts with the forum State are sufficient to confer personal jurisdiction on the court." Jacobs v. Walt Disney World, Co., 309 N.J. Super. 443, 454 (App. Div. 1998) (citation omitted); Seltzer v. I. C. Optics, Ltd., 339 F. Supp. 2d 601, 608 (D.N.J. 2004) ("the plaintiff carries the burden of 'establishing with reasonable particularity sufficient contacts between the defendant and the forum state.'") (citation omitted); Miller Yacht Sales, Inc. v. Smith, 384 F.3d 93, 101 n. 6 (3d Cir. 2004) ("Once the defense has been raised, then the plaintiff must sustain its burden of proof in establishing jurisdictional facts through sworn affidavits or other competent evidence . . . [A]t no point may a plaintiff rely on the bare pleadings alone in

order to withstand a defendant's . . . motion to dismiss for lack of in personam jurisdiction. Once the motion is made, plaintiff must respond with actual proofs, not mere allegations") (citations omitted) (emphasis added); see also Time Share Vacation Club v. Atlantic Resorts, Ltd., 735 F.2d 61, 67 n.9 (3d Cir. 1984).

To establish a prima facie case of personal jurisdiction, "the plaintiff must present specific facts that would allow the court to exercise jurisdiction over the defendant." In re Bulk, 2006 WL 1084093 \*6, citing United States v. Swiss American Bank, Ltd., 274 F.3d 610, 619 (1st Cir.2001) ("The prima facie showing must be based upon evidence of specific facts set forth in the record . . . [and] go beyond the pleadings and make affirmative proof") (internal quotations omitted) (citation omitted). "The plaintiff must establish defendant's contacts with the jurisdiction through the use of 'sworn affidavits, certifications, or testimony.'" Jacobs, 309 N.J. Super. at 454 (emphasis added) (citations omitted). Here, Plaintiffs' burden is "not met 'by affidavits containing argument, other forms of hearsay and general factual or legal conclusions.'" Id., citing Pressler, Curren N.J. Court Rules, Cmt. 1 to R. 1:6-6 (1998).

Certainly, Plaintiffs' arguments and characterizations do not constitute evidence. See, e.g., Stranahan Gear Co. v. NL Indus., Inc., 800 F.2d 53, 58-59 (3d Cir. 1986), citing Time

Share, 735 F.2d at 67 n.9 ; see also In re: Astropower Liquidating Trust, 2006 WL 2850110 \*2 (Bankr. D. Del. Oct. 2, 2006) ("The overwhelming authority in the Third Circuit establishes that the Plaintiff has a burden of proving, by concrete evidence and not merely the allegations in its complaint, that [the defendant has] the minimum contacts necessary to establish personal jurisdiction"). In this regard, Plaintiffs' tendency to refer to the "Repsol Group of companies" or "Repsol" or "YPF" to include entities that are not even parties to the lawsuit, ¶49, should not be considered as evidence of conduct by the actual Repsol or the YPF Defendants.

It is simply beyond dispute that Plaintiffs bear the additional burden of proving not only that Repsol has sufficient minimum contacts with New Jersey, but also that extending this Court's jurisdiction to the other named defendants does not offend traditional notions of fair play and substantial justice. See Citibank v. Est. of Hohn A. Simpson, 290 N.J. Super. 519, 533 (App. Div. 1996); International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945) (quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940)).

D. Application of the Relevant Law to the Evidence.

1. The Evidence Demonstrates the Lack of General Jurisdiction in This Case.

Plaintiff' admissions in their Second Amended Complaint, together with the Certification of Marcos Mozetic filed on behalf of Repsol ("Mozetic Cert." or "Mozetic Certification")m and the answers to Interrogatories (Gross Cert. ¶ 11, Exh. J) show that there are no contacts between Repsol and the State of New Jersey to justify the exercise of general jurisdiction:

- Repsol is a Spanish corporation whose principal place of business is in Madrid, Spain [Pls.' 2d Am. Compl. at ¶ 14].
- Repsol has no designated agents for service of process in New Jersey [Mozetic Cert. ¶ 3], and New Jersey does not require them to have one. N.J.S.A. 14A:4-1.
- Repsol has no offices, employees, property, or significant contacts in New Jersey [Id. ¶¶ 3, 4].
- Repsol has never conducted business meetings in New Jersey and has never advertised, solicited, or conducted business in New Jersey [Id.].
- Repsol makes no business decisions in New Jersey [Id.].
- Repsol does not recruit any employees in or out of New Jersey and does not buy or sell goods or services in New Jersey [Id.].
- Repsol owns no real property located in New Jersey [Id. ¶ 4].
- Repsol has no telephone listings or address in New Jersey and does not advertise in New Jersey [Id.].

- Repsol maintains no bank account in New Jersey and transacts no banking business in New Jersey [Id.].
- Repsol pays no taxes in New Jersey [Id.].

In response to further discovery by Plaintiffs, Repsol established that:

- Repsol is in no way involved in the design, manufacture, sale, or distribution of the products bearing the name "Repsol Moto," such as those identified at Exhibits A, B, C, and D ("the products") of the Supplemental Declaration of Marcos Mozetic of June 18, 2007 ("Mozetic Supp. Decl."). Mozetic Supp. Decl. at ¶ 4.
- The products were manufactured in Argentina at YPF's plant in La Plata by YPF, S.A. [Id. ¶ 5].
- The products were exported from Argentina to three independent distributors in the United States, none of which were in New Jersey but in California and Virginia. [Id. ¶ 6].
  - Repsol estimates that, in 2004, products totaling US\$3,020.11 to end users in New Jersey and that, in 2005, products totaling US\$6,640.84 were sold to end users in New Jersey, for a total of \$9,660.95. [Gross Cert. ¶ 12, Exh. K].
  - In addition to these sales, it is possible that other sales to New Jersey end users were made by Eurobikes, Inc., a Manassus, Virginia distributor of Repsol Moto products that no longer exists. [Id.] In 2004, zero amount of product was distributed by Eurobikes to end users in New Jersey because Eurobikes did not distribute Repsol Moto products in 2004. [Id.] However, in 2005, sales to Eurobikes of Repsol Moto were US\$152,217 and Repsol estimates that less than 100% of that amount, if any, was sold to end users in New Jersey. [Id.]
- Neither Repsol nor its subsidiaries sell LNG in New Jersey. Neither Repsol nor its subsidiaries transport

LNG into or through New Jersey. [Mozetic Supp. Dec. at ¶ 12].

- Repsol has not performed any audits of Tierra. [Gross Cert. ¶ 13, Exh. L, ¶ 2].

Furthermore, Repsol's operation of a website that is accessible in New Jersey - and throughout the world - does not create minimum contacts with New Jersey necessary for establishing jurisdiction over Repsol in New Jersey. D.T.B. v. Advisory Cmte. On Judicial Conduct to the Supreme Court of the State of New Jersey, 114 Fed. Appx. 447, 448 (3d Cir. 2004) (affirming the finding of the district court that defendants' maintenance of website accessible in New Jersey was insufficient to establish the requisite minimum contacts with the jurisdiction).

Thus, it cannot be seriously disputed that the State of New Jersey lacks general jurisdiction over Repsol.

**2. General Jurisdiction Cannot Be Exercised Over Repsol Based on the Contacts of Its Indirect Subsidiaries, Maxus and Tierra, With the State of New Jersey.**

Plaintiffs, recognizing that no direct contacts exist between Repsol and the State of New Jersey, have pursued alter ego and cohesive economic unit theories as an alternative basis for asserting general jurisdiction over Repsol. [Pls. 2d Am. Compl. at ¶ 33]. Specifically, Plaintiffs assert that Repsol is the alter ego of Tierra and Maxus and forms part of a cohesive



economic unit that includes Tierra and Maxus, thereby subjecting Repsol to personal jurisdiction in New Jersey. The record is devoid of any facts upon which to assert jurisdiction over Repsol on the basis of either of these theories.

**E. There is No Legal Basis for Imposing Vicarious Liability Jurisdiction Over Repsol.**

A threshold veil-piercing question is whether the parent/subsidiary relationship existed when the relevant conduct occurred. Here, however, the conduct purportedly giving rise to liability for Plaintiffs' claims under the New Jersey Spill Act, the Water Pollution Control Act, nuisance, trespass, and strict liability are all based on alleged discharges that ceased in the 1980s, although plant operations themselves ceased in 1969. [Pls. 2d Am. Compl. at ¶¶ 20-21, 18-23]. Repsol did not acquire YPF - and indirectly Maxus and Tierra - until 1999.

Therefore, as a matter of law, and as Judge Davidson's March 31, 2008 Memorandum of Decision acknowledged, Repsol, which acquired its indirect ownership in Maxus and Tierra decades after the alleged environmental contamination, cannot be indirectly liable for those discharges through the application of corporate veil piercing concepts, regardless of whether based on alter ego or cohesive economic unit grounds, because the imposition of such vicarious liability requires a relationship between the parent and the subsidiary at the time the wrong was

committed. As Judge Davidson held in her March 31, 2008 Memorandum of Decision, "a parent corporation 'cannot be held liable under the Spill Act' for its subsidiary's past discharges when the parent did not own the subsidiary until 'after the discharge had ceased.'" Analytical Measurements, Inc. v. The Keuffel & Esser Co., 843 F. Supp. 920, 925 (D.N.J. 1993)." Judge Davidson noted that the moving defendants were "correct on this point; plaintiff does not argue otherwise." Mem. of Decision of Mar. 31, 2008 at 9, citing State Dept. of Environmental Protection v. Ventron Corp., 94 N.J. 473 (N.J. 1983)." <sup>4</sup>

The purpose of the veil-piercing doctrine to hold liable the entity responsible for the conduct would not be served by holding a parent liable for the acts of a subsidiary occurring decades before the parent acquired the subsidiary. Therefore, general jurisdiction cannot be asserted on this basis.

A recent Massachusetts Supreme Court case, Scott vs. NG US 1, Inc., 450 Mass. 760 (2008) (internal citations omitted) (emphasis added), summarized these well-known legal principles:

Neither Federal (CERCLA) nor State environmental laws displace bedrock principles of corporate common law. . . . One of the basic tenets of that body of law is

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<sup>4</sup> In this regard, Plaintiffs' tendency to refer to the "Repsol Group of companies" or "Repsol" or "YPF" to include entities that are not even parties to the lawsuit should not be considered as evidence of conduct by the actual Repsol or the YPF Defendants.

that corporations - notwithstanding relationships between or among them - ordinarily are regarded as separate and distinct entities.

Indeed, the concept that "a parent corporation (so-called because of control through ownership of another corporation's stock) is not liable for the acts of its subsidiaries," is "deeply 'ingrained in our economic and legal systems,'" . . . and assures that "the exercise of the 'control' which stock ownership gives to the stockholders . . . will not create liability beyond the assets of the subsidiary." Also settled is the equilibratory concept that the corporate veil between parent and subsidiary corporations may be pierced when, "inter alia, the corporate form would otherwise be misused to accomplish certain wrongful purposes, most notably fraud." *Id.* at 62. *CF.* 1 W.M. Fletcher, *Cyclopedia of Corporations* § 43, at 286-290 (rev. ed 2006) ("There is a presumption of separateness that a plaintiff must overcome to establish liability by showing that a parent is employing a subsidiary to perpetrate a fraud or commit wrongdoing and that this was the proximate cause of the plaintiff's injury").

In the environmental context, as in other contexts, corporate veils are pierced only in "rare particular situations," and only when an "agency or similar relationship exists between the entities." . . . A veil may be pierced where the parent exercises "some form of pervasive control" of the activities of the subsidiary "and there is some fraudulent or injurious consequence of the intercorporate relationship." See also 1 W.M. Fletcher, *Cyclopedia of Corporations*, *supra* at § 43, at 292 ("the injured party must show some connection between its injury and the parent's improper manner of doing business - without that connection, even when the parent exercises domination and control over the subsidiary, corporate separateness will be recognized").

Stated more directly, control, even pervasive control, without more, is not a sufficient basis for a court to ignore corporate formalities.

Scott, 450 Mass. at 765-768 (emphasis added) (internal citations omitted).

Rejecting the plaintiff's efforts to impose alter ego liability on a party who acquired the contaminating party years after the environmental releases, the Scott court concluded:

Assuming, for summary judgment purposes, that Salem Gas's conduct, ownership, or operation, of the Northey Street site during the 1800's, meets the requirements of G.L. c. 21E, § 5 (a) (2) or (5) [a Massachusetts statute analogous to the statute on which the environmental claims are asserted here], that activity concluded decades before any alleged "pervasive control," with "fraudulent or injurious consequence" or "confused intermingling . . . with substantial disregard of the separate nature of the corporate entities." In this case, NEES's corporate form may not be pierced to impose liability for actions taken (or not taken) by another entity long before the formation of a corporate relationship.

Scott, 450 Mass. at 769 (emphasis added).

Here, as in Scott, and even assuming *arguendo* that the activities of Maxus and Tierra subject them to liability connected with the Lister Site, those activities also occurred decades before the formation of a corporate relationship between them and Repsol. Accordingly, Repsol cannot be liable under vicarious liability grounds - whether through alter ego or common economic unit theories - for acts that preceded such relationship.

As in Scott, the question before this Court is not whether the corporate veil could be pierced after the discharges ceased

and after 1999, but whether it can be pierced to impose vicarious liability for conduct that occurred prior to Repsol's stock acquisition of Maxus and Tierra. As a matter of law, the answer to this question is "No." Analytical Measurements, Inc. v. The Keuffel & Esser Co., 843 F. Supp. 920, 925 (D.N.J. 1993); see also State Dept. of Environmental Protection v. Ventron Corp., 94 N.J. 473 (N.J. 1983); Scott, 450 Mass. at 769 n.16 ("[t]he statutory purpose of G.L.c.21E, regulating "cleanup of sites contaminated with hazardous material", is not advanced by doing violence to bedrock principles of corporate law.") (internal citations omitted)); 1 W.M. Fletcher Cyclopedia of Corporations § 41.10 at 143-144 (stating that veil piercing criteria applied by the courts require "control with respect to transaction at issue, such that at that time, controlled corporation lacked 'no separate mind, will or existence of its own.'").

Here, as in Scott, it does no injustice to Plaintiffs, or the laws under which they have sued, to conclude that "where the parent corporation lacked any interest in, and did not control, the subsidiary or its facility at the time of the acts giving rise to environmental liability, there is no occasion to disregard its corporate form." Id. (emphasis added); see also Ziegler v. Delaware County Daily Times, 128 F.Supp. 2d 790, 798 (E.D. Pa. 2001) (holding that, in looking for connection between

the two entities that would justify taking the substantial step of piercing the corporate veil, one must look to the relationships as it existed when wrongdoing was committed.)

**F. There is No Factual Basis for Imposing Vicarious Liability Jurisdiction Over Repsol.**

**1. There is No Evidence of Total Control or Use of the Subsidiaries to Perpetuate Fraud.**

Even if vicarious liability for pre-acquisition conduct could be imposed on Repsol post-acquisition, there is no evidence of the type of control required for corporate veil piercing in this case:

- No Repsol director or officer serves as a director or officer of Tierra or Maxus;
- Repsol's directors, officers, and personnel are in no way involved in the activities or business of Tierra or Maxus;
- Repsol does not pay the salaries or expenses of Tierra or Maxus;
- Repsol does not develop the budget or control the activities of Tierra or Maxus;
- Repsol does not commingle its funds with those of its subsidiaries or affiliated companies;
- Repsol in no way controls the environmental practices of Tierra or Maxus;
- Repsol does not disregard the separate corporate existence of YPF, YPFH, CLHH, Maxus, and Tierra;
- Tierra was not created and is not used to commit a fraud or injustice or otherwise circumvent the law;
- Neither Maxus nor Tierra solicits sales for Repsol;

- Repsol's operations are not intertwined with those of YPF, YPFH, CLHH, Maxus, or Tierra;

[Mozetic Cert. ¶¶ 9-16.]

Veil piercing requires evidence that Repsol "controlled virtually every phase of [Tierra's and Maxus' operations]." [Seiko Epson Corp. v. Print-Rite Holdings, Ltd., CV 01-500-BR, 2002 U.S. Dist. LEXIS 27427 \*39 (D. Ore. 2002) (citation omitted)]; that "[they] so dominated the subsidiary that it had no separate existence but was merely a conduit for the parent." Seltzer, 339 F. Supp. 2d at 610 (citation omitted); and that Repsol had "actual, participatory, and **total control**" of Tierra and Maxus when they committed the alleged wrong." Akzona, Inc. v. E.I. du Pont De Nemours & Co., 607 F. Supp. 227, 237 (D. Del. 1984) (emphasis added). Plaintiffs must also show that Tierra and Maxus were established or used for the purpose of "perpetuat[ing] a fraud or injustice or otherwise circumvent[ing] the law." Id. There is simply no evidence that Repsol dominated Tierra or Maxus to such a degree that Tierra and Maxus had no separate existence but were merely conduits for Repsol or that Repsol used Tierra or Maxus for fraudulent or illegal purposes.

The **only** vicarious liability allegations that Plaintiffs have made against Repsol are that: (1) Repsol participated in "stranding" Maxus' and Tierra's environmental liabilities in

Maxus and Tierra and "systematically stripping" Maxus and Tierra of their assets<sup>5</sup> [Pls. 2d Am. Compl. at ¶¶ 33, 46]; (2) "the vast majority of officers and directors of YPFH, CLHH, and Tierra came from Maxus, YPF and/or Repsol" [Id. ¶ 50]; (3) YPFH, CLHH, and Tierra "exist solely at the whim and control of YPF and Repsol" [Id. ¶ 49]; and (4) Repsol "directs and controls the environmental practices and operations of Maxus and Tierra" as well as "the policies, procedures, funding and actions of YPF, YPFH, CLHH, Maxus, and Tierra." [Id. ¶ 52]. No evidence supports these allegations.

**2. Corporation Reorganizations Do Not Provide Any Basis for Corporate Veil Piercing.**

The YPF corporate reorganization activities to which Plaintiffs refer - which Plaintiffs misrepresent as "stripping" Maxus and Tierra of their assets - occurred in 1996 and 1997. [Id. ¶ 33]. Repsol, S.A., however, did not acquire YPF until 1999. [Id. ¶ 51.] Therefore, Plaintiffs' own Second Amended Complaint demonstrates that Repsol had nothing to do with the alleged "stranding" of liabilities in and "stripping" of assets of Maxus or Tierra after YPF's acquisition, entities with which it had no corporate relationship at the time.<sup>6</sup>

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<sup>5</sup> Tierra's "assets" are properties carrying environmental liabilities, which Tierra manages for Maxus under the August 14, 1996 Assumption Agreement.

<sup>6</sup> This argument, of course, does not concede the validity of any of Plaintiffs' allegations regarding YPF's 1996 corporate



Plaintiffs also assert without basis that, after Repsol acquired YPF, Repsol somehow stripped YPF's international subsidiaries of these assets and "moved them to Repsol's international subsidiaries . . . in an effort to further insulate them from Maxus' and Tierra's environmental liabilities in New Jersey." [Pls.' 2d Am. Compl. at ¶ 46]. Plaintiffs' allegations are entirely without merit. There is absolutely no evidence that asset sales following Repsol's acquisition of YPF were motivated by the purpose that Plaintiffs assert.

To the contrary, as reported in its public filings, these asset sales furthered

. . . Repsol's worldwide strategic assets and reorganization and disinvestment plan . . ., which included . . . strategic divestitures and acquisitions in South America and elsewhere, including transactions with affiliated companies.

[Gross Cert. ¶ 14, Exh. M.]

As Repsol has also publicly disclosed:

**Repsol expects to conclude its divestment plan in 2002 . . . Execution of this asset divestment plan and the resulting cash flows are expected to permit Repsol YPF to progressively reduce its debt levels.** Repsol YPF intends . . . to reduce its debt-to-book capitalization ratio to approximately 30% to 35% in 2003, **which represents a fundamental objective of our financial policy.**

[Gross Cert. ¶ 15, Exh. N. (emphasis added)]

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reorganization, a subject which the YPF Defendants will address in their Motion to dismiss.

While Plaintiffs merely allege that the purpose of the sales was to "further insulate Maxus' and Tierra's environmental liabilities in New Jersey," the evidence is that assets throughout Latin America and in Indonesia were sold in an entirely permissible manner for fair market value and for sound strategic business plans. [Gross Cert. ¶¶ 16, 17, 18, Exhs. O, P, Q.] Thus, there is absolutely no evidence for Plaintiffs' assertion that the asset sales following Repsol's acquisition of YPF were motivated by any purpose other than sound financial policy and the streamlining of Repsol's worldwide operations.

Similarly, there is no support for Plaintiffs' suggestion that Repsol disregards corporate formalities or the separateness of Maxus and Tierra through its Strategic Plan for worldwide operations described in its 2005 Form 20-F or that Repsol controls Maxus and Tierra through this Plan or that Tierra reports directly to Repsol on account of this Plan. [Compare Pls.' 2d Am. Compl. ¶ 51 with Gross Cert. ¶ 19, Exh. R.] Clearly, Plaintiffs' outrageous and imaginative allegations do not amount to facts, as there is no legitimate basis for corporate veil piercing.

**3. Overlapping Directors and Officers Do Not Provide a Basis for Corporate Veil Piercing.**

Plaintiffs' allegation that jurisdiction should be exercised over Repsol because "the vast majority of officers and

directors of YPFH, CLHH, and Tierra came from Maxus, YPF, and/or Repsol" is wholly meritless. [Id. ¶ 50]. Only one Repsol officer, Roberto Monti, has been a director of Tierra. While Monti was a director of Tierra from October 1996 through January 2001, he was an officer for Repsol only during 1999. [Compare Gross Cert. ¶ 20, Exh. S with Gross Cert. ¶¶ 21, 22, 23, Exhs. T, U. V.] Regardless, courts have consistently refused to find the existence of overlapping officers and directors between a parent and its subsidiaries as a basis for piercing the corporate veil. See, e.g., Lowell Staats Mining Co., Inc. v. Pioneer Uravan, Inc., 878 F.2d 1259, 1263 (10th Cir. 1989) ("The identity of officers and directors is insufficient to allow corporate veil piercing.") (citations omitted); Calvert v. Huckins, 875 F. Supp. 674, 678 (E.D. Ca. 1995); J. L. B. Equities, Inc. v. Ocwen Financial Corp., 131 F. Supp. 2d 544, 550 (S.D.N.Y. 2001) ("It has been established that overlapping officers and directors are 'intrinsic to the parent-subsidary relationship' and that they are not determinative as to whether the subsidiary is a 'mere department' of the parent.") (citations omitted). Accordingly, no basis exists to pierce the corporate veil.

**4. Corporate Policy Does Not Provide a Basis for Corporate Veil Piercing.**

Finally, there is no evidence that Repsol "directs and controls the environmental practices and operations of Maxus and Tierra" as well as "the policies, procedures, funding, and actions of YPF, YPFH, CLHH, Maxus, and Tierra." [Pls.' 2d Am. Compl. ¶ 49.] Even if this allegation were true, it would not suffice to exercise jurisdiction over Repsol on alter ego grounds. Reers v. Deutsche Bahn AG, 320 F. Supp. 2d 140, 158 (S.D.N.Y. 2004) (recognizing that "the parent of a multinational corporate enterprise may make broad policy decisions for its subsidiaries" and that the parent's doing so is "inherent in the parent-subsidiary relationship.")

As Gabriel Leiva, the corporate representative for YPF, testified, while Repsol has established a general environmental policy for its corporate family, directing its subsidiaries to comply with the environmental laws of the countries in which they are operating, each company decides for itself how best to fulfill the requirements of each country. [Gross Cert. ¶ 24, Exh. W.] The subsidiaries are not prevented from deciding their own environmental policies so long as their policies are consistent with the general framework of the Repsol policy. [Gross Cert. ¶ 25, Exh. X.]

Thus, there is no evidence that Repsol exerts any control over Tierra's or Maxus' practices or procedures - environmental or otherwise - that would justify the exercise of alter ego jurisdiction over Repsol. There is simply no evidence that YPFH, CLHH, or Tierra exist at the "whim and control" of Repsol or that Repsol directs and controls the environmental policies, procedures, or activities of its subsidiaries, as Plaintiffs have alleged. Clearly, no basis exists to pierce the corporate veil.

**5. Repsol Provides No Funding to Maxus or Tierra and Is Not Involved in Maxus' or Tierra's Finances in Any Way.**

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Plaintiffs' allegations that funding is provided to Maxus and Tierra by "Repsol" is misleading and not supported by the evidence. Plaintiffs state that "YPF, at the direction and approval of Repsol" has provided funding to Maxus and Tierra and that "[t]he YPF and Repsol funding is not secured and can stop at any time." [Pls.' 2d Am. Compl. ¶ 47.] Plaintiffs further assert that YPF seeks funding approval from "Repsol" and that "[o]nly after Repsol approves the requests for funds does YPF transfer the approved cash allowances into each entity's bank account." [Id. ¶ 49.]

Plaintiffs have mischaracterize the discovery in this matter. The Repsol entity to which Plaintiffs refer - and whose activities Plaintiffs mischaracterize - is not non-resident

defendant Repsol YPF, S.A., but rather non-party Repsol International Finance. [See Gross Cert. ¶26, Exh. Y.] Accordingly, these allegations cannot constitute a basis for asserting jurisdiction over Repsol. Stranahan, 800 F.2d at 58-59.<sup>7</sup>

**G. Repsol, YPF, YPFH, Maxus, CLHH, and Tierra Do Not Form A Cohesive Economic Unit.**

**1. Relevant Law.**

As another misplaced basis for exercising personal jurisdiction over Repsol, Plaintiffs have asserted that Repsol, YPF, YPFH, CLHH, Maxus, and Tierra form a cohesive economic unit. Under New Jersey law, the cohesive economic unit test requires a plaintiff to show that "a parent over which the court has jurisdiction so control[s] and dominate[s] a subsidiary as in effect to disregard the latter's independent corporate existence." Genesis Bio-Pharmaceuticals, Inc. v. Chiron Corp., Nos. 00-2893 & 00-2981, 2002 U.S. App. LEXIS 749 at \*9 (3d Cir. Jan. 10, 2002), (quoting Moon Carrier v. Reliance Ins., 153 N.J. Super. 312, 321 (N.J. Super. 1977)). Under this theory, "the relevant inquiry is whether [the non-resident defendant] and [its] parent corporation . . . so operate as a single entity, or a unified and cohesive economic unit, that when the parent is

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<sup>7</sup> These allegations are also insufficient as a matter of law to establish jurisdiction over YPF, as YPF argues in its own Motion to dismiss. See YPF Mtn. at 33 n.7.

within the venue of this court a member of the system is also within this court's jurisdiction." Moon Carrier, 153 N.J. Super. at 321 (citations omitted).

**2. Application of Law to the Facts.**

This theory is not even applicable here as Plaintiffs are not seeking to exert jurisdiction over a subsidiary based on the parent's contacts with the forum state, but vice versa. Furthermore, the test demands that the operational purposes of a parent and its subsidiaries be "so intertwined as to make the one unnecessary without the other[s]." [Id. at \*24.] As shown above, no evidence of such intertwinement exists. Moreover, under Analytical Measurements and Ventron, this vicarious liability theory fails for the same reasons, discussed above, that alter ego fails.

In short, the separateness of Tierra from Repsol can be neither disregarded nor ignored so as to allow jurisdiction to be imposed on Repsol based on Tierra's contacts with New Jersey.<sup>8</sup> Plaintiffs' theme that - but for Tierra - Repsol would somehow be responsible for the environmental liabilities which Tierra has assumed is completely unsupported by any facts or law. Finally, there is no evidence that Tierra (which existed prior to Repsol's acquisition of Tierra's owners) was created for the

purpose of perpetuating a fraud on, or circumventing the laws of the State of New Jersey.

The law and evidence require that Plaintiffs' efforts to establish vicarious liability theories for the purpose of demonstrating general jurisdiction over Repsol be rejected.

**H. Plaintiffs' Claims of Fraudulent Transfer and "Civil Conspiracy/Aiding and Abetting" Fail to Provide a Basis for Asserting Specific Personal Jurisdiction as a Matter of Law.**

Because general jurisdiction is lacking, either directly or through vicarious liability theories, Plaintiffs bring two claims against Repsol, for which specific jurisdiction is presumably alleged to exist: Fraudulent Transfers and "Civil Conspiracy/Aiding and Abetting." [Pls.' 2d Am. Compl. at ¶¶ 118-130]. Specifically, Plaintiffs have identified a 1997 sale of Ecuadorian and Indonesian assets to international subsidiaries and a subsequent 2001 sale of those same assets to other international subsidiaries as fraudulent transfers to deprive Maxus of its ability to meet its financial obligations. [Pls' 2d Am. Compl. ¶¶ 120, 121, 126(i), (j)]. In addition to these allegations, to support its claim for civil conspiracy/aiding and abetting, Plaintiffs have also alleged the

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<sup>8</sup> The record is equally devoid of any evidence that would allow the Court to exercise jurisdiction over YPF, YPFH, or CLHH, who will file their own separate motion to dismiss.



Repsol stripped Maxus of its cash reserves in 2003. [Id. at ¶ 126(k).]

For each of these claims, Plaintiffs must prove that the cause arose from the defendant's contacts with New Jersey **at the time the conduct occurred.** Helicopteros, 466 U.S. at 414; Harlow v. Children's Hosp., 432 F.3d 50, 61 (1st Cir. 2005); see also 16 James Wm. Moore et al., Moore's Federal Practice 108.42[2][a] (2007). Notably lacking in Plaintiffs' Second Amended Complaint is even a reference that either its fraudulent transfer or civil conspiracy/aiding and abetting claims arose out of Repsol's minimum contacts with the State of New Jersey in 1997, 2001, or 2003.

In connection with the fraudulent transfer claims, Plaintiff's allege only that "Defendants' conduct was willful, wanton, and without regard to the rights of Plaintiffs and the citizens of New Jersey." [Pls.' 2d Am. Compl. ¶ 124.] In connection with their conspiracy/aiding and abetting claims, Plaintiffs further add that "The State of New Jersey was harmed by the conduct" of the defendants. [Id. ¶¶ 127, 130.]

Plaintiffs' proffered "evidence" of these allegations does not even come close to meeting Plaintiffs' burden of establishing specific jurisdiction.

As has long been the law in New Jersey:

. . . even in intentional tort cases the jurisdictional inquiry "focuses on the relations among the defendant, the forum, and the litigation." See Keeton, 465 U.S. at 780. Nor did Calder carve out a special intentional torts exception to the traditional specific jurisdiction analysis, so that a plaintiff could always sue in his or her home state. What Calder did was recognize that, under certain circumstances, the "plaintiff's residence in the forum may, because of defendant's relationship with the plaintiff, enhance defendant's contacts with the forum."

Accordingly, we . . . agree . . . that jurisdiction under Calder requires more than a finding that the harm caused by the defendant's intentional tort is primarily felt within the forum. Moreover, we agree . . . the Calder "effects test" can only be satisfied if the plaintiff can point to contacts which demonstrate the defendant expressly aimed its tortious conduct at the forum, and thereby made the forum the focal point of the tortious activity. Simply asserting that the defendant knew that the plaintiff's principal place of business was located in the forum would be insufficient in itself to meet this requirement. The defendant must manifest behavior intentionally targeted at and focused on" the forum for Calder to be satisfied. In the typical case, this will require some type of "entry" into the forum state by the defendant.

To summarize, we believe that the Calder "effects test" requires the plaintiff to show the following:

- 1) The defendant committed an intentional tort;
- 2) The plaintiff felt the brunt of the harm in the forum such that the forum can be said to be the focal point of the harm suffered by the plaintiff as a result of that tort;
- 3) The defendant expressly aimed his tortious conduct at the forum such that the forum can be said to be the focal point of the tortious activity;

As the above discussion suggests, in order to make out the third prong of this test, the plaintiff must show

that the defendant knew that the plaintiff would suffer the brunt of the harm caused by the tortious conduct in the forum, and point to specific activity indicating that the defendant expressly aimed its tortious conduct at the forum.

IMO Industries Inc., v. Kiekert AG, 155 F.3d 254 (3d Cir. 1998)<sup>9</sup>  
(emphasis added) (discussing Calder v. Jones, 465 U.S. 783 (1984)).

Plaintiffs cannot establish even the first prong of the Calder "effects test" requiring the commission of an intentional tort. Indeed, their claims for fraudulent transfer do not sound in tort.<sup>10</sup>

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<sup>10</sup> . . . [T]he notion that an action lies in tort is so discredited, that one may venture upon a generality. It may safely be said, then, that **there is no tort cause of action, when a transfer is made before the creditor obtains judgment;** . . . The reason why there is no cause of action for a fraudulent transfer that takes place before the creditor obtains judgment or attaches **is that a general creditor has no property interest in his debtor's assets, and so the result of the transfer is the loss of a mere possibility of realization which is too speculative to be measured in damages.**" 1 Garrard Glenn, Fraudulent Conveyances and Preferences § 74, at 123 (rev. ed. 2001) (emphasis added), cited in United States v. Neirdorf, 522 F.2d 916, 918 (9th Cir. 1975); see also Hearn 45 St. Corp. v. Jano, 283 N.Y. 139, 143 (1940), cited in Neirdorf, 522 F.2d at 918; see also United States v. Franklin Bank, 376 F. Supp. 378, 382 (E.D.N.Y. 1973) ("[t]he allegations of wrongful conduct by the grantee do not transform the action into a tort claim . . . ."); FDIC v. Praver & Co., 829 F. Supp. 453, 455-57 (D. Me. 1993); Duell v. Brewer, 92 F.2d 59 (2d Cir. 1937) (J. Learned Hand); In re: Cybergenics Corp., Civ. No. 98-3109 (GEB), 1999 U.S. Dist. LEXIS 23223, at \*15 (D.N.J. June 17, 1999); In re Astropower, 2006 WL 2850110 \*4

Concerning the second and third prongs, even if the claims did sound in tort, which they do not, there are no allegations - much less evidence - that Repsol knew that New Jersey would "suffer the brunt of the harm caused by the tortious activity" or targeted New Jersey or even considered New Jersey when the international assets were reorganized and sold in 2001. In fact, there is no evidence that Repsol was even involved in those sales or transactions. Finally, there is no link whatsoever between Repsol and the 1997 corporate reorganization of YPF, S.A. Accordingly, the Court should find that it has no jurisdiction over Repsol and dismiss it from this lawsuit.

**CONCLUSION**

Plaintiffs have failed to allege, and cannot prove, facts that would support this Court's exercise of personal jurisdiction over Repsol. Neither specific nor general jurisdiction over Repsol exists - whether based on minimum contacts, Plaintiffs' theories of alter ego or the cohesive economic unit test, or Plaintiffs fraudulent transfer and civil conspiracy/aiding and abetting claims. For these reasons, the Court should grant Repsol's motion and dismiss Repsol from this lawsuit.

Respectfully submitted,

**GREENBAUM, ROWE, SMITH & DAVIS LLP**  
Attorneys for Repsol YPF, S.A.

By: \_\_\_\_\_

MARC J. GROSS

Dated: May 30, 2008

NEW JERSEY 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, 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. L-009868 05

CIVIL ACTION

CERTIFICATION OF MARCOS MOZETIC

MARCOS MOZETIC, of full age, under oath, hereby certifies  
as follows:

1. I am Director of Exploration-Upstream for Repsol YPF,  
S.A. ("Repsol YPF"). I make this Certification in support of  
Repsol YPF's motion to dismiss plaintiffs' Second Amended  
Complaint. I have personal knowledge of the facts set forth  
below.

2. Repsol YPF is a Spanish business corporation with its  
principal place of business in Madrid, Spain.

3. Repsol YPF does not have a designated agent for  
service of process in New Jersey. Repsol YPF has never  
conducted business meetings in New Jersey. Repsol YPF has never  
advertised, solicited, or conducted business in New Jersey.  
Repsol YPF does not maintain an office in New Jersey. Repsol

YPF makes no business decisions in New Jersey. Repsol YPF does not recruit any employees in or out of New Jersey, nor does Repsol YPF have any employees in New Jersey. Repsol YPF does not buy or sell goods or services in New Jersey.

4. Repsol YPF does not own any real property located in New Jersey. Further, Repsol YPF has no telephone listings in New Jersey and does not advertise in New Jersey. Repsol YPF maintains no bank account in New Jersey and transacts no banking business in New Jersey. Repsol YPF does not pay any taxes in New Jersey.

5. Repsol YPF's web site operator does not intentionally target New Jersey, nor does Repsol YPF solicit business in New Jersey via its web site.

6. Repsol YPF does not market its petroleum products, directly or through intermediaries, to New Jersey. Repsol YPF does not derive any benefits from the State of New Jersey.

7. No Court or agency has determined that Repsol YPF has committed any tort or violated any laws, in whole or in part, in New Jersey. Repsol YPF has never brought or defended a lawsuit (other than the present lawsuit) in New Jersey.

8. Repsol YPF has not assumed any liability or responsibility for the Lister Site.

9. No Repsol YPF director or officer serves as a director or officer of Tierra.

10. No Repsol YPF directors, officers, or personnel are involved in the activities or business of Tierra.

11. Repsol YPF does not pay the salaries or expenses of Tierra.

12. Repsol YPF does not develop the budget or control the activities of Tierra.

13. Repsol YPF does not commingle its funds with those of its subsidiaries or affiliated companies.

14. Repsol YPF does not control the environmental practices of Tierra.


15. Repsol YPF does not disregard the separate corporate existence of YPF, YPFH, CLHH, Maxus, or Tierra

16. Tierra does not solicit sales for Repsol YPF.

17. Repsol YPF's operations are not intertwined with those of YPFH, Maxus, CLHH, or Tierra.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed on the 23 day of May, 2008.

  
\_\_\_\_\_  
MARCOS MOZETIC



**ATTORNEY CERTIFICATION**

I am an attorney at law of the State of New Jersey and I am a member of the firm of Greenbaum, Rowe Smith & Davis LLP attorneys for defendants, YPF Holdings, Inc. CLH Holdings, YPF, S.A., and Repsol YPF, S.A. in the within action.

Annexed hereto is a facsimile signature of Marcos Mozetic. Mr. Mozetic has acknowledged the genuineness of his signature.

I am filing this Certification pursuant to R.1:4(c) so that the Court may accept Mr. Mozetic's facsimile signature on his Certification. An original signature will be filed if requested by the Court or a party.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.

  
\_\_\_\_\_  
JEFFREY A. SIROT

NEW JERSEY 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, 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. L-009868 05

**CIVIL ACTION**

**CERTIFICATION OF  
MARC J. GROSS**

**MARC J. GROSS**, of full age, under oath, hereby certifies as follows:

1. I am a member of the Bar of the State of New Jersey. I am a member of the law firm of Greenbaum, Rowe, Smith & Davis LLP, local counsel for defendants Repsol YPF, S.A. ("Repsol YPF"), YPF, S.A. ("YPF"), YPF Holdings, Inc. ("YPFH"), and CLH Holdings, Inc. ("CLHH"). I make this Certification in support of Repsol YPF's motion to dismiss plaintiff's Second Amended Complaint for lack of personal jurisdiction. I have personal knowledge of the facts set forth below.

2. Attached hereto as Exhibit "A" is a true copy of relevant portions of YPF Holdings, Inc. and Subsidiaries Consolidated Financial Statement as of and for the Years Ended Dec. 31, 2005 and 2004, and Independent Auditor's Report.

3. Attached hereto as Exhibit "B" is a true copy of the Assumption Agreement between Tierra Solutions, Inc. and Maxus Energy Corporation ("Maxus") dated August 14, 1996.

4. Attached hereto as Exhibit "C" is a true copy of the relevant portions of the Form 20-F for Repsol YPF, S.A. for fiscal year ended December 31, 2000.

5. Attached hereto as Exhibit "D" is a true copy of the Diagram of Corporate Structure (Effective 8/1/96).

6. Attached hereto as Exhibit "E" is a true copy of the Agreement of Merger Among YPF, YPF Acquisition Corp., and Maxus dated Feb. 28, 1995 ("YPF/Maxus Merger Agreement").

7. Attached hereto as Exhibit "F" is a true copy of the relevant portions of the Deposition of Gabriel Leiva ("Leiva Deposition").

8. Attached hereto as Exhibit "G" is a true copy of a summary by Maxus regarding the 1996 corporation reorganization.

9. Attached hereto as Exhibit "H" is a true copy of relevant portions of the Form 20-F of Repsol YPF for fiscal year ended December 31, 2000.

10. Attached hereto as Exhibit "I" is a true copy of relevant portions of the Stock Purchase Agreement By and Among Diamond Shamrock Corporation, Occidental Petroleum Corporation, Occidental Chemical Holding Corporation and Oxy-Diamond Alkali Corporation dated September 4, 1986.

11. Attached hereto as Exhibit "J" is a true copy of the Answers and Objections to Interrogatories of Defendant Repsol YPF, S.A. dated June 19, 2006.

12. Attached hereto as Exhibit "K" is a true copy of correspondence from Ileana Blanco to William Jackson dated October 22, 2007.

13. Attached hereto as Exhibit "L" is a true copy of the Supplemental Answers and Objections to Interrogatories of Defendant Repsol YPF, S.A. of June 18, 2007.

14. Attached hereto as Exhibit "M" is a true copy of the relevant portions of the Form 20-F of YPF for fiscal year ended December 31, 2001.

15. Attached hereto as Exhibit "N" is a true copy of the relevant portions of the Form 20-F of Repsol YPF, S.A. for fiscal year ended December 31, 2001.

16. Attached hereto as Exhibit "O" is a true copy of relevant excerpts from an Argentinean government website concerning Repsol's acquisition of YPF and subsequent restructuring of YPF.

17. Attached hereto as Exhibit "P" is a true copy of relevant portions of the Form 20-F of YPF for fiscal year ended.

18. Attached hereto as Exhibit "Q" is a true copy of relevant portions of the Form 20-F for YPF for fiscal year ended December 31, 2001.

19. Attached hereto as Exhibit "R" is a true copy of relevant portions of the Form 20-F for Repsol YPF for fiscal year ended December 31, 2005.

20. Attached hereto as Exhibit "S" is a true copy of correspondence from Thomas Starnes to William Jackson dated August 11, 2006.

21. Attached hereto as Exhibit "T" is a true copy of relevant portions of the Form 20-F of Repsol YPF, S.A. for fiscal year ended December 31, 1999.

22. Attached hereto as Exhibit "U" is a true copy of relevant excerpts from the Form 20-F of Repsol YPF for fiscal year ended December 31, 2000.


23. Attached hereto as Exhibit "V" is a true copy of relevant excerpts from the Form 20-F of Repsol YPF for fiscal year ended December 31, 2001.

24. Attached hereto as Exhibit "W" is a true copy of relevant portions from the deposition of Gabriel Leiva on behalf of YPF ("Leiva Deposition.")

25. Attached hereto as Exhibit "X" is a true copy of relevant portions from the Leiva Deposition.

26. Attached hereto as Exhibit "Y" is a true copy of e-mails produced by YPF, S.A.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



---

MARC J. GROSS

Dated: May 30, 2008.

# **EXHIBIT A**

***YPF Holdings, Inc. and  
Subsidiaries***  
*(A Wholly Owned Subsidiary of  
YPF S.A.)*

*Consolidated Financial Statements  
as of and for the Years Ended  
December 31, 2005 and 2004, and  
Independent Auditors' Report*



The major components of reserves as of December 31, 2005 and 2004, are as follows (in thousands):

	2005	2004
Current—environmental liabilities	<u>\$ 20,900</u>	<u>\$ 20,900</u>
Noncurrent:		
Environmental liabilities	64,315	77,389
Black lung benefits act liabilities	9,625	10,027
Miscellaneous liabilities (1)	<u>1,233</u>	<u>1,308</u>
Total reserves—noncurrent	<u>75,173</u>	<u>88,724</u>
Total	<u>\$ 96,073</u>	<u>\$ 109,624</u>

(1) Miscellaneous liabilities are not significant individually.

Laws and regulations relating to health and environmental quality in the United States affect nearly all of the operations of the Company. These laws and regulations set various standards regulating certain aspects of health and environmental quality, provide for penalties and other liabilities for the violation of such standards and establish in certain circumstances remedial obligations.

The Company believes that its policies and procedures in the area of pollution control, product safety, and occupational health are adequate to prevent unreasonable risk of environmental and other damage, and of resulting financial liability, in connection with its business. Some risk of environmental and other damage is, however, inherent in particular operations of the Company and, as discussed below, Maxus Energy Corporation (“Maxus”) and Tierra Solutions, Inc. (“Tierra”) have certain potential liabilities associated with operations of Maxus’ former chemical subsidiary. The Company cannot predict what environmental legislation or regulations will be enacted in the future or how existing or future laws or regulations will be administered or enforced. Compliance with more stringent laws or regulations, as well as more vigorous enforcement policies of the regulatory agencies, could in the future require material expenditures by the Company for the installation and operation of systems and equipment for remedial measures, possible dredging requirements and in certain other respects. Also, certain laws allow for recovery of natural resource damages from responsible parties and ordering the implementation of interim remedies to abate an imminent and substantial endangerment to the environment. Potential expenditures for any such actions cannot be reasonably estimated.

In connection with the sale of Maxus’ former chemical subsidiary, Diamond Shamrock Chemicals Company (“Chemicals”), to Occidental Petroleum Corporation (together with its subsidiary Occidental Chemical Corporation, “Occidental”) in 1986, Maxus agreed to indemnify Chemicals and Occidental from and against certain liabilities relating to the business or activities of Chemicals prior to the September 4, 1986, closing date (the “Closing Date”), including certain environmental liabilities relating to certain chemical plants and waste disposal sites used by Chemicals prior to the Closing Date.

In addition, under the agreement pursuant to which Maxus sold Chemicals to Occidental, Maxus is obligated to indemnify Chemicals and Occidental for 50% of certain environmental costs incurred on projects involving remedial activities relating to chemical plant sites or other property used in the conduct of the business of Chemicals as of the Closing Date and for any period of time following the Closing Date which relate to, result from or arise out of conditions, events or circumstances discovered by Chemicals and as to which Chemicals provided written notice prior to September 4, 1996, irrespective of when Chemicals incurs and gives notice of such costs, with Maxus’ aggregate exposure

# **EXHIBIT B**

## ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT (the "Agreement"), dated as of August 14, 1996, is made and entered into by and among CHEMICAL LAND HOLDINGS, INC., a Delaware corporation ("CLH") and MAXUS ENERGY CORPORATION, a Delaware corporation ("Maxus").

### RECITALS

A. Immediately prior to the execution, and delivery of this Agreement, CLH has become a wholly-owned subsidiary of CLH Holdings, Inc., a Delaware corporation.

B. The parties hereto desire to transfer certain assets and liabilities related primarily to certain environmental matters, and the management thereof, to CLH.

