

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 DEFENDANTS YPF, S.A.'S, YPF HOLDINGS,  
INC.'S, AND CLH HOLDINGS, INC.'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")<sup>1</sup> 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 YPF, YPFH, and CLHH have **never** owned or operated the Lister Site. YPF is an Argentinean corporation with its principal place of business in Buenos Aires, Argentina. YPFH and CLHH are Delaware corporations with their principal places of business in Texas. Plaintiffs are, therefore, seeking damages from foreign companies to fix problems allegedly caused decades ago by entities which, at the time, had no relationship to the YPF Defendants.

The YPF Defendants do not have the contacts with New Jersey required to establish either general or specific personal jurisdiction. Therefore, Plaintiffs have sought to subject the YPF Defendants to the jurisdiction of this Court based on Alter

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<sup>1</sup> YPF, YPFH, and CLHH are filing this Motion to dismiss together because their ownership interest in Maxus and Tierra occurred at the same time - 1995 and 1996, whereas Repsol YPF, S.A.'s ownership interest occurred in 1999.

Ego and Cohesive Economic Unit vicarious liability theories. However, after two years of discovery, 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 even a prima facie evidence case to establish jurisdiction over the YPF Defendants under any recognized theory. Thus, pursuant to Rule 4:6-2(b), the YPF Defendants should be dismissed from this lawsuit for lack of personal jurisdiction.

#### STATEMENT OF FACTS

On December 13, 2005, Plaintiffs sued under the New Jersey Spill Compensation Control Act and the Water Pollution Control Act and for public nuisance, trespass, and strict liability. Shortly thereafter, the 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, which added claims for fraudulent transfer and civil conspiracy/aiding and abetting against the YPF Defendants. YPF's corporate parent, Repsol, has moved to dismiss for lack of personal jurisdiction by separate motion. [Pls. 2d Am. Compl. at ¶¶ 118-130].



OCC<sup>2</sup> is alleged to be the successor of the single corporation (hereinafter "Diamond")<sup>3</sup> that owned and operated the 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. 1]. 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. 2.].

Repsol and the YPF Defendants have been sued as the indirect corporate parents of Maxus and Tierra [Pls. 2d Am. Compl. at ¶ 2]. YPF did not acquire Maxus until 1995 [Gross Cert. ¶¶ 4,5, Exhs. 3, 4], YPFH and CLHH did not exist until

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<sup>2</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>3</sup> For ease of reference, the name "Diamond" is used to refer to the succession of corporate names by which Occidental's predecessors were known before Occidental acquired Diamond Shamrock Chemicals Company in 1986, namely: Kolker Chemical Works, Inc.; Diamond Alkali Company; "Old" Diamond Shamrock

1996 [Gross Cert. ¶ 6, Exh. 5], and Repsol did not acquire YPF and its subsidiaries until 1999 - [Gross Cert. ¶ 7, Exh. 6] - all decades after the 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.

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  

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Corporation; Diamond Chemicals Company; and Diamond Shamrock

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. 1]. Maxus and OCC had identified the Lister Site as one of the Diamond properties included in the indemnification ([Gross Cert. ¶ 8, Exh. 7.]), although Maxus' indemnity obligations under the 1986 SPA were not at all limited to sites or liabilities in New Jersey.

Before the sale to Occidental, 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")].

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Chemicals Company.

## 2. YPF's Acquisition of Maxus<sup>4</sup>

Nine years after the sale of Diamond, YPF acquired Maxus. [Gross Cert. ¶¶ 4,5, Exhs. 3,4.] YPF wanted to grow internationally and saw the acquisition of Maxus - which had subsidiaries in Bolivia, Venezuela, Ecuador, and Indonesia - as an opportunity to do so. [Gross Cert. ¶ 10, Exh. 9]

YPF committed approximately \$1.8 billion to the purchase of Maxus. [Gross Cert. ¶ 11, Exh. 10.] This amount represented (a) approximately \$760 million cash based on the fair market value of Maxus and its subsidiaries as determined by an outside investment bank [Gross Cert. ¶ 12, Exh. 11.] and (b) YPF's guaranteeing approximately \$1 billion in Maxus' third-party debt. [Gross Cert. ¶ 13, Exh. 12.] The terms of the loans underlying Maxus' third-party debt required Maxus' parent to guarantee the debt if Maxus' ownership changed. [Gross Cert. ¶ 14, Exh. 13.] In addition, YPF agreed to capitalize Maxus as needed for a nine-year period so that Maxus could meet its obligations. [Gross Cert. ¶¶ 15, 16, Exhs. 14, 15.] This nine-year commitment was known as the "Keep Well Covenant." [Gross Cert. ¶¶ 16, 17, Exhs. 15, 16.]

Maxus was in a precarious financial position prior to the acquisition. Its net worth was close to zero [Gross Cert. ¶ 18,

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<sup>4</sup> Mr. Leiva had both personal and professional knowledge and expertise regarding the YPF reorganization and the propriety of

Exh. 17]; while the value of Maxus' assets totaled nearly \$1 billion, its third-party debt totaled approximately \$1.4 billion. [Compare Gross Cert. ¶ 19, Exh. 18 with Gross Cert. ¶ 20, Exh. 19.] Therefore, Maxus' capitalization through the Keep Well Covenant and YPF's guarantee of Maxus' debt were "the most efficient financial strategy" available to Maxus at the time. [Gross Cert. ¶ 21, Exh. 20.]

### 3. YPF's Corporate Reorganization

#### a. International Operations

A year after the acquisition of Maxus, YPF reorganized its subsidiaries to "maximiz[e] the fiscal and legal operative efficiency of the international operations of the company" and to correct inefficiencies stemming from U.S. operations. [Gross Cert. ¶ 22, Exh. 21.] For example, following the acquisition by YPF - a foreign entity - Maxus was required under U.S. tax law to withhold 30% of the amount paid in dividends to YPF from the earnings of Maxus' foreign subsidiaries. [Gross Cert. ¶¶ 23, 24, Exhs. 22, 23.] In addition, due to Maxus' now-foreign ownership, Maxus was required to pay the minimum tax of 2% on earnings from its operations in Bolivia and Venezuela, despite the fact that Maxus was overall unprofitable. [Gross Cert. ¶¶ 23, 25 Exhs. 22, 24.]

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all the involved transactions. [Gross Cert. ¶ 9, Exh. 8.]

U.S. tax law provided a solution for these inefficiencies. Specifically, if an international subsidiary of YPF took ownership of Maxus' international subsidiaries, the minimum tax and the tax withholding on the earnings generated by Maxus' foreign subsidiaries would be eliminated. [Gross Cert. ¶ 26, Exh. 25.] In light of this opportunity, "it made no sense" to continue running international operations through Maxus in the United States. [Gross Cert. ¶ 27, Exh. 26.] YPF International, Ltd. ("YPF International"), therefore, was created and incorporated outside the United States to hold the subsidiaries in Bolivia and Venezuela. [Gross Cert. ¶ 28, Exh. 27, pts. 2, 5; Gross Cert. ¶ 29, Exh. 28.] In addition, a Dutch holding company was formed as a subsidiary of YPF International to hold the subsidiaries in Indonesia<sup>5</sup> and Ecuador. [Gross Cert. ¶ 31, Exh. 30.] Maxus sold its foreign subsidiaries to YPF International and the Dutch holding company for fair market value. [Gross Cert. ¶ 32, Exh. 31.]

**b. U.S. Operations**

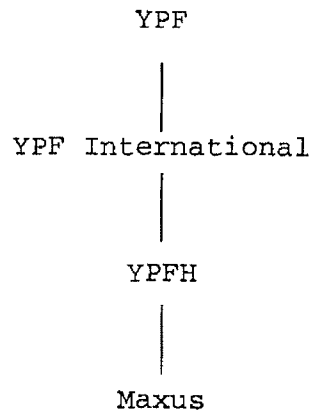
Another inefficiency arose from Maxus' ownership of Tierra. This chain of ownership resulted in Maxus' business activities

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<sup>5</sup> Indonesia and Holland had a favorable tax agreement based on Indonesia being a former Dutch colony. In Holland, the tax rate on the earnings of a Dutch company's Indonesian subsidiary would be significantly less than that imposed on earnings if the Indonesian subsidiary were owned by a U.S. parent. [Gross Cert. ¶ 30, Exh. 29.]

comprising not only its active operations but also its historical indemnity obligations arising under the 1986 SPA with Occidental, which had nothing to do with Maxus' operations. [See Gross Cert. ¶ 33, Exh. 32.]<sup>6</sup> Under the existing structure, the environmental losses were distorting the earnings from Maxus' actual operations. [Gross Cert. ¶¶ 34, 35; Exhs. 33, 34.]

To cure this distortion, YPFH was incorporated as: (1) an indirect subsidiary of YPF, (2) the direct subsidiary of YPF International, and (3) the direct parent of Maxus.

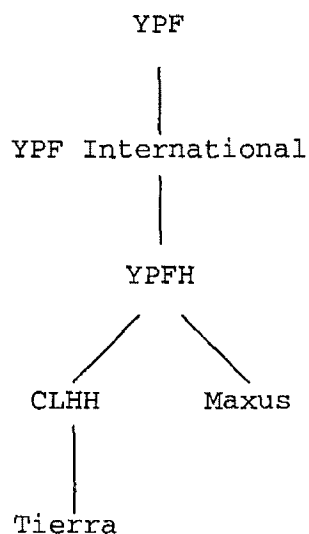


[Gross Cert. ¶¶ 6, 36, Exhs. 5, 35.]

Next, CLHH was formed as a subsidiary of YPFH to hold the stock of Tierra.

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<sup>6</sup> Chemical Land Holdings, Inc. is the former name of Tierra.



[Gross Cert. ¶¶ 6, 36, 37, Exhs. 5, 35, 36.]

As discussed in greater detail below, Tierra would assume Maxus's indemnification obligations to OCC as part of the 1996 corporate reorganization. [See Gross Cert. ¶¶ 37, 38, Exhs. 36, 37.] There is no evidence that this restructuring was a transfer of liabilities that Maxus owed anyone, much less to the State of New Jersey, much less for inadequate consideration. After the restructuring, Maxus continued to retain its indemnity obligations. Thus, there is no evidence that the restructuring occurred for reasons other than sound, proper, and legal business practices. Contrary to Plaintiffs' allegations, there is no evidence that the restructuring resulted in "stripping" Maxus of assets and the ability to satisfy obligations. [Pls. 2d. Am. Compl. at ¶ 33]. Finally, there is absolutely no evidence to support Plaintiffs' allegations that either the



restructuring or corporate reorganization twelve years ago has in anyway prevented Maxus or Tierra from meeting their obligations - indemnity or otherwise - to anyone. [See, e.g., Gross Cert. ¶ 39, Exh. 38 (discussing the reserves made by YPFH for Maxus' environmental liabilities assumed under the 1986 SPA)]. Significantly, neither the acquisition nor the reorganization occurred in New Jersey or had anything to do with the State of New Jersey, as it was focused solely on international tax implications and operations.

**c. YPF Capital Contributions**

As a final component of the 1996 corporate reorganization, YPF agreed to contribute a set amount of capital to Tierra in exchange for Tierra's assumption of Maxus' indemnity obligations. [Gross Cert. ¶¶ 40, Exh. 39.] On August 14, 1996, Maxus and Tierra entered into an agreement (the "Assumption Agreement"), whereby Tierra agreed to assume and manage all of Maxus' indemnity obligations to OCC that arose out of the September 4, 1986 sale of DSSC to OCC. [Gross Cert. ¶ 3, Exh. 2, § 2.1.]

Also on August 14, 1996, YPF, YPF International, YPFH, CLHH, Tierra, and Maxus entered into the Contribution Agreement, whereby these corporate parents supplied limited funds toward the indemnity obligations assumed by Tierra under the Assumption Agreement. [Gross Cert. ¶ 41, Exh. 40, § 2.]

The Contribution Agreement clearly states that the parties thereto did not intend to benefit any third party and that Chemical Land Holdings ("CLH" or later "Tierra") was to maintain a "separate existence and independence from Maxus and the Parent Companies and remain responsible for its own business, assets and liabilities, except to the extent as expressly provided in this Agreement, . . . ." [Gross Cert. ¶ 41, Exh. 40 , §§6, 9 ]

The Contribution Agreement further states that:

The books of account of CLH shall be maintained separately from those of Maxus and the other YPF Affiliates including other affiliates of Maxus. The assets of CLH shall not be commingled with the assets of Maxus or the YPF Affiliates." [Id. § 6(a)]

. . . [A]t 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. . . [Id. § 6(b)]

CLH shall have its own U.S. taxpayer identification number. [Id. § 6(d)]

CLH shall maintain bank accounts in its own name and utilize its own letterhead for all correspondence. [Id. § 6(e)]

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. [Id. § 6(g)]

**4. Repsol, S.A. Acquisition of YPF**

In July 1999, Repsol acquired YPF, forming Repsol YPF, S.A. [Gross Cert. ¶ 7, Exh. 6.] This acquisition came four years

**after** YPF's acquisition of Maxus and three years **after** the execution of the Assumption and Contribution Agreements. There is no evidence that Repsol had any involvement whatsoever with either the restructuring and reorganization or the Contribution or Assumption Agreements.

**LEGAL ARGUMENT**

**POINT I**

**PLAINTIFFS HAVE NOT ESTABLISHED PERSONAL JURISDICTION OVER THE YPF DEFENDANTS**

**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 10994093. 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., 102 N.J. at 471. "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.

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 & Co. v. Telecom Equip. Corp., 102 N.J. 460, 470-71 (1986); World-Wide Volkswagen v. Woodson, 444 U.S. at 297; Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474 (1985).

**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 (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 at \*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, Current N.J. Court Rules, Cmt. 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 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 the YPF Defendants have sufficient minimum contacts with New Jersey, but also that extending this Court's jurisdiction to the other 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, 326 U.S. at 316, 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.**

Plaintiffs' admissions in their Second Amended Complaint, together with the Certification of Gabriel Leiva filed on behalf of YPF ("Leiva Cert." or "Leiva Certification"), the Certifications of Harvey R. ("Dick") Smith filed on behalf of YPFH and CLHH ("Smith Certs." or "Smith Certifications"), and

the answers to Interrogatories (Gross Cert. ¶¶ 42, 43, 44, Exhs. 41, 42, 43) show that there are no contacts between the YPF Defendants and the State of New Jersey to justify the exercise of general jurisdiction:

- YPF is an Argentinean corporation whose principal place of business is in Buenos Aires, Argentina. [Pls' 2d Am. Compl. at ¶ 15].
- YPFH and CLHH are Delaware corporations whose principal places of business are in The Woodlands, Texas. [Pls' 2d Am. Compl. at ¶¶ 16, 17].
- The YPF Defendants have no designated agents for service of process in New Jersey [Leiva Cert. ¶ 3; Smith Certs. ¶¶ 3], and New Jersey does not require them to have one. N.J.S.A. 14A:4-1].
- The YPF Defendants have no offices, employees, property, or significant contacts in New Jersey. [Leiva Cert. ¶ 3; Smith Certs. ¶ 3.]
- The YPF Defendants have never conducted business meetings in New Jersey, and have never advertised, solicited, or conducted business in New Jersey. [Leiva Cert. ¶ 3; Smith Certs. ¶ 3.]
- The YPF Defendants make no business decisions in New Jersey. [Leiva Cert. ¶ 3; Smith Certs. ¶ 3.]
- The YPF Defendants do not recruit any employees in or out of New Jersey and do not buy or sell goods or services in New Jersey. [Leiva Cert. ¶ 3; Smith Certs. ¶ 3.]
- The YPF Defendants own no real property located in New Jersey. [Leiva Cert. ¶ 4; Smith Certs. ¶ 4.]
- The YPF Defendants have no telephone listings or address in New Jersey and do not advertise in New Jersey. [Leiva Cert. ¶ 4; Smith Certs. ¶ 4.]

- The YPF Defendants maintain no bank account in New Jersey and transact no banking business in New Jersey. [Leiva Cert. ¶ 4; Smith Certs. ¶ 4.].
- The YPF Defendants pay no taxes in New Jersey. [Leiva Cert. ¶ 4; Smith Certs. ¶ 4.].

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

**2. General Jurisdiction Cannot Be Exercised Over the YPF Defendants Based on the Contacts of their Subsidiaries, Maxus and Tierra, With the State of New Jersey.**

Plaintiffs, recognizing that no direct contacts exist between YPF, YPFH, or CLHH and the State of New Jersey, have pursued alter ego and "common economic unit" theories as an alternative basis for asserting general jurisdiction over the YPF Defendants. [Pls. 2d Am. Compl. at ¶¶ 33-53]. Specifically, Plaintiffs assert that the YPF Defendants are the alter egos of Tierra and Maxus and form part of a cohesive economic unit that includes Tierra and Maxus, thereby subjecting the YPF Defendants to personal jurisdiction in New Jersey. The record is devoid of any facts upon which to assert jurisdiction over YPF, YPFH, or CLHH on the basis of either of these theories.

**a. There is No Legal Basis for Imposing Vicarious Liability Jurisdiction over the YPF Defendants.**

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 - at the latest - in the 1980s, although plant operations themselves ceased in 1969. [Pls. 2d Am. Compl. at ¶¶ 20-21, 18-23]. YPF did not acquire Maxus and Tierra until 1995, and YPFH and CLHH were not created as holding companies until 1996.

Therefore, as a matter of law, and as Judge Davidson's March 31, 2008 Memorandum of Decision acknowledged, the YPF Defendants, which acquired their ownership interests 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>7</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 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

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<sup>7</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.

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 side 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) (internal citations omitted).

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 the YPF Defendants. Accordingly, the YPF Defendants 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 1995, but whether it can be pierced to impose vicarious liability for conduct that occurred prior to the YPF Defendants' 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); see also

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.)

**b. There is No Factual Basis to Support Vicarious Liability Jurisdiction Over the YPF Defendants.**

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

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

- No YPF directors or officers serve as directors or officers of Tierra [Leiva Cert. ¶ 8];
- No YPF directors, officers, and personnel are involved in the activities or business of Tierra [Leiva Cert. ¶ 9];
- In their capacity as directors, officers, and personnel of YPFH, YPFH's directors, officers, and personnel are in no way involved in the activities or business of Tierra [Smith YPFH Cert. ¶ 8];
- In their capacity as directors, officers, and personnel of CLHH, CLHH's directors, officers, and personnel are in no way involved in the activities or business of Tierra [Smith CLHH Cert. ¶ 8];
- YPF, YPFH, and CLHH do not pay the salaries or expenses of Tierra [Leiva Cert. ¶ 10; Smith Certs. ¶ 9];
- YPF, YPFH, and CLHH do not develop the budget or control the activities of Tierra [Leiva Cert. ¶ 11; Smith Certs. ¶ 10];
- YPF, YPFH, and CLHH each accounts for its funds separately from those of its subsidiaries and affiliated companies [Leiva Cert. ¶ 12; Smith Certs. ¶ 11];
- YPF, YPFH, and CLHH in no way control the environmental practices of Tierra [Leiva Cert. ¶ 13; Smith Certs. ¶ 12];

- YPF does not disregard the separate corporate existence of YPFH, CLHH, Maxus, or Tierra [Leiva Cert. ¶ 14];
- YPFH does not disregard the separate corporate existence of CLHH, Maxus, or Tierra [Smith YPFH Cert. ¶ 13];
- CLHH does not disregard the separate corporate existence of Tierra [Smith CLHH Cert. ¶ 13];
- Tierra was not created and is not used to commit a fraud or injustice or otherwise circumvent the law [Leiva Cert. ¶ 15; Smith Certs. ¶ 14];
- Tierra does not solicit sales for YPF [Leiva Cert. ¶ 16];
- YPF's operations are not intertwined with those of YPFH, Maxus, CLHH, and Tierra [Leiva Cert. ¶ 17];
- YPFH's operations are not intertwined with those of Repsol, YPF, Maxus, CLHH, or Tierra [Smith YPFH Cert. ¶ 15]; and
- CLHH's operations are not intertwined with those of Repsol, YPF, YPFH, Maxus, or Tierra [Smith CLHH Cert. ¶ 15].

Veil piercing requires evidence that the YPF Defendants "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 the YPF Defendants 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 the YPF Defendants dominated Tierra or Maxus to such a degree that Tierra and Maxus had no separate existence but were merely conduits for the YPF Defendants or that the YPF Defendants used Tierra or Maxus for fraudulent or illegal purposes.

**(2) YPF's Corporate Reorganization Does Not Provide Any Basis for Corporate Veil Piercing.**

Plaintiffs have attacked YPF for conducting a perfectly normal, legal, and proper restructuring. The corporate reorganization did not change or hide Maxus' indemnity obligations in any way. Those obligations continue to be disclosed in YPF's public filings, just as Maxus had disclosed them in its public filings when Maxus made public filings. [Compare Gross Cert. ¶ 45, Exh. 44 with Gross Cert. ¶ 46, Exh. 45.] Furthermore, the 1996 corporate reorganization did not change Tierra's pre-existing ownership of the Lister Site, where significant environmental remediation activities had already been performed.

But even if there were some basis to suggest that the 1996 restructuring was somehow designed to isolate environmental liabilities (and there is not), there would be nothing wrong or

actionable with the 1996 restructuring. See Frank v. U.S. West, Inc., 3 F.3d 1357, 1362 (10th Cir. 1993) ("The law allows businesses to incorporate to limit liability and isolate liabilities among separate entities.")

There is also no evidence to support Plaintiffs' allegation that YPF stripped Maxus of assets that were sold or transferred for less than fair market value. [See Pls. 2d Am. Compl. at ¶ 41]. To the contrary, as Gabriel Leiva testified, all post-acquisition sales of Maxus' assets were for fair market value. [Gross Cert. ¶ 47, Exh. 46.] In addition, rather than abandon Maxus and its ability to satisfy its obligations, YPF guaranteed all of Maxus' debt and even agreed to capitalize Maxus as needed for a nine-year period following the acquisition. [Gross Cert. ¶¶ 48, 14, 15, 16, Exhs. 47, 13, 14, 15.]

Discovery has established that the 1996 corporate reorganization was a legitimate and necessary undertaking to improve tax and financial efficiencies within the corporate family and is simply not a basis upon which personal jurisdiction may be asserted against the YPF Defendants.

**(3) Financial Agreements Do Not Provide the Basis for Corporate Veil Piercing.**

In an effort to establish that YPF is the alter ego of its subsidiaries, Plaintiffs have devoted much effort to scrutinizing the YPF Defendants' funding obligations under the

Contribution Agreement and YPF's loans to YPFH under a Credit Facility. [See Pls. 2d Am. Compl. at ¶ 40]. The evidence has demonstrated only that a dispute currently exists between YPF and YPFH as to the amounts that have been funded under the Contribution Agreement. [Gross Cert. ¶ 49, Exh. 48.] The financial agreements between YPF and its subsidiaries are both irrelevant and insufficient as a matter of law to demonstrate liability under either vicarious theory that Plaintiffs have argued.

While the Contribution Agreement does require Tierra to submit its proposed budget to YPF for approval [Gross Cert. ¶ 41, Exh. 40, § 3], "the [United States] Supreme Court has recognized that a parent corporation's 'supervision of [a] subsidiary's finance and capital budget decisions' is 'consistent with the parent's investor status.'" Action Mftg. Co., Inc. v. Simon Wrecking Co., 375 F. Supp. 2d 411, 425 (E.D. Pa. 2005) (citation omitted); see also Seiko Epson, 2002 U.S. Dist. LEXIS 27427 at \*39 (finding that a parent's "supervision of the subsidiary's finance and capital budget decision," among other activities, "are evidence of a normal parent-subsidiary relationship and do not justify piercing the corporate veil.>"). [See also Gross Cert. ¶ 50, Exh. 49.] Such supervision in no

way shows the "total control" required to subject a corporate parent to alter ego jurisdiction.<sup>8</sup>

To address internal credit disputes, YPF and YPFH entered into a fully documented Credit Agreement, through authorized and documented amendments. [Gross Cert. ¶¶ 51, 52, 53, 54, 55, Exhs. 50, 51, 52, 53, 54.] Pursuant to the Credit Agreement, Maxus' current operations and explorations in the Gulf of Mexico are being funded. [Gross Cert. ¶ 56, Exh. 55.]

Additionally, the Credit Agreement has been the source of funds that Maxus has been providing to Tierra for its expenses since 2005. [Gross Cert. ¶ 57, Exh. 56.] Between 1999 and 2004, Maxus alone was the source of funds for Tierra. [Gross Cert. ¶ 58, Exh. 57.] Prior thereto, Tierra's expenses were funded through the Contribution Agreement. [See Gross Cert. ¶ 59, Exh. 58.]

Finally, it is undisputed that YPF is also required by the outside auditors of YPFH, Deloitte & Touche, to provide financial letters of support to YPFH. [Gross Cert. ¶¶ 60, 61, 62, 63, Exhs. 59, 60, 61, 62.]

The current financial dependence of Maxus and Tierra on YPF is completely irrelevant to the jurisdictional analysis and does not allow YPF's corporate veil to be pierced:

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<sup>8</sup> For the same reason, YPF's supervision of Maxus and Tierra's expenditure forecasts does not subject YPF to alter ego



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"[C]apital infusions from a parent to a subsidiary are a normal, and, indeed a necessary part of the parent-subsidary relationship and do not in and of themselves indicate an alter ego relationship.

In fact, [a parent's] infusion of capital into [its subsidiary] actually defeats an alter ego finding because it is proof that [the parent] is not siphoning assets from [the subsidiary] and is not improperly or unjustly trying to shield its assets by undercapitalizing its subsidiary and hiding behind the corporate veil."

Seiko Epson Corp., 2002 U.S. Dist. LEXIS 27427 at \*52 (emphasis added).

Another court that has dealt with this issue has stated: "[A parent] will not be exposed to liability for the obligations of [its subsidiary] when [the parent] contributes funds to [the subsidiary] for the purpose of assisting [the subsidiary] in meeting its financial obligations and not for the purpose of perpetuating a fraud." Lowell Staats Mining Co., Inc. v. Pioneer Uravan, Inc., 878 F.2d 1259, 1263 (10th Cir. 1989). There is no evidence that the Contribution Agreement or the Credit Facility with YPFH are in any way fraudulent or violate or circumvent any laws.

Thus, the Contribution Agreement and Credit Facility do not provide any basis on which jurisdiction can be exerted over the YPF Defendants. Plaintiffs' suggestion in their Second Amended Complaint that the YPF Defendants' limited capital contributions to the indemnity obligations of Tierra and YPF's arms-length

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jurisdiction. [See Pls.' 2d Am. Compl. at ¶¶ 47, 49.]

agreement with YPFH on the Credit Facility should somehow subject the YPF Defendants to jurisdiction based on Tierra's contacts with New Jersey are completely without merit and should be rejected entirely.

**(4) Self-Guarantees Do Not Provide a Basis for Corporate Veil Piercing.**

Any suggestion that YPF's 2003 self-guarantee to NJDEP on behalf of Tierra for the chromium ore sites in Kearny, New Jersey (having nothing to do with the issues in this case), merits the exercise of personal jurisdiction over YPF should be categorically rejected. [See Pls. 2d Am. Compl. at ¶ 46]. Courts have uniformly held that parent guarantees of subsidiary obligations cannot form the basis for piercing the corporate veil. Calvert v. Huckins, 875 F. Supp. 674, 679 (E.D. Ca. 1995) (citations omitted) (stating that the parent's guaranteeing at least one promissory note of the subsidiary "is a common business practice and a normal feature of the parent-subsidary relationship" and that "[i]t does not demonstrate the measure of control necessary to invoke the alter ego jurisdiction."); Kramer Motors, Inc. v. British Leyland, 628 F.2d 1175 (9th Cir. 1980) (rejecting alter ego and agency jurisdiction over parent corporation that had, among other things, guaranteed obligations of its subsidiary).

**(5) Overlapping Directors and Officers Do Not Provide a Basis for Corporate Veil Piercing.**

Plaintiffs' allegations that jurisdiction should be exercised over the YPF Defendants because various YPF, YPFH, and CLHH directors have served in the past as directors or officers of Maxus and Tierra is wholly meritless. [Pls. 2d Am. Compl. at ¶ 50]. 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, 878 F. 2d at 1263 ("The identity of officers and directors is insufficient to allow corporate veil piercing.") (citations omitted); Calvert, 875 F. Supp. at 678; 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-subsidiary 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.

**(6) Corporate Policy Does Not Provide a Basis for Corporate Veil Piercing.**

Finally, there is no evidence that the YPF Defendants direct the environmental practices - or any practices - of Tierra or Maxus. Even if this allegation were true, it would not suffice to exercise jurisdiction over the YPF Defendants 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-subsidary relationship.")

As Gabriel Leiva 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. ¶ 64, Exh. 63.] 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. ¶ 65, Exh. 64.]

Thus, there is no evidence that any of the YPF Defendants exerts any control over Maxus' or Tierra's practices or procedures - environmental or otherwise - that would justify the exercise of alter ego jurisdiction over the YPF Defendants. Moreover, there is also no evidence that the YPF Defendants direct and control the environmental policies, procedures, funding, or activities of Maxus and Tierra. Clearly, no basis exists to pierce the corporate veil.

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

**(1) Relevant Law**

As another misplaced basis for personal jurisdiction, Plaintiffs have wrongly asserted that Repsol, YPF, YPFH, CLHH, Maxus, and Tierra form a cohesive economic unit. Under New Jersey law, the single entity or 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 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 the 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 YPF, YPFH, and CLHH can be neither disregarded nor ignored so as to allow jurisdiction to be imposed on YPF, YPFH, and CLHH based on Tierra's contacts with New Jersey.<sup>9</sup> Plaintiffs' theme that - but for Tierra - YPF, YPFH, and CLHH would somehow be responsible for the environmental liabilities which Tierra has assumed is completely fabricated. Finally, there is no evidence that Tierra (which existed prior to YPF's acquisition of its owners and the creation of YPFH and CLHH) 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 for the purpose of demonstrating general jurisdiction over the YPF Defendants must be rejected.

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<sup>9</sup> The record is equally devoid of any evidence that would allow the Court to exercise jurisdiction over Repsol, who has filed its own separate Motion to dismiss.

**3. 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 the YPF Defendants, 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.

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 the YPF Defendants' minimum contacts with the State of New Jersey in 1997 or 2001.

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. at ¶ 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 would 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 . . . that 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) (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; . . .

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 the YPF Defendants knew that New Jersey would "suffer the brunt of the harm caused by the tortious activity" or targeted New Jersey when international assets were transferred. Accordingly, the Court should find that it has no jurisdiction over the YPF Defendants and dismiss them from this lawsuit.

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. . . 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 at \*4

**CONCLUSION**

Plaintiffs have failed to allege, and cannot prove, facts that would support this Court's exercise of personal jurisdiction over YPF, YPFH, or CLHH. Neither specific nor general jurisdiction over the YPF Defendants exists - whether based on minimum contacts or Plaintiffs' theories of alter ego or cohesive economic unit. For these reasons, the Court should grant the YPF Defendants' Motion and dismiss them from this lawsuit.

Respectfully submitted,

**GREENBAUM, ROWE, SMITH & DAVIS LLP**  
Attorneys for Defendants Repsol YPF,  
S.A, YPF, S.A., YPF Holdings, Inc.,  
and CLH Holdings, Inc.

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 GABRIEL LEIVA

GABRIEL LEIVA, of full age, under oath, hereby certifies as follows:

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

2. YPF is an Argentinean business corporation with its principal place of business in Buenos Aires, Argentina.

3. YPF does not have a designated agent for service of process in New Jersey. YPF has never conducted business meetings in New Jersey. YPF has never advertised, solicited, or conducted business in New Jersey. YPF does not maintain an office in New Jersey. YPF makes no business decisions in New Jersey. YPF does not recruit any employees in or out of New



Jersey, nor does YPF have any employees in New Jersey. YPF does not buy or sell goods or services in New Jersey.

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

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

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

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

8. No YPF directors or officers serve as directors or officers of Tierra.

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

10. YPF does not pay the salaries or expenses of Tierra.

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

A handwritten signature or set of initials, possibly 'A.', located at the bottom left of the page.

12. YPF accounts for its funds separately from those of its subsidiaries and affiliated companies.

13. YPF does not control the environmental practices of Tierra.

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

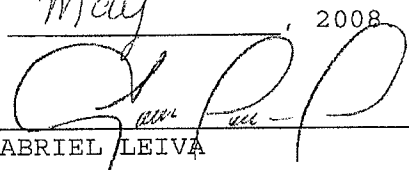
15. Tierra was not created and is not used to commit a fraud or injustice or otherwise circumvent the law.

16. Tierra does not solicit sales for YPF.

17. YPF's operations are not intertwined with those of YPFH, Maxus, CLHH, and 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 29<sup>th</sup> day of May, 2008

  
GABRIEL LEIVA

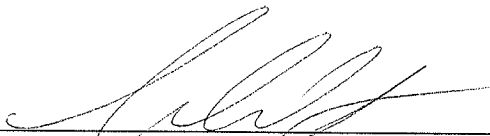
**ATTORNEY CERTIFICATION**

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 Gabriel Leiva. Ms. Leiva has acknowledged the genuineness of her signature.

I am filing this Certification pursuant to R.1:4(c) so that the Court may accept Ms. Leiva's facsimile signature on her 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 HARVEY R. SMITH**

HARVEY R. ("DICK") SMITH, of full age, under oath, hereby certifies as follows:

1. I am Director, Vice President, and Secretary of CLH Holdings, Inc. ("CLHH"). I make this Certification in support of CLHH's motion to dismiss plaintiffs' Amended Complaint. I have personal knowledge of the facts set forth below.

2. CLHH is a Delaware Corporation with its principal place of business in The Woodlands, Texas.

3. CLHH does not have a designated agent for service of process in New Jersey, nor has New Jersey required CLHH to have one. CLHH has never conducted business meetings in New Jersey. CLHH has never advertised, solicited, or conducted business in New Jersey. CLHH does not maintain an office in New Jersey. CLHH makes no business decisions in New Jersey. CLHH does not recruit any employees out of New Jersey, nor does CLHH have any



employees in New Jersey. CLHH does not buy or sell goods or services in New Jersey.

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

5. CLHH has no website.

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

7. CLHH has not assumed any liability or responsibility for the Lister Site.

8. In their capacity as directors, officers, and personnel of CLHH, CLHH's directors, officers, and personnel are in no way involved in the activities or business of Tierra.

9. CLHH does not pay the salaries or expenses of Tierra.

10. CLHH does not develop the budget or control the activities of Tierra.

11. CLHH accounts for its funds separately from those of Tierra and CLHH's affiliated companies.

12. CLHH in no way controls the environmental practices of Tierra.

13. CLHH does not disregard the separate corporate existence of Tierra.

14. Tierra was not created and is not used to commit a fraud or injustice or otherwise circumvent the law.

15. CLHH's operations are not intertwined with those of Repsol YPF, YPF, YPFH, Maxus, 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 4<sup>th</sup> day of January, 2007.

Harvey R. Smith  
HARVEY R. SMITH

**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 Harvey R. ("Dick") Smith. Mr. Smith 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. Smith'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"), CLH Holdings, Inc. ("CLHH"). I make this Certification in support of YPF's, YPFH's, and CLHH'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 "1" 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 "2" 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 "3" is a true copy of the Agreement of Merger Among YPF, YPF Acquisition Corp., and Maxus dated February 28, 1995 ("YPF/Maxus Merger Agreement").

5. Attached hereto as Exhibit "4" is a true copy of relevant portions of the deposition of Gabriel Leiva on behalf of YPF on September 23 and 24, 2006 ("Leiva Deposition").

6. Attached hereto as Exhibit "5" is a true copy of summary prepared by Maxus regarding the 1996 corporate reorganization.

7. Attached hereto as Exhibit "6" is a true copy of relevant portions of Form 20-F of Repsol YPF for fiscal year ended December 31, 2000.

8. Attached hereto as Exhibit "7" 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.

9. Attached hereto as Exhibit "8" is a true copy of relevant portions of the Leiva Deposition.

10. Attached hereto as Exhibit "9" is a true copy of relevant portions of the Leiva Deposition.

11. Attached hereto as Exhibit "10" is a true copy of relevant portions of the Leiva Deposition.

12. Attached hereto as Exhibit "11" is a true copy of relevant portions of the Leiva Deposition.

13. Attached hereto as Exhibit "12" is a true copy of relevant portions of the Leiva Deposition.

14. Attached hereto as Exhibit "13" is a true copy of relevant portions of the Leiva Deposition.

15. Attached hereto as Exhibit "14" is a true copy of relevant portions of the Leiva Deposition.

16. Attached hereto as Exhibit "15" is a true copy of Section 5.15 of the YPF/Maxus Merger Agreement.

17. Attached hereto as Exhibit "16" is a true copy of relevant portions of the Leiva Deposition.

18. Attached hereto as Exhibit "17" is a true copy of relevant portions of the Leiva Deposition.

19. Attached hereto as Exhibit "18" is a true copy of relevant portions of the Leiva Deposition.

20. Attached hereto as Exhibit "19" is a true copy of relevant portions of the Leiva Deposition.

21. Attached hereto as Exhibit "20" is a true copy of relevant portions the Leiva Deposition.

22. Attached hereto as Exhibit "21" is a true copy of relevant portions of the Leiva Deposition.

23. Attached hereto as Exhibit "22" is a true copy of relevant portions from a presentation on YPF/Maxus International Restructuring. An English translation is also attached.

24. Attached hereto as Exhibit "23" is a true copy of relevant portions of the Leiva Deposition.

25. Attached hereto as Exhibit "24" is a true copy of relevant portions of the Leiva Deposition.

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

27. Attached hereto as Exhibit "26" is a true copy of relevant portions of the Leiva Deposition.

28. Attached hereto as Exhibit "27" is a true copy of relevant portions of the YPF Board Minutes. An English translation is also attached.

29. Attached hereto as Exhibit "28" is a true copy of relevant portions of the Leiva Deposition.

30. Attached hereto as Exhibit "29" is a true copy of relevant portions of a presentation on YPF/Maxus International Restructuring. An English translation is also attached.

31. Attached hereto as Exhibit "30" is a true copy of relevant portions of the Leiva Deposition.

32. Attached hereto as Exhibit "31" is a true copy of relevant portions of the Leiva Deposition.

33. Attached hereto as Exhibit "32" is a true copy of the Diagram of Corporate Structure (Before 8/1/96).

34. Attached hereto as Exhibit "33" is a true copy of relevant portions of the Leiva Deposition.

35. Attached hereto as Exhibit "34" is a true copy of relevant portions of a presentation on YPF/Maxus International Restructuring. An English translation is also attached.

36. Attached hereto as Exhibit "35" is a true copy of the Diagram of Corporate Structure (Effective 8/1/96).

37. Attached hereto as Exhibit "36" is a true copy of relevant portions of the YPF Board Minutes. An English translation is also attached.

38. Attached hereto as Exhibit "37" is a true copy of relevant portions from the Leiva Deposition.

39. Attached hereto as "Exhibit 38" is a true copy of relevant excerpts from Form 20-F for YPF fiscal year ended December 31, 2004.

40. Attached hereto as Exhibit "39" is a true copy of relevant portions from the Leiva Deposition.

41. Attached hereto as Exhibit "40" is a true copy of the Contribution Agreement dated August 14, 1996, among YPF, YPF International, Ltd., YPFH, CLHH, Maxus, and Tierra.



42. Attached hereto as Exhibit "41" is a true copy of the Answers and Objections to Interrogatories of YPF dated June 19, 2006.

43. Attached hereto as Exhibit "42" is a true copy of the Answers and Objections to Interrogatories of YPFH dated June 19, 2006.

44. Attached hereto as Exhibit "43" is a true copy of the Answers and Objections to Interrogatories of CLHH dated June 19, 2006.

45. Attached hereto as Exhibit "44" is a true copy of relevant excerpts from Form 10-K of Maxus Energy Corporation for fiscal year ending December 31, 1996.

46. Attached hereto as Exhibit "45" is a true copy of relevant portions from Form 20-F of YPF for fiscal year ended Dec. 31, 2005.

47. Attached hereto as Exhibit "46" is a true copy of relevant portions from the Leiva Deposition.

48. Attached hereto as Exhibit "47" is a true copy of relevant portions from the Leiva Deposition.

49. Attached hereto as Exhibit "48" is a true copy of relevant portions from the Leiva Deposition.

50. Attached hereto as Exhibit "49" is a true copy of relevant portions from deposition of Harvey R. Smith ("Dick

Smith") on behalf of YPFH ("Smith YPFH Deposition") of September 15, 2006.

51. Attached hereto as Exhibit "50" is a true copy of the Credit Contract between YPF and YPFH effective Aug. 1, 2005 ("Credit Contract").

52. Attached hereto as Exhibit "51" is a true copy of the First Amendment to the Credit Contract effective November 25, 2005.

53. Attached hereto as Exhibit "52" is a true copy of the Second Amendment to the Credit Contract effective February 24, 2006.

54. Attached hereto as Exhibit "53" is a true copy of the Third Amendment of the Credit Contract effective May 3, 2006.

55. Attached hereto as Exhibit "54" is a true copy of relevant portions from the Smith YPFH Deposition.

56. Attached hereto as Exhibit "55" is a true copy of relevant portions from the Smith YPFH Deposition.

57. Attached hereto as Exhibit "56" is a true copy of relevant portions from the Smith YPFH Deposition.

58. Attached hereto as Exhibit "57" is a true copy of relevant portions from the Smith YPFH Deposition.

59. Attached hereto as Exhibit "58" is a true copy of relevant portions from the Smith YPFH Deposition.

60. Attached hereto as Exhibit "59" is a true copy of correspondence from Carlos Olivieri to YPFH dated March 8, 2005.

61. Attached hereto as Exhibit "60" is a true copy of correspondence from Carlos Olivieri to YPFH dated October 6, 2005.

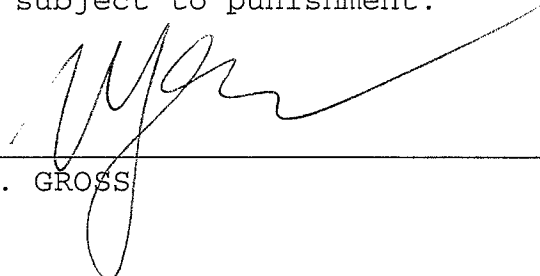
62. Attached hereto as Exhibit "61" is a true copy of correspondence from Carlos Olivieri to YPFH dated May 3, 2006.

63. Attached hereto as Exhibit "62" is a true copy of correspondence from Carlos Olivieri to YPFH dated August 8, 2006.

64. Attached hereto as Exhibit "63" is a true copy of relevant portions from the Leiva Deposition.

65. Attached hereto as Exhibit "64" is a true copy of relevant portions from the Leiva Deposition.

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 1**

***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 2**

## 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.

(l) 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.

CHEMICAL LAND HOLDINGS, INC.

By: W. W. 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 Twnship. Dump I-N-A-C-T-I-V-E	Lndfil.Cleanup	
108	Duane Marine Salvage Corp. I-N-A-C-T-I-V-E	Lndfil.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 Corner Site (USA v ICI, et al) C-L-O-S-E-D	Lndfil.Cleanup	
132	Galloway Pits/Arlington Binding C-L-O-S-E-D	Lndfil.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-E-D	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/IHRAC 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 Flais 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
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	Hollisv 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

	160.2 Baptiste v Exxon	C-L-O-S-E-D	BI & PD	W. Conrad
	160.3 Dartz v Exxon		BI & PD	W. Conrad
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	Melcon 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	PIP 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. Tair
180	Beeger v Rohm and Haas, et al		PD&Env.Contam	J.Durrell
183	Bay Area Drum Site (Ca)		Lndfil.Cleanup	J. Armap
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	Bohatsy 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	Unireoyal Site (Mag Plant)	Env. Contam.	
204	Geothermal, Inc. Site (Middletown)	Lndfil. Cleanup	
	State of NJ v Ace, 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 (Cl./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) Signor 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/Berber 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	Main/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	"	"
Karpelan v L-N-S, et al	"	"
Labombardo v Maxwell House, et al	"	J. Resnek 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		J. Beeson
Stanley Abbott		
<del>Charles Abrams v AC&amp;S</del>		
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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
Bentley v Shell		"
Borel v Texaco		"
Forrestier v AC&S		"
Jones v Clemco		"
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/ASK

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.

I. Jones

DSCC/OXY

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# **EXHIBIT 3**

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**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 4**

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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 114

1 G. Leiva  
2 MR. JACKSON: Fifty-five is the Maxus  
3 10-K dated December 31, 1995.  
4 Fifty-six is the offer to purchase for  
5 cash all outstanding shares, common stock of Maxus  
6 Energy at 5.50 per share.  
7 Fifty-seven is the SEC schedule 14D-9/A.  
8 Fifty-eight is the Credit Suisse First  
9 Boston opinion letter.  
10 And Plaintiffs' Exhibit 59 is the  
11 Houlihan, Lokey opinion letter dated April 5th, 1995.  
12 MR. CROUT: Thank you.  
13 MR. JACKSON: Do we need a translation  
14 of what we have marked as Plaintiffs' Exhibit 55  
15 through 59?  
16 MS. BLANCO: No.  
17 Q. Mr. Leiva, are you familiar with these  
18 documents?  
19 A. Yes, most of them. I didn't know this  
20 one, 58. That's a document from First Boston to the  
21 board of Maxus. Exhibits 57, 56, 55 are public  
22 documents.  
23 Q. So, you've seen those documents before?  
24 A. I don't remember this one well, but  
25 Exhibit 59 I need a moment to look it over to see.

Page 115

1 G. Leiva  
2 Q. Okay.  
3 A. But in general.  
4 Q. Tell you what, why don't we go ahead and  
5 talk generally about some of the transactions at  
6 issue, and then if you need to review any of these  
7 documents in more detail, we can go off the record  
8 while you do so.  
9 A. Okay.  
10 Q. Did YPF acquire Maxus through the merger  
11 of YPF's subsidiary, YPF Acquisition Corporation,  
12 into Maxus effective June 8, 1995?  
13 A. YPF acquired Maxus through YPF  
14 Acquisition Corporation in April, April 1995. What  
15 happened then in June 1995 was the merger between YPF  
16 Acquisition and Maxus.  
17 Q. That merger was June 8th of 1995,  
18 effective June 8, 1995?  
19 A. It was in 1995, but if it's precisely  
20 June 8th, we could see it here.  
21 Q. I don't want to spend a lot of time  
22 going through the public documents. As corporate  
23 representative of YPF, do you have any reason to  
24 contest the accuracy of the statements made in the  
25 public filings that are at Plaintiffs' Exhibit 55, 56

Page 116

1 G. Leiva  
2 and 57?  
3 A. No.  
4 Q. How was Maxus originally identified by  
5 YPF for acquisition?  
6 A. What does identified mean? What do you  
7 mean identified?  
8 Q. Why did YPF want to acquire Maxus?  
9 A. At that moment YPF's strategy was their  
10 internationalization and not only a company based in  
11 Argentina.  
12 Now, why was it Maxus and not another?  
13 It could have been a question of opportunity. It was  
14 a job done personally by the president of YPF who  
15 died a month after the acquisition.  
16 The general comments among the top  
17 management was that nobody knew exactly what the  
18 president proposed or what was the strategy of the  
19 president as to this new acquisition.  
20 In reality, a year later, that was when  
21 top management, the new president and the board,  
22 reached an agreement of organization that was carried  
23 out in 1996.  
24 Q. What was the president of YPF's name who  
25 was personally involved?

Page 117

1 G. Leiva  
2 A. Jose Estenssoro.  
3 Q. Do you recall did he pass away after the  
4 merger was effective in June of '05?  
5 A. No, he died the first of May of '95, but  
6 the decision of the merger was part of the  
7 acquisition.  
8 Q. Did you say March or May?  
9 A. May.  
10 Q. To your knowledge, had Maxus and YPF  
11 conducted business prior to the acquisition?  
12 A. No.  
13 Q. Did YPF acquire Maxus for approximately  
14 \$762 million in stock and one billion dollars in  
15 guaranteed debt?  
16 A. YPF acquired Maxus for approximately  
17 that amount, maybe approximately 780, but that was to  
18 guarantee the debt --  
19 MS. BLANCO: Object to the translation.  
20 INTERPRETER: The interpreter has not  
21 finished.  
22 MS. BLANCO: Wait. I'm sorry.  
23 INTERPRETER: The interpreter would like  
24 the witness to please start the response again.  
25 MS. BLANCO: Agreed.

30 (Pages 114 to 117)

# **EXHIBIT 5**

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 6**



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 or 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:

Title of each class	Name of each exchange on which registered
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 ..... 1,220,853,463

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 7**

[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

*(incl. prop. injury)*

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, "Indemnitee" 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 Indemnitee 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)

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# **EXHIBIT 8**

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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.

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<p>1 2 Protection and the Administrator of the New Jersey 3 Spill Compensation Fund. 4 MS. POKRYWA: Kelly-Ann Pokrywa, the law 5 firm of Gordon &amp; Gordon for the plaintiffs, New 6 Jersey Department of Environmental Protection and the 7 Administrator of the New Jersey Spill Compensation 8 Fund. 9 MR. CROUT: Charles Crout for Occidental 10 Chemical Corporation, Maxus Energy Corporation, and 11 Tierra Solutions. 12 MR. MORAN: Eric Moran from Drinker, 13 Biddle here also for Occidental Chemical, Tierra 14 Solutions, and Maxus Energy Corp. 15 MS. PONIG: Christina Ponig for Repsol 16 YPF, S.A., YPF S.A., YPF Holdings, Inc. and CLH 17 Holdings, Inc. 18 MS. BLANCO: Ileana Blanco from 19 Bracewell &amp; Giuliani for Repsol YPF, S.A., CLH and 20 YPFH. 21 22 23 24 25</p>	<p>1 G. Leiva 2 A. In the city of Buenos Aires. 3 Q. Is this your only residence? 4 A. It's my only residence, yes. 5 Q. On whose behalf are you testifying 6 today, sir? 7 A. On behalf of YPF, S.A. 8 Q. Mr. Leiva, how many languages do you 9 speak? 10 A. I speak one language, Spanish. I can 11 read English. 12 Q. Thank you. Before we get started I 13 would like to take a brief moment to go over some of 14 the basic rules for today's deposition. 15 Have you ever been deposed before? 16 A. No. 17 Q. A deposition is merely the vice in the 18 American system to obtain facts. The object of the 19 deposition is simply to obtain a clear record of the 20 facts at issue. 21 For that reason, if at any time you do 22 not understand my questions, I would ask that you let 23 me know, okay? Is that agreeable? 24 A. Yes. 25 Q. Because we have a translator and a court</p>
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<p>1 G. Leiva 2 CLARITA OBADIA, the interpreter was duly 3 sworn by a Notary Public of the State of New York. 4 to faithfully and accurately translate the questions 5 propounded to the witness from English into Spanish 6 and the answers thereto from Spanish into English; 7 8 GABRIEL LEIVA, having been first duly 9 sworn by a Notary Public of the State of New York, 10 was examined and testified through the interpreter as 11 follows: 12 EXAMINATION BY 13 MR. JACKSON: 14 Q. Could you please state your name for the 15 record, sir. 16 A. Gabriel Leiva. 17 Q. What is your current business address? 18 A. Avenida Roque, Saenz Pena 777, 1364 19 Buenos Aires, Argentina. 20 Q. Mr. Leiva, my name is Bill Jackson. I 21 am here today for the plaintiffs, the New Jersey 22 Department of Environmental Protection, and the 23 Administrator of the New Jersey Spill Compensation 24 Fund. 25 Mr. Leiva, where do you live?</p>	<p>1 G. Leiva 2 reporter here, it's very important that we answer all 3 questions verbally. 4 A. Okay. 5 Q. If at any time you do not understand one 6 of my questions, please ask me to rephrase it. 7 A. Fine. 8 Q. Because this deposition is being 9 translated, it will take some time. 10 A. I understand. 11 Q. However, this is not an endurance 12 contest. 13 A. Okay. 14 Q. If you need to take a break at any time, 15 let me know. 16 A. Okay. 17 Q. With respect to the translation, if at 18 any time you are concerned about the translation of a 19 question, or if my question doesn't make sense in 20 context, will you agree to let me know that as well? 21 A. Yes. 22 Q. Likewise, I will try to make sure that 23 all of your answers are responsive to my questions. 24 If it seems that you're answering a 25 question that I was not asking, I may have to say</p>

3 (Pages 6 to 9)

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<p>1 G. Leiva</p> <p>2 objection. I have to say that to preserve the</p> <p>3 record, but I will attempt to rephrase the question;</p> <p>4 is that agreeable?</p> <p>5 A. Okay.</p> <p>6 Q. Your counsel is also bilingual.</p> <p>7 MR. JACKSON: If at any time Ms. Blanco</p> <p>8 has a concern about a translation, I would ask that</p> <p>9 you let me know as well.</p> <p>10 MS. BLANCO: I will.</p> <p>11 MR. JACKSON: Thank you.</p> <p>12 Q. Finally, if at any time you want to</p> <p>13 revise one of your answers that you previously gave</p> <p>14 in testimony, will you let me know so we can put that</p> <p>15 into the record as well?</p> <p>16 A. Okay.</p> <p>17 Q. Before we get into questions, I also</p> <p>18 wanted to ask if we could agree to some basic terms</p> <p>19 here today. For example, can we agree if I say YPF,</p> <p>20 we are talking about the defendant in this lawsuit</p> <p>21 YPF, S.A.?</p> <p>22 A. Perfect.</p> <p>23 Q. Can we also agree that Repsol means</p> <p>24 Repsol YPF, S.A., another defendant in this lawsuit?</p> <p>25 A. Okay.</p>	<p>1 G. Leiva</p> <p>2 family of companies?</p> <p>3 A. Yes, the company holdings of the</p> <p>4 American companies.</p> <p>5 Q. YPF Holdings?</p> <p>6 A. YPF Holdings is a parent company of the</p> <p>7 American companies.</p> <p>8 Q. For purposes of today, can we agree that</p> <p>9 that group of American companies, we can refer to as</p> <p>10 the YPF American unit?</p> <p>11 A. Could you repeat?</p> <p>12 Q. Can we agree for purposes of today that</p> <p>13 if I refer to the YPF American unit, I am referring</p> <p>14 to YPF Holdings and its American subsidiaries as a</p> <p>15 group?</p> <p>16 A. Okay.</p> <p>17 Q. Thank you. Mr. Leiva, what positions do</p> <p>18 you hold with YPF?</p> <p>19 A. I am the manager in charge of</p> <p>20 administration. You can also call it comptroller.</p> <p>21 Q. How long have you held that position?</p> <p>22 A. Since the year 2003, beginning.</p> <p>23 Q. Is that the only position that you</p> <p>24 currently hold with YPF?</p> <p>25 A. Yes.</p>
Page 11	Page 13
<p>1 G. Leiva</p> <p>2 Q. Also, if I refer to YPF Holdings, can we</p> <p>3 agree that I'm referring to YPF Holdings, Inc.,</p> <p>4 another defendant in this action?</p> <p>5 A. Okay.</p> <p>6 Q. Likewise, CLH Holdings will refer to CLH</p> <p>7 Holdings, Inc.?</p> <p>8 A. Yes.</p> <p>9 Q. Also, when we refer to Tierra, can we</p> <p>10 agree that we are referring to Tierra Solutions,</p> <p>11 Inc.?</p> <p>12 A. Okay.</p> <p>13 Q. Do you understand that Tierra Solutions,</p> <p>14 Inc. was formerly known as Chemical Land Holdings,</p> <p>15 Inc.?</p> <p>16 A. Okay.</p> <p>17 Q. Also, when we refer to Maxus, we're</p> <p>18 referring to Maxus Energy Corporation?</p> <p>19 A. Okay.</p> <p>20 Q. Do you understand that YPF Holdings owns</p> <p>21 directly or indirectly Maxus and its subsidiaries as</p> <p>22 well as CLH Holdings and Tierra?</p> <p>23 A. Yes, okay.</p> <p>24 Q. Do you understand that YPF Holdings is</p> <p>25 the highest tiered American company in the Repsol YPF</p>	<p>1 G. Leiva</p> <p>2 Q. Prior to 2003, did you hold other</p> <p>3 positions with YPF?</p> <p>4 A. Yes, I've worked in YPF since the year</p> <p>5 '94 always in the administration area, and in that</p> <p>6 area I've held different positions. Finally, in 2003</p> <p>7 I was named responsible for the area.</p> <p>8 Q. Can you tell me what responsibilities</p> <p>9 you had in your prior positions in the administration</p> <p>10 department?</p> <p>11 A. Yes, I was in charge of the accounting.</p> <p>12 I'm responsible for reporting. That's it.</p> <p>13 Q. When you were in charge of accounting,</p> <p>14 what were your job responsibilities?</p> <p>15 A. Which were my responsibilities?</p> <p>16 Q. Right. What were your job</p> <p>17 responsibilities when you were in charge of</p> <p>18 accounting?</p> <p>19 A. Keep the books of the company, ensure</p> <p>20 that they met the accepted principles in Argentina.</p> <p>21 MS. BLANCO: Excuse me, generally</p> <p>22 accepted accounting procedures.</p> <p>23 INTERPRETER: Sorry, generally accepted</p> <p>24 accounting principles. Thank you.</p> <p>25 A. Monthly, quarterly, and yearly, the</p>

4 (Pages 10 to 13)

Page 14	Page 16
<p>1 G. Leiva</p> <p>2 yearly --</p> <p>3 MR. JACKSON: Let's start over.</p> <p>4 Q. You were discussing your reporting of</p> <p>5 the books of the company?</p> <p>6 A. Yes.</p> <p>7 Q. Would you repeat your answer, please,</p> <p>8 with respect to that.</p> <p>9 A. During the period that I was in charge</p> <p>10 of the accounting, my responsibilities were to keep</p> <p>11 all the accounting books according to the accounting</p> <p>12 principles accepted generally in Argentina, and to do</p> <p>13 the accounting reporting -- not reporting, accounting</p> <p>14 closing monthly, quarterly, and yearly.</p> <p>15 Q. Were you in charge of creating monthly,</p> <p>16 quarterly, or annual financial statements?</p> <p>17 A. Yes.</p> <p>18 Q. Does that cover all of your</p> <p>19 responsibilities prior to you becoming manager of the</p> <p>20 department?</p> <p>21 A. Yes. During the period of time that I</p> <p>22 was in charge of the reporting, I was also</p> <p>23 responsible for reporting the annual report of SEC,</p> <p>24 for the SEC, and to comply with regulations of the</p> <p>25 marketing -- of the --</p>	<p>1 G. Leiva</p> <p>2 information of YPF in the way that we prepared for</p> <p>3 YPF so that they could incorporate whatever they had</p> <p>4 to incorporate.</p> <p>5 MS. BLANCO: I'm sorry, I need to object</p> <p>6 to the translation. The witness talked about</p> <p>7 preparing information for the 20-F's. I don't think</p> <p>8 that was translated.</p> <p>9 INTERPRETER: The interpreter did not.</p> <p>10 20-F. I'm sorry. Thank you.</p> <p>11 Q. Mr. Leiva, what information did you</p> <p>12 supply Repsol for the preparation of 20-F's?</p> <p>13 A. Well, the accounting information, the</p> <p>14 financial statements, and notes for the financial</p> <p>15 statements, and everything you could see on the</p> <p>16 20-F's of YPF.</p> <p>17 Q. Did you also assist Repsol in the</p> <p>18 preparation of its 20-F's, those 20-F's filed on</p> <p>19 behalf of Repsol?</p> <p>20 A. Could you repeat?</p> <p>21 (The requested portion was read.)</p> <p>22 A. No.</p> <p>23 Q. So the record is clear, did you provide</p> <p>24 information to Repsol for the preparation of its</p> <p>25 annual reports?</p>
Page 15	Page 17
<p>1 G. Leiva</p> <p>2 MS. BLANCO: Stock market.</p> <p>3 A. -- in Argentina, and the markets where</p> <p>4 YPF was quoting.</p> <p>5 MR. JACKSON: Can we go off the record</p> <p>6 for one minute, please.</p> <p>7 VIDEOGRAPHER: Going off the record.</p> <p>8 The time is 9:57.</p> <p>9 (A discussion was held off the record.)</p> <p>10 VIDEOGRAPHER: We're back on the record.</p> <p>11 The time is 10:01.</p> <p>12 MR. JACKSON: We had an off-the-record</p> <p>13 discussion regarding the translation of the prior</p> <p>14 question and answer. I understand that the</p> <p>15 translator would like to make a correction to the</p> <p>16 previous answer regarding the term marketing.</p> <p>17 INTERPRETER: Stock market is the</p> <p>18 correct term.</p> <p>19 Q. Mr. Leiva, when you say that you were in</p> <p>20 charge of the annual reports, does that include the</p> <p>21 annual reports for YPF and for Repsol?</p> <p>22 A. No, no, only YPF.</p> <p>23 Q. Did you provide information to Repsol</p> <p>24 for purposes of its creation of an annual report?</p> <p>25 A. From the year 2000 we gave the</p>	<p>1 G. Leiva</p> <p>2 A. Yes. As I said before, we sent the</p> <p>3 information referred to of YPF, and at some point,</p> <p>4 Repsol sent back their 20-F and the parts that have</p> <p>5 to do with YPF in Argentina so that we can approve it</p> <p>6 or make any revisions. Yes, revise it, the parts</p> <p>7 that have to do with the 20-F's of Repsol that have</p> <p>8 to do with the YPF activities.</p> <p>9 Q. Have your responsibilities changed since</p> <p>10 you became manager of the department in the beginning</p> <p>11 of 2003?</p> <p>12 A. No.</p> <p>13 (Whereupon, Form 20-F dated December 31,</p> <p>14 2005 was received and marked Plaintiffs' Exhibit 53,</p> <p>15 for identification, as of this date.)</p> <p>16 Q. Mr. Leiva, I would like you to look at</p> <p>17 what we previously marked as Plaintiffs' Exhibit 53.</p> <p>18 Could you turn, sir, to page 87 and 88 of that</p> <p>19 document.</p> <p>20 A. Okay.</p> <p>21 Q. Beginning at the bottom of page 87</p> <p>22 there's a discussion of the Disclosure Committee.</p> <p>23 A. Disclosure Committee.</p> <p>24 Q. Are you a member of that committee?</p> <p>25 A. I am present at the committee for being</p>

5 (Pages 14 to 17)

Page 18	Page 20
<p>1 G. Leiva</p> <p>2 responsible for the preparing of this document.</p> <p>3 Q. What is your role on the committee?</p> <p>4 A. Basically in the committee the subjects</p> <p>5 that have to be reported are done in the 20-F</p> <p>6 document, and in those meetings I get the information</p> <p>7 and events in order for them to be incorporated in</p> <p>8 the document.</p> <p>9 As you can see among the members, it</p> <p>10 says that the Disclosure Committee is composed of</p> <p>11 many people in charge of many different business</p> <p>12 areas and corporations. The person who is third in</p> <p>13 the list is my boss.</p> <p>14 Q. David Esteban?</p> <p>15 A. Yes. He's in charge of informing the</p> <p>16 committee of the events that have to be the events to</p> <p>17 be included in the area of administration that should</p> <p>18 be incorporated to the 20-F documents.</p> <p>19 Q. So that we're clear, which areas are</p> <p>20 those?</p> <p>21 A. The administration areas.</p> <p>22 Q. Which includes financial reporting and</p> <p>23 accounting?</p> <p>24 A. Yes.</p> <p>25 Q. Does it include reserves?</p>	<p>1 G. Leiva</p> <p>2 A. I'm never -- well, the financial</p> <p>3 statements of YPF, the YPF financial statements</p> <p>4 include exactly the notes that we receive from David</p> <p>5 Wadsworth and the evaluations from the environmental</p> <p>6 passive liabilities that we also receive from David</p> <p>7 Wadsworth and that information is what is reported</p> <p>8 with no changes.</p> <p>9 If you can see the YPF Holdings</p> <p>10 financial statements, the notes for the financial</p> <p>11 statements are the same.</p> <p>12 VIDEOGRAPHER: Going off the record.</p> <p>13 (A discussion was held off the record.)</p> <p>14 VIDEOGRAPHER: We are back on the</p> <p>15 record. The time is 10:32. This is tape two.</p> <p>16 Q. Are you ready to go, Mr. Leiva?</p> <p>17 A. Yes.</p> <p>18 Q. I'm looking at page 87 of the 20-F. The</p> <p>19 first bullet point it states that the activities of</p> <p>20 the Disclosure Committee includes "to monitor the</p> <p>21 overall compliance with regulations and principles of</p> <p>22 conduct of voluntary applications, especially in</p> <p>23 relation to listed companies and their corporate</p> <p>24 governance."</p> <p>25 Did I read that correctly?</p>
Page 19	Page 21
<p>1 G. Leiva</p> <p>2 A. No. Reserves, which reserves?</p> <p>3 Q. Financial reserves for environmental</p> <p>4 liabilities, for example.</p> <p>5 A. What is reported is the amount of the</p> <p>6 financial reserves, but the generating factor --</p> <p>7 let's do it easier. In those reserves of the</p> <p>8 environment that have to do with YPF, activities of</p> <p>9 YPF, the facts are reported by the resource manager.</p> <p>10 Q. Jose Manuel Gallego?</p> <p>11 A. Yes. Whatever has to do with YPF</p> <p>12 activities.</p> <p>13 Q. Does that include the environmental</p> <p>14 reserves of YPF's American unit?</p> <p>15 A. The YPF American unit reserves come to</p> <p>16 us through the reporting of the financial statements</p> <p>17 of YPF Holdings and the attorney letters of those who</p> <p>18 represent YPF Holdings.</p> <p>19 Q. Who are those attorneys?</p> <p>20 A. David Wadsworth.</p> <p>21 Q. Does anyone at YPF undertake to evaluate</p> <p>22 the information provided by the American unit and</p> <p>23 Mr. Wadsworth?</p> <p>24 A. I think not.</p> <p>25 Q. Do you know that for a fact?</p>	<p>1 G. Leiva</p> <p>2 A. Yes.</p> <p>3 Q. What are your obligations and</p> <p>4 undertakings with respect to that function?</p> <p>5 A. My personal obligations?</p> <p>6 Q. Yes, sir.</p> <p>7 A. With respect to corporate governance and</p> <p>8 in my work group, my responsibility is to be up to</p> <p>9 date on the norms and regulations of the stock market</p> <p>10 for the YPF markets, and to keep the CFO's informed</p> <p>11 of any changes that might affect YPF that we have to</p> <p>12 do whatever it takes to comply with. And then that</p> <p>13 is informed to the Disclosure Committee so that they</p> <p>14 could keep it in mind for whatever their activities</p> <p>15 are, and also, to analyze the compliance.</p> <p>16 MR. JACKSON: We had a discussion off</p> <p>17 the record that Mr. Leiva is capable of reading the</p> <p>18 terminology that is contained within the 20-F?</p> <p>19 MS. BLANCO: That is correct.</p> <p>20 MR. JACKSON: Therefore, do I need to go</p> <p>21 through the translation if I'm looking at direct</p> <p>22 quotes from the 20-F?</p> <p>23 MS. BLANCO: No.</p> <p>24 Q. What I would like to do is ask Mr. Leiva</p> <p>25 to look at a couple of other bullet points for me.</p>

6 (Pages 18 to 21)

# **EXHIBIT 9**



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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.