C. CLH is willing to assume such liabilities and the management thereof in consideration of, among other things, the assignment of certain assets to CLH and the agreements to make certain capital commitments to CLH by its stockholder and its parent companies pursuant to the Contribution Agreement.

### AGREEMENTS

In consideration of the mutual undertakings and agreements contained herein and in the Contribution Agreement, the parties covenant and agree as follows:

### ARTICLE ONE

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#### DEFINITIONS

The following terms have the meanings assigned:

"*Administrative Proceeding*" means any action taken by any Governmental Authority pursuant to or under any Environmental Law, including, but not limited to, any clean up, removal or remediation activity, notice of violation, notice of deficiency, notice of potential liability, inspection, investigation, site characterization, or any notice or directive given by such Governmental Authority in connection with clean up, removal or remediation activity.

"*Assigned Assets*" is defined in Section 3.1 of this Agreement.

"*Assumed Liabilities*" is defined in Section 2.1 of this Agreement.

"*Contribution Agreement*" shall mean that certain Contribution Agreement dated an even date herewith by and among YPF Sociedad Anónima, YPF International Ltd., YPF Holdings, Inc., CLH Holdings, Inc., Maxus and CLH.

"*DSRM Agreement*" means that certain Distribution Agreement dated as of April 22, 1987 by and between Diamond Shamrock Corporation and Diamond Shamrock R&M, Inc., as amended as of the date hereof.

"*Effective Time*" shall mean 12:01 a.m., Central Time, on August 1, 1996.

"*Environmental Claim*" means any claim, demand, liability (including strict liability); loss, obligation, damage (whether for property damage, natural resource damage or bodily injury and including depreciation of property values and consequential, punitive and exemplary damages), cause of action, judgment, civil penalty, payment, fine, cost and related expense (including, but not limited to, reasonable expenses, costs and fees of attorneys, legal assistants, consultants, contractors, experts and laboratories) arising out of activities, or allegations of activities which (a) are associated with the ownership, use or operation of property at any time, including, but not limited to, those related to any compliance, investigative, enforcement, cleanup, removal, containment, remedial, response, cost recovery, contribution or other private or governmental or regulatory action at any time threatened, instituted or completed, which in any way is connected with any Hazardous Material, and (b) (i) are in violation of any Environmental Law, (ii) constitute nuisance, trespass or negligence in the creating and/or allowing to exist or remain, or threatening to move, any Hazardous Material on, in, under or over any property, (iii) result in the commencement of any Administrative Proceeding, or (iv) if reported to a Governmental Authority would likely result in the commencement of any Administrative Proceeding.

"*Environmental Law*" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, permit, authorization, decision, order, injunction, requirement, ~~decree or restriction, which pertains to health, safety, environment, or natural resources, or any~~ Hazardous Materials (including, without limitation, the presence, use, handling, treatment, recycling, transportation, production, disposal, release, discharge or storage thereof), whether in effect presently, or prior to, or after the date hereof. The term "Environmental Law" shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 *et seq.* ("RCRA"), the Solid Waste Disposal Act of 1976, 42 U.S.C. § 6901 *et seq.*, those provisions of the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.* which pertain to environmental matters, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § 1101 *et seq.* and any similar law, regulation or requirement of any Governmental Authority having jurisdiction over the subject property, as such laws, regulations and requirements have been or may be amended or supplemented.

"Governmental Authority" means any federal, state or local government or administrative or regulatory agency or commission or other such instrumentality operating under any such governmental authority and exercising competent jurisdiction.

"Hazardous Materials" means any chemical, material or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar meaning and regulatory effect.

"Indemnified Parties" is defined in Section 2.2 of this Agreement.

"Independent Director" is defined in Section 4.1(b) of this Agreement.

"Insurance Litigation" shall mean the action styled *Diamond Shamrock Chemicals Company v. Anglo French Insurance Company, Ltd., et al*, Cause No. L-01591-86 in the Superior Court of New Jersey, Morris County, and all claims asserted or disposed of therein.

"Obligations" is defined in Section 2.1 of this Agreement.

"Retained Obligations" is defined in Section 2.3 of this Agreement.

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

"YPF Affiliate" means (i) YPF Sociedad Anónima and (ii) any corporation or other business entity in which YPF Sociedad Anónima owns directly, or indirectly through one or more other YPF Affiliates, 50% or more of the outstanding voting capital stock or equity capital of the entity, other than CLH.

## ARTICLE TWO

### ASSUMPTION OF CERTAIN OBLIGATIONS

2.1 *Assumption of Obligations by CLH.* Subject to Section 5.1 hereof and effective as of the Effective Time, CLH hereby assumes and undertakes to pay, perform and discharge the debts, liabilities, obligations and commitments, whether known or unknown, contingent or absolute or accrued or not accrued (collectively, "Obligations") set forth below to the extent that Maxus or one of its other subsidiaries (or any officer, director, employee, agent, representative or controlling person of Maxus and its subsidiaries) is or may become liable for such Obligations:

(a) any and all Obligations of Maxus under (i) Sections 8.19 and 8.21 of the Stock Purchase Agreement, (ii) Section 9.03(a) of the Stock Purchase Agreement, but only to the extent such Obligations either (A) relate to Indemnifiable Losses (as defined in Section 9.03) relating to, resulting from or arising out of the matters described in clauses (iii) or (iv) of such Section 9.03(a) or (B) arise in connection with Indemnifiable Losses that relate to, result from or arise out of an Environmental Claim, (iii) Article X of the Stock Purchase Agreement or (iv) that certain action styled *Occidental Chemical Corporation and Henkel Corporation v. Maxus Energy Corporation* filed in the 68th Judicial District Court of Dallas County, Texas (Cause No. 95-11776);

(b) any and all Obligations of Maxus or its subsidiaries arising out of any Environmental Claim relating to or arising out of the ownership, lease, operation or use of (i) any real property owned by CLH on or prior to the date hereof, (ii) any of the Inactive Sites (as defined in the Stock Purchase Agreement), (iii) the former business and assets of Diamond Shamrock Agricultural Chemicals division, and (iv) any of the sites or matters identified, listed or described on Exhibit A hereto; and

(c) any other Obligations of Maxus or its consolidated subsidiaries related to the Obligations described in clauses (a) and (b) hereof for which amounts have been accrued as a liability reserve on the consolidated balance sheet of Maxus as of July 31, 1996 prepared in accordance with generally accepted accounting principles;

*provided, however,* that notwithstanding the foregoing, the Obligations assumed by CLH pursuant to this Section 2.1 shall not include (i) Obligations constituting Retained Obligations, (ii) Obligations to the extent of receipt by Maxus or its other subsidiaries (other than CLH) of insurance proceeds or amounts in settlement of insurance coverage in respect of the foregoing Obligations or (iii) Obligations to the extent that Maxus or any of its subsidiaries (other than ~~CLH~~) receives payments in indemnification or contribution in respect of the foregoing Obligations from any party other than a YPF Affiliate. The Obligations assumed by CLH pursuant to this Section 2.1 are herein referred to as the "Assumed Liabilities."

2.2 *Indemnification.* Subject to Section 5.1 hereof and effective at the Effective Time, CLH shall indemnify without duplication each of Maxus, its other subsidiaries, and their respective directors, officers, employees, stockholders, partners and agents (the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, any and all claims, demands, liabilities (including strict liability), losses, obligations, damages (whether for property damage, natural resource damage or bodily injury and including depreciation of property values and consequential, punitive and exemplary damages), causes of action, judgments, civil penalties, payments, fines, costs and related expenses (including reasonable attorneys fees and expenses incurred in connection with investigations and settlements) resulting from or arising out of the Assumed Liabilities. The indemnification provided by this Section 2.2 shall extend to the benefit of the Indemnified Parties to the fullest extent permitted by law, without regard to, or limitation by, the standard of conduct of any Indemnified Party or any other third party,

including without limitation any act or omission by any Indemnified Party that may constitute negligence or fraud.

2.3 *Retained Liabilities.* Maxus agrees to retain and remain responsible for all Obligations in respect of the following (collectively, the "Retained Obligations"):

(a) all Obligations to third parties (other than parties to this Agreement and the Stock Purchase Agreement) resulting from or arising out of claims, demands, liabilities (including strict liability), losses, obligations, damages (whether for property damage or bodily injury and including depreciation of property values and consequential, punitive and exemplary damages), causes of action, judgments, civil penalties, payments, fines, costs and related expenses (including reasonable attorneys fees and expenses incurred in connection with investigations and settlements) based upon an assertion or allegation that a manufactured product was defective or unreasonably dangerous or unsafe, or that the manufacturer had failed to warn of defective, dangerous or unsafe characteristics or potential consequences of improper use, handling, transport, storage or disposal, of a product, regardless of whether such assertion or allegation includes claims of injury or damages associated with environmental contamination as a result of an alleged product defect;

(b) all Obligations incurred by Maxus and its subsidiaries relating to the Insurance Litigation;

(c) all Obligations incurred by Maxus and its subsidiaries under workers' compensation and other employer's liability laws; and

(d) all Obligations incurred directly in connection with operating and/or plugging and abandoning the gas wells identified on Exhibit B hereto. (Exhibit B also ~~lists certain other matters for which Maxus retains responsibility.~~)

2.4 *Waiver of Rights of Recovery.* Maxus shall waive, and shall cause its subsidiaries to waive, any and all rights of recovery, claims, actions and causes of action against CLH, its officers, directors, stockholders, agents and representatives that Maxus or its other subsidiaries may have to recover any proceeds from insurance policies or portion thereof covering the Obligations set forth in clauses (a), (b) and (c) of Section 2.1 hereof, unless giving such waiver would adversely affect the right to receive such payments from any insurance carrier.

2.5 *Reimbursement of Certain Costs and Expenses.* Maxus shall promptly reimburse CLH for any and all costs and expenses incurred and paid by CLH with respect to any of the Obligations set forth in clauses (a), (b) and (c) of Section 2.1 hereof in the event that such costs and expenses are determined not to constitute Assumed Liabilities by reason of the proviso of Section 2.1 or otherwise.

## ARTICLE III

### TRANSFER OF CERTAIN ASSETS

3.1 *Transfer of Certain Assets.* Subject to Sections 3.5 and 5.1 hereof and effective as of the Effective Time, Maxus hereby agrees to grant, bargain, convey, contribute, transfer, assign and deliver unto CLH all of the rights, titles and interests of Maxus in and to the following (collectively, the "Assigned Assets"):

(a) all benefits accruing to Maxus after the Effective Time under Section 3.03 of the DSRM Agreement, except to the extent that such benefits constitute or relate to the reimbursement of funds paid, received or advanced from settlements or other disposition of the Insurance Litigation or *Rosario et al. v. Diamond Shamrock Corporation et al.*, Cause No. 687219-1, Superior Court, Alameda County, California and related cases;

(b) all rights to insurance proceeds, and settlements of related insured matters, to the extent such payments represent reimbursement of Assumed Liabilities, excluding any payments by insurance carriers made in connection with the settlement or other disposition of the Insurance Litigation (which payments shall be retained by Maxus) but including the right to receive any future payments made from insurance carriers under the terms of settlement of the Insurance Litigation made in respect of the Cedartown, Georgia, Deer Park, Texas, Muscle Shoals, Alabama, Belle, West Virginia and Castle Hayne, North Carolina plant sites and any presently unknown sites;

(c) all rights of recovery, contribution, reimbursement, claims, actions and causes of action against any party (including without limitation Diamond Shamrock, Inc., Occidental Chemical Corporation or any of their affiliates or any insurance carrier) other than Maxus or its subsidiaries in respect of the Assumed Liabilities, except for payments made to Maxus by any third party in respect of same prior to the Effective Time (which payments shall be retained by Maxus);

(d) all permits or licenses issued by, or agreements with, any Governmental Authority, or any agreement with any party other than Maxus (other than those agreements relating to the matters expressly excepted in clauses (b) and (c) above), relating to the Assumed Liabilities and the assets of CLH and necessary for the management or operation thereof); and

(e) all documents, studies, files, photographs, maps, charts and other records relating to the Assumed Liabilities and the assets of CLH and the management thereof or to CLH employees, provided that Maxus shall retain the right to have reasonable access to such documents.

3.2 *Instruments of Transfer; Further Assurances.* Maxus covenants and agrees to furnish in proper form (and if applicable, in suitable form for recording) any other bills of sale,



endorsements, assignments, certificates and other instruments of transfer and conveyance as CLH shall reasonably deem necessary to vest in CLH such title to the Assigned Assets hereof as Maxus may possess.

3.3 *Transfers Requiring Consent.* Maxus shall use its reasonable efforts to obtain, or cause to be obtained, as promptly as practicable all consents, if any, necessary to assign, transfer, convey or deliver the Assigned Assets to CLH. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign, or a transfer or assignment of, any contract right, agreement, license or permit or document, if a transfer or assignment thereof without the consent of any other party or parties thereto (other than Maxus or its affiliates) required or necessary for such transfer or assignment would constitute a breach thereof or in any way adversely affect the rights of Maxus thereunder (any such assets are hereinafter referred to as "Non-Assignable Assets"). In order to provide CLH with the utilization of every Non-Assignable Asset, unless and until the necessary consent is obtained, Maxus shall take or cause to be taken, and shall cause each of its subsidiaries (other than CLH) to take or cause to be taken, all reasonable action in cooperation with CLH and do or cause to be done all such things as may be reasonably necessary and proper to: (a) hold in trust for the benefit of CLH all Non-Assignable Assets and any consideration received by Maxus with respect thereto, (b) preserve the material rights and obligations under the Non-Assignable Assets for the benefit of CLH, (c) facilitate the receipt of any consideration to be received by Maxus or its other subsidiaries with respect to any Non-Assignable Asset, and promptly pay or cause to be paid to CLH any such consideration received by Maxus or its other subsidiaries, and (d) make arrangements designed to provide to CLH the material benefits of each Non-Assignable Asset, including without limitation the appointment of an attorney-in-fact for CLH or subcontracting with CLH to effect a "pass-through" of the material rights and obligations of Maxus and its other subsidiaries thereunder. Notwithstanding the foregoing, Maxus shall not be obligated to take any action to ensure that CLH will be allowed the use of, or access to, any technology, whether protected by copyright, patent, license or otherwise, if such action will require the expenditure of funds by Maxus or materially adversely affect the benefits or rights required to be retained by Maxus, unless the parties agree otherwise.

3.4 *Right of Collection and Endorsement.* Should Maxus or any of its subsidiaries (other than CLH) receive payment of any account receivable, note receivable or other asset of CLH, it shall promptly remit or pay over, or cause its subsidiaries to remit or pay over, such payment or other asset to CLH. Should CLH receive payment of any account receivable, note receivable or other asset of Maxus or any of its subsidiaries, it shall promptly remit or pay over such payment or other asset to Maxus or the appropriate subsidiary.

3.5 *Reassignment in the Event of Default by CLH.* In the event that CLH defaults in the payment of any Obligation that constitutes an Assumed Liability, then, in addition to any other remedy available under this Agreement or in law, CLH shall convey, assign and pay over to Maxus all rights and payments set forth in clauses (a), (b) and (c) of Section 3.1 to the extent that (i) such rights and payments are asserted or made after the date of default of CLH and

(ii) such rights and payments relate to the Obligation on which CLH defaulted. Any payments made to Maxus pursuant to this Section 3.5 shall reduce and mitigate the damages suffered by Maxus as a result of such default.

## ARTICLE FOUR

### CERTAIN COVENANTS

4.1 *Management Responsibilities.* In addition to the responsibilities and management of the Obligations associated with the Assumed Liabilities, the parties acknowledge and agree that as between them CLH shall have primary responsibility for the management and handling after the Effective Time of the business, legal and technical aspects of environmental matters associated with (a) the alleged generation, handling, transportation, storage and disposal of wastes from the former businesses, operations and properties of Diamond Shamrock Chemicals Company, including its predecessors ("DSCC") or (b) the chemical manufacturing operating practices of DSCC.

4.2 *Access and Records.* Each of Maxus and CLH will afford the other, its officers, employees, agents and representatives reasonable access to its documents, records, instruments and property to the extent such documents, records, instruments and property are properly required in order for each to fulfill its management or legally required duties. Each of Maxus and CLH will cause documents, records and instruments to be retained if requested by the other for legal or other proper reasons. Without limiting the foregoing, upon reasonable request, Maxus, its officers, employees, agents and representatives shall be permitted (a) to review the activities and books and records of CLH and (b) if deemed necessary or appropriate by Maxus, to inspect CLH's property or property being administered, remediated or maintained by CLH for the purpose of complying with its legal and audit disclosure requirements. ~~CLH shall not be responsible for maintenance of records required under the Occupational Safety and Health Act or medical or other records compiled and maintained on a corporate-wide basis, and not uniquely for or related to the former business, operations or property of DSCC or CLH and to the liabilities assumed by CLH hereunder.~~

4.3 *Mutual Covenants to Maintain Corporate Independence.* It is the intent of the parties to this Agreement that each of CLH and Maxus maintain separate existence and independence and remain responsible for its own respective business, assets and liabilities, except to the extent as expressly provided in this Agreement, the Contribution Agreement and other written agreements between the companies. In furtherance of such intent, Maxus and CLH covenant and agree as follows:

(a) The books of account of CLH shall be maintained separately from those of Maxus and any other YPF Affiliate and other affiliates of Maxus. The assets of CLH shall not be commingled with the assets of Maxus or any other YPF Affiliate.

(b) To the extent feasible, at least one member of the Board of Directors of CLH shall be a person who is not also a director, officer or employee of CLH, Maxus or any other YPF Affiliate (the "Independent Director").

(c) To the extent services are furnished to CLH by Maxus or any other YPF Affiliate, or to Maxus or any other YPF Affiliate by CLH, such services shall be provided under a services agreement between CLH and Maxus or such other YPF Affiliate, as the case may be, which describes the services to be provided, establishes compensation rates to be charged for such services at a rate consistent with sound business practices and which provides for, among other things, reimbursement of out-of-pocket expenses incurred in connection with rendering such services.

(d) CLH shall have its own U.S. taxpayer identification number.

(e) CLH shall maintain bank accounts in its own name and utilize its own letterhead for all correspondence.

(f) All agreements relating to the business of CLH shall be entered into by it in its own name and executed on its behalf by one of its officers or other authorized representative. CLH shall not grant a general power of attorney to Maxus or any other YPF Affiliate or to any person who is an officer, director or employee of Maxus or any other YPF Affiliate (other than a person who is also an officer of CLH and who is granted such power of attorney by reason of his office with CLH).

(g) CLH shall maintain all required corporate formalities as required under Delaware law, including the maintenance of books and records and the conduct of shareholders' and Board of Directors' meetings.

(h) CLH shall obtain in its own name any government permits which are necessary or appropriate to conduct its business.

(i) Except as may be provided in any services agreement referred to in Section 4.3(c), CLH shall not engage in any transaction with Maxus or any other YPF Affiliate which is not related to the business and operations of CLH. Any such transaction related to the business and operations of CLH engaged in by CLH with Maxus or any other YPF Affiliate is and will be on an arms' length basis and will be approved by a majority of CLH's directors, including, if a person is so serving at the time, the Independent Director.

(j) Except to the extent set forth in this Agreement, CLH has not agreed to assume any liabilities or other obligations of Maxus or any other YPF Affiliate.

(k) Any transaction that affects the fundamental organization of CLH (including, without limitation, any voluntary bankruptcy filing by CLH) shall have the prior

approval of a majority of CLH's directors, including, if one is serving on the Board of Directors at such time, the Independent Director.

(1) CLH shall not hold itself out, or permit its officers, employees or agents to hold themselves out, as employees or agents of Maxus or any other YPF Affiliate, or as authorized to represent Maxus or any other YPF Affiliate absent an express agreement granting such authority.

Nothing contained in this Section 4.3 shall prevent Maxus, YPF or any other YPF Affiliate from issuing guarantees or providing other financial assurances to third parties for the benefit of CLH for the purpose of ensuring the performance or payment of its obligations.

## ARTICLE FIVE

### GENERAL PROVISIONS

5.1 *Conditions Precedent to Effectiveness of Assumption and Transfer.* Notwithstanding anything to the contrary herein, this Agreement shall not be effective unless and until (i) the Contribution Agreement is executed and delivered by all parties thereto and (ii) all of the issued and outstanding capital stock of CLH is transferred and assigned to YPF Holdings (USA), Inc., a Delaware corporation; provided, however, that this entire Agreement shall terminate and cease to be of any force and effect if each of the events described in clauses (i) and (ii) do not occur on or prior to August 31, 1996.

5.2 *Further Assurances.*

(a) Without further consideration, Maxus shall execute, acknowledge and deliver, or cause its subsidiaries to execute, acknowledge and deliver, all such further documents and instruments and shall do all such further acts and things as may be necessary or useful in order to fully and effectively carry out the purposes and intent of this Agreement.

(b) Without further consideration, CLH shall execute, acknowledge and deliver all such further documents and instruments and shall do all such further acts and things as may be necessary or useful in order to fully and effectively carry out the purposes and intent of this Agreement.

5.3 *Successors and Assigns.* This Agreement shall be binding upon and inure to the benefit of the parties signatory hereto and their respective successors and assigns.

5.4 *No Third Party Rights.* The provisions of this Agreement are intended to bind the parties hereto as to each other and are not intended to and do not create rights in any other person or confer upon any other person any benefits, rights or remedies and no person is

or is intended to be a third party beneficiary of any of the provisions of this Agreement, except in respect of Section 2.2 hereof, the Indemnified Parties expressly set forth therein.

5.5 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding any conflicts-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state.

5.6 *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

5.7 *Construction of Agreement.* In construing this Agreement (i) no consideration shall be given to the captions of the articles, sections, subsections, or clauses, which are inserted for convenience in locating the provisions of this Agreement and not as an aid in its construction and (ii) no consideration shall be given to the fact, nor shall there be any presumption, that one party had a greater or lesser hand in drafting this Agreement.

5.8 *Severability.* If any of the provisions of this Agreement are held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over the subject matter hereof, such contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, and an equitable adjustment shall be made and necessary provision added so as to give effect to the intention of the parties expressed in this Agreement at the time of execution of this Agreement.

This Assumption Agreement is executed and delivered as of the date first above written but effective as of the Effective Time.

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CHEMICAL LAND HOLDINGS, INC.

By: M. M. Skaggs, Jr.  
Name: M. M. SKAGGS, Jr.  
Title: PRESIDENT

MAXUS ENERGY CORPORATION

By: W. Mark Miller  
Name: W. Mark Miller  
Title: Executive Vice President

LIMITED PURPOSE--CLAIMS LISTING

<u>ID</u>	<u>NAME</u>	<u>SUBJECT</u>	<u>OUT/CNSL</u>
ENV:			
101.1	Transtech v A&Z Septic, et al	Kin-Buc Lndfil.	M. Gordon
102	Bayou Sorrell C-L-O-S-E-D	Lndfil.Cleanup	
105	Lone Pine C-L-O-S-E-D	Lndfil.Cleanup	
106	SCP/Carlstadt	Lndfil.Cleanup	
107	Kingsville Twtnship, Dump I-N-A-C-T-I-V-E	Lndfil.Cleanup	
108	Duane Marine Salvage Corp. I-N-A-C-T-I-V-ELndfil.Cleanup		
109	MOTCO C-L-O-S-E-D	Lndfil.Cleanup	
109.1	Crofton v. Amoco, et al.	BI & PD	J. McNerney
110	Ashtabula Plant	Env.Contam.	
111	Carlstadt Plant	Env.Contam.	
111.1	Velsicol v. Am Cy, et al.(re:Berry'sCreek)	Env.Contam.	
111.2	Morton Int. v. Am Cy, et al.( " )	Env.Contam.	
112	Cedartown, Ga. Plant	Env.Contam.	
112.1	Cedartown Municipal Landfill	Lndfil.Cleanup	J. Sasine
113	Deer Park Plant	Env.Contam.	
114	Delaware City Plant	Env.Contam.	
115	Harrison Plant	Env.Contam.	
116	Jersey City Plant	Env.Contam.	
117	Muscle Shoals Plant	Env.Contam.	
118	Painesville Chrome Site ("100 acres")	Env.Contam.	A&K
119	Mobile Plant	Env.Contam.	
120	Sheridan Disposal Svcs. C-L-O-S-E-D	Lndfil.Cleanup	
121	Princeton Plant C-L-O-S-E-D	Env.Contam.	
122	Greens Bayou Plant	Env.Contam.	
123	Painesville One-Acre Site	Env.Contam.	A&K
124	Bristol, PA I-N-A-C-T-I-V-E	Env.Contam.	
128	Belle, W.Va. Plant	Env.Contam.	
129	Strasburg Landfill	Lndfil.Cleanup	M. Gordon
130	Tybouts Comer Site (USA v ICI, et al.) C-L-O-S-E-D	Lndfil.Cleanup	
132	Galloway Pits/Arlington Blnding C-L-O-S-E-DLndfil.Cleanup		
133	Blosenski Landfill (USA v Blosenski, et al.) C-L-O-S-E-D	Lndfil.Cleanup	M. Gordon
134	Castle Hayne Plant	Env.Contam.	
135	Chem. & Minerals Reclam. C-L-O-S-E-D	Lndfil.Cleanup	

136 & 136.1	Cortese Landfill (NY v SCA, et al.) C-L-O-S-F	Lndfil.Cleanup	M. Gordon
137	Fields Brook Site	Env.Contam.	
137.1	Gen-Corp. Inc. v DSCC, et al	Env.Contam.	
137.2	Cabot Corp. v DSCC, et al.	Env.Contam.	
137.3	OEPA Nat. Resource Damages	Env.Contam.	
138	Flemington Landfill C-L-O-S-E-D	Lndfil.Cleanup	
139	French Limited Site	Lndfil.Cleanup	
139.1-139.6	Various BI/PD claims C-L-O-S-E-D	BI & PD	
140	Jadco-Hughes Site	Lndfil.Cleanup	
141	Kearny (Hudson Co. Cr)	Env.Contam.	Various
141.12	NJ Turnpike case	Env.Contam.	J. Bolger
141.13	Kitsos case	Env.Contam.	J. Kosch
141.14	PPG v Lawrence, et al	Env.Contam.	J. Kosch
141.16	Metal Powder v Burnham v Oxy	Env.Contam.	M. Judge
196	Bentley case	Env.Contam.	J. Kosch
196.1	Settle case	Env.Contam.	J. Kosch
142	SCP/Newark Site C-L-O-S-E-D	Lndfil.Cleanup	
143	Tuscaloosa Plant	Env.Contam.	
147	Newark (80 Lister) Plant	Env.Contam.	C. Dinkins
147.1-147.13	(various claims/THRAC case) C-L-O-S-E-D	BI & PD	W. McCarter
	Maxus v USA (Newark contribution claim)	Contrib.	M. Gordon
147.14	Passaic River	Env.Contam.	C. Dinkins A&K Local
148	Sikes Pit C-L-O-S-E-D	Lndfil.Cleanup	
150	Atlanta, Ill. C-L-O-S-E-D	Env.Contam.	
151	Maxey Flats Site	Lndfil.Cleanup	
152	Nat'l. Presto (Eau Claire, Wis.) C-L-O-S-E-D	Env.Contam.	
153	Summit Nat'l. Site C-L-O-S-E-D	Lndfil.Cleanup	
154	Amer. Chem. Svcs. Site C-L-O-S-E-D	Lndfil.Cleanup	
155	Painesville Works & Settling Ponds	Env.Contam.	A&K
156	Old Mill Site C-L-O-S-E-D	Lndfil.Cleanup	
157	Chemical Control Site	Lndfil.Cleanup	
158	Cross Bros. Site C-L-O-S-E-D	Lndfil.Cleanup	
159	Conservation Chemical Site C-L-O-S-E-D	Lndfil.Cleanup	
160	Liberty Waste Site (BI/PD Claims):	BI & PD	W. Conrad
	Barras v Exxon C-L-O-S-E-D		
	Hollis v Exxon C-L-O-S-E-D		
	Lowrey v Exxon C-L-O-S-E-D		
	Sanders v Exxon C-L-O-S-E-D		
	Chaplin C-L-O-S-E-D		
160.1	Fred Adams v Exxon	BI & PD	W. Conrad

100.2	Baptiste v Exxon C-L-O-S-E-D	BI & PD	W. Conrad
160.3	Dartez v Exxon		
161	Dixie Caverns Landfill	Lndfil.Cleanup	
162	Pulverizing Services Site	Lndfil.Cleanup	
162.1	325 New Albany Assoc. v PPG, et al	PD & Env.Contam	
163,163.1	Metcoa Site (USA v Pesses, et al.)	Env.Contam.	M. Gordon
164	GBF/Pittsburg Landfill (Ca)	Lndfil.Cleanup	B. Stauffer
165-169	Five NY Landfills C-L-O-S-E-D	Lndfil.Cleanup	
170	Delaware Sand & Gravel Site C-L-O-S-E-D	Lndfil.Cleanup	R. Whetzel
170.1	New Castle County C-L-O-S-E-D	Cost recovery	"
170.2	USA v Hercules, et al. C-L-O-S-E-D	Cost recovery	"
170.3	Crossan claim C-L-O-S-E-D	BI (EPA worker)	"
171	Army Creek Landfill	Lndfil.Cleanup	
171.1	New Castle County demand	Cost Recovery	
172	Syncon Resin Site C-L-O-S-E-D	Env.Contam.	
175	PJP Landfill (NJ v PJP, et al.)	Lndfil.Cleanup	J. Lynch
176	USA v Lord (New Lyme Landfill)	Lndfil.Cleanup	K. Kammer
176.1	State of Ohio v Aardvark	"	K. Kammer
177	Fisher-Calo Site (In.) C-L-O-S-E-D	Lndfil.Cleanup	
178	Metamora Site (Mich.)	Lndfil.Cleanup	
179	Powder River Crude C-L-O-S-E-D	Lndfil.Cleanup	
181	IWC Site (Ark)[DeSoto case] C-L-O-S-E-D	Lndfil.Cleanup	
182	Redwood City Plant	Env.Contam.	R. Tarr
180	Beeger v Rohm and Haas, et al	PD&Env.Contam	J.Darrell
183	Bay Area Drum Site (Ca)	Lndfil.Cleanup	J. Armapo
184	Paddock Rd. (Cinn., Oh)	Env.Contam.	
<del>186</del>	<del>Davis Liquid Waste Site (USA v Davis)</del>	<del>Lndfil.Cleanup</del>	<del>M. Gordon</del>
188	Fiber Chem Site	Env.Contam	L. Mills
189	Des Moines Barrell & Drum Site	Lndfil.Cleanup	
190	Cammarata case (White Chem. Co.)	BI	D. Apy
190.1	Rhone-Poulenc case C-L-O-S-E-D	Env.Contam.	D. Apy
191	Rife v Agway, et al. (Sweden-3 site)	BI & PD	(Oxy)
191.1	Sheg v Agway, et al. (" )	"	(Oxy)
192	Reserve Env. v Detrex v DSCC, et al.	Env.Contam.	(Oxy)
193	Huth Oil Site C-L-O-S-E-D	Env.Contam.	
195	Fuels and Chemicals Site C-L-O-S-E-D	Env.Contam.	
197	Marzone Site (Ga.)	Lndfil.Cleanup	
198	Bay Drum Site (Fla.)	Lndfil.Cleanup	
199	Bohaty Drum Site C-L-O-S-E-D	Lndfil.Cleanup	
200	Chem-Trol Site	Lndfil.Cleanup	M. Gordon
201	Organic Chemical Site	Env.Contam.	
202	Picillo Pig Farm (AmCy v 3M) Rohm and Haas case	Lndfil.Cleanup	M. Gordon



203	Uniroyal Site (Mag Plant)	Env.Contam.	
204	Geothermal, Inc. (Middletown)	Lndfil.Cleanup	
	State of NJ v Acc, et al	Cost Recovery	L. Kurzweil
	Recluse Gas Plant	Env.Contam.	
	Oxy vs Maxus	Contract (Art.X)	L. Schreve
	Oxy v Maxus (Fields Brook Indemnity)	Contract	
	Neidenberg Claim (Cr./Lung Cancer)	Wrong/Death	
	Marco of Iota Site (Midgard)	Env. Contam.	
	Martin's Oil Country Tubulars Site (Midgard?)	Env. Contam.	
	Patterson Tubular (Patterson Trucking) Site (Midgard?)	Env. Contam.	

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LIMITED PURPOSE--CLAIMS LISTING

<u>ID</u>	<u>NAME</u>	<u>SUBJECT</u>	<u>OUT/CNSL</u>	<u>RESP.CO.</u>
<b>ENV:</b>				
103	McKee Refinery	Env.Contam.		R&M
104	Three Rivers Refinery	Env.Contam.		R&M
126	(incl. 126.1-126.10) Sigmor Stations C-L-O-S-E-D	PD or Env.Contam.		R&M
127	Freddie Harris Site	Lndfil.Cleanup		R&M
173	Sacramento Savings v Natomas C-L-O-S-E-D	Env.Contam.	J. Darrell	Natomas/MXS
174	NY v SDS (Suffolk County Dacthal) Shorewood Water v SDS	Prod.Liab/Env.	ISK Sharing	DSCC/ISK
185, 185.1	Schwartzman/Barber v Chevron	Env.Contam.		R&M
187	McGinnis Waste Site (Whalen case)	BI & PD		R&M
194	American Zinc Site (Tx)	Env.Contam.		MXS-E&P
<b>Non-ENV-No.:</b>				
	Borough of Park Ridge case	Prod.Liab.		DSCC/OXY
	Florida v Southern Solvents	Prod.Liab.		DSCC/OXY(?)
	W. P. Ballard Co. claims	Prod.Liab.	C. Tisdale	DSCC/MXS
	Pilgrim Enterprises claims	Prod.Liab.	N. Batey	DSCC/OXY
	Hayhurst v Gateway	PD	R. Gladstone	GATEWAY/MXS
	Gateway v Cyprus	Contract Indemn.	R. Gladstone	GATEWAY/MXS
	Gateway Mine Reclamation/Bond	Reclamation	R. Gladstone	GATEWAY/MXS
	Old O&G Property (Wyo., Mont., etc.) (Except as expressly assumed by CLH)	Plug/Abandon/Contam.		MXS-E&P
	Hansford County	Env.Contam.		MXS-E&P
	O & G wells	Maint./Plug/Abandon		MXS-E&P
	The following wells are located in Lake County, Ohio:			
	Midgard Energy Company Well Nos.:			
	Fee -- C-1 in Perry Township			
	C-6 in Painesville Township			
	C-9 in Painesville Township			
	Lease-- C-4 in Painesville Township			
	C-5 in Painesville Township			
	C-12 in Painesville Township			
	C-13 in Painesville Township			
	C-2 in Painesville Township			
	CL-2A in Painesville Township			

Prod.Liab. EI claims:			
Agent Orange Claims	Prod.Liab.	M. Gordon	DSCC/MXS
Abarca v Adco, et al	"	R. Faulk	DSCC/MXS
Fuller v DOW, et al	"	"	"
Hickman v Mobil Oil, et al C-L-O-S-E-D	"	"	"
Kapetan v L-N-S, et al	"	"	"
Labombardo v Maxwell House, et al	"	J. Rasnek	DSCC/MXS
Larson v PPG, et al	"	"	"
Mathena v DSCC, et al	"	"	"
Overstreet v Exxon, et al	"	"	"
Mattie Lee Powell claim	"	"	"
Ross v Conoco, et al (VCM)	"	"	DSCC/OXY
Sabb v Hayward Pool, et al	"	J. Kosch	DSCC/MXS
Turner v Firestone, et al	"	"	DSCC/MXS
Vassar, Jr. v Air Products, et al (VCM)	"	"	DSCC/OXY
Woodward claim	"	B. Olsson	DSCC/MXS
BCME Claims (from Redwood City Plant) Rosario, et al.	Employer's Liab.	R. Burgess	DSCC/MXS

Premises - Asbestos/Other

Allen/Hicks C-L-O-S-E-D

Cleo Abbott v Appalachian Power

Stanley Abbott

J. Beeson

Charles Abrams v AC&S

Ronnie Abrams v Appalachian Power

J. Beeson

Lester Adams v Appalachian Power

J. Beeson

Frank Adams v Amoco C-L-O-S-E-D

Allcorn v Amoco

K. Wall

Armstead v AC&S

Bagley, et al

D. Ledyard

Bently v Shell

"

Borel v Texaco

"

Forrestier v AC&S

"

Jones v Clemtex

"

Doug King v DuPont

K. Wall

Russ King v DuPont

R. Faulk

Conrad Korff

B. Worthington

Taylor v AC&S

Wolfe v Monsanto

Other:

Alvarez v. ISK

DSCC/ISK

Insurance coverage case - DSCC v Anglo French

M. Tierney

SDS Pension Plan dispute

Squire, Sanders

Worker's Comp claims

Charles Koch v Shell Oil, et al.

J. Jones

DSCC/OXY

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# **EXHIBIT C**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

PR

Form 20-F

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: December 31, 2000  
Commission file number: 1-10220

MAR - 9 2001

**Repsol YPF, S.A.**

(Exact name of registrant as specified in its charter)

**Kingdom of Spain**

(Jurisdiction of incorporation of organization)

**Paseo de la Castellana, 278—28046 Madrid, Spain**

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol YPF, S.A., per value €1.00 per share .....	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited .....	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of outstanding shares of each class of stock of Repsol International Capital Limited benefitting from a guarantee of Repsol YPF, S.A. at December 31, 2000 was:

Series A 7.45% non-cumulative guaranteed preference shares ..... 29,000,000

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2000 was:

Ordinary shares, par value €1.00 per share ..... 1,220,863,463

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark which financial statement item the registrant has elected to follow.  
Item 17  Item 18

Please send copies of notices and communications from the Securities and Exchange Commission to:  
NICHOLAS A. KRONFELD  
Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017

REP 13674

## 2. Information about Repsol YPF

### 2.1 Repsol YPF

#### 2.1.1 Overview

Repsol YPF is an integrated oil and gas company engaged in all aspects of the petroleum business, including exploration, development and production of crude oil and natural gas, transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, production of a wide range of petrochemicals and marketing of petroleum products, petroleum derivatives, petrochemicals, liquefied petroleum gas and natural gas.

Repsol YPF began operations in October 1987 as part of a reorganization of the oil and gas businesses then owned by Instituto Nacional de Hidrocarburos, a Spanish government agency which acted as a holding company of government-owned oil and gas businesses. In April 1997, the Spanish State sold in a global public offering its entire remaining participation in Repsol YPF. Two years later and as part of its international growth strategy, Repsol YPF acquired, through a series of acquisitions, a total of 97.81% of the outstanding capital stock of YPF, S.A., a leading Argentine petroleum company and the former state oil and gas monopolist in Argentina. Repsol YPF initially acquired a 14.99% equity stake in YPF from the Argentine government on January 20, 1999. On June 23, 1999, Repsol YPF acquired an additional 82.47% of the outstanding capital stock of YPF pursuant to a tender offer. During the course of the remaining of 1999 and 2000 Repsol YPF acquired additional shares of YPF and, as of December 31, 2000, Repsol YPF owned 99.0% of YPF.

As a result of the acquisition of YPF, Repsol YPF is Spain's largest company in terms of revenues, the largest private sector energy company in Latin America in terms of total assets and one of the world's ten largest oil companies on the basis of market capitalization and proved reserves.

Through the acquisition of YPF, Repsol YPF sought to achieve a balance between upstream and downstream operations, position itself as a market leader in Latin America, achieve operating and capital expenditure synergies and consolidate its business scale and financial strength. As part of its integration strategy, Repsol YPF has begun to dispose of select assets which do not correspond to its core businesses outlined above or to its core geographic areas which include Spain, Latin America and North Africa.

#### 2.1.2 Organization of Repsol YPF

Repsol YPF engages in all aspects of the petroleum business, including the exploration, development and production of crude oil and natural gas, the transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, petrochemical production and the marketing of petroleum products, petroleum derivatives, petrochemicals, LPG and natural gas. Repsol YPF organizes its business into four segments:

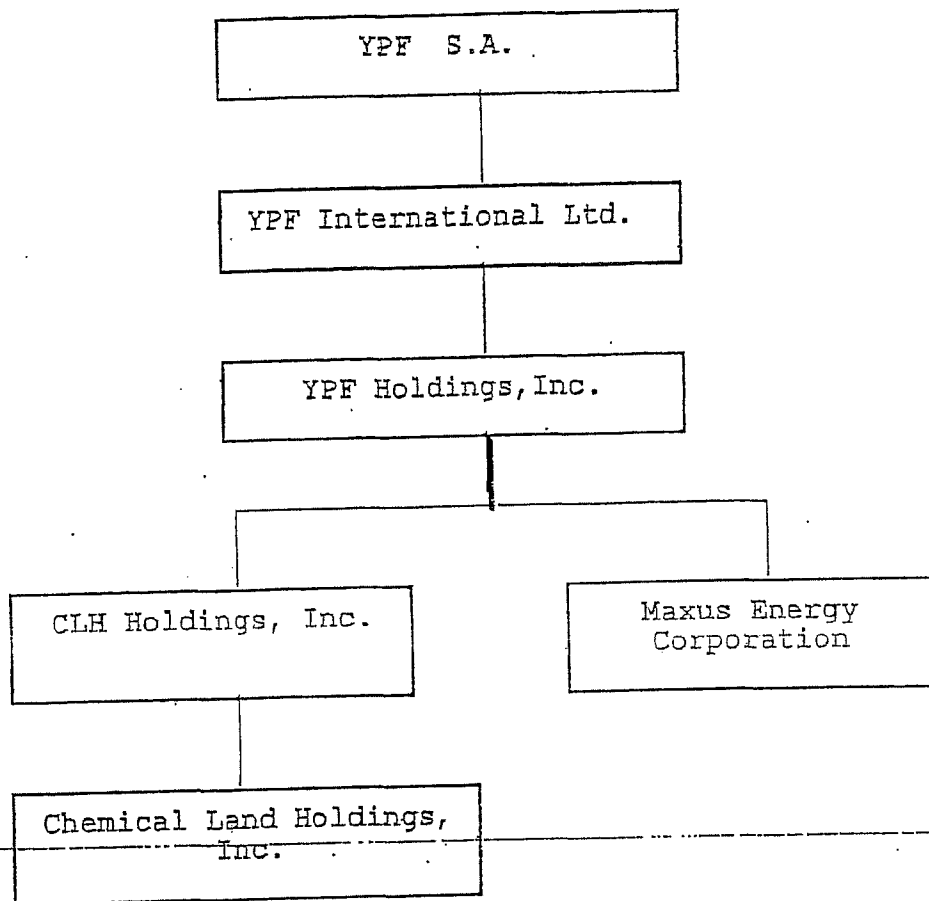
- Exploration and Production (E&P).
- Refining and Marketing.
- Chemicals.
- Gas and Electricity.

Repsol YPF today has operations in 30 countries, most significantly in Spain and Argentina. Repsol YPF has a unified global corporate structure with headquarters in Madrid, Spain and Buenos Aires, Argentina. Repsol YPF manages its business as a single organization at both the operational and organizational levels. Key functions such as strategic planning, control, finance and human resources are

# **EXHIBIT D**



Corporate Structure  
(Effective 8/1/96)



after2.ypf

YPFH 533

# **EXHIBIT E**

---

**AGREEMENT OF MERGER**

**Among**

**YPF Sociedad Anonima /**

**YPF Acquisition Corp.**

**and**

---

**Maxus Energy Corporation**

**February 28, 1995**

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AGREEMENT OF MERGER

AGREEMENT OF MERGER, dated as of February 28, 1995 (the "Agreement"), among YPF Sociedad Anonima, a sociedad anonima organized under the laws of the Republic of Argentina ("Parent"), YPF Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Parent ("Purchaser"), and Maxus Energy Corporation, a Delaware corporation (the "Company").

Parent, Purchaser and the Company hereby agree as follows:

I. THE TENDER OFFER

1.1. The Offer. Provided that this Agreement has not been terminated in accordance with Section 7.1 hereof and none of the events set forth in Exhibit A hereto has occurred or exists, Purchaser will, and Parent will cause Purchaser to, commence (within the meaning of Rule 14d-2(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as promptly as practicable after the date hereof, but in any event not later than March 7, 1995, a tender offer for all outstanding shares of Common Stock, par value \$1.00 per share ("Common Stock"), of the Company at a price of \$5.50 per share, net to the seller in cash. (Such tender offer, as it may be amended from time to time pursuant to this Agreement, is referred to herein as the "Offer.") The Offer will be subject only to the conditions set forth in Exhibit A, including without limitation the conditions that (a) the Board of Directors of the Company, within the time provided in the Rights Agreement, dated as of September 8, 1988, between the Company and AmeriTrust Company National Association

as rights agent (the "Rights Agreement") shall have taken the steps necessary to redeem the preferred stock purchase rights (the "Rights") issued pursuant to the Rights Agreement so that the Rights issued pursuant to the Rights Agreement will not become exercisable as a result of the consummation of the transactions contemplated in this Agreement (such action, the "Redemption") and (b) the number of shares of Common Stock being validly tendered and not withdrawn prior to the expiration date provided in the Offer which, when added to the shares of Common Stock and \$4.00 Cumulative Convertible Preferred Stock, par value \$1.00 per share, of the Company ("\$4.00 Preferred Stock" and, together with the Common Stock, "Voting Stock") beneficially owned by Parent and Purchaser, represent not less than a majority of the shares of Voting Stock outstanding on a Fully Diluted (as hereinafter defined) basis (the "Minimum Share Condition"). For purposes of this Agreement, "Fully Diluted" means the number of shares of Voting Stock outstanding as of the close of business on February 23, 1995, increased by the number of shares of Voting Stock (i) issued between such date and the expiration date of the Offer and (ii) issuable pursuant to the exercise of rights (other than the Rights) to purchase Voting Stock or upon conversion or exchange of other securities, including without limitation the rights and securities listed on Schedule 1.1 (collectively, the "Options and Converts"), reduced, however, by the number of employee stock options and other rights to be cancelled as contemplated by Section 2.6. Any such condition other than the Minimum Share Condition may be waived by Purchaser in its sole

discretion. Purchaser may, at any time, transfer or assign to one or more corporations directly or indirectly wholly owned by Parent the right to purchase all or any portion of the shares of Common Stock tendered pursuant to the Offer, but any such transfer or assignment will not relieve Purchaser of its obligations under the Offer or prejudice the rights of tendering stockholders to receive payment for shares of Common Stock validly tendered and accepted for payment. Purchaser will accept for payment all shares of Common Stock validly tendered pursuant to the Offer and not withdrawn as soon as legally permissible, and pay for all such shares of Common Stock as promptly as practicable thereafter, in each case upon the terms and subject to the conditions of the Offer. Purchaser reserves the right to increase the price per share of Common Stock payable in the Offer or otherwise to amend the Offer; provided, however, that no such amendment may be made that decreases the price per share of Common Stock payable pursuant to the Offer, reduces the minimum number of shares of Common Stock to be purchased in the Offer, imposes additional conditions to the Offer or makes any other change in the terms and conditions of the Offer that is materially adverse to the holders of shares of Common Stock. If the Agreement is terminated pursuant to Section 7.1 hereof, (A) Parent and Purchaser will not, and will cause their subsidiaries and affiliates controlled by them not to, acquire or offer to acquire or request permission to acquire or offer to acquire (either directly or pursuant to a waiver of this or any other covenant) shares of Voting Stock otherwise than pursuant to

the Offer or the Merger (as defined in Section 2.1.1 hereof) for a period of not less than 24 months after termination of this Agreement, without the prior written approval of the Board of Directors of the Company and (B) the provisions of the confidentiality agreement previously entered into (the "Confidentiality Agreement") between the Company and Parent (or one of its affiliates) will continue to apply.