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 10**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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-against-

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30 (Pages 114 to 117)

Page 118	Page 120
<p>1 G. Leiva</p> <p>2 A. YPF acquired Maxus for approximately</p> <p>3 that amount, 760 million, and what it did afterwards</p> <p>4 is to guarantee to the third persons, the creditors,</p> <p>5 bond holders, the debt that Maxus had guaranteed by</p> <p>6 YPF.</p> <p>7 MS. BLANCO: Could you please read the</p> <p>8 testimony.</p> <p>9 (The requested portion was read.)</p> <p>10 MS. BLANCO: I object to the translation</p> <p>11 after the purchase price. It's accurate with respect</p> <p>12 to the amount paid, but the rest of the translation</p> <p>13 is inaccurate. I object.</p> <p>14 Q. In addition to the cash purchase price,</p> <p>15 did YPF agree to guarantee approximately \$1 billion</p> <p>16 of Maxus' debt to third-party creditors?</p> <p>17 A. Correct.</p> <p>18 Q. Was there an analysis performed by YPF</p> <p>19 of the value of Maxus to justify a commitment of</p> <p>20 approximately \$1.8 billion, U.S.?</p> <p>21 MS. BLANCO: Objection, form.</p> <p>22 A. I understand that that's correct.</p> <p>23 Q. That there was such an analysis?</p> <p>24 A. Of the value, of the value of its</p> <p>25 operations. In truth, because of accounting</p>	<p>1 G. Leiva</p> <p>2 have seen the cash flows of the operations in</p> <p>3 Venezuela, in Sumatra, that justified the value of</p> <p>4 the price of the acquisition.</p> <p>5 Q. Do you know how that purchase price was</p> <p>6 determined?</p> <p>7 A. No, it was a confidential job with</p> <p>8 advice of some investment bank. I think it was First</p> <p>9 Boston.</p> <p>10 Q. I'd like you to look at Plaintiffs'</p> <p>11 Exhibit 55, the 10-K of Maxus for the fiscal period</p> <p>12 ending December 31, 1995.</p> <p>13 Did you participate in the creation of</p> <p>14 this document?</p> <p>15 A. No.</p> <p>16 Q. At the time this document was created,</p> <p>17 YPF had already acquired Maxus. So, I just wanted to</p> <p>18 make sure that your group wouldn't have participated</p> <p>19 in the creation of this document.</p> <p>20 A. No, no, definitely no. This document at</p> <p>21 this date was required by the Securities and Exchange</p> <p>22 Commission because of the debt, because of Maxus'</p> <p>23 debt that was authorized -- quoted by NASDAQ. That's</p> <p>24 why this document was compulsory for Maxus.</p> <p>25 Q. What about Maxus' debt, in your</p>
Page 119	Page 121
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31 (Pages 118 to 121)

# **EXHIBIT 11**

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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  
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9:30 a.m.

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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.



<p style="text-align: right;">Page 114</p> <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 style="text-align: right;">Page 116</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>
<p style="text-align: right;">Page 115</p> <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 style="text-align: right;">Page 117</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)

Page 118

1 G. Leiva

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3 that amount, 760 million, and what it did afterwards

4 is to guarantee to the third persons, the creditors,

5 bond holders, the debt that Maxus had guaranteed by

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15 did YPF agree to guarantee approximately \$1 billion

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4 flows of each area of exploration and production.

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8 advice of some investment bank. I think it was First

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12 ending December 31, 1995.

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17 YPF had already acquired Maxus. So, I just wanted to

18 make sure that your group wouldn't have participated

19 in the creation of this document.

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21 this date was required by the Securities and Exchange

22 Commission because of the debt, because of Maxus'

23 debt that was authorized -- quoted by NASDAQ. That's

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25 Q. What about Maxus' debt, in your

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18 borrowed \$442 million from Chase Manhattan Bank to

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20 MS. BLANCO: Wait. Objection to the

21 translation. 425.

22 MR. JACKSON: 442, the purchaser

23 facility.

24 MS. BLANCO: Okay.

25 A. The question is incorrect. No. No. If

31 (Pages 118 to 121)

# **EXHIBIT 12**

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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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,  
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New York, New York

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9:30 a.m.

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a defendant, BY, GABRIEL LEIVA, taken on behalf of  
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Page 114

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 4 Fifty-six is the offer to purchase for  
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Page 116

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 20 In reality, a year later, that was when  
 21 top management, the new president and the board,  
 22 reached an agreement of organization that was carried  
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Page 130

1 G. Leiva  
 2 various locations of the company due diligence was  
 3 performed at?  
 4 A. In what locations of YPF, departments of  
 5 YPF?  
 6 Q. It states that YPF conducted due  
 7 diligence at various locations of the company.  
 8 Do you know which locations YPF  
 9 performed this due diligence?  
 10 A. As I said in the beginning, it was a  
 11 very personal operation from the president with his  
 12 advisors, and I don't know of any document, beyond  
 13 those I received with the cash flows of the  
 14 productive operations, that were used to value the  
 15 assets as is stated in the third paragraph of page F  
 16 42 of Exhibit 55 where it says that the acquisition  
 17 price was assigned the properties and the assets of  
 18 the companies based on their market value following  
 19 the accounting principles of the financial  
 20 accounting. Standard words.  
 21 Those are the elements that we had after  
 22 the acquisition and I understand that there were --  
 23 they became part of the documents analyzed for the  
 24 acquisition.  
 25 MR. JACKSON: Objection, non-responsive.

Page 131

1 G. Leiva  
 2 Q. Do you know where representatives of YPF  
 3 conducted due diligence at various locations of the  
 4 company?  
 5 MR. CROUT: Objection to form.  
 6 A. Where in YPF? Where in Maxus? Where  
 7 geographically?  
 8 Q. Which locations of Maxus did YPF  
 9 representatives travel to to conduct the due  
 10 diligence?  
 11 A. I don't know.  
 12 Q. Which locations of Maxus' subsidiaries  
 13 did representatives of YPF travel to to conduct due  
 14 diligence?  
 15 MS. BLANCO: Objection.  
 16 A. I don't know. It was a confidential  
 17 transaction.  
 18 Q. Do you know, as you sit here today as  
 19 the corporate representative of YPF, what other  
 20 numerous other contacts were had between YPF and  
 21 Maxus to obtain information during this 1994 to 1995  
 22 period?  
 23 MR. CROUT: Objection, form.  
 24 A. I don't have information on those  
 25 contacts.

Page 132

1 G. Leiva  
 2 Q. Did you speak with Mr. Olivieri about  
 3 this transaction to prepare for today's deposition?  
 4 A. Specifically to prepare myself for this  
 5 deposition, no, but throughout the years of working  
 6 with him, we have spoken several times about Maxus.  
 7 Q. Okay. If you'll turn to Maxus 3008. It  
 8 shows that at the time of the acquisition  
 9 Mr. Olivieri was vice president of YPF.  
 10 If you turn to page 3010 it appears that  
 11 Mr. Olivieri was also on the board of directors.  
 12 Do I understand that correctly?  
 13 A. Which page?  
 14 Q. 3008, 3010.  
 15 MS. BLANCO: Objection, form.  
 16 A. I don't see that Carlos Olivieri was a  
 17 member of the board.  
 18 Q. Actually, I was wrong. He was vice  
 19 president and general comptroller during that period.  
 20 A. The name of vice president referred  
 21 to -- it was a way to name managers. It wasn't a  
 22 position within the board.  
 23 Q. I understand. It was an executive  
 24 officer position?  
 25 A. Yes.

Page 133

1 G. Leiva  
 2 Q. Would you agree that Mr. Olivieri would  
 3 have knowledge superior to you regarding this  
 4 transaction and the due diligence that was performed  
 5 in 1994 and 1995?  
 6 A. Yes, correct.  
 7 Q. Do you believe that Mr. Olivieri would  
 8 have access to the confidential documentation that  
 9 you have discussed here today?  
 10 A. I would think so. The president trusted  
 11 him.  
 12 Q. Can you turn with me, sir, or look at  
 13 Plaintiffs' Exhibit 59, please, the Houlihan, Lokey  
 14 letter to the board of directors of YPF. I'm sorry.  
 15 Have you seen this document before?  
 16 A. No.  
 17 Q. Would you like us to go off the record  
 18 so you can have an opportunity to read it?  
 19 A. Yes.  
 20 Q. Let's do that real quickly.  
 21 VIDEOGRAPHER: Going off the record.  
 22 The time is 6:29.  
 23 (Whereupon, a recess was taken.)  
 24 VIDEOGRAPHER: We are back on the  
 25 record. The time is 6:46.

34 (Pages 130 to 133)

Page 134

1 G. Leiva

2 Q. Mr. Leiva, do you know what the Keepwell

3 Covenant is?

4 A. I think the Keepwell Covenant was a

5 clause under which YPF should respond to Maxus in

6 case of non-payment of debt.

7 Q. Do you know why the Keepwell Covenant

8 was required?

9 A. The guarantee of YPF was necessary

10 because the loans of Maxus had certain indentures

11 that required that guarantee.

12 Q. May I interrupt? Are there two separate

13 obligations, one in the Keepwell Covenant that was in

14 the merger agreement, and separate and apart from

15 that, the \$1 billion approximate guarantee issued by

16 YPF?

17 A. I think there were two different

18 documents related to the same thing, but I'm not

19 sure.

20 Q. All I'm trying to get at is for purposes

21 of this discussion right now is why do you believe or

22 do you understand that those guaranties were

23 required?

24 MR. CROUT: Objection to form.

25 MS. BLANCO: Join the objection.

Page 135

1 G. Leiva

2 A. I understand the guaranties were

3 necessary because of certain clauses that preexisted

4 in Maxus -- I don't know what I said.

5 MS. BLANCO: I object to the

6 translation. He said there were clauses in Maxus'

7 preexisting loans.

8 Q. At the time YPF acquired Maxus, it

9 already had approximately \$1 billion in third-party

10 debt; is that correct?

11 MR. CROUT: Objection to form.

12 A. Yes.

13 Q. For the financing that we've discussed,

14 an additional \$425 million of loans were taken out by

15 Maxus' subsidiaries, Midgard and Maxus Indonesia; is

16 that correct?

17 A. They were taken out?

18 Q. There may be an issue with the

19 translation. As part of the acquisition of Maxus and

20 the financial transactions associated with that

21 acquisition, did Midgard Energy and Maxus Indonesia

22 take out another \$425 million in loans to finance the

23 acquisition?

24 A. Yes, yes, it's correct what we're

25 talking about.

Page 136

1 G. Leiva

2 Q. So, at the conclusion of the acquisition

3 transaction, the assets of Maxus and its subsidiaries

4 were encumbered by at least \$1.4 billion in

5 third-party debt; is that correct?

6 A. That is correct, yes.

7 Q. Was it that third-party debt level which

8 required YPF to undertake the Keepwell Covenant and

9 guarantee \$1 billion worth of Maxus' third-party

10 debt?

11 MS. BLANCO: Objection to the

12 translation.

13 Q. Was YPF required to issue the Keepwell

14 Covenant and the guarantee of approximately

15 \$1 billion of Maxus' debt because of Maxus' debt load

16 of nearly \$1.4 billion?

17 A. I don't know exactly whether the need

18 for the guarantee was the increase of the debt

19 because at the same time it happened that the assets

20 were re-valued to around \$1 billion, which were

21 guaranteed with the future cash flows, and to which I

22 would think and understand the need for the guarantee

23 were with existing clauses from the previous debts

24 that Maxus had that they would trigger the payment

25 clauses for an ownership change because according to

Page 137

1 G. Leiva

2 the new cash flows, that surely must be here in the

3 oil and gas documents, the future cash flow of the

4 operations was more than the additional debt.

5 Q. Which operations?

6 A. Of Maxus operations, the Midgard

7 operations, Sumatra operations, and besides

8 operations in Venezuela, Bolivia and Ecuador.

9 Q. The operations you just named, were

10 those operations and assets, which were re-valued,

11 increased to \$1 billion approximately?

12 A. Yes, approximately. At the moment of

13 the acquisition, the net worth, Maxus' net worth, was

14 almost zero. After the acquisition, according to the

15 American accounting principles that permit the

16 revaluation of the assets, at the moment of the

17 acquisition to its fair market value determined the

18 net worth of approximately the price of the

19 acquisition.

20 Q. This resulted in the net increase of the

21 valuation of the assets of approximately

22 \$760 million, or was it more like a billion dollars?

23 A. The net between the asset valuation and

24 the new valuation is approximately 700 million.

25 Q. Did you have a chance to review the

35 (Pages 134 to 137)

<p style="text-align: center;">Page 138</p> <p>1 G. Leiva</p> <p>2 Houlihan, Lokey letter while we were on a break?</p> <p>3 A. Yes, I read it as much as I could.</p> <p>4 Q. Could you look at page 3497, the last</p> <p>5 full paragraph that begins with the sentence "as you</p> <p>6 are aware."</p> <p>7 Does that indicate that Houlihan, Lokey</p> <p>8 thought that or advised the board of YPF that the</p> <p>9 loans against Midgard and Maxus Indonesia's operation</p> <p>10 at Java and Sumatra would have a material effect on</p> <p>11 the company's post-transaction financial results and</p> <p>12 condition?</p> <p>13 MS. BLANCO: Objection to the form.</p> <p>14 A. If the question is what it says here is</p> <p>15 that Houlihan, Lokey thinks that the Midgard and</p> <p>16 Maxus Indonesia could effect the results of those</p> <p>17 companies, the answer is yes, it says it, but I'm not</p> <p>18 sure if that was the question.</p> <p>19 Q. How did the YPF board respond to that?</p> <p>20 MR. CROUT: Objection to form and</p> <p>21 foundation.</p> <p>22 A. How did they react? I don't know.</p> <p>23 Q. If you read down from that paragraph,</p> <p>24 the opinion letter to the board of YPF assumes that</p> <p>25 the Keepwell and other financing that we have</p>	<p style="text-align: center;">Page 140</p> <p>1 G. Leiva</p> <p>2 A. Let's see. There was no concerns in the</p> <p>3 time after YPF issued bonds. YPF, S.A. issued debt</p> <p>4 and used those funds to pre-cancel some of Maxus'</p> <p>5 debt through the capitalization of Maxus and</p> <p>6 prepaying certain debts like the preferred shares.</p> <p>7 Well, at that moment it turned the other way around.</p> <p>8 Q. Are you referring to the 1997 debt</p> <p>9 restructuring?</p> <p>10 A. Yes, of course.</p> <p>11 Q. My question is: At the time of the</p> <p>12 acquisition --</p> <p>13 A. No, that was a financial strategy. The</p> <p>14 way to acquire the debt in 1995 for this acquisition</p> <p>15 was the most efficient financial strategy at that</p> <p>16 moment. Later on when the financial conditions</p> <p>17 changed, the financial strategy changed, and it was</p> <p>18 YPF that acquired the debt and cancelled Maxus' debt.</p> <p>19 What I want to say is that then there was no concern</p> <p>20 because of Maxus' debt specifically.</p> <p>21 Q. Are you saying that there was no concern</p> <p>22 about Maxus' debt load because YPF agreed to</p> <p>23 capitalize Maxus through the Keepwell Covenant and</p> <p>24 guarantee \$1 billion worth of debt?</p> <p>25 A. Correct.</p>
<p style="text-align: center;">Page 139</p> <p>1 G. Leiva</p> <p>2 discussed would go forward in making their</p> <p>3 recommendation to the board. Do you see that?</p> <p>4 MS. BLANCO: Objection, form.</p> <p>5 A. I see what the paragraph says.</p> <p>6 Q. If you look at page 3498, the final page</p> <p>7 of this letter, Houlihan, Lokey gives an opinion to</p> <p>8 the board of YPF regarding the transaction lettered</p> <p>9 A, B and C. Do you see that, sir?</p> <p>10 MS. BLANCO: Objection, form.</p> <p>11 A. Yes.</p> <p>12 Q. Do you know how the board of directors</p> <p>13 of YPF used the information provided to it by</p> <p>14 Houlihan, Lokey?</p> <p>15 MS. BLANCO: Objection, form.</p> <p>16 A. No, I didn't even know the existence of</p> <p>17 this letter.</p> <p>18 Q. As the corporate representative of YPF,</p> <p>19 are you aware of any concerns regarding the</p> <p>20 capitalization of Maxus as a result of the 1995</p> <p>21 merger transaction?</p> <p>22 MR. CROUT: Objection to form.</p> <p>23 A. If there's any concerns?</p> <p>24 Q. If there was any concern at that time.</p> <p>25 MR. CROUT: Same objection.</p>	<p style="text-align: center;">Page 141</p> <p>1 G. Leiva</p> <p>2 Q. Without YPF's undertaking the Keepwell</p> <p>3 Covenant and guarantee, would you agree that Maxus</p> <p>4 would have been undercapitalized in 1995?</p> <p>5 MR. CROUT: Objection to foundation.</p> <p>6 A. This is a personal opinion. If YPF had</p> <p>7 not bought Maxus, I don't know if Maxus would have</p> <p>8 survived. Its net worth was close to zero because</p> <p>9 the heavy debt that it already had was effecting the</p> <p>10 financial results to the extent that it wasn't clear</p> <p>11 whether they could pay, whether they could have paid,</p> <p>12 and the value of the Maxus' share went up at that</p> <p>13 time.</p> <p>14 MS. BLANCO: No, objection to the</p> <p>15 translation. The value of Maxus' share at that time</p> <p>16 so reflected.</p> <p>17 A. I know through conversations I had and</p> <p>18 from what I understand during the road shows where</p> <p>19 President Estenssoro had in that short period of</p> <p>20 time, YPF American investors asked, would ask</p> <p>21 Estenssoro why had he bought junk bonds, the term.</p> <p>22 He said I don't know whether the</p> <p>23 additional debt generated -- was prejudicial for</p> <p>24 Maxus, but I can assure you that the YPF guarantee</p> <p>25 allowed them to continue their operations and to</p>

36 (Pages 138 to 141)

# **EXHIBIT 14**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 169

1 G. Leiva  
 2 MARGARITA FRIEDMAN, the interpreter  
 3 was duly sworn by a Notary Public of the State of New  
 4 York to faithfully and accurately translate the  
 5 questions propounded to the witness from English into  
 6 Spanish and the answers thereto from Spanish into  
 7 English;  
 8  
 9 GABRIEL LEIVA, having been first duly  
 10 sworn by a Notary Public of the State of New York,  
 11 was examined and testified through the interpreter as  
 12 follows:  
 13 EXAMINATION BY  
 14 MR. JACKSON:  
 15 (Whereupon, Agreement of Merger was  
 16 received and marked Plaintiffs' Exhibit 75, for  
 17 identification, as of this date.)  
 18 VIDEOGRAPHER: Good morning. My name is  
 19 Daniel McClutchy of Nationwide Video Productions  
 20 located in Roseland, New Jersey. The date today is  
 21 September 24, 2006. The time is approximately 9:13  
 22 a.m. This is day two of the videotaped deposition of  
 23 Gabriel Leiva. The appearances have previously been  
 24 made and the witness has previously been sworn.  
 25 Q. Good morning, Mr. Leiva, how are you

Page 170

1 G. Leiva  
 2 today?  
 3 A. Fine. Thank you very much.  
 4 Q. What I would like to do today is pick up  
 5 where we left off yesterday. I'm going to hand you  
 6 what we have marked as Plaintiffs' Exhibit 75. This  
 7 is the Agreement of Merger between YPF Acquisition  
 8 Corp. and Maxus Energy.  
 9 Yesterday at the end of the day we were  
 10 discussing the Keepwell Covenant. What I would like  
 11 to ask you to do is turn to page 54 of Exhibit P 75.  
 12 Could you, sir, please review Section 5.15.  
 13 A. Okay.  
 14 Q. Sir, have you seen this document before?  
 15 A. At the time of this transaction.  
 16 Q. We discussed yesterday that in  
 17 connection with your preparation of the company's  
 18 20-F's, you are generally able to read English?  
 19 MS. BLANCO: Objection to the  
 20 translation.  
 21 INTERPRETER: Could you repeat your  
 22 question?  
 23 MR. JACKSON: Yes.  
 24 (The requested portion was read.)  
 25 A. Yes.

Page 171

1 G. Leiva  
 2 Q. Are you able to read Section 5.15 of  
 3 this merger agreement?  
 4 A. Yes.  
 5 Q. Do you understand that Section 5.15 is  
 6 what is generally referred to by YPF as the Keepwell  
 7 Covenant?  
 8 A. Yes.  
 9 Q. The Keepwell Covenant obligates YPF to  
 10 capitalize Maxus in an amount necessary to permit  
 11 Maxus to meet such obligations as set forth in this  
 12 agreement up to a cap; is that correct?  
 13 A. That's correct.  
 14 Q. If you will turn to page 55, please,  
 15 there is a discussion of that cap. The cap speaks in  
 16 terms of the loan commitments. I'm not sure how this  
 17 is going to translate, but it talks in terms of three  
 18 tranches of loans, tranche one, two and three.  
 19 Are you familiar with those terms,  
 20 Mr. Leiva?  
 21 A. I'm not really sure what you mean by  
 22 tranche one, tranche two, and tranche three. I don't  
 23 know if it's stated in another section of the  
 24 covenant.  
 25 Q. Could you look at page 19, Section 3.7.

Page 172

1 G. Leiva  
 2 This section refers to the commitment as a defining  
 3 term referencing the commitment letter from Chase  
 4 Manhattan Bank that we discussed yesterday.  
 5 Do you recall that, sir?  
 6 A. Yes.  
 7 Q. Under the terms of the Chase commitment  
 8 that we discussed yesterday, the tranche one was the  
 9 loan to YPF Acquisition Corp.; do you recall that,  
 10 sir?  
 11 A. Yes.  
 12 Q. Tranches two and three were the loans for  
 13 250 million and 175 million to Midgard and for the  
 14 Indonesian assets; is that correct?  
 15 A. That's correct.  
 16 Q. Under the terms of the Keepwell  
 17 Covenant, the cap for the Keepwell in the merger  
 18 agreement was established at \$442 million under  
 19 tranche one, which was the amount of the loan to YPF  
 20 Acquisition Corp.?  
 21 MS. BLANCO: Objection, form. You can  
 22 answer.  
 23 A. Yes, I do understand as such.  
 24 Q. Actually, the provision goes on to say  
 25 "unless tranche one was replaced by tranches two and

# **EXHIBIT 15**

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**AGREEMENT OF MERGER**

Among

YPF Sociedad Anonima /

YPF Acquisition Corp.

and

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Maxus Energy Corporation

February 28, 1995

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YPF 437



(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

# **EXHIBIT 16**

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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.

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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.

<p style="text-align: right;">Page 134</p> <p>1 G. Leiva</p> <p>2 Q. Mr. Leiva, do you know what the Keepwell</p> <p>3 Covenant is?</p> <p>4 A. I think the Keepwell Covenant was a</p> <p>5 clause under which YPF should respond to Maxus in</p> <p>6 case of non-payment of debt.</p> <p>7 Q. Do you know why the Keepwell Covenant</p> <p>8 was required?</p> <p>9 A. The guarantee of YPF was necessary</p> <p>10 because the loans of Maxus had certain indentures</p> <p>11 that required that guarantee.</p> <p>12 Q. May I interrupt? Are there two separate</p> <p>13 obligations, one in the Keepwell Covenant that was in</p> <p>14 the merger agreement, and separate and apart from</p> <p>15 that, the \$1 billion approximate guarantee issued by</p> <p>16 YPF?</p> <p>17 A. I think there were two different</p> <p>18 documents related to the same thing, but I'm not</p> <p>19 sure.</p> <p>20 Q. All I'm trying to get at is for purposes</p> <p>21 of this discussion right now is why do you believe or</p> <p>22 do you understand that those guaranties were</p> <p>23 required?</p> <p>24 MR. CROUT: Objection to form.</p> <p>25 MS. BLANCO: Join the objection.</p>	<p style="text-align: right;">Page 136</p> <p>1 G. Leiva</p> <p>2 Q. So, at the conclusion of the acquisition</p> <p>3 transaction, the assets of Maxus and its subsidiaries</p> <p>4 were encumbered by at least \$1.4 billion in</p> <p>5 third-party debt; is that correct?</p> <p>6 A. That is correct, yes.</p> <p>7 Q. Was it that third-party debt level which</p> <p>8 required YPF to undertake the Keepwell Covenant and</p> <p>9 guarantee \$1 billion worth of Maxus' third-party</p> <p>10 debt?</p> <p>11 MS. BLANCO: Objection to the</p> <p>12 translation.</p> <p>13 Q. Was YPF required to issue the Keepwell</p> <p>14 Covenant and the guarantee of approximately</p> <p>15 \$1 billion of Maxus' debt because of Maxus' debt load</p> <p>16 of nearly \$1.4 billion?</p> <p>17 A. I don't know exactly whether the need</p> <p>18 for the guarantee was the increase of the debt</p> <p>19 because at the same time it happened that the assets</p> <p>20 were re-valued to around \$1 billion, which were</p> <p>21 guaranteed with the future cash flows, and to which I</p> <p>22 would think and understand the need for the guarantee</p> <p>23 were with existing clauses from the previous debts</p> <p>24 that Maxus had that they would trigger the payment</p> <p>25 clauses for an ownership change because according to</p>
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35 (Pages 134 to 137)

# **EXHIBIT 17**

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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.



Page 138

1 G. Leiva  
 2 Houlihan, Lokey letter while we were on a break?  
 3 A. Yes, I read it as much as I could.  
 4 Q. Could you look at page 3497, the last  
 5 full paragraph that begins with the sentence "as you  
 6 are aware."  
 7 Does that indicate that Houlihan, Lokey  
 8 thought that or advised the board of YPF that the  
 9 loans against Midgard and Maxus Indonesia's operation  
 10 at Java and Sumatra would have a material effect on  
 11 the company's post-transaction financial results and  
 12 condition?  
 13 MS. BLANCO: Objection to the form.  
 14 A. If the question is what it says here is  
 15 that Houlihan, Lokey thinks that the Midgard and  
 16 Maxus Indonesia could effect the results of those  
 17 companies, the answer is yes, it says it, but I'm not  
 18 sure if that was the question.  
 19 Q. How did the YPF board respond to that?  
 20 MR. CROUT: Objection to form and  
 21 foundation.  
 22 A. How did they react? I don't know.  
 23 Q. If you read down from that paragraph,  
 24 the opinion letter to the board of YPF assumes that  
 25 the Keepwell and other financing that we have

Page 139

1 G. Leiva  
 2 discussed would go forward in making their  
 3 recommendation to the board. Do you see that?  
 4 MS. BLANCO: Objection, form.  
 5 A. I see what the paragraph says.  
 6 Q. If you look at page 3498, the final page  
 7 of this letter, Houlihan, Lokey gives an opinion to  
 8 the board of YPF regarding the transaction lettered  
 9 A, B and C. Do you see that, sir?  
 10 MS. BLANCO: Objection, form.  
 11 A. Yes.  
 12 Q. Do you know how the board of directors  
 13 of YPF used the information provided to it by  
 14 Houlihan, Lokey?  
 15 MS. BLANCO: Objection, form.  
 16 A. No, I didn't even know the existence of  
 17 this letter.  
 18 Q. As the corporate representative of YPF,  
 19 are you aware of any concerns regarding the  
 20 capitalization of Maxus as a result of the 1995  
 21 merger transaction?  
 22 MR. CROUT: Objection to form.  
 23 A. If there's any concerns?  
 24 Q. If there was any concern at that time.  
 25 MR. CROUT: Same objection.

Page 140

1 G. Leiva  
 2 A. Let's see. There was no concerns in the  
 3 time after YPF issued bonds. YPF, S.A. issued debt  
 4 and used those funds to pre-cancel some of Maxus'  
 5 debt through the capitalization of Maxus and  
 6 prepaying certain debts like the preferred shares.  
 7 Well, at that moment it turned the other way around.  
 8 Q. Are you referring to the 1997 debt  
 9 restructuring?  
 10 A. Yes, of course.  
 11 Q. My question is: At the time of the  
 12 acquisition --  
 13 A. No, that was a financial strategy. The  
 14 way to acquire the debt in 1995 for this acquisition  
 15 was the most efficient financial strategy at that  
 16 moment. Later on when the financial conditions  
 17 changed, the financial strategy changed, and it was  
 18 YPF that acquired the debt and cancelled Maxus' debt.  
 19 What I want to say is that then there was no concern  
 20 because of Maxus' debt specifically.  
 21 Q. Are you saying that there was no concern  
 22 about Maxus' debt load because YPF agreed to  
 23 capitalize Maxus through the Keepwell Covenant and  
 24 guarantee \$1 billion worth of debt?  
 25 A. Correct.

Page 141

1 G. Leiva  
 2 Q. Without YPF's undertaking the Keepwell  
 3 Covenant and guarantee, would you agree that Maxus  
 4 would have been undercapitalized in 1995?  
 5 MR. CROUT: Objection to foundation.  
 6 A. This is a personal opinion. If YPF had  
 7 not bought Maxus, I don't know if Maxus would have  
 8 survived. Its net worth was close to zero because  
 9 the heavy debt that it already had was effecting the  
 10 financial results to the extent that it wasn't clear  
 11 whether they could pay, whether they could have paid,  
 12 and the value of the Maxus' share went up at that  
 13 time.  
 14 MS. BLANCO: No, objection to the  
 15 translation. The value of Maxus' share at that time  
 16 so reflected.  
 17 A. I know through conversations I had and  
 18 from what I understand during the road shows where  
 19 President Estenssoro had in that short period of  
 20 time, YPF American investors asked, would ask  
 21 Estenssoro why had he bought junk bonds, the term.  
 22 He said I don't know whether the  
 23 additional debt generated -- was prejudicial for  
 24 Maxus, but I can assure you that the YPF guarantee  
 25 allowed them to continue their operations and to

36 (Pages 138 to 141)

Page 142

1 G. Leiva  
 2 survive.  
 3 MR. JACKSON: I'm going to object as  
 4 non-responsive.  
 5 Q. In 1995 did the addition of \$425 million  
 6 of debt to Maxus worsen its financial condition?  
 7 MS. BLANCO: Objection, form.  
 8 A. Yes.  
 9 MR. JACKSON: That's all I have right  
 10 now.  
 11 VIDEOGRAPHER: This concludes today's  
 12 portion of the videotaped deposition of Gabriel  
 13 Leiva. Going off the record. The time is 7:21.  
 14 (Time Noted: 7:21 p.m.)  
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Page 144

1  
 2 ATTACH TO DEPOSITION OF: GABRIEL LEIVA  
 3 IN THE MATTER OF: NEW JERSEY DEP V. OCCIDENTAL  
 4 CHEMICAL, ET AL  
 5 DATE TAKEN: September 23, 2006  
 6  
 7 ERRATA SHEET  
 8 INSTRUCTIONS: After reading the  
 9 transcript of testimony, please note any change,  
 10 addition or deletion on this sheet. DO NOT make any  
 11 marks or notations on the transcript itself.  
 12  
 13 Please sign and date this errat sheet  
 14 and return it to the court reporter whose name is  
 15 shown below.  
 16  
 17 PAGE LINE CHANGE  
 18  
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 20  
 21 DATE and SIGNATURE: \_\_\_\_\_  
 22  
 23 RETURN TO: Brenda Fitzgerald  
 24 c/o Doerner & Goldberg, Inc.  
 25 5 Becker Farm Road  
 Roseland, New Jersey 07068

Page 143

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 4 JURAT  
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 6 I DO HEREBY CERTIFY that I have read the  
 7 foregoing transcript of my deposition testimony and I  
 8 certify that it is true and correct to the best of my  
 9 knowledge.  
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 11 \_\_\_\_\_  
 12 GABRIEL LEIVA  
 13  
 14 SWORN AND SUBSCRIBED  
 15 BEFORE ME ON THIS \_\_\_\_\_  
 16 DAY OF \_\_\_\_\_ 2006.  
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 20 Notary Public of the State of  
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Page 145

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 2 CERTIFICATE  
 3  
 4 STATE OF NEW YORK )  
 5 ) ss:  
 6 COUNTY OF NEW YORK )  
 7  
 8 I, BRENDA FITZGERALD, a Shorthand  
 9 Reporter and Notary Public within and for the State  
 10 of New York, do hereby certify:  
 11 That, GABRIEL LEIVA, the witness whose  
 12 VIDEOTAPED DEPOSITION was held on September 23, 2006,  
 13 as hereinbefore set forth, was duly sworn by me, and  
 14 that this transcript of such Examination is a true  
 15 and accurate record of the testimony given by such  
 16 witness.  
 17 I further certify that I am not related  
 18 to any of the parties to this action by blood or by  
 19 marriage, and that I am in no way interested in the  
 20 outcome of this matter.  
 21 IN WITNESS WHEREOF, I have hereunto set  
 22 my hand this 28th day of September, 2006.  
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 24 \_\_\_\_\_  
 25 BRENDA FITZGERALD

# **EXHIBIT 18**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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35 (Pages 134 to 137)

# **EXHIBIT 19**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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THE UNITED STATES DISTRICT COURT  
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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.

<p style="text-align: center;">Page 138</p> <p>1 G. Leiva 2 Houlihan, Lokey letter while we were on a break? 3 A. Yes, I read it as much as I could. 4 Q. Could you look at page 3497, the last 5 full paragraph that begins with the sentence "as you 6 are aware." 7 Does that indicate that Houlihan, Lokey 8 thought that or advised the board of YPF that the 9 loans against Midgard and Maxus Indonesia's operation 10 at Java and Sumatra would have a material effect on 11 the company's post-transaction financial results and 12 condition? 13 MS. BLANCO: Objection to the form. 14 A. If the question is what it says here is 15 that Houlihan, Lokey thinks that the Midgard and 16 Maxus Indonesia could effect the results of those 17 companies, the answer is yes, it says it, but I'm not 18 sure if that was the question. 19 Q. How did the YPF board respond to that? 20 MR. CROUT: Objection to form and 21 foundation. 22 A. How did they react? I don't know. 23 Q. If you read down from that paragraph, 24 the opinion letter to the board of YPF assumes that 25 the Keepwell and other financing that we have</p>	<p style="text-align: center;">Page 140</p> <p>1 G. Leiva 2 A. Let's see. There was no concerns in the 3 time after YPF issued bonds. YPF, S.A. issued debt 4 and used those funds to pre-cancel some of Maxus' 5 debt through the capitalization of Maxus and 6 prepaying certain debts like the preferred shares. 7 Well, at that moment it turned the other way around. 8 Q. Are you referring to the 1997 debt 9 restructuring? 10 A. Yes, of course. 11 Q. My question is: At the time of the 12 acquisition -- 13 A. No, that was a financial strategy. The 14 way to acquire the debt in 1995 for this acquisition 15 was the most efficient financial strategy at that 16 moment. Later on when the financial conditions 17 changed, the financial strategy changed, and it was 18 YPF that acquired the debt and cancelled Maxus' debt. 19 What I want to say is that then there was no concern 20 because of Maxus' debt specifically. 21 Q. Are you saying that there was no concern 22 about Maxus' debt load because YPF agreed to 23 capitalize Maxus through the Keepwell Covenant and 24 guarantee \$1 billion worth of debt? 25 A. Correct.</p>
<p style="text-align: center;">Page 139</p> <p>1 G. Leiva 2 discussed would go forward in making their 3 recommendation to the board. Do you see that? 4 MS. BLANCO: Objection, form. 5 A. I see what the paragraph says. 6 Q. If you look at page 3498, the final page 7 of this letter, Houlihan, Lokey gives an opinion to 8 the board of YPF regarding the transaction lettered 9 A, B and C. Do you see that, sir? 10 MS. BLANCO: Objection, form. 11 A. Yes. 12 Q. Do you know how the board of directors 13 of YPF used the information provided to it by 14 Houlihan, Lokey? 15 MS. BLANCO: Objection, form. 16 A. No, I didn't even know the existence of 17 this letter. 18 Q. As the corporate representative of YPF, 19 are you aware of any concerns regarding the 20 capitalization of Maxus as a result of the 1995 21 merger transaction? 22 MR. CROUT: Objection to form. 23 A. If there's any concerns? 24 Q. If there was any concern at that time. 25 MR. CROUT: Same objection.</p>	<p style="text-align: center;">Page 141</p> <p>1 G. Leiva 2 Q. Without YPF's undertaking the Keepwell 3 Covenant and guarantee, would you agree that Maxus 4 would have been undercapitalized in 1995? 5 MR. CROUT: Objection to foundation. 6 A. This is a personal opinion. If YPF had 7 not bought Maxus, I don't know if Maxus would have 8 survived. Its net worth was close to zero because 9 the heavy debt that it already had was effecting the 10 financial results to the extent that it wasn't clear 11 whether they could pay, whether they could have paid, 12 and the value of the Maxus' share went up at that 13 time. 14 MS. BLANCO: No, objection to the 15 translation. The value of Maxus' share at that time 16 so reflected. 17 A. I know through conversations I had and 18 from what I understand during the road shows where 19 President Estenssoro had in that short period of 20 time, YPF American investors asked, would ask 21 Estenssoro why had he bought junk bonds, the term. 22 He said I don't know whether the 23 additional debt generated -- was prejudicial for 24 Maxus, but I can assure you that the YPF guarantee 25 allowed them to continue their operations and to</p>

36 (Pages 138 to 141)

# **EXHIBIT 21**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 229	Page 231
<p>1 G. Leiva 2 (Time noted: 1:30 p.m.) 3 CONTINUED EXAMINATION 4 BY MR. JACKSON: 5 (Whereupon, June 4, 1966 board minutes 6 of YPF were received and marked Plaintiffs' Exhibit 7 66, for identification, as of this date.) 8 (Whereupon, Phase 1 Restructuring - 1996 9 Summary of Transactions was received and marked 10 Plaintiffs' Exhibit 67, for identification, as of 11 this date.) 12 (Whereupon, YPF 20-F, 12/31/96 was 13 received and marked Plaintiffs' Exhibit 68, for 14 identification, as of this date.) 15 (Whereupon, Budgeted Expenses Under the 16 Contribution Agreement was received and marked 17 Plaintiffs' Exhibit 69, for identification, as of 18 this date.) 19 (Whereupon, First Addendum to 20 Contribution Agreement was received and marked 21 Plaintiffs' Exhibit 70, for identification, as of 22 this date.) 23 VIDEOGRAPHER: We are back on the 24 record. The time is 1:35. This begins tape four. 25 Q. Mr. Leiva, yesterday we discussed at</p>	<p>1 G. Leiva 2 Have you seen a version of this document 3 that did not have that line and absence of text? 4 A. Let's say as a person responsible for 5 accounting, one of my duties was to read the board 6 act to find out if there was any issue that would 7 have a financial impact. 8 Q. So, you did review this document in its 9 entirety at one point? 10 A. Yes, I did. 11 Q. That was to determine whether or not 12 there were financial impacts or accounting issues in 13 that document? 14 A. That's correct. 15 Q. Has this document been redacted for 16 purposes of privilege? 17 MS. BLANCO: I don't know. We did not 18 redact it. 19 A. I can explain what those lines mean. 20 Q. Please do. 21 A. The norms of the commission of values, 22 CMV, in Buenos Aires, it requires that when there are 23 press releases, important data or important decisions 24 within the company, they have to have a copy of the 25 board act in which that resolution was taken.</p>
Page 230	Page 232
<p>1 G. Leiva 2 length what you had done to prepare for your 3 deposition as the corporate representative of YPF. 4 I wanted to inquire of you, since we 5 spoke about those issues yesterday morning, have you 6 reviewed any additional documents to help prepare 7 yourself for today's deposition? 8 A. No. 9 Q. Likewise, did you speak with anyone else 10 in order to prepare yourself further for today's 11 deposition since we spoke yesterday? 12 A. No. 13 Q. What I would like to do now, sir, is 14 turn to what we previously marked as Plaintiffs' 66. 15 Mr. Leiva, did you review this document 16 in preparation for your testimony here today? 17 A. Yes, I did see it. 18 Q. What is this document? 19 A. It is an act from the YPF board. It 20 presents the reorganization, the restructuring of 21 1996 of international subsidiaries before the board, 22 also the board approves this restructuring. 23 Q. Sir, if you look at page 201, 202 and 24 203, there appear to be large sections of the 25 document with just a line and no text.</p>	<p>1 G. Leiva 2 It's the normal practice, not within 3 YPF, but within all companies to send the act for the 4 pertinent party, then what you do is you photocopy 5 the parts that correspond to the topic and you cross 6 out the blanks with this line and you attach a notary 7 act in which it states that it is a true copy of the 8 original. 9 I assume that this copy comes from the 10 information that was sent to CMV and that's why it 11 has those lines. 12 Q. This copy or this version of the board 13 minutes was actually filed with the CMV? 14 A. Yes. 15 Q. Do you know from your experience if the 16 numbering at the top right-hand corner on page 201 -- 17 do you see the number 589, and two pages later in the 18 top right-hand corner of page one of this exhibit 19 there's a number 589? 20 A. Yes. 21 Q. Does that reflect a public filing 22 system? 23 A. No, that's the number of the page of the 24 book of acts of the board of YPF. 25 Q. The minute book?</p>

18 (Pages 229 to 232)

<p style="text-align: right;">Page 233</p> <p>1 G. Leiva</p> <p>2 A. The minute book.</p> <p>3 Q. What is the date of the meeting that</p> <p>4 these minutes reflect?</p> <p>5 A. June 4th, '96.</p> <p>6 Q. Could you turn, please, sir, to YPF 202.</p> <p>7 Could you tell me what this page says, what's here of</p> <p>8 it?</p> <p>9 A. Mr. President presents for his</p> <p>10 consideration the fourth point of the agenda,</p> <p>11 financial committee a restructuring of the</p> <p>12 international activities.</p> <p>13 Mr. President informs that as a result</p> <p>14 of the analysis being done, it has been concluded to</p> <p>15 the company convenience to adopt actions with a</p> <p>16 purpose of maximizing the fiscal and legal operative</p> <p>17 efficiency of the international operations of the</p> <p>18 company.</p> <p>19 For such purpose, a restructuring</p> <p>20 project has been created -- proposed that</p> <p>21 contemplates, among other measurements, the creation</p> <p>22 of new holding companies to which it will be</p> <p>23 transferred the Maxus' share packages and of the</p> <p>24 Maxus' subsidiaries that operate in Bolivia and</p> <p>25 Venezuela. The assumption from an indirect</p>	<p style="text-align: right;">Page 235</p> <p>1 G. Leiva</p> <p>2 Q. Is it your understanding that these</p> <p>3 minutes are approving the restructuring plan that we</p> <p>4 discussed before the break?</p> <p>5 A. Yes.</p> <p>6 Q. Can you turn, please, sir, to page --</p> <p>7 actually, turn to page 205, 206 and 207. Is this the</p> <p>8 attachment, I guess it's referenced in the board</p> <p>9 minutes, setting forth the proposal to the board and</p> <p>10 the restructuring steps that they then approved?</p> <p>11 A. Yes, I assume so.</p> <p>12 Q. On page 207 there are 12 steps that the</p> <p>13 board has approved for the restructuring; do you see</p> <p>14 that, sir?</p> <p>15 A. Yes.</p> <p>16 Q. Step one calls for the creation of YPF</p> <p>17 Holdings U.S.A.; is that true?</p> <p>18 A. That's correct.</p> <p>19 Q. Step two calls for the creation of YPF</p> <p>20 International, Inc. in a foreign jurisdiction; is</p> <p>21 that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Step three calls for the creation of</p> <p>24 Maxus Bolivia, Inc. in an offshore foreign</p> <p>25 jurisdiction; is that correct?</p>
<p style="text-align: right;">Page 234</p> <p>1 G. Leiva</p> <p>2 subsidiary -- from YPF's indirect subsidiary of the</p> <p>3 environmental obligations that Maxus has and YPF</p> <p>4 commitment to provide funds to such company to a</p> <p>5 predetermined amount of money.</p> <p>6 Mr. President concludes by stating that</p> <p>7 the subject was analyzed by a financial committee and</p> <p>8 has presented a proposal -- a solution proposal.</p> <p>9 After an exchange of opinions the board</p> <p>10 results: One, to approve Maxus' corporation</p> <p>11 restructuring plan, which details are being filed in</p> <p>12 the special attached registry of the board acts or</p> <p>13 minutes of the board signed by the directors</p> <p>14 Mr. Cameron and Mr. Manning to authorize Mr. Nells,</p> <p>15 Leon, Miguel Madanes, Roberto Monti, Norberto Noblia,</p> <p>16 Cedric Bridger, Carlos Olivieri, Carlos Felices so</p> <p>17 that any one of them individually or as a group --</p> <p>18 no. To act individually and as a group so that</p> <p>19 anyone could act individually without the need of the</p> <p>20 group consensus, any one of them can do any of those</p> <p>21 acts and can sign any documents as necessary, all the</p> <p>22 documents that are necessary for the approved shares</p> <p>23 payment -- for the accomplishment of the pay</p> <p>24 shares -- for the accomplishment of the approved</p> <p>25 acts.</p>	<p style="text-align: right;">Page 236</p> <p>1 G. Leiva</p> <p>2 A. That's correct.</p> <p>3 Q. Step three also calls for the absorption</p> <p>4 by the new Maxus Bolivia, Inc. of Maxus Bolivia</p> <p>5 Delaware; is that correct?</p> <p>6 A. Yes, that's correct, both were</p> <p>7 subsidiaries of Maxus.</p> <p>8 Q. Step four calls for the transfers from</p> <p>9 YPF to YPF Holdings of the shares of Maxus Energy</p> <p>10 Corp.; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Step five calls for the contribution of</p> <p>13 Maxus International Energy to YPF International of</p> <p>14 the shares of Maxus Bolivia, Maxus Venezuela, Maxus</p> <p>15 Guarapiche, and Maxus Venezuela; is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Step six calls for the transfer from</p> <p>18 Maxus Energy Corp. to YPF Holdings of the shares of</p> <p>19 Chemical Land Holdings; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. This Chemical Land Holdings, just so</p> <p>22 we're clear, is the company that's known today as</p> <p>23 Tierra Solutions?</p> <p>24 A. That's correct.</p> <p>25 Q. For clarity, if you don't mind, sir, for</p>

19 (Pages 233 to 236)

# **EXHIBIT 22**



**INTERNATIONAL RESTRUCTURING**

**YPF / MAXUS**

**DISADVANTAGES OF THE  
CURRENT ORGANIZATIONAL STRUCTURE**

- 30% US INCOME TAX ON DIVIDENDS MAXUS PAYS TO YPF
- MAXUS HAS A TAX LOSS OF APPROXIMATELY \$17.5 MILLION, WHICH IS NOT BEING USED UNDER THE EXISTING STRUCTURE
- MAXUS IS PAYING AN ALTERNATIVE MINIMUM TAX IN THE UNITED STATES (2% ON RESULTS FROM ABROAD) GENERATED BY ITS OPERATORS IN OTHER COUNTRIES
- IN INDONESIA MAXUS IS PAYING 56% (INCOME TAX + INCOME TAX WITHHOLDING FOR FOREIGN BENEFICIARY)
- THE DIVIDENDS FROM THE PREFERRED STOCK PAID BY MAXUS ARE NOT TAX DEDUCTIBLE IN THE UNITED STATES
- THE COSTS RELATED TO THE ENVIRONMENT AFFECT THE MAXUS INCOME OPERATIONALLY, DISTORTING IT

# REESTRUCTURACIÓN INTERNACIONAL

— YPF / MAXUS



# **EXHIBIT 23**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 201

1 G. Leiva  
 2 Structure.  
 3 MS. BLANCO: Current.  
 4 Q. Let's try again. What is this page  
 5 entitled?  
 6 A. Disadvantages of the Current  
 7 Organization Structure.  
 8 Q. Does this indicate that there were  
 9 serious tax disadvantages to YPF by owning the  
 10 Indonesian and other foreign assets through a U.S.  
 11 company?  
 12 A. It says that if the Indonesian companies  
 13 had a holding company in Holland, according to the  
 14 tax agreement with Indonesia that would improve the  
 15 fiscal situation of the international subsidiaries of  
 16 YPF and that's why they are proposing an  
 17 organizational change, to take advantage of that  
 18 covenant -- of that treaty between Holland and  
 19 Indonesia.  
 20 Q. If I understand you correctly, it's your  
 21 understanding that if they moved the Indonesian  
 22 assets to a holding company incorporated in Holland,  
 23 it would result in tax benefits?  
 24 MS. BLANCO: Objection. You can answer.  
 25 A. Yes.

Page 202

1 G. Leiva  
 2 Q. Tax benefits to whom?  
 3 A. For YPF International after the  
 4 restructuring.  
 5 Q. YPF International did not exist at this  
 6 time; is that correct?  
 7 A. It came into being because of this  
 8 restructuring.  
 9 Q. At the time this document was created,  
 10 YPF International didn't exist yet; is that true?  
 11 A. But this document was specifically  
 12 created, as it says here, to create YPF International  
 13 as part of the restructuring.  
 14 Q. This document sets forth the plan for  
 15 restructure?  
 16 A. Yes.  
 17 Q. It has not yet been accomplished at the  
 18 time this document was created?  
 19 A. That's correct.  
 20 Q. So, the plan was to create YPF  
 21 International; is that correct?  
 22 A. Yes.  
 23 Q. And transfer the assets in Indonesia  
 24 from Maxus to YPF International?  
 25 A. Yes, that's correct.

Page 203

1 G. Leiva  
 2 Q. Looking at page 214, the first bullet  
 3 point it notes that "when Maxus pays dividends to  
 4 YPF, it must withhold 30 percent by way of tax on  
 5 earnings." Did I read that correctly?  
 6 A. Yes.  
 7 Q. What is the disadvantage to that  
 8 structure?  
 9 A. The disadvantage is that the holding  
 10 happened -- the disadvantage was that the U.S. would  
 11 hold 30 percent on the dividends, on the earnings  
 12 generated by all the operations in other countries  
 13 even though these earnings were generated in other  
 14 countries, therefore, that would mean a double  
 15 holding.  
 16 Q. By moving the assets to a foreign  
 17 holding company there would not be a 30 percent tax  
 18 on dividends paid to YPF?  
 19 A. On the results of those companies that  
 20 were outside of the U.S., not on all the Maxus  
 21 results.  
 22 Q. No, sir, only those operations that were  
 23 moved from Maxus to an offshore holding company.  
 24 A. And this is the case as long as Maxus  
 25 could pay for the dividends after paying its debt

Page 204

1 G. Leiva  
 2 service and if there were positive results.  
 3 MS. BLANCO: Objection to the  
 4 translation.  
 5 MR. JACKSON: I object to the answer as  
 6 non-responsive.  
 7 Q. The question is: If the foreign  
 8 operations that were once held in Maxus, Maxus  
 9 Indonesia, Bolivia, Venezuela were moved from Maxus  
 10 to an international holding company, such as YPF  
 11 International, would the dividends paid to YPF still  
 12 be taxed at 30 percent American rate?  
 13 MS. BLANCO: Objection to the form. You  
 14 can go ahead and answer.  
 15 (The question was repeated.)  
 16 A. Not the results of the international  
 17 operations that would be transferred because they  
 18 would be held by a company outside of the United  
 19 States, but Maxus results would, yes.  
 20 Q. If the foreign operations of Maxus were  
 21 moved from Maxus to a foreign holding company, such  
 22 as YPF International, do you understand that that  
 23 would have a beneficial effect on the dividends paid  
 24 to YPF?  
 25 MS. BLANCO: Objection, form. You can

Page 205	Page 207
<p>1 G. Leiva</p> <p>2 answer it.</p> <p>3 A. They would be financial benefits if</p> <p>4 dividends would have been paid, something that never</p> <p>5 happened, because those companies always were in need</p> <p>6 of inflow of capital, capital inflow.</p> <p>7 MR. JACKSON: Objection, non-responsive.</p> <p>8 Q. The identified disadvantage to the</p> <p>9 structure of Maxus' operations was that it had to pay</p> <p>10 American taxes on foreign operations; is that</p> <p>11 correct?</p> <p>12 A. No. It had to pay a retention on the</p> <p>13 dividends paid by Maxus outside of the United States,</p> <p>14 but not on the earnings of the foreign company. That</p> <p>15 means the earnings of the foreign companies, once</p> <p>16 they get to Maxus, did not pay U.S. taxes, but if</p> <p>17 Maxus would pay dividends to its parent company</p> <p>18 outside of the United States, then there would be a</p> <p>19 holding, a withholding.</p> <p>20 Q. I understand. Can you look at the final</p> <p>21 bullet point on page 214, sir.</p> <p>22 Does this indicate that another</p> <p>23 disadvantage of Maxus' organizational structure was</p> <p>24 that claims from historical environmental problems</p> <p>25 are directly impacting Maxus' operational results?</p>	<p>1 G. Leiva</p> <p>2 A. Most definitely.</p> <p>3 Q. Do you know what that team was looking</p> <p>4 at in considering?</p> <p>5 A. The purposes that are being stated in</p> <p>6 this presentation.</p> <p>7 Q. What does the next bullet point say,</p> <p>8 sir?</p> <p>9 A. Consultation with international experts,</p> <p>10 including among them Andrews &amp; Kurth; Arthur</p> <p>11 Andersen; Marval, O'Farrell and Mairal.</p> <p>12 Q. Who at Andrews &amp; Kurth was consulted?</p> <p>13 A. You want to know the person?</p> <p>14 Q. Yes, I do.</p> <p>15 A. I don't know. I can tell you the names</p> <p>16 of the people at Andrews &amp; Kurth who has relations</p> <p>17 with YPF, but for these I do not know.</p> <p>18 Q. At the time of this presentation, was</p> <p>19 Mr. Wadsworth with Andrews &amp; Kurth, or was he with</p> <p>20 Maxus?</p> <p>21 MR. CROUT: Objection to form.</p> <p>22 A. He was with Maxus.</p> <p>23 Q. Who at Arthur Andersen was consulted?</p> <p>24 A. The partner in the account with YPF it</p> <p>25 was -- it's a retired partner. I do not remember.</p>
Page 206	Page 208
<p>1 G. Leiva</p> <p>2 A. Yes, it says that, but it's not a</p> <p>3 disadvantage of the structure because the change in</p> <p>4 the structure from the company doesn't change</p> <p>5 anything.</p> <p>6 In face of the operational results of</p> <p>7 the American companies, what the purpose was to</p> <p>8 separate the activities, the operational activities</p> <p>9 of Maxus from the environmental claims to clean Maxus</p> <p>10 from results that did not belong to its operation,</p> <p>11 and that would improve its operational results,</p> <p>12 Maxus' operational results, facing better results and</p> <p>13 having a better position before its debt and its debt</p> <p>14 holders.</p> <p>15 Q. What is the title of page 215?</p> <p>16 A. Restructure Process.</p> <p>17 Q. Below that?</p> <p>18 A. Steps Done.</p> <p>19 Q. What does the first bullet point say?</p> <p>20 A. "Creation of the team integrated by</p> <p>21 Maxus and YPF officers for its analysis."</p> <p>22 Q. Who is on that team?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you believe Mr. Olivieri was on that</p> <p>25 team?</p>	<p>1 G. Leiva</p> <p>2 If we can see a 20-F. I hated him so much I forgot</p> <p>3 his name. Jose Bugallo.</p> <p>4 Q. Was Dexter Peacock involved for Andrews</p> <p>5 &amp; Kurth?</p> <p>6 A. He was the partner with Andrews &amp; Kurth</p> <p>7 who was in charge of the YPF account. I don't know</p> <p>8 if he had anything to do with this inquiry, but he</p> <p>9 was the person who also worked in YPF on other issues</p> <p>10 like the preparation of 20-F.</p> <p>11 Q. What type of firm is Marval, O'Farrell &amp;</p> <p>12 Mairal?</p> <p>13 A. It's a company of Argentinian attorneys.</p> <p>14 A legal firm.</p> <p>15 Q. The third bullet on this page references</p> <p>16 benchmarking; is that a fair translation?</p> <p>17 A. Benchmarking is a universal term.</p> <p>18 Q. What is meant by that universal term of</p> <p>19 benchmarking?</p> <p>20 A. You use this term when you are comparing</p> <p>21 with similar peers.</p> <p>22 Q. In terms of the restructuring process,</p> <p>23 the steps that had been fulfilled, what benchmarking</p> <p>24 had been done?</p> <p>25 A. I don't know. I imagine two things.</p>

12 (Pages 205 to 208)



# **EXHIBIT 24**

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THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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and THE ADMINISTRATOR OF THE NEW JERSEY SPILL  
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Defendants.

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1177 Avenue of the Americas  
New York, New York

September 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 205	Page 207
<p>1 G. Leiva</p> <p>2 answer it.</p> <p>3 A. They would be financial benefits if</p> <p>4 dividends would have been paid, something that never</p> <p>5 happened, because those companies always were in need</p> <p>6 of inflow of capital, capital inflow.</p> <p>7 MR. JACKSON: Objection, non-responsive.</p> <p>8 Q. The identified disadvantage to the</p> <p>9 structure of Maxus' operations was that it had to pay</p> <p>10 American taxes on foreign operations; is that</p> <p>11 correct?</p> <p>12 A. No. It had to pay a retention on the</p> <p>13 dividends paid by Maxus outside of the United States,</p> <p>14 but not on the earnings of the foreign company. That</p> <p>15 means the earnings of the foreign companies, once</p> <p>16 they get to Maxus, did not pay U.S. taxes, but if</p> <p>17 Maxus would pay dividends to its parent company</p> <p>18 outside of the United States, then there would be a</p> <p>19 holding, a withholding.</p> <p>20 Q. I understand. Can you look at the final</p> <p>21 bullet point on page 214, sir.</p> <p>22 Does this indicate that another</p> <p>23 disadvantage of Maxus' organizational structure was</p> <p>24 that claims from historical environmental problems</p> <p>25 are directly impacting Maxus' operational results?</p>	<p>1 G. Leiva</p> <p>2 A. Most definitely.</p> <p>3 Q. Do you know what that team was looking</p> <p>4 at in considering?</p> <p>5 A. The purposes that are being stated in</p> <p>6 this presentation.</p> <p>7 Q. What does the next bullet point say,</p> <p>8 sir?</p> <p>9 A. Consultation with international experts,</p> <p>10 including among them Andrews &amp; Kurth; Arthur</p> <p>11 Andersen; Marval, O'Farrell and Mairal.</p> <p>12 Q. Who at Andrews &amp; Kurth was consulted?</p> <p>13 A. You want to know the person?</p> <p>14 Q. Yes, I do.</p> <p>15 A. I don't know. I can tell you the names</p> <p>16 of the people at Andrews &amp; Kurth who has relations</p> <p>17 with YPF, but for these I do not know.</p> <p>18 Q. At the time of this presentation, was</p> <p>19 Mr. Wadsworth with Andrews &amp; Kurth, or was he with</p> <p>20 Maxus?</p> <p>21 MR. CROUT: Objection to form.</p> <p>22 A. He was with Maxus.</p> <p>23 Q. Who at Arthur Andersen was consulted?</p> <p>24 A. The partner in the account with YPF it</p> <p>25 was -- it's a retired partner. I do not remember.</p>
Page 206	Page 208
<p>1 G. Leiva</p> <p>2 A. Yes, it says that, but it's not a</p> <p>3 disadvantage of the structure because the change in</p> <p>4 the structure from the company doesn't change</p> <p>5 anything.</p> <p>6 In face of the operational results of</p> <p>7 the American companies, what the purpose was to</p> <p>8 separate the activities, the operational activities</p> <p>9 of Maxus from the environmental claims to clean Maxus</p> <p>10 from results that did not belong to its operation,</p> <p>11 and that would improve its operational results,</p> <p>12 Maxus' operational results, facing better results and</p> <p>13 having a better position before its debt and its debt</p> <p>14 holders.</p> <p>15 Q. What is the title of page 215?</p> <p>16 A. Restructure Process.</p> <p>17 Q. Below that?</p> <p>18 A. Steps Done.</p> <p>19 Q. What does the first bullet point say?</p> <p>20 A. "Creation of the team integrated by</p> <p>21 Maxus and YPF officers for its analysis."</p> <p>22 Q. Who is on that team?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you believe Mr. Olivieri was on that</p> <p>25 team?</p>	<p>1 G. Leiva</p> <p>2 If we can see a 20-F. I hated him so much I forgot</p> <p>3 his name. Jose Bugallo.</p> <p>4 Q. Was Dexter Peacock involved for Andrews</p> <p>5 &amp; Kurth?</p> <p>6 A. He was the partner with Andrews &amp; Kurth</p> <p>7 who was in charge of the YPF account. I don't know</p> <p>8 if he had anything to do with this inquiry, but he</p> <p>9 was the person who also worked in YPF on other issues</p> <p>10 like the preparation of 20-F.</p> <p>11 Q. What type of firm is Marval, O'Farrell &amp;</p> <p>12 Mairal?</p> <p>13 A. It's a company of Argentinian attorneys.</p> <p>14 A legal firm.</p> <p>15 Q. The third bullet on this page references</p> <p>16 benchmarking; is that a fair translation?</p> <p>17 A. Benchmarking is a universal term.</p> <p>18 Q. What is meant by that universal term of</p> <p>19 benchmarking?</p> <p>20 A. You use this term when you are comparing</p> <p>21 with similar peers.</p> <p>22 Q. In terms of the restructuring process,</p> <p>23 the steps that had been fulfilled, what benchmarking</p> <p>24 had been done?</p> <p>25 A. I don't know. I imagine two things.</p>

12 (Pages 205 to 208)