1.2. Company Action. The Company consents to the Offer. As soon as practicable on the date of commencement of the Offer, the Company will file with the Securities and Exchange Commission (the "Commission") and mail to the holders of shares of Common Stock a Solicitation/Recommendation Statement on Schedule 14D-9 pursuant to the Exchange Act (the "Schedule 14D-9"). The Schedule 14D-9 will set forth, and the Company hereby represents, that the Board of Directors of the Company has at a meeting duly called and held and at which a quorum was present and acting throughout, by the requisite vote of all directors present,

(a) determined, based in part on the advice of CS First Boston Corporation ("CSFB") described in the sixth sentence of this Section 1.2, the Company's financial advisor in connection with the Offer and the Merger, that the Offer and the Merger are in the best interests of the Company and its stockholders,

(b) approved the Offer, this Agreement and the Merger, and determined that such approval satisfies the requirements of Section 203(a)(1) of the General Corporation Law of the State of Delaware (the "DGCL") and, as a result, renders inapplicable to the Offer, the Merger and this Agreement the other provisions of

Section 203(a) of the DGCL, (c) subject to the fiduciary duties of the Board of Directors, recommended acceptance of the Offer and adoption of this Agreement by the holders of shares of Common Stock, (d) taken all such action as may be required by law and the Rights Agreement to redeem the Rights, and (e) taken all such action as may be required by law and the Company's Restated Certificate of Incorporation (the "Certificate") so that Sections 1 and 2 of Article Ninth of the Certificate are not applicable to the transactions contemplated in this Agreement and, as a result, the requirements of Sections 1 and 2 of Article Ninth of the Certificate will not apply to the Offer, the Merger and the transactions with Parent and Purchaser contemplated in this Agreement. The Company will provide Purchaser's counsel a reasonable opportunity to review and comment on the Schedule 14D-9 prior to its being filed with the Commission. The Company will provide Purchaser's counsel a copy of any written comments or a summary of telephonic notification of any verbal comments the Company or its counsel may receive from the Commission or its Staff with respect to the Schedule 14D-9 promptly after receipt of such comments and provide Purchaser's counsel with a copy of any written responses and a summary of any such verbal responses. The Company further represents and warrants that CSFB has advised the Board of Directors of the Company that, in the opinion of CSFB as of the date hereof, the consideration to be received by the existing holders of shares of Common Stock pursuant to the Offer and the Merger is fair to such stockholders from a financial point of view. The Company will, and the Board of

Directors of the Company has resolved to, take all actions reasonably requested by Purchaser necessary to exempt the Offer and the Merger from the provisions of any applicable takeover, business combination or control share acquisition law or regulation adopted by any State of the United States of America.

1.3. Stockholder Lists. The Company will promptly furnish Purchaser a list of the holders of Common Stock and mailing labels containing the names and addresses of all record holders relating to Common Stock and lists of securities positions of shares of Common Stock held in stock depositories, each as of a recent date, and will promptly furnish Purchaser with such additional information, including updated lists of stockholders of the Company, mailing labels and lists of securities positions, and such other assistance as Purchaser or its agents may reasonably request in connection with the Offer. Subject to the requirements of law, and except for such steps as are necessary to disseminate the Offer Documents (as defined in Section 3.3 hereof), Parent and Purchaser will hold in confidence the information contained in any of such labels and lists and the additional information referred to in the preceding sentence, will use such information only in connection with the Offer and, if this Agreement is terminated, will upon request deliver to the Company all such written information and any copies or extracts therefrom in its possession or under its control.

1.4. Board of Directors of the Company. Upon Purchaser's acquisition of a majority of the outstanding shares of Voting Stock pursuant to the Offer, and from time to time thereafter so

long as Parent and/or any of its direct or indirect wholly owned subsidiaries (including Purchaser) owns a majority of the outstanding shares of Voting Stock, Parent will be entitled, subject to compliance with applicable law, the Certificate and the provisions of the next sentence, to designate at its option up to that number of directors, rounded up to the nearest whole number, of the Company's Board of Directors as will make the percentage of the Company's directors designated by Parent equal to the percentage of outstanding shares of Voting Stock held by Parent and any of its direct or indirect wholly owned subsidiaries (including Purchaser), including shares of Common Stock accepted for payment pursuant to the Offer. The Company will, upon the request of Parent, promptly increase the size of its Board of Directors and/or use its reasonable best efforts to secure the resignation of such number of directors as is necessary to enable Parent's designees to be elected to the Company's Board of Directors and will use its reasonable best efforts to cause Parent's designees to be so elected, subject in all cases to Section 14(f) of the Exchange Act, it being understood that the Company will have no obligation to comply with Section 14(f) of the Exchange Act until after the Offer is completed in accordance with the terms hereof and that the Company agrees to comply with such Section of the Exchange Act as promptly as practicable thereafter, provided that, prior to the Effective Time (as defined in Section 2.1.2 hereof), the Company will use its reasonable best efforts to assure that the Company's Board of Directors always has (at its election) at least three

members who are directors of the Company as of the date hereof. At such times, the Company will use its reasonable best efforts, subject to any limitations imposed by applicable laws or rules of the New York Stock Exchange, to cause persons designated by Parent to constitute the same percentage as such persons represent on the Company's Board of Directors of (a) each committee of the Board of Directors of the Company, (b) each board of directors or board of management of each subsidiary of the Company, and (c) each committee of each such board.

## II. THE MERGER

2.1.1. Merger. Subject to the terms and conditions hereof, (a) Purchaser will be merged with and into the Company and the separate corporate existence of Purchaser will thereupon cease (the "Merger") in accordance with the applicable provisions of the DGCL and (b) each of the Company and Parent will use its reasonable best efforts to cause the Merger to be consummated as soon as practicable following the expiration of the Offer.

2.1.2. Effective Time. As soon as practicable following fulfillment or waiver of the conditions specified in Article VI hereof, and provided that this Agreement has not been terminated or abandoned pursuant to Section 7.1 hereof, the Company and Purchaser (the "Constituent Corporations") will cause a Certificate of Merger (the "Certificate of Merger") to be filed with the Secretary of State of the State of Delaware as provided in Section 251 of the DGCL. The Merger will become effective on the date on which the Certificate of Merger has been filed with



the Secretary of State of the State of Delaware (the "Effective Time").

2.1.3. Effect of Merger. The Company will be the surviving corporation in the Merger (sometimes hereinafter referred to as the "Surviving Corporation") and will continue to be governed by the laws of the State of Delaware, and the separate corporate existence of the Company and all of its rights, privileges, powers and franchises of a public as well as of a private nature, and being subject to all of the restrictions, disabilities and duties as a corporation organized under the DGCL, will continue unaffected by the Merger. The Merger will have the effects specified in the DGCL. The Certificate and the By-Laws of the Company in effect at the Effective Time will be the Certificate of Incorporation and By-Laws of the Surviving Corporation until duly amended in accordance with their terms and the DGCL. The directors of Purchaser immediately prior to the Effective Time will be the directors of the Surviving Corporation, and the officers of the Company immediately prior to the Effective Time will be the officers of the Surviving Corporation, from and after the Effective Time, until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the terms of Surviving Corporation's Certificate of Incorporation and By-Laws and the DGCL.

2.1.4. Conversion of Shares of Common Stock. At the Effective Time, (a) each then-outstanding share of Common Stock

not owned by Parent, Purchaser or any other direct or indirect subsidiary of Parent (other than those shares of Common Stock held in the treasury of the Company and shares of Common Stock held by stockholders who perfect their appraisal rights under the DGCL) will be cancelled and retired and be converted into a right to receive in cash an amount per share of Common Stock equal to the highest price per share paid for a share of such stock by Purchaser pursuant to the Offer (the "Merger Price"), without interest thereon, (b) each then-outstanding share of Common Stock owned by Parent, Purchaser or any other direct or indirect subsidiary of Parent will be cancelled and retired, and no payment will be made with respect thereto, (c) each share of Common Stock issued and held in the Company's treasury will be cancelled and retired, and no payment will be made with respect thereto, (d) each outstanding share of common stock of Purchaser will, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become one share of common stock of the Surviving Corporation, and (e) each outstanding share of \$4.00 Preferred Stock, \$9.75 Cumulative Convertible Preferred Stock, par value \$1.00 per share ("\$9.75 Preferred Stock"), and \$2.50 Cumulative Preferred Stock, par value \$1.00 per share ("\$2.50 Preferred Stock"), of the Company (collectively, the "Preferred Stock") will remain outstanding and have, as to the Surviving Corporation, the identical powers, preferences, rights, qualifications, limitations and restrictions as such shares of Preferred Stock presently have, except as agreed to by the holder of \$9.75 Preferred Stock.

2.2. Stockholders' Meeting of the Company. The Company will take all action necessary in accordance with applicable law and the Certificate and its By-Laws to convene a meeting of its stockholders as promptly as reasonably practicable following the date hereof to consider and vote upon the adoption of this Agreement, if such stockholder approval is required by applicable law; provided, however, that nothing herein will affect the right of Purchaser to take action by written consent in lieu of a meeting or otherwise to the extent permitted by applicable law. At any such meeting, all shares of Voting Stock then owned by Parent, Purchaser or any other direct or indirect subsidiary of Parent will be voted in favor of adoption of this Agreement. Subject to its fiduciary duties under applicable law, the Board of Directors of the Company will recommend that the Company's stockholders approve adoption of this Agreement if such stockholder approval is required.

2.3. Consummation of the Merger. The closing of the Merger (the "Closing") will take place (a) at the principal executive offices of the Company as promptly as practicable after the later of (i) the business day of (and immediately following) the receipt of approval of adoption of this Agreement by the Company's stockholders if such approval is required, or as soon as practicable after completion of the Offer if such approval by stockholders is not required, and (ii) the day on which the last of the conditions set forth in Article VI hereof is satisfied or duly waived or (b) at such other time and place and on such other date as Purchaser and the Company may agree.

2.4. Payment for Shares of Common Stock. Purchaser will authorize the depository for the Offer (or one or more commercial banks organized under the laws of the United States or any state thereof with capital, surplus and undivided profits of at least \$100,000,000) to act as Paying Agent hereunder with respect to the Merger (the "Paying Agent"). Each holder (other than Parent, Purchaser or any subsidiary of Parent) of a certificate or certificates which prior to the Effective Time represented shares of Common Stock will be entitled to receive, upon surrender to the Paying Agent of such certificate or certificates for cancellation and subject to any required withholding of taxes, the aggregate amount of cash into which the shares of Common Stock previously represented by such certificate or certificates shall have been converted in the Merger. On or before the Effective Time, Purchaser will make available to the Paying Agent sufficient funds to make all payments pursuant to the preceding sentence. Pending payment of such funds to the holders of shares of Common Stock, such funds shall be held and invested by the Paying Agent as Parent directs. Any net profit resulting from, or interest or income produced by, such investments will be payable to the Surviving Corporation or Parent, as Parent directs. Parent will promptly replace any monies lost through any investment made pursuant to this Section 2.4. Until surrendered to the Paying Agent, each certificate which immediately prior to the Effective Time represented outstanding shares of Common Stock (other than shares of Common Stock owned by Parent, Purchaser or any other direct or indirect subsidiary

of Parent and shares of Common Stock held by stockholders who perfect their appraisal rights under the DGCL) (a "Stock Certificate") will be deemed for all corporate purposes to evidence only the right to receive upon such surrender the aggregate amount of cash into which the shares of Common Stock represented thereby will have been converted, subject to any required withholding of taxes. No interest will be paid on the cash payable upon the surrender of the Stock Certificate or Stock Certificates. Any cash delivered or made available to the Paying Agent pursuant to this Section 2.4 and not exchanged for Stock Certificates within three months after the Effective Time will be returned by the Paying Agent to the Surviving Corporation which thereafter will act as Paying Agent, subject to the rights of holders of unsurrendered Stock Certificates under this Article II, and any former stockholders of the Company who have not theretofore complied with the instructions for exchanging their Stock Certificates will thereafter look only to the Surviving Corporation for payment of their claim for the consideration set forth in Section 2.1, without any interest thereon, but will have no greater rights against the Surviving Corporation (or either Constituent Corporation) than may be accorded to general creditors thereof under applicable law. Notwithstanding the foregoing, neither the Paying Agent nor any party hereto will be liable to a holder of shares of Common Stock for any cash or interest thereon delivered to a public official pursuant to applicable abandoned property laws. Promptly after the Effective Time, the Paying Agent will mail to each record holder of Stock

Certificates a form of letter of transmittal (the "Transmittal Letter") and instructions for use thereof in surrendering such Stock Certificates which will specify that delivery will be effected and risk of loss and title to the Stock Certificates will pass to the Paying Agent only upon proper delivery of the Stock Certificates to the Paying Agent in accordance with the terms of delivery specified in the Transmittal Letter and instructions for use thereof in surrendering such Stock Certificates and receiving the applicable Merger Price for each share of Common Stock previously represented by such Stock Certificates. From and after the Effective Time, holders of Stock Certificates immediately prior to the Merger will have no right to vote or to receive any dividends or other distributions with respect to any shares of Common Stock which were theretofore represented by such Stock Certificates, other than any dividends or other distributions payable to holders of record as of a date prior to the Effective Time, and will have no other rights other than as provided herein or by law.

2.5. Closing of the Company's Transfer Books. At the Effective Time, the stock transfer books of the Company will be closed with respect to Common Stock and no transfer of shares of Common Stock will thereafter be made. If, after the Effective Time, Stock Certificates are presented to the Surviving Corporation, they will be cancelled, retired and exchanged for cash as provided in Section 2.4 hereof.

2.6. The Company Stock Options and Related Matters. The Company will cooperate with Parent and Purchaser in an effort to

obtain the surrender of all options to purchase shares of Common Stock and other rights (collectively, "Options") granted pursuant to the 1992 Director Stock Option Plan, the 1992 Long-Term Incentive Plan, the 1986 Long-Term Incentive Plan, the 1980 Long-Term Incentive Plan or any other plans in effect as of the date hereof (collectively, the "Option Plans") in accordance with the provisions of Schedule 2.6. Effective immediately prior to the Effective Time, the restrictions on all shares of restricted Common Stock identified in Schedule 2.6 will lapse without further action.

III. REPRESENTATIONS AND WARRANTIES OF PARENT AND PURCHASER

Parent and Purchaser hereby jointly and severally represent and warrant to the Company that:

3.1. Corporate Organization. Each of Parent and Purchaser is a corporation duly organized, validly existing and in good standing under the laws of its state or other jurisdiction of incorporation and has all requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as it is now being conducted, except where the failure to have such power or authority would not individually or in the aggregate have a material adverse effect on the financial condition, properties, business or results of operations of Parent and Purchaser, taken as a whole. Parent beneficially owns all of the outstanding capital stock of Purchaser.

3.2. Authority. Each of Parent and Purchaser has the requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated

hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly approved by the respective Boards of Directors of Parent and Purchaser and by Parent as the sole stockholder of Purchaser, and no other corporate proceedings on the part of Parent or Purchaser are necessary to consummate the transactions so contemplated. This Agreement has been duly executed and delivered by each of Parent and Purchaser and constitutes a valid and binding obligation of each of Parent and Purchaser, enforceable against Parent and Purchaser in accordance with its terms.

3.3. Offer Documents. The documents (the "Offer Documents") pursuant to which the Offer will be made, including the Schedule 14D-1 filed by Purchaser pursuant to the Exchange Act (the "Schedule 14D-1"), will comply as to form in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder. The information contained in the Offer Documents (other than information supplied in writing by the Company expressly for inclusion in the Offer Documents) will not, at the respective times the Schedule 14D-1 or any amendments or supplements thereto are filed with the Commission, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Purchaser will promptly correct any statements in the Schedule 14D-1 and the Offer Documents that have become false or misleading and take all steps necessary to cause such Schedule



14D-1 as so corrected to be filed with the Commission and such Offer Documents as so corrected to be disseminated to holders of shares of Common Stock, in each case as and to the extent required by applicable law.

3.4. Proxy Statement. None of the information to be supplied by Parent or Purchaser in writing expressly for inclusion in a proxy or information statement of the Company required to be mailed to the Company's stockholders in connection with the adoption of this Agreement (the "Proxy Statement"), or in any amendments or supplements thereto will, at the time of (a) the first mailing thereof and (b) the meeting, if any, of stockholders to be held in connection with the adoption of this Agreement, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

3.5. Fees. In no event, including without limitation termination of this Agreement and abandonment of the Merger pursuant to Section 7.1 hereof, will the Company or any of its subsidiaries, prior to the Merger, be obligated to pay any fee or commission to any financial advisor, broker, finder or intermediary in connection with the transactions contemplated hereby pursuant to or as a consequence of any agreement or commitment of Parent, Purchaser or any of their respective affiliates.

3.6. Consents and Approvals; No Violation. Except as set forth in Schedule 3.6, neither the execution and delivery of this

Agreement by Parent and Purchaser nor the consummation by Parent and Purchaser of the transactions contemplated hereby will (a) conflict with or result in any breach of any provision of their respective certificates of incorporation or by-laws (or comparable governing instruments), (b) violate, conflict with, constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in the creation of any lien or other encumbrance upon any of the properties or assets of Parent or any of its subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease agreement or other instrument or obligation to which Parent or any such subsidiary is a party or to which they or any of their respective properties or assets are subject, except for such violations, conflicts, breaches, defaults, terminations, accelerations or creations of liens or other encumbrances, which, individually or in the aggregate, will not have a material adverse effect on the business, financial condition or results of operations of Parent and its subsidiaries, taken as a whole, or (c) require any consent, approval, authorization or permit of or from, or filing with or notification to, any court, governmental authority or other regulatory or administrative agency or commission, domestic or foreign ("Governmental Entity"), except (i) pursuant to the Exchange Act, (ii) filing certificates of merger pursuant to the DGCL and the laws of any other state, (iii) filings required under the securities or blue sky laws of

the various states, (iv) filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (v) consents, approvals, authorizations, permits, filings or notifications under laws and regulations of various foreign jurisdictions, other than Argentina and its provinces, or (vi) consents, approvals, authorizations, permits, filings or notifications which if not obtained or made will not, individually or in the aggregate, have a material adverse effect on the business, financial condition or results of operations of Parent and its subsidiaries, taken as a whole.

3.7. Financing. Prior to the execution of this Agreement by the parties hereto, Parent executed a commitment letter with Chase Manhattan Bank, N.A. (the "Commitment"), a copy of which has been previously furnished to the Company, providing for up to \$800 million of acquisition financing. As of the date hereof, the executive officers of Parent have no reason to believe that any condition to the financing contemplated by the Commitment will not be satisfied in accordance with the terms of the Commitment. Parent and Purchaser hereby covenant that they will use their respective reasonable best efforts to obtain the financing contemplated by the Commitment.

3.8. Operations of the Company Following the Merger. Based upon, among other things, Parent's review of the Company's financial condition and operations, the Company's business plan and the representations made by the Company in this Agreement, the financial condition of Parent and its subsidiaries and Parent's and Purchaser's present plans with respect to the

Company and its subsidiaries following the Merger, Parent has no reason to believe that, following the consummation of the Merger and the completion of the financings contemplated by the Commitment, the Company will not be able to meet its obligations as they come due, including solely for purposes of this representation preferred stock dividend and mandatory redemption payments.

IV. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to each of Parent and Purchaser that:

4.1. Corporate Organization. The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation and is in good standing as a foreign corporation in each jurisdiction where failure to so qualify or be in good standing is reasonably likely to have a material adverse effect on the financial condition, properties, business or results of operation of the Company and its subsidiaries, taken as a whole. The Company has the requisite corporate power to own, lease and operate its properties and assets and to carry on its businesses as they are now being conducted. The Company has furnished Parent true and correct copies of the certificate of incorporation and by-laws (or other governing instruments), as amended to the date hereof, of the Company and each of its subsidiaries (except the inactive subsidiaries identified as such on Schedule 4.1). The Company's and each subsidiary's certificate of incorporation and by-laws

(or other governing instruments) as so delivered are in full force and effect.

4.2. Capitalization. As of the date hereof, the authorized capital stock of the Company consists of (i) 300,000,000 shares of Common Stock and (ii) 100,000,000 shares of Preferred Stock. As of the close of business on February 23, 1995, (a) 135,497,705 shares of Common Stock were validly issued and outstanding, fully paid and nonassessable and not subject to preemptive rights, (b) 4,358,658 shares of \$4.00 Preferred Stock were validly issued and outstanding, fully paid and nonassessable, (c) 1,250,000 shares of \$9.75 Preferred Stock were validly issued and outstanding, fully paid and nonassessable, and (d) 3,500,000 shares of \$2.50 Preferred Stock were validly issued and outstanding, fully paid and nonassessable. Since such date, the Company has not issued any additional shares of capital stock other than pursuant to (i) the exercise or conversion of Options and Converts, (ii) the Company's Employee Shareholding and Investment Plan (the "401(k) Plan"), or (iii) the Company's Director Stock Compensation Plan (the "Director Plan"). Except for the Options and Converts, the Rights, shares issued pursuant to the Director Plan and as otherwise set forth in this Section 4.2, there are not now, and at the Effective Time there will not be, any shares of capital stock of the Company authorized, issued or outstanding and there are not now, and at the Effective Time there will not be, any outstanding subscriptions, options, warrants, rights, convertible securities or any other agreements or commitments of any character relating

to the issued or unissued capital stock or other securities of the Company obligating the Company to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock of the Company or obligating the Company to grant, extend or enter into any subscription, option, warrant, right, convertible security or other similar agreement or commitment. Except as set forth in this Section 4.2, on Schedule 4.2 or otherwise in this Agreement, and except for provisions in employee plans relating to the pass-through of voting rights, there are not now, and at the Effective Time there will not be, any voting trusts or other agreements or understandings to which the Company or any subsidiary of the Company is a party or is bound with respect to the voting of the capital stock of the Company.

4.3. Authority. The Company has the requisite corporate power and authority to enter into this Agreement and, except for any required adoption of this Agreement by the holders of the Voting Stock, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly approved by the Board of Directors of the Company and no other corporate proceedings on the part of the Company are necessary to enter into this Agreement or to consummate the transactions so contemplated, subject only, to the extent required with respect to the consummation of the Merger, to adoption of this Agreement, if necessary, by the holders of Voting Stock. This Agreement has been duly executed and

delivered by, and constitutes a valid and binding obligation of, the Company, enforceable against the Company in accordance with its terms.

4.4. Consents and Approvals; No Violation. Neither the execution and delivery of this Agreement by the Company nor the consummation by the Company of the transactions contemplated hereby will (a) conflict with or result in any breach or violation of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in the creation of any lien or other encumbrance upon any of the properties or assets of the Company or any of its subsidiaries under, any of the terms, conditions or provisions of (i) their respective certificates of incorporation or by-laws or (ii) any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any such subsidiary is a party or to which they or any of their respective properties or assets are subject, except for such violations, conflicts, breaches, defaults, terminations, accelerations or creations of liens or other encumbrances which are set forth on Schedule 4.4 or which, individually or in the aggregate, will not have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole, or (b) require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, except (i) pursuant to

the Exchange Act, (ii) filing certificates of merger pursuant to the DGCL and the laws of any other state, (iii) filings required under the securities or blue sky laws of the various states, (iv) filings under the HSR Act, (v) consents, approvals, authorizations, permits, filings or notifications under laws and regulations of various foreign jurisdictions listed or described on Schedule 4.4, and (vi) consents, approvals, authorizations, permits, filings or notifications which if not obtained or made will not, individually or in the aggregate, have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

4.5. Commission Filings. The Company has heretofore filed all statements, forms, reports and other documents with the Commission required to be filed pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and the Exchange Act since January 1, 1993, and has made available to Parent copies of all such statements, forms, reports and other documents, including without limitation each registration statement, Current Report on Form 8-K, proxy or information statement, Annual Report on Form 10-K and Quarterly Report on Form 10-Q filed during such period (in the case of each such report, including all exhibits thereto) (the "SEC Documents"). The SEC Documents, as of their respective filing dates, complied as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and did not (as of their respective filing dates) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary



in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The audited and unaudited consolidated financial statements, together with the notes thereto, of the Company included (or incorporated by reference) in the SEC Documents present fairly, in all material respects, the financial position of the Company and its consolidated subsidiaries as of the dates thereof and the results of their operations and changes in financial position for the periods then ended in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis (except as stated in such financial statements), subject, in the case of the unaudited financial statements, to normal year-end audit adjustments.

4.6. Absence of Certain Changes. Except as disclosed in the SEC Documents, as disclosed to Parent by the Company in a writing which makes express reference to this Section 4.6 or as set forth on Schedule 4.6, since December 31, 1994, the Company and its subsidiaries have conducted their respective businesses only in the ordinary course, and there has not been (a) any event or change having or that is reasonably expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole, (b) in the case of the Company, any declaration, setting aside or payment of any dividend or other distribution with respect to its capital stock, other than the regular cash dividends on shares of \$4.00 Preferred Stock, \$9.75 Preferred Stock and \$2.50 Preferred Stock, or relating to the redemption of

the Rights as herein contemplated, (c) in the case of the Company, any change by the Company in accounting principles used for purposes of financial reporting, (d) any entry into any agreement or understanding, whether written or (if enforceable) oral, between the Company or any of its subsidiaries on the one hand, and any of their respective employees at Pay Grade 12 or above ("Senior Executives"), on the other hand, providing for the employment of any such Senior Executive or any severance or termination benefits payable or to become payable by the Company or any subsidiary to any Senior Executive, or (e) except as permitted by this Agreement, any increase (including any increase effective in the future) in (i) the compensation, severance or termination benefits payable or to become payable by the Company or any subsidiary to any Senior Executive (or any increase in benefits under any change in control severance arrangement applicable to employees of the Company and its subsidiaries, generally) or (ii) any bonus, insurance, pension or other employee benefits (including without limitation the granting of stock options, stock appreciation rights or restricted stock awards) made to, for or with any Senior Executive, except for normal increases associated with regular annual performance evaluations in the ordinary course of business or normal accruals of benefits under the terms of any such plan or arrangement.

4.7. Litigation. Except as disclosed in SEC Documents filed prior to the date of this Agreement or on Schedule 4.7, there is no suit, action, investigation or proceeding pending, or, to the knowledge of the executive officers of the Company,

threatened against or affecting the Company or any subsidiary of the Company which is reasonably expected to have a material adverse effect on the Company and its subsidiaries taken as a whole, nor is there any judgment, decree, injunction, rule or order of any Governmental Entity or arbitrator outstanding against the Company having, or which, insofar as reasonably can be foreseen, in the future would have, any such effect.

4.8. Compliance with Applicable Laws. The Company and each of its subsidiaries hold, and at all relevant times have held, all material licenses, franchises, permits and authorizations necessary for the lawful conduct of its business substantially as it is currently conducted. Except as required to be disclosed in the SEC Documents filed prior to the date of this Agreement or as to matters for which reserves have been established and which reserves have been disclosed to Purchaser, to the knowledge of the executive officers of the Company, the businesses of the Company and its subsidiaries are not presently being conducted, and to the knowledge of the executive officers of the Company, have not previously been conducted, in violation of any law, ordinance or regulation of any Governmental Entity, except for possible violations which individually or in the aggregate do not, and, insofar as reasonably can be foreseen, in the future will not, have a material adverse effect on the Company and its subsidiaries taken as a whole. Except as described in SEC Documents filed prior to the date of this Agreement, no investigation or review by any Governmental Entity concerning any such possible violations by the Company or any of its

subsidiaries is pending or, to the knowledge of the executive officers of the Company, threatened, nor has any Governmental Entity indicated an intention to conduct the same in each case other than those the outcome of which will not have a material adverse effect on the Company and its subsidiaries taken as a whole.

4.9. Fees. Except as will be set forth in the Schedule 14D-9, neither the Company nor any of its subsidiaries has paid or become obligated to pay any fee or commission to any financial advisor, broker, finder or intermediary in connection with the transactions contemplated hereby. The Company has previously furnished Parent a copy of its engagement letter with CSFB.

4.10. Offer Documents. None of the information supplied by the Company or its subsidiaries in writing expressly for inclusion in the Offer Documents or in any amendments thereto or supplements thereto will, at the time supplied or upon the expiration of the Offer, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

4.11. Schedule 14D-9. The Schedule 14D-9 will comply as to form in all material respects with the applicable requirements of the Exchange Act and the rules and regulations thereunder and will not, at the respective times the Schedule 14D-9 or any amendments thereto or supplements thereto are filed with the Commission, contain any untrue statement of a material fact or

omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Company will promptly correct any statements in the Schedule 14D-9 that have become materially false or misleading and take all steps necessary to cause such Schedule 14D-9 as so corrected to be filed with the Commission and to be disseminated to holders of shares of Voting Stock, in each case as and to the extent required by applicable law.

4.12. Proxy Statement. The Proxy Statement and all amendments and supplements thereto will comply as to form in all material respects with the applicable requirements of the Exchange Act and the rules and regulations thereunder and will not, at the time of (a) the first mailing thereof and (b) the meeting, if any, of stockholders to be held in connection with the Merger, together with any amendments and supplements thereto, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, except that no representation is made by the Company with respect to information supplied in writing by Parent or any affiliate of Parent expressly for inclusion in the Proxy Statement.

4.13. Rights. The Company has, or prior to the commencement of the Offer shall have, taken the necessary steps to redeem prior to the close of business on the 20th calendar day after commencement of the Offer all of the outstanding Rights

issued pursuant to the Rights Agreement in accordance with the terms of the Rights Agreement and applicable law.

4.14. Certain Actions. The actions referred to in Section 1.2 have been duly taken by the Board of Directors of the Company prior to the date hereof.

4.15. Subsidiaries. (a) Each subsidiary of the Company is a corporation or other legal entity duly incorporated or organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization, has all requisite corporate or similar power and authority to own its properties and assets and to carry on its business as now conducted except where the failure to have such power and authority would not have a material adverse effect on the financial condition, properties, business or results of operations of the Company and its subsidiaries taken as a whole. Each subsidiary of the Company is duly qualified to do business as a foreign corporation or other legal entity and is in good standing in each jurisdiction where the character of the property owned or leased by it or the nature of its activities make such qualification necessary, except for those jurisdictions where failure to be so qualified or in good standing would not, individually or in the aggregate, have a material adverse effect on the financial condition, properties, business or results of operations of the Company and its subsidiaries taken as a whole. Schedule 4.15(a) sets forth the name, jurisdiction of incorporation or organization, capitalization and equity holders of each subsidiary of the Company. Except as disclosed in

Schedule 4.15(a) and except for insignificant equity or other interests received in the ordinary course of business of the Company, the Company does not own, directly or indirectly, or have voting rights with respect to, any capital stock or other equity securities of any corporation or have any direct or indirect equity or ownership interest in any business.

(b) Except as disclosed on Schedule 4.15(a) or 4.15(b), or as may be disclosed on the certificates representing the capital stock of the subsidiaries of the Company or provided pursuant to the terms of partnership agreements, joint venture agreements or other constituent documentation, copies of which have been provided or made available to representatives of Parent, and except as may be required under the securities laws of any jurisdiction, (i) all of the outstanding capital stock of, or other ownership interests in, each subsidiary of the Company, has been validly issued, is (in the case of capital stock) fully paid and nonassessable and (in the case of partnership interests) not subject to current or future capital calls, and is owned by the Company, directly or indirectly, free and clear of any lien and free of any other charge, claim, encumbrance, limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other ownership interests) and (ii) there are not now, and at the Effective Time there will not be, any outstanding subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character relating to the issued or unissued capital stock or other securities of any of the

Company's subsidiaries, or otherwise obligating the Company or any such subsidiary to issue, transfer or sell any such securities or to make any payments in respect of any of its securities or its equity.

4.16. No Default. Neither the Company nor any of its subsidiaries which would be a "significant subsidiary" within the meaning of Regulation S-X (a "Significant Subsidiary") is in default or violation (and no event has occurred which with notice or the lapse of time or both would constitute a default or violation) of any term, condition or provision of (a) the Certificate or the By-Laws of the Company, (b) the organizational documentation of any Significant Subsidiary, or (c) except as set forth in Schedule 4.16, any note, bond, mortgage, indenture, license, contract, franchise, permit, lease, agreement or other instrument or obligation to which the Company or any of its Significant Subsidiaries is a party or by which they or any of their properties or assets may be bound, except for defaults or violations which, in the case of clauses (b) or (c) of this sentence, will not, individually or in the aggregate, have a material adverse effect on the financial condition, properties, business or results of operations of the Company and its Significant Subsidiaries taken as a whole.

4.17. Taxes. (a) Except as set forth in Schedule 4.17, the Company has filed all federal, state, local and foreign tax returns required to be filed by itself and by each of its and any member of its consolidated, combined or similar group (each such member a "Tax Affiliate") and by any of the Company's



subsidiaries and has paid or caused to be paid, or has made adequate provision or set up adequate accruals or reserves which, in the aggregate, are adequate under GAAP in respect of, liabilities for taxes required to be paid in respect of the periods for which returns are due, and has established (or will establish at least quarterly) similar accruals or reserves for the payment of all taxes payable in respect of periods subsequent to the last of such periods required to be so accrued or reserved, as the case may be. Except as set forth in Schedule 4.17, neither the Company nor any of its Tax Affiliates or subsidiaries has entered into any written agreement or other document waiving or extending the time to assess any taxes due to any United States jurisdiction ("Domestic Taxes") nor, to the knowledge of the executive officers of the Company, has any such entity entered into any such agreement or other document in respect of any tax due to any jurisdiction outside the United States. Except as set forth in Schedule 4.17, the tax returns of the Company, its Tax Affiliates and subsidiaries of the Company relating to Domestic Taxes are not under active audit by the Internal Revenue Service or any comparable state or local agency. The open taxable years of the Company, its Tax Affiliates and its subsidiaries relating to United States federal income taxes are set forth in Schedule 4.17. At no time within the last five years, and to the knowledge of the executive officers of the Company, (i) at no time in the preceding eight years, have the Company, any of its Tax Affiliates or any of its subsidiaries ever filed a consent under Section 341(f) of the Internal Revenue

Code of 1986, as amended (the "Code"), concerning collapsible corporations, (ii) except as set forth on Schedule 4.17, none of the Company, any of its Tax Affiliates or any of its subsidiaries has made any payments, is obligated to make any payments, or is a party to any agreement that under certain circumstances obligates it to make any payments that will not be deductible under Sections 280G or 162(m) of the Code; provided, however, that the foregoing representation will not apply to any payments made as a result of this Agreement or the transactions contemplated hereby, (iii) the Company is not currently a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code, (iv) each of the Company, each of its Tax Affiliates and each of its subsidiaries has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a material understatement of federal income tax within the meaning of Section 6662 of the Code, (v) none of the Company, any of its Tax Affiliates or any of its subsidiaries is a party to any tax allocation or sharing agreement other than as set forth in Schedule 4.17, and (vi) none of the Company, any of its Tax Affiliates or any of its subsidiaries (A) has been a member of an affiliated group filing a consolidated federal income tax return (other than a group the common parent of which was the Company) for any open taxable year or (B) has any liability for the taxes of any person or entity (other than any of the Company and any of its Affiliates and any of its subsidiaries) under Treas. Reg. § 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract, or otherwise

except as set forth in Schedule 4.17 or as otherwise disclosed to Purchaser.

(b) For the purposes of this Section, (i) the term "tax" means income, gross receipts, payroll, employment, excise, severance, stamp, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax of any kind, levies, penalties, or interest imposed by any United States federal, state, local and foreign or other taxing authority on the Company or any of its Tax Affiliates, and (ii) the term "tax return" includes any return, declaration, claim for refund or information return relating to taxes, including without limitation any schedule or attachment thereto and including any amendment thereof.

4.18. Insurance. Schedule 4.18 lists all insurance policies carried by the Company or any of its subsidiaries insuring occurrences or claims on or made on the date hereof. There is no default by the Company or any subsidiary with respect to any provision contained in any such insurance policy which would permit the denial of coverage or cancellation of coverage thereunder, except for defaults or failures which, individually or in the aggregate, would not have a material adverse effect on the Company and its subsidiaries taken as a whole.

4.19. Benefit Plans. (a) Schedule 4.19(a) lists (i) the material "employee benefit plans" (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), which the Company or any of its subsidiaries maintains or sponsors or with respect to which the Company or any of its subsidiaries has any material liability (actual or contingent, primary or secondary), and (ii) all other (A) employee benefit plans, programs or arrangements, (B) stock purchase, stock option, severance, bonus, incentive and deferred compensation plans, (C) written employment contracts, and (D) change-in-control agreements which the Company or any of its subsidiaries maintains, sponsors or is a party to or with respect to which the Company or any of its subsidiaries has any material liability. (The plans, programs, arrangements, contracts and agreements referred to in the preceding sentence are collectively referred to herein as the "Benefit Plans.")

(b) Except as set forth on Schedule 4.19(b), (i) the reserves reflected in the balance sheet contained in the audited financial statements for the period ending December 31, 1994 (together with all footnotes attached thereto, the "Balance Sheet") relating to any unfunded benefits under the Benefit Plans were adequate in the aggregate under GAAP as of December 31, 1994 and (ii) neither the Company nor any of its subsidiaries has incurred any material unfunded liability in respect of any such plans since that date.

(c) There are no suits or claims pending or, to the knowledge of the Company's executive officers, threatened

relating to or for benefits under the Benefit Plans, except for those suits or claims set forth on Schedule 4.19(c) or which, individually or in the aggregate, will not have a material adverse effect on the business, financial condition or results of operation of the Company or its subsidiaries, taken as a whole.

(d) (i) Each Benefit Plan has been established and administered in all material respects in accordance with its terms, and in all material respects in compliance with the applicable provisions of ERISA, the Code and other applicable laws, rules and regulations and (ii) each Benefit Plan which is intended to be qualified within the meaning of Code Section 401(a) is so qualified and nothing has occurred, to the knowledge of the executive officers of the Company, whether by action or failure to act, which is reasonably expected to cause the loss of such qualification except where such loss of qualification would not have a material adverse effect on the business, financial condition or results of operation of the Company or its subsidiaries, taken as a whole.

(e) Except as set forth on Schedule 4.19(e), (i) no Benefit Plan currently has any "accumulated funding deficiency" as such term is defined in ERISA Section 302 and Code Section 412 (whether or not waived); (ii) to the knowledge of the executive officers of the Company, no event or condition exists which is a reportable event within the meaning of ERISA Section 4043 with respect to any Benefit Plan that is subject to Title IV of ERISA; (iii) each member of the Company's Controlled Group (as defined below) has made all required premium payments when due to the

Pension Benefit Guaranty Corporation ("PBGC"); (iv) neither the Company nor any member of its Controlled Group is subject to any liability to the PBGC for any plan termination; (v) no amendment has occurred which requires the Company or any member of its Controlled Group to provide security pursuant to Code Section 401(a)(29); and (vi) neither the Company nor any member of its Controlled Group has engaged in a transaction which is reasonably likely to subject it to liability under ERISA Section 4069, except, in each case, where any such circumstance will not have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole. For the purposes of this Section 4.19, the term "Controlled Group" means all corporations, trades or businesses which, together with the Company, are treated as a single employer under Section 414 of the Code.

(f) No Benefit Plan is a multiemployer plan (within the meaning of Section 3(37) of ERISA) and neither the Company nor any member of its Controlled Group is reasonably likely to incur any liability to any multiemployer plan nor is engaged in a transaction which is reasonably expected to subject the Company to any material liability under ERISA Section 4212(c).

4.20. Labor Matters. Except as set forth in Schedule 4.20, (a) neither the Company nor any of its subsidiaries is party to an unexpired collective bargaining agreement or other unexpired material contract or agreement with any labor organization or other representative of employees nor is any such contract being negotiated; (b) there is no material unfair labor practices

charge or complaint pending nor, to the knowledge of the executive officers of the Company, threatened, with regard to employees of the Company or any of its subsidiaries; (c) there is no labor strike, material organized slowdown, material organized work stoppage or other material organized labor controversy in effect or, to the knowledge of the executive officers of the Company, threatened against the Company or any of its subsidiaries; (d) as of the date hereof, to the knowledge of the executive officers of the Company, no representation question exists and no campaigns are being conducted to solicit cards from the employees of the Company or any subsidiary of the Company to authorize representation by any labor organization; (e) neither the Company nor any subsidiary of the Company is party to, or is otherwise bound by, any consent decree with any governmental authority relating to employees or employment practices of the Company or any subsidiary of the Company which is material to the Company or its subsidiaries taken as a whole; and (f) the Company and each subsidiary of the Company is in compliance with all applicable agreements, contracts and policies relating to employment, employment practices, wages, hours and terms and conditions of employment of the employees except where failure to be in compliance with each such agreement, contract and policy is not, individually or in the aggregate, reasonably likely to have a material adverse effect on the financial condition, properties, business or results of operations of the Company and its subsidiaries taken as a whole.

4.21. Certain Environmental Matters. To the knowledge of the executive officers of the Company, (a) the reserves reflected in the Balance Sheet relating to environmental matters were adequate under GAAP as of December 31, 1994, and neither the Company nor any of its subsidiaries has incurred any material liability in respect of any environmental matter since that date, and (b) the SEC Documents include all information relating to environmental matters required to be included therein under the rules and regulations of the Commission applicable thereto.

#### V. COVENANTS

5.1. Acquisition Proposals. Neither the Company nor any of its subsidiaries may, directly or indirectly, and each will instruct and otherwise use its reasonable best efforts to cause its affiliates that are controlled by the Company, and the officers, directors, employees, agents or advisors or other representatives or consultants of the Company not to, encourage, solicit, initiate, engage or participate in discussions or negotiations with, or provide information to, any Person (as hereafter defined) (other than Parent, Purchaser or subsidiaries, affiliates or representatives of any of the foregoing) in connection with any tender offer, exchange offer, merger, consolidation, business combination, sale of substantial assets, sale of securities, liquidation, dissolution or similar transaction involving the Company or any of its subsidiaries or divisions, including, without limitation, Midgard Energy Company. Notwithstanding the foregoing, the Company may do any of the foregoing if outside counsel to the Company advises the Company's



Board of Directors that any such action is required for the Company's directors to satisfy their fiduciary duties to the Company and its constituencies under applicable law. The Company will (a) promptly notify Parent in the event of any discussion, negotiation, proposal or offer of the type referred to in the first sentence of this Section 5.1 or any decision to furnish information or take any other action referred to in the second sentence of this Section 5.1 and (b) promptly furnish Parent copies of all written information furnished to any Person pursuant to the second sentence of this Section 5.1 to the extent not previously furnished to Parent.

5.2. Interim Operations. During the period from the date of this Agreement to the earlier of the time that the designees of Parent have been elected to, and constitute a majority of, the Board of Directors of the Company pursuant to Section 1.4 hereof or the Effective Time, except as specifically contemplated by this Agreement, as set forth in Schedule 5.2 or as otherwise approved by Parent in a writing which makes express reference to this Section 5.2:

5.2.1. Conduct of Business. The Company will, and will cause each of its subsidiaries to, conduct their respective businesses only in, and not take any action except in, the ordinary and usual course of business substantially consistent with past practice. The Company will use reasonable efforts to preserve intact the business organization of the Company and each of its subsidiaries, to keep available the services of its and their present

officers and key employees and to preserve the goodwill of those having business relationships with it or its subsidiaries.

5.2.2. Certificate and By-Laws. The Company will not and will not permit any of its subsidiaries to make or propose any change or amendment to their respective certificates of incorporation or by-laws (or comparable governing instruments), except as may be required by law.

5.2.3. Capital Stock. The Company will not and will not permit any of its subsidiaries to authorize for issuance, issue, sell or deliver any shares of capital stock or any other securities of any of them (other than pursuant to the Options, Options and Converts, the \$4.00 Preferred Stock, the \$9.75 Preferred Stock or the 401(k) Plan or the issuance of shares issued under the terms of the Director Plan in a manner consistent with any such plan or past practice) or issue any securities convertible into or exchangeable for, or options, warrants to purchase, scrip, rights to subscribe for, calls or commitments of any character whatsoever relating to, or enter into any contract with respect to the issuance of, any shares of capital stock or any other securities of any of them (other than pursuant to the Options, Options and Converts, the \$4.00 Preferred Stock, the \$9.75 Preferred Stock, the 401(k) Plan (or in connection with the 401(k) Plan or the Director Plan as aforesaid), purchase or otherwise acquire or enter into any contract with respect to the purchase or voting of shares of

their capital stock, or adjust, split, combine or reclassify any of their capital stock or other securities, or make any other changes in their capital structures.

5.2.4. Dividends. The Company will not and will not permit any of its subsidiaries to declare, set aside, pay or make any dividend or other distribution or payment (whether in cash, stock or property) with respect to, or purchase or redeem, any shares of the capital stock of any of them other than (a) regular quarterly cash dividends on the \$4.00 Preferred Stock, the \$9.75 Preferred Stock and the \$2.50 Preferred Stock, (b) dividends, distributions or payments paid by its subsidiaries to the Company or its subsidiaries with respect to their capital stock, (c) the Rights in accordance with the Rights Agreement, and (d) loans and payments from the Company to any of its subsidiaries or from any of such subsidiaries to the Company or another such subsidiary.

5.2.5. Debt. Except as set forth in Schedule 5.2.5, the Company and its subsidiaries will not, except in the ordinary course of business, (a) incur or assume any indebtedness, (b) assume, guarantee, endorse or otherwise become liable (whether directly, contingently or otherwise) for the obligation of any other Person except in the ordinary course of business and consistent with past practice, or (c) make any loans, advances or capital contributions to, or investments (other than intercompany accounts and short-term investments pursuant to customary

cash management systems of the Company in the ordinary course and consistent with past practices) in, any other Person other than such of the foregoing as are made by the Company to or in a wholly owned subsidiary of the Company.

5.3. Employee Plans, Compensation, Etc. (a) Except as provided in Section 2.6 hereof, this Section 5.3 or as set forth in Schedule 5.3 or required by applicable law, prior to the Effective Time the Company will not and will not permit any of its subsidiaries to adopt or amend any bonus, profit sharing, compensation, severance, termination, stock option, pension, retirement, deferred compensation, welfare benefit plan, change-in-control agreement, restricted stock, performance unit, employment or other employee benefit agreements, trusts, plans, funds or other arrangements for the benefit or welfare of any director, officer or employee, or (except, other than with respect to the Senior Executives, for normal increases in the ordinary course of business that are consistent with past practices and that, in the aggregate, do not result in a material increase in benefits or compensation expense to the Company or pursuant to collective bargaining agreements or other contracts presently in effect) increase in any manner the compensation or fringe benefits of any director or officer or pay any benefit not required by any existing plan, arrangement or contract (including without limitation the granting of stock options, stock appreciation rights, shares of restricted stock or performance units) or take any action or grant any benefit not expressly required under the terms of any existing contracts, trusts,

plans, funds or other such arrangements or enter into any contract to do any of the foregoing.

(b) Subject to Purchaser's purchase of Common Stock pursuant to the Offer and for a period of 12 months following the Effective Time, the Company or Surviving Corporation, as the case may be, will continue without amendment or change, except changes which increase compensation or benefits paid or payable thereunder or as may be required by law, the Benefit Plans and other sponsored, maintained or offered compensation and benefit policies, practices, programs and arrangements which provide compensation or benefits to employees of the Company or its subsidiaries. Anything in the preceding sentence to the contrary notwithstanding, (i) to the extent any Benefit Plan, or such other compensation or benefit policy, practice, program or arrangement other than any stock option, restricted stock or other stock-based award plan or program ("Stock Plans") so allows, the Surviving Corporation may replace any of such individual plans, policies, practices, programs or arrangements with another plan, policy, practice, program or arrangement providing, in the aggregate, not less than a substantially equivalent level of compensation or benefits, as the case may be, and (ii) the Company or the Surviving Corporation, as the case may be, may amend or replace any Stock Plan of the Company with another plan, policy, practice, program or arrangement that the Board of Directors of the Company or the Surviving Corporation, as the case may be, determines in good faith provides comparable incentive compensation opportunities.

(c) Except as may be expressly provided in a valid written waiver voluntarily signed by an affected employee, the Company will honor and, on and after the Effective Time, Parent will cause the Surviving Corporation to honor in accordance with the terms thereof, without offset, deduction, counterclaim, interruption or deferment (other than withholdings under applicable law), all employment, change-in-control, severance, termination, consulting and unfunded retirement or benefit agreements to which the Company or any of its subsidiaries is presently a party ("Benefits Agreements"). All of the Benefits Agreements which require the Company to make payments in excess of \$250,000 from and after the Effective Date are set forth in Schedule 5.3.

(d) Without limiting the obligations of Parent, Purchaser, the Company or the Surviving Corporation contained herein, the parties will take the actions, if any, with respect to employment, severance and other benefits as set forth in Schedule 5.3.

(e) Parent will consult with the human resources department of the Company regarding the appropriate treatment of the insurance, compensation and other benefit plans of the Company after the Merger.

5.4. Access and Information. The Company will (and will cause each of its subsidiaries to) afford to Parent and its representatives (including without limitation directors, officers and employees of Parent and its affiliates, and counsel, accountants and other professionals retained by Parent) such

access, during normal business hours throughout the period prior to the Effective Time, to the Company's books, records (including without limitation tax returns and work papers of the Company's independent auditors), properties, personnel and to such other information as Parent reasonably requests and will permit Parent to make such inspections as Parent may reasonably request and will cause the officers of the Company and those of its subsidiaries to furnish Parent with such financial and operating data and other information with respect to the business, properties and personnel of the Company and its subsidiaries as Parent may from time to time reasonably request, provided, however, that no investigation pursuant to this Section 5.4 will affect or be deemed to modify any of the representations or warranties made by the Company in this Agreement. Subject to the requirements of law, Parent will hold in confidence, and will instruct and use its reasonable best efforts to cause its representatives to keep confidential, all such non-public information it may acquire in its investigation pursuant to this Section 5.4, and if this Agreement is terminated, Parent will, and will instruct and use its reasonable best efforts to cause its representatives to, destroy or deliver to the Company all documents, work papers and other material (including copies) obtained by Parent or such representatives pursuant to this Section 5.4 and such of the foregoing as has been furnished by the Company to Parent or Purchaser prior to the date hereof, whether so obtained or furnished before or after the execution hereof. Nothing in this Section 5.4 will require the Company to

afford Parent or its representatives access to any information, documents or materials which are privileged or which are confidential and as to which such disclosure would cause the loss of privilege or breach the terms of a confidentiality agreement.

5.5. Certain Filings, Consents and Arrangements. Parent, Purchaser and the Company will (a) promptly make their respective filings, and will thereafter use their best efforts promptly to make any required submissions under the HSR Act with respect to the Offer, the Merger and the other transactions contemplated by this Agreement and (b) cooperate with one another (i) in promptly determining whether any filings are required to be made or consents, approvals, permits or authorizations are required to be obtained under any other federal, state or foreign law or regulation and (ii) in promptly making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such consents, approvals, permits or authorizations.

5.6. State Takeover Statutes. The Company will use its reasonable best efforts to (a) exempt the Company, the Offer and the Merger from the requirements of any state takeover law by action of the Company's Board of Directors or otherwise and (b) assist in any challenge by Purchaser to the validity or applicability to the Offer or the Merger of any state takeover law.

5.7. Proxy Statement. As soon as reasonably practicable after the date hereof, the Company will, if required by applicable law in order to consummate the Merger, prepare the



Proxy Statement, file it with the Commission and mail it to all holders of shares of Voting Stock. Parent, Purchaser and the Company will cooperate with each other in the preparation of the Proxy Statement; without limiting the generality of the foregoing, Parent and Purchaser will furnish to the Company the information relating to Parent and Purchaser required by the Exchange Act to be set forth in the Proxy Statement. The Company, acting through its Board of Directors, subject to the fiduciary duties of the Company's Board of Directors as advised by counsel, will include in the Proxy Statement the recommendation of its Board of Directors that stockholders of the Company vote in favor of the adoption of this Agreement and use its reasonable best efforts to secure such adoption.

5.8. Indemnification and Insurance. For seven years after the Effective Time, Parent will cause the Surviving Corporation to indemnify, defend and hold harmless the present and former officers, directors, employees and agents of the Company and its subsidiaries (an "Indemnified Party") against all losses, claims, damages or liabilities arising out of actions or omissions occurring on, prior to or after the Effective Time (whether or not based in whole or in part on the sole or concurrent negligence of the Indemnified Party or on the theory of strict products liability) to the full extent provided under Delaware law, the Certificate and By-Laws of the Company in effect at the date hereof and under all agreements to which the Company is a party as of the date hereof, including without limitation provisions relating to advances of expenses incurred in the

defense of any action or suit (including without limitation attorneys' fees of counsel selected by the Indemnified Party), provided that any determination required to be made with respect to whether an Indemnified Party's conduct complies with the standards set forth under Delaware law, the Certificate or By-Laws of the Company or under any such contract will be made by independent counsel selected by the Indemnified Party and reasonably satisfactory to the Surviving Corporation. Nothing in this Agreement shall diminish or impair the rights of any Indemnified Party under the Certificate or By-Laws of the Company or any agreement to which the Company is a party at the date hereof. The Surviving Corporation will maintain the Company's existing officers' and directors' liability insurance ("D&O Insurance") in full force and effect without reduction of coverage for a period of seven years after the Effective Time, provided, however, that the Surviving Corporation will not be required to pay an annual premium therefor in excess of 250% of the last annual premium paid prior to the date hereof (the "Current Premium"), and, provided, further, however, that if the existing D&O Insurance expires, is terminated or cancelled during such seven-year period, the Surviving Corporation will use its best efforts to obtain as much D&O Insurance as can be obtained for the remainder of such period for a premium on an annualized basis not in excess of 250% of the Current Premium.

5.9. Additional Agreements. Subject to the terms and conditions herein provided, each of the parties will use its reasonable best efforts to take promptly, or cause to be taken

promptly, all actions and to do promptly, or cause to be done promptly, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including using its reasonable best efforts to obtain all necessary actions or non-actions, extensions, waivers, consents and approvals from all applicable Governmental Entities, effecting all necessary registrations and filings (including without limitation filings under the HSR Act) and obtaining any required contractual consents, subject, however, to any required vote of the stockholders of the Company. If, at any time after the Effective Time, the Surviving Corporation considers or is advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either of the Constituent Corporations acquired or to be acquired by the Surviving Corporation as a result of, or in connection with the Merger or otherwise to carry out the purposes of this Agreement, the officers and directors of the Surviving Corporation will be authorized to execute and deliver, in the name and on behalf of each of the Constituent Corporations or otherwise, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of each of the Constituent Corporations or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest

in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out the purposes of this Agreement.

5.10. Compliance with Antitrust Laws. Each of Parent and the Company will use its reasonable best efforts to resolve such objections, if any, which may be asserted with respect to the Offer or the Merger under the antitrust laws. In the event a suit is instituted challenging the Offer or the Merger as violative of the antitrust laws, each of Parent and the Company will use its best efforts to resist or resolve such suit. Parent and the Company will use their reasonable best efforts to take such action as may be required (a) by the Antitrust Division of the Department of Justice or the Federal Trade Commission in order to resolve such objections as either of them may have to the Offer or the Merger under the antitrust laws or (b) by any federal or state court of the United States, in any suit brought by a private party or Governmental Entity challenging the Offer or the Merger as violative of the antitrust laws, in order to avoid the entry of, or to effect the dissolution of, any injunction, temporary restraining order or other order which has the effect of preventing the consummation of the Offer or the Merger.

5.11. Publicity. The initial press release announcing this Agreement will be a joint press release and thereafter the Company and Parent will consult with each other in issuing any press releases or otherwise making public statements with respect to the transactions contemplated hereby and in making any filings

with any Governmental Entity or with any national securities exchange with respect thereto, and will not issue any such press release or make any such public statement prior to such consultation except as may be required by law or by obligation pursuant to any listing agreement with any national securities exchange or the National Association of Securities Dealers or any rules or regulations of a foreign securities exchange upon which the securities are traded.

5.12. Notice of Actions and Proceedings. The Company will promptly notify Parent of any actions, suits, claims, investigations or proceedings commenced or, to the knowledge of the executive officers of the Company, threatened in writing against, relating to or involving or otherwise affecting the Company or any of its subsidiaries which, if pending on the date hereof, would have been required to have been disclosed in writing pursuant to any Schedule required hereby or which relates to the consummation of the Offer or the Merger.

5.13. Notification of Certain Other Matters. The Company will promptly notify Parent of:

(a) any written notice or other written communication from any third party alleging that the consent of such third party is or may be required in connection with the transactions contemplated by this Agreement;

(b) any written notice or other written communication from any Governmental Entity in connection with the transactions contemplated hereby; and

(c) any fact, development or occurrence that constitutes a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries taken as a whole or is reasonably expected to result in such an effect.

5.14. Listing of Preferred Stock. The Company will, and Parent will cause the Surviving Corporation to, use their respective reasonable efforts to continue the listing on the New York Stock Exchange of the shares of Preferred Stock which are currently listed on such Exchange or, if such shares are delisted, to cause such shares of Preferred Stock to be listed on another national securities exchange within the United States or admitted to trading on the National Association of Securities Dealers Automated Quotation System and on other organized securities markets in such foreign jurisdictions in which such shares are presently traded. Notwithstanding anything in this Agreement to the contrary, the obligations of the Company and Parent under this Section 5.14 will survive the Effective Time with respect to any series of Preferred Stock until such time as the aggregate market value of all outstanding shares of such series is less than \$2 million or the number of outstanding shares of such series is less than 100,000.

5.15. Certain Obligations of Parent. In the event that the Company is unable to meet its obligations as they come due, whether at maturity or otherwise, including solely for the purposes of this Section 5.15 dividend and redemption payments with respect to the Preferred Stock, Parent will capitalize the

Company in an amount necessary to permit the Company to meet such obligations, provided that Parent's aggregate obligation under this Section 5.15 shall be (a) limited to the amount of debt service obligations under "Tranche 1" of the loan agreement contemplated by the Commitment and, to the extent "Tranche 1" is replaced by "Tranche 2 and/or Tranche 3" under the Commitment, the amount of debt service obligations under such "Tranche 2 and/or Tranche 3," and (b) reduced by the amount, if any, of capital contributions received by the Company after the Effective Time and the net proceeds of any sale by the Company of common stock or non-redeemable preferred stock after the Effective Time. Notwithstanding anything in this Agreement to the contrary, the obligations of Parent under this Section 5.15 will survive until the ninth anniversary of the Effective Time.

## VI. CONDITIONS

6.1. Conditions. The obligations of Parent, Purchaser and the Company to consummate the Merger are subject to the satisfaction, at or before the Effective Time, of each of the following conditions, as applicable thereto:

6.1.1. Stockholder Approval. The holders of the Voting Stock shall have duly adopted this Agreement.

6.1.2. Purchase of Shares of Voting Stock. Purchaser shall have accepted for payment shares of Common Stock pursuant to the Offer.

6.1.3. Injunctions; Illegality. The consummation of the Merger shall not be precluded or materially restricted by any order, injunction, decree or ruling of a court of

competent jurisdiction or Governmental Entity (each party agreeing to use its reasonable best efforts to rectify any such occurrence), and there shall not have been any action taken or any statute, rule or regulation enacted, promulgated or deemed applicable to the Merger by any Governmental Entity which prevents or materially restricts the consummation of the Merger or that would make the acquisition or holding by Parent or its subsidiaries of the shares of Common Stock or shares of common stock of the Surviving Corporation illegal.

6.1.4. HSR Act. Any applicable waiting period under the HSR Act shall have expired or been terminated.

6.2. Parent Obligations. The obligations of Parent and Purchaser to consummate the Merger are subject to the satisfaction at or prior to the Effective Time of the additional conditions that (a) the Company in all material respects shall have satisfied and complied with each of the covenants of the Company contained herein, (b) the representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct in all material respects as of such specified date) and (c) Purchaser and Parent shall have the right to draw down funds under the loan agreement contemplated by the Commitment.



## VII. MISCELLANEOUS

7.1. Termination. This Agreement may be terminated and the Merger contemplated hereby may be abandoned (a) by the mutual consent of the Boards of Directors of Parent, Purchaser and the Company; (b) by Parent and Purchaser, on the one hand, or the Company, on the other hand, if the Offer expires or is terminated or withdrawn in accordance with the terms hereof without any shares of Common Stock being purchased thereunder or the Offer is terminated, or has not been commenced in accordance with the terms hereof by the close of business on March 7, 1995, or if Purchaser has not purchased shares of Common Stock validly tendered and not withdrawn pursuant to the Offer in accordance with the terms hereof within 75 calendar days after commencement of the Offer; provided, however, that the party seeking to terminate this Agreement pursuant to this Section 7.1(b) is not in material breach of this Agreement; (c) by the Company, if Parent or Purchaser materially breaches any of the representations and warranties or covenants contained in this Agreement, or by Parent and Purchaser if the Company materially breaches any of the representations and warranties or covenants contained in this Agreement; (d) by either Parent and Purchaser or the Company, if the Merger is not consummated prior to June 30, 1995; provided, however, that the right to terminate this Agreement under this Section 7.1(d) will not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date; (e) by either

Parent and Purchaser, on the one hand, or the Company, on the other hand, if either one (or any permitted assignee hereunder) is restrained, enjoined or otherwise precluded by an order, decree, ruling or injunction (other than an order or injunction issued on a temporary or preliminary basis) of a court, domestic or foreign, of competent jurisdiction or other Governmental Entity from consummating the Merger or making the acquisition or holding by Parent or its subsidiaries of the shares of Common Stock or shares of common stock of the Surviving Corporation illegal and all means of appeal and all appeals from such order decree, ruling, injunction or other action have been finally exhausted; (f) by the Company if the Board of Directors of the Company determines that it will not recommend acceptance of the Offer and approval of the Merger by the Company's stockholders (or if such recommendation is withdrawn) based upon the advice of outside counsel that such action is necessary for the Board of Directors to comply with its fiduciary duties to stockholders under applicable law; and (g) by Parent and Purchaser, if (i) the Board of Directors of the Company shall not have recommended or shall withdraw, modify or change its recommendation relating to the Merger or the Offer in a manner materially adverse to Parent or shall have resolved to do any of the foregoing; (ii) the Board of Directors of the Company shall have recommended to the stockholders of the Company that they accept or approve, or the Company or any of its subsidiaries shall have agreed to engage in, a Competing Transaction; or (iii) any Person shall have acquired beneficial ownership or the right to acquire beneficial

ownership or any "group" (as such term is defined under Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) shall have been formed which beneficially owns, or has the right to acquire "beneficial ownership" (as defined in the Rights Agreement) of, more than 20% of the then-outstanding shares of Common Stock of the Company. For the purposes of this Agreement, "Competing Transaction" means any of the following involving the Company or any of its subsidiaries:

- (i) any merger, consolidation, share exchange, business combination or other similar transaction except for such of the foregoing as to which the only parties are the Company or one or more subsidiaries of the Company;
- (ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition of the assets of the Company or any of its subsidiaries constituting 5% or more of the consolidated assets of the Company or accounting for 5% or more of the consolidated revenues of the Company in a single transaction or series of related transactions involving any person other than the Company or one or more subsidiaries of the Company;
- or (iii) any tender or exchange offer for 20% or more of the outstanding shares of Voting Stock or the filing of a registration statement under the Securities Act in connection therewith.

In the event of any termination and abandonment pursuant to this Section 7.1, no party hereto (or any of its directors or officers) will have any liability or further obligation to any other party to this Agreement, except for obligations under the last sentences of Sections 1.1 and 1.3, the second sentence of Section 5.4 and all of Section 7.10 hereof and

except that nothing herein will relieve any party from liability for any breach of this Agreement. Any action by the Company to terminate this Agreement pursuant to this Section 7.1 will require only the approval of a majority of the directors of the Company then in office who are directors of the Company on the date hereof, or persons nominated or elected to succeed such directors by a majority of such directors (the "Continuing Directors").

7.2. Non-Survival of Representations, Warranties and Agreements. The representations and warranties or agreements in this Agreement will terminate at the Effective Time or the earlier termination of this Agreement pursuant to Section 7.1, as the case may be, provided, however, that if the Merger is consummated, Sections 2.6, 5.3, 5.8, 5.9, 5.14 and 5.15 hereof will survive the Effective Time to the extent contemplated by such Sections, and provided further, however, that the last sentences of Sections 1.1 and 1.3, the second sentence of Section 5.4 and all of Section 7.10 hereof will in all events survive any termination of this Agreement.

7.3. Waiver and Amendment. Subject to applicable provisions of the DGCL, any provision of this Agreement may be waived at any time by the party which is, or whose stockholders are, entitled to the benefits thereof, and this Agreement may be amended or supplemented at any time, provided that no amendment will be made after any stockholder approval of the adoption of the Merger Agreement which reduces the Merger Price without further approval of the holders of the Voting Stock, provided

further that any action by the Company to waive or amend any provision of this Agreement will require the approval of a majority of the Continuing Directors. No such waiver, amendment or supplement will be effective unless in a writing which makes express reference to this Section 7.3 and is signed by the party or parties sought to be bound thereby.

7.4. Entire Agreement. This Agreement contains the entire agreement among Parent, Purchaser and the Company with respect to the Offer, the Merger and the other transactions contemplated hereby and thereby, and supersedes all prior agreements among the parties with respect to such matters other than, prior to the Effective Time, the Confidentiality Agreement.

7.5. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without giving effect in the principles of conflict of laws of that State.

7.6. Interpretation. For purposes of this Agreement, a "subsidiary" of a corporation means any corporation or other legal entity (including without limitation partnerships or limited liability companies) more than 50% of the outstanding voting securities or similar rights of which are directly or indirectly owned by such other corporation and "Person" means an individual or legal entity. The descriptive headings contained herein are for convenience and reference only and will not affect in any way the meaning or interpretation of this Agreement.

7.7. Notices. All notices and other communications hereunder will be in writing and will be given by delivery (and

will be deemed to have been duly given upon receipt) in person, by cable, facsimile transmission, telegram, telex or other standard form of telecommunications, or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the Company to:

Maxus Energy Corporation  
717 North Harwood Street  
Dallas, Texas 75201  
Attention: General Counsel  
Telephone: 214/953-2000  
Telecopy: 214/979-1986

With a copy to:

Jones, Day, Reavis & Pogue  
599 Lexington Avenue, 22nd Floor  
New York, New York 10022  
Attention: Robert A. Profusek, Esq.  
Telephone: 212/326-3800  
Telecopy: 212/755-7306

If to Parent or Purchaser to:

YPF Sociedad Anonima  
Avenida Pte. Roque Saenz Pena 777  
Buenos Aires 1364, Argentina  
Attention: President  
Telephone: 011-541-329-5705  
Telecopy: 011-541-329-5704

With a copy to:

Andrews & Kurth L.L.P.  
4200 Texas Commerce Tower  
Houston, Texas 77002  
Attention: P. Dexter Peacock, Esq.  
Telephone: 713/220-4354  
Telecopy: 713/220-3690

or to such other address as any party may have furnished to the other parties in writing in accordance herewith.

7.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original but all of which together will constitute but one agreement.

7.9. Parties in Interest; Assignment. Except for Sections 2.6 and 5.3 hereof (which are intended to be for the benefit of directors and Senior Executives to the extent contemplated thereby and their beneficiaries, and may be enforced by such persons) and Section 5.8 hereof (which is intended to be for the benefit of directors, officers, agents and employees to the extent contemplated thereby and their beneficiaries, and may be enforced by such persons), this Agreement is not intended to nor will it confer upon any other person (other than the parties hereto) any rights or remedies. Except as otherwise expressly provided herein, this Agreement is binding upon and is solely for the benefit of the parties hereto and their respective successors, legal representatives and assigns. Purchaser will have the right (a) to assign to Parent or any direct or indirect wholly owned subsidiary of Parent any and all rights and obligations of Purchaser under this Agreement, including without limitation the right to substitute in its place Parent or such a subsidiary as one of the constituent corporations in the Merger (such subsidiary assuming all of the obligations of Purchaser in connection with the Merger), provided that any such assignment will not relieve Parent or Purchaser from any of its obligations hereunder, and (b) to transfer to Parent or to any direct or indirect wholly owned subsidiary of Parent the right to purchase

shares of Common Stock tendered pursuant to the Offer, provided that any such transfer will not relieve Purchaser from any of its obligations hereunder.

7.10. Expenses; Termination Fee. Whether or not the Offer or Merger is consummated, all costs and expenses incurred in connection with the Offer, this Agreement and the transactions contemplated hereby will be paid by the party incurring such costs and expenses, provided, however, that (a) in the event of a termination of this Agreement by the Company pursuant to Section 7.1(f) or by Parent and Purchaser pursuant to Section 7.1(g) (i) or (ii) hereof, the Company will be obligated to promptly pay to Purchaser \$20 million in cash, and (b) in the event of a termination of this Agreement by the Company or by Parent if at the date of such termination any condition to the funding of the loans contemplated by the Commitment has not been satisfied, provided that at such time no other condition to Parent's obligation to consummate the Offer or the Merger, as the case may be, is unsatisfied (other than the failure to meet the Minimum Share Condition as a result of the failure to obtain such funding), Parent and Purchaser, jointly and severally, will be obligated to promptly pay to the Company \$20 million in cash.

7.11. Obligation of Parent. Whenever this Agreement requires Purchaser to take any action, such requirement will be deemed to include an undertaking on the part of Parent to cause Purchaser to take such action.

7.12. Enforcement of the Agreement. The parties hereto agree that irreparable damage would occur in the event that any



of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties hereto will be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any State of the United States having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity, including without limitation under Section 7.10 hereof.

7.13. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party hereto. Upon any such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated by this Agreement are consummated to the extent possible.

7.14. Consent to Jurisdiction and Service of Process.

(a) Parent consents to the non-exclusive jurisdiction of any court of the State of New York or any United States federal court sitting in the Borough of Manhattan, New York City, New York, United States, and any appellate court from any thereof, and

waives any immunity from the jurisdiction of such courts over any suit, action or proceeding that may be brought in connection with this Agreement. Parent irrevocably waives, to the fullest extent permitted by law, any objection to any suit, action or proceeding that may be brought in connection with this Agreement in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum. Parent agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon Parent and may be enforced in any court to the jurisdiction of which Parent is subject by suit upon such judgment; provided that service of process is effected upon Parent in the manner provided in this Agreement. Notwithstanding the foregoing, any suit, action or proceeding brought in connection with this Agreement may be instituted in any competent court in Argentina.

(b) Parent agrees that service of all writs, process and summonses in any suit, action or proceeding brought in connection with this Agreement against Parent in any court sitting in the Borough of Manhattan, New York City, New York, United States may be made upon CT Corporation System at 1633 Broadway, New York, New York 10019, whom Parent irrevocably appoints as its authorized agent for service of process. Parent represents and warrants that CT Corporation System has agreed to act as Parent's agent for service of process. Parent agrees that such appointment shall be irrevocable so long as this Agreement shall remain in effect or until the irrevocable appointment by

Parent of a successor in The City of New York as its authorized agent for such purpose and the acceptance of such appointment by such successor. Parent further agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. If CT Corporation System shall cease to be Parent's agent for service of process, Parent shall appoint without delay another such agent and provide prompt written notice to the Company, to the extent known to it, of such appointment. With respect to any such action in any court of the State of New York or any United States federal court in the Borough of Manhattan, New York City, service of process upon CT Corporation System, as the authorized agent of Parent for service of process, and written notice of such service to Parent, shall be deemed, in every respect, effective service of process upon Parent.

(c) Nothing in this Section 7.14 shall affect the right of any party to serve legal process in any other manner permitted by law or affect the right of any party to bring any action or proceeding against any other party or its property in the courts of other jurisdictions.

IN WITNESS WHEREOF, the parties hereto have duly executed  
this Agreement.

ATTEST:

YPF SOCIEDAD ANONIMA

By \_\_\_\_\_

By \_\_\_\_\_

YPF ACQUISITION CORP.

By \_\_\_\_\_

By \_\_\_\_\_

MAXUS ENERGY CORPORATION

By \_\_\_\_\_

By \_\_\_\_\_

CONDITIONS TO THE OFFER

Notwithstanding any other provision of the Offer, Purchaser shall not be required to accept for payment, purchase or pay for any shares of Common Stock tendered pursuant to the Offer (the "Shares"), and may postpone the acceptance for payment, the purchase of, and/or payment for Shares, and/or may, subject to the terms of the Agreement, amend or terminate the Offer if (i) the Minimum Share Condition has not been satisfied, (ii) the Company shall not have taken the steps necessary to redeem the Rights, (iii) the applicable waiting period under the HSR Act shall not have expired or been terminated, (iv) the closing of the loans in connection with the Offer shall not have occurred under the Loan Agreement contemplated by the commitment letter, dated February 24, 1995, addressed to Parent from The Chase Manhattan Bank (National Association), a copy of which has heretofore been delivered to the Company, or (v) at any time at or before payment for any Shares (whether or not any Shares have theretofore been accepted for payment or paid for pursuant to the Offer), any of the following events shall have occurred and be continuing:

- (a) there shall be in effect any temporary restraining order, preliminary or final injunction or other order or decree issued by any United States federal or state court of competent jurisdiction or

United States federal or state governmental, regulatory or administrative agency or authority, (1) enjoining, restraining or otherwise prohibiting the Offer, the Merger or the acquisition by Parent or Purchaser of shares of Common Stock; (2) prohibiting or materially limiting the ownership or operation by Parent or Purchaser of all or any substantial portion of the business or material assets of the Company and its subsidiaries, taken as a whole, or, as a consequence of the Offer, Merger or Parent or Purchaser's acquisition of shares of Common Stock, of Parent or any of its subsidiaries, or compelling Parent or Purchaser to dispose of or to hold separate all or any material portion of the business or material assets of the Company and its subsidiaries, taken as a whole, or of Parent or any of its subsidiaries, or imposing any material limitation on the ability of Parent or Purchaser to conduct such business or own such assets, (3) imposing material limitations on the ability of Parent or Purchaser (or any other affiliate of Parent) to acquire or hold or to exercise full rights of ownership of the shares of Common Stock, including without limitation the right to vote the shares of Common Stock purchased by them on all matters properly presented to the stockholders of the Company, or (4) requiring material divestitures by Parent or Purchaser or any of their subsidiaries or affiliates of

any Shares, as a consequence of the Offer, Merger or Parent or Purchaser's acquisition of shares of Common Stock; or

(b) there shall be any statute, rule, regulation or order promulgated, enacted, entered or deemed applicable to the Offer or the Merger, or any other action shall have been taken, by any Governmental Entity that is reasonably likely to result in any of the consequences referred to in clauses (1) through (4) of paragraph (a) above; or

(c) there shall have occurred (1) any general suspension of trading in, or limitation on prices for, trading in securities on the New York Stock Exchange or in the over-the-counter-market, (2) a declaration of a banking moratorium or any limitation or suspension of payments by United States authorities on the extension of credit by United States lending institutions, (3) a commencement of war, armed hostilities or other international or national calamity directly or indirectly involving the United States, or (4) in the case of any of the foregoing existing at the time of the commencement of the Offer, a material acceleration or worsening thereof; or

(d) it shall have been publicly disclosed or Purchaser shall have learned that any Person shall have entered into a definitive agreement or an agreement in principle with the Company with respect to a tender

offer or exchange offer for any shares of capital stock of the Company (including without limitation the shares of Common Stock) or a merger, consolidation or other business combination or any acquisition or disposition of a material amount of assets or any comparable event with or involving the Company (other than such of the foregoing as is permitted by the Agreement); or

(e) any of the representations and warranties of the Company in the Agreement shall not have been, or shall cease to be, true and correct in all material respects (whether because of circumstances or events occurring in whole or in part prior to, on or after the date of the Agreement), or the Company shall have not performed in all material respects the covenants to be performed by it pursuant to the Agreement; or

(f) the Agreement shall have been terminated by the Company, on the one hand, or Parent and Purchaser, on the other hand, in accordance with its terms or Purchaser or Parent, on the one hand, and the Company, on the other hand, shall have reached an agreement providing for the termination of the Offer; or

(g) the Company's Board of Directors shall have failed to recommend and approve, or shall no longer recommend and approve, the Offer or the adoption of the Merger Agreement, or shall materially modify or amend its recommendation and approval with respect thereto, or shall have resolved to do any of the foregoing



(except that the foregoing shall not apply to a modification or amendment solely in the reasons for such recommendation and approval so long as the Board of Directors of the Company continues to recommend and approve acceptance of the Offer and adoption of the Merger Agreement by holders of Voting Stock); or

(h) without limiting the generality or effect of Paragraph (e) of this Section, except as disclosed to Parent pursuant to the Agreement, there shall have been any material adverse change in the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole;

which, in the sole judgment of Purchaser, in any such case regardless of the circumstances (including any action or inaction by Purchaser or any of its affiliates other than a material breach by Purchaser or Parent of the Agreement) giving rise to any such condition, makes it inadvisable to proceed with the Offer or with such acceptance for payment or purchase of or payment for any of the Shares.

The foregoing conditions (i) may be asserted by Purchaser regardless of the circumstances (including any action or inaction by Purchaser or any of its affiliates other than a breach by Purchaser or Parent of the Agreement) giving rise to such condition and (ii) other than the Minimum Share Condition, are for the sole benefit of Purchaser and its affiliates. The foregoing conditions, other than the Minimum Share Condition, may be waived by Purchaser in whole or in part at any time and from

time to time in its sole discretion. The failure by Purchaser at any time to exercise any of the foregoing rights will not be deemed a waiver of any other rights and each such right will be deemed an ongoing right which may be asserted at any time and from time to time.

# **EXHIBIT F**

1 THE UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEW JERSEY

3 -----X  
4 NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
5 and THE ADMINISTRATOR OF THE NEW JERSEY SPILL  
6 COMPENSATION FUND,

7 Plaintiffs,

8 Civil Action No:  
9 2:06-CV-00401-JCL-PS

10 -against-

11 OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS,  
12 INC., MAXUS ENERGY CORPORATION, REPSOL, YPF, S.A.,  
13 YPF, S.A., YPF HOLDINGS, INC., and CLH HOLDINGS,

14 Defendants.  
15 -----X

16 1177 Avenue of the Americas  
17 New York, New York

18 September 23, 2006  
19 9:30 a.m.

20 VIDEOTAPED DEPOSITION of YPF, S.A.,  
21 a defendant, BY, GABRIEL LEIVA, taken on behalf of  
22 the plaintiffs, pursuant to Notice, held before a  
23 Notary Public of the State of New York.  
24  
25

Page 114	Page 116
<p>1 G. Leiva</p> <p>2 MR. JACKSON: Fifty-five is the Maxus</p> <p>3 10-K dated December 31, 1995.</p> <p>4 Fifty-six is the offer to purchase for</p> <p>5 cash all outstanding shares, common stock of Maxus</p> <p>6 Energy at 5.50 per share.</p> <p>7 Fifty-seven is the SEC schedule 14D-9/A.</p> <p>8 Fifty-eight is the Credit Suisse First</p> <p>9 Boston opinion letter.</p> <p>10 And Plaintiffs' Exhibit 59 is the</p> <p>11 Houlihan, Lokey opinion letter dated April 5th, 1995.</p> <p>12 MR. CROUT: Thank you.</p> <p>13 MR. JACKSON: Do we need a translation</p> <p>14 of what we have marked as Plaintiffs' Exhibit 55</p> <p>15 through 59?</p> <p>16 MS. BLANCO: No.</p> <p>17 Q. Mr. Leiva, are you familiar with these</p> <p>18 documents?</p> <p>19 A. Yes, most of them. I didn't know this</p> <p>20 one, 58. That's a document from First Boston to the</p> <p>21 board of Maxus. Exhibits 57, 56, 55 are public</p> <p>22 documents.</p> <p>23 Q. So, you've seen those documents before?</p> <p>24 A. I don't remember this one well, but</p> <p>25 Exhibit 59 I need a moment to look it over to see.</p>	<p>1 G. Leiva</p> <p>2 and 57?</p> <p>3 A. No.</p> <p>4 Q. How was Maxus originally identified by</p> <p>5 YPF for acquisition?</p> <p>6 A. What does identified mean? What do you</p> <p>7 mean identified?</p> <p>8 Q. Why did YPF want to acquire Maxus?</p> <p>9 A. At that moment YPF's strategy was their</p> <p>10 internationalization and not only a company based in</p> <p>11 Argentina.</p> <p>12 Now, why was it Maxus and not another?</p> <p>13 It could have been a question of opportunity. It was</p> <p>14 a job done personally by the president of YPF who</p> <p>15 died a month after the acquisition.</p> <p>16 The general comments among the top</p> <p>17 management was that nobody knew exactly what the</p> <p>18 president proposed or what was the strategy of the</p> <p>19 president as to this new acquisition.</p> <p>20 In reality, a year later, that was when</p> <p>21 top management, the new president and the board,</p> <p>22 reached an agreement of organization that was carried</p> <p>23 out in 1996.</p> <p>24 Q. What was the president of YPF's name who</p> <p>25 was personally involved?</p>
Page 115	Page 117
<p>1 G. Leiva</p> <p>2 Q. Okay.</p> <p>3 A. But in general.</p> <p>4 Q. Tell you what, why don't we go ahead and</p> <p>5 talk generally about some of the transactions at</p> <p>6 issue, and then if you need to review any of these</p> <p>7 documents in more detail, we can go off the record</p> <p>8 while you do so.</p> <p>9 A. Okay.</p> <p>10 Q. Did YPF acquire Maxus through the merger</p> <p>11 of YPF's subsidiary, YPF Acquisition Corporation,</p> <p>12 into Maxus effective June 8, 1995?</p> <p>13 A. YPF acquired Maxus through YPF</p> <p>14 Acquisition Corporation in April, April 1995. What</p> <p>15 happened then in June 1995 was the merger between YPF</p> <p>16 Acquisition and Maxus.</p> <p>17 Q. That merger was June 8th of 1995,</p> <p>18 effective June 8, 1995?</p> <p>19 A. It was in 1995, but if it's precisely</p> <p>20 June 8th, we could see it here.</p> <p>21 Q. I don't want to spend a lot of time</p> <p>22 going through the public documents. As corporate</p> <p>23 representative of YPF, do you have any reason to</p> <p>24 contest the accuracy of the statements made in the</p> <p>25 public filings that are at Plaintiffs' Exhibit 55, 56</p>	<p>1 G. Leiva</p> <p>2 A. Jose Estenssoro.</p> <p>3 Q. Do you recall did he pass away after the</p> <p>4 merger was effective in June of '05?</p> <p>5 A. No, he died the first of May of '95, but</p> <p>6 the decision of the merger was part of the</p> <p>7 acquisition.</p> <p>8 Q. Did you say March or May?</p> <p>9 A. May.</p> <p>10 Q. To your knowledge, had Maxus and YPF</p> <p>11 conducted business prior to the acquisition?</p> <p>12 A. No.</p> <p>13 Q. Did YPF acquire Maxus for approximately</p> <p>14 \$762 million in stock and one billion dollars in</p> <p>15 guaranteed debt?</p> <p>16 A. YPF acquired Maxus for approximately</p> <p>17 that amount, maybe approximately 780, but that was to</p> <p>18 guarantee the debt --</p> <p>19 MS. BLANCO: Object to the translation.</p> <p>20 INTERPRETER: The interpreter has not</p> <p>21 finished.</p> <p>22 MS. BLANCO: Wait. I'm sorry.</p> <p>23 INTERPRETER: The interpreter would like</p> <p>24 the witness to please start the response again.</p> <p>25 MS. BLANCO: Agreed.</p>

30 (Pages 114 to 117)

# **EXHIBIT G**

File

Dick Smith

October 17, 1996

Maxus Energy and CLH Reorganization

The following summarizes the subject reorganization.

Date	Transaction
June 4, 1996	Approval of corporate reorganization by YPF S.A.
July 31, 1996	YPF Holdings, Inc. formed as a subsidiary of YPF International Ltd.
August 5, 1996	CLH Holdings, Inc. formed as a subsidiary of YPF Holdings, Inc.
August 13, 1996	Transfer of the common stock of Maxus Energy Corporation from YPF S.A. to YPF International Ltd. and thence to YPF Holdings, Inc., all by contributions to capital.
August 14, 1996	Stock Purchase and Sale Agreement whereby Maxus Corporate Company sold all the stock of Chemical Land Holdings, Inc. to YPF Holdings, Inc.

summary.clh

YPFH 531

# EXHIBIT H



**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

PR

**Form 20-F**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

MAR - 9 2001

For the fiscal year ended: **December 31, 2000**  
Commission file number: **1-10220**

**Repsol YPF, S.A.**  
(Exact name of registrant as specified in its charter)

**Kingdom of Spain**  
(Jurisdiction of incorporation of organization)

**Paseo de la Castellana, 278—28046 Madrid, Spain**  
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited .....	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of outstanding shares of each class of stock of Repsol International Capital Limited benefiting from a guarantee of Repsol YPF, S.A. at December 31, 2000 was:

Series A 7.45% non-cumulative guaranteed preference shares ..... 29,000,000

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2000 was:

Ordinary shares, par value €1.00 per share ..... 1,220,863,463

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark which financial statement item the registrant has elected to follow.  
Item 17  Item 18

Please send copies of notices and communications from the Securities and Exchange Commission to:  
NICHOLAS A. KRONFELD  
Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017

REP 13674

## 2. Information about Repsol YPF

### 2.1 Repsol YPF

#### 2.1.1 Overview

Repsol YPF is an integrated oil and gas company engaged in all aspects of the petroleum business, including exploration, development and production of crude oil and natural gas, transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, production of a wide range of petrochemicals and marketing of petroleum products, petroleum derivatives, petrochemicals, liquefied petroleum gas and natural gas.

Repsol YPF began operations in October 1987 as part of a reorganization of the oil and gas businesses then owned by Instituto Nacional de Hidrocarburos, a Spanish government agency which acted as a holding company of government-owned oil and gas businesses. In April 1997, the Spanish State sold in a global public offering its entire remaining participation in Repsol YPF. Two years later and as part of its international growth strategy, Repsol YPF acquired, through a series of acquisitions, a total of 97.81% of the outstanding capital stock of YPF, S.A., a leading Argentine petroleum company and the former state oil and gas monopolist in Argentina. Repsol YPF initially acquired a 14.99% equity stake in YPF from the Argentine government on January 20, 1999. On June 23, 1999, Repsol YPF acquired an additional 82.47% of the outstanding capital stock of YPF pursuant to a tender offer. During the course of the remaining of 1999 and 2000 Repsol YPF acquired additional shares of YPF and, as of December 31, 2000, Repsol YPF owned 99.0% of YPF.

As a result of the acquisition of YPF, Repsol YPF is Spain's largest company in terms of revenues, the largest private sector energy company in Latin America in terms of total assets and one of the world's ten largest oil companies on the basis of market capitalization and proved reserves.

Through the acquisition of YPF, Repsol YPF sought to achieve a balance between upstream and downstream operations, position itself as a market leader in Latin America, achieve operating and capital expenditure synergies and consolidate its business scale and financial strength. As part of its integration strategy, Repsol YPF has begun to dispose of select assets which do not correspond to its core businesses outlined above or to its core geographic areas which include Spain, Latin America and North Africa.

#### 2.1.2 Organization of Repsol YPF

Repsol YPF engages in all aspects of the petroleum business, including the exploration, development and production of crude oil and natural gas, the transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, petrochemical production and the marketing of petroleum products, petroleum derivatives, petrochemicals, LPG and natural gas. Repsol YPF organizes its business into four segments:

- Exploration and Production (E&P).
- Refining and Marketing.
- Chemicals.
- Gas and Electricity.

Repsol YPF today has operations in 30 countries, most significantly in Spain and Argentina. Repsol YPF has a unified global corporate structure with headquarters in Madrid, Spain and Buenos Aires, Argentina. Repsol YPF manages its business as a single organization at both the operational and organizational levels. Key functions such as strategic planning, control, finance and human resources are

# **EXHIBIT I**

[Execution Copy]

STOCK PURCHASE AGREEMENT

By and Among

DIAMOND SHAMROCK CORPORATION

OCCIDENTAL PETROLEUM CORPORATION

OCCIDENTAL CHEMICAL HOLDING CORPORATION

and

OXY-DIAMOND ALKALI CORPORATION

dated

September 4, 1986

likewise be deemed to be reduced, in each case until the amount of such reserves is reduced to zero.

(c) Except as otherwise expressly provided in this Agreement, Article IX shall be exclusive with respect to any of the matters covered thereby. Nothing in this Article IX shall be deemed to limit or supercede any insurance coverage available to or provided on behalf of any party hereto by any of the Existing Policies.

Section 9.03 Indemnification. Subject to the terms and limitations set forth in Sections 9.01, 9.02, 9.04 and 9.05 hereof:

(a) Seller shall indemnify, defend and hold harmless each of OPC, Oxy-Chem, Buyer, each of the DSCC Companies and each Pass-Through Purchaser, each of their respective subsidiaries and affiliates and each of their respective directors, officers, agents and representatives, from and against any and all claims, demands or suits (by any Entity, including, without limitation, any Governmental Agency), losses, liabilities, damages, obligations, payments, costs and expenses, paid or incurred, whether or not relating to, resulting from or arising out of any Third Party Claim (including, without limitation, the reasonable cost and expenses of any and

all actions, suits, proceedings, demands, assessments, judgments, settlements and compromises relating thereto and reasonable attorneys' fees in connection therewith), and whether for property damage, natural resource damage, bodily injury (including, without limitation, damage and injury related to products and injury to any person living or dead on the date hereof or born hereafter), governmental fines or penalties (including, without limitation, for the violation of permits), pollution, threat to the environment, environmental remediation, or otherwise (individually and collectively "Indemnifiable Losses") relating to, resulting from or arising out of any of the following:

(i) any material breach of any of the representations or warranties of any Diamond Company (including, without limitation, any DSCC Company) contained in this Agreement or any Related Document as of the Closing Date but excluding matters expressly covered by Article X hereof;

(ii) any Litigation, whether commenced before or after the Closing Date but prior to the expiration of 12 years following the Closing Date, relating to any actions or

omissions of any Diamond Company (including, without limitation, any DSCC Company) or any predecessor-in-interest thereof prior to the Closing Date, or any occurrences, accidents, incidents or events prior to the Closing Date, relating to the business or activity of any Diamond Company (including, without limitation, any DSCC Company) or any predecessor-in-interest thereof, including, without limitation, the Litigation identified in Schedule 2.07, but excluding (A) matters expressly covered by Section 9.03(a)(i) which do not involve Third Party Claims, Section 9.03(a)(iii) or Article X hereof and (B) all matters with respect to which Litigation is commenced after the expiration of 12 years following the Closing Date;

(iii) any (A) Superfund Site and (B) any Litigation commenced after the Closing pursuant to the provisions of CERCLA or RCRA with respect to any release, storage or disposal of Polluting Substances at any commercial waste disposal facility ("Federal Superfund Litigation") to the extent, but only to

the extent, that such Federal Superfund Litigation relates to, results from or arises out of the actions or omissions of any Diamond Company (including, without limitation, any DSCC Company) or any predecessor-in-interest thereof prior to the Closing, but excluding matters expressly covered by Article X hereof;

(iv) the "Inactive Sites"

(which for purposes of this Agreement, shall mean those former chemical plants and commercial waste disposal sites listed on Schedule 9.03(a)(iv) and all other properties which were previously, but which, as of the Closing Date, are not, owned, leased, operated or used in connection with the business or operations of any Diamond Company, including, without limitation, any DSCC Company, or any predecessor-in-interest thereof), including, without limitation, any matter relating to any of the Inactive Sites for which (A) any Diamond Company (including, without limitation, any DSCC Company) on or prior to the Closing Date agreed to indemnify, defend or hold harmless any Entity,



or (B) any Diamond Company may otherwise be held liable;

(v) any of the Excluded

Assets;

(vi) any of the Excluded

Liabilities;

(vii) any indebtedness for

borrowed money assumed, incurred or guaranteed by any Diamond Company (including, without limitation, any DSCC Company prior to the Closing) other than (A) the Assumed Obligations, (B) indebtedness which is otherwise expressly assumed by any DSCC Company, Buyer, OPC or Oxy-Chem under this Agreement or under any Related Document or (C) indebtedness which is reflected in Net Working Capital;

(viii) the Historical Obligations and any other obligations or liabilities

(absolute or contingent) of any Diamond 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; and

(ix) any Third Party Claim in which it is asserted that there has been a failure by any Diamond Company prior to the Closing to maintain insurance coverage which is sufficient for compliance (A) with the requirements of any Law applicable to the DSCC Companies, (B) in all material respects with any Contract or Lease to which any DSCC Company is a party or by which any of them or their respective properties is bound, and (C) with any agreement relating to the Assumed Obligations; provided, however, that the relevant DSCC Company shall use all reasonable efforts to resist the assertion of any claim that any such non-compliance exists; and provided further that, except with respect to the Assumed Obligations relating to the Convent Plant, any such Third Party Claim shall have been asserted prior to the second anniversary of the Closing Date.