Page 209	Page 211
<p>1 G. Leiva</p> <p>2 One, that the structural organizations of other</p> <p>3 international oil companies might have been</p> <p>4 considered for their international subsidiaries.</p> <p>5 That's what I understand was done.</p> <p>6 And also, I understand that Carlos</p> <p>7 Olivieri is in love with this word and in the</p> <p>8 12 years that I have met him, he has used the word in</p> <p>9 every single presentation that has been done.</p> <p>10 MS. BLANCO: Object to the translation.</p> <p>11 "Known him."</p> <p>12 MR. JACKSON: In the 12 years that he</p> <p>13 has known him.</p> <p>14 Q. On page 216 there's a graphic</p> <p>15 representation. What does this represent?</p> <p>16 A. The proposed structuring for the</p> <p>17 reorganization.</p> <p>18 Q. This would, for example, show the</p> <p>19 creation of YPF/Maxus International as a subsidiary</p> <p>20 of YPF?</p> <p>21 A. Yes.</p> <p>22 MR. JACKSON: We have to change the</p> <p>23 tape. Let's take a quick break.</p> <p>24 VIDEOGRAPHER: Going off the record.</p> <p>25 The time is 11:33. This ends tape two.</p>	<p>1 G. Leiva</p> <p>2 MS. BLANCO: I don't know how to</p> <p>3 translate this.</p> <p>4 INTERPRETER: I'm going to clarify.</p> <p>5 A. To improve -- how the taxes on the debt</p> <p>6 would be used -- the position of the taxing -- the</p> <p>7 tax position -- to improve the tax positions of the</p> <p>8 debt.</p> <p>9 MS. BLANCO: No.</p> <p>10 MR. JACKSON: To improve the tax</p> <p>11 utilization of indebtedness?</p> <p>12 MR. VITTORO: No.</p> <p>13 MS. BLANCO: We can translate it</p> <p>14 technically if it's okay with you.</p> <p>15 MR. JACKSON: Sure.</p> <p>16 MR. VITTORO: Let's go bullet by bullet.</p> <p>17 MS. BLANCO: No, just that one.</p> <p>18 MR. VITTORO: "It's improved the use of</p> <p>19 the tax efficiencies on the debt."</p> <p>20 A. The interest on the debt of Maxus could</p> <p>21 not be used in a positive way because Maxus was</p> <p>22 losing money. In this way it would be probable that</p> <p>23 the cost of the debt could be used in a better way</p> <p>24 tax wise.</p> <p>25 Q. If you look back to page 214, bullet</p>
Page 210	Page 212
<p>1 G. Leiva</p> <p>2 (Whereupon, a recess was taken.)</p> <p>3 VIDEOGRAPHER: We are back on the</p> <p>4 record. The time is 11:36. This is tape three.</p> <p>5 Q. Mr. Leiva, can you turn, please, to YPF</p> <p>6 217. Sir, can you read the first bullet point into</p> <p>7 the record.</p> <p>8 A. This new structure has the purpose to</p> <p>9 organize the share holding organization that has been</p> <p>10 proposed, and to have access -- and in order to</p> <p>11 access in the model of reorganization, the YPF Maxus</p> <p>12 group would have obtained to limit the taxing to the</p> <p>13 benefits -- to the earnings, and the minimum</p> <p>14 alternative tax on earnings made by Bolivia and</p> <p>15 Venezuela, and would eliminate the withholding of</p> <p>16 taxes on the earnings made in Ecuador and Indonesia.</p> <p>17 It would improve the taxing -- it would</p> <p>18 have a benefit on the use of the taxes.</p> <p>19 INTERPRETER: I'm lost.</p> <p>20 MS. BLANCO: Wait.</p> <p>21 A. To improve -- to improve how the taxes</p> <p>22 on the debts would be used.</p> <p>23 MS. BLANCO: Objection to translation.</p> <p>24 INTERPRETER: I'm having problem with</p> <p>25 the meaning.</p>	<p>1 G. Leiva</p> <p>2 point three references that Maxus currently possesses</p> <p>3 a tax loss that is not being sufficiently utilized.</p> <p>4 Is that one of the disadvantages that</p> <p>5 was being rectified by the new structure?</p> <p>6 INTERPRETER: Efficiently do you mean?</p> <p>7 MR. JACKSON: Efficiently utilized or</p> <p>8 sufficiently utilized.</p> <p>9 INTERPRETER: Sufficiently?</p> <p>10 MR. JACKSON: Sufficiently.</p> <p>11 A. It says here sufficiently.</p> <p>12 Q. Does the distinction have a difference</p> <p>13 to you? The idea is to, by restructuring, improve</p> <p>14 the use of the tax laws; is that correct?</p> <p>15 A. Of the tax laws?</p> <p>16 Q. Correct.</p> <p>17 A. Can I say something?</p> <p>18 Q. Yes, sir.</p> <p>19 A. This means that Maxus was a company that</p> <p>20 had lost a lot of money in the previous period and</p> <p>21 then tax wise it had losses. It wasn't paying taxes</p> <p>22 because it was having losses. Tax wise those losses</p> <p>23 can be used in the future to compensate future</p> <p>24 earnings otherwise you lose them.</p> <p>25 Then, the situation of Maxus at the time</p>

13 (Pages 209 to 212)

<p style="text-align: center;">Page 213</p> <p>1 G. Leiva</p> <p>2 of the restructuring and at the time of the purchase,</p> <p>3 it showed that it was not going to have a profit. It</p> <p>4 was not going to make money.</p> <p>5 Q. It was paying huge taxes, that is what</p> <p>6 made it unprofitable; isn't that true? In '94 and</p> <p>7 '95 Maxus' taxes were larger than its income?</p> <p>8 A. It was paying minimum taxes that even</p> <p>9 though it was having a loss -- it says in the bullet</p> <p>10 right here, even though there is a loss, Maxus has to</p> <p>11 pay the minimum alternative tax at the two percent</p> <p>12 rate on the results that it has abroad. Even though</p> <p>13 if globally it was losing money, it still paid taxes,</p> <p>14 and that became a tax loss that could be compensated</p> <p>15 in the future.</p> <p>16 Q. In 1993, '94 and '95, prior to paying</p> <p>17 taxes, isn't it true that Maxus made a net profit,</p> <p>18 but it was the taxes that caused it to lose money?</p> <p>19 A. I didn't say that.</p> <p>20 Q. I'm asking you that. I tell you what, I</p> <p>21 will find the document that will show that issue. We</p> <p>22 will come back to it.</p> <p>23 For purposes of this discussion on page</p> <p>24 217, the new structure that we're discussing is the</p> <p>25 creation of what is to become YPF International; is</p>	<p style="text-align: center;">Page 215</p> <p>1 G. Leiva</p> <p>2 A. That's correct.</p> <p>3 Q. By moving the operations associated with</p> <p>4 Bolivia, Venezuela, Java, Sumatra and Ecuador from</p> <p>5 Maxus to an international subsidiary of YPF, YPF was</p> <p>6 able to achieve increased earnings on those</p> <p>7 operations?</p> <p>8 A. By doing this transferring, the</p> <p>9 operations would not have -- would not improve their</p> <p>10 results.</p> <p>11 Q. I don't want to argue with you, and I'm</p> <p>12 not saying that it impacts the subsidiaries'</p> <p>13 operations. I'm saying that it maximizes the tax</p> <p>14 benefits and the dividends received by YPF; is that</p> <p>15 true?</p> <p>16 MS. BLANCO: Objection to the form. You</p> <p>17 can answer.</p> <p>18 A. It improved the dividends and the tax</p> <p>19 benefits would not be for YPF, but for YPF</p> <p>20 International.</p> <p>21 Q. YPF International was a wholly owned</p> <p>22 subsidiary of YPF?</p> <p>23 A. That's not right. YPF International was</p> <p>24 a 100 percent subsidiary of YPF.</p> <p>25 Q. Correct. Did the movement of the</p>
<p style="text-align: center;">Page 214</p> <p>1 G. Leiva</p> <p>2 that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. It is the transfer of the foreign</p> <p>5 operations once held by Maxus to that company, YPF</p> <p>6 International?</p> <p>7 A. The transfer of Bolivia and Venezuela,</p> <p>8 yes.</p> <p>9 Q. What transfer is contemplated with</p> <p>10 respect to the Indonesian assets?</p> <p>11 A. The assets of Indonesia -- it was</p> <p>12 considered that the Indonesian assets would be sold</p> <p>13 from Maxus Indonesia Corporation -- no, Maxus Energy</p> <p>14 Corporation to another affiliated company of YPF</p> <p>15 International.</p> <p>16 Q. And that holding company was a Dutch</p> <p>17 subsidiary; is that correct?</p> <p>18 A. YPF International subsidiary. YPF</p> <p>19 International finally had a subsidiary in Holland.</p> <p>20 Q. Yes.</p> <p>21 A. And the Indonesia operation would be a</p> <p>22 subsidiary of the Holland company.</p> <p>23 Q. The Indonesian assets, Sumatra and Java,</p> <p>24 as well as the former operations of Maxus Ecuador</p> <p>25 were transferred to that company; is that correct?</p>	<p style="text-align: center;">Page 216</p> <p>1 G. Leiva</p> <p>2 operations -- scratch that. Sorry.</p> <p>3 Was it a goal of this corporate</p> <p>4 reorganization to improve the operational results of</p> <p>5 Maxus Energy?</p> <p>6 A. I don't know if it was the goal, but it</p> <p>7 happened -- but that's what happened in reality, in</p> <p>8 practice.</p> <p>9 Q. Maxus' foreign operations, its best</p> <p>10 assets, were all moved to YPF International; is that</p> <p>11 true?</p> <p>12 A. No, the best asset that it had was</p> <p>13 Midgard.</p> <p>14 Q. That was sold in 1999, true?</p> <p>15 A. That's correct.</p> <p>16 Q. This restructuring from 1996 to 1998 all</p> <p>17 of the foreign operations of Maxus were removed from</p> <p>18 the company; is that true?</p> <p>19 MS. BLANCO: Objection to form.</p> <p>20 MR. CROUT: Objection to form.</p> <p>21 A. We would have to define the term remove</p> <p>22 because actually they were purchased and they were</p> <p>23 purchased at a fair market value.</p> <p>24 MR. JACKSON: Objection, non-responsive.</p> <p>25 Q. All I'm asking is by this restructuring,</p>

# **EXHIBIT 25**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED VIDEOTAPED DEPOSITION of YPF,  
S.A., a defendant, BY, GABRIEL LEIVA, taken on behalf  
of the plaintiffs, pursuant to Notice, held before a  
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<p style="text-align: right;">Page 214</p> <p>1 G. Leiva</p> <p>2 that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. It is the transfer of the foreign</p> <p>5 operations once held by Maxus to that company, YPF</p> <p>6 International?</p> <p>7 A. The transfer of Bolivia and Venezuela,</p> <p>8 yes.</p> <p>9 Q. What transfer is contemplated with</p> <p>10 respect to the Indonesian assets?</p> <p>11 A. The assets of Indonesia -- it was</p> <p>12 considered that the Indonesian assets would be sold</p> <p>13 from Maxus Indonesia Corporation -- no, Maxus Energy</p> <p>14 Corporation to another affiliated company of YPF</p> <p>15 International.</p> <p>16 Q. And that holding company was a Dutch</p> <p>17 subsidiary; is that correct?</p> <p>18 A. YPF International subsidiary. YPF</p> <p>19 International finally had a subsidiary in Holland.</p> <p>20 Q. Yes.</p> <p>21 A. And the Indonesia operation would be a</p> <p>22 subsidiary of the Holland company.</p> <p>23 Q. The Indonesian assets, Sumatra and Java,</p> <p>24 as well as the former operations of Maxus Ecuador</p> <p>25 were transferred to that company; is that correct?</p>	<p style="text-align: right;">Page 216</p> <p>1 G. Leiva</p> <p>2 operations -- scratch that. Sorry.</p> <p>3 Was it a goal of this corporate</p> <p>4 reorganization to improve the operational results of</p> <p>5 Maxus Energy?</p> <p>6 A. I don't know if it was the goal, but it</p> <p>7 happened -- but that's what happened in reality, in</p> <p>8 practice.</p> <p>9 Q. Maxus' foreign operations, its best</p> <p>10 assets, were all moved to YPF International; is that</p> <p>11 true?</p> <p>12 A. No, the best asset that it had was</p> <p>13 Midgard.</p> <p>14 Q. That was sold in 1999, true?</p> <p>15 A. That's correct.</p> <p>16 Q. This restructuring from 1996 to 1998 all</p> <p>17 of the foreign operations of Maxus were removed from</p> <p>18 the company; is that true?</p> <p>19 MS. BLANCO: Objection to form.</p> <p>20 MR. CROUT: Objection to form.</p> <p>21 A. We would have to define the term remove</p> <p>22 because actually they were purchased and they were</p> <p>23 purchased at a fair market value.</p> <p>24 MR. JACKSON: Objection, non-responsive.</p> <p>25 Q. All I'm asking is by this restructuring,</p>

14 (Pages 213 to 216)



Page 217

1 G. Leiva  
 2 were the foreign operations of Maxus transferred to  
 3 other wholly owned subsidiaries of YPF?  
 4 MS. BLANCO: Objection, form. You can  
 5 answer it.  
 6 MR. CROUT: Same objection.  
 7 A. Yes, they were transferred at a fair  
 8 market value.  
 9 MR. JACKSON: Object to that portion  
 10 after "yes, they were transferred" as non-responsive.  
 11 Q. I'm not asking about value right now.  
 12 All I'm asking is whether or not they were  
 13 transferred.  
 14 MS. BLANCO: Objection to the form.  
 15 MR. CROUT: Same objection.  
 16 A. By transfer do you mean sale?  
 17 Q. No, I do not.  
 18 A. The operations were sold, not  
 19 transferred.  
 20 Q. We'll get into the details of those  
 21 transactions in a moment.  
 22 One of the benefits to the new structure  
 23 is elimination of tax withholding on earnings  
 24 generated by Bolivia and Venezuela; do you see that?  
 25 A. Yes, that's correct.

Page 218

1 G. Leiva  
 2 Q. Another benefit below that is the  
 3 elimination of the tax withholding on income obtained  
 4 from Ecuador and Indonesia; is that correct?  
 5 A. That's correct.  
 6 Q. If you look to the next bullet beneath  
 7 the one we've been discussing it states basically  
 8 that this restructuring divides the current Maxus  
 9 into four areas; is that correct?  
 10 A. Yes.  
 11 Q. Section C there states that Chemical  
 12 Land Holdings is one of those four areas which will  
 13 manage environmental problems and will eventually  
 14 carry out environmental cleanup services essentially;  
 15 is that correct? Is that what it states?  
 16 A. That's correct.  
 17 Q. Is that Tierra Solutions is all I was  
 18 going to ask you.  
 19 MS. BLANCO: Hold on. I want the  
 20 witness to complete his answer before the next  
 21 question.  
 22 A. I just wanted to say that Chemical Land  
 23 Holdings is the name of the company and interpreter  
 24 should not have to translate to that.  
 25 Q. Where it refers to Chemical Land

Page 219

1 G. Leiva  
 2 Holdings, that's the company that today is known as  
 3 Tierra Solutions; is that correct?  
 4 A. That's correct.  
 5 Q. Can you turn to page 218, please. What  
 6 is this slide entitled, this page?  
 7 A. Restructuring Process.  
 8 Q. And underneath that?  
 9 A. Steps to be done.  
 10 Q. What does the first bullet point say?  
 11 A. The board of YPF and Maxus board members  
 12 must approve the rescue of preferred shares with a  
 13 dividend of -- \$4 dividend, a restructuring plan for  
 14 Maxus division of the environmental company,  
 15 separation, split, restructuring of the debts.  
 16 Q. All of these things are part of the  
 17 larger plan for restructuring?  
 18 A. All these are part of the restructuring.  
 19 Q. What does the fourth bullet say?  
 20 A. To create a new holding company  
 21 offshore. To create a new offshore holding company,  
 22 and a new holding company for Maxus and CLH in the  
 23 U.S. or to use one that is already in existence.  
 24 Q. What does the seventh bullet point say?  
 25 A. To channel Indonesian operations through

Page 220

1 G. Leiva  
 2 Holland companies.  
 3 Q. These steps are all part of a larger  
 4 plan to restructure the international operations of  
 5 YPF; is that correct?  
 6 A. Repeat.  
 7 (The requested portion was read.)  
 8 A. This is the plan. There is not a larger  
 9 plan, any other larger plan.  
 10 Q. This is the plan?  
 11 A. This is the plan.  
 12 Q. This is, in fact, essentially what  
 13 transpired?  
 14 A. Yes. The only thing is that it was not  
 15 called YPF Maxus International, only YPF  
 16 International.  
 17 Q. Can you look at page 219 with me,  
 18 please. Does this indicate that the debt  
 19 restructuring was necessary to allow the movement of  
 20 Maxus' assets because its creditors could essentially  
 21 prevent the transaction?  
 22 A. The preferred asset had a clause in  
 23 which the sale of assets was conditioned --  
 24 MS. BLANCO: Objection to the  
 25 translation. "Preferred shareholders."

# **EXHIBIT 26**

1  
2 THE UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEW JERSEY

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

8 Plaintiffs,

9 Civil Action No:  
10 2:06-CV-00401-JCL-PS

11 -against-

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

15 Defendants.  
16 -----X

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

19 September 24, 2006  
20 9:10 a.m.

21 VOLUME II

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

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1 G. Leiva  
 2 A. The preferred assets had a clause -- the  
 3 preferred shares. The preferred shares had a clause  
 4 that conditioned its payment -- trigger its payment.  
 5 There was a clause that put a condition on the sale  
 6 and it could trigger its payment.  
 7 And besides, the facilities being given  
 8 to the Indonesian companies had been given by a  
 9 company structure and that would mean they would have  
 10 to structure that new debt according to the new  
 11 structure, therefore, the general structure of the  
 12 debt was a requisite that you had to consider with  
 13 this new company structure.  
 14 MR. JACKSON: I'm going to object as  
 15 non-responsive and to the translation. I think it  
 16 might be a matter of it being more clear.  
 17 Q. Was there a provision in the preferred  
 18 shares that required the creditors' consent to the  
 19 restructuring plan?  
 20 A. Yes.  
 21 Q. What is meant by subsection C, page 219?  
 22 A. I understand that those are the norms to  
 23 be followed to transfer -- to evaluate the assets  
 24 that are going to be transferred, the value.  
 25 Definitely regarding the accounting proceedings,

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1 G. Leiva  
 2 that's the way it is, and I believe this is also  
 3 regarding the fiscal aspects.  
 4 Q. What is meant by subsection D?  
 5 A. That's a proceeding issue. As I  
 6 understand, in the United States the tax report is  
 7 made in a consolidated way of the group companies and  
 8 once the split was done and with the restrictions,  
 9 the fiscal deduction of the losses coming from  
 10 environmental issues had to -- therefore, tax report  
 11 had to be done and consolidated regarding the new  
 12 holding company.  
 13 Q. So, YPF Holdings, the group, could take  
 14 advantage of the tax implications of the  
 15 environmental expenditures?  
 16 A. No.  
 17 Q. What are you saying?  
 18 A. Maxus had its profits on its operations  
 19 and its losses, among other things, by the  
 20 environmental charges.  
 21 Q. Okay.  
 22 A. By changing the structure you had in one  
 23 company, the earnings by the operations, and in  
 24 another company you would have the environmental  
 25 losses. In a consolidated way, nothing changed.

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1 G. Leiva  
 2 What it says is that the tax report  
 3 would be done from a consolidated point of view.  
 4 There are no changes.  
 5 Q. For the entire group, which we referred  
 6 to yesterday as the YPF American unit?  
 7 A. Yes.  
 8 Q. Is that what is meant by the last  
 9 sentence in section one that states "to achieve this  
 10 goal it becomes necessary for the new holding company  
 11 of the United States properties to have given  
 12 percentages of economic value and voting rights to  
 13 its subsidiaries, a requirement that is met if the  
 14 U.S. \$4 preferred shares are recovered"?  
 15 A. Not exactly. I do not exactly know what  
 16 this is talking about, referring to.  
 17 Q. Let's do that again. What does the last  
 18 sentence of the first full paragraph refer to?  
 19 A. I really don't know what it refers to.  
 20 I must refer to a tax requisite. I don't know about  
 21 it.  
 22 Q. Would that be a tax regulation or a  
 23 requisite?  
 24 A. Requisite. By what it says here, that's  
 25 what I understand. It might be minor requisite. I

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1 G. Leiva  
 2 do not really know about it.  
 3 Q. If you look at the last page of this  
 4 document, page YPF 220, what is that page entitled?  
 5 A. Main advantage of the restructuring.  
 6 Q. Do you disagree with any of the  
 7 advantages identified there?  
 8 A. Do you mean that if I do not agree that  
 9 this is true, that this was true?  
 10 Q. Do you disagree that the items on page  
 11 YPF 220 are all advantages of the restructuring?  
 12 A. I do not agree.  
 13 MS. BLANCO: No.  
 14 A. I do agree. You're going to object to  
 15 my answer, but the third bullet is not an advantage,  
 16 an economical advantage, but it's an advantage in  
 17 presenting the results of Maxus Energy Corporation.  
 18 Q. Okay. Globally speaking, what do you  
 19 understand a goal of this restructuring to have been?  
 20 A. Generally speaking, Maxus' structure  
 21 made sense when the maximum level of the parent  
 22 company -- it was an American company -- when the  
 23 maximum level of the parent company went offshore it  
 24 made no sense to have international operation go  
 25 through the United States and that's what has been

16 (Pages 221 to 224)

Page 225

1 G. Leiva  
 2 seen and can be seen in benchmarking.  
 3 On the other hand, this restructuring  
 4 would benefit Maxus, would give Maxus enough money to  
 5 pay its debts so all the operations were sold at  
 6 market value, those that had a relation with the  
 7 price being paid by YPF when it bought the whole  
 8 company.  
 9 For Maxus it was a change in quality of  
 10 its assets, but not in the amount -- it was a change  
 11 in the quality, but not in the amount of the assets.  
 12 MS. BLANCO: I have one objection to the  
 13 translation. When the witness said "out of the  
 14 United States" it was translated as "offshore."  
 15 That's my only objection, that is, you translated it  
 16 "offshore" and he said "out of the United States."  
 17 MR. JACKSON: I also object to the  
 18 translation and the non-responsiveness of the answer.  
 19 Q. Was the goal of the restructuring to  
 20 allow YPF to be more competitive in the global  
 21 marketplace?  
 22 MS. BLANCO: Objection, form. You can  
 23 answer.  
 24 A. The goal was to use in a more effective  
 25 way all these operations from a tax point of view and

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1 G. Leiva  
 2 operational point of view. I do not know what you  
 3 mean by competitive, but that was the purpose.  
 4 Q. I'm not trying to play semantical games.  
 5 I just want to be clear.  
 6 Was a goal of the transaction to  
 7 increase the return or the income for YPF and its  
 8 subsidiaries globally?  
 9 A. Obviously that's what all companies do.  
 10 Q. Right, that's all I was trying to  
 11 establish.  
 12 A. It's a fact that in the previous years,  
 13 I think it's '97, when there's a situation of the  
 14 financial markets improve Argentinian situation to  
 15 issue debt, YPF as an individual company issued debt  
 16 and then with that it paid Maxus' debt.  
 17 Q. This is the 1997 debt restructuring?  
 18 A. Yes, and from an individual point, the  
 19 balance of YPF, S.A. was negatively affected because  
 20 of the interest on that debt, and the Maxus balance  
 21 had an important benefit because it didn't have that  
 22 debt nor those interests, but from a point of a  
 23 consolidated point of view, the benefit -- it was a  
 24 global benefit.  
 25 Q. You would agree that by 2001 Maxus no

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1 G. Leiva  
 2 longer had any assets that generated any substantial  
 3 income either?  
 4 A. Yes.  
 5 Q. By moving the foreign income producing  
 6 properties --  
 7 A. I would like to change something. By  
 8 2001 Maxus had assets that was the cash received from  
 9 the sale, from Crescendo sale. It generated positive  
 10 interest.  
 11 If you're asking that Crescendo had more  
 12 benefits, generated more benefits than the cash or  
 13 the financial positioning because of the cash that it  
 14 received from that sale, I couldn't tell you exactly.  
 15 But Maxus did have an asset that did generate a  
 16 financial benefit.  
 17 MR. JACKSON: Objection, non-responsive.  
 18 MS. BLANCO: Could you read the answer  
 19 back, please.  
 20 (The requested portion was read.)  
 21 A. The attorney asked me if Maxus didn't  
 22 have assets.  
 23 Q. No, that's not what I asked you.  
 24 A. Sorry.  
 25 Q. I asked that by the time of 2001 when

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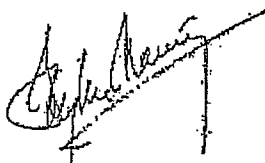
1 G. Leiva  
 2 all the restructuring was complete, whether or not  
 3 Maxus was left with any operational income, income  
 4 generated from business operations.  
 5 A. If you change your question from  
 6 business operations, but if you say productive  
 7 operations, I would say yes.  
 8 MS. BLANCO: Producing.  
 9 INTERPRETER: Producing operations.  
 10 Q. I'm not changing my question. All I'm  
 11 asking is whether or not all of the operational  
 12 companies were moved offshore and/or sold to third  
 13 parties?  
 14 MS. BLANCO: Wait. Let her translate.  
 15 Objection to the form.  
 16 MR. CROUT: Objection.  
 17 A. That's correct.  
 18 MR. JACKSON: Let's take a break.  
 19 VIDEOGRAPHER: Going off the record.  
 20 The time is 12:31. This ends tape three.  
 21 (Whereupon, a recess was taken.)  
 22 (Time noted: 12:31 p.m.)  
 23 \*\*\*\*\*  
 24 AFTERNOON SESSION  
 25 \*\*\*\*\*

17 (Pages 225 to 228)

# **EXHIBIT 27**

RESTRUCTURING OF UPSTREAM INTERNACIONAL (MAXUS)

- 1) Formation of YPF Holdings (USA) in the state of Delaware, United States of America.
- 2) Formation of YPF International Inc. in an offshore foreign jurisdiction yet to be determined, originally as a subsidiary of Maxus International Energy (USA) (subsidiary of Maxus Energy Corp.).
- 3) Formation of Maxus Bolivia Inc. in an offshore foreign jurisdiction yet to be determined, originally as a subsidiary of Maxus Energy (USA) (subsidiary company of Maxus Energy Corp.) Absorption of Maxus Bolivia (Delaware) by the new Maxus Bolivia Inc.
- 4) Transfer of the shares of Maxus Energy Corp. from YPF to YPF Holdings (USA).
- 5) Contribution by Maxus International Energy (USA) of the shares of Maxus Bolivia Inc., Maxus Venezuela (C.I.) Ltd., Maxus Guarapiche Ltd., and Maxus Venezuela S.A. to YPF International Inc.
- 6) Transfer of the shares of Chemical Land Holdings (CLH) from Maxus Energy Corp to YPF Holdings (USA).
- 7) Subscription of an agreement between CLH and Maxus Energy Corp whereby CLH assumes the environmental obligations of Maxus and is assignee of certain rights of Maxus against Diamond Shamrock related to environmental matters. Maxus will continue being co-obliged.
- 8) Subscription of an agreement between YPF, YPF Holdings (USA), Maxus Energy Corp. and CLH whereby YPF and YPF Holdings (USA) agree to contribute funds to CLH to cover the environmental obligations assumed by the latter, up to the amount of Maxus' reserve for environmental obligations as of June 30 1996 (estimated to be approximately US\$ 120 million). In addition, YPF and YPF Holdings (USA) agree to contribute funds to cover CLH's costs and administrative expenses.
- 9) Transfer of the shares of YPF International Inc. from Maxus International Energy (USA) to YPF (Offshore).
- 10) If the necessary permits are obtained, to form a subsidiary company of YPF in the United States of America which will be the owner of the shares of the remaining corporations that carry out productive activities abroad (Indonesia, Ecuador, and other minor ones).
- 11) Transfer of the companies with operations in Indonesia to corporations to be formed in Holland.
- 12) In case it is necessary, obtaining new loans to pay the liabilities of the group or to restructure the group, and/or to finance other acts necessary or appropriate for implementing the aforementioned restructuring, up to US\$ 500 million.



[2 signatures]

YPF 207

REESTRUCTURACIÓN DEL UPSTREAM INTERNACIONAL (MAXUS)

- 1) Creación de YPF Holdings (USA) en el estado de Delaware, Estados Unidos de América.
- 2) Creación de YPF International Inc. en jurisdicción extranjera offshore a determinar, originalmente como una subsidiaria de Maxus International Energy (USA) (compañía subsidiaria de Maxus Energy Corp.).
- 3) Creación de Maxus Bolivia Inc. en jurisdicción extranjera offshore a determinar, como una subsidiaria de Maxus International Energy (USA) (compañía subsidiaria de Maxus Energy Corp.). Absorción por parte de la nueva Maxus Bolivia Inc. de Maxus Bolivia (Delaware).
- 4) Transferencia de YPF a YPF Holdings (USA) de las acciones de Maxus Energy Corp.
- 5) Contribución de Maxus International Energy (USA) a YPF International Inc. de las acciones de Maxus Bolivia Inc., Maxus Venezuela (C.I.) Ltd., Maxus Guarapiche Ltd. y Maxus Venezuela S.A.
- 6) Transferencia de Maxus Energy Corp. a YPF Holding (USA) de las acciones de Chemical Land Holdings (CLH).
- 7) Suscripción de un acuerdo entre CLH y Maxus Energy Corp. por el cual CLH asume obligaciones ambientales de Maxus y es cesionaria de ciertos derechos de Maxus contra Diamond Shamrock relacionados con temas ambientales. Maxus continuará siendo co-obligado.
- 8) Suscripción de un acuerdo entre YPF, YPF Holdings (USA), Maxus Energy Corp. y CLH por el cual YPF e YPF Holdings (USA) se comprometen a contribuir fondos a CLH para hacer frente a las obligaciones ambientales asumidas por ésta, hasta el monto de la reserva por obligaciones ambientales de Maxus al 30 de junio de 1996 (estimada en aproximadamente u\$s 120 millones). Asimismo, YPF e YPF Holdings (USA) se comprometen a contribuir fondos para hacer frente a los costos y gastos administrativos de CLH.
- 9) Transferencia de Maxus International Energy (USA) a YPF de las acciones de YPF International Inc. (Offshore).
- 10) Si se obtienen las autorizaciones correspondientes, crear una compañía subsidiaria de YPF en los Estados Unidos de América, la cual será titular de las acciones del resto de las Sociedades que realizan actividades productivas en el exterior (Indonesia, Ecuador y otras menores).
- 11) Transferir las compañías con operaciones en Indonesia a sociedades a ser constituidas en Holanda.
- 12) En caso de ser necesario, obtención de nuevos préstamos para cancelar pasivos del grupo o reestructurar los mismos, y/o financiar los demás actos que sean necesarios o convenientes para implementar la reestructuración antedicha, hasta u\$s 500 millones.