(b) Buyer shall indemnify, defend and hold harmless each of the Diamond Companies (other than the DSCC Companies) and each of their respective subsidiaries and affiliates, and each of their respective directors, officers, agents and representatives, from and against any and all Indemnifiable Losses relating to, resulting from or arising out of any of the following:

(i) any material breach of any of the representations or warranties of Buyer contained in this Agreement or any Related Document but excluding matters expressly covered by Article X hereof;

(ii) any obligations or liabilities of Buyer or any subsidiary of Buyer (other than any DSCC Company) prior to the Closing Date; and

(iii) any liabilities or obligations of Buyer resulting from the existence of withdrawal liability under Part 1 of Subtitle E of Part IV of ERISA with respect to any multiemployer plan to the extent that any such liability or obligation shall have accrued by reason of some act or omission of Buyer subsequent to the Closing Date or shall have

resulted from the voluntary partial or complete withdrawal of Buyer from such multiemployer plan subsequent to the Closing Date.

(c) OPC shall indemnify, defend and hold harmless each of the Diamond Companies (other than the DSCC Companies) and each of their respective subsidiaries and affiliates and each of their respective directors, officers, agents and representatives, from and against any and all Indemnifiable Losses relating to, resulting from or arising out of any of the following:

(i) any material breach of any of the representations or warranties of OPC contained in this Agreement or any Related Document but excluding matters specifically covered by Article X hereof; and

(ii) any obligations or liabilities of OPC or any subsidiary of OPC (other than any DSCC Company) prior to the Closing Date.

(d) Oxy-Chem shall indemnify, defend and hold harmless each of the Diamond Companies (other than the DSCC Companies) and each of their respective subsidiaries and affiliates and each of their respective directors, officers, agents and representatives, from and

against any and all Indemnifiable Losses relating to, resulting from or arising out of any material breach of any of the representations or warranties of Oxy-Chem contained in this Agreement or any Related Document but excluding matters specifically covered by Article X hereof.

(e) DSCC shall indemnify, defend and hold harmless each of the Diamond Companies (other than the DSCC Companies) and each of their respective subsidiaries and affiliates and each of their respective directors, officers, agents and representatives, from and against any and all Indemnifiable Losses relating to, resulting from or arising out of any of the following:

(i) any of the Assumed Obligations or any other indebtedness for borrowed money expressly assumed by any DSCC Company, Buyer, OPC or Oxy-Chem under this Agreement or under any Related Document or which is reflected in Net Working Capital, other than any liabilities or obligations arising from any breach, default or any other noncompliance with the terms of any such Assumed Obligation or indebtedness by any Diamond Company (including, without limitation, any DSCC Company prior to

the Closing) occurring before or after the Closing, but excluding matters, if any, specifically covered by Section 1.06 hereof or listed in Schedule 6.09; and

(ii) any liabilities or obligations of any DSCC Company resulting from the existence of withdrawal liability under Part 1 of Subtitle E of Part IV of ERISA with respect to any multiemployer plan to the extent that any such liability or obligation shall have accrued by reason of some act or omission of any DSCC Company subsequent to the Closing Date or shall have resulted from the voluntary partial or complete withdrawal of any DSCC Company from such multiemployer plan subsequent to the Closing Date.

Oxy-Chem hereby agrees to guarantee the performance by DSCC of its obligations under this subparagraph (e).

(f) DSCC shall indemnify, defend and hold harmless Seller from and against all reasonable costs and expenses (including reasonable attorney's fees) paid or incurred in connection with any Litigation commenced at any time within 12 years following the Closing Date, relating to any actions or omissions of any DSCC

Company subsequent to the Closing Date, or any occurrences, accidents, incidents or events subsequent to the Closing Date relating to the business of or activity of any DSCC Company in which Seller is involved by reason of its having owned or operated the Chemicals Business prior to the Closing but excluding matters expressly covered by Article X hereof. Oxy-Chem hereby agrees to guarantee the performance by DSCC of its obligations under this Subparagraph (f).

(g) For purposes of this Agreement, "Indemnity Payment" shall mean any amounts of Indemnifiable Losses required to be paid pursuant to this Section 9.03.

(h) For purposes of this Agreement, "Indemnitée" shall mean any Entity entitled to indemnification under this Agreement.

(i) For purposes of this Agreement, "Indemnifying Party" shall mean any Entity required to provide indemnification under this Agreement.

Section 9.04 Defense of Claims.

(a) If an Indemnitée receives notice of the assertion of any claim or of the commencement of any action or proceeding by any Entity who is not a party to this Agreement (a "Third Party Claim") against such In-

SCHEDULE 9.03(a)(iv)

INACTIVE SITES

Former Chemical Plant Sites

1. Montgomery, AL
2. Tuscaloosa, AL
3. Tuscumbia, AL
4. Pine Bluff Arsenal, AR
5. Van Buren, AR
6. Redwood City, CA
7. Emeryville, CA
8. Oxnard, CA (limited to the polyester resins plant purchased by Koppers Corporation from DSCC)
9. Fresno, CA
10. Los Angeles, CA
11. Greenwich, CT
12. Stratford, CT
13. West Haven, CT
14. Delaware City, DE (limited to the PVC plant and the PVC treatment facilities purchased by Ethyl Corporation)
15. Naples, FL
16. Palm Beach, FL
17. Atlanta, IL
18. Franklin Park, IL
19. Joliet, IL
20. Frankfort, IL
21. Elkhart, IN
22. Evansville, IN
23. Des Moines, IA
24. Louisville, KY
25. Murtis, LA
26. Shiever, LA
27. Baltimore, MD (manganese and yeast plants)
28. Edgewood Arsenal, MD
29. Rodgers City, MI
30. Minneapolis, MN
31. St. Louis, MO
32. Maryland Heights, MO
33. Salisbury, NC
34. Ralston, NE
35. Bayonne, NJ
36. Clifford, NJ



37. Kearny, NJ
38. Linden, NJ
39. Newark, NJ
40. North Arlington, NJ
41. Plainfield, NJ
42. Princeton, NJ
43. Brooklyn, NY
44. Fairport Harbor, OH
45. Painesville, OH
46. Chardon, OH
47. Spencerville, OH
48. Solon, OH
49. Bessemer, PA
50. Bristol, PA
51. Mountain Top, PA
52. Neville Island, PA
53. Philadelphia, PA
54. Chattanooga, TN
55. Greens Bayou, TX
56. La Porte, TX (limited to vinyl chloride monomer and EDC plant (Independence Plant) now owned by B. F. Goodrich and polypropylene plant owned by Arco)
57. Deer Park, TX (limited to PVC reactors purchased by B. F. Goodrich by Agreement dated December 31, 1981)
58. Terlingua, TX
59. Waco, TX
60. Wausau, WI
61. Kingwood, WV

Commercial Waste Disposal Sites

1. Duane Marine (NJ)
2. Flemington Landfill (NC)
3. Gaess Environmental (NJ)
4. Kingsville Township Dump (OH)
5. Madison (NJ)
6. Modern Transportation (NJ)
7. SCA-Oswego (NY)
8. Scientific Chemical Processing, Inc. - Newark and Carlstadt (NJ)
9. Sheridan Site (TX)
10. Strasburg Landfill (PA)
11. Williamsburg (OH)
12. Scientific, Inc. (NJ)
13. Chemical Control (NJ)
14. Chemicals & Minerals Reclamation (OH)
15. Pinewood (SC)

8566G

# **EXHIBIT J**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK DIVISION**

**NEW JERSEY 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, REPSOL, YPF, S.A.,  
YPF, S.A., YPF HOLDINGS, INC., AND  
CLH HOLDINGS,**

**Defendants.**


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**CIVIL ACTION NO. 06-00401  
JUDGE JOHN C. LIFLAND  
JURY DEMANDED**

**ANSWERS AND OBJECTIONS TO INTERROGATORIES OF DEFENDANT REPSOL  
YPF, S.A.**

To: Plaintiffs New Jersey Department of Environmental Protection and the Administrator of the New Jersey Department of Environmental Protection and the Administrator of the New Jersey Spill Compensation Fund, Zulima V. Farber Attorney General of New Jersey.

Defendant Repsol YPF, S.A. ("Repsol") answers and objects to Plaintiffs' Interrogatories as follows. Repsol objects to the definitions and instructions to the extent they seek to impose on Repsol obligations that exceed the requirements of the Federal Rules of Civil Procedure. To ensure that the discovery requests were understood, they were first translated into Spanish and personally reviewed and answered in Spanish by the responding parties. See Exhibit A attached hereto. They were then translated back into English to produce to opposing counsel.

By:   
Heana M. Blanco

Southern District of Texas No. 948  
Christina E. Ponig  
Southern District of Texas No. 600217

711 Louisiana St., Suite 2300  
Houston, Texas 77002  
(713) 223-2300 (Telephone)  
(713) 221-1212 (Telecopy)

BRACEWELL & GIULIANI LLP  
711 Louisiana Street  
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713 / 221-1584

And

GREENBAUM, ROWE, SMITH & DAVIS  
LLP  
6 Becker Farm Road  
Roseland, New Jersey 07068  
973/ 535-1600  
Attorneys for Repsol YPF, S.A., YPF, S.A.,  
YPF Holdings, Inc. and CLH Holdings

Of Counsel

Marc J. Gross, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Answers and Objections to Interrogatories of Defendant Repsol YPF, S.A. the foregoing document, has been forwarded to counsel of record by electronic transmission and/or personal delivery, on this 19th day of June 2006, as follows:

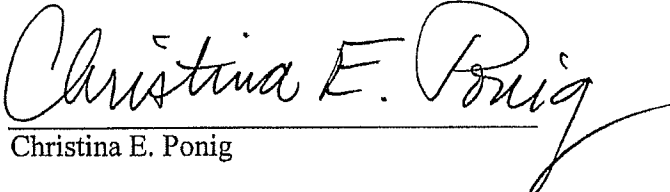
Michael Gordon  
Gordon & Gordon  
80 Main Street  
West Orange, New Jersey 07052  
*By e-mail*

Michael Connelly  
Bill Jackson  
Connelly Baker Maston Wotring  
Jackson LLP  
700 Louisiana Street, Suite 1850  
Houston, Texas 77002-2778  
*Email*

William L. Warren  
Drinker Biddle & Reath LLP  
105 College Road East  
Box 627  
Princeton, New Jersey 08542  
*By E-mail*

Carol Dinkins  
Vinson & Elkins  
1001 Fannin, Suite 2300  
Houston, Texas 77002  
*By Email*

Thomas E. Starnes  
Andrews Kurth Washington  
1351 I Street  
Washington, DC 20005  
*By Email*

  
Christina E. Ponig

Interrogatory 1:

Identify and describe each and every transaction, contract, agreement, and/or understanding (including inter-company transactions, contracts, agreements, and/or understandings) between or among the Repsol Group and/or any of its members concerning New Jersey, including, but not limited to, compliance with the Environmental Laws, Environmental Contamination, and/or Hazardous Substances in New Jersey, and including, but not limited to, the management of Environmental Liabilities, compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances, and all financial records related to same.

ANSWER:

Repsol objects to the definition of "Repsol Group". Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date.

Repsol is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Subject to these objections, please refer to documents produced in response to Requests for Production 1, 2, and 3. See. F.R.C.P. 33(d).

Interrogatory 2:

Identify each and every officer, director, manager, and executive of the Repsol Group and/or any of its members. In Identifying such persons, include their names, addresses, titles, employers, primary office location, any other office locations, relevant Repsol Group entity, and respective years of employment and/or affiliation. If the responsive person had more than one title and/or position, identify each title and/or position and the respective years of employment, and/or relationship and/or affiliation at each title and/or position. Similarly, if the responsive person was employed by or affiliated with more than one Repsol Group entity, identify each Repsol Group entity and the respective years of employment and/or affiliation with each Repsol Group entity. Further, for each responsive person, identify whether they have now or ever have had any responsibility for or involvement in compliance with Environmental Laws, Environmental Contamination and/or Hazardous Substances in New Jersey, including but not limited to the management of, accounting for, and reporting of Environmental Liabilities, compliance with Environmental Laws, Environmental contamination, and/or Hazardous Substances.

ANSWER:

Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Repsol further objects to this interrogatory because the terms "manager" and "executive" are vague and undefined and because the interrogatory is overly broad and burdensome.

Repsol is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Subject to these objections, please refer to documents produced in response to Request for Production 10. F.R.C.P. 33(d).

Interrogatory 3:

Identify each and every employee, contractor, or representative of the Repsol Group and/or any of its members who has now or ever had any responsibility for or involvement in compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances in New Jersey, including but not limited to the management of, accounting for, and reporting of Environmental Liabilities, compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances. In identifying such persons, include their names, addresses, titles, employers, primary office location, any other office locations, relevant Repsol Group entity, and respective years of employment and/or affiliation. If the responsive person had more than one title and/or position, identify each title and/or position and the respective years of employment and/or relationship or affiliation at each title and/or position. Similarly, if the responsive person was employed by or affiliated with more than one Repsol Group entity, identify each Repsol Group entity and the respective years of employment and/or affiliation with each Repsol Group entity.

ANSWER:

Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Repsol further objects to this interrogatory because "representative" is vague and not defined and because the interrogatory is overly broad and burdensome.

Subject to these objections, Repsol does not have an employee or contractor with responsibility for, or involvement in compliance with Environment Laws, Environment Contamination, and/or Hazardous Substances of New Jersey. Repsol is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Interrogatory 4:

Identify each and every of your employees, contractors, and/or representatives and each and every of your former employees, contractors, and/or representatives who currently or has ever worked, contracted, or represented at a location of another Repsol Group entity and/or who currently or has ever worked for, contracted with, or represented another Repsol Group entity. In identifying such persons, include their names, addresses, titles, employers, primary office location, any other office locations, relevant Repsol Group entity, and respective years of employment and/or affiliation. If the responsive person had more than one title and/or position, identify each title and/or position and the respective years of employment and/or relationship or affiliation at each title and/or position. Similarly, if the responsive person was employed by or affiliated with more than one Repsol Group entity, identify each Repsol Group entity and the respective years of employment and/or affiliation with each Repsol Group entity.

**ANSWER:**

Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Repsol further objects to this interrogatory because "representative" is vague and not defined and because the interrogatory is overly broad and burdensome; it would be incredibly burdensome to attempt to obtain this information which has no relevance to the jurisdictional issues before this Court.

Subject to the foregoing objections, Repsol does not have any employees in the State of New Jersey. Repsol is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

**Interrogatory 5:**

Identify and describe the corporate structure and the processes of corporate governance, control, and management of the operations of the Repsol Group and each of its members, including, but not limited to, ownership, finances, management, and control, and identify and describe the reasons for and the bases, purposes, and actual and/or intended effects of such structures, processes, and management.

**ANSWER:**

Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Subject to these objections, Repsol refers to documents produced in response to Request for Production 10. F.R.C.P. 33(d).

**Interrogatory 6:**

Identify and describe all business and other purposes for: the Assumption Agreement, dated August 14, 1996; the Contribution Agreement, dated August 14, 1996; and the reorganization of assets and liabilities by and between YPF, YPF International Ltd., YPF Holdings, Inc., CLH Holdings, Chemical Land Holdings, Inc. (n/k/a Tierra), and Maxus during that time period.

**ANSWER:**

Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Subject to this objection, Repsol responds that the Assumption Agreement and Contribution Agreement identify and fully describe their purposes.

**Interrogatory 7:**

Identify and describe any and all contacts with or concerning New Jersey, including but not limited to the types of contacts identified by the courts as relevant to the inquiry as to personal jurisdiction in *Rocker Management, L.L.C. v. Lernout & Hauspie Speech Products, N. V.*, No. Civ. A. 00-5965 JCL, 2005 WL 3658006 (D.N.J. 2005) and cases cited therein, *Pfundstein v.*



*Omnicom Group Inc.*, 666 A.2d 1013, 285 N.J. Super. 245 (App. Div. 1995) and cases cited therein, and *Toys R Us, Inc. v. Step Two, S.A.*, 318 F.3d 446 (3rd Cir. 2003) and cases cited therein.

**ANSWER:**

Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Repsol does not have contacts with the State of New Jersey. Repsol objects to this interrogatory on the basis that it directs the person verifying these answers to review and analyze the above-referenced cases, AND the cases cited therein, to determine what kinds of contacts were identified therein as relevant to the personal jurisdiction inquiry and then somehow determine whether Repsol has such contacts; it is, therefore improper. *See Lugo, et al. v. Heckler*, 98 F.R.D. 709, 714-715 (E.D. Pa. 1983) ("[N]o party should be required to do independent research in order to acquire information with which to answer interrogatories."), *citing Kluchenac v. Oswald & Hess Co.*, 20 F.R.D. 87, 88-89 (W.D. Pa. 1957).

Subject to these objections, the person verifying Repsol's answers to these interrogatories, has not read the above-referenced cases and does not know what contacts were involved. However, Repsol is a Spanish business corporation with its principal place of business in Madrid, Spain. Repsol does not have a designated agent for service of process in New Jersey. Repsol does not maintain an office in New Jersey. Repsol makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. Repsol does not recruit any employees out of New Jersey. Repsol does not buy or sell goods or services in New Jersey. Repsol does not own any real property located in New Jersey. Further, Repsol has no phone listing in New Jersey and does not advertise in New Jersey. Repsol does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. Repsol does not pay any taxes in New Jersey. Repsol does not control the environmental practices of Tierra and Maxus. Repsol does not control the activities of Tierra or Maxus. Repsol does not control the marketing or operational policies of Tierra or Maxus. Repsol respects the separate corporate existence of Tierra or Maxus. Repsol's web site operator does not intentionally target New Jersey, nor does Repsol solicit business in New Jersey via its web site.

**Interrogatory 8:**

Identify and describe how the Repsol Group and each of its members manages, accounts for, and reports Environmental Liabilities, compliance with Environmental Laws, Environmental Contamination, and Hazardous Substances, including identifying and describing any inter-company agreements, processes, understandings, or involvement in the same by one member of the Repsol Group with respect to any other member of the Repsol Group.

**ANSWER:**

Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date.

Subject to this objection, Repsol does not perform this function in connection with the State of New Jersey. Repsol is not responsible for, and does not direct communications of its subsidiaries with the State of New Jersey.

Interrogatory 9:

Identify any and all agents, consultants, and other third parties doing business or otherwise acting on your behalf in New Jersey, including, but not limited to, any and all attorneys, consultants, agents, representatives, and lobbyists. For each identified person, identify and describe the scope of the representation and any and all documents and communications concerning the representation, including, but limited to, contracts, agreements, and/or understandings, by or between any member of the Repsol Group and such identified person.

ANSWER:

Repsol did not acquire YPF until July 1999, and objects to any discovery which precedes this date. Repsol objects to the definition of "Repsol Group." Repsol responds to these interrogatories on behalf of Repsol only. Repsol objects to "agents, consultants, and other third parties doing business or otherwise acting on your behalf in New Jersey" as vague and undefined.

Repsol is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Subject to these objections, Repsol is being represented by attorneys in this lawsuit.

Interrogatory 10:

Identify and describe the annual total value of all business transactions that inured to you from New Jersey for each of the last five (5) years, including, but not limited to, all assets, liabilities, income and expenses.

ANSWER:

Repsol objects to this interrogatory because the term "inured" is vague and undefined. Subject to this objection, there is none. Repsol is not responsible for, and does not direct communications of its subsidiaries with the State of New Jersey. Repsol is a Spanish business corporation with its principal place of business in Madrid, Spain. Repsol does not have a designated agent for service of process in New Jersey. Repsol does not maintain an office in New Jersey. Repsol makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. Repsol does not recruit any employees out of New Jersey. Repsol does not buy or sell goods or services in New Jersey. Repsol does not own any real property located in New Jersey. Further, Repsol has no phone listing in New Jersey and does not advertise in New Jersey. Repsol does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. Repsol does not pay any taxes in New Jersey. Repsol does not control the environmental practices of Tierra and Maxus. Repsol does not control the activities of Tierra or Maxus. Repsol does not control the marketing or operational policies of Tierra or Maxus.

Repsol respects the separate corporate existence of Tierra or Maxus. Repsol's web site operator does not intentionally target New Jersey, nor does Repsol solicit business in New Jersey via its web site.





**ANTE EL TRIBUNAL DE DISTRITO DE LOS ESTADOS UNIDOS  
DISTRITO DE NEW JERSEY  
DIVISIÓN NEWARK**

DEPARTAMENTO DE PROTECCIÓN  
AMBIENTAL DE NEW JERSEY y  
EL ADMINISTRADOR DEL FONDO DE  
NEW JERSEY PARA COMPENSACIÓN  
POR DERRAMES,

Demandantes :

Contra :

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

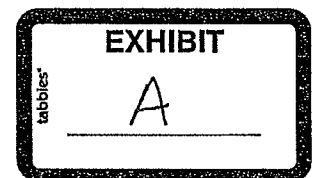
Demandadas :

Acción Civil Nº 06-00401  
JUEZ JOHN C. LIFLAND  
CON PETICIÓN DE JURADO

**RESPUESTAS E IMPUGNACIONES AL INTERROGATORIO A LA DEMANDADA  
REPSOL YPF, S.A.**

A: Los Demandantes, Departamento de Protección Ambiental de New Jersey y el Administrador del Departamento de Protección Ambiental de New Jersey y el Administrador del Fondo de New Jersey para Compensación por Derrames, y a Zulima V. Farber, Procurador General de New Jersey.

La Demandada Repsol YPF, S.A. ("Repsol") responde e impugna las Preguntas de los Demandantes de acuerdo con lo que se consigna a continuación. Repsol impugna a las definiciones y las instrucciones en la medida que pretenden imponer a Repsol obligaciones que exceden los requisitos de las Normas Federales de Procedimientos Civiles. Para asegurar que las preguntas fueron entendidas, las mismas fueron primero traducidas al español y analizadas



personalmente y contestadas por las partes requeridas. Ver Anexo A adjunto al presente. Luego fueron traducidas al inglés para ser presentadas a los abogados de la parte opuesta.

BRACEWELL & GIULIANI LLP  
711 Louisiana Street  
Suite 2300  
Houston, Texas 77002-2770  
713 / 221-1584

Y

GREENBAUM, ROWE, SMITH & DAVIS  
LLP  
6 Becker Farm Road  
Roseland, New Jersey 07068  
973/ 535-1600  
Abogados de: Repsol YPF S.A., YPF S.A., YPF  
Holdings, Inc. y CLH Holdings

Asesor Letrado

Marc J. Gross, Abogado

### CERTIFICADO DE DILIGENCIAMIENTO

Por el presente certifico que una copia fiel y auténtica de las Respuestas e Impugnaciones de la Demandada Repsol YPF, S.A. a los Interrogatorios, el documento precedente, ha sido enviada a los abogados representantes mediante correo certificado de transmisión electrónica a los \_\_\_\_\_ días de junio de 2006, a los destinatarios que se detallan a continuación:

Michael Gordon  
Gordon & Gordon  
80 Main Street  
West Orange, New Jersey 07052  
*Por email solo*

*(también mediante correo  
certificado, con aviso de retorno)*

Michael Connelly  
Bill Jackson  
Connelly Baker Maston Wotring  
Jackson LLP  
700 Louisiana Street, Suite 1850  
Houston, Texas 77002-2778

William L. Warren  
Drinker Biddle & Reath LLP  
105 College Road East  
Box 627  
Princeton, New Jersey 08542

Carol Dinkins  
Vinson & Elkins  
1001 Fannin, Suite 2300  
Houston, Texas 77002  
*Por email*

Thomas E. Starnes  
Andrews Kurth Washington  
1351 I Street  
Washington, DC 20005  
*Por email*



---

Christina E. Ponig

Pregunta N° 1:

Identifique y describa todas y cada una de las operaciones, contratos, acuerdos y / o entendimientos (incluyendo las operaciones, contratos, acuerdos, y / o entendimientos inter-compañías) entre el Grupo Repsol y / o cualquiera de sus miembros con relación a New Jersey, incluyendo, pero no taxativamente, el cumplimiento de Leyes Ambientales, Contaminación Ambiental y / o Sustancias Peligrosas en New Jersey, e incluyendo, pero no taxativamente, la administración de Responsabilidades Ambientales, el cumplimiento de Leyes Ambientales, Contaminación Ambiental y / o Sustancias Peligrosas, y todos los registros financieros relacionados con los mismos.

RESPUESTA:

Pregunta N° 2:

Identifique a todos y cada uno de los funcionarios, directores, gerentes, y ejecutivos del Grupo Repsol y / o cualquiera de sus miembros. Al identificar a esas personas, incluya sus nombres, domicilios, cargos, empleadores, ubicación de la oficina principal y cualquier otras ubicaciones de oficinas, entidad relevante del Grupo Repsol, y años respectivos de empleo y / o afiliación. Si la persona requerida tuviere más de un cargo y / o posición, identifique cada cargo y / o posición y los respectivos años de empleo, y / o relación y / o afiliación con cada cargo y / o posición. En forma parecida, si la persona en cuestión hubiere estado empleada por o afiliada con más de una entidad del Grupo Repsol, identifique a cada entidad del Grupo Repsol y los respectivos años de empleo y / o afiliación con cada entidad del Grupo Repsol. Además, por cada persona en cuestión, identifique si tienen ahora o si han tenido alguna vez alguna incumbencia o alguna responsabilidad por el cumplimiento de Leyes Ambientales, Contaminación Ambiental y / o Sustancias Peligrosas en New Jersey, incluyendo, pero no taxativamente, la administración, contabilidad e informes de Responsabilidades Ambientales, cumplimiento de Leyes Ambientales, contaminación Ambiental y / o Sustancias Peligrosas.

**RESPUESTA:**

Pregunta N° 3:

Identifique a todos y cada uno de los empleados, contratistas, o representantes del Grupo Repsol y / o de sus miembros que ahora tuviere o que haya alguna vez tenido responsabilidad por o participación en el cumplimiento de Leyes Ambientales, Contaminación Ambiental y / o Sustancias Peligrosas en New Jersey, incluyendo, pero no taxativamente, la administración, contabilidad e informes sobre Responsabilidades Ambientales, cumplimiento de Leyes Ambientales, Contaminación Ambiental y / o Sustancias Peligrosas. Al identificar a esas personas, incluya sus nombres, domicilios, cargos, empleadores, ubicación de la oficina principal, y cualesquiera otras ubicaciones de oficinas, entidad relevante del Grupo Repsol, y

años respectivos de empleo y / o afiliación. Si la persona en cuestión tuviere más de un cargo y / o posición, identifique cada cargo y / o posición y los respectivos años de empleo, y / o relación o afiliación con cada cargo y / o posición. En forma parecida, si la persona en cuestión hubiere estado empleada por o afiliada con más de una entidad del Grupo Repsol, identifique a cada entidad del Grupo Repsol y los respectivos años de empleo y / o afiliación con cada entidad del Grupo Repsol.

**RESPUESTA:**

Pregunta N° 4:

Identifique a todos y cada uno de sus empleados, contratistas, y / o representantes y a todos y cada uno de sus ex empleados, contratistas, y / o representantes que actualmente o que alguna vez han trabajado, han sido contratados o lo han representado en un sitio de otra entidad del Grupo Repsol y / o que actualmente trabaja o que alguna vez ha trabajado, contratado con o representado a otra entidad del Grupo Repsol. Al identificar a esas personas, incluya sus nombres, domicilios, cargos, empleadores, ubicación de la oficina principal, cualesquiera otras ubicaciones de oficinas, entidad relevante del Grupo Repsol y años respectivos de empleo y / o afiliación. Si la persona en cuestión tuviere más de un cargo y / o posición, identifique cada cargo y / o posición y los respectivos años de empleo, y / o relación o afiliación con cada cargo y / o posición. En forma parecida, si la persona en cuestión hubiere estado empleada por o afiliada con más de una entidad del Grupo Repsol, identifique a cada entidad del Grupo Repsol y los respectivos años de empleo y / o afiliación con cada entidad del Grupo Repsol.

**RESPUESTA:**

Pregunta N° 5:

Identifique y describa la estructura corporativa y los procesos de la conducción corporativa, de control y gerenciamiento de las operaciones del Grupo Repsol y de cada uno de sus miembros, incluyendo, pero no taxativamente, títulos de propiedad, finanzas, gerenciamiento y control, e identifique y describa las razones y las bases, fines y efectos reales y / o esperados de esas estructuras, procesos, y gerenciamiento.

**RESPUESTA:**

Pregunta N° 6:

Identifique y describa todas las actividades comerciales y otros fines para: el Acuerdo de Asunción, fechado el 14 de agosto de 1996; el Acuerdo de Aportes, fechado el 14 de agosto de 1996; y la reorganización de activos y pasivos entre YPF, YPF International Ltd., YPF Holdings, Inc., CLH Holdings, Chemical Land Holdings, Inc. (conocido como Tierra), y Maxus durante ese período.

**RESPUESTA:**

Pregunta N° 7:

Identifique y describa a todos y cada uno de los contactos con New Jersey, o relacionados con New Jersey, incluyendo, pero no taxativamente, los tipos de contactos identificados por los tribunales como relevantes para la investigación en cuanto a jurisdicción personal en *Rocker Management, L.L.C. v. Lernout & Hauspie Speech Products, N.V.*, N° Civ. A. 00-5965 JCL, 2005 WL 3658006 (D.N.J. 2005) y casos citados allí, *Pfundstein v. Omnicom Group Inc.*, 666 A.2d 1013, 285 N.J. Super.. 245 (División de Apelaciones 1995) y casos citados allí, y *Toys R Us, Inc. v. Step Two, S.A.*, 318 F.3d 446 (3er. Circuito, 2003) y casos citados allí.

**RESPUESTA:**

Pregunta N° 8:

Identifique y describa cómo el Grupo Repsol y cada uno de sus miembros gerencia, contabiliza, e informa Responsabilidades Ambientales, el cumplimiento de Leyes Ambientales, Contaminación Ambiental, y Sustancias Peligrosas, incluyendo la identificación y descripción de los acuerdos, procesos, y entendimientos inter-compañías, o participación en los mismos por un miembro del Grupo Repsol con respecto a cualquier otro miembro del Grupo Repsol.

**RESPUESTA:**

Pregunta N° 9:

Identifique a todos y cada uno de los agentes, consultores, y otros terceros que hacen negocios o que de algún otro modo actúan en su nombre en New Jersey, incluyendo, pero no taxativamente, todos y cada uno de los abogados, consultores, agentes, representantes y lobistas. Para cada persona identificada, identifique y describa el alcance de la representación y todos y cada uno de los documentos y comunicaciones concernientes a la representación, incluyendo, taxativamente,

contratos, acuerdos y / o entendimientos, entre cualquiera de los miembros del Grupo Repsol y esa persona identificada.

**RESPUESTA:**

**Pregunta N° 10:**

Identifique y describa el valor total anual de todas las operaciones comerciales que operaron en beneficio suyo de New Jersey para cada uno de los últimos cinco (5) años, incluyendo, pero no taxativamente, todos los activos, pasivos, ingresos, y gastos.

**RESPUESTA:**

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X

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

Plaintiffs,

Civil Action No:  
2:06-CV-00401-JCL-PS

-against-

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

Defendants.

-----X

1177 Avenue of the Americas  
New York, New York

September 23, 2006  
9:30 a.m.

VIDEOTAPED DEPOSITION of YPF, S.A.,  
a defendant, BY, GABRIEL LEIVA, taken on behalf of  
the plaintiffs, pursuant to Notice, held before a  
Notary Public of the State of New York.

1 G. Leiva  
2 affiliate of YPF up until 2002. I have no knowledge  
3 of any financial statements from the years before.

4 Q. You have no knowledge of financial  
5 statements from the years before from whom, YPF  
6 International?

7 A. No, the YPF International I have the  
8 financial statements 1995, '96, '97 all the way up to  
9 2001. And then after the reorganization, when the  
10 direct affiliate of YPF was YPF Holdings, I started  
11 to receive the YPF Holdings financial statements  
12 because that's where the requisites of CNB started,  
13 from the moment that it became YPF Holdings.

14 Q. Will you agree to produce the 1995 to  
15 2001 financial statements for YPF International?

16 A. Yes, I have those financial statements,  
17 but what I wanted to clear up is that they are not  
18 from YPF Holdings.

19 The second subject is that when I named  
20 the people with whom I had spoken, I forgot to  
21 mention Ricardo Ferro. I called him on the phone to  
22 ask him about the YPF environmental management for  
23 CNB.

24 MS. BLANCO: Let me object. I believe  
25 that the word which the witness testified as policia

1 G. Leiva  
2 was misinterpreted as politics. In the context it  
3 should have been interpreted as policies.

4 Q. Where does Mr. Ferro work?

5 A. In Buenos Aires.

6 Q. For YPF?

7 A. Yes.

8 Q. Does YPF have an environmental policy?

9 A. Well, I asked him so he could give it to  
10 me. What he commented was that YPF took as a policy  
11 their own -- adopted their own policy.

12 Q. YPF adopted the policy of Repsol?

13 A. Repsol's policy is a very general  
14 policy. It's available in the Internet. And they're  
15 general requirements of their commitments with Repsol  
16 to comply with the present legislation on the  
17 environmental topic in every country where the  
18 affiliated companies function. The compliance of  
19 that legislation is not part of the policy, but it is  
20 a responsibility of each company.

21 MR. JACKSON: I will object as  
22 non-responsive.

23 Q. I will ask again: Did YPF adopt, as its  
24 own, the environmental policy of Repsol, though  
25 general?



G. Leiva

1

2

A. Repsol's policy is a general framework  
3 on which all affiliated companies function.

4

Q. They all must comply with that policy?

5

A. Yes, because it is a general framework  
6 within which all must function, but each company has  
7 the obligations of the countries where they operate.

8

Q. I understand.

9

A. The policy says, phrases sentences like  
10 Repsol and YPF will comply in all the areas where  
11 they function legislative. YPF will comply with all  
12 the present legislation in the countries where they  
13 operate. It is the responsibility of all the  
14 employees of all the companies to comply with. It is  
15 the intention -- let's see, what else -- to ensure  
16 the safety of the environment in the community where  
17 they operate. Very global. Each company interpreted  
18 and does the requirements of each country.

19

Q. So, YPF then adopts its own  
20 environmental policy for its operations in compliance  
21 with Repsol's general policy that it do so?

22

A. YPF operates under general rules of the  
23 environmental policy set by Repsol, and in that  
24 context makes necessary decisions, their own  
25 necessary measures in order to comply with the

1 G. Leiva

2 general environmental regulations within a general  
3 framework. ]

4 MS. BLANCO: I'm sorry. Objection to  
5 the translation insofar as it omitted the witness'  
6 discussion of compliance in Argentina.

7 INTERPRETER: Thank you.

8 Q. Would the witness care to share again  
9 what was said regarding compliance in Argentina.

10 A. If I want to say which are the  
11 obligations?

12 Q. If you could repeat your answer,  
13 previous answer with respect to compliance in  
14 Argentina.

15 A. YPF complies with all legislation and  
16 makes their own decisions in order to comply with the  
17 environmental regulations in Argentina within the  
18 general framework of the environmental policy of  
19 Repsol, or what Repsol has decided for their issues  
20 and the affiliates. ]

21 Q. Just so we're clear, I apologize, this  
22 is a bit tedious, it is the policy of Repsol that all  
23 of its direct and indirect subsidiaries comply with  
24 the environmental laws in the countries in which they  
25 operate; is that true?

1 G. Leiva

2 A. Yes.

3 Q. Is it your understanding that the YPF  
4 American unit does not have any environmental  
5 policies?

6 A. I couldn't say that they don't because  
7 it's probably the environmental policies of the  
8 companies here. I don't have knowledge. What I  
9 asked for was about the YPF policies.

10 Q. Is it part of the YPF policy that its  
11 subsidiaries also have environmental policies?

12 A. It's not a policy that they have the  
13 policy because, for example, YPF does not have it in  
14 writing. It doesn't have in writing the precise --  
15 it complies with the present legislation and in the  
16 20-F reports that compliance, but it doesn't require  
17 nor prevents that the subsidiary companies decide  
18 their own environmental policies. That's obviously  
19 not to be against the general framework.

20 Q. Can you turn to page 43 of Plaintiffs'  
21 Exhibit 53. The last paragraph states -- I believe  
22 Mr. Leiva can read this -- but it states "YPF  
23 believes that YPF Holdings' policies and procedures  
24 in the area of pollution control, product safety, and  
25 occupational health are adequate to prevent

# **EXHIBIT K**

BRACEWELL  
& GIULIANI

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Houston, Texas  
77002-2770

October 22, 2007

**By Email**

Mr. Bill Jackson  
Connelly Baker Maston Wotring Jackson LLP  
700 Louisiana, Suite 1850  
Houston, Texas 77002-2778

Re: Docket No. ESX-L-9868-05, *New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al.*, in the Superior Court of New Jersey, Law Division, Civil Part, Essex County

Dear Bill:

This letter is pursuant to the Court's October 15, 2007 Order on the Answers to Interrogatories of the Nonresident Defendants.

Subject to all the objections set forth in their prior responses, the Amended Answers of YPF, YPFH, and CLHH pursuant to Paragraph 4(a) of the Court's Order are:

**CLHH:**

**INTERROGATORY NO. 2:**

In response to the question about whether CLHH has made any capital contributions to Tierra, CLHH states yes, pursuant to the terms of the Contribution Agreement. CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 3:**

In response to the question about whether CLHH has made any capital contributions to Tierra, CLHH states yes, pursuant to the terms of the Contribution Agreement. CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672. CLHH further adds that, with respect to the years 1996 through 1999, some of the funds Maxus conveyed to Tierra during that time were ultimately derived from YPF and YPFH, pursuant to various agreements, which have already been produced at YPF521-531 and YPF532-549. Beginning in the year 2000, and until late 2004 or early 2005, Maxus' own funds were used as the source of funds that Maxus supplied to Tierra. With respect to the

# BRACEWELL & GIULIANI

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Mr. Bill Jackson  
October 22, 2007  
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and YPFH's other subsidiaries during that period were derived pursuant to a credit agreement between YPF and YPFH, and various amendments thereto, all of which have already been produced. YPFH598-604, YPFH582-583, YPF1736-1740; Letter from Tom Starnes to Bill Jackson, Aug. 11, 2006.

**INTERROGATORY NO. 4:**

CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 5:**

CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 6:**

CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 7:**

CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 8:**

CLHH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

**INTERROGATORY NO. 12:**

In response to the question about how much YPFH has contributed in capital to CLHH, CLHH refers to financial documents already produced, YPF521-531 and YPF563-1672, and further states that, as Mr. Smith and Mr. Leiva testified, a controversy exists on this issue. See Deposition of Harvey R. Smith on behalf of YPFH Holdings, at 165 l.20-166 l.17; Deposition of Gabriel Leiva on behalf of YPF, S.A., at 268, l.15-269 l.4.

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## YPFH:

### **INTERROGATORY NO. 3:**

In response to the Court's question about whether YPFH has made any capital contributions to Tierra, YPFH states no. YPFH further adds that, with respect to the years 1996 through 1999, some of the funds Maxus conveyed to Tierra during that time were ultimately derived from YPF and YPFH, pursuant to various agreements, which have already been produced at YPF521-531 and YPF532-549. Beginning in the year 2000, and until late 2004 or early 2005, Maxus' own funds were used as the source of funds that Maxus supplied to Tierra. With respect to the period beginning in late 2004/early 2005, some of the funds which Maxus conveyed to Tierra and YPFH's other subsidiaries during that period were derived pursuant to a credit agreement between YPF and YPFH, and various amendments thereto, all of which have already been produced. YPFH598-604, YPFH582-583, YPF1736-1740; Letter from Tom Starnes to Bill Jackson, Aug. 11, 2006.

### **INTERROGATORY NO. 12:**

YPFH refers to the financial documents produced in this action, YPF521-531 and YPF563-1672, and further states that, as Mr. Smith and Mr. Leiva testified, a controversy exists on this issue. See Deposition of Harvey R. Smith on behalf of YPFH Holdings, at 165 1.20-166 1.17; Deposition of Gabriel Leiva on behalf of YPF, S.A., at 268, 1.15-269 1.4.

## YPF:

### **INTERROGATORY NO. 3:**

YPF states yes, pursuant to the terms of the Contribution Agreement. YPF refers to the financial documents produced in this action: YPF521-531 and YPF563-1672. YPF further adds that, with respect to the years 1996 through 1999, some of the funds Maxus conveyed to Tierra during that time were ultimately derived from YPF and YPFH, pursuant to various agreements, which have already been produced at YPF521-531 and YPF532-549. Beginning in the year 2000, and until late 2004 or early 2005, Maxus' own funds were used as the source of funds that Maxus supplied to Tierra. With respect to the period beginning in late 2004/early 2005, some of the funds which Maxus conveyed to Tierra and YPFH's other subsidiaries during that period were derived pursuant to a credit agreement between YPF and YPFH, and various amendments thereto, all of which have already been produced. YPFH598-604, YPFH582-583, YPF1736-1740; Letter from Tom Starnes to Bill Jackson, Aug. 11, 2006.

# BRACEWELL & GIULIANI

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Mr. Bill Jackson  
October 22, 2007  
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## **INTERROGATORY NO. 4:**

YPF refers to the financial documents produced in this action, YPF521-531 and YPF563-1672.

## **INTERROGATORY NO. 14:**

YPF refers to the financial documents produced in this action: YPF437-516, YPF563-1672, and information regarding the Keepwell Covenant contained in YPF's 20-Fs and accompanying Consolidated Statements of Income for fiscal years ending December 31, 1995 (YPF 3990-3991, 4016, 4031), 1996 (YPF 3844, 3873), 1997 (YPF 3700, 3727, 3729), and 1998 (YPF 3330, 3361, 3362), documents previously produced in this action. YPF also refers to the deposition testimony of Gabriel Leiva at 134, 1.1-142 and 170, 1.4-305.

## **INTERROGATORY NO. 15:**

YPF refers to the financial documents produced in this action: YPF437-516, YPF563-1672, and information regarding the Keepwell Covenant contained in YPF's 20-Fs and accompanying Consolidated Statements of Income for fiscal years ending December 31, 1995 (YPF 3990-3991, 4016, 4031), 1996 (YPF 3844, 3873), 1997 (YPF 3700, 3727, 3729), and 1998 (YPF 3330, 3361, 3362), documents previously produced in this action. YPF also refers to the deposition testimony of Gabriel Leiva at 134, 1.1-142 and 170, 1.4-305.

## **INTERROGATORY NO. 16:**

YPF refers to the financial documents produced in this action: YPF437-516, YPF563-1672, and information regarding the Keepwell Covenant contained in YPF's 20-Fs and accompanying Consolidated Statements of Income for fiscal years ending December 31, 1995 (YPF 3990-3991, 4016, 4031), 1996 (YPF 3844, 3873), 1997 (YPF 3700, 3727, 3729), and 1998 (YPF 3330, 3361, 3362), documents previously produced in this action. YPF also refers to the deposition testimony of Gabriel Leiva at 134, 1.1-142 and 170, 1.4-305.

## **INTERROGATORY NO. 17:**

YPF refers to the deposition of Gabriel Leiva and further states that cash was transferred from a YPF bank account to the bank account of YPF's direct subsidiary, which for accounting purposes, is a credit on YPF's books. To complete the entry on YPF, the offsetting debit would be to long-term investment. YPF further refers to the financial documents produced in this action: YPF437-516, YPF563-1672, and information regarding the Keepwell Covenant contained in YPF's 20-Fs and accompanying Consolidated Statements of Income for fiscal years ending December 31, 1995 (YPF 3990-3991, 4016,



# BRACEWELL & GIULIANI

Mr. Bill Jackson  
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Page 5

4031), 1996 (YPF 3844, 3873), 1997 (YPF 3700, 3727, 3729), and 1998 (YPF 3330, 3361, 3362), documents previously produced in this action. YPF also refers to the deposition testimony of Gabriel Leiva at 134, 1.1-142 and 170, 1.4-305.

Pursuant to Paragraph 4(b) of the Court's Order, Repsol amends its Answer to Plaintiffs' Personal Jurisdiction Interrogatory Number 3 as follows:

Subject to all objections set forth in its prior responses to the question asking Repsol to "identify and describe any and all Due Diligence or other internal audits of the 'US Group' or Environmental Liabilities in New Jersey," including the author, date, purpose, Repsol has not performed any Due Diligence or other internal audits of the "US Group" or Environmental Liabilities in New Jersey.

Pursuant to Paragraph 4(c) of the Court's Order, Repsol amends its Answer to Plaintiffs' Personal Jurisdiction Interrogatory Number 17 as follows.

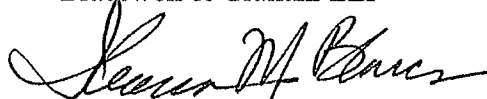
Subject to all objections set forth in its prior responses:

a. Repsol estimates that, in 2004, products totaling US\$3,020.11 were sold to end users in New Jersey and that, in 2005, products totaling US\$6,640.84 were sold to end users in New Jersey, for a total of US\$9660.95.

In addition to these sales, it is possible that other sales to New Jersey end users were made by Eurobikes, Inc., a Manassus, Virginia distributor of Repsol Moto products that no longer exists. In 2004, Repsol estimates that zero amount of product was distributed by Eurobikes to end users in New Jersey because Eurobikes did not distribute Repsol Moto products in 2004. However, in 2005, sales to Eurobikes of Repsol Moto were US\$152,217 and Repsol estimates that less than 100% of that amount, if any, was sold to end users in New Jersey.

Very truly yours,

Bracewell & Giuliani LLP



Ileana M. Blanco

IMB/cep

# BRACEWELL & GIULIANI

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Mr. Bill Jackson  
October 22, 2007  
Page 6

cc: Mr. Mike Gordon  
Mr. John Gilmour  
Ms. Kelly-Ann Pokrywa  
Mr. Bob Lehman  
Mr. Oliver Howard  
Ms. Amy Fogelman  
Mr. Tom Starnes  
Mr. Charles Crout  
Ms. Michele Blythe  
Mr. Bill Warren  
Ms. Susan Kleiner  
Ms. Christina Ponig  
Mr. Marc Gross  
Mr. Jeff Sirot

# **EXHIBIT L**

**GREENBAUM, ROWE, SMITH & DAVIS LLP**  
75 Livingston Avenue  
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(973) 535-1600

and

**BRACEWELL & GIULIANI LLP**  
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Houston, Texas 77002-2770  
713 / 223-2300  
Attorneys for Defendants Repsol, YPF, S.A., YPF, S.A.,  
YPF Holdings, Inc. and CLH Holdings, Inc.

NEW JERSEY 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, REPSOL YPF,  
S.A., YPF, S.A., YPF HOLDINGS,  
INC. AND CLH HOLDINGS,

Defendants.

To: Michael Gordon, Esq.,  
Gordon & Gordon  
5050 Morris Avenue, 2<sup>nd</sup> Floor,  
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William J. Jackson, Esq.,  
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William L. Warren  
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Princeton, New Jersey 08542  
*By E-mail*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ESSEX COUNTY

DOCKET NO. L-009868 05

**CIVIL ACTION**

**DEFENDANT REPSOL YPF, S.A.'S  
SUPPLEMENTAL RESPONSES TO  
PLAINTIFFS' PERSONAL  
JURISDICTION INTERROGATORIES**

Kevin Gaynor  
Vinson & Elkins LLP  
The Willard Office Building  
1455 Pennsylvania Avenue NW, Suite 600  
Washington, DC 20004-1008  
*By Email*

Thomas E. Starnes  
Andrews Kurth LLP  
1350 I Street, NW Suite 1100  
Washington, D.C. 20005  
*By Email*

Pursuant to Rule 4:17-4 of the New Jersey Rules Governing Civil Practice, Defendant Repsol YPF, S.A. ("Repsol") hereby submits the following Answers and objections to Plaintiffs' Interrogatories.

**RESPONSE TO INSTRUCTIONS AND DEFINITIONS**

Repsol hereby objects to the instructions and definitions set forth in Plaintiffs' Interrogatories to the extent that they seek to impose additional requirements beyond what is mandated by the Rules of Court. Repsol's Answers are provided in accordance with said Rules. This objection and qualification applies to all Answers supplied.

**GENERAL OBJECTIONS**

Repsol objects to any Interrogatory to the extent that it seeks information or documents protected by the attorney-client privilege, or the work product privilege, or which was generated in anticipation of litigation or for trial, or which are

otherwise immune from discovery. If Repsol produces documents responsive to any Interrogatory, the inadvertent identification or production of any such documents shall not constitute a waiver of any privilege with respect to the subject matter thereof or the information contained therein, and shall not waive the right of Repsol to object to the use of any such document or the information contained therein during any subsequent proceeding.

Repsol's Answers are based on the best information presently available, and Repsol reserves the right to amend or to supplement the Answers if Repsol obtains other or additional documents, but states that Repsol is not obligated to produce documents created after the date of this Answer.

Repsol reserves all objections to the relevancy and materiality of any and all Interrogatories and Answers.

Repsol hereby submits the following as certified Answers to Interrogatories:

2. Repsol objects to this Interrogatory on the grounds that it is vague and ambiguous, overbroad, unduly burdensome, calls for a legal conclusion, references terms that are undefined and seeks the production of information protected from disclosure by the attorney-client privilege and/or work product doctrine. To the extent that Repsol understands this Interrogatory and subject to all objections set forth herein, Repsol further objects to the term "Due Diligence" and refers to the privileged legal analysis identified in paragraphs 6 and 8-33 of the Declaration of David A. Wadsworth, paragraphs 4-24 of the Declaration of Agustín Garcia Moratilla, both of which have already been provided to Plaintiffs.

3. Repsol objects to Plaintiffs' original Interrogatory on the grounds that it is vague and ambiguous, overbroad, unduly burdensome, calls for a legal conclusion, references terms that are undefined and seeks the production of information protected from disclosure by the attorney-client privilege and/or work product doctrine. Repsol further objects to the term "Due Diligence." Subject to all objections set forth herein, in response to the question of how often Repsol audits Tierra, Repsol responds that it has not performed any audits of Tierra.

5. Repsol objects to this Interrogatory on the grounds that it is vague and ambiguous; however, subject to all objections set

forth herein, Repsol states yes, under an insurance policy for civil responsibility that covers all the directors and officers of Repsol and its subsidiaries in their function as directors and officers for their respective companies.

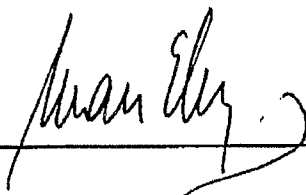
6. In response to the question of how much Repsol has spent on coverage for the officers and directors of the subsidiary that operates in New Jersey, Repsol responds that the policy does not quantify what amounts are attributable to coverage for specific officers and directors at specific subsidiaries. As Repsol YPF and its subsidiaries have hundreds of officers and directors world-wide, and there are only five officers and directors of Tierra Solutions, Inc. ("Tierra"), the amount attributable to them would probably be miniscule.

17. Repsol objects to this Interrogatory on the grounds that it is vague and ambiguous. Subject to all objections set forth herein and to the extent that Repsol understands this Interrogatory, Repsol states that it does not sell products in New Jersey. See Certification of Marcos Mozetic in Support of Repsol's Supplemental Answers to Interrogatories, attached hereto.



I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By:

  
\_\_\_\_\_

Dated: \_\_\_\_\_

NEW JERSEY 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, 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. L-009868 05

**CIVIL ACTION**

CERTIFICATION OF MARCOS MOZETIC

MARCOS MOZETIC, of full age, under oath, hereby certifies  
as follows:

1. I am Director of Exploration-Upstream for Repsol YPF,  
S.A. ("Repsol YPF"). I make this Certification in support of  
Repsol YPF's Supplemental Answers to Plaintiffs' Personal  
Jurisdiction Interrogatories. I have personal knowledge of the  
facts set forth below.

2. Repsol YPF is a Spanish business corporation with its  
principal place of business in Madrid, Spain.

3. Repsol YPF sells no products in New Jersey. This  
includes but is not limited to motorcycle oil, motorcycle  
lubricants, and liquified natural gas ("LNG").

### Repsol Moto Products

4. Repsol YPF is in no way involved in the design, manufacture, sale, or distribution of the products bearing the name "Repsol Moto," such as those identified at Exhibits A, B, C, and D ("the Products"), attached hereto.

5. The Products were manufactured in Argentina at YPF's plant in La Plata by YPF, S.A.

6. The Products were exported from Argentina to independent distributors in the United States. In 2004 and 2005, these American distributors were Global Motorsport Group, Inc. in Morgan Hill, California; Shock in Anaheim, California; and Eurobikes, Inc. in Manassus, Virginia.

7. Sales in 2004 to Global Motorsport Group, Inc. in Morgan Hill, California, totaled approximately US\$317,765. Sales in 2005 to Global Motorsport Group, Inc. in Morgan Hill, California, totaled approximately US\$79,547.

8. Sales in 2005 to Shock in Anaheim, California, totaled approximately US\$77,786. There were no sales to Shock in 2004.

9. Sales in 2005 to Eurobikes, Inc. in Manassus, Virginia, totaled approximately US\$152,217. There were no sales to Eurobikes, Inc. in 2004.

10. Repsol YPF does not know about or track information on the volume of Repsol Moto products that may be sold into New Jersey by these California and Virginia distributors. It

similarly does not know or track by what means Repsol Moto products make their way into New Jersey.

Liquified Natural Gas

12. Neither Repsol YPF nor its subsidiaries sell LNG in New Jersey. Neither Repsol YPF nor its subsidiaries transport LNG into or through New Jersey.

13. Repsol YPF was a party to two sales contracts with Atlantic LNG 2/3 Company of Trinidad and Tobago Unlimited ("Atlantic 2/3"). Under these contracts, Repsol agreed to purchase LNG from Atlantic 2/3's facility located at Point Fortin, Trinidad.

14. Repsol YPF entered into contracts with third parties to supply to them the LNG purchased from Atlantic 2/3.


15. In 2004, Repsol YPF delivered approximately 135,364 m<sup>3</sup>/3,057,228 MMBtu of LNG purchased from Atlantic 2/3 to a regasification plant at Everett, Massachusetts. In 2004, Repsol YPF delivered approximately 4,227,945 m<sup>3</sup>/95,455,717 MMBtu of LNG purchased from Atlantic 2/3 to a regasification plant at Cove Point, Maryland.

16. In 2005, Repsol YPF delivered approximately 4,195,494 m<sup>3</sup>/94,735,897 MMBtu of LNG purchased from Atlantic 2/3 to a regasification plant at Cove Point, Maryland.

17. Repsol YPF does not know, nor did it track, if the LNG delivered to the facilities at Everett, Massachusetts, or Cove Point, Maryland, was thereafter sent into or transported through New Jersey.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

  
\_\_\_\_\_  
MARCOS MOZETIC

PLAINTIFF'S  
EXHIBIT  
95

TR# 539138  
\*539138\*  
Repsol, Mfg# 114540  
2T TRANSMISSION 1/2 LTR

TRANSMISSION  
GEAR OIL  
TRANSMISIONES / TRANSMISSION  
10W-30  
0,5L 0,52097  
REPSOL ARGENTINA S.A.  
REPSOL ARGENTINA S.A.

tabbles  
EXHIBIT  
A

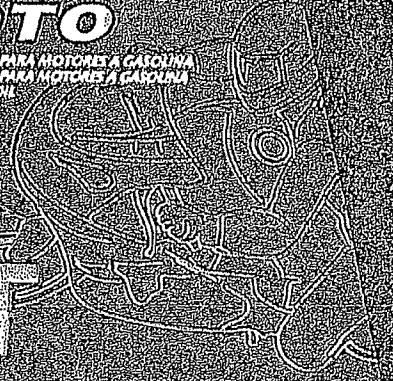
EXHIBIT 1  
EXHIBIT 1  
EXHIBIT 1  
EXHIBIT 1

PLAINTIFF'S  
EXHIBIT  
92



**REPSOL**  
**MOTO**

ACEITE LUBRICANTE PARA MOTORES A GASOLINA  
OLIO LUBRIFICANTE PER MOTORES A GASOLINA  
GASOLINE MOTOR OIL



**4T**  
**RACING**

10W-50

1 <sup>1000ml</sup>  
1 <sup>1.028qt</sup>  
NEWSPRINT

EXHIBIT  
B

tabbles

PLAINTIFF'S EXHIBIT 92

**REPSOL  
MOTO**

PLAINTIFF'S  
EXHIBIT  
93

**CADENAS  
CORRENTES  
CHAIN LUBE**

400ml/26fl.oz.

INDUSTRIA ARGENTINA S.A.  
PREPARADO EN ARGENTINA PARA ADHESION AD PARA CADENAS DE  
MOTORCICLOS REPSOL DE GRANDE ADESAZ MADE PARA CONSOLIDAR  
REPSOL ARGENTINA S.A. REPSOL MOTORCYCLE CHAIN LUBE

EXHIBIT

C

tabbies

311





EXHIBIT  
tabbles  
D

REPSOL MOTOR OILS

# **EXHIBIT M**

SECURITIES AND EXCHANGE COMMISSION

FORM 20-F

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2001

Commission file number: 1-12102

YPF Sociedad Anónima

(Exact name of registrant as specified in its charter)

Republic of Argentina

(Jurisdiction of incorporation or organization)

Avenida Pte. R. Sáenz Peña 777

1364 Buenos Aires, Argentina

(011-5411) 4329-2000

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Table with 2 columns: Title of Each Class, Name of Each Exchange on Which Registered. Rows include American Depositary Shares, Class D Shares, 7% Structured Export Notes due 2002, 7 1/2% Structured Export Notes due 2002, and 7 3/4% Notes due 2007.

\* Listed not for trading but only in connection with the registration of American Depositary Shares.

Securities registered or to be registered pursuant to Section 12(g) of the Act: None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: None

The number of issued shares of each class of stock of YPF Sociedad Anónima as of December 31, 2001 was:

Table with 2 columns: Class of Shares, Number of Shares. Rows include Class A Shares (3,764), Class B Shares (7,624), Class C Shares (1,475,704), Class D Shares (391,825,701), and a total of 393,312,793.

YPF 3475

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 [ ] Item 18 [X]

### *Impairment of long-lived assets*

The Company has historically followed a policy of analyzing the recoverability of its held-for-use assets on an overall basis.

With respect to operations that were held pending sale or disposal, the Company's policy was to record these assets at amounts that did not exceed net realizable value.

The recoverability calculation is based on our best estimate of future market and operating conditions. The net carrying value of assets not recoverable is reduced to fair value. Computations of fair value represent our best estimate based on industry trends and reference to market rates and transactions.

Future adverse changes in market conditions or poor operating results could result in losses or an inability to recover the carrying value of the long-live assets that may not be reflected in an asset's current carrying value, thereby possibly requiring an impairment charge in the future.

### **YPF's Reorganization**

In line with Repsol YPF's worldwide strategic assets reorganization and divestment plan, YPF conducted a series of transactions, which included the sale of some assets located outside of Argentina, the merger of some subsidiaries, strategic divestitures and acquisitions in South America and elsewhere, including transactions with affiliated companies. See "Item 4: Information on the Company—History and Development of YPF—Deregulation, Privatization and Recent Developments."

### *Merger of YPF, Astra and Repsol Argentina*

Effective January 1, 2000, YPF merged with Astra and Repsol Argentina, with YPF as the surviving corporation. The merger was approved by Astra and Repsol Argentina's shareholders meeting held on December 27, 2000. See "Item 4: Information on the Company—History and Development of YPF—Deregulation, Privatization and Recent Developments."

### **Consolidated Oil and Gas Reserves and Production**

The following table sets forth YPF's estimated proved reserves of crude oil and natural gas on consolidated basis for the years ended December 31, 2001, 2000 and 1999. The reserve estimates set forth below were prepared in accordance with Rule 4-10 of Regulation S-X of the Securities and Exchange Commission.

	Year Ended December 31,		
	2001	2000	1999
	(millions of barrels)		
Estimated proved crude oil reserves(1)(2)			
Developed.....	1,343	1,261	1,119
Undeveloped.....	322	401	330
Total.....	<u>1,665</u>	<u>1,662</u>	<u>1,449</u>
	(billions of cubic feet)		
Estimated proved natural gas reserves(1)(2)			
Developed.....	7,512	7,267	8,734
Undeveloped.....	2,667	2,821	2,416
Total.....	<u>10,179</u>	<u>10,088</u>	<u>11,150</u>
	(millions of barrels)		
Crude oil production (1)(2).....	182	164	174
	(billions of cubic feet)		
Natural gas production (1)(2).....	559	619	640

(1) Crude oil (including condensate and natural gas liquids) and gas reserves and production amounts are stated before making any deductions in respect of royalties. Royalties on YPF's production are accounted for as a cost of production and are not deducted in determining net sales.

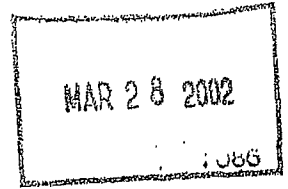
# EXHIBIT N

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

PR

Form 20-F



ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: December 31, 2001
Commission file number: 1-10220

Repsol YPF, S.A.

(Exact name of registrant as specified in its charter)

Kingdom of Spain

(Jurisdiction of incorporation of organization)

Paseo de la Castellana, 278—28046 Madrid, Spain

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Table with 2 columns: Title of each class, Name of each exchange on which registered. Rows include Ordinary shares, American Depositary Shares, and Series A 7.45% non-cumulative guaranteed preference shares.

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of certain outstanding shares of each class of stock of Repsol International Capital Limited benefitting from a guarantee of Repsol YPF, S.A. at December 31, 2001 was:

Table showing Series A 7.45% non-cumulative guaranteed preference shares with a count of 29,000,000.

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2001 was:

Table showing Ordinary shares, par value €1.00 per share with a count of 1,220,863,463.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. Yes [x] No [ ]

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 [ ] Item 18 [x]

Please send copies of notices and communications from the Securities and Exchange Commission to:

REP 13168

## 2. Information on Repsol YPF

### 2.1 Repsol YPF

#### 2.1.1 Overview

Repsol YPF is a limited liability company (*sociedad anónima*) duly organized on November 12, 1986 and existing under the laws of the Kingdom of Spain. The address of Repsol YPF is Paseo de la Castellana 278, 28046 Madrid, Spain and its telephone number is 011-34-91-348-8000.

Repsol YPF is an integrated oil and gas company engaged in all aspects of the petroleum business, including exploration, development and production of crude oil and natural gas, transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, production of a wide range of petrochemicals and marketing of petroleum products, petroleum derivatives, petrochemicals, liquefied petroleum gas and natural gas.

Repsol YPF began operations in October 1987 as part of a reorganization of the oil and gas businesses then owned by Instituto Nacional de Hidrocarburos, a Spanish government agency which acted as a holding company of government-owned oil and gas businesses. In April 1997, the Spanish State sold in a global public offering its entire remaining participation in Repsol YPF. Two years later and as part of its international growth strategy, Repsol YPF acquired YPF, through a series of acquisitions, a leading Argentine petroleum company and the former state oil and gas monopolist in Argentina. Repsol YPF initially acquired a 14.99% equity stake in YPF from the Argentine government on January 20, 1999. On June 23, 1999, Repsol YPF acquired an additional 82.47% of the outstanding capital stock of YPF pursuant to a tender offer. Since 1999 Repsol YPF has acquired additional shares of YPF and, as of December 31, 2001, Repsol YPF owned 99.04% of YPF.

On June 28, 2000, the general meeting of shareholders approved the change of the company's name from Repsol, S.A. to Repsol YPF, S.A.

Through the acquisition of YPF, Repsol YPF sought to achieve a balance between upstream and downstream operations, position itself as a market leader in Latin America, achieve operating and capital expenditure synergies and consolidate its business scale and financial strength. As part of its integration strategy, Repsol YPF has begun to dispose of select assets which do not correspond to its core businesses outlined above or to its core geographic areas which include Spain, Latin America and North Africa.

For a description of our principal capital expenditures and divestitures see Section 3.7.2. "Operating Financial Review and Prospects—Liquidity and Capital Resources—Capital Investments."

#### 2.1.2 Organization of Repsol YPF

Repsol YPF engages in all aspects of the petroleum business, including the exploration, development and production of crude oil and natural gas, the transportation of petroleum products, liquefied petroleum gas and natural gas, petroleum refining, petrochemical production and the marketing of petroleum products, petroleum derivatives, petrochemicals, LPG and natural gas. Repsol YPF organizes its business into four segments:

- Exploration and Production (E&P).
- Refining and Marketing.
- Chemicals.
- Gas and Electricity.

These items are deducted from total debt to arrive at a "net debt" amount. The net debt at December 31, 2001 and 2000 is calculated as follows:

	December 31,	
	2001	2000
	(millions of euros)	
<b>Financial condition</b>		
Long-term debt .....	13,488	14,886
Short-term debt .....	7,563	7,187
Total debt .....	<u>21,051</u>	<u>22,073</u>
Less:		
Cash .....	(278)	(361)
Temporary cash investments .....	(3,909)	(1,096)
Long-term financial investments .....	(309)	(217)
Net debt .....	<u>16,555</u>	<u>20,399</u>

Principally as a result of the acquisition of YPF in 1999, Repsol YPF's debt-to-book capitalization ratio increased significantly from 31% at December 31, 1998 to 53% at December 31, 1999. During 2000, Repsol YPF's debt-to-book capitalization ratio steadily declined to 51% at December 31, 2000, despite an increase in total net debt from €17,136 million at December 31, 1999 to €20,399 at December 31, 2000. During 2001, Repsol YPF's debt-to-book capitalization ratio continued its decline to 43% at December 31, 2001, with total outstanding debt of €16,555 at that date. Since 1999, Repsol YPF has undertaken a selective divestment plan for a total expected amount of \$4,500 million, allocated to partially refinance the acquisition of YPF. As of December 31, 2001 Repsol YPF has accomplished divestments under this plan in the amount of \$2,600 million. Repsol YPF expects to conclude its divestment plan in 2002 by reducing its interest in CLH and Enagás as required by market liberalizing measures recently enacted. See Section 2.3.1 "Information about Repsol YPF—Regulation of the Petroleum Industry—Spain." Execution of this asset divestment plan and the resulting cash flows are expected to permit Repsol YPF to progressively reduce its debt levels. Repsol YPF intends to continue with its debt-reduction plans and will seek to reduce its debt-to-book capitalization ratio to approximately 30% to 35% in 2003, which represents a fundamental objective of our financial policy.

The following table shows the sources of debt variation for fiscal 2001 and 2000.

	2001	2000
	(millions of euros)	
<b>Net debt at the beginning of period</b>	(20,399)	(17,136)
Net cash flow .....	5,729	6,302
Divestments .....	1,199	260
CAPEX .....	(4,692)	(6,074)
Dividend paid .....	(1,096)	(741)
Change consolidation method of Gas Natural .....	-	(1,415)
Deconsolidation effects of CLH & Indonesian assets .....	766	-
Equity increase .....	-	397
Preferred shares issued .....	2,780	-
Variation on commercial working capital & other .....	98	(690)
Exchange rate translation effect .....	(940)	(1,302)
<b>Net debt at the end of period</b>	<u>(16,555)</u>	<u>(20,399)</u>

On July 17, 2000, Repsol International Finance issued US\$1.25 billion in aggregate principal amount of its 7.45% global notes, due July 15, 2005. Payment of interest and principal on the global notes is guaranteed by Repsol YPF. During 2000, Repsol International Finance B.V. issued debt denominated in euros guaranteed by Repsol YPF in the following amounts: on May 5, €1.0 billion in aggregate principal amount of 6% bonds due 2010; on August 4, €600 million in aggregate principal amount of floating rate



# **EXHIBIT O**

## Historical Review

### **Merger with Astra**

In a Special Meeting of Shareholders held on December 27, 2000, the shareholders approved the merger of YPF, Astra C. A. P. S. A. (Astra) and Repsol Argentina, companies controlled by Repsol YPF, through the absorption of Astra and Repsol Argentina S. A. by YPF, and the merger became effective beginning on January 10, 2001. Consequently, the assets and liabilities of Astra and Repsol Argentina S. A. were merged with those of YPF beginning on January 1, 2001, and YPF increased its capital stock by \$403,127,930, representing 40,312,793 shares of Class D Common Stock with a par value of \$10 per share and 1 vote per share. By reason of this increase, the capital stock of YPF became \$3,933,127,930, represented by 393,312,793 shares of common stock with a par value of \$10 per share and 1 vote per share. As of December 31, 2000, the current assets of Astra and Repsol Argentina S. A. totaled \$174 million, while their non-current assets totaled \$1,917 million. Their current liabilities totaled \$904 million, while non-current liabilities totaled \$167 million.

### **Restructuring of YPF**

With respect to the restructuring plan for strategic assets and deinvestments of Repsol YPF throughout the world, the Company carried out the following transactions.

- \* YPF sold shares in permanent investments and joint ventures and approved the sale of certain subsidiaries, recording a consolidated net loss of (125) as of December 31, 2001.
- \* In January, 2001, the Company sold its 99.99% interest in YPF Brazil S. A. to Repsol YPF at market value, for approximately \$140 million US dollars, recording net earnings of approximately \$17 million US dollars.
- \* In January, 2001, YPF and YPF International Ltd. sold their investments in Ecuador to Repsol YPF Ecuador S. A. at market value, for a total of \$6 and \$307 US dollars, respectively, registering a net loss of \$1 million and \$1 million US dollars, respectively.
- \* In February, 2001, the company sold 36% of its interest in Oleoducto Transandino (Argentina) S. A. and A & C Pipeline Holding Company for a total of \$66 million US dollars, recording net earnings of \$6 million US dollars and, through YPF Chile S. A., the company sold 36% of its interest in Oleoducto Trasandino (Chile) S. A., recording net earnings of \$13 million US.
- \* In February, 2001, YPF entered into an agreement with Pecom Energia S. A. ("Pecom") by which it purchased 20.25% of additional interest in Empresa Petrolera Andina S. A. ("Andina") through YPF International Ltd. and 50% interest in the Manantiales Behr and Restinga Ah areas, selling its interest in the Santa Cruz I area (30%), the Santa Cruz II area (62.2%) and other smaller assets, to Pecom. Furthermore, YPF, through YPF International Ltd. acquired an additional 9.5% interest in Andina from Pluspetrol Resources. The total market value of the net assets involved in the aforementioned transactions totaled \$435 million US dollars. As a consequence of that transaction, the indirect interest of YPF in Andina increased to 50%. The net earnings recorded for the aforementioned sales transaction totaled \$96 million US dollars.
- \* In April, 2001, YPF sold its interest in Electricidad Argentina S. A., the parent company of Edenor S. A., to EDF International S. A., for a total of \$195 million US dollars. The net earnings registered for this transaction totaled \$125 million US dollars.
- \* In June, 2001, YPF completed the second phase of the sale of its 21% interest in IDERSA to PSEG America Ltd., recording net earnings of \$3 million US dollars.
- \* In July, 2001, YPF International Ltd. sold its 100% interest in Repsol YPF Venezuela S. A. to Repsol Exploracion S. A., at market value, for a total of \$26 million US dollars.

Furthermore, in September, 2001, YPF International Ltd. sold its 100% interest in Maxus Venezuela (C. I.) Ltd. and Maxus Guarapiche Ltd. to Repsol Exploracion Venezuela B. V., at market value, for a total of \$47 million US dollars. As a consequence of these transactions, YPF International recorded a loss of \$94 million US dollars.

- \* In July, 2001, the Company sold its interest in Astra Produccion Petrolera S. A. to Repsol Exploracion Venezuela R. V., at market value, for a total of \$3 million US dollars, recording net earnings of \$16 million US dollars.
- \* In August, 2001, YPF International Ltd. sold its interest in Bitech Petroleum Corporation to Lukoil Overseas Canada Ltd., for a total of \$11 million US dollars, registering a net loss of \$4 million US.
- \* In August, 2001, YPF sold its interest in YPF Sudamericana S. A. to Repsol YPF Bolivia S. A., at book value.
- \* Effective January 1, 2002, YPF International Ltd., entered into an agreement for the sale of 100% of its interest in YPF Blora Ltd., YPF Maxus Southeast Sumatra, YPF Java Baratlaut B. V., YPF Madura Barat B. V., YPF Poleng B. V. and PT II APCO Services, all companies with assts in Indonesia, for a total of approximately \$174 million US dollars. Following generally accepted accounting principles, as of December 31, 2001, YPF International Ltd. registered a loss of \$252 million US dollars to appraise its investments in Indonesia at their estimated net asset value, while, in the 2002 fiscal year, earnings of \$29 million US dollars were recorded for those properties for which the sale price was higher than the book value.
- \* In February, 2001, the Final Merger Agreement between YPF Gas S. A. and Repsol Gas S. A. was signed. As a consequence of this agreement, YPF Gas S. A. was absorbed by Repsol Gas S. A., effective beginning on January 10, 2001, with 85% of the capital stock of Repsol Gas S. A. corresponding to YPF. In December, 2001, the Company sold its interest in Repsol Gas S. A. to Repsol Butano S. A. at market value, for a total of \$118 million, recording a net loss of 22.
- \* In December, 2001, by reason of an asset exchange agreement between Repsol YPF and Petroleo Brasileño S. A., YPF sold its investments in Eg3 S. A., Eg3 Asfaltos, S. A. and Eg3 Red S. A. to Repsol YPF, at market value, for a total of approximately \$559 million US dollars, recording a net loss of \$27 million US dollars.
- \* In March, 2001, Dow Investment Argentina S. A. and YPF agreed to merge their its interest in Polisur S. A. and PBB S. A. As a consequence of this agreement, effective beginning on April 10, 2001, PBB S. A. was absorbed by Polisur S. A. at its book value, changing its name to PBBPolisur S. A. As a result, on December 31, 2001, YPF's interest in the new company was 28%.
- \* On June 20, 2001, the Board of Directors approved the dissolution of Enerfin S. A. and of Argentine Private Development Company Ltd. (Cayman Islands) and the transfer of YPF's interest in Apex Petroleum Inc., to YPF International Ltd.
- \* In November, 2001, Argentina Private Development Company Ltd. transferred its interest in Gas Argentino S. A. to YPF S. A. for a total of \$68 million US dollars.
- \* In December, 2001, YPF International Ltd. sold 100% of its interest in YPF Holdings Inc. to YPF at market value, for a total of approximately \$191 million US dollars.
- \* In March, 2002, the Board of Directors approved the transfer of its interest in Andina, YPF Chile S. A. and Maxus Bolivia Inc., to Repsol YPF S. A.

**Source: Repsol-YPF Memoranda and Balance Sheets, 1994-2001**

## **Reseña Histórica**

### **Fusión con Astra**

La Asamblea General Extraordinaria de Accionistas, en su reunión del 27 de diciembre de 2000, aprobó la fusión de YPF, Astra C.A.P.S.A. (Astra) y Repsol Argentina S.A., compañías controladas de Repsol YPF, mediante la absorción de Astra y Repsol Argentina S.A. por parte de YPF, que tuvo efecto a partir del 10 de enero de 2001. Consecuentemente, los activos y pasivos de Astra y de Repsol Argentina S.A., se fusionaron con los de YPF a partir del 1° de enero de 2001, e YPF aumentó su capital social en la suma de \$ 403.127.930 representados por 40.312.793 acciones ordinarias escriturales Clase D, de valor nominal \$ 10 cada una y 1 voto por acción. Con motivo de dicho incremento, el capital social de YPF pasó a ser de \$ 3.933.127.930, representado por 393.312.793 acciones ordinarias escriturales de valor nominal \$ 10 cada una y 1 voto por acción. Al 31 de diciembre de 2000, los activos corrientes de Astra y de Repsol Argentina S.A. ascendían a \$ 174 millones, sus activos no corrientes a \$ 1.917 millones, sus pasivos corrientes a \$ 904 millones y sus pasivos no corrientes ascendían a \$ 167 millones.

### **Reestructuración de YPF**

En relación con el plan de reestructuración de activos estratégicos y desinversiones de Repsol YPF en todo el mundo, la Sociedad realizó las siguientes transacciones:

\*YPF vendió participaciones en inversiones permanentes y uniones transitorias de empresas y aprobó la venta de ciertas subsidiarias, registrando una pérdida consolidada neta de (125) al 31 de diciembre de 2001.

\*En enero de 2001, la Sociedad vendió, a valores de mercado, su 99,99% de participación en YPF Brasil S.A. a Repsol YPF, por aproximadamente U\$S 140 millones, registrando una ganancia neta de aproximadamente U\$S 17 millones.

\*En enero de 2001, YPF e YPF International Ltd. vendieron, a valores de mercado, sus inversiones en Ecuador a Repsol YPF Ecuador S.A. por un monto de U\$S 6 y U\$S 307 millones, respectivamente, registrando una pérdida neta de U\$S 1 millón y U\$S 1 millón, respectivamente.

\*La Sociedad, en febrero de 2001, vendió, por un valor de U\$S 66 millones, el 36% de su participación en Oleoducto Trasandino (Argentina) S.A. y A & C Pipeline Holding Company, registrando una ganancia neta de U\$S 6 millones, y a través de YPF Chile S.A. el 36% de su participación en Oleoducto Trasandino (Chile) S.A., registrando una ganancia neta de U\$S 13 millones.

\*En febrero de 2001, YPF estableció un acuerdo con Pecom Energía S.A. ("Pecom") por el cual adquirió un 20,25% de participación adicional en Empresa Petrolera Andina S.A. (Andina') a través de YPF International Ltd. y un 50% de participación en las áreas Manantiales Behr y Restinga Ah y vendió a Pecom su participación en las áreas Santa Cruz I (30%), Santa Cruz II (62,2%) y otros activos menores. Asimismo, YPF a través de YPF International Ltd. adquirió a Pluspetrol Resources un 9,5% adicional en Andina. El valor total de mercado de los activos netos objeto de las operaciones mencionadas ascendía a U\$S 435 millones. Como consecuencia de dicha transacción, la participación indirecta de YPF en Andina se incrementó a un 50%. La ganancia neta registrada por la operación de venta mencionada anteriormente ascendió a U\$S 96 millones.

\*En abril de 2001, YPF vendió su participación en Electricidad Argentina S.A., sociedad controlante de Edenor S.A., a EDF International S.A., por un monto de U\$S 195 millones. La ganancia neta registrada por esta transacción ascendió a U\$S 125 millones.

\*En junio de 2001, YPE completó el segundo tramo de la venta de su participación del 21% en IDERSA a PSEG América Ltd., registrando una ganancia neta de U\$S 3 millones.

\*En julio de 2001, YPF International Ltd. vendió, a valores de mercado, su participación del 100% en Repsol YPF Venezuela S.A. a Repsol Exploración SA., por un monto de U\$S 26 millones.

Adicionalmente, en septiembre de 2001, YPE International Ltd. vendió, a valores de mercado, su participación del 100% en Maxus Venezuela (C.I.) Ltd. y Maxus Guarapiche Ltd. a Repsol Exploración

Venezuela B.V. por un monto total de U\$S 47 millones. Como consecuencia de estas transacciones, YPF

YPF 381

International Ltd. registró una pérdida de U\$S 94 millones.

\*En julio de 2001, la Sociedad vendió, a valores de mercado, su participación en Astra Producción Petrolera S.A. a Repsol Exploración Venezuela R.V. por U\$S 3 millones, registrando una ganancia neta de U\$S 16 millones.

\*En agosto de 2001, YPF International Ltd. vendió la participación que poseía en Bitech Petroleum Corporation a Lukoil Overseas Canadá Ltd. por un monto de U\$S 11 millones, registrando una pérdida neta de U\$S 4 millones.

\*En agosto de 2001, YPF vendió su participación en YPF Sudamericana S.A. a Repsol YPF Bolivia S.A. a valor de libros.

\*Con fecha efectiva 1° de enero de 2002, YPE International Ltd. celebró un acuerdo para la venta del 100% de su participación en YPF Blora Ltd., YPF Maxus Southeast Sumatra, YPF Java Baratlaut B.V., YPF Madura Barat B.V., YPF Poleng B.V. y PT IIAPCO Services, sociedades que poseen activos en Indonesia, por un monto total de aproximadamente U\$S 174 millones. Siguiendo principios contables generalmente aceptados, al 31 de diciembre de 2001, YPF International Ltd. registro una perdida de U\$S 252 millones para valuar sus inversiones en Indonesia a su valor estimado de realización, mientras que en el ejercicio 2002 se registrará una ganancia de U\$S 29 millones por aquellas propiedades cuyo precio de venta fue mayor que su valor de libros.

\*En febrero de 2001, se firmó el Acuerdo Definitivo de Fusión entre YPF Gas S.A. y Repsol Gas S.A. Como consecuencia de dicho acuerdo, YPF Gas S.A. fue absorbida por Repsol Gas S.A., con fecha efectiva a partir del 10 de enero de 2001, correspondiéndole a YPF el 85% del capital accionario de Repsol Gas S.A. En diciembre de 2001, la Sociedad vendió su participación en Repsol Gas S.A. a Repsol Butano S.A. a valor de mercado por U\$S 118 millones, registrando una pérdida neta de 22.

\*En diciembre de 2001, en relación con un acuerdo de intercambio de activos entre Repsol YPF y Petróleo Brasileño S.A., YPF vendió sus inversiones en Eg3 S.A., Eg3 Asfaltos S.A. y Eg3 Red S.A. a Repsol YPF, a valores de mercado, por un monto de aproximadamente U\$S 559 millones, registrando una pérdida neta de U\$S 27 millones.

\*En marzo de 2001, Dow Investment Argentina S.A. e YPF acordaron la fusión de sus participaciones en Polisur S.A. y PBB S.A. A raíz de este acuerdo, efectivo a partir del 10 de abril de 2001, PBB S.A. fue absorbida por Polisur S.A. a su valor de libros cambiando su nombre por PBBPolisur S.A. Como consecuencia, al 31 de diciembre de 2001, la participación accionaria de YPF en la nueva sociedad era del 28%.

\*Con fecha 20 de junio de 2001, el Directorio aprobó la disolución de Enerfin S.A. y de Argentine Private Development Company Ltd. (Cayman Islands) y la transferencia de la participación de YPF en Apex Petroleum Inc. a YPF International Ltd.

\*En noviembre de 2001, Argentina Private Development Company Ltd. transfirió su participación en Gas Argentino S.A. a YPF S.A. por un monto de U\$S 68 millones.

\*En diciembre de 2001, YPF International Ltd. vendió, a valores de mercado, el 100% de su participación en YPF Holdings Inc. a YPF, por un monto de aproximadamente U\$S 191 millones.

\*En marzo de 2002, el Directorio aprobó la transferencia a Repsol YPF S.A. de su participación en Andina, YPF Chile S.A. y Maxus Bolivia Inc.

**Fuente : Memorias y Balances Repsol-YPF 1994-2001**

# **EXHIBIT P**

SECURITIES AND EXCHANGE COMMISSION

FORM 20-F

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2001

Commission file number: 1-12102

YPF Sociedad Anónima

(Exact name of registrant as specified in its charter)

Republic of Argentina

(Jurisdiction of incorporation or organization)

Avenida Pte. R. Sáenz Peña 777 1364 Buenos Aires, Argentina (011-5411) 4329-2000

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Table with 2 columns: Title of Each Class, Name of Each Exchange on Which Registered. Rows include American Depositary Shares, Class D Shares, 7% Structured Export Notes, etc.

\* Listed not for trading but only in connection with the registration of American Depositary Shares.

Securities registered or to be registered pursuant to Section 12(g) of the Act: None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: None

The number of issued shares of each class of stock of YPF Sociedad Anónima as of December 31, 2001 was:

Table with 2 columns: Class of Shares, Number of Shares. Rows include Class A, B, C, D Shares with a total of 393,312,793.

YPF 3475

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 [ ] Item 18 [X]

mentioned above. On February 8, 2001, YPF filed with the Argentine Supreme Court a motion for complaint against dismissed appeal requesting that the Argentine Supreme Court grants the appeal and reverses the decision appealed. To date, the request to suspend the enforcement of the fine and the motion filed with the Argentine Supreme Court are still pending of resolution. Though the Company's Board of Directors, based upon the opinion of external counsel and on the elements available, considers that the Antitrust Law No. 22,262 has not been violated and, therefore, it disagrees with the legal grounds of Resolution No. 189 from the Department, during the year ended December 31, 2000, the Company reserved the amount of 109 as a probable liability, to reflect the content of the judicial decision up to date.

**Agreement with the Federal Government and the Province of Neuquén:**

On December 28, 2000, through Decree No. 1,252, the Argentine Federal Executive Branch extended for an additional term of 10 years, until November 2027, the concession for the exploitation of Loma La Lata - Sierra Barrosa area granted to YPF. The extension was granted under the terms and conditions of the Extension Agreement executed between the Federal Government, the Province of Neuquén and YPF on December 5, 2000. Under this agreement, YPF committed, among other things, to pay to the Federal Government US\$ 300 million for the extension of the concession mentioned above, which was recorded in fixed assets, to define an investment program of US\$ 8,000 million in the Province of Neuquén from 2000 to 2017 and to pay to the Province of Neuquén 5% of the net cash flows arising out of the concession during each year of the extension term. Additionally, YPF contributed 20 to certain companies that provide services to YPF applied to the settlement of indebtedness and 10 to cover the working capital requirements of those companies.

## **11. Restrictions on Unappropriated Retained Earnings**

In accordance with the provisions of Argentine Corporation Law, 5% of YPF's net income for each fiscal year is to be appropriated to the legal reserve until such reserve reaches 20% of the YPF's capital (subscribed capital plus adjustment to contributions). Consequently, the retained earnings are restricted by 41.

The Board of Directors' meeting, held on November 29, 2001, approved a prepaid dividend of 787, which was paid on December 5, 2001.

Under Law No. 25,063, enacted in December 1998, dividends distributed, either in cash or in kind in excess of accumulated taxable income as of the end of the year immediately preceding the dividend payment or distribution date, shall be subject to a 35% income tax withholding as a sole and final payment. For income tax purposes, accumulated taxable income shall be the unappropriated retained earnings as of the end of the year immediately preceding the effective date of the above mentioned law, less dividends paid plus the taxable income determined as from such year.

The effects of the devaluation of the Argentine peso and certain restrictions on dividends remittances related to the new economic rules, are disclosed in Note 13.

## **12. Main Changes in Companies Comprising the YPF Group**

**During the year ended December 31, 1999:**

- YPF sold its 30.40% interest in Concecuayo S.A. for approximately US\$ 3 million.
- YPF acquired 99.99% of the outstanding shares of Maleic S.A. for US\$ 23 million, which is engaged in the production of maleic anhydride and it is located at the Ensenada Petrochemical Facility integrated to the La Plata Refinery. Additionally, YPF should make an additional payment of up to US\$ 5 million, in case Maleic S.A. reaches certain annual contribution margin in a term of five years.
- YPF sold to Repsol YPF all its shares in YPF Perú S.A. and Refinadores del Perú S.A. in the amount of approximately US\$ 31 million and US\$ 44 million, respectively, recording a net income of US\$ 6 million.

YPF 3590



- On December 9, 1999, the Board of Directors approved undertaking efforts to divest of the investments held by YPF International Ltd. in Bolivia to affiliated companies, at fair market value. As of December 31, 2000, the carrying value of such investments does not exceed their estimated realizable value.
- YPF, through YPF International Ltd., entered into an agreement for the sale to third parties of approximately 99% of its interest in Crescendo Resources L.P. properties, whose activity is the production of natural gas in the state of Texas, USA. The transaction was structured in two tranches. The first tranche was closed in December 1999, for approximately US\$ 405 million, and the second one in January 2000 in the amount of approximately US\$ 219 million. As of December 31, 1999, YPF International Ltd. recorded a net loss of approximately US\$ 121 million, before income taxes, related to such transaction.

**During the year ended December 31, 2000:**

- On February 2, 2000, the Board of Directors approved undertaking efforts to divest of the investments held by YPF International Ltd. in Indonesia. Consequently, YPF International Ltd. recognized a loss of US\$ 175 million and US\$ 195 million as of December 31, 1999 and 2000, respectively, to value those investments at their estimated realizable value, as of those dates.
- On February 29, 2000, the Board of Directors approved the merger of YPF with Maleic S.A. effective as of January 1, 2000, which was ratified by the Shareholders' Meeting held in April 27, 2000.
- As of December 31, 2000, YPF International Ltd. sold its investments held in Colombia, to Repsol Exploración Colombia S.A., for an amount of approximately US\$ 6 million, recording a net income of US\$ 2 million.
- On August 2, 2000, the Board of Directors approved undertaking efforts to divest of its interest in Global Companies LLC, Montello Group LLC y Chelsea Sandwich LLC (jointly referred to as "Global"), through YPF International Ltd.
- YPF, through YPF Chile S.A., acquired 45% of the Empresas Lipigas S.A. group for approximately US\$ 171 million. YPF Chile S.A. has the option to increase its share by 10% from 2001, and, simultaneously, it commits to acquire the rest of the shares of Empresas Lipigas S.A. under the terms of the sale agreement if the rest of the shareholders decide to sell their interest in the group.
- On December 13, 2000, Astra sold its 21% interest in Inversora en Distribución de Entre Ríos S.A. ("IDERSA") to PSEG Americas Ltd. for US\$ 42 million. The transaction was structured in two tranches. The first tranche was closed in December 2000 and the second tranche was closed in June 2001.
- On December 27, 2000, the Company's Extraordinary Shareholders Meeting approved the merger of Astra and Repsol Argentina S.A. with and into YPF, all controlled companies of Repsol YPF, which became effective on January 1, 2001. Consequently, as of January 1, 2001, Astra and Repsol Argentina S.A. assets and liabilities merged with and into YPF at book value. As of December 31, 2000, the current assets of Astra and Repsol Argentina S.A. amounted to 174, their noncurrent assets amounted to 1,917, their current liabilities amounted to 904, and their noncurrent liabilities amounted to 167.

**During the year ended December 31, 2001:**

YPF sold interests in long-term investments and joint-ventures and approved the sale of certain subsidiaries, which resulted in a net consolidated loss of 125 as of December 31, 2001, which was included in "Losses from sale of long-term investments and fixed assets to be disposed of" of the consolidated statement of income:

- In January 2001, the Company sold its 99.99% interest in YPF Brasil S.A. to Repsol YPF, at fair market value, for an amount of approximately US\$ 140 million, recording a net income of approximately US\$ 17 million.
- In January 2001, YPF and YPF International Ltd. sold their investments held in Ecuador to Repsol YPF Ecuador S.A., at fair market value, for an amount of US\$ 6 million and US\$ 307 million, respectively, recording a net loss of approximately US\$ 1 million and US\$ 1 million, respectively.
- In February 2001, the Company sold, for an amount of approximately US\$ 66 million, a 36% interest in Oleoducto Trasandino (Argentina) S.A. and A & C Pipeline Holding Company recording a net income of US\$ 6 million and through YPF Chile S.A., a 36% interest in Oleoducto Trasandino (Chile) S.A., recording a net income of US\$ 13 million.