# **EXHIBIT 28**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 209	Page 211
<p>1 G. Leiva</p> <p>2 One, that the structural organizations of other</p> <p>3 international oil companies might have been</p> <p>4 considered for their international subsidiaries.</p> <p>5 That's what I understand was done.</p> <p>6 And also, I understand that Carlos</p> <p>7 Olivieri is in love with this word and in the</p> <p>8 12 years that I have met him, he has used the word in</p> <p>9 every single presentation that has been done.</p> <p>10 MS. BLANCO: Object to the translation.</p> <p>11 "Known him."</p> <p>12 MR. JACKSON: In the 12 years that he</p> <p>13 has known him.</p> <p>14 Q. On page 216 there's a graphic</p> <p>15 representation. What does this represent?</p> <p>16 A. The proposed structuring for the</p> <p>17 reorganization.</p> <p>18 Q. This would, for example, show the</p> <p>19 creation of YPF/Maxus International as a subsidiary</p> <p>20 of YPF?</p> <p>21 A. Yes.</p> <p>22 MR. JACKSON: We have to change the</p> <p>23 tape. Let's take a quick break.</p> <p>24 VIDEOGRAPHER: Going off the record.</p> <p>25 The time is 11:33. This ends tape two.</p>	<p>1 G. Leiva</p> <p>2 MS. BLANCO: I don't know how to</p> <p>3 translate this.</p> <p>4 INTERPRETER: I'm going to clarify.</p> <p>5 A. To improve -- how the taxes on the debt</p> <p>6 would be used -- the position of the taxing -- the</p> <p>7 tax position -- to improve the tax positions of the</p> <p>8 debt.</p> <p>9 MS. BLANCO: No.</p> <p>10 MR. JACKSON: To improve the tax</p> <p>11 utilization of indebtedness?</p> <p>12 MR. VITTORO: No.</p> <p>13 MS. BLANCO: We can translate it</p> <p>14 technically if it's okay with you.</p> <p>15 MR. JACKSON: Sure.</p> <p>16 MR. VITTORO: Let's go bullet by bullet.</p> <p>17 MS. BLANCO: No, just that one.</p> <p>18 MR. VITTORO: "It's improved the use of</p> <p>19 the tax efficiencies on the debt."</p> <p>20 A. The interest on the debt of Maxus could</p> <p>21 not be used in a positive way because Maxus was</p> <p>22 losing money. In this way it would be probable that</p> <p>23 the cost of the debt could be used in a better way</p> <p>24 tax wise.</p> <p>25 Q. If you look back to page 214, bullet</p>
Page 210	Page 212
<p>1 G. Leiva</p> <p>2 (Whereupon, a recess was taken.)</p> <p>3 VIDEOGRAPHER: We are back on the</p> <p>4 record. The time is 11:36. This is tape three.</p> <p>5 Q. Mr. Leiva, can you turn, please, to YPF</p> <p>6 217. Sir, can you read the first bullet point into</p> <p>7 the record.</p> <p>8 A. This new structure has the purpose to</p> <p>9 organize the share holding organization that has been</p> <p>10 proposed, and to have access -- and in order to</p> <p>11 access in the model of reorganization, the YPF Maxus</p> <p>12 group would have obtained to limit the taxing to the</p> <p>13 benefits -- to the earnings, and the minimum</p> <p>14 alternative tax on earnings made by Bolivia and</p> <p>15 Venezuela, and would eliminate the withholding of</p> <p>16 taxes on the earnings made in Ecuador and Indonesia.</p> <p>17 It would improve the taxing -- it would</p> <p>18 have a benefit on the use of the taxes.</p> <p>19 INTERPRETER: I'm lost.</p> <p>20 MS. BLANCO: Wait.</p> <p>21 A. To improve -- to improve how the taxes</p> <p>22 on the debts would be used.</p> <p>23 MS. BLANCO: Objection to translation.</p> <p>24 INTERPRETER: I'm having problem with</p> <p>25 the meaning.</p>	<p>1 G. Leiva</p> <p>2 point three references that Maxus currently possesses</p> <p>3 a tax loss that is not being sufficiently utilized.</p> <p>4 Is that one of the disadvantages that</p> <p>5 was being rectified by the new structure?</p> <p>6 INTERPRETER: Efficiently do you mean?</p> <p>7 MR. JACKSON: Efficiently utilized or</p> <p>8 sufficiently utilized.</p> <p>9 INTERPRETER: Sufficiently?</p> <p>10 MR. JACKSON: Sufficiently.</p> <p>11 A. It says here sufficiently.</p> <p>12 Q. Does the distinction have a difference</p> <p>13 to you? The idea is to, by restructuring, improve</p> <p>14 the use of the tax laws; is that correct?</p> <p>15 A. Of the tax laws?</p> <p>16 Q. Correct.</p> <p>17 A. Can I say something?</p> <p>18 Q. Yes, sir.</p> <p>19 A. This means that Maxus was a company that</p> <p>20 had lost a lot of money in the previous period and</p> <p>21 then tax wise it had losses. It wasn't paying taxes</p> <p>22 because it was having losses. Tax wise those losses</p> <p>23 can be used in the future to compensate future</p> <p>24 earnings otherwise you lose them.</p> <p>25 Then, the situation of Maxus at the time</p>

13 (Pages 209 to 212)

<p style="text-align: right;">Page 213</p> <p>1 G. Leiva</p> <p>2 of the restructuring and at the time of the purchase,</p> <p>3 it showed that it was not going to have a profit. It</p> <p>4 was not going to make money.</p> <p>5 Q. It was paying huge taxes, that is what</p> <p>6 made it unprofitable; isn't that true? In '94 and</p> <p>7 '95 Maxus' taxes were larger than its income?</p> <p>8 A. It was paying minimum taxes that even</p> <p>9 though it was having a loss -- it says in the bullet</p> <p>10 right here, even though there is a loss, Maxus has to</p> <p>11 pay the minimum alternative tax at the two percent</p> <p>12 rate on the results that it has abroad. Even though</p> <p>13 if globally it was losing money, it still paid taxes,</p> <p>14 and that became a tax loss that could be compensated</p> <p>15 in the future.</p> <p>16 Q. In 1993, '94 and '95, prior to paying</p> <p>17 taxes, isn't it true that Maxus made a net profit,</p> <p>18 but it was the taxes that caused it to lose money?</p> <p>19 A. I didn't say that.</p> <p>20 Q. I'm asking you that. I tell you what, I</p> <p>21 will find the document that will show that issue. We</p> <p>22 will come back to it.</p> <p>23 For purposes of this discussion on page</p> <p>24 217, the new structure that we're discussing is the</p> <p>25 creation of what is to become YPF International; is</p>	<p style="text-align: right;">Page 215</p> <p>1 G. Leiva</p> <p>2 A. That's correct.</p> <p>3 Q. By moving the operations associated with</p> <p>4 Bolivia, Venezuela, Java, Sumatra and Ecuador from</p> <p>5 Maxus to an international subsidiary of YPF, YPF was</p> <p>6 able to achieve increased earnings on those</p> <p>7 operations?</p> <p>8 A. By doing this transferring, the</p> <p>9 operations would not have -- would not improve their</p> <p>10 results.</p> <p>11 Q. I don't want to argue with you, and I'm</p> <p>12 not saying that it impacts the subsidiaries'</p> <p>13 operations. I'm saying that it maximizes the tax</p> <p>14 benefits and the dividends received by YPF; is that</p> <p>15 true?</p> <p>16 MS. BLANCO: Objection to the form. You</p> <p>17 can answer.</p> <p>18 A. It improved the dividends and the tax</p> <p>19 benefits would not be for YPF, but for YPF</p> <p>20 International.</p> <p>21 Q. YPF International was a wholly owned</p> <p>22 subsidiary of YPF?</p> <p>23 A. That's not right. YPF International was</p> <p>24 a 100 percent subsidiary of YPF.</p> <p>25 Q. Correct. Did the movement of the</p>
<p style="text-align: right;">Page 214</p> <p>1 G. Leiva</p> <p>2 that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. It is the transfer of the foreign</p> <p>5 operations once held by Maxus to that company, YPF</p> <p>6 International?</p> <p>7 A. The transfer of Bolivia and Venezuela,</p> <p>8 yes.</p> <p>9 Q. What transfer is contemplated with</p> <p>10 respect to the Indonesian assets?</p> <p>11 A. The assets of Indonesia -- it was</p> <p>12 considered that the Indonesian assets would be sold</p> <p>13 from Maxus Indonesia Corporation -- no, Maxus Energy</p> <p>14 Corporation to another affiliated company of YPF</p> <p>15 International.</p> <p>16 Q. And that holding company was a Dutch</p> <p>17 subsidiary; is that correct?</p> <p>18 A. YPF International subsidiary. YPF</p> <p>19 International finally had a subsidiary in Holland.</p> <p>20 Q. Yes.</p> <p>21 A. And the Indonesia operation would be a</p> <p>22 subsidiary of the Holland company.</p> <p>23 Q. The Indonesian assets, Sumatra and Java,</p> <p>24 as well as the former operations of Maxus Ecuador</p> <p>25 were transferred to that company; is that correct?</p>	<p style="text-align: right;">Page 216</p> <p>1 G. Leiva</p> <p>2 operations -- scratch that. Sorry.</p> <p>3 Was it a goal of this corporate</p> <p>4 reorganization to improve the operational results of</p> <p>5 Maxus Energy?</p> <p>6 A. I don't know if it was the goal, but it</p> <p>7 happened -- but that's what happened in reality, in</p> <p>8 practice.</p> <p>9 Q. Maxus' foreign operations, its best</p> <p>10 assets, were all moved to YPF International; is that</p> <p>11 true?</p> <p>12 A. No, the best asset that it had was</p> <p>13 Midgard.</p> <p>14 Q. That was sold in 1999, true?</p> <p>15 A. That's correct.</p> <p>16 Q. This restructuring from 1996 to 1998 all</p> <p>17 of the foreign operations of Maxus were removed from</p> <p>18 the company; is that true?</p> <p>19 MS. BLANCO: Objection to form.</p> <p>20 MR. CROUT: Objection to form.</p> <p>21 A. We would have to define the term remove</p> <p>22 because actually they were purchased and they were</p> <p>23 purchased at a fair market value.</p> <p>24 MR. JACKSON: Objection, non-responsive.</p> <p>25 Q. All I'm asking is by this restructuring,</p>

14 (Pages 213 to 216)

# **EXHIBIT 29**

2. Disadvantages of the current organizational structure:

- When Maxus pays dividends to YPF, it must withhold 30% as income tax. This withholding is done on the total dividends, despite the possibility that they were generated by results obtained in other countries. The only way to avoid the withholding is by complying with the 80/20 test, which means that if at least 80% of the Maxus income comes from sources outside the United States, the withholding is applied only on the dividends originating from income within the United States. The need to ensure compliance with the test is one of the reasons driving the reorganization.
- Indonesia has a favorable agreement to avoid double international taxation with Holland (Indonesia was a Dutch colony). The transfer of the Indonesian properties to a Dutch company would generate savings in the total tax base, obtained by the decrease in the percentage of income tax withholdings applicable to the payments made from Indonesia to Holland by application of the aforementioned agreement. Under the current structure the income from Maxus Indonesia would reach YPF with an effective rate of 71%. The projected changes would bring the rate to 53%.
- Further, Maxus currently has a tax loss, which is not being used efficiently under the existing structure. The losses generated in the United States were used to compensate for income from abroad, which in any event could have been compensated for with tax credits coming from taxes paid in the countries where it conducts activities.
- Despite having a tax loss, Maxus must pay the Alternative Minimum Tax. The rate is 2% on the results obtained abroad.
- Elimination of the international properties in the chain of United States holdings eliminates this charge.
- Maxus is currently being partially funded through issuance of preferred stock. This situation means it must pay dividends to those holding the shares. Payment of dividends does not authorize deduction thereof from US income tax.
- Lastly, Maxus must face claims due to problems with the environment, generally quite old in origin. The charges it must pay for these claims directly affect the Maxus results from operations. The spinoff of the company that will handle the environmental problems will allow for more appropriate measurement of the Maxus results from operations.

## 2) Desventajas de la estructura organizativa actual:

- Cuando Maxus pague dividendos a YPF, deberá retener 30% en concepto de impuesto de impuesto a las ganancias. Esta retención se efectúa sobre el total de los dividendos, a pesar de que parte de ellos fueron generados por resultados obtenidos en otros países. La única forma de evitar la retención es cumpliendo el test 80/20, que significa que si al menos el 80% de las ganancias de Maxus provienen de fuentes fuera de Estados Unidos, la retención se aplica sólo sobre los dividendos cuyo origen fueron ganancias dentro de Estados Unidos. La necesidad de asegurar el cumplimiento del test es uno de los motivos que impulsa la reorganización.
- Indonesia posee un favorable convenio para evitar la doble imposición internacional con Holanda (Indonesia fue una colonia holandesa). La transferencia de las propiedades Indonecias a una compañía de Holanda generaría ahorros en el costo impositivo total, obtenidos por la disminución del porcentaje de retención de impuesto a las ganancias aplicables a los pagos que se hagan de Indonesia a Holanda por aplicación del citado convenio. Bajo la estructura actual las ganancias de Maxus Indonesia llegarían a YPF con una tasa efectiva del 71 %. Los cambios proyectados elevarán la tasa al 53 %.
- Además, Maxus posee en la actualidad un quebranto impositivo, el que no está siendo eficientemente utilizado bajo la actual estructura. Las pérdidas que ha venido generando en Estados Unidos fueron utilizadas para compensar ganancias del exterior, que podrían haber sido de todos modos compensadas con "tax credits" provenientes de impuestos pagados en los países donde desarrolla actividades.
- A pesar de poseer quebranto impositivo, Maxus debe pagar el Impuesto Mínimo Alternativo. La tasa es del 2% sobre los resultados obtenidos en el exterior. La eliminación de las propiedades internacionales de la cadena de tenencias de Estados Unidos logra eliminar este cargo.
- En la actualidad Maxus está parcialmente financiado a través de la emisión de acciones preferidas. Esta situación genera que deba pagar dividendos a los tenedores de las acciones. El pago de dividendos no habilita a la deducción de los mismos en el impuesto a las ganancias norteamericano.
- Por último, Maxus debe enfrentar reclamos provenientes de problemas de medio ambiente cuyo origen es en general muy antiguo. Los cargos que se deben pagar por estos reclamos afectan directamente los resultados operativos de Maxus. La escisión de la compañía que administrará los problemas ambientales permitirá una mas adecuada medición del resultado operativo de Maxus.

# **EXHIBIT 30**



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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.  
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1177 Avenue of the Americas  
New York, New York

September 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 213

1 G. Leiva  
 2 of the restructuring and at the time of the purchase,  
 3 it showed that it was not going to have a profit. It  
 4 was not going to make money.  
 5 Q. It was paying huge taxes, that is what  
 6 made it unprofitable; isn't that true? In '94 and  
 7 '95 Maxus' taxes were larger than its income?  
 8 A. It was paying minimum taxes that even  
 9 though it was having a loss -- it says in the bullet  
 10 right here, even though there is a loss, Maxus has to  
 11 pay the minimum alternative tax at the two percent  
 12 rate on the results that it has abroad. Even though  
 13 if globally it was losing money, it still paid taxes,  
 14 and that became a tax loss that could be compensated  
 15 in the future.  
 16 Q. In 1993, '94 and '95, prior to paying  
 17 taxes, isn't it true that Maxus made a net profit,  
 18 but it was the taxes that caused it to lose money?  
 19 A. I didn't say that.  
 20 Q. I'm asking you that. I tell you what, I  
 21 will find the document that will show that issue. We  
 22 will come back to it.  
 23 For purposes of this discussion on page  
 24 217, the new structure that we're discussing is the  
 25 creation of what is to become YPF International; is

Page 214

1 G. Leiva  
 2 that correct?  
 3 A. That's correct.  
 4 Q. It is the transfer of the foreign  
 5 operations once held by Maxus to that company, YPF  
 6 International?  
 7 A. The transfer of Bolivia and Venezuela,  
 8 yes.  
 9 Q. What transfer is contemplated with  
 10 respect to the Indonesian assets?  
 11 A. The assets of Indonesia -- it was  
 12 considered that the Indonesian assets would be sold  
 13 from Maxus Indonesia Corporation -- no, Maxus Energy  
 14 Corporation to another affiliated company of YPF  
 15 International.  
 16 Q. And that holding company was a Dutch  
 17 subsidiary; is that correct?  
 18 A. YPF International subsidiary. YPF  
 19 International finally had a subsidiary in Holland.  
 20 Q. Yes.  
 21 A. And the Indonesia operation would be a  
 22 subsidiary of the Holland company.  
 23 Q. The Indonesian assets, Sumatra and Java,  
 24 as well as the former operations of Maxus Ecuador  
 25 were transferred to that company; is that correct?

Page 215

1 G. Leiva  
 2 A. That's correct.  
 3 Q. By moving the operations associated with  
 4 Bolivia, Venezuela, Java, Sumatra and Ecuador from  
 5 Maxus to an international subsidiary of YPF, YPF was  
 6 able to achieve increased earnings on those  
 7 operations?  
 8 A. By doing this transferring, the  
 9 operations would not have -- would not improve their  
 10 results.  
 11 Q. I don't want to argue with you, and I'm  
 12 not saying that it impacts the subsidiaries'  
 13 operations. I'm saying that it maximizes the tax  
 14 benefits and the dividends received by YPF; is that  
 15 true?  
 16 MS. BLANCO: Objection to the form. You  
 17 can answer.  
 18 A. It improved the dividends and the tax  
 19 benefits would not be for YPF, but for YPF  
 20 International.  
 21 Q. YPF International was a wholly owned  
 22 subsidiary of YPF?  
 23 A. That's not right. YPF International was  
 24 a 100 percent subsidiary of YPF.  
 25 Q. Correct. Did the movement of the

Page 216

1 G. Leiva  
 2 operations -- scratch that. Sorry.  
 3 Was it a goal of this corporate  
 4 reorganization to improve the operational results of  
 5 Maxus Energy?  
 6 A. I don't know if it was the goal, but it  
 7 happened -- but that's what happened in reality, in  
 8 practice.  
 9 Q. Maxus' foreign operations, its best  
 10 assets, were all moved to YPF International; is that  
 11 true?  
 12 A. No, the best asset that it had was  
 13 Midgard.  
 14 Q. That was sold in 1999, true?  
 15 A. That's correct.  
 16 Q. This restructuring from 1996 to 1998 all  
 17 of the foreign operations of Maxus were removed from  
 18 the company; is that true?  
 19 MS. BLANCO: Objection to form.  
 20 MR. CROUT: Objection to form.  
 21 A. We would have to define the term remove  
 22 because actually they were purchased and they were  
 23 purchased at a fair market value.  
 24 MR. JACKSON: Objection, non-responsive.  
 25 Q. All I'm asking is by this restructuring,

# **EXHIBIT 31**

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 24 as well as the former operations of Maxus Ecuador  
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 22 because actually they were purchased and they were  
 23 purchased at a fair market value.  
 24 MR. JACKSON: Objection, non-responsive.  
 25 Q. All I'm asking is by this restructuring,

Page 217

1 G. Leiva  
 2 were the foreign operations of Maxus transferred to  
 3 other wholly owned subsidiaries of YPF?  
 4 MS. BLANCO: Objection, form. You can  
 5 answer it.  
 6 MR. CROUT: Same objection.  
 7 A. Yes, they were transferred at a fair  
 8 market value.  
 9 MR. JACKSON: Object to that portion  
 10 after "yes, they were transferred" as non-responsive.  
 11 Q. I'm not asking about value right now.  
 12 All I'm asking is whether or not they were  
 13 transferred.  
 14 MS. BLANCO: Objection to the form.  
 15 MR. CROUT: Same objection.  
 16 A. By transfer do you mean sale?  
 17 Q. No, I do not.  
 18 A. The operations were sold, not  
 19 transferred.  
 20 Q. We'll get into the details of those  
 21 transactions in a moment.  
 22 One of the benefits to the new structure  
 23 is elimination of tax withholding on earnings  
 24 generated by Bolivia and Venezuela; do you see that?  
 25 A. Yes, that's correct.

Page 218

1 G. Leiva  
 2 Q. Another benefit below that is the  
 3 elimination of the tax withholding on income obtained  
 4 from Ecuador and Indonesia; is that correct?  
 5 A. That's correct.  
 6 Q. If you look to the next bullet beneath  
 7 the one we've been discussing it states basically  
 8 that this restructuring divides the current Maxus  
 9 into four areas; is that correct?  
 10 A. Yes.  
 11 Q. Section C there states that Chemical  
 12 Land Holdings is one of those four areas which will  
 13 manage environmental problems and will eventually  
 14 carry out environmental cleanup services essentially;  
 15 is that correct? Is that what it states?  
 16 A. That's correct.  
 17 Q. Is that Tierra Solutions is all I was  
 18 going to ask you.  
 19 MS. BLANCO: Hold on. I want the  
 20 witness to complete his answer before the next  
 21 question.  
 22 A. I just wanted to say that Chemical Land  
 23 Holdings is the name of the company and interpreter  
 24 should not have to translate to that.  
 25 Q. Where it refers to Chemical Land

Page 219

1 G. Leiva  
 2 Holdings, that's the company that today is known as  
 3 Tierra Solutions; is that correct?  
 4 A. That's correct.  
 5 Q. Can you turn to page 218, please. What  
 6 is this slide entitled, this page?  
 7 A. Restructuring Process.  
 8 Q. And underneath that?  
 9 A. Steps to be done.  
 10 Q. What does the first bullet point say?  
 11 A. The board of YPF and Maxus board members  
 12 must approve the rescue of preferred shares with a  
 13 dividend of -- \$4 dividend, a restructuring plan for  
 14 Maxus division of the environmental company,  
 15 separation, split, restructuring of the debts.  
 16 Q. All of these things are part of the  
 17 larger plan for restructuring?  
 18 A. All these are part of the restructuring.  
 19 Q. What does the fourth bullet say?  
 20 A. To create a new holding company  
 21 offshore. To create a new offshore holding company,  
 22 and a new holding company for Maxus and CLH in the  
 23 U.S. or to use one that is already in existence.  
 24 Q. What does the seventh bullet point say?  
 25 A. To channel Indonesian operations through

Page 220

1 G. Leiva  
 2 Holland companies.  
 3 Q. These steps are all part of a larger  
 4 plan to restructure the international operations of  
 5 YPF; is that correct?  
 6 A. Repeat.  
 7 (The requested portion was read.)  
 8 A. This is the plan. There is not a larger  
 9 plan, any other larger plan.  
 10 Q. This is the plan?  
 11 A. This is the plan.  
 12 Q. This is, in fact, essentially what  
 13 transpired?  
 14 A. Yes. The only thing is that it was not  
 15 called YPF Maxus International, only YPF  
 16 International.  
 17 Q. Can you look at page 219 with me,  
 18 please. Does this indicate that the debt  
 19 restructuring was necessary to allow the movement of  
 20 Maxus' assets because its creditors could essentially  
 21 prevent the transaction?  
 22 A. The preferred asset had a clause in  
 23 which the sale of assets was conditioned --  
 24 MS. BLANCO: Objection to the  
 25 translation. "Preferred shareholders."

15 (Pages 217 to 220)

Page 245

1 G. Leiva  
 2 capital -- if the capital contribution would have  
 3 been directly from YPF to YPF Holdings, that would  
 4 have made YPF as a direct shareholder of YPF  
 5 Holdings. Do you understand that?  
 6 Q. No. If YPF wants to transfer the stock  
 7 of Maxus to YPF Holdings, on day one YPF holds the  
 8 stock of Maxus, on day two YPF Holdings holds the  
 9 stock of Maxus.  
 10 A. But YPF would have the stock of YPF  
 11 Holdings.  
 12 Q. Why wouldn't YPF International still  
 13 hold the stock of YPF Holdings?  
 14 A. We have shares right here. If the  
 15 contribution -- if YPF would have made the  
 16 contribution to YPF Holdings in this transaction,  
 17 then YPF would be holding shares from YPF Holdings.  
 18 Q. There's another side to the transaction.  
 19 In exchange for the contribution of the shares of  
 20 Maxus to YPF International, did YPF International  
 21 give shares in itself to YPF?  
 22 A. That's what a capital contribution is  
 23 about.  
 24 Q. So, the shares go back to YPF? I'm  
 25 sorry, the shares of YPF International.

Page 246

1 G. Leiva  
 2 A. In this case YPF International is the  
 3 issuer.  
 4 Q. I'm sorry. I understand now. So, as  
 5 reflected on Plaintiffs' Exhibit 67, the two steps of  
 6 the transaction were -- step one was that YPF made a  
 7 capital contribution of the shares of Maxus to YPF  
 8 International. By doing so it obtained 100 percent  
 9 of the ownership interest. It was the only capital  
 10 in YPF International.  
 11 A. It already had the 100 percent ownership  
 12 interest. The only thing that it makes is it  
 13 increases the assets of YPF International.  
 14 Q. Okay. I understand.  
 15 A. The operation could have been, now I  
 16 think, the contribution from YPF to YPF Holdings and  
 17 then the contribution from YPF to YPF International  
 18 of the YPF Holdings' shares would have been the same  
 19 thing.  
 20 Q. The point was to get the international  
 21 operations into YPF International?  
 22 A. All of them. That one was approved.  
 23 Q. The final entry then on this page,  
 24 August 14, 1996 there's a stock purchase and sale  
 25 agreement whereby Maxus Corporate Company sold the

Page 247

1 G. Leiva  
 2 stock of Chemical Land Holdings, Inc., which is  
 3 Tierra, to YPF Holdings?  
 4 A. Yes, in this case it's not a capital  
 5 contribution, but it's a sale because they were third  
 6 parties from Paris that could have been affected with  
 7 the disposition of any asset.  
 8 Q. How much did YPF Holdings pay for  
 9 Tierra?  
 10 A. I don't know, but I don't think it was  
 11 much because it only had liabilities.  
 12 Q. It had assets and real property?  
 13 A. Chemical Land Holdings? At that time I  
 14 didn't have knowledge.  
 15 Q. We're talking about Tierra Solutions,  
 16 correct?  
 17 A. Yes, we're talking about the  
 18 environmental company.  
 19 Q. Right. It owns 80 and 120 Lister Avenue  
 20 in New Jersey?  
 21 A. Okay. That's fine. I'm not an expert  
 22 on that. I'm not an expert in property business.  
 23 MS. BLANCO: No. Wait. Objection to  
 24 the translation.  
 25 A. I'm not an expert in the business of

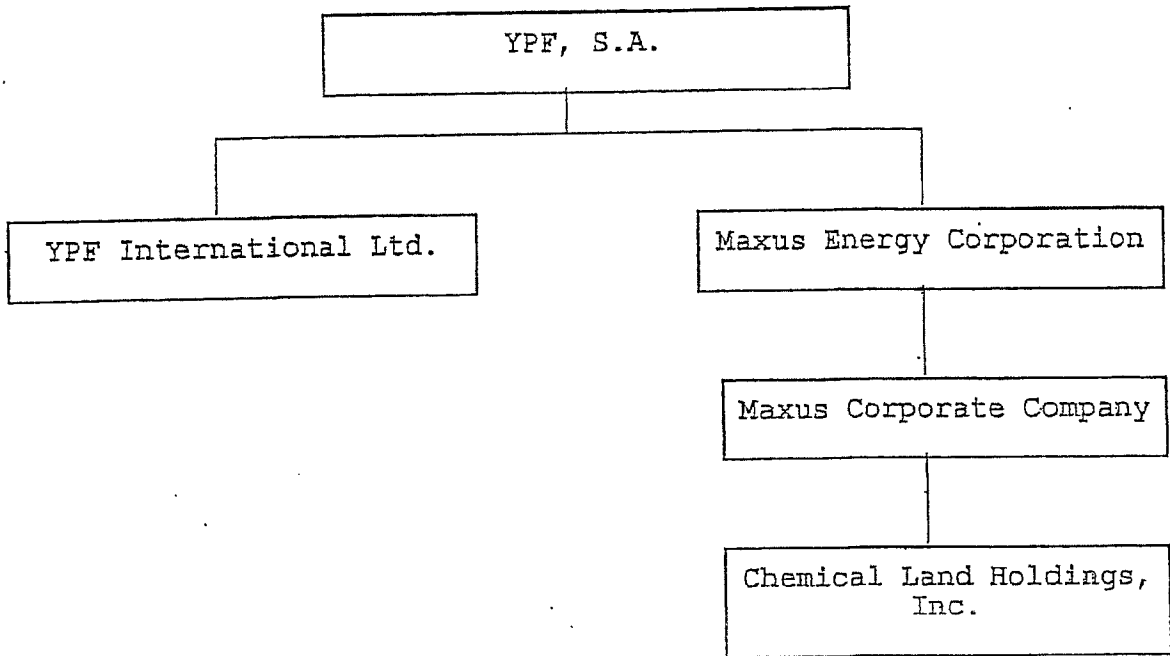
Page 248

1 G. Leiva  
 2 earth -- of Tierra or Chemical.  
 3 VIDEOGRAPHER: Five minutes on the tape.  
 4 Q. I'm not asking you to testify as an  
 5 expert, just as the corporate representative on these  
 6 restructurings.  
 7 A. Okay.  
 8 Q. You testified earlier, at least with  
 9 respect to the assets sales, each and every one was  
 10 with a valuation and transferred at fair market  
 11 value?  
 12 A. Yes, that's correct. This is what is  
 13 going on in this transference.  
 14 Q. What was the value assigned to Tierra  
 15 Solutions?  
 16 A. I do not know.  
 17 Q. What did YPF Holdings pay for Tierra  
 18 Solutions?  
 19 A. I do not know. You can ask YPF  
 20 Holdings' representative.  
 21 Q. I'm here asking you as the corporate  
 22 representative of the ultimate parent, YPF.  
 23 A. I do not know.  
 24 Q. Would Carlos Olivieri have superior  
 25 knowledge on this topic?

# **EXHIBIT 32**



Corporate Structure  
(Before 8/1/96)



before.ypf

YPFH 532

# **EXHIBIT 33**

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Page 205	Page 207
<p>1 G. Leiva</p> <p>2 answer it.</p> <p>3 A. They would be financial benefits if</p> <p>4 dividends would have been paid, something that never</p> <p>5 happened, because those companies always were in need</p> <p>6 of inflow of capital, capital inflow.</p> <p>7 MR. JACKSON: Objection, non-responsive.</p> <p>8 Q. The identified disadvantage to the</p> <p>9 structure of Maxus' operations was that it had to pay</p> <p>10 American taxes on foreign operations; is that</p> <p>11 correct?</p> <p>12 A. No. It had to pay a retention on the</p> <p>13 dividends paid by Maxus outside of the United States,</p> <p>14 but not on the earnings of the foreign company. That</p> <p>15 means the earnings of the foreign companies, once</p> <p>16 they get to Maxus, did not pay U.S. taxes, but if</p> <p>17 Maxus would pay dividends to its parent company</p> <p>18 outside of the United States, then there would be a</p> <p>19 holding, a withholding.</p> <p>20 Q. I understand. Can you look at the final</p> <p>21 bullet point on page 214, sir.</p> <p>22 Does this indicate that another</p> <p>23 disadvantage of Maxus' organizational structure was</p> <p>24 that claims from historical environmental problems</p> <p>25 are directly impacting Maxus' operational results?</p>	<p>1 G. Leiva</p> <p>2 A. Most definitely.</p> <p>3 Q. Do you know what that team was looking</p> <p>4 at in considering?</p> <p>5 A. The purposes that are being stated in</p> <p>6 this presentation.</p> <p>7 Q. What does the next bullet point say,</p> <p>8 sir?</p> <p>9 A. Consultation with international experts,</p> <p>10 including among them Andrews &amp; Kurth; Arthur</p> <p>11 Andersen; Marval, O'Farrell and Mairal.</p> <p>12 Q. Who at Andrews &amp; Kurth was consulted?</p> <p>13 A. You want to know the person?</p> <p>14 Q. Yes, I do.</p> <p>15 A. I don't know. I can tell you the names</p> <p>16 of the people at Andrews &amp; Kurth who has relations</p> <p>17 with YPF, but for these I do not know.</p> <p>18 Q. At the time of this presentation, was</p> <p>19 Mr. Wadsworth with Andrews &amp; Kurth, or was he with</p> <p>20 Maxus?</p> <p>21 MR. CROUT: Objection to form.</p> <p>22 A. He was with Maxus.</p> <p>23 Q. Who at Arthur Andersen was consulted?</p> <p>24 A. The partner in the account with YPF it</p> <p>25 was -- it's a retired partner. I do not remember.</p>
Page 206	Page 208
<p>1 G. Leiva</p> <p>2 A. Yes, it says that, but it's not a</p> <p>3 disadvantage of the structure because the change in</p> <p>4 the structure from the company doesn't change</p> <p>5 anything.</p> <p>6 In face of the operational results of</p> <p>7 the American companies, what the purpose was to</p> <p>8 separate the activities, the operational activities</p> <p>9 of Maxus from the environmental claims to clean Maxus</p> <p>10 from results that did not belong to its operation,</p> <p>11 and that would improve its operational results,</p> <p>12 Maxus' operational results, facing better results and</p> <p>13 having a better position before its debt and its debt</p> <p>14 holders.</p> <p>15 Q. What is the title of page 215?</p> <p>16 A. Restructure Process.</p> <p>17 Q. Below that?</p> <p>18 A. Steps Done.</p> <p>19 Q. What does the first bullet point say?</p> <p>20 A. "Creation of the team integrated by</p> <p>21 Maxus and YPF officers for its analysis."</p> <p>22 Q. Who is on that team?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you believe Mr. Olivieri was on that</p> <p>25 team?</p>	<p>1 G. Leiva</p> <p>2 If we can see a 20-F. I hated him so much I forgot</p> <p>3 his name. Jose Bugallo.</p> <p>4 Q. Was Dexter Peacock involved for Andrews</p> <p>5 &amp; Kurth?</p> <p>6 A. He was the partner with Andrews &amp; Kurth</p> <p>7 who was in charge of the YPF account. I don't know</p> <p>8 if he had anything to do with this inquiry, but he</p> <p>9 was the person who also worked in YPF on other issues</p> <p>10 like the preparation of 20-F.</p> <p>11 Q. What type of firm is Marval, O'Farrell &amp;</p> <p>12 Mairal?</p> <p>13 A. It's a company of Argentinian attorneys.</p> <p>14 A legal firm.</p> <p>15 Q. The third bullet on this page references</p> <p>16 benchmarking, is that a fair translation?</p> <p>17 A. Benchmarking is a universal term.</p> <p>18 Q. What is meant by that universal term of</p> <p>19 benchmarking?</p> <p>20 A. You use this term when you are comparing</p> <p>21 with similar peers.</p> <p>22 Q. In terms of the restructuring process,</p> <p>23 the steps that had been fulfilled, what benchmarking</p> <p>24 had been done?</p> <p>25 A. I don't know. I imagine two things.</p>

# **EXHIBIT 34**

## 2. Disadvantages of the current organizational structure:

- When Maxus pays dividends to YPF, it must withhold 30% as income tax. This withholding is done on the total dividends, despite the possibility that they were generated by results obtained in other countries. The only way to avoid the withholding is by complying with the 80/20 test, which means that if at least 80% of the Maxus income comes from sources outside the United States, the withholding is applied only on the dividends originating from income within the United States. The need to ensure compliance with the test is one of the reasons driving the reorganization.
- Indonesia has a favorable agreement to avoid double international taxation with Holland (Indonesia was a Dutch colony). The transfer of the Indonesian properties to a Dutch company would generate savings in the total tax base, obtained by the decrease in the percentage of income tax withholdings applicable to the payments made from Indonesia to Holland by application of the aforementioned agreement. Under the current structure the income from Maxus Indonesia would reach YPF with an effective rate of 71%. The projected changes would bring the rate to 53%.
- Further, Maxus currently has a tax loss, which is not being used efficiently under the existing structure. The losses generated in the United States were used to compensate for income from abroad, which in any event could have been compensated for with tax credits coming from taxes paid in the countries where it conducts activities.
- Despite having a tax loss, Maxus must pay the Alternative Minimum Tax. The rate is 2% on the results obtained abroad.
- Elimination of the international properties in the chain of United States holdings eliminates this charge.
- Maxus is currently being partially funded through issuance of preferred stock. This situation means it must pay dividends to those holding the shares. Payment of dividends does not authorize deduction thereof from US income tax.
- Lastly, Maxus must face claims due to problems with the environment, generally quite old in origin. The charges it must pay for these claims directly affect the Maxus results from operations. The spinoff of the company that will handle the environmental problems will allow for more appropriate measurement of the Maxus results from operations.