YPF 3591

- In February 2001, YPF entered into an agreement with Pecom Energía S.A. ("Pecom") under which it acquired a 20.25% interest in Empresa Petrolera Andina S.A. ("Andina"), through YPF International Ltd., and a 50% interest in Manantiales Behr and Restinga Ali areas, and sold to Pecom its interest in Santa Cruz I (30%), Santa Cruz II (62.2%) and other minor assets. Furthermore, YPF acquired an additional 9.5% interest in Andina to Pluspetrol Resources through YPF International Ltd. The total fair market value of the net assets involved in the mentioned transactions amounted to US\$ 435 million. As a consequence of these transactions, YPF's indirect interest in Andina increased to 50%. The net income recorded for the sale transaction previously mentioned amounted to US\$ 96 million.
- In April 2001, YPF sold its interest in Electricidad Argentina S.A., controlling company of Edenor S.A., to EDF International S.A., for an amount of US\$ 195 million, recording a net income of US\$ 125 million.
- In June 2001, YPF completed the second tranche of the sale of its 21% interest in IDERSA to PSEG Americas Ltd., recording a net income of US\$ 3 million.
- In July 2001, YPF International Ltd. sold its 100% interest in Repsol YPF Venezuela S.A. to Repsol Exploración S.A. at fair market value, for an amount of US\$ 26 million. Additionally, on September 2001, YPF International Ltd. sold its 100% interest in Maxus Venezuela (C.I.) Ltd. and Maxus Guarapiche Ltd. to Repsol Exploración Venezuela B.V., at fair market value, for a total amount of US\$ 47 million. As a consequence of these transactions, YPF International Ltd. recognized a loss of US\$ 94 million.
- In July 2001, the Company sold its interest in Astra Producción Petrolera S.A. to Repsol Exploración Venezuela B.V., at fair market value, for an amount of US\$ 3 million, recording a net income of US\$ 16 million.
- In August 2001, YPF International Ltd. sold its interest in Bitech Petroleum Corporation to Lukoil Overseas Canada Ltd. for an amount of US\$ 11 million, recording a net loss of US\$ 4 million.
- In August 2001, YPF sold its interest in YPF Sudamericana S.A. to Repsol YPF Bolivia S.A. at book value.
- In January 2002, YPF International Ltd. entered into an agreement for the sale of its 100% interest in YPF Blora Ltd., YPF Maxus Southeast Sumatra, YPF Java Baratlaut B.V., YPF Madura Barat B.V., YPF Poleng B.V. and PT ILAPCO Services, which hold assets in Indonesia, for a total amount of approximately US\$ 174. As of December 31, 2001, YPF through YPF International Ltd. recognized a loss of US\$ 252 million to value their investments in Indonesia at their estimated realizable value.
- In February 2001, YPF Gas S.A. and Repsol Gas S.A. signed a Definitive Merger Agreement. Pursuant to this agreement, YPF Gas S.A. merged with and into Repsol Gas S.A. effective as from January 1, 2001, and therefore YPF held 85% of the capital stock of Repsol Gas S.A. In December 2001, the Company sold its interest in Repsol Gas S.A. to Repsol Butano S.A., at fair market value, for US\$ 118 million, recording a net loss of US\$ 22 million.
- In December 2001, in connection with an asset swap agreement between Repsol YPF and Petróleo Brasileiro S.A., YPF sold its investments in Eg3 S.A., Eg3 Asfaltos S.A. and Eg3 Red S.A. to Repsol YPF, at fair market value, for approximately US\$ 559 million, recording a net loss of US\$ 27 million.
- In March 2001, Dow Investment Argentina S.A. and YPF approved the merger of PBB S.A. with and into Polisur S.A. (at present PBBPolisur S.A.) at book value, effective as of April 1, 2001. Consequently, as of December 31, 2001, YPF holds a 28% interest in the new company.
- In June 2001, the Board of Directors approved the dissolution of Enerfin S.A. and Argentina Private Development Company Ltd. (Cayman Islands) and the transfer of YPF's interests in Apex Petroleum Inc. to YPF International Ltd.
- In November 2001, Argentina Private Development Company Ltd. transferred its interest in Gas Argentino S.A. to YPF S.A. for an amount of US\$ 68 million.
- In December 2001, YPF International Ltd. sold, at fair market value, its 100% interest in YPF Holdings Inc. to YPF for an amount of approximately US\$ 191 million.
- In March 2002, the Board of Directors approved the transfer of YPF's direct and indirect interest in Andina, YPF Chile S.A. and Maxus Bolivia Inc. to Repsol YPF.

Management does not believe that any additional significant adverse effects on the results of operations would occur because of the planned sale transactions described above.

# **EXHIBIT Q**

SECURITIES AND EXCHANGE COMMISSION

FORM 20-F

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2001

Commission file number: 1-12102

YPF Sociedad Anónima

(Exact name of registrant as specified in its charter)

Republic of Argentina

(Jurisdiction of incorporation or organization)

Avenida Pte. R. Sáenz Peña 777
1364 Buenos Aires, Argentina
(011-5411) 4329-2000

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Table with 2 columns: Title of Each Class, Name of Each Exchange on Which Registered. Rows include American Depositary Shares, Class D Shares, 7% Structured Export Notes due 2002, 7 1/2% Structured Export Notes due 2002, and 7 3/4% Notes due 2007.

\* Listed not for trading but only in connection with the registration of American Depositary Shares.

Securities registered or to be registered pursuant to Section 12(g) of the Act: None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: None

The number of issued shares of each class of stock of YPF Sociedad Anónima as of December 31, 2001 was:

Table with 2 columns: Class of Shares, Number of Shares. Rows include Class A Shares (3,764), Class B Shares (7,624), Class C Shares (1,475,704), Class D Shares (391,825,701), and a total of 393,312,793.

YPF 3475

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 [ ] Item 18 [X]

## ITEM 7. Major Shareholders and Related Party Transactions

In November 1992, the Privatization Law became effective. Pursuant to the Privatization Law, in July 1993, YPF completed a worldwide offering of 160 million Class D Shares, representing approximately 45% of YPF's outstanding capital stock, which had been owned by the Argentine government. Concurrently with the completion of such offering, the Argentine government transferred approximately 40 million Class B Shares to the provinces, which represented approximately 11% of YPF's outstanding capital stock, and made an offer to holders of pension bonds and certain other claims to exchange such bonds and other claims for approximately 46.1 million Class D Shares, representing approximately 13% of YPF's outstanding capital stock. As a result of these transactions, the Argentine government's ownership percentage of YPF's capital stock was reduced from 100% to approximately 30%, including shares that had been set aside for offer to employees of YPF upon terms and conditions established by the Argentine government in accordance with Argentine law. The shares set aside for offer to employees represented 10% of YPF's outstanding capital stock.

The Class A Shares held by the Argentine government generally became eligible for sale upon the effectiveness in April 1995 of legislation permitting the Argentine government to sell such shares. A decree issued by the National Executive in connection with the privatization of YPF requires YPF to register sales of Class A Shares and Class B Shares held by the Argentine government and the provinces, respectively, under the States Securities and similar laws in other jurisdictions in which shares of YPF are listed.

Approximately 33.8 million of the Class C Shares, set aside for the benefit of employees in connection with YPF's privatization, were sold in a secondary public offering in July 1997. These Class C Shares were converted to Class D Shares upon the transfer. See "Item 4: Information on the Company — History and Development of YPF—Deregulation, Privatization and Recent Developments."

In January 1999, Repsol acquired 52,914,700 Class A Shares in block (14.99% of YPF's shares) which were converted to Class D Shares. Additionally, on April 30, 1999, Repsol announced a tender offer to purchase all outstanding Classes A, B, C and D Share at a price of US\$ 44.78 per share (the "Offer"). Pursuant to the Offer, in June, 1999, Repsol acquired an additional 82.47% of the outstanding capital stock of YPF. On November 4, 1999, Repsol acquired an additional 0.35%. On June 7, 2000, Repsol YPF announced a tender offer to exchange newly issued Repsol YPF's shares for the 2.16% YPF's Class B, C and D Shares held by minority shareholders. Pursuant to the tender offer, and after the merger with Astra, as of December 31, 2001, Repsol YPF controls YPF through a 99.03% shareholding.

As of May 1, 2002, there were approximately 223.9 million ADSs outstanding and approximately 113 holders of record of ADSs. Such ADSs represented approximately 56.9% of the total number of issued and outstanding Class D Shares as of May 1, 2002. Excluding ADSs owned by Repsol YPF, outstanding ADSs represent 0.24% of the total number of outstanding Class D Shares.

Since Repsol YPF's acquiring control of YPF, YPF has engaged in various transactions with Repsol YPF. Some of these transactions have involved the transfer of YPF's ownership interest in some subsidiaries to Repsol YPF at fair market value. The most important asset sales are described in "Item 4: Information on the Company—History and Development of YPF—Deregulation, Privatization and Recent Developments."

On December 31, 2001, YPF entered into a forward oil sale agreement with Repsol YPF providing for the forward sale of a fixed quantity of certain types of crude oil to be delivered monthly during 7 years. The agreement was assigned to Hydrocarbons Traders Corp. (HTC) on the same date. Repsol YPF has guaranteed various of YPF's obligations under the forward oil sale agreement. See "Item 5: Operating and Financial Review and Prospects—Liquidity and Capital Resources—Transactions with Special Purpose Entities."

HTC was primarily capitalized through the issuance of preferred shares purchased by Banco Zaragozano, S.A., a Spanish banking institution. The credit agreement financing HTC contains a default provision that will be triggered if the crude oil supply agreement between YPF and HTC is terminated before its normal term expires, or if Repsol YPF defaults under the contingent supply agreement entered into with HTC. For a general explanation of the terms of the contingent oil supply agreement, see "Item 5: Operating and Financial Review and Prospects—Liquidity and Capital Resources—Transactions with Special Purpose Entities." If an event of default should occur under the credit agreement, the lenders that are owed more than 50% of the outstanding principal (BBVA being as

# **EXHIBIT R**

20-F 1 d20f.htm FOR THE FISCAL YEAR ENDED DECEMBER 31, 2005

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Form 20-F**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended: **December 31, 2005**

Commission file number: **1-10220**

**Repsol YPF, S.A.**

(Exact name of registrant as specified in its charter)

**Kingdom of Spain**

(Jurisdiction of incorporation or organization)

**Paseo de la Castellana, 278—280, 28046 Madrid, Spain**

(Address of principal executive offices)

**Securities registered or to be registered pursuant to Section 12(b) of the Act:**

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol YPF, S.A., par value €1.00 per share	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol YPF, S.A., par value €1.00 per share	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of certain outstanding shares of each class of stock of Repsol International Capital Limited benefiting from a guarantee of Repsol YPF, S.A. at December 31, 2005 was:

Series A 7.45% non-cumulative guaranteed preference shares	29,000,000
Series B floating rate quarterly non-cumulative guaranteed preference shares	1,000,000
Series C floating rate quarterly non-cumulative guaranteed preference shares	2,000,000

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2005 was:

Ordinary shares, par value €1.00 per share	<b>1,220,863,463</b>
--	----------------------

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act  
Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.  
Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer.

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- Corporate Division of Finance and Corporate Services, which incorporates the Division of Finance responsible for financial management and development of financial information and the Corporate Division of Resources responsible for information systems, engineering, technology, contracts, insurance, environmental issues and security systems. This Division is also responsible for Repsol YPF's tax issues.
- Corporate Division of Control and Corporate Development, which provides support to the Chairman and the Executive Committee and plays a key role in ensuring that the performance of the business areas is in line with Repsol YPF's goals for efficiency and corporate responsibility. This Division is also responsible for issues relating to control, corporate strategy and development and investor relations.
- Corporate Division of Human Resources, which concentrates on defining Repsol YPF's policies relating to organization, development, employee relations, planning and compensation, and provides support to the management of human resources within the business areas.
- Corporate Division of Communication and Head of the Chairman's Office, which is responsible for Repsol YPF's corporate communications, publicity, sponsorships, branding and brand name and institutional affairs.

The Divisions of Corporate Audit and Reserves Control, which operate under the Corporate Division of Finance and Corporate Services, report to the Audit Committee of the Board of Directors.

### *2.1.3 Strategy*

Repsol YPF's Strategic Plan for the period 2005-2009, presented to analysts, institutional investors and employees on May 31, 2005, outlines Repsol YPF's major lines of action for this period and is based upon the following five fundamental bases, which together represent a commitment towards greater profitability for the shareholder:

1. Cost Reduction
2. Transformation of the Asset Portfolio
3. Growth in Upstream and LNG
4. Optimizing the Strategic Business Areas of Argentina, Bolivia and Brazil (ABB) and Downstream
5. Financial Discipline.

**Cost Reduction.** Operational excellence at all levels is key to maintaining the profitability of mature business areas. Repsol YPF therefore will endeavor to optimize costs in all business areas, to improve energy efficiency, to pass corporate functions to the business areas, thereby simplifying the management process, and to improve the purchasing function and optimize logistics.

**Transformation of the Asset Portfolio.** A detailed review of the portfolio will be carried out to identify assets of low profitability or whose value could be higher for third parties. Dynamic management of the asset portfolio will permit Repsol YPF to concentrate investments in business sectors and geographical areas of high value and to withdraw investment from areas or sectors that are not considered strategic.

**Growth in Upstream and LNG.** Upstream is expected to be the driver of Repsol YPF's growth in the period 2005-2009. Repsol YPF's goals in this area for the period are the following:

- Development of profitable business opportunities and options in gas and crude oil to compensate for the maturity of the operations in Argentina.



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- Strengthening the assets related to Repsol YPF's production of natural gas, in particular LNG.
- Development of new platforms for growth with greater profitability and a longer maturation period, which will include increased exploration in new mining territories and the search for new opportunities through agreements for the development of non-conventional petroleum and new areas.

**Optimizing the Strategic Business Areas of Argentina, Bolivia and Brazil (ABB) and Downstream.** Repsol YPF's goals in this area for the period are the following:

- Managing assets in ABB to take advantage of synergies and efficiencies derived from the integration of the business areas and countries.
- Exercising discipline to control increasing costs.
- Searching for new areas of exploration, such as opportunities related to offshore in Argentina, Upstream in Brazil and gas reserves in Bolivia.
- Optimization of capital expenditures.
- Managing Downstream assets to maximize cash flow and maintain it at a stable and low risk state.

**Financial Discipline.** When setting its capital structure policy, Repsol YPF's goals in this area for the period are the optimization of cost of capital, to have permanent access to markets and minimize Repsol YPF's vulnerability to any type of economic shock. These goals translate into a policy that aims to achieve a financial strength level consistent with market spreads for its debt in line with the average spreads of companies rated single A or higher.

Repsol YPF's Strategic Plan for 2005-2009 represents a renewed commitment to its shareholders, customers, employees, partners, suppliers and the public and marks the beginning of a step-by-step transformation of Repsol YPF's management culture, which will be based on decentralization, orientation towards the markets, corporate social responsibility and the development of "best practices".

The Strategic Business Areas of Repsol YPF will develop their strategies according to the following general lines:

### **Upstream: Engine of profitable growth**

- Solid positioning in the two strategic areas in which Repsol YPF has competitive advantages: North Africa (Libya and Algeria) and the Caribbean (Trinidad and Tobago and Venezuela).
- Unique position in LNG in the Atlantic Rim. Attractive portfolio of LNG (Trinidad and Tobago, Algeria and Iran) and agreement with Gas Natural SDG. Leadership through integration. The agreement with Gas Natural SDG, in upstream and midstream, will be the tool used to maximize value through the integrated chain. See "—Operations—Exploration and Production—Other Activities—LNG."

Within this program for growth in Upstream, Repsol YPF has chosen assets related to the production of natural gas, especially LNG, and particularly for the integrated projects of Gassi Touil (Algeria), for its high potential, and for Persian LNG (Iran) as a long-term option.

- Development of business supported by relationships with national oil companies.

### **Argentina, Bolivia and Brazil (ABB): An integrated, profitable business**

- Argentina: Argentine businesses will generate a stable cash flow, particularly through the management of mature assets in upstream, where opportunities for exploration of new offshore areas will be exploited, while downstream Repsol YPF will improve the integration and efficiency of all business areas, whose structural position in ABB is very strong.
- Brazil: development of potential opportunities for upstream.

Table of Contents**Downstream: Leadership position in growing markets**

- Contribution to the solid and stable growth of cash flow of Repsol YPF, based upon its leadership position in the industry at a worldwide level, and on a positive margin situation.
- In Refining, Repsol YPF will take advantage of its excellent position in growing markets, where its better capability for conversion will permit it to achieve margins, taking advantage of the increase in gas/oil imports.
- Improvement of the cycle in petrochemicals will allow Repsol YPF to enjoy competitive advantages in a profitable and integrated chemical business.
- The optimal competitive position of the LPG business increases its chances for integration.

The main prudent assumptions ("reference conditions") for the business environment that management used for estimating the strategic targets were: (i) reference prices of Brent crude oil of 25 US\$/bbl, (ii) natural gas reference prices of 4 US\$/mBtu (Henry hub), (iii) exchange rates of 1.2 US\$/€ and (iv) a tax rate of 35%.

*2.1.4 Economic and Operating Information*

Below are summaries of operating revenues of Repsol YPF by business and geographic segment:

	<u>2005</u>	<u>2004</u>	<u>05 vs. 04</u>
	(millions of euro)		
<b>Operating revenue by business segment</b>			
Exploration and Production	9,203	8,302	10.9%
Refining and Marketing	41,298	32,815	25.9
Chemicals	4,186	3,025	38.4
Gas and Electricity	2,765	1,991	38.9
Adjustments and Other	<u>(6,407)</u>	<u>(5,841)</u>	9.7
	<u>51,045</u>	<u>40,292</u>	26.7
	<u>2005</u>	<u>2004</u>	<u>05 vs. 04</u>
	(millions of euro)		
<b>Operating revenue by geographic segment</b>			
Spain	32,794	25,678	27.7%
ABB	9,443	8,079	16.9
Rest of the World	<u>8,808</u>	<u>6,535</u>	34.8
	<u>51,045</u>	<u>40,292</u>	26.7

# **EXHIBIT S**

**ANDREWS**  
ATTORNEYS **KURTH** LLP

1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202.662.2700 Phone  
202.662.2739 Fax  
andrewskurth.com

Thomas Starnes  
202.662.2767 Phone  
tomasstarnes@andrewskurth.com

August 11, 2006

**VIA FACSIMILE**

William Jackson, Esq.  
Connelly Baker Maston Wotring Jackson LLP  
700 Louisiana, Suite 1850  
Houston, TX 77002

Re: *New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al.*, Civil Action No. 06-00401 (D.N.J.)

Dear Bill:

In compliance with the Magistrate Judge's Order on Informal Application, dated July 26, 2006, defendants Tierra Solutions, Inc., and Maxus Energy Corporation provide the following list of all persons who have been officers or members of their respective boards of directors during the period January 1, 1996 through January 1, 2006:

**Maxus Officers and Directors, 1/1/96 to 1/1/2006**

**Directors**

<i>Name</i>	<i>Term began</i>	<i>Term ended</i>
Charles Blackburn	Prior to 1/1/96	6/20/97
Peter Gaffney	Prior to 1/1/96	6/20/97
Nells Leon	Prior to 1/1/96	6/20/97
Cedric Bridger	Prior to 1/1/96	8/4/98
P. Dexter Peacock	Prior to 1/1/96	7/1/99
George L. Jackson	Prior to 1/1/96	10/1/99
R.A. Walker	Prior to 1/1/96	4/30/2000
James R. Lesch	Prior to 1/1/96	11/15/2005
Roberto Monti	6/20/97	1/15/2001
Mario B. Rosso	6/20/97	11/15/2005
Miguel Angel Remon	1/15/2001	11/15/2005
Carlos Olivieri	11/15/2005	Continuing on 1/1/2006
W.E. Norestine	11/15/2005	Continuing on 1/1/2006
Harlow Sprouse	11/15/2005	Continuing on 1/1/2006

William Jackson Esq.  
 August 11, 2006  
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### Officers

<i>Name</i>	<i>Office</i>	<i>Term began</i>	<i>Term ended</i>
Roberto Monti	President & CEO	Prior to 1/1/96	4/15/97
Mario B. Rosso	President & CEO	4/15/97	11/15/2005
Michael C. Forrest	Senior VP	Prior to 1/1/96	8/31/97
George W. Pasley	Senior VP	Prior to 1/1/96	6/20/97
W. Mark Miller	VP	Prior to 1/1/96	See below
	VP & Treasurer	6/20/1997	2/28/98
Fernando Nardini	VP & Treasurer	3/31/98	See below
	Treasurer	1/15/2001	Continuing on 1/1/2006
Mark J. Gentry	VP, Treasurer, CFO	Prior to 1/1/96	6/20/97
Glen R. Brown	VP & Controller	Prior to 1/1/96	6/20/97
David Wadsworth	VP, GC, Asst. Sec	Prior to 1/1/96	7/5/2004
K. Delmar Rumph	Vice President	2/27/2000	5/31/2001
Sergio Paredes	Vice President	12/17/2002	7/7/2003
Alvaro Racero	Vice President	7/7/2003	11/3/2005
H.R. Smith	Secretary	Prior to 1/1/96	See below
	VP & Secretary	12/9/2005	Continuing on 1/1/2006
M.G. Smith	Vice President	12/9/2005	Continuing on 1/1/2006
Mark Wilson	Asst. Treasurer	5/15/99	1/15/2001
R. J. Hartline	Asst. Treasurer	1/15/2001	Continuing on 1/1/2006
Linda Engelbrecht	Asst. Controller	Prior to 1/1/96	6/20/97
	Controller	6/20/97	8/21/98
K.E. Fisher	Asst. Controller	Prior to 1/1/96	6/20/97
Nancy Dembny	Asst. Controller	6/20/97	5/15/99
Wieke Kodri	Asst. Controller	1/15/2001	Continuing on 1/1/2006
R.D. Stauffer	Asst. Secretary	Prior to 1/1/96	6/20/97
S. Lampe	Asst. Secretary	Prior to 1/1/96	6/20/97
D.O. Smith	Asst. Secretary	Prior to 1/1/96	5/15/99
C.A. Begun	Asst. Secretary	Prior to 1/1/96	1/15/2001
L.P. Ciuba	Asst. Secretary	Prior to 1/1/96	1/15/2001
D.A. Imthurn	Asst. Secretary	6/20/97	1/15/2001
Greg Castelan	Asst. Secretary	5/15/99	11/30/99
Alberto Rueda	Asst. Secretary	1/15/2001	Continuing on 1/1/2006
Connie Hawkins	Asst. Secretary	1/15/2001	5/31/2003
Sara Galley	Asst. Secretary	7/7/2003	Continuing on 1/1/2006

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 August 11, 2006  
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**Tierra Officers and Directors, 1/1/96 to 1/1/2006**

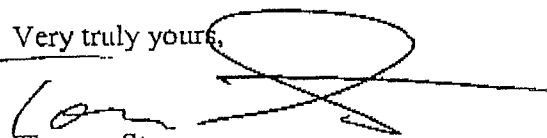
**Directors**

<i>Name</i>	<i>Term began</i>	<i>Term ended</i>
W. Mark Miller	Prior to 1/1/96	10/1/96
M.M. Skaggs, Jr.	Prior to 1/1/96	9/13/99
Roberto Monti	10/1/96	1/15/01
Raul Tanco	10/1/96	2/28/01
Fred T. Johnson	10/1/96	Continuing at 1/1/2006
Dave Rabbe	10/29/99	Continuing at 1/1/2006

**Officers**

<i>Name</i>	<i>Office</i>	<i>Term began</i>	<i>Term ended</i>
M.M. Skaggs, Jr.	President	Prior to 1/1/96	9/13/99
Cary Begun	Vice President	Prior to 1/1/96	10/29/99
W. Mark Miller	VP & Treasurer	Prior to 1/1/96	2/28/98
H.R. Smith	Secretary	Prior to 1/1/96	See below
	VP & Secretary	12/13/2004	Continuing at 1/1/2006
David O. Smith	Asst. Secretary	Prior to 1/1/96	10/29/99
Paul W. Herring	Asst. Secretary	Prior to 1/1/96	10/29/99
Mark Wilson	Asst. Treasurer	9/1/97	10/29/99
Fernando Nardini	VP & Treasurer	2/28/98	See below
	Treasurer	10/29/99	Continuing at 1/1/2006
Dave Rabbe	President	10/29/99	Continuing at 1/1/2006
David Wadsworth	Vice President	10/29/99	7/5/2004
Greg Castelan	Asst. Secretary	10/29/99	1/15/2001
Rick McNutt	Vice President	1/15/2001	Continuing at 1/1/2006
Connie Hawkins	Asst. Secretary	1/15/2001	5/31/2003
Sara Galley	Asst. Secretary	8/1/2003	Continuing at 1/1/2006

Very truly yours,



Thomas Starnes

- cc: Ileana Blanco, Esq.  
 Sara Galley, Esq.  
 Kevin A. Gaynor, Esq.  
 Marc Gross, Esq.  
 Mr. David Rabbe  
 William L. Warren, Esq.

# **EXHIBIT T**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549



**Form 20-F**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

D PROCESSED BY  
JUN 05 2000

PRIMARK  
CORPORATION

For the fiscal year ended: December 31, 1999  
Commission file number: 1-10220

**Repsol, S.A.**

(Exact name of registrant as specified in its charter)

**Kingdom of Spain**

(Jurisdiction of incorporation of organization)

**Paseo de la Castellana, 278—28046 Madrid, Spain**  
(Address of principal executive offices)

REC'D S.E.C.  
MAY 30 2000

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol, S.A., par value €1.00 per share .....	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol, S.A., par value €1.00 per share .....	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited .....	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of outstanding shares of each class of stock of Repsol International Capital Limited benefitting from a guarantee of Repsol, S.A. at December 31, 1999 was:

Series A 7.45% non-cumulative guaranteed preference shares ..... 29,000,000

The number of outstanding shares of each class of stock of Repsol, S.A. as of December 31, 1999 was:

Ordinary shares, par value €1.00 per share ..... 1,188,000,000

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark which financial statement item the registrant has elected to follow.  
Item 17  Item 18

Please send copies of notices and communications from the Securities and Exchange Commission to:  
NICHOLAS A. KRONFELD  
Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017

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## 4. Directors, Senior Management and Employees

### 4.1 Directors and Officers of Repsol YPF

#### 4.1.1 Board of Directors

On July 6, 1999, the Board of Directors of Repsol YPF resolved to implement several changes in its structure, creating two new vice presidencies and nominating José Vilarasau Salat and Antonio Hernández-Gil to these positions. At the same time Antonio Hernández-Gil and Enrique de Aldama y Miñón were named new members of the Management Committee.

The Board of Directors also created an Integration Committee which is responsible for monitoring the progress of the integration process in the new Repsol YPF group. Ramón Blanco Balín is the coordinator of the Integration Committee and the other members are Roberto Montí, Miguel Angel Remón and Juan Sancho Rof.

As of May 10, 2000, the members of the Board of Directors of Repsol YPF were as follows:

	Position	Year Appointed	Current Term Expires
Alfonso Cortina de Alcocer(1)	Chairman and Director	1996	2000
Emilio de Ybarra y Churruca(1)(2)	Vice-Chairman and Director	1992	2000
José Vilarasau Salat(1)(5)	Vice-Chairman and Director	1996	2001
Antonio Hernández-Gil Alvarez Cienfuegos(1)(3)	Vice-Chairman and Director	1997	2001
Gonzalo Anes Alvarez Castrillón(3)	Director	1997	2000
PMI Holdings B.V.(1)(4)	Director	1990	2002
PEMEX Internacional España S.A.(4)	Director	1999	2003
Juan Mollins Amat(1)(3)	Director	1994	2002
Robert Malpas(3)	Director	1991	2002
Ramón Blanco Balín(3)	Director	1996	2000
Antonio Brufau Nlubó(5)	Director	1996	2003
Ignacio Bayón Maríné(3)	Director	1997	2003
José María Abril Pérez(2)	Director	1996	2003
José Antonio Pérez-Nievas Heredero(2)	Director	1996	2001
Repsol Exploración S.A.(6)	Director	1999	2002
Enrique de Aldama y Miñón(1)(3)	Director	1996	2002

- (1) Member of the Management Committee (*Comisión Delegada*).
- (2) Appointed for membership by Banco Bilbao Vizcaya Argentaria, S.A.
- (3) Directors not linked to significant shareholders.
- (4) Rogelio Montemayor Seguy and Pablo Espresate serve as representatives of PMI Holdings, B.V. and PEMEX Internacional España S.A., respectively, on the Board of Directors of Repsol YPF.
- (5) Appointed for membership by La Caixa d'Estalvis i Pensions de Barcelona.
- (6) Marcelino Oreja Aguirre serves as representative of Repsol Exploración S.A. It is expected that Marcelino Oreja will be personally named Director of Repsol YPF at the next general meeting of shareholders of Repsol YPF which is expected to be held in June 2000.

The principal outside business interests of the Directors of Repsol YPF are the following:

*Alfonso Cortina de Alcocer*: Director of Banco Bilbao Vizcaya Argentaria S.A. (BBVA).

*Emilio de Ybarra y Churruca*: President of BBVA, Vice President of the Banca Nazionale del Lavoro, Director of L'Air Liquide, Director of Finaxa, Member of the European Advisory Committee of the NYSE,

Member of the Board of Directors of L'Institut International d'Etudes Bancaires, Member of the International Monetary Conference and Member of the Trilateral Commission (Europe).

*José Vilarasau Salat*: President of La Caixa; President of the Sociedad de Aparcamientos de Barcelona, S.A.

*Antonio Hernández-Gil Álvarez-Cienfuegos*: Professor of Civil Law, Attorney at Law, Director and Secretary of Banco Zaragozano.

*Gonzalo Anes Alvarez Castrillón*: Director of Cementos Portland.

*Rogelio Montemayor Seguy*: General Director of Petróleos Mexicanos.

*Pablo Espresate*: Managing Director Pemex Services Europe Ltd. and President of Pemex Internacional España S.A.

*Juan Molins Amat*: General Director and Vice President of Cementos Molins S.A., President of Cementos Avellaneda S.A., President of Corporación Moctezuma, President of Privat Bank, Member of the Board of Directors of the Círculo de Economía, President of Fira 2000, Sponsor—Director of the Fundació Bosch i Gimpera and member of the Parc Científic of Barcelona.

*Robert Malpas*: Ex-President of Eurotunnel, Ex-President of Cookson Group.

*Ramón Blanco Balin*: Alternate Superintendent of Finance, Director of NH Hoteles S.A., Director of Prima Inmobiliaria, Director of Gas Natural SDG S.A.

*Antonio Brufau Niubo*: General Director of La Caixa Group, President of Gas Natural SDG S.A., Director of Acesa, Director of Banco Herrero, Director of Inmobiliaria Colonial and Director of Aguas de Barcelona.

*Ignacio Bayón Marín*: President of Grucycsa S.A., President of Citroën Hispania S.A., President of FCC Inmobiliaria, President of OMSA Alimentación, President of Produca and President of Hermanos Revilla S.A.

*José María Abril Pérez*: General Director of Grupo Industrial, Member of The Central Advisory Group of BBVA, Director of Gas Natural SDG S.A., Director of Metrovacesa S.A., Director of Corporación IBV, Director of Bodegas y Bebidas.

*José Antonio Pérez-Nievas Heredero*: President of Iberfomento, Director of APD, Director of International Council of INSEAD (France) and Vice President of the Spanish US Council.

*Marcelino Oreja Aguirre*: President of FCC Group and Director of Acerinox S.A.

*Enrique de Aldama y Miñón*: Vice President of CEOE, Director of Corporación IB-MEI, President of Centro Asegurador, and Member of the Board of Directors of Círculo de Empresarios.

Spanish law permits limited liability companies to serve as members of the Board of Directors. A Company serving in such a capacity must appoint a natural person to represent it at the meetings of the Board.

#### 4.1.2 Management Committee

The Management Committee has been permanently delegated all the powers of the Board of Directors, except those which cannot by law be delegated. The Management Committee is responsible for reviewing

important corporate and business issues. The Management Committee meets on a monthly basis and its minutes are presented to the Board of Directors

The Management Committee is comprised of the Chairman and a maximum of seven of each type of directors. The appointment of its members requires the vote of two thirds of the members of the Board of Directors.

Alfonso Cortina de Alcocer is the president of the Management Committee, and the other members are Emilio de Ybarra y Churruca, Rogelio Montemayor Seguy, as representative of PMI Holdings B.V., Juan Molins Amat, José Vilarasau Salat, Antonio Hernández-Gil and Enrique de Aldama y Miñón.

#### 4.1.3 Audit and Compensation and Senior Management Development Committees

The Audit Committee performs the following functions:

- Periodic inspection of the preparation of financial and economic information of Repsol YPF,
- Selection of the external auditors, formulation of the scope of their work, monitoring of Repsol YPF's relationship with them, assurance of their independence, and termination of their appointment,
- Examination of Repsol YPF's compliance with the law and the applicable internal rules, and
- Supervision of internal financial control systems and the annual audit.

The Audit Committee is composed of Ramón Blanco Balín, Antonio Brufau and Pablo Espresate, as representative of PEMEX Internacional España, S.A.

The Compensation and Senior Management Development Committee of the Board of Directors, composed of three external directors and the Chairman of the Board (a member of management), is responsible for the nomination of directors, director compensation policy and reporting on director compensation to the Board of Directors. The Chairman is not permitted to participate in deliberations which affect his or her own compensation.

The members of the Compensation and Senior Management Development Committee are Juan Molins Amat, president of the Committee, Alfonso Cortina de Alcocer, Emilio de Ybarra y Churruca and Antonio Hernández-Gil Alvarez-Cienfuegos.

#### 4.1.4 Officers of Repsol YPF

On July 6, 1999, the Board of Directors also resolved it was necessary, in the wake of the YPF acquisition, to define a new organizational structure which would be totally integrated and operate on a global scale with a sole corporate center and headquarters in each of Madrid and Buenos Aires. The Board of Directors, therefore, created four operational executive vice-presidencies and one corporate executive vice-president. In addition, the Chief Executive Officer will be supported by a Director Assistant to the Chairman.

As of May 10, 2000, the executive officers of Repsol YPF and their respective positions with Repsol YPF were as follows:

<u>Name</u>	<u>Position</u>
Alfonso Cortina de Alcocer .....	Chairman and Chief Executive Officer
Miguel Angel Ramón Gil .....	Senior Vice President of Planning, Control and Strategic Development
Roberto Monti .....	Executive Vice President Exploration and Production
Juan Sancho Rof .....	Executive Vice President Refining and Marketing

<u>Name</u>	<u>Position</u>
Antonio González-Adalid García-Zozaya	Executive Vice President Chemical
Guzmán Solana Gómez	Executive Vice President Gas and Electricity
José Manuel Revueña Lapique	Director Assistant to the Chairman
Jesus Fernández de la Vega Sanz	Director of Human Resources
Rafael Piqueras Bautista	Director of Legal Affairs
Carmelo de las Morenas López	Director of Finance
Jorge Segrelles García	Director of External and Investors Relations
Juan Antonio Ortega y Díaz-Ambrona	Director of Corporate and Institutional Affairs
Bernard Gremillet	Director of R&D, Industrial Safety, Environment and Engineering
Ramón Pérez Simarro	Director of Information Systems
Fernando Cid García	Director of Real Estate Activities
Luis Mañas Antón	Deputy Director of Finance

On May 20, 2000, Francisco Carballo Cotanda, who until such date was Director of Legal Affairs, was ratified as Secretary of the Board of Directors.

The following is a summary of the business experience and areas of expertise of Repsol YPF's Executive Officers.

*Alfonso Cortina:* In June 1996, he was appointed C.E.O. of Repsol and in July 1999 C.E.O. of YPF. He is an Industrial Engineer and Graduated in Economics and Business. He has held several positions at Banco de Vizcaya Group (1968-1982) and at the Banco Hispano Americano Group (1982-1984). He was Vice President and Alternate member of the Board of Directors, and President and Alternate member of the Board of Directors of Portland-Valdeiribas, S.A. between 1984 and 1996. He is a member of the Board of Directors of various financial and industrial corporations as well as of several international institutions.

*Miguel Ángel Remón Gil:* Senior Vice President of Planning, Control and Strategic Development of Repsol YPF. In 1989 was appointed General Director of Planning and Control at Repsol and since 1997 he has also been Manager of the Latin American area. From 1985 to 1999 he was Director of the E&P and Gas area of the Instituto Nacional de Hidrocarburos. He has spent his entire professional career in the energy sector.

*Roberto Monti:* Appointed Executive Vice President of E&P at Repsol YPF after the acquisition of YPF by Repsol. He was President of YPF, from 1997 to 1999. In 1995, he joined Maxus Energy Corporation, a subsidiary of YPF, S.A., as Chairman and C.E.O. Previously, he had worked for Schlumberger for 32 years, where he held different managerial positions around the world.

*Juan Sancho Rof:* Currently Executive Vice President of Refining and Marketing, he has been President of several Repsol YPF's subsidiaries. Additionally, he is the Vice President of the European Petroleum Industry Association (EUROPIA). In 1996, he started his career in the oil industry as Director of Refining and Adjunct General Director of PETRONOR. He worked six years at the Junta de Energía Nuclear in the R&D and Test Plants departments.

*Antonio González-Adalid García-Zozaya:* Executive Vice President of Chemical since July 1999. Since 1989 has been president of various subsidiaries of Repsol. During 1987 was Director of Finance at Repsol and the Instituto Nacional de Hidrocarburos, a position which he already had held at ENAGAS since 1982. He is also member of the Spanish Committee of LLOYD's Register of Shipping and a member of the Board of Directors of the Spanish Club of Industry and Technology.

*Guzmán Solana Gómez:* In July 1999, he was appointed Executive Vice President of Gas and Electricity. Since 1996, he has been Alternate Director of Gas Natural SDG, S.A. His entire professional career has been in the oil industry. From 1987 to 1996 was Vice President of Repsol and President of some of its subsidiaries. From 1981 to 1987, he worked for the Instituto Nacional de Hidrocarburos, where he held the position of Director of Planning and Studies, as well as Vice President.

*José Manuel Revuelta Lapique:* Doctorate in Economics and Business from Universidad Autónoma de Madrid (1979); Commercial Technician and Economist of the Spanish government (1981) and Professor of Applied Economy (1984). He was General Director of Structure at Grupo Prisa (1991) and has been the Director of the Yearbook "El País" since 1994. In 1996, he joined Repsol YPF as Director Assistant to the Chairman and in 1999 was appointed Corporate Director Assistant to the Chairman

*Jesús Fernández de la Vega Sanz:* Graduated in Law from the Complutense University of Madrid, and in Comparative Law from the University of Strasbourg (France). In July 1999, he was appointed Director of Human Resources at Repsol YPF. In 1987 started his career in the human resources area as General Director of Human Resources of Repsol. He was also General Director of employment for the Ministry of Labor.

*Rafael Piqueras Bautista:* Holds a degree in Law. He was recently appointed as Director of Legal Affairs of Repsol YPF. At the end of 1999, he was appointed as Director of Legal Affairs of Gas, Electricity, Industrial and Real Estate. In 1990, he joined the Instituto Nacional de Hidrocarburos as Legal Director and later on was appointed Director of Legal Affairs of Repsol.

*Carmelo de las Morenas López:* Graduated in Economics and Law. In 1989, he joined Repsol as General Director of Economics and Finance. Currently, he is Director of Finance of Repsol YPF. He is also a member of the Board of Directors of the Britannia Steam Ship Association, Ltd. and of MUSINI. In 1979, joined the Empresa Nacional del Petróleo where he held the position of General Sub-Director for Finance during several years.

*Jorge Segrelles García:* Received an LL.M. from Harvard University School of Law in 1981. He is Director of Refining and Marketing Europe and Director of External and Investors Relations. In 1996, was also named General Director of Marketing and Service Stations Network of Repsol Comercial de Productos Petrolíferos S.A. During 1986, has been Director of External and International Relations of the Instituto Nacional de Hidrocarburos, a position he also held at Repsol.

*Juan Antonio Ortega Diaz-Ambrona:* Graduated in Law, Philosophy and Literature. He has completed studies in Political Sciences as well as in English and International and Comparative Law in London. He is Director of Institutional and Corporate Affairs of Repsol YPF. Currently a member of the Board of Directors of Sociedad Catalana de Iniciativas and Repsol Petróleo. He was Adjunct Director of Legal Affairs for Repsol and General Secretary of the Board of Director of Repsol Petroleo in 1993.

*Bernard Gremillet:* Graduated from the Ecole Polytechnique in Paris. In 1997, joined YPF as Vice President of Engineering and Technology where he ultimately was appointed Vice President of Refining, Marketing, Petrochemicals and Distribution. Currently he is Director of R&D, Safety Environment and Engineering for Repsol YPF. During 22 years, worked for Schlumberger.

*Ramón Pérez Simarro:* Doctor in Economics and Business Sciences, also graduated in Philosophy and Literature. Received a Masters degree in Economy from the University of Indiana. Since joining Repsol YPF, he has held the positions of General Director of Corporate Development, General Director of Engineering, Systems and Environment. Currently he is Director of Information Systems of Repsol YPF. He was General Secretary of Energy and Natural Resources.

*Fernando Cid García:* Industrial Engineer. He joined Repsol YPF in September of 1999 and is the Director of Real Estate Activities. Before joining Repsol YPF held different managerial positions at construction and real estate companies.

*Luis Mañas Antón:* Doctorate and Masters in Economics from the University of Chicago. He Joined Repsol in 1987, in 1990 was appointed Director of the Chairman's Office and since 1999 has been Deputy Director of Finance of Repsol YPF.

The Chairman of Repsol YPF, in conjunction with the Executive Committee, manage Repsol YPF aided by the Central Advisory Group. The Executive Committee was created in 1990 as the main executive body for the day-to-day business of Repsol YPF. It meets every two weeks and is composed of Alfonso Cortina de Alcocer, Miguel Angel Remón Gil, Juan Sancho Rof, Antonio González-Adalid García-Zozaya, Jesús Fernández de la Vega Sanz, Guzmán Solana Gómez, Carmelo de las Morenas López, Roberto Monti and José Manuel Revuelta Lapique.

The Central Advisory Group provides management of the corporate operations of Repsol YPF. The Central Advisory Group consists of Alfonso Cortina de Alcocer, Miguel Angel Remón Gil, Jesús Fernández de la Vega, Rafael Piqueras Bautista, Jorge Segrelles García, Juan Antonio Ortega y Díaz-Ambrona, Bernard Gremillet, Ramón Pérez Simarro, Luis Mañas Antón, Fernando Cid, and José Manuel Revuelta Lapique.

Executive officers of Repsol YPF do not serve for a predetermined term, but instead are employed for a period which is, in principle, indefinite until retirement, death or voluntary or involuntary termination.

#### 4.2 Compensation of Directors and Officers

Pursuant to Repsol YPF's bylaws, an amount equivalent to 1.5% of Repsol YPF's annual net income may be allocated to compensation of members of the Board of Directors. This amount may be allocated only after legal reserves, a minimum dividend of 4% and other required amounts have been provided for.

Aggregate compensation of members of the Board of Directors was approximately €3.62 million in 1999 and €1.70 million 1998. Members of the Board of Directors did not receive any other amounts as salary or allowances.

Remuneration paid during 1999 and 1998 to the members of the Executive Committee was the following:

	1999	1998
	Thousands of euros	
Salaries .....	4,713	1,822
Allowances .....	659	—
Variable remuneration .....	1,273	762
Remuneration in kind .....	183	169
Total .....	<u>6,828</u>	<u>2,753</u>

Remuneration paid during 1999 and 1998 to the members of the Central Advisory Committee was the following:

	1999	1998
	Thousands of euros	
Salaries .....	3,984	1,524
Allowances .....	451	—
Variable remuneration .....	704	584
Remuneration in kind .....	330	204
Total .....	<u>5,469</u>	<u>2,312</u>

In 1998, the Selection and Remuneration Committee of the Repsol YPF Board of Directors established the basis for a medium-term incentive program for top management and in 1999 for members of the Board of Directors. Repsol YPF's medium-term incentive program is a share appreciation rights program. Repsol YPF assigns a number of theoretical shares to each of the top management officers and members of the Board of Directors of Repsol YPF. Participation in the plan is conditional upon continued employment up

# **EXHIBIT U**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

PR

**Form 20-F**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended: **December 31, 2000**  
Commission file number: **1-10220**

MAR - 9 2001

**Repsol YPF, S.A.**

(Exact name of registrant as specified in its charter)

**Kingdom of Spain**

(Jurisdiction of incorporation of organization)

**Paseo de la Castellana, 278—28046 Madrid, Spain**  
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited .....	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of outstanding shares of each class of stock of Repsol International Capital Limited benefitting from a guarantee of Repsol YPF, S.A. at December 31, 2000 was:

Series A 7.45% non-cumulative guaranteed preference shares ..... 29,000,000

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2000 was:

Ordinary shares, par value €1.00 per share ..... 1,220,863,463

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark which financial statement item the registrant has elected to follow.  
Item 17  Item 18

Please send copies of notices and communications from the Securities and Exchange Commission to:

NICHOLAS A. KRONFELD  
Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017

REP 13674



## 4. Directors, Senior Management and Employees

### 4.1 Directors and Officers of Repsol YPF

#### 4.1.1 Board of Directors

As of March 5, 2001, the members of the Board of Directors of Repsol YPF were as follows:

	<u>Position</u>	<u>Year Appointed</u>	<u>Current Term Expires</u>
Alfonso Cortina de Alcocer(1) .....	Chairman and Director	1996	2004
Emilio de Ybarra y Churruca(1)(2) .....	Vice-Chairman and Director	1992	2004
José Vilarasau Salat(1)(5) .....	Vice-Chairman and Director	1996	2001
Antonio Hernández-Gil Álvarez Cienfuegos(1)(3) .....	Vice-Chairman and Director	1997	2001
Gonzalo Anes Álvarez Castrillón(3) .....	Director	1997	2004
PMI Holdings B.V.(1)(4) .....	Director	1990	2002
PEMEX Internacional España S.A.(4) .....	Director	1999	2003
Juan Molins Amat(1)(3) .....	Director	1994	2002
Robert Malpas(3) .....	Director	1991	2002
Antonio Brufau Niubó(5) .....	Director	1996	2003
Ignacio Bayón Maríné(3) .....	Director	1997	2003
José María Abril Pérez(2) .....	Director	1998	2003
José Antonio Pérez-Nievas Heredero(2) .....	Director	1996	2001
Marcelino Oreja Aguirre(3) .....	Director	2000	2002
Enrique de Aldama y Miñón(1)(3) .....	Director	1996	2002

- (1) Member of the Management Committee (*Comisión Delegada*).
- (2) Appointed for membership by Banco Bilbao Vizcaya Argentaria, S.A.
- (3) Directors not linked to significant shareholders.
- (4) Raúl Muñoz Leos and Pablo Espresate serve as representatives of PMI Holdings, B.V. and PEMEX Internacional España S.A., respectively, on the Board of Directors of Repsol YPF.
- (5) Appointed for membership by La Caixa d'Estalvis i Pensions de Barcelona.

The principal outside business interests of the Directors of Repsol YPF are the following:

*Alfonso Cortina de Alcocer*: Director of Banco Bilbao Vizcaya Argentaria S.A. (BBVA).

*Emilio de Ybarra y Churruca*: President of BBVA, Vice President of the Banca Nazionale del Lavoro, Director of L'Air Liquide, Director of Finaxa, Member of the European Advisory Committee of the NYSE, Member of the Board of Directors of L'Institut International d'Etudes Bancaires, Member of the International Monetary Conference and Member of the Trilateral Commission (Europe).

*José Vilarasau Salat*: President of La Caixa, President of the Sociedad de Aparcamientos de Barcelona, S.A.

*Antonio Hernández-Gil Álvarez-Cienfuegos*: Professor of Civil Law, Attorney at Law, Director and Secretary of Banco Zaragozano and Secretary of the Bar Association of Madrid.

*Gonzalo Anes Álvarez Castrillón*: Director of Cementos Portland.

*Raúl Muñoz Leos*: General Director of Petróleos Mexicanos Pemex.

*Pablo Espresate*: Managing Director Pemex Services Europe Ltd. and President of Pemex Internacional España S.A.

*Juan Molins Amat*: General Director and Vice President of Cementos Molins S.A., President of Cementos Avellaneda S.A., President of Corporación Mōctezuma, President of Privat Bank, Member of the

Board of Directors of the Círculo de Economía, President of Fira 2000, Sponsor—Director of the Fundació Bosch i Gimpera and member of the Parc Científic of Barcelona.