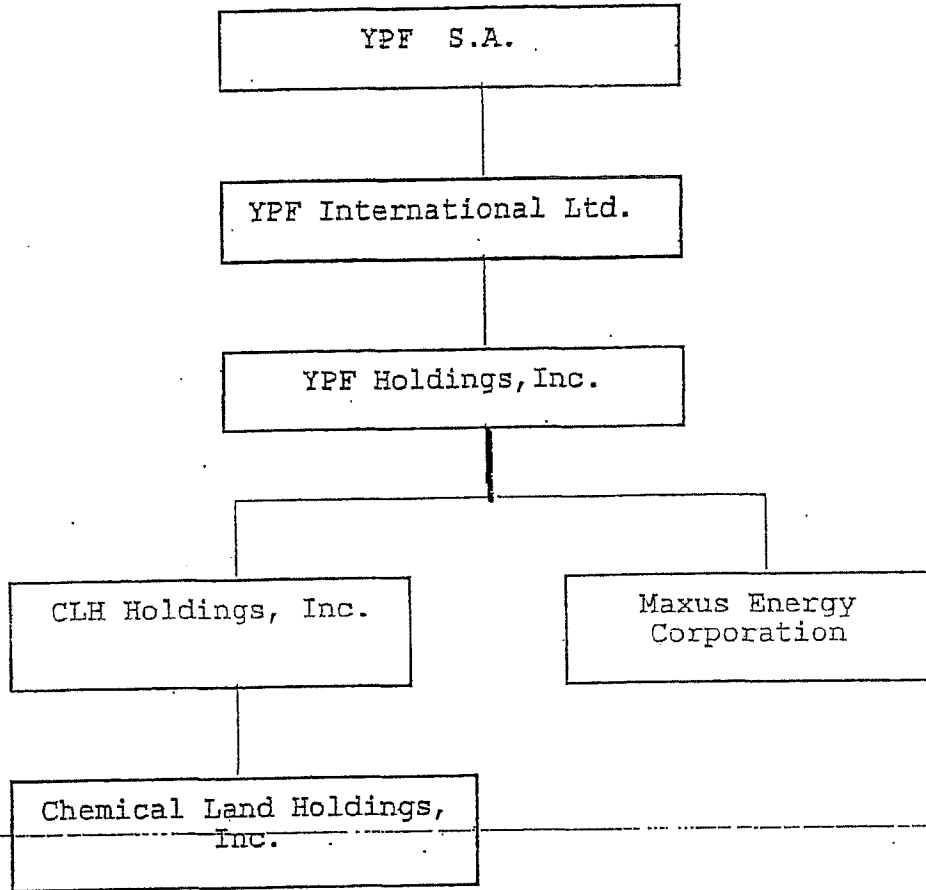
## 2) Desventajas de la estructura organizativa actual:

- Cuando Maxus pague dividendos a YPF, deberá retener 30% en concepto de impuesto a las ganancias. Esta retención se efectúa sobre el total de los dividendos, a pesar de que parte de ellos fueron generados por resultados obtenidos en otros países. La única forma de evitar la retención es cumpliendo el test 80/20, que significa que si al menos el 80% de las ganancias de Maxus provienen de fuentes fuera de Estados Unidos, la retención se aplica sólo sobre los dividendos cuyo origen fueron ganancias dentro de Estados Unidos. La necesidad de asegurar el cumplimiento del test es uno de los motivos que impulsa la reorganización.
- Indonesia posee un favorable convenio para evitar la doble imposición internacional con Holanda (Indonesia fue una colonia holandesa). La transferencia de las propiedades Indonesias a una compañía de Holanda generaría ahorros en el costo impositivo total, obtenidos por la disminución del porcentaje de retención de impuesto a las ganancias aplicables a los pagos que se hagan de Indonesia a Holanda por aplicación del citado convenio. Bajo la estructura actual las ganancias de Maxus Indonesia llegarían a YPF con una tasa efectiva del 71 %. Los cambios proyectados elevarán la tasa al 53 %.
- Además, Maxus posee en la actualidad un quebranto impositivo, el que no está siendo eficientemente utilizado bajo la actual estructura. Las pérdidas que ha venido generando en Estados Unidos fueron utilizadas para compensar ganancias del exterior, que podrían haber sido de todos modos compensadas con "tax credits" provenientes de impuestos pagados en los países donde desarrolla actividades.
- A pesar de poseer quebranto impositivo, Maxus debe pagar el Impuesto Mínimo Alternativo. La tasa es del 2% sobre los resultados obtenidos en el exterior. La eliminación de las propiedades internacionales de la cadena de tenencias de Estados Unidos logra eliminar este cargo.
- En la actualidad Maxus está parcialmente financiado a través de la emisión de acciones preferidas. Esta situación genera que deba pagar dividendos a los tenedores de las acciones. El pago de dividendos no habilita a la deducción de los mismos en el impuesto a las ganancias norteamericano.
- Por último, Maxus debe enfrentar reclamos provenientes de problemas de medio ambiente cuyo origen es en general muy antiguo. Los cargos que se deben pagar por estos reclamos afectan directamente los resultados operativos de Maxus. La escisión de la compañía que administrará los problemas ambientales permitirá una mas adecuada medición del resultado operativo de Maxus.

# **EXHIBIT 35**



Corporate Structure  
(Effective 8/1/96)



after2.ypf

YPFH 533

# **EXHIBIT 36**

Next, the President submits for consideration the FOURTH POINT OF ORDER OF THE DAY: "Finance Committee: Restructuring of International Activities."

The President states that as a result of the analyses conducted, it has been concluded that it is in the interest of the company to adopt actions toward the goal of maximizing the operational, legal, and fiscal efficiency of the Corporation's international operations. To this end, a reorganization proposal has been created, which, among other measures, addresses the creation of new holding corporations to which

packets of shares of Maxus and its subsidiaries operating in Bolivia and Venezuela will be transferred; an indirect subsidiary of YPF Inc. will assume the environmental obligations of Maxus; and YPF Inc. agrees to supply funds to that corporation up to a certain cap amount. The President concludes by saying that the matter was analyzed by the Finance Committee, which raised a resolution proposal. After an exchange of opinions, THE BOARD OF DIRECTORS RESOLVES:

- 1) To approve the Maxus Energy Corp. restructuring plan, whereof the details are filed in the special register of attachments to the minutes of the Board of Directors, signed by Board Members Cameron and Manning.
- 2) To authorize Mr. Nells Leon, Miguel Madanes, Roberto Monti, Norberto Noblia, Cedric Bridger, Carlos Olivieri, and Carlos Felices, acting individually and indistinctly, to carry out all acts and to sign all documents necessary for the foregoing approved actions.

The President proposes that redaction of the minutes of this meeting begin in the intermediate room, which is unanimously approved. At 11:15, the session was reconvened with the presence of the persons named at the beginning

Segundamente, el Sr. Presidente somete a consideración EL CUARTO PUNTO DEL ORDEN DEL DIA: "Comité de Finanzas: reestructuración de las actividades Internacionales".

Informa el Sr. Presidente que como resultado de los análisis efectuados se ha concluido la conveniencia empresada de adoptar acciones con el objetivo de maximizar la eficiencia operativa, legal y fiscal de las operaciones Internacionales de la Sociedad. A tales efectos se ha elaborado una propuesta de reorganización que contempla, entre otras medidas, la creación de nuevas sociedades holdings a las que

se les transferirán los paquetes accionarios de Maxus y de las subsidiarias de Maxus que realizan operaciones en Bolivia y Venezuela, la sujeción por parte de una subsidiaria indirecta de YPF S.A. de las obligaciones ambientales de Maxus y el compromiso de YPF S.A. de suministrar fondos a dicha sociedad hasta un tope determinado. Concluye diciendo el Sr. Presidente que el tema fue analizado por el Comité de Finanzas, el que ha elevado una propuesta de resolución. Luego de un intercambio de opiniones EL DIRECTORIO RESUELVE:

1º) Aprobar el plan de reestructuración de Maxus Energy Corp. cuyo detalle se archiva en el registro especial de anexos de actas de Directorio, suscripto por los Directores Stes. Cameron y Manning.

2º) Autorizar a los Sres. Nelsa León, Miguel Madanes, Roberto Monti, Norberto Tobía, Cedric Brüsger, Carlos Olivieri y Carlos Felices para que, actuando en forma individual e indistinta, cualesquiera de ellos, realicen todos los actos y suscriban todos los documentos que sean necesarios para el cumplimiento de las acciones aprobadas precedentemente.

El Sr. Presidente propone pasar a cuarto intermedio para que se proceda a redactar el acta de la presente reunión, lo cual se aprueba por unanimidad. Siendo las 11 y 15 horas, se reanuda la sesión con la presencia de las personas nombradas al comienzo y

# **EXHIBIT 37**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 221

1 G. Leiva  
2 A. The preferred assets had a clause -- the  
3 preferred shares. The preferred shares had a clause  
4 that conditioned its payment -- trigger its payment.  
5 There was a clause that put a condition on the sale  
6 and it could trigger its payment.  
7 And besides, the facilities being given  
8 to the Indonesian companies had been given by a  
9 company structure and that would mean they would have  
10 to structure that new debt according to the new  
11 structure, therefore, the general structure of the  
12 debt was a requisite that you had to consider with  
13 this new company structure.  
14 MR. JACKSON: I'm going to object as  
15 non-responsive and to the translation. I think it  
16 might be a matter of it being more clear.  
17 Q. Was there a provision in the preferred  
18 shares that required the creditors' consent to the  
19 restructuring plan?  
20 A. Yes.  
21 Q. What is meant by subsection C, page 219?  
22 A. I understand that those are the norms to  
23 be followed to transfer -- to evaluate the assets  
24 that are going to be transferred, the value.  
25 Definitely regarding the accounting proceedings,

Page 222

1 G. Leiva  
2 that's the way it is, and I believe this is also  
3 regarding the fiscal aspects.  
4 Q. What is meant by subsection D?  
5 A. That's a proceeding issue. As I  
6 understand, in the United States the tax report is  
7 made in a consolidated way of the group companies and  
8 once the split was done and with the restrictions,  
9 the fiscal deduction of the losses coming from  
10 environmental issues had to -- therefore, tax report  
11 had to be done and consolidated regarding the new  
12 holding company.  
13 Q. So, YPF Holdings, the group, could take  
14 advantage of the tax implications of the  
15 environmental expenditures?  
16 A. No.  
17 Q. What are you saying?  
18 A. Maxus had its profits on its operations  
19 and its losses, among other things, by the  
20 environmental charges.  
21 Q. Okay.  
22 A. By changing the structure you had in one  
23 company, the earnings by the operations, and in  
24 another company you would have the environmental  
25 losses. In a consolidated way, nothing changed.

Page 223

1 G. Leiva  
2 What it says is that the tax report  
3 would be done from a consolidated point of view.  
4 There are no changes.  
5 Q. For the entire group, which we referred  
6 to yesterday as the YPF American unit?  
7 A. Yes.  
8 Q. Is that what is meant by the last  
9 sentence in section one that states "to achieve this  
10 goal it becomes necessary for the new holding company  
11 of the United States properties to have given  
12 percentages of economic value and voting rights to  
13 its subsidiaries, a requirement that is met if the  
14 U.S. \$4 preferred shares are recovered"?  
15 A. Not exactly. I do not exactly know what  
16 this is talking about, referring to.  
17 Q. Let's do that again. What does the last  
18 sentence of the first full paragraph refer to?  
19 A. I really don't know what it refers to.  
20 I must refer to a tax requisite. I don't know about  
21 it.  
22 Q. Would that be a tax regulation or a  
23 requisite?  
24 A. Requisite. By what it says here, that's  
25 what I understand. It might be minor requisite. I

Page 224

1 G. Leiva  
2 do not really know about it.  
3 Q. If you look at the last page of this  
4 document, page YPF 220, what is that page entitled?  
5 A. Main advantage of the restructuring.  
6 Q. Do you disagree with any of the  
7 advantages identified there?  
8 A. Do you mean that if I do not agree that  
9 this is true, that this was true?  
10 Q. Do you disagree that the items on page  
11 YPF 220 are all advantages of the restructuring?  
12 A. I do not agree.  
13 MS. BLANCO: No.  
14 A. I do agree. You're going to object to  
15 my answer, but the third bullet is not an advantage,  
16 an economical advantage, but it's an advantage in  
17 presenting the results of Maxus Energy Corporation.  
18 Q. Okay. Globally speaking, what do you  
19 understand a goal of this restructuring to have been?  
20 A. Generally speaking, Maxus' structure  
21 made sense when the maximum level of the parent  
22 company -- it was an American company -- when the  
23 maximum level of the parent company went offshore it  
24 made no sense to have international operation go  
25 through the United States and that's what has been

16 (Pages 221 to 224)

# **EXHIBIT 38**

20-F 1 d20f.htm FORM 20-F

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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, 2004**

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  
C. 1035 AAC 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:

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
American Depositary Shares, each representing one Class D Share, par value 10 pesos per share Class D Shares	New York Stock Exchange New York Stock Exchange*
7 3/4% Notes due 2007	New York Stock Exchange

\* 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, 2004 was:

Class A Shares	3,764
Class B Shares	7,624
Class C Shares	1,475,704

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The Patagonian Association of Land-Owners (“ASSUPA”) sued the companies operating exploitation concessions and exploration permits in the Neuquén Basin—YPF being one of them—claiming the remediation of the general environmental damage purportedly caused in the execution of such activities and the implementation of measures allowing to prevent environmental damages in the future. The amount claimed is over Ps. 550 million (about US\$ 186 million). The plaintiff requested that the National Government (Secretary of Energy), the Federal Environmental Council (“Consejo Federal de Medio Ambiente”), the Provinces of Buenos Aires, La Pampa, Neuquén, Rio Negro and Mendoza and the Ombudsman of the Nation be summoned. It requested, as a preliminary injunction, that the defendants refrain from carrying out activities affecting the environment. Both the Ombudsman’s summons as well as the requested preliminary injunction were rejected by the Supreme Court of Justice of the Nation. Once the complaint was notified, YPF and the other defendants filed a motion to dismiss for failure of the plaintiff to state a claim upon which relief may be granted. If the court upholds the motion, one plaintiff will have to amend its complaint and describe the facts upon which its claim is based, identify its damages and establish a causal connection between the alleged facts and the damages. Due to the filing of this motion, the term to answer the complaint was suspended.

### *YPF International—YPF Holdings*

In the following discussion, references to YPF Holdings include, as appropriate, references to Maxus and TS, which as discussed above has assumed certain of Maxus’ obligations with respect to Chemicals.

The following is a brief description of certain potential environmental and other liabilities of Maxus, which mostly arise in connection with the sale of Chemicals to a subsidiary of Occidental in 1986. Under the stock purchase agreement related to that sale, Maxus assumed certain liabilities related to past operations of Chemicals.

TS has agreed to assume essentially all of Maxus’ aforesaid indemnity obligations to Occidental in respect of Chemicals.

As of December 31, 2004, YPF through YPF Holdings Inc. had established a reserve of approximately US\$ 98.3 million in respect of the environmental liabilities assumed under the stock purchase agreement. YPF believes that this reserve is adequate to cover all material contingencies to the extent that they are probable and reasonably estimable. Nevertheless, because such contingencies are inherently uncertain and circumstances, including the assessment of natural resources damages, requirements to conduct interim remedial measures and changes in remedial actions, could change, the projected amount of these liabilities may increase in the future.

*Newark, New Jersey.* TS, on behalf of Occidental, is performing work, conducting studies and responding to developments related to Chemicals’ former Newark agricultural chemicals plant, including the following:

- Pursuant to a consent decree agreed upon by the U.S. Environmental Protection Agency (“EPA”), the New Jersey Department of Environmental Protection (“DEP”) and Occidental, as successor to

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## Table of Contents

Chemicals, TS constructed the approved remedy at Chemicals' former plant and is awaiting the EPA's concurrence that the construction is complete. YPF has fully reserved for the estimated costs to complete the optimization phase and thereafter to conduct operation and maintenance of the remedy for approximately 10 years after January 1, 2005.

- Studies have indicated that sediments of the Newark Bay watershed, including the Passaic River adjacent to Chemicals' former plant, are contaminated with hazardous chemicals from many sources. Pursuant to an agreement with the EPA, TS is conducting studies of a six-mile portion of the Passaic River near the plant site. TS expects to complete these studies in 2005.
- The EPA and other agencies have undertaken a cooperative effort designated as the PRRP to address environmental issues in the lower portion of the Passaic River. TS has agreed, along with a number of other entities, to participate in a remedial investigation and feasibility study in connection with the PRRP.
- In 2003, the DEP issued a directive seeking to address natural resource damages allegedly resulting from almost 200 years of industrial and commercial development of the lower 17 miles of the Passaic River and a part of its watershed. The DEP has asserted jurisdiction in this matter even though all or part of the lower Passaic River has been designated a Superfund site and is a subject of the PRRP. TS, Maxus and the other named parties have filed responses to the directive which sets forth both how these parties are complying with DEP's directive.
- In February 2004, the EPA and Occidental entered into an administrative consent order regarding Newark Bay. Pursuant to this order, TS (on behalf of Occidental) has agreed to conduct testing and studies to characterize contaminated sediment and biota in the bay. The nature and scope of the testing and studies are subject to approval by the EPA.

As of December 31, 2004, a total of approximately US\$ 22 million was reserved in connection with these activities. Until the studies are completed and evaluated, YPF cannot estimate what additional costs, if any, will be required to be incurred with respect to these matters.

*Hudson County, New Jersey.* TS, on behalf of Occidental, is performing work, conducting studies and responding to developments related to Chemicals' former Kearny chromite ore processing chemicals plant, including the following:

- According to the DEP, chromite ore processing residue, including residue from Chemicals' former Kearny plant, was used as fill material at a number of sites in Hudson County. Pursuant to an administrative consent order between the DEP and Occidental (as successor to Chemicals), TS is performing investigation and remediation work at certain chrome sites in Kearny and Secaucus, New Jersey, and is providing financial assurance in the amount of US\$ 20 million. The total cost of remediation is uncertain.
- In June 2004, the DEP expressed a desire that a sediments testing program be conducted on a portion of the Hackensack River near the former Kearny plant. TS and other parties are engaged in discussions with the DEP regarding this issue.
- On May 3, 2005, the DEP undertook two actions in connection with chrome sites in Hudson and Essex Counties. First, it issued a directive to the alleged former chromium manufacturers, including Maxus and Occidental, directing them to arrange for the clean up of chromite ore processing residue at three sites in Jersey City and the conduct of a study by paying the DEP a total of US\$19.55 million. Second, the DEP filed a lawsuit against Occidental and two other entities in state court seeking, among other things, clean up of various sites where chromite ore processing residue is allegedly located, recovery of its past costs and, with respect to 18 sites, treble damages. YPF believes the directive and the lawsuit are without substantial merit, insofar as they name Maxus and/or Occidental.

As of December 31, 2004, a total of approximately US\$ 25.5 million was reserved in connection with these matters. Until the investigations and testing programs (if undertaken) are completed and evaluated, YPF cannot estimate what additional costs, if any, will be required to be incurred with respect to these matters.

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*Painesville, Ohio.* TS, on behalf of Occidental, is conducting remedial investigations and studies and performing other work related to Chemicals' former manufacturing facilities in Painesville, Ohio. Generally, this work is being done pursuant to a Director's Final Findings and Order ("Order") by consent, issued by the Ohio Environmental Protection Agency ("OEPA"). The OEPA has approved certain work under the Order, including remediation of a former cement plant and a former aluminum smelting plant, and other work is being conducted together with a developer for the possible development of portions of this site. As of December 31, 2004, YPF has reserved a total of approximately US\$ 9.6 million for its estimated share of the costs of such investigations, studies and work. The scope and nature of any further investigation, remediation or other work that may be required at this site cannot be presently determined.

*Greens Bayou, Texas.* Following the settlement of a lawsuit brought by the Port of Houston, the defendants agreed to arbitrate their respective obligations under the settlement. The initial award in that arbitration requires Maxus and TS, on behalf of Occidental as successor to Chemicals, to pay the other defendants approximately US\$26 million, plus possibly interest, and to pay approximately 70% of certain future remediation costs. In December 2004, Maxus and TS paid approximately US\$28 million into a trust account in respect of the cash portion of the award. Maxus, TS and Occidental have requested a review of the initial award as a part of the arbitration process and have separately challenged the award in a court proceeding. At December 31, 2004, reserves had been allocated in the amount of US\$31.2 million in connection with this contingency.

*Miscellaneous.* In addition to the foregoing, Maxus and/or TS are involved in the following matters:

- Occidental, as successor to Chemicals, has been designated as a potentially responsible party with respect to a number of third-party sites where hazardous substances from Chemicals' operations allegedly were disposed or have come to be located. At a number of these sites, the ultimate response cost and Chemicals' share of such costs cannot be estimated at this time. YPF has reserved approximately US\$3.7 million for its estimated share of costs related to these sites, where such costs are both probable and reasonably estimable.
- A subsidiary of Occidental filed a lawsuit in state court in Ohio seeking a declaration of the parties' rights with respect to obligations for certain costs allegedly related to Chemicals' Ashtabula, Ohio facility, as well as certain other costs.
- In 2002, a subsidiary of Occidental sued Maxus and TS in state court in Dallas, Texas seeking a declaration that Maxus and TS have an obligation to defend and indemnify it in respect of certain historical obligations of Chemicals relating to the manufacture of products in the past, notwithstanding the fact that (a) the stock purchase agreement contains a 12-year cut-off for defense and indemnity with respect to most litigation and (b) TS is not a party to the agreement. This matter is set for trial in late 2005.
- There are a number of other sites and matters for which Maxus has agreed to defend Occidental, as successor to Chemicals. However, none of these other sites or matters is currently expected to have a material adverse effect on YPF's financial position.

See also the heading "Environmental Matters—YPF Holdings" under "Item 4: Information on the Company" of this annual report for a description.

### **Dividends Policy**

See "Item 3: Key Information—Dividends" and "Item 10: Additional Information—Dividends."

### **ITEM 9. The Offer and Listing**

#### **New York Stock Exchange**

The ADSs, each representing one Class D Share, are listed on the New York Stock Exchange under the trading symbol "YPF." The ADSs began trading on the New York Stock Exchange on June 28, 1993, and were issued by The Bank of New York as depositary (the "Depositary").

# **EXHIBIT 39**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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 233

1 G. Leiva  
 2 A. The minute book.  
 3 Q. What is the date of the meeting that  
 4 these minutes reflect?  
 5 A. June 4th, '96.  
 6 Q. Could you turn, please, sir, to YPF 202.  
 7 Could you tell me what this page says, what's here of  
 8 it?  
 9 A. Mr. President presents for his  
 10 consideration the fourth point of the agenda,  
 11 financial committee a restructuring of the  
 12 international activities.  
 13 Mr. President informs that as a result  
 14 of the analysis being done, it has been concluded to  
 15 the company convenience to adopt actions with a  
 16 purpose of maximizing the fiscal and legal operative  
 17 efficiency of the international operations of the  
 18 company.  
 19 For such purpose, a restructuring  
 20 project has been created -- proposed that  
 21 contemplates, among other measurements, the creation  
 22 of new holding companies to which it will be  
 23 transferred the Maxus' share packages and of the  
 24 Maxus' subsidiaries that operate in Bolivia and  
 25 Venezuela. The assumption from an indirect

Page 234

1 G. Leiva  
 2 subsidiary -- from YPF's indirect subsidiary of the  
 3 environmental obligations that Maxus has and YPF  
 4 commitment to provide funds to such company to a  
 5 predetermined amount of money.  
 6 Mr. President concludes by stating that  
 7 the subject was analyzed by a financial committee and  
 8 has presented a proposal -- a solution proposal.  
 9 After an exchange of opinions the board  
 10 results: One, to approve Maxus' corporation  
 11 restructuring plan, which details are being filed in  
 12 the special attached registry of the board acts or  
 13 minutes of the board signed by the directors  
 14 Mr. Cameron and Mr. Manning to authorize Mr. Nells  
 15 Leon, Miguel Madanes, Roberto Monti, Norberto Noblia,  
 16 Cedric Bridger, Carlos Olivieri, Carlos Felices so  
 17 that any one of them individually or as a group --  
 18 no. To act individually and as a group so that  
 19 anyone could act individually without the need of the  
 20 group consensus, any one of them can do any of those  
 21 acts and can sign any documents as necessary, all the  
 22 documents that are necessary for the approved shares  
 23 payment -- for the accomplishment of the pay  
 24 shares -- for the accomplishment of the approved  
 25 acts.

Page 235

1 G. Leiva  
 2 Q. Is it your understanding that these  
 3 minutes are approving the restructuring plan that we  
 4 discussed before the break?  
 5 A. Yes.  
 6 Q. Can you turn, please, sir, to page --  
 7 actually, turn to page 205, 206 and 207. Is this the  
 8 attachment, I guess it's referenced in the board  
 9 minutes, setting forth the proposal to the board and  
 10 the restructuring steps that they then approved?  
 11 A. Yes, I assume so.  
 12 Q. On page 207 there are 12 steps that the  
 13 board has approved for the restructuring; do you see  
 14 that, sir?  
 15 A. Yes.  
 16 Q. Step one calls for the creation of YPF  
 17 Holdings U.S.A.; is that true?  
 18 A. That's correct.  
 19 Q. Step two calls for the creation of YPF  
 20 International, Inc. in a foreign jurisdiction; is  
 21 that correct?  
 22 A. That's correct.  
 23 Q. Step three calls for the creation of  
 24 Maxus Bolivia, Inc. in an offshore foreign  
 25 jurisdiction; is that correct?

Page 236

1 G. Leiva  
 2 A. That's correct.  
 3 Q. Step three also calls for the absorption  
 4 by the new Maxus Bolivia, Inc. of Maxus Bolivia  
 5 Delaware; is that correct?  
 6 A. Yes, that's correct, both were  
 7 subsidiaries of Maxus.  
 8 Q. Step four calls for the transfers from  
 9 YPF to YPF Holdings of the shares of Maxus Energy  
 10 Corp.; is that correct?  
 11 A. That's correct.  
 12 Q. Step five calls for the contribution of  
 13 Maxus International Energy to YPF International of  
 14 the shares of Maxus Bolivia, Maxus Venezuela, Maxus  
 15 Guarapiche, and Maxus Venezuela; is that correct?  
 16 A. That's correct.  
 17 Q. Step six calls for the transfer from  
 18 Maxus Energy Corp. to YPF Holdings of the shares of  
 19 Chemical Land Holdings; is that correct?  
 20 A. That's correct.  
 21 Q. This Chemical Land Holdings, just so  
 22 we're clear, is the company that's known today as  
 23 Tierra Solutions?  
 24 A. That's correct.  
 25 Q. For clarity, if you don't mind, sir, for

# **EXHIBIT 40**

## CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT (the "Agreement"), dated as of August 14, 1996 is made and entered into by and among YPF SOCIEDAD ANÓNIMA, an Argentine sociedad anónima ("YPF"), YPF International Ltd., a Cayman Islands corporation ("YPF International"), YPF HOLDINGS, INC., a Delaware corporation ("YPF Holdings"), CLH HOLDINGS, INC., a Delaware corporation ("CLH Holdings"), CHEMICAL LAND HOLDINGS, INC., a Delaware corporation ("CLH") and MAXUS ENERGY CORPORATION, a Delaware corporation ("Maxus").

### RECITALS

A. YPF owns all of the issued and outstanding capital stock of YPF International, which in turn owns all of the issued and outstanding capital stock of YPF Holdings, which in turn owns all of the issued and outstanding capital stock of CLH Holdings and all or substantially all of the issued and outstanding common stock of Maxus. CLH Holdings owns all of the issued and outstanding capital stock of CLH.

B. As an inducement to CLH to assume certain environmental liabilities of Maxus pursuant to the Assumption Agreement, the parties have entered into this Agreement.

### AGREEMENTS

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

1. *Definitions.* The following terms have the meanings assigned:

"*Accumulated Cash*" is defined in the last sentence of Section 3 hereof.

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

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

"*Assumed Liability Accrued Amount*" is defined in Section 2 hereof.

"*Assumption Agreement*" shall mean that certain Assumption Agreement dated an even date herewith by and between CLH and Maxus.

"*Effective Time*" means 12:01 a.m., Central Time, August 1, 1996.

"*Expenses*" means the general and administrative costs and expenses incurred

from time to time by CLH, which shall include, without limitation, office rent and related expenses, utilities, office supplies and equipment, vehicle costs and expenses, employee and director costs (including, without limitation, costs associated with providing employee benefits) and reimbursements, and accounting and legal costs, and such other costs and expenses as may be approved by the Parent Companies as a budget item as provided in Section 3 hereof, provided, however, that no cost or expense shall be an Expense if such cost or expense has been accrued by CLH as part of a liability reserve for Assumed Liabilities under United States generally accepted accounting principles.

"Parent Companies" means, collectively, YPF, YPF International, YPF Holdings and CLH Holdings.

"YPF Affiliate" means (i) YPF Sociedad Anónima or (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, but excluding CLH.

2. *Limited Capital Contribution Obligation for CLH.* As direct and indirect beneficial owners of all issued and outstanding capital stock of CLH and subject to the conditions and limitations set forth in this Agreement, YPF and each of the other Parent Companies jointly and severally agree to make, or cause to be made, cash contributions (in United States dollars) to the equity capital of CLH, as and when requested by CLH, solely for the purpose of enabling CLH to make payments in respect of the Assumed Liabilities, provided that the obligations of YPF and the other Parent Companies to make any such capital contributions under this Section 2 shall cease and be deemed to be fully satisfied when either (i) aggregate capital contributions to CLH by the Parent Companies from and after the Effective Time plus the amount of any advances or loans made by the Parent Companies to CLH pursuant to Section 4 hereof (excluding all contributions to CLH for Expenses pursuant to Section 3 hereof) equals \$108,400,000 (the "Assumed Liability Accrued Amount") or (ii) in accordance with United States generally accepted accounting principles, the accrued value of the Assumed Liabilities on the balance sheet of CLH (net of any contribution or reimbursement receivable from parties other than any YPF Affiliate accrued on such balance sheet) is reduced to zero. Capital contributions to CLH made under this Section 2 or Section 3 of this Agreement shall be funded from a series of capital contributions in like amount initially from a contribution from YPF to its direct subsidiary, YPF International, followed by successive capital contributions in like amount from the direct parent company of each of the other Parent Companies, and finally by capital contribution to CLH from its immediate parent, CLH Holdings.

3. *Capital Contribution Obligations for Expenses; Budget.* In addition to the capital contributions required under Section 2 hereof, YPF and each of the other Parent Companies jointly and severally agree to make, or cause to be made, cash contributions (in United States dollars) to the equity capital of CLH, as and when requested periodically by CLH, solely for the purpose of enabling CLH to meet its obligations in respect of Expenses that are accrued and payable after the Effective Time, provided that the obligations of YPF or any of the other Parent Companies to make

any such capital contributions under this Section 3 shall be limited to 110% of the aggregate amount of approved Expenses (less any Accumulated Cash, as defined below) budgeted for any annual period as reflected on a budget prepared by CLH and concurred in by YPF as set forth in this Section 3. The Expense budget shall be prepared by CLH covering a calendar year period ended December 31 of each year (or such other annual period as may be the budget reporting period for YPF Affiliates). The budget shall be submitted by CLH at such time and to such persons and in such form and manner as prescribed for YPF Affiliates. The budget shall set forth in reasonable detail projected expenditures for Expenses for the period covered. Upon approval of the budget by CLH, the budget shall be submitted to YPF for concurrence. The Parent Companies shall have no obligation under this Section 3 to make contributions to CLH in respect of Expenses except and only to the extent of 110% of the aggregate amount for any annual budget period of budgeted Expenses (less any Accumulated Cash, as defined below) that are reflected in a budget concurred in by YPF in accordance with this Section 3. CLH and YPF agree that the aggregate amount of Expenses approved for the budget period ended December 31, 1996 is \$2.42 MM. The CLH budget required by this Section 3 shall reflect the application of CLH cash on hand at the beginning of the budget period and cash received during the budget period to the payment of Expenses (such cash amounts are herein referred to as "Accumulated Cash" but only to the extent that CLH actually has on hand or receives such budgeted cash amounts).

4. *Advances and Loans in Lieu of Certain Contributions.* The Parent Companies may, at their option, elect to cause the funding obligations set forth in Section 2 hereof to be made by way of advances or loans, provided that (i) such advances and loans shall be limited to an amount reasonably expected to be received from third parties within six months as reimbursement or contribution or pursuant to the rights assigned to CLH in the Assigned Assets and (ii) such advances or loans shall be evidenced by a written instrument executed and delivered by CLH. In the event that such reimbursement, contribution or other third party payment is not made within the six month period described above or becomes uncollectible, the advance or loan shall be contributed to the equity of CLH.

5. *Keepwell Credit.* The parties to this Agreement recognize that the transactions contemplated by this Agreement and the Assumption Agreement will relieve Maxus of substantial liabilities it otherwise would have incurred but for the assumption of the Assumed Liabilities by CLH pursuant to the Assumption Agreement and the commitment of YPF and the other Parent Companies to fund CLH to discharge such liabilities. Accordingly, Maxus acknowledges and agrees that any contributions to the equity capital of CLH made by the Parent Companies pursuant to Sections 3 and 4 of this Agreement shall reduce to the maximum extent possible, by the amount of such contributions, the obligation of YPF to capitalize Maxus under Section 5.15 of that certain Agreement of Merger among YPF, YPF Acquisition Corp. and Maxus dated as of February 28, 1995.

6. *Mutual Covenants to Maintain Corporate Independence.* It is the intent of the parties to this Agreement that CLH maintain separate existence and independence from Maxus and the Parent Companies and remain responsible for its own business, assets and liabilities, except

to the extent as expressly provided in this Agreement, the Assumption Agreement and other written agreements between the CLH, Maxus and the Parent Companies. In furtherance of such intent, CLH, Maxus and the Parent Companies covenant and agree as follows:

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

(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 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 by any services agreement contemplated in Section 4(c) of the Assumption Agreement, 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 serves on the board of directors at such time, the Independent Director.

(l) 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 6 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.

7. *Amendment and Modification.* The obligations of the Parent Companies to make capital contributions to CLH are expressly limited by the terms of this Agreement. Contributions to the equity capital of CLH in excess of the amounts required under this Agreement shall not increase the obligations of the Parent Companies hereunder by implication or otherwise. Any amendment to this Agreement, including any amendment that modifies the obligations of the Parent Companies to make equity contributions to CLH, shall not be effective unless such amendment is in writing signed by all of the parties hereto and which writing shall clearly and expressly indicate the intent of the parties to amend this Agreement.

8. *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.

9. *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.

10. *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.

11. *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.

12. *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.

13. *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.

14. *Condition Precedent to Effectiveness.* Notwithstanding anything to the contrary herein, this Agreement shall not become effective unless and until the Assumption Agreement has become effective.

This Contribution Agreement is executed and delivered as of the date first above written.

YPF SOCIEDAD ANÓNIMA

By: [Signature]  
Name: CARLOS TOLIVERI  
Title: VP & CONTROLLER

YPF INTERNATIONAL LTD.

By: [Signature]  
Name: L.R. ENGELBRECHT  
Title: V.P. + CONTROLLER

YPF HOLDINGS, INC.

By: [Signature]  
Name: David A. Wadsworth  
Title: Vice President



CLH HOLDINGS, INC.

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

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

February 5, 1997

FIRST ADDENDUM  
TO  
CONTRIBUTION AGREEMENT

THIS First Addendum to Contribution Agreement is entered into by and among: YPF Sociedad Anonima, YPF International Ltd., YPF Holdings, Inc., CLH Holdings, Inc., Chemical Land Holdings, Inc. and Maxus Energy Corporation as of the 5th day of February, 1997.

WITNESSETH:

WHEREAS, the parties hereto have entered into a Contribution Agreement dated as of August 14, 1996 (the "Contribution Agreement"); and

WHEREAS, the parties hereto desire to amend the Contribution Agreement by increasing the "Assumed Liability Accrued Amount" (as defined in the Contribution Agreement) by US\$3.1 million;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. The unsatisfied portion of the Assumed Liability Accrued Amount for which the "Parent Companies" (as defined in the Contribution Agreement) may remain obligated under the Contribution Agreement is hereby increased by an incremental amount of US\$3.1 million.

2. The agreement of the Parent Companies set forth in paragraph 1 hereof is subject to the same conditions and limitations as apply to their obligation to make cash contributions under the Contribution Agreement with respect to the Assumed Liability Accrued Amount.

3. The Contribution Agreement, as amended hereby, is adopted, ratified and confirmed.

THIS First Addendum to Contribution Agreement is executed and delivered as of the date given first above.

CLH HOLDINGS, INC.

By: W. M. Skaggs Jr.  
Name: M. M. Skaggs, Jr.  
Title: President

YPF SOCIEDAD ANONIMA

By: [Signature]  
Name: Carlos A. Olivieri  
Title: VP and General Controller

CHEMICAL LAND HOLDINGS, INC.

By: W. M. Skaggs Jr.  
Name: M. M. Skaggs, Jr.  
Title: President

YPF INTERNATIONAL LTD.

By: [Signature]  
Name: Linda R. Engelbrécht  
Title: Vice President and Controller

MAXUS ENERGY CORPORATION

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

YPF HOLDINGS, INC.

By: [Signature]  
Name: David A. Wadsworth  
Title: Vice President

February 5, 1997

FIRST ADDENDUM  
TO  
CONTRIBUTION AGREEMENT

THIS First Addendum to Contribution Agreement is entered into by and among YPF Sociedad Anonima, YPF International Ltd., YPF Holdings, Inc., CLH Holdings, Inc., Chemical Land Holdings, Inc. and Maxus Energy Corporation as of the 5th day of February, 1997.

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WHEREAS, the parties hereto have entered into a Contribution Agreement dated as of August 14, 1996 (the "Contribution Agreement"); and

WHEREAS, the parties hereto desire to amend the Contribution Agreement by increasing the "Assumed Liability Accrued Amount" (as defined in the Contribution Agreement) by US\$3.1 million;

---

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. The unsatisfied portion of the Assumed Liability Accrued Amount for which the "Parent Companies" (as defined in the Contribution Agreement) may remain obligated under the Contribution Agreement is hereby increased by an incremental amount of US\$3.1 million.
2. The agreement of the Parent Companies set forth in paragraph 1 hereof is subject to the same conditions and limitations as apply to their obligation to make cash contributions under the Contribution Agreement with respect to the Assumed Liability Accrued Amount.
3. The Contribution Agreement, as amended hereby, is adopted, ratified and confirmed.

THIS First Addendum to Contribution Agreement is executed and delivered as of the date given first above.

CLH HOLDINGS, INC.

By: *M. M. Skaggs Jr.*  
Name: M. M. Skaggs, Jr.  
Title: President

YPF SOCIEDAD ANONIMA

By: *[Signature]*  
Name: Carlos A. Olivieri  
Title: VP and General Controller

CHEMICAL LAND HOLDINGS, INC.

By: *M. M. Skaggs Jr.*  
Name: M. M. Skaggs, Jr.  
Title: President

YPF INTERNATIONAL LTD.

By: *Linda R. Engelbrécht*  
Name: Linda R. Engelbrécht  
Title: Vice President and Controller

MAXUS ENERGY CORPORATION

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

YPF HOLDINGS, INC.

By: *David A. Wadsworth*  
Name: David A. Wadsworth  
Title: Vice President

# **EXHIBIT 41**



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  
711 Louisiana Street  
Suite 2300  
Houston, Texas 77002  
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 Answers and Objections to Interrogatories of Defendant 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:

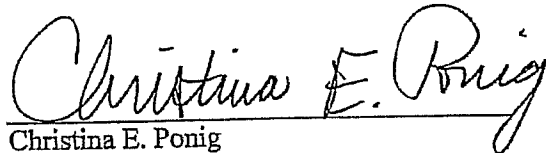
Michael Gordon  
Gordon & Gordon  
80 Main Street  
West Orange, New Jersey 07052  
*By E-mail*

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

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

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*

  
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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only.

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

Subject to this objection, please refer to documents produced in response to Requests for Production Nos. 1, 2, 3, and 4. 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only. YPF further objects to this interrogatory because the terms "manager" and "executive" are vague and undefined and because the interrogatory is overly broad and burdensome.

YPF 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only. YPF objects to "representative" as vague and not defined and because the interrogatory is overly broad and burdensome. Subject to these objections, YPF does not have an employee or contractor with responsibility for, or involvement in compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances of New Jersey.

YPF 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only. YPF objects to "representative" as vague and not defined and because the interrogatory is overly broad and burdensome. It would be incredibly burdensome to provide this information which has no relevance to the jurisdictional issues before this Court.

Subject to the foregoing objections, YPF does not have any employees in the State of New Jersey. YPF 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only. Subject to this objection, see documents produced in response to Request 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:

YPF 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, SA.*, 318 F.3d 446 (3rd Cir. 2003) and cases cited therein.

ANSWER:

YPF does not have contacts with the State of New Jersey. YPF 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 and then somehow determine whether YPF 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 YPF's answers to these interrogatories has not read the above-referenced cases and does not know what contacts were involved.

YPF is an Argentinean business corporation with its principal place of business in Buenos Aires, Argentina. YPF does not have a designated agent for service of process in New Jersey. YPF does not maintain an office in New Jersey. YPF makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. YPF does not recruit any employees out of New Jersey. YPF does not buy or sell goods or services in New Jersey. YPF does not own any real property located in New Jersey. Further, YPF has no phone listing in New Jersey and does not advertise in New Jersey. YPF does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. YPF does not pay any taxes in New Jersey. YPF does not control the environmental practices of Tierra and Maxus. YPF does not control the activities of Tierra or Maxus. YPF does not control the marketing or operational policies of Tierra or Maxus. YPF respects the separate corporate existence of Tierra or Maxus. YPF's web site operator does not intentionally target New Jersey, nor does YPF 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only.

Subject to these objections, YPF does not perform this function in connection with the State of New Jersey. YPF 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:

YPF objects to the definition of "Repsol Group." YPF responds to these interrogatories on behalf of YPF only. YPF objects to "agents, consultants, and third parties doing business or otherwise acting on your behalf in New Jersey" as vague and undefined.

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

Subject to these objections, YPF 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:

YPF objects to this interrogatory since "inured" is vague and undefined. Subject to this objection, there is none.

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

YPF is an Argentinean business corporation with its principal place of business in Buenos Aires, Argentina. YPF does not have a designated agent for service of process in New Jersey. YPF does not maintain an office in New Jersey. YPF makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. YPF does not recruit any employees out of New Jersey. YPF does not buy or sell goods or services in New Jersey. YPF does not own any real property located in New Jersey. Further, YPF has no phone listing in New Jersey and does not advertise in New Jersey. YPF does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. YPF does not pay any taxes in New Jersey. YPF does not control the environmental practices of Tierra and Maxus. YPF does not control the activities of Tierra or Maxus. YPF does not control the marketing or operational policies of Tierra or Maxus. YPF respects the separate corporate existence of Tierra or Maxus. YPF's web site operator does not intentionally target New Jersey, nor does YPF 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, :

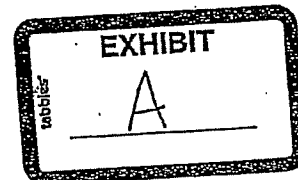
Demandadas :

Acción Civil N° 06-00401  
JUEZ JOHN C. LIFLAND  
CON PETICIÓN DE JURADO

**RESPUESTAS E IMPUGNACIONES AL INTERROGATORIO A LA DEMANDADA**  
**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 YPF, S.A. ("YPF") responde e impugna las Preguntas de los Demandantes de acuerdo con lo que se consigna a continuación. YPF impugna a las definiciones y las instrucciones en la medida que pretenden imponer a YPF 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:**

# **EXHIBIT 42**





By: 

Ileana M. Blanco  
Southern District of Texas No. 948  
Christina E. Ponig  
Southern District of Texas No. 600217

711 Louisiana St., Suite 2300  
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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 YPF Holdings, Inc. has been forwarded to counsel of record by electronic transmission and/or personal delivery, on this 19<sup>th</sup> day of June 2006, as follows:

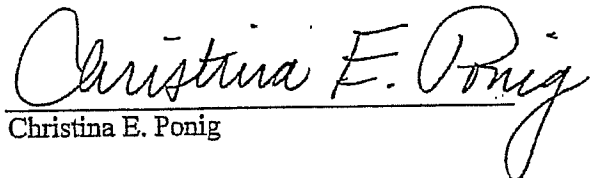
Michael Gordon  
Gordon & Gordon  
80 Main Street  
West Orange, New Jersey 07052  
*By E-mail*

Michael Connelly  
Bill Jackson  
Connelly Baker Maston Wotring Jackson LLP  
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*E-mail*

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 E-mail*

Thomas E. Starnes  
Andrews Kurth L.L.P.  
1351 I Street  
Washington, DC 20005  
*By E-mail*

  
Christina E. Ponig

Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only.

YPFH 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, 3, and 4. F.R.C.P. 33(d).

Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only. YPFH further objects to this interrogatory because the terms "manager" and "executive" are vague and undefined and because the interrogatory is overly broad and burdensome.

YPFH 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 No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only. YPFH 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, YPFH does not have an employee or contractor with responsibility for, or involvement in compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances of New Jersey.

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

Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only. YPFH 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, YPFH does not have any employees in the State of New Jersey. YPFH is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only. Subject to this objection, YPFH refers to documents produced in response to Request for Production 10. F.R.C.P. 33(d).

Interrogatory No. 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., WIT Holdings, Inc., CLH Holdings, Chemical Land Holdings, Inc. (n/k/a Tierra), and Maxus during that time period.

ANSWER

YPFH responds that the Assumption Agreement and Contribution Agreement identify and describe fully their purposes.

Interrogatory No. 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

YPFH does not have contacts with the State of New Jersey. YPFH 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 YPFH 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 YPFH's answers to these interrogatories has not read the above-referenced cases and does not know what contacts were involved.

YPFH is a Delaware business corporation with its principal place of business in The Woodlands, Texas. YPFH does not have a designated agent for service of process in New Jersey. YPFH does not maintain an office in New Jersey. YPFH makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. YPFH does not recruit any employees out of New Jersey. YPFH does not buy or sell goods or services in New Jersey. YPFH does not own any real property located in New Jersey. Further, YPFH has no phone listing in New Jersey and does not advertise in New Jersey. YPFH does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. YPFH does not pay any taxes in New Jersey. YPFH does not control the environmental practices of Tierra and Maxus. YPFH does not control the activities of Tierra or Maxus. YPFH does not control the marketing or operational policies of Tierra or Maxus. YPFH respects the separate corporate existence of Tierra or Maxus. YPFH does not maintain a web site.

### Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only.

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

### Interrogatory No. 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

YPFH objects to the definition of "Repsol Group." YPFH responds to these interrogatories on behalf of YPFH only. YPFH objects to "agents, consultants, and other third parties doing business or otherwise acting on your behalf in New Jersey" as vague and undefined.

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

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

Interrogatory No. 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

YPFH objects to this interrogatory because the term "inured" is vague and undefined. Subject to this objection, there is none.

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

YPFH is a Delaware business corporation with its principal place of business in The Woodlands, Texas. YPFH does not have a designated agent for service of process in New Jersey. YPFH does not maintain an office in New Jersey. YPFH makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. YPFH does not recruit any employees out of New Jersey. YPFH does not buy or sell goods or services in New Jersey. YPFH does not own any real property located in New Jersey. Further, YPFH has no phone listing in New Jersey and does not advertise in New Jersey. YPFH does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. YPFH does not pay any taxes in New Jersey. YPFH does not control the environmental practices of Tierra and Maxus. YPFH does not control the activities of Tierra or Maxus. YPFH does not control the marketing or operational policies of Tierra or Maxus. YPFH respects the separate corporate existence of Tierra or Maxus. YPFH's web site operator does not intentionally target New Jersey, nor does YPFH solicit business in New Jersey via its web site.





# **EXHIBIT 43**



Houston, Texas 77002  
(713) 223-2300 (Telephone)  
(713) 221-1212 (Telecopy)

BRACEWELL & GIULIANI LLP  
711 Louisiana Street  
Suite 2300  
Houston, Texas 77002-2770  
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 CLH Holdings has been forwarded to counsel of record by electronic transmission and/or personal delivery, on this 19th day of June 2006, as follows:

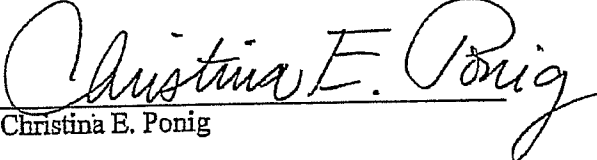
Michael Gordon  
Gordon & Gordon  
80 Main Street  
West Orange, New Jersey 07052  
*By E-mail*

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

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. Stames  
Andrews Kurth Washington  
1351 I Street  
Washington, DC 20005  
*By E-mail*

  
Christina E. Ponig

Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only.

CLHH 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, 3, and 4. F.R.C.P. 33(d).

Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only. CLHH further objects to this interrogatory because the terms "manager" and "executive" are vague and undefined and because the interrogatory is overly broad and burdensome.

CLHH 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 No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only. CLHH 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, CLHH does not have an employee or contractor with responsibility for, or involvement in compliance with Environmental Laws, Environmental Contamination, and/or Hazardous Substances of New Jersey.

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

Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only. CLHH 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, CLHH does not have any employees in the State of New Jersey. CLHH is not responsible for, and does not direct, communications of its subsidiaries with the State of New Jersey.

Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only. Subject to this objection, CLHH refers to documents produced in response to Request for Production 10. F.R.C.P. 33(d).

Interrogatory No. 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

CLHH responds that the Assumption Agreement and Contribution Agreement identify and describe fully their purposes.

ANSWER

Interrogatory No. 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 10131 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

CLHH does not have contacts with the State of New Jersey. CLHH 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 CLHH 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 CLHH's answers to these interrogatories has not read the above-referenced cases and does not know what contacts were involved.

CLHH is a Delaware business corporation with its principal place of business in The Woodlands, Texas. CLHH does not have a designated agent for service of process in New Jersey. CLHH does not maintain an office in New Jersey. CLHH makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. CLHH does not recruit any employees out of New Jersey. CLHH does not buy or sell goods or services in New Jersey. CLHH does not own any real property located in New Jersey. Further, CLHH has no phone listing in New Jersey and does not advertise in New Jersey. CLHH does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. CLHH does not pay any taxes in New Jersey. CLHH does not control the environmental practices of Tierra and Maxus. CLHH does not control the activities of Tierra or Maxus. CLHH does not control the marketing or operational policies of Tierra or Maxus. CLHH respects the separate corporate existence of Tierra or Maxus. CLHH does not maintain a web site.

Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only.

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



Interrogatory No. 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

CLHH objects to the definition of "Repsol Group." CLHH responds to these interrogatories on behalf of CLHH only. CLHH objects to "agents, consultants, and other third parties doing business or otherwise acting on your behalf in New Jersey" as vague and undefined.

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

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

Interrogatory No. 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

CLHH objects to this interrogatory because the term "inured" is vague and undefined. Subject to this objection, there is none.

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

CLHH is a Delaware business corporation with its principal place of business in The Woodlands, Texas. CLHH does not have a designated agent for service of process in New Jersey. CLHH does not maintain an office in New Jersey. CLHH makes no business decisions in New Jersey and has no contracts with any residents of New Jersey. CLHH does not recruit any employees out of New Jersey. CLHH does not buy or sell goods or services in New Jersey. CLHH does not own any real property located in New Jersey. Further, CLHH has no phone listing in New Jersey and does not advertise in New Jersey. CLHH does not maintain a bank account in New Jersey, nor does it transact banking business in New Jersey. CLHH does not pay any taxes in New Jersey. CLHH does not control the environmental practices of Tierra and Maxus. CLHH does not control the activities of Tierra or Maxus. CLHH does not control the marketing or operational policies of Tierra or Maxus. CLHH respects the separate corporate existence of Tierra or Maxus. CLHH's web site operator does not intentionally target New Jersey, nor does CLHH solicit business in New Jersey via its web site.



# **EXHIBIT 44**

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**Maxus Energy Corporation**  
**Form 10-K**  
**Fiscal Year Ending 12/31/1996**

  
YPFH 859

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-K

(MARK ONE)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
FOR THE FISCAL YEAR ENDED DECEMBER 31, 1996

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D)  
OF THE SECURITIES EXCHANGE ACT OF 1934

COMMISSION FILE NUMBER 1-8567-2

MAXUS ENERGY CORPORATION  
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE  
(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

75-1891531  
(I.R.S. EMPLOYER  
IDENTIFICATION NO.)

717 NORTH HARWOOD STREET  
DALLAS, TEXAS  
(ADDRESS OF PRINCIPAL EXECUTIVE  
OFFICES)

75201-6594  
(ZIP CODE)

Registrant's telephone number, including area code: (214) 953-2000

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

TITLE OF EACH CLASS	NAME OF EACH EXCHANGE ON WHICH REGISTERED
\$2.50 Cumulative Preferred Stock, \$1.00 Par Value.....	New York Stock Exchange
8 1/2% Sinking Fund Debentures Due April 1, 2008.....	New York Stock Exchange

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

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, and (2) has been subject to such filing  
requirements for the past 90 days. YES  NO

Indicate by check mark if disclosure of delinquent filers pursuant to Item  
405 of Regulation S-K is not contained herein, and will not be contained, to  
the best of registrant's knowledge, in definitive proxy or information  
statements incorporated by reference in Part III of this Form 10-K or any  
amendment to this Form 10-K.

The aggregate market value of the voting stock held by non-affiliates of the  
registrant as of March 1, 1997: Not applicable.

Shares of Common Stock outstanding at March 1, 1997 -- 147,246,135.

DOCUMENTS INCORPORATED BY REFERENCE  
None

YPFH 860

repeatedly delayed and non-OECD demand was consistently underestimated. The prospect of Iraqi sales depressed the medium term futures prices relative to the short term, discouraging refiners from holding inventory. The lack of inventory, in turn, contributed to increased price volatility. Limited Iraqi sales returned in December 1996 and North Sea production is currently at record high levels. Prices declined during the first quarter of 1997 and are expected to continue to be volatile in the near future.

#### Health, Safety and Environmental Controls

Federal, state and local laws and regulations relating to health and environmental quality in the United States, as well as environmental laws and regulations of other countries in which the Company operates, 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. In addition, especially stringent measures and special provisions may be appropriate or required in environmentally sensitive foreign areas of operation, such as those in Ecuador.

Many of the Company's United States operations are subject to requirements of the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act (as amended in 1990), the Occupational Safety and Health Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and other federal, as well as state, laws. Such laws address, among other things, limits on the discharge of wastes associated with oil and gas operations, investigation and clean-up of hazardous substances, and workplace safety and health. In addition, these laws typically require compliance with associated regulations and permits and provide for the imposition of penalties for noncompliance. The Clean Air Act Amendments of 1990 may benefit the Company's business by increasing the demand for natural gas as a clean fuel. CERCLA imposes retroactive liability upon certain parties for the response costs associated with cleaning up old hazardous substance sites. CERCLA liability to the Government is joint and several. CERCLA allows authorized trustees to seek recovery of natural resource damages from potentially responsible parties. CERCLA also grants the Government the authority to require potentially responsible parties to implement interim remedies to abate an imminent and substantial endangerment to the environment.

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, the Company has certain potential liabilities associated with former operations. 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 and in certain other respects. Such potential expenditures cannot be reasonably estimated.

In connection with the sale of the Company's former chemical subsidiary, Diamond Shamrock Chemicals Company ("Chemicals"), to Occidental Petroleum Corporation ("Occidental") in 1986, the Company 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, the Company agreed to indemnify Chemicals and Occidental for 50% of certain environmental costs incurred by Chemicals for which notice is given to the Company within 10 years after the Closing Date 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, with the Company's aggregate exposure for this cost sharing being limited to \$75 million. The total expended by the Company under this cost sharing arrangement was about \$42 million as of December 31, 1996. Occidental

Chemical Corporation ("OxyChem"), a subsidiary of Occidental, and Henkel Corporation ("Henkel"), an assignee of certain of Occidental's rights and obligations, filed a declaratory judgment action in Texas state court with respect to the Company's agreement in this regard. The lower court found in favor of Occidental and Henkel, and the Company has appealed the judgment. (See "Item 3. Legal Proceedings".)

In connection with the spin-off of Diamond Shamrock REM, Inc., now known as Ultramar Diamond Shamrock Corporation ("DSI"), in 1987, the Company and DSI agreed to share the costs of losses (other than product liability) relating to businesses disposed of prior to the spin-off, including Chemicals. Pursuant to this cost-sharing agreement, the Company bore the first \$75 million of such costs and DSI bore the next \$37.5 million. Thereafter, such ongoing costs were borne one-third by DSI and two-thirds by the Company until DSI had borne an additional \$47.5 million. As of December 31, 1996, DSI had fulfilled its remaining responsibility under the cost-sharing arrangement, and it has no further obligation thereunder.

During 1996, the Company spent \$8 million in environmental related expenditures in its oil and gas operations. Expenditures for 1997 are expected to be approximately \$13 million.

For the seven months ended July 31, 1996, the Company's total expenditures for environmental compliance for disposed of businesses, including Chemicals, were approximately \$13 million, \$5 million of which was recovered from DSI under the above described cost-sharing arrangement.

At December 31, 1996, reserves for the environmental contingencies discussed herein totaled \$101.6 million. Management believes it has adequately reserved for all environmental contingencies which are probable and can be reasonably estimated; however, changes in circumstances could result in changes, including additions, to such reserves in the future.

The Company transferred certain liabilities related to environmental matters to CLH effective as of August 1, 1996. In connection with this transfer, CLH assumed (the "Assumption") the liabilities so transferred and YPF committed to contribute capital to CLH up to an amount of \$106.9 million that will enable CLH to satisfy its obligations under the Assumption based on the Company's reserves established in respect of the assumed liabilities as of July 31, 1996 plus certain operating expenses budgeted by CLH from time to time. YPF will not be obligated to contribute capital to CLH beyond the amount of its initial undertaking. The Company will remain responsible for any obligations assumed by CLH in the event CLH does not perform or fulfill such obligations. The environmental contingencies discussed herein and the declaratory judgment action filed by OxyChem and Henkel are among the matters for which CLH has assumed responsibility, and the Company transferred to CLH its then remaining rights to recover costs under the arrangement with DSI. The contribution obligation of YPF related to the Assumption was reflected on the Company's financial statements as a long-term and short-term funding guarantee from parent totaling \$106.9 million, an increase to deferred income taxes of \$37.4 million and an increase to paid-in capital of \$69.5 million. At December 31, 1996, the outstanding funding guarantee totaled \$102.6 million. Insofar as CLH has assumed the Company's environmental liabilities and YPF has committed to pay for the liabilities, such liabilities are not expected to have an adverse impact on the financial reporting books of the Company.

The insurance companies that wrote Chemicals' and the Company's primary and excess insurance during the relevant periods have to date refused to provide coverage for most of Chemicals' or the Company's cost of the personal injury and property damage claims related to environmental claims, including remedial activities at chemical plant sites and disposal sites. In two actions filed in New Jersey state court, the Company has been conducting litigation against all of these insurers for declaratory judgments that it is entitled to coverage for certain of these claims. In 1989, the trial judge in one of the New Jersey actions ruled that there is no insurance coverage with respect to the claims related to the Newark plant (discussed below). The trial court's decision was upheld on appeal and that action is now ended. The other suit, which is pending, covers disputes with respect to insurance coverage related to certain other environmental matters. The Company has entered into settlement

agreements with certain of the insurers in this second suit, the terms of which are required to be held confidential. The Company also is engaged in settlement discussions with other defendant insurers; however, there can be no assurance that such discussions will result in settlements with such other insurers.

Newark, New Jersey. A consent decree, previously agreed upon by the U.S. Environmental Protection Agency (the 'EPA'), the New Jersey Department of Environmental Protection and Energy (the 'DEP') and Occidental, as successor to Chemicals, was entered in 1990 by the United States District Court of New Jersey and requires implementation of a remedial action plan at Chemicals' former Newark, New Jersey agricultural chemicals plant. Engineering for such plan, which will include an engineering estimate of the cost of construction, is progressing. Construction is expected to begin in late 1997 or in 1998, cost approximately \$23 million and take three to four years to complete. The work is being supervised and paid for by CLM on behalf of the Company pursuant to the Assumption and under the Company's above described indemnification obligation to Occidental. The Company has reserved the estimated costs of performing the remedial action plan and required ongoing maintenance costs.

Studies have indicated that sediments of the Newark Bay watershed, including the Passaic River adjacent to the plant, are contaminated with hazardous chemicals from many sources. These studies suggest that the older and more contaminated sediments located adjacent to the Newark plant generally are buried under more recent sediment deposits. The Company, on behalf of Occidental, negotiated an agreement with the EPA under which CLM, on the Company's behalf, is conducting further testing and studies to characterize contaminated sediment and biota in a six-mile portion of the Passaic River near the plant site. The stability of the sediments in the entire six-mile portion of the Passaic River study area is also being examined as a part of CLM's studies. The Company currently expects the testing and studies to be completed in 1999 and cost from \$4 million to \$6 million after December 31, 1996. The Company has reserved for the amount of its estimate of the remaining costs to be incurred in performing these studies. The Company and later CLM have been conducting similar studies under their own auspices for several years. Until these studies are completed and evaluated, the Company cannot reasonably forecast what regulatory program, if any, will be proposed for the Passaic River or the Newark Bay watershed and therefore cannot estimate what additional costs, if any, will be required to be incurred. However, it is possible that additional work, including interim remedial measures, may be ordered with respect to the Passaic River.

Hudson County, New Jersey. Until 1972, Chemicals operated a chromium ore processing plant at Kearny, New Jersey. According to the DEP, wastes from these ore processing operations were used as fill material at a number of sites in and near Hudson County.

As a result of negotiations between the Company (on behalf of Occidental) and the DEP, Occidental signed an administrative consent order with the DEP in 1990 for investigation and remediation work at certain chromite ore residue sites in Kearny and Secaucus, New Jersey. The work is presently being performed by CLM on behalf of the Company and Occidental, and CLM is funding Occidental's share of the cost of investigation and remediation of these sites. The Company is currently providing financial assurance for performance of the work in the form of a self-guarantee in the amount of \$20 million subject to the Company's continuing ability to satisfy certain financial tests specified by the State. This financial assurance may be reduced with the approval of the DEP following any annual cost review. While the Company and CLM have participated in the cost of studies and CLM is implementing interim remedial actions and conducting remedial investigations and feasibility studies, the ultimate cost of remediation is uncertain. The Company anticipates CLM will submit its remedial investigation and feasibility study report to the DEP in 1997. The results of the DEP's review of this report could increase the cost of any further remediation that may be required. The Company has reserved its best estimate of the remaining cost to perform the investigations and remedial work as being approximately \$47 million at December 31, 1996. In addition, the DEP has indicated that it expects Occidental and the Company to participate with the other chromium manufacturers in the funding of certain remedial activities with respect to a number of so-called 'orphan' chrome sites located in Hudson County, New Jersey. Occidental and the Company have declined participation as to those sites for which there is no evidence of the presence of residue generated by Chemicals. The Governor of New Jersey issued an Executive Order requiring state agencies to provide specific justification for any state requirements more stringent than federal requirements. The DEP has indicated that it



may be revising its soil action level upwards towards the higher soil screening levels proposed by the EPA in 1994.

Painesville, Ohio. From about 1912 through 1976, Chemicals operated manufacturing facilities in Painesville, Ohio. The operations over the years involved several discrete but contiguous plant sites over an area of about 1,300 acres. The primary area of concern historically has been Chemicals' former chromite ore processing plant (the 'Chrome Plant'). For many years, the site of the Chrome Plant has been under the administrative control of the EPA pursuant to an administrative consent order under which Chemicals is required to maintain a clay cap over the site and to conduct certain ground water and surface water monitoring. Many other sites have previously been clay-capped and one specific site, which was a waste disposal site from the mid-1960s until the 1970s, has been encapsulated and is being controlled and monitored. In 1995, the Ohio Environmental Protection Agency (the 'OEPA') issued its Directors' Final Findings and Order (the 'Director's Order') by consent ordering that a remedial investigation and feasibility study (the 'RIFS') be conducted at the former Painesville plant area. The Company has agreed to participate in the RIFS as required by the Director