*Robert Malpas*: Ex-President of Eurotunnel, Ex-President of Cookson Group.

*Antonio Brusau Niubó*: General Director of La Caixa Group, President of Gas Natural SDG S.A., Director of Acesa, Director of Banco Herrero, Director of Inmobiliaria Colonial and Director of Aguas de Barcelona.

*Ignacio Bayón Mariné*: President of Grucycsa S.A., President of Citroën Hispania S.A., President of FCC Inmobiliaria, President of OMSA Alimentación, President of Produsa and President of Hermanos Revilla S.A.

*José María Abril Pérez*: General Director of Grupo Industrial, Member of The Central Advisory Group of BBVA, Director of Gas Natural SDG S.A., Director of Metrovacesa S.A., Director of Corporación IBV, Director of Bodegas y Bebidas.

*José Antonio Pérez-Nievas Heredero*: President of Iberfomento, Director of APD, Director of International Council of INSEAD (France) and Vice President of the Spanish US Council.

*Marcelino Oreja Aguirre*: President of FCC Group and Director of Acerinox S.A.

*Enrique de Aldama y Miñón*: Vice President of CEOE, Director of Corporación IB-MEI, President of Centro Asegurador, and Member of the Board of Directors of Círculo de Empresarios.

Spanish law permits limited liability companies to serve as members of the Board of Directors. A Company serving in such a capacity must appoint a natural person to represent it at the meetings of the Board.

#### 4.1.2 Management Committee

The Management Committee has been permanently delegated all the powers of the Board of Directors, except those which cannot by law be delegated. The Management Committee is responsible for reviewing important corporate and business issues. The Management Committee meets on a monthly basis and its minutes are presented to the Board of Directors.

The Management Committee is comprised of the Chairman and a maximum of seven of each type of directors. The appointment of its members requires the vote of two thirds of the members of the Board of Directors.

Alfonso Cortina de Alcocer is the president of the Management Committee, and the other members are Emilio de Ybarra y Churruga, Raúl Muñoz Leos, as representative of PMI Holdings B.V., Juan Molins Amat, José Vilarasau Salat, Antonio Hernández-Gil and Enrique de Aldama y Miñón.

#### 4.1.3 Audit and Compensation and Senior Management Development Committees

The Audit Committee performs the following functions:

- Periodic inspection of the preparation of financial and economic information of Repsol YPF,
- Selection of the external auditors, formulation of the scope of their work, monitoring of Repsol YPF's relationship with them, assurance of their independence, and termination of their appointment,
- Examination of Repsol YPF's compliance with the law and the applicable internal rules, and
- Supervision of internal financial control systems and the annual audit.

The Audit Committee is composed of Gonzalo Anes Alvarez Castrillón, Antonio Brufuu and Pablo Espresate, as representative of PEMEX Internacional España, S.A.

The Compensation and Senior Management Development Committee of the Board of Directors, composed of three external directors and the Chairman of the Board (a member of management), is responsible for the nomination of directors, director compensation policy and reporting on director compensation to the Board of Directors. The Chairman is not permitted to participate in deliberations which affect his or her own compensation.

The members of the Compensation and Senior Management Development Committee are Juan Molins Amat, president of the Committee, Alfonso Cortina de Alcocer, Emilio de Ybarra y Churruca and Antonio Hernández-Gil Alvarez-Cienfuegos.

#### 4.1.4 Officers of Repsol YPF

As of March 5, 2001, the executive officers of Repsol YPF and their respective positions with Repsol YPF were as follows:

<u>Name</u>	<u>Position</u>
Alfonso Cortina de Alcocer	Chairman and Chief Executive Officer
Ramón Blanco Balin	Corporate Vice President
Miguel Angel Remón Gil	Executive Vice President Exploration and Production
Juan Sancho Rof	Executive Vice President Refining and Marketing
Juan Badosa Pagès	Executive Vice President Chemical
Antonio González-Adalid García-Zozaya	Executive Vice President Gas & Electricity
Carmelo de las Morenas López	Chief Financial Officer
José Manuel Revuelta Lapique	Director Assistant to the Chairman
Jesús Fernández de la Vega Sanz	Director of Human Resources
Rafael Piqueras Baulista	Director of Legal Affairs
Antonio Gomis Sáez	Director of External Relations
Juan Antonio Ortega y Díaz-Ambrona	Director of Institutional and Corporate Affairs
Bernard Gramillet	Director of e-Business
Enrique Locutura Rupérez	Director of Shared Services
Fernando Cid García	Director of Real Estate Activities and General Services
Luis Mañas Antón	Director of Planning and Control

On May 20, 2000, Francisco Carballo Cotanda, who until such date was Director of Legal Affairs, was ratified as Secretary of the Board of Directors.

The following is a summary of the business experience and areas of expertise of Repsol YPF's Executive Officers.

*Alfonso Cortina de Alcocer:* In June 1996, he was appointed C.E.O. of Repsol and in July 1999 C.E.O. of YPF. He is an Industrial Engineer and Graduated in Economics and Business. He has held several positions at Banco de Vizcaya Group (1968-1982) and at the Banco Hispano Americano Group (1982-1984). He was Vice President and Managing Director of the Board of Directors, and President and Managing Director of the Board of Directors of Portland-Valderribas, S.A. between 1984 and 1996. He is a member of the Board of Directors of various financial and industrial corporations as well as of several international institutions.

*Ramón Blanco Balin:* Corporate Vice President. Prior to becoming Corporate Vice President he was a member of Repsol YPF's Board of Directors as well as President of the Audit Committee. He was coordinator of the Committee for the integration of Repsol YPF and YPF. In 1982 won by selection process the position of Financial Inspector of the Government, and later on held different positions in the private sector in the areas of finance and taxes. He is Director to the board of Gas Natural and NH Hoteles, S.A.

*Miguel Ángel Remón Gil:* Executive Vice President of Exploration and Production of Repsol YPF. In 1999 was appointed Senior Vice President of Planning, Control and Strategy Development of Repsol YPF.

In 1989 was appointed General Director of Planning and Control at Repsol and since 1997 he has also been Manager of the Latin American area. From 1985 to 1999 he was Director of the E&P and Gas area of the Instituto Nacional de Hidrocarburos. He has spent his entire professional career in the energy sector.

*Juan Sancho Rof:* Executive Vice President of Refining and Marketing, he has been President of several Repsol YPF's subsidiaries. Additionally, he is the Vice President of the European Petroleum Industry Association (EUROPIA). In 1966, he started his career in the oil industry as Director of Refining and Adjunct General Director of PETRONOR. He worked six years at the Junta de Energía Nuclear in the R&D and Test Plants departments.

*Juan Badosa Pagés:* Executive Vice President of Chemical. Since 1985 has held different positions in Repsol YPF and has been president to several of its companies. Between 1985 and 1993 was president of ENAGAS, being simultaneously president of Repsol Química for one year. Between 1993 and 1996 was Adjunct Director of Gas Natural. Subsequently, he was president of Repsol Butano and in 1999 was also appointed as General Director of GLP in the Executive Vice Presidency of Refining & Marketing. He has been member of the Executive Committee since 2000.

*Antonio González-Adalid García-Zozaya:* Executive Vice President of Gas and Electricity since September 2000. Since 1989 has been president of various subsidiaries of Repsol. During 1987 was Director of Finance at Repsol and the Instituto Nacional de Hidrocarburos, a position which he already had held at ENAGAS since 1982. From July 1999 to August 2000 was Executive Vice President of Chemical at Repsol YPF. He is also member of the Spanish Committee of LLOYD's Register of Shipping and a member of the Board of Directors of the Spanish Club of Industry and Technology.

*Carmelo de las Morenas López:* Chief Financial Officer of Repsol YPF. Graduated in Economics and Law. In 1989, he joined Repsol as General Director of Economics and Finance. He is also a member of the Board of Directors of the Britannia Steam Ship Association, Ltd. and of MUSINI. In 1979, joined the Empresa Nacional del Petróleo where he held the position of General Sub-Director for Finance during several years.

*José Manuel Revuelta Lapique:* Director Assistant to the Chairman. Doctorate in Economics and Business from Universidad Autónoma de Madrid (1979); Commercial Technician and Economist of the Spanish government (1981) and Professor of Applied Economy (1984). He was General Director of Structure at Grupo Prisa (1991) and has been the Director of the Yearbook "El País" since 1994. In 1996, he joined Repsol YPF as Director Assistant to the Chairman and in 1999 was appointed Corporate Director Assistant to the Chairman.

*Jesús Fernández de la Vega Sanz:* Director of Human Resources. Graduated in Law from the Complutense University of Madrid, and in Comparative Law from the University of Strasbourg (France). In July 1999, he was appointed Director of Human Resources at Repsol YPF. In 1987 started his career in the human resources area as General Director of Human Resources of Repsol. He was also General Director of employment for the Ministry of Labor.

*Rafael Piqueras Bautista:* Director of Legal Affairs. Holds a degree in Law. At the end of 1999, he was appointed as Director of Legal Affairs of Gas, Electricity, Industrial and Real Estate. In 1990, he joined the Instituto Nacional de Hidrocarburos as Legal Director and later on was appointed Director of Legal Affairs of Repsol.

*Antonio Gomis Sáez:* Director of External Relations. Graduated in Chemical Sciences. In 1974 he began his professional career in the refinery of EMP (today Repsol Petróleo) in Puertollano, Ciudad Real. In 1981 he was appointed Manager of the International Energy Agency - OECD - in Paris. In 1984 he joined the Ministry of Industry and Energy as Adviser to the General Secretary of Energy and Mineral Resources. He rejoined the National Institute of Hydrocarbons in 1986, where he was Area Director of International and Institutional Relations in Repsol. In 1997 he was appointed Managing Director of Energy of the Ministry of Industry and Energy where he remained until May 2000.

*Juan Antonio Ortega y Díaz-Ambrona:* Director of Institutional and Corporate Affairs. Graduated in Law, Philosophy and Literature. He has completed studies in Political Sciences as well as in English and International and Comparative Law in London. Currently a member of the Board of Directors of Sociedad Catalana de Iniciativas and Repsol Petróleo. He was Adjunct Director of Legal Affairs for Repsol and General Secretary of the Board of Director of Repsol Petróleo in 1993.

*Bernard Gremillet:* Director of e-Business. Graduated from the Ecole Polytechnique in Paris. In 1997, joined YPF as Vice President of Engineering and Technology where he ultimately was appointed Vice President of Refining, Marketing, Petrochemicals and Distribution. In 1999 he was appointed Director of R&D, Safety Environment and Engineering for Repsol YPF. During 22 years, worked for Schlumberger.

*Enrique Locutura Rupérez:* Director of Shared Services. In 1989 was appointed Director of the Exploration and Distribution Department of Repsol S.A., and in 1990 became Technical and Logistics General Director at CLH. He has also been Adjunct Director of Repsol Química, Vice President of Repsol Comercial and Adjunct Director of Petronor.

*Fernando Cid García:* Director of Real Estate Activities and General Services. Industrial Engineer. He joined Repsol YPF in September of 1999. Before joining Repsol YPF held different managerial positions at construction and real estate companies.

*Luis Mañas Antón:* Director of Planning and Control. Graduated in Economics and Law from the Universidad Autónoma de Madrid. Doctorate (Ph.D.) and Masters (M.A) in Economics from the University of Chicago. He joined Repsol in 1987, in 1990 was appointed Director of the *Chairman's Office* and since 1999 has been Deputy Director of Finance of Repsol YPF. He has taught at the University of Chicago, Universidad Complutense de Madrid and CEMFI.

The Chairman of Repsol YPF, in conjunction with the Executive Committee, manages Repsol YPF aided by the Central Advisory Group. The Executive Committee was created in 1990 as the main executive body for the day-to-day business of Repsol YPF. It meets every two weeks and is composed of Alfonso Cortina de Alcocer, Miguel Angel Remón Gil, Juan Sancho Rof, Antonio González-Adalid García-Zozaya, Ramón Blanco Balín, Juan Badosa Pagés, Carmelo de las Morenas López and José Manuel Revuelta Lapique.

The Central Advisory Group provides management of the corporate operations of Repsol YPF. The Central Advisory Group consists of Alfonso Cortina de Alcocer, Ramón Blanco Balín, Jesús Fernández de la Vega, Rafael Piqueras Bautista, Antonio Gomis Sáez, Juan Antonio Ortega y Díaz-Ambrona, Bernard Gremillet, Enrique Locutura Rupérez, Luis Mañas Antón, Fernando Cid García, José Manuel Revuelta Lapique, and Carmelo de las Morenas López.

Executive officers of Repsol YPF do not serve for a predetermined term, but instead are employed for a period which is, in principle, indefinite until retirement, death or voluntary or involuntary termination.

#### **4.2 Compensation of Directors and Officers**

Pursuant to Repsol YPF's bylaws, an amount equivalent to 1.5% of Repsol YPF's annual net income may be allocated to compensation of members of the Board of Directors. This amount may be allocated only after legal reserves, a minimum dividend of 4% and other required amounts have been provided for.

Aggregate compensation of members of the Board of Directors was approximately €4.35 million in 2000 and €3.62 million in 1999. Members of the Board of Directors did not receive any other amounts as salary or allowances.

Remuneration paid during 2000 and 1999 to the members of the Executive Committee was the following:

	2000	1999
	Thousands of euros	
Salaries .....	3,943	4,713
Allowances .....	869	659
Variable remuneration .....	689	1,273
Remuneration in kind .....	241	183
Total .....	<u>5,742</u>	<u>6,828</u>

Remuneration paid during 2000 and 1999 to the members of the Central Advisory Committee was the following:

	2000	1999
	Thousands of euros	
Salaries .....	4,529	3,984
Allowances .....	489	451
Variable remuneration .....	643	704
Remuneration in kind .....	355	330
Total .....	<u>6,016</u>	<u>5,469</u>

#### 4.2.1 Medium and long-term incentives

On June 28, 2000, the general shareholders' meeting amended Repsol YPF's bylaws. The amendment permits the Directors of Repsol YPF to receive additional compensation through shares, option rights or other securities convertibles into shares, or compensatory systems linked to the price of Repsol YPF's ordinary shares. The general shareholder's meeting must approve the implementation of these compensation plans, their duration, the share reference price, the number of shares to be given to each Director, their strike price and any other conditions it considers appropriate. This amendment complies with new provisions of the Spanish Corporations Law, requiring stipulations allowing these kind of incentive programs for members of the Board of Directors and officers under its direct supervision to be included in the bylaws and its application be approved by the general shareholders' meeting.

These incentive programs must be discriminated based on whether they were established before or after January 1, 2000.

##### *Plans established prior to January 1, 2000*

In 1998, the Compensation and Senior Management Development Committee of the Repsol YPF Board of Directors established the basis for a medium-term incentive program for top management and in 1999 for members of the Board of Directors. Repsol YPF's medium-term incentive program was a share appreciation rights program. Repsol YPF assigned a number of theoretical shares to each of the top management officers and members of the Board of Directors of Repsol YPF. Participation in the plan was conditional upon continued employment up to and on the strike date. The strike date for each grant of theoretical shares were March 1, 2001. On this date, participants were be entitled to receive:

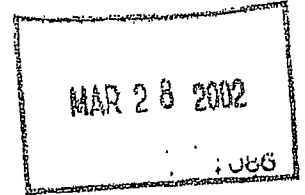
- a cash payment in an amount equal to the number of theoretical shares eligible for exercise on that strike date multiplied by the excess, if any, of the price of the ordinary shares of Repsol YPF on the Madrid Stock Exchange on the reference date in February 2001 over the reference price which is €13.42 per share. This element of the compensation arrangement consists of 1,500,000 rights.
- a cash payment in an amount equal to the number of theoretical shares eligible for exercise at that strike date multiplied by the excess, if any, of the price of the ordinary shares of Repsol YPF on the Madrid Stock Exchange on the reference date in February 2001 over the reference price which is €20.13 per share. This element also consists of 1,500,000 rights.

# **EXHIBIT V**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

PA

Form 20-F



ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: December 31, 2001  
Commission file number: 1-10220

**Repsol YPF, S.A.**

(Exact name of registrant as specified in its charter)

Kingdom of Spain

(Jurisdiction of incorporation of organization)

Paseo de la Castellana, 278—28046 Madrid, Spain  
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary shares of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange*
American Depositary Shares, each representing the right to receive one ordinary share of Repsol YPF, S.A., par value €1.00 per share .....	New York Stock Exchange
Series A 7.45% non-cumulative guaranteed preference shares of Repsol International Capital Limited .....	New York Stock Exchange

\* Shares are not listed for trading, but only in connection with the registration of American Depositary Shares pursuant to the requirements of the New York Stock Exchange.

The number of certain outstanding shares of each class of stock of Repsol International Capital Limited benefitting from a guarantee of Repsol YPF, S.A. at December 31, 2001 was:

Series A 7.45% non-cumulative guaranteed preference shares ..... 29,000,000

The number of outstanding shares of each class of stock of Repsol YPF, S.A. as of December 31, 2001 was:

Ordinary shares, par value €1.00 per share ..... 1,220,863,463

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark which financial statement item the registrant has elected to follow.  
Item 17  Item 18

Please send copies of notices and communications from the Securities and Exchange Commission to:

REP 13168



## 4. Directors, Senior Management and Employees

### 4.1 Directors and Officers of Repsol YPF

#### 4.1.1 Board of Directors

As of March 26, 2002, the members of the Board of Directors of Repsol YPF were as follows:

	Position	Year Appointed	Current Term Expires
Alfonso Cortina de Alcocer(1) . . . . .	Chairman and Director	1996	2004
Emilio de Ybarra y Churruca(1)(2) . . . . .	Vice-Chairman and Director	1992	2004
José Vilarasau Salat(1)(5) . . . . .	Vice-Chairman and Director	1996	2005
Antonio Hernández-Gil Álvarez Cienfuegos(1)(3) . . . . .	Vice-Chairman and Director	1997	2005
Gonzalo Anes Álvarez Castrillón(3) . . . . .	Director	1997	2004
PMI Holdings B.V.(1)(4) . . . . .	Director	1990	2002
Juan Molins Amat(1)(3) . . . . .	Director	1994	2002
Robert Malpas(3) . . . . .	Director	1991	2002
Antonio Brufau Niubó(5) . . . . .	Director	1996	2003
Ignacio Bayón Marín(3) . . . . .	Director	1997	2003
Marcelino Oreja Aguirre(3) . . . . .	Director	2000	2002
Enrique de Aldama y Miñón(1)(3) . . . . .	Director	1996	2002
Gregorio Villalabeitia Galarraga(2)(6) . . . . .	Director	2002	2003
Francisco Carballo Cotanda . . . . .	Non-Director Secretary	1987	n/a

- (1) Member of the Management Committee (*Comisión Delegada*).
- (2) Appointed for membership by Banco Bilbao Vizcaya Argentaria, S.A.
- (3) Directors not linked to significant shareholders.
- (4) Raúl Muñoz Leos serves as representative of PMI Holdings, B.V. (a related company of PEMEX) on the Board of Directors of Repsol YPF.
- (5) Appointed for membership by La Caixa d'Estalvis i Pensions de Barcelona.
- (6) Appointed by the Board of Directors' meeting of January 30, 2002, due to the resignation of one of our directors, subject to ratification by the next shareholder's meeting.

The principal outside business interests of the Directors of Repsol YPF are the following:

*Alfonso Cortina de Alcocer:* Director of Banco Bilbao Vizcaya Argentaria S.A. (BBVA).

*Emilio de Ybarra y Churruca:* Vice President of the Banca Nazionale del Lavoro, Director of L'Air Liquide, Director of Finaxa, Member of the European Advisory Committee of the NYSE, Member of the Board of Directors of L'Institut International d'Etudes Bancaires, Member of the International Monetary Conference and Member of the Trilateral Commission (Europe).

*José Vilarasau Salat:* President of La Caixa, President of the Sociedad de Aparcamientos de Barcelona, S.A.

*Antonio Hernández-Gil Álvarez-Cienfuegos:* Professor of Civil Law, Attorney at Law, Director and Secretary of Banco Zaragozano and Secretary of the Bar Association of Madrid.

*Gonzalo Anes Álvarez Castrillón:* Director of Cementos Portland.

*Raúl Muñoz Leos:* General Director of Petróleos Mexicanos Pemex.

*Juan Molins Amat*: General Director and Vice President of Cementos Molins S.A., President of Cementos Avellaneda S.A., President of Corporación Moctezuma, President of Privat Bank, Member of the Board of Directors of the Círculo de Economía, President of Fira 2000, Sponsor—Director of the Fundació Bosch i Gimpera and member of the Parc Científic of Barcelona.

*Robert Malpas*: Ex-President of Eurotunnel, Ex-President of Cookson Group.

*Antonio Brufau Niubó*: General Director of La Caixa Group, President of Gas Natural SDG S.A., Director of Acesa, Director of Banco Herrero, Director of Inmobiliaria Colonial and Director of Aguas de Barcelona.

*Ignacio Bayón Marín*: President of Grucyca S.A., President of Citroën Hispania S.A., President of FCC Inmobiliaria, President of OMSA Alimentación, President of Produsa and President of Hermanos Revilla S.A.

*Gregorio Villalabeitia Galarraga*: General Director of BBVA's Industrial and Real Estate Group.

*Marcelino Oreja Aguirre*: President of FCC Group and Director of Acerinox S.A.

*Enrique de Aldama y Miñón*: Vice President of CEOE, Director of Corporación IB-MEI, President of Centro Asegurador, and Member of the Board of Directors of Círculo de Empresarios.

Spanish law permits limited liability companies to serve as members of the Board of Directors. A Company serving in such a capacity must appoint a natural person to represent it at the meetings of the Board.

#### 4.1.2 Management Committee

The Management Committee has been permanently delegated all the powers of the Board of Directors, except those which cannot by law be delegated. The Management Committee is responsible for reviewing important corporate and business issues. The Management Committee meets on a monthly basis and its minutes are presented to the Board of Directors.

The Management Committee is comprised of the Chairman and a maximum of seven of each type of directors. The appointment of its members requires the vote of two thirds of the members of the Board of Directors.

Alfonso Cortina de Alcocer is the president of the Management Committee, and the other members are Emilio de Ybarra y Churruca, José Vilarasau Salat, Antonio Hernández-Gil Álvarez-Cienfuegos, Raúl Muñoz Leos, as representative of PMI Holdings B.V., Juan Molins Amat and Enrique de Aldama y Miñón.

#### 4.1.3 Audit and Compensation and Senior Management Development Committees

The Audit Committee performs the following functions:

- Periodic inspection of the preparation of financial and economic information of Repsol YPF,
- Selection of the external auditors, formulation of the scope of their work, monitoring of Repsol YPF's relationship with them, assurance of their independence, and termination of their appointment,
- Examination of Repsol YPF's compliance with the law and the applicable internal rules, and
- Supervision of internal financial control systems and the annual audit.

The Audit Committee is composed of Gonzalo Anes Alvarez Castrillón (President), Antonio Brufau and Raúl Muñoz Leos as representative of PMI Holdings, B.V.

The Compensation and Senior Management Development Committee of the Board of Directors, composed of three external directors and the Chairman of the Board (a member of management), is responsible for the nomination of directors, director compensation policy and reporting on director compensation to the Board of Directors. The Chairman is not permitted to participate in deliberations which affect his or her own compensation.

The members of the Compensation and Senior Management Development Committee are Juan Molins Amat, president of the Committee, Alfonso Cortina de Alcocer, Emilio de Ybarra y Churruca and Antonio Hernández-Gil Alvarez-Cienfuegos.

#### 4.1.4 Officers of Repsol YPF

As of March 26, 2002, the executive officers of Repsol YPF and their respective positions with Repsol YPF were as follows:

<u>Name</u>	<u>Position</u>
Alfonso Cortina de Alcocer	Chairman and Chief Executive Officer
Ramón Blanco Balín	Corporate Vice President
Miguel Angel Remón Gil	Executive Vice President Exploration and Production
Juan Sancho Rof	Executive Vice President Refining and Marketing
Juan Badosa Pagés	Executive Vice President Chemical
Antonio González-Adalid García-Zozaya	Executive Vice President Gas & Electricity
Carmelo de las Morenas López	Chief Financial Officer
José Manuel Revuelta Lapique	Director Assistant to the Chairman
Jesus Fernández de la Vega Sanz	Director of Human Resources
Rafael Piqueras Bautista	Director of Legal Affairs
Antonio Gomis Sáez	Director of External Relations
Juan Antonio Ortega y Díaz-Ambrona	Director of Institutional and Corporate Affairs
Bernard Gremillet	Director of e-Business
Enrique Locutura Rupérez	Director of Shared Services
Fernando Cid García	Director of Real Estate Activities and General Services
Luis Mañas Antón	Director of Planning and Control

The following is a summary of the business experience and areas of expertise of Repsol YPF's Executive Officers.

*Alfonso Cortina de Alcocer:* In June 1996, he was appointed C.E.O. of Repsol and in July 1999 C.E.O. of YPF. He is an Industrial Engineer and Graduated in Economics and Business. He has held several positions at Banco de Vizcaya Group (1968-1982) and at the Banco Hispano Americano Group (1982-1984). He was Vice President and Managing Director of the Board of Directors, and President and Managing Director of the Board of Directors of Portland-Valderribas, S.A. between 1984 and 1996. He is a member of the Board of Directors of various financial and industrial corporations as well as of several international institutions.

*Ramón Blanco Balín:* Corporate Vice President. Prior to becoming Corporate Vice President he was a member of Repsol YPF's Board of Directors as well as President of the Audit Committee. He was coordinator of the Committee for the integration of Repsol YPF and YPF. In 1982 he won by selection process the position of Financial Inspector of the Government, and later on held different positions in the private sector in the areas of finance and taxes. He is Director to the board of Gas Natural and NH Hoteles, S.A.

*Miguel Ángel Remón Gil:* Executive Vice President of Exploration and Production of Repsol YPF. In 1999 he was appointed Senior Vice President of Planning, Control and Strategy Development of Repsol YPF. In 1989 was appointed General Director of Planning and Control at Repsol and since 1997 he has

also been Manager of the Latin American area. From 1985 to 1999 he was Director of the E&P and Gas area of the Instituto Nacional de Hidrocarburos. He has spent his entire professional career in the energy sector.

*Juan Sancho Rof:* Executive Vice President of Refining and Marketing, he has been President of several Repsol YPF's subsidiaries. Additionally, he is the Vice President of the European Petroleum Industry Association (EUROPIA). In 1966, he started his career in the oil industry as Director of Refining and Adjunct General Director of PETRONOR. He worked six years at the Junta de Energía Nuclear in the R&D and Test Plants departments.

*Juan Badosa Pagés:* Executive Vice President of Chemicals. Since 1985 he has held different positions in Repsol YPF and has been president of several of its companies. Between 1985 and 1993 he was president of ENAGAS, being simultaneously president of Repsol Química for one year. Between 1993 and 1996 was Adjunct Director of Gas Natural. Subsequently, he was president of Repsol Butano and in 1999 was also appointed as General Director of LPG in the Executive Vice Presidency of Refining & Marketing. He has been member of the Executive Committee since 2000.

*Antonio González-Adalid García-Zozaya:* Executive Vice President of Gas and Electricity since September 2000. Since 1989 he has been president of various subsidiaries of Repsol. During 1987 he was Director of Finance at Repsol and the Instituto Nacional de Hidrocarburos, a position which he had held at ENAGAS since 1982. From July 1999 to August 2000 he was Executive Vice President of Chemical at Repsol YPF. He is also a member of the Spanish Committee of LLOYD's Register of Shipping and a member of the Board of Directors of the Spanish Club of Industry and Technology.

*Carmelo de las Morenas López:* Chief Financial Officer of Repsol YPF. He graduated in Economics and Law. In 1989 he joined Repsol as General Director of Economics and Finance. He is also a member of the Board of Directors of the Britannia Steam Ship Association, Ltd. and of MUSINI. In 1979, joined the Empresa Nacional del Petróleo where he held the position of General Sub-Director for Finance during several years.

*José Manuel Revuelta Lapique:* Director Assistant to the Chairman. He holds a Doctorate in Economics and Business from Universidad Autónoma de Madrid (1979); Commercial Technician and Economist of the Spanish government (1981) and Professor of Applied Economy (1984). He was General Director of Structure at Grupo Prisa (1991) and has been the Director of the Yearbook "El País" since 1994. In 1996, he joined Repsol YPF as Director Assistant to the Chairman and in 1999 was appointed Corporate Director Assistant to the Chairman

*Jesús Fernández de la Vega Sanz:* Director of Human Resources. Graduated in Law from the Complutense University of Madrid, and in Comparative Law from the University of Strasbourg (France). In 1987 started his career in the human resources area as General Director of Human Resources of Repsol. He was also General Director of employment for the Ministry of Labor.

*Rafael Piqueras Bautista:* Director of Legal Affairs. He holds a degree in Law. At the end of 1999, he was appointed as Director of Legal Affairs of Gas, Electricity, Industrial and Real Estate. In 1990, he joined the Instituto Nacional de Hidrocarburos as Legal Director and later on was appointed Director of Legal Affairs of Repsol.

*Antonio Gomis Sáez:* Director of External Relations. Graduated in Chemical Sciences. In 1974 he began his professional career in the refinery of EMP (today Repsol Petróleo) in Puertollano, Ciudad Real. In 1981 he was appointed Manager of the International Energy Agency - OECD - in Paris. In 1984 he joined the Ministry of Industry and Energy as Adviser to the General Secretary of Energy and Mineral Resources. He rejoined the National Institute of Hydrocarbons in 1986, where he was Area Director of International and Institutional Relations in Repsol. In 1997 he was appointed Managing Director of Energy of the Ministry of Industry and Energy where he remained until May 2000.

*Juan Antonio Ortega y Díaz-Ambrona:* Director of Institutional and Corporate Affairs. Graduated in Law, Philosophy and Literature. He has completed studies in Political Sciences as well as in English and International and Comparative Law in London. He is currently a member of the Board of Directors of Sociedad Catalana de Iniciativas and Repsol Petróleo. He was Adjunct Director of Legal Affairs for Repsol and General Secretary of the Board of Director of Repsol Petróleo in 1993.

*Bernard Gremillet:* Director of e-Business. He graduated from the Ecole Polytechnique in Paris. In 1997, joined YPF as Vice President of Engineering and Technology where he ultimately was appointed Vice President of Refining, Marketing, Petrochemicals and Distribution. In 1999 he was appointed Director of R&D, Safety Environment and Engineering for Repsol YPF. For 22 years he worked for Schlumberger.

*Enrique Locutura Rupérez:* Director of Shared Services. In 1989 he was appointed Director of the Exploration and Distribution Department of Repsol S.A., and in 1990 became Technical and Logistics General Director at CLH. He has also been Adjunct Director of Repsol Química, Vice President of Repsol Comercial and Adjunct Director of Petronor.

*Fernando Cid García:* Director of Real Estate Activities and General Services. Industrial Engineer. He joined Repsol YPF in September of 1999. Before joining Repsol YPF held different managerial positions at construction and real estate companies.

*Luis Mañas Antón:* Director of Planning and Control. He graduated in Economics and Law from the Universidad Autónoma de Madrid. Doctorate (Ph.D.) and Masters (M.A.) in Economics from the University of Chicago. He joined Repsol in 1987, in 1990 was appointed Director of the *Chairman's Office*. From 1996 to 2000 he served as Deputy Chief Financial Officer. He has taught at the University of Chicago, Universidad Complutense de Madrid and CEMFI.

The Chairman of Repsol YPF, in conjunction with the Executive Committee, manages Repsol YPF aided by the Central Advisory Group. The Executive Committee was created in 1990 as the main executive body for the day-to-day business of Repsol YPF. It meets every two weeks and is composed of Alfonso Cortina de Alcocer, Miguel Angel Remón Gil, Juan Sancho Rof, Antonio González-Adalid García-Zozaya, Ramón Blanco Balín, Juan Badosa Pagés, Carmelo de las Morenas López and José Manuel Revuelta Lapique.

The Central Advisory Group provides management of the corporate operations of Repsol YPF. The Central Advisory Group consists of Alfonso Cortina de Alcocer, Ramón Blanco Balín, Jesús Fernández de la Vega, Rafael Piqueras Bautista, Antonio Gomis Sáez, Juan Antonio Ortega y Díaz-Ambrona, Bernard Gremillet, Enrique Locutura Rupérez, Luis Mañas Antón, Fernando Cid García, José Manuel Revuelta Lapique, and Carmelo de las Morenas López.

Executive officers of Repsol YPF do not serve for a predetermined term, but instead are employed for a period which is, in principle, indefinite until retirement, death or voluntary or involuntary termination.

#### **4.2 Compensation of Directors and Officers**

Pursuant to Repsol YPF's bylaws, an amount equivalent to 1.5% of Repsol YPF's annual net income may be allocated to compensation of members of the Board of Directors. This amount may be allocated only after legal reserves, a minimum dividend of 4% and other required amounts have been provided for.

In 2001 and 2000 the members of the Board of Directors of Repsol YPF earned compensation of €7.67 million, €4.35 million, respectively, including payments relating to their membership of the Board of Directors and, where appropriate, to the directors' employment relationships or the direct responsibilities they may have at different executive levels. The amounts earned in 2001 include the exercise of rights under the 1998 appreciation rights program.

# **EXHIBIT W**

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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

Plaintiffs,

Civil Action No:  
2:06-CV-00401-JCL-PS

-against-

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

Defendants.

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1177 Avenue of the Americas  
New York, New York

September 23, 2006  
9:30 a.m.

VIDEOTAPED DEPOSITION of YPF, S.A.,  
a defendant, BY, GABRIEL LEIVA, taken on behalf of  
the plaintiffs, pursuant to Notice, held before a  
Notary Public of the State of New York.

1

G. Leiva

2 general environmental regulations within a general  
3 framework.

4 MS. BLANCO: I'm sorry. Objection to  
5 the translation insofar as it omitted the witness'  
6 discussion of compliance in Argentina.

7 INTERPRETER: Thank you.

8 Q. Would the witness care to share again  
9 what was said regarding compliance in Argentina.

10 A. If I want to say which are the  
11 obligations?

12 Q. If you could repeat your answer,  
13 previous answer with respect to compliance in  
14 Argentina.

15 A. YPF complies with all legislation and  
16 makes their own decisions in order to comply with the  
17 environmental regulations in Argentina within the  
18 general framework of the environmental policy of  
19 Repsol, or what Repsol has decided for their issues  
20 and the affiliates.

21 Q. Just so we're clear, I apologize, this  
22 is a bit tedious, it is the policy of Repsol that all  
23 of its direct and indirect subsidiaries comply with  
24 the environmental laws in the countries in which they  
25 operate; is that true?



G. Leiva

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2 A. Yes.

3 Q. Is it your understanding that the YPF  
4 American unit does not have any environmental  
5 policies?

6 A. I couldn't say that they don't because  
7 it's probably the environmental policies of the  
8 companies here. I don't have knowledge. What I  
9 asked for was about the YPF policies.

10 Q. Is it part of the YPF policy that its  
11 subsidiaries also have environmental policies?

12 A. It's not a policy that they have the  
13 policy because, for example, YPF does not have it in  
14 writing. It doesn't have in writing the precise --  
15 it complies with the present legislation and in the  
16 20-F reports that compliance, but it doesn't require  
17 nor prevents that the subsidiary companies decide  
18 their own environmental policies. That's obviously  
19 not to be against the general framework.

20 Q. Can you turn to page 43 of Plaintiffs'  
21 Exhibit 53. The last paragraph states -- I believe  
22 Mr. Leiva can read this -- but it states "YPF  
23 believes that YPF Holdings' policies and procedures  
24 in the area of pollution control, product safety, and  
25 occupational health are adequate to prevent

# **EXHIBIT X**

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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

Plaintiffs,

Civil Action No:  
2:06-CV-00401-JCL-PS

-against-

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

Defendants.

-----X

1177 Avenue of the Americas  
New York, New York

September 23, 2006  
9:30 a.m.

VIDEOTAPED DEPOSITION of YPF, S.A.,  
a defendant, BY, GABRIEL LEIVA, taken on behalf of  
the plaintiffs, pursuant to Notice, held before a  
Notary Public of the State of New York.

Page 62	Page 64
<p>1 G. Leiva</p> <p>2 A. Repsol's policy is a general framework</p> <p>3 on which all affiliated companies function.</p> <p>4 Q. They all must comply with that policy?</p> <p>5 A. Yes, because it is a general framework</p> <p>6 within which all must function, but each company has</p> <p>7 the obligations of the countries where they operate.</p> <p>8 Q. I understand.</p> <p>9 A. The policy says, phrases sentences like</p> <p>10 Repsol and YPF will comply in all the areas where</p> <p>11 they function legislative. YPF will comply with all</p> <p>12 the present legislation in the countries where they</p> <p>13 operate. It is the responsibility of all the</p> <p>14 employees of all the companies to comply with. It is</p> <p>15 the intention -- let's see, what else -- to ensure</p> <p>16 the safety of the environment in the community where</p> <p>17 they operate. Very global. Each company interpreted</p> <p>18 and does the requirements of each country.</p> <p>19 Q. So, YPF then adopts its own</p> <p>20 environmental policy for its operations in compliance</p> <p>21 with Repsol's general policy that it do so?</p> <p>22 A. YPF operates under general rules of the</p> <p>23 environmental policy set by Repsol, and in that</p> <p>24 context makes necessary decisions, their own</p> <p>25 necessary measures in order to comply with the</p>	<p>1 G. Leiva</p> <p>2 A. Yes.</p> <p>3 Q. Is it your understanding that the YPF</p> <p>4 American unit does not have any environmental</p> <p>5 policies?</p> <p>6 A. I couldn't say that they don't because</p> <p>7 it's probably the environmental policies of the</p> <p>8 companies here. I don't have knowledge. What I</p> <p>9 asked for was about the YPF policies.</p> <p>10 Q. Is it part of the YPF policy that its</p> <p>11 subsidiaries also have environmental policies?</p> <p>12 A. It's not a policy that they have the</p> <p>13 policy because, for example, YPF does not have it in</p> <p>14 writing. It doesn't have in writing the precise --</p> <p>15 it complies with the present legislation and in the</p> <p>16 20-F reports that compliance, but it doesn't require</p> <p>17 nor prevents that the subsidiary companies decide</p> <p>18 their own environmental policies. That's obviously</p> <p>19 not to be against the general framework.</p> <p>20 Q. Can you turn to page 43 of Plaintiffs'</p> <p>21 Exhibit 53. The last paragraph states -- I believe</p> <p>22 Mr. Leiva can read this -- but it states "YPF</p> <p>23 believes that YPF Holdings' policies and procedures</p> <p>24 in the area of pollution control, product safety, and</p> <p>25 occupational health are adequate to prevent</p>
Page 63	Page 65
<p>1 G. Leiva</p> <p>2 general environmental regulations within a general</p> <p>3 framework.</p> <p>4 MS. BLANCO: I'm sorry. Objection to</p> <p>5 the translation insofar as it omitted the witness'</p> <p>6 discussion of compliance in Argentina.</p> <p>7 INTERPRETER: Thank you.</p> <p>8 Q. Would the witness care to share again</p> <p>9 what was said regarding compliance in Argentina.</p> <p>10 A. If I want to say which are the</p> <p>11 obligations?</p> <p>12 Q. If you could repeat your answer,</p> <p>13 previous answer with respect to compliance in</p> <p>14 Argentina.</p> <p>15 A. YPF complies with all legislation and</p> <p>16 makes their own decisions in order to comply with the</p> <p>17 environmental regulations in Argentina within the</p> <p>18 general framework of the environmental policy of</p> <p>19 Repsol, or what Repsol has decided for their issues</p> <p>20 and the affiliates.</p> <p>21 Q. Just so we're clear, I apologize, this</p> <p>22 is a bit tedious, it is the policy of Repsol that all</p> <p>23 of its direct and indirect subsidiaries comply with</p> <p>24 the environmental laws in the countries in which they</p> <p>25 operate; is that true?</p>	<p>1 G. Leiva</p> <p>2 unreasonable risk of environmental and other damage</p> <p>3 resulting in financial liability in connection with</p> <p>4 its business."</p> <p>5 Do you see that, sir?</p> <p>6 A. Yes.</p> <p>7 Q. On what information -- did you write</p> <p>8 this?</p> <p>9 A. No, the paragraph from YPF Holdings I</p> <p>10 received from David Wadsworth and from counsel.</p> <p>11 Q. Did Mr. Wadsworth write "that YPF</p> <p>12 believes"?</p> <p>13 A. No. The sentence, the meaning of the</p> <p>14 paragraph itself, our lawyers, Davis Polk...</p> <p>15 Q. You believe that attorneys from Davis</p> <p>16 Polk wrote this?</p> <p>17 A. Yes, they've seen it, they wrote it,</p> <p>18 they've approved it, and they've talked with the YPF</p> <p>19 managers about what is said here.</p> <p>20 Q. So, Davis Polk is serving as counsel for</p> <p>21 YPF?</p> <p>22 A. For the preparation of the 20-F.</p> <p>23 Q. Was David Wadsworth also working on</p> <p>24 behalf of YPF?</p> <p>25 A. No.</p>

# **EXHIBIT Y**

**From:** URQUIZA CATALANO, LILIANA  
**Sent:** Tuesday, December 14, 2004 1:48 PM  
**To:** KALTERMAN SINGMAN, CAROLYN; HARTLINE JAMES, RICK  
**Cc:** BERNATENE OILLATAGUERRE, NICOLAS; FRECHOU GANDINI, HECTOR  
**Subject:** RE: FORECAST DECEMBER 2004

**Importance:** High

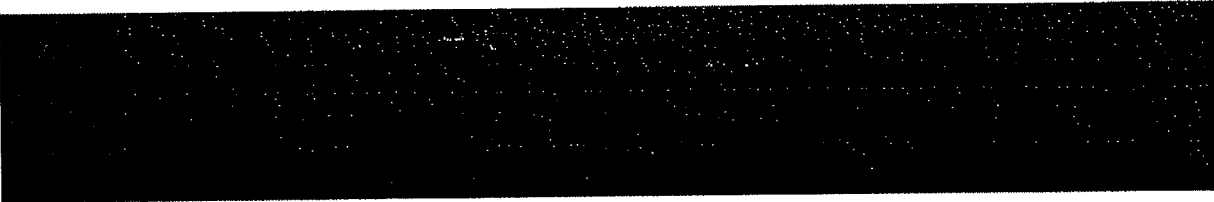
Carolyn thanks for your information.

We need to receive the request two days before the payment because the funds of Maxus are invested in RIF (that depends on Madrid) then we need to ask them for the funds.

Regards.

-----Mensaje original-----

**De:** KALTERMAN SINGMAN, CAROLYN  
**Enviado el:** martes, 14 de diciembre de 2004 10:23  
**Para:** URQUIZA CATALANO, LILIANA; HARTLINE JAMES, RICK  
**CC:** BERNATENE OILLATAGUERRE, NICOLAS; FRECHOU GANDINI, HECTOR  
**Asunto:** RE: FORECAST DECEMBER 2004



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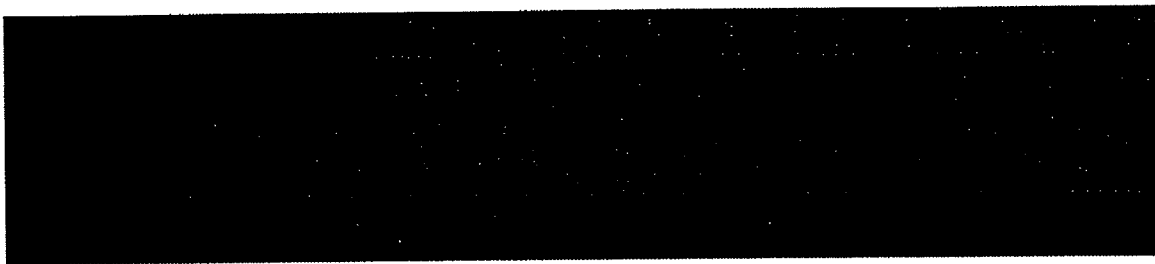
**From:** URQUIZA CATALANO, LILIANA  
**Sent:** Tuesday, December 14, 2004 7:02 AM  
**To:** HARTLINE JAMES, RICK; KALTERMAN SINGMAN, CAROLYN  
**Cc:** BERNATENE OILLATAGUERRE, NICOLAS; FRECHOU GANDINI, HECTOR  
**Subject:** RE: FORECAST DECEMBER 2004  
**Importance:** High

Rick, Carolyn  
there are more information about these payments. We need to receive the request two days before the payment in order to ask Madrid for the funds.

Regards.

-----Mensaje original-----

**De:** HARTLINE JAMES, RICK  
**Enviado el:** miércoles, 24 de noviembre de 2004 15:23  
**Para:** URQUIZA CATALANO, LILIANA; Davermxs@aol.com  
**CC:** BERNATENE OILLATAGUERRE, NICOLAS; FRECHOU GANDINI, HECTOR  
**Asunto:** FW: FORECAST DECEMBER 2004





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**From:** KALTERMAN SINGMAN, CAROLYN  
**Sent:** Wednesday, November 24, 2004 12:13 PM  
**To:** HARTLINE JAMES, RICK  
**Subject:** FORECAST DECEMBER 2004

Please approve and forward the attached document. This is the cash forecast for December 2004.

Thanks  
Carolyn

MARC J. GROSS, ESQ.

**GREENBAUM, ROWE, SMITH & DAVIS LLP**

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Roseland, New Jersey 07068

973/535-1600

Attorneys for Defendants: YPF Holdings, Inc.

CLH Holdings, YPF, S.A., and Repsol YPF, S.A.

And

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NEW JERSEY 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, 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. L-009868 05

**CIVIL ACTION**

**ORDER**

**THIS MATTER** having been opened to the Court by Greenbaum, Rowe, Smith & Davis LLP (Marc J. Gross, Esq., appearing), counsel for defendant Repsol YPF, S.A., for the entry of an order of dismissal for lack of in personam jurisdiction and the Court having considered the submissions of counsel and opposition thereto and having heard oral argument thereon; and good cause having been shown,



**IT IS** on this \_\_\_\_ day of \_\_\_\_\_, 2008,

**ORDERED THAT:**

1. Defendant Repsol YPF, S.A.'s Motion to dismiss Plaintiffs' Second Amended Complaint for lack of personal jurisdiction be and hereby shall be granted;

2. That Plaintiffs' Second Amended Complaint as to defendant Repsol YPF, S.A. be and hereby shall be dismissed.

3. That a true copy of this Order be and hereby shall be served upon all counsel of record within \_\_\_\_\_ days of receipt hereof.

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HON. DONALD S. GOLDMAN, J.S.C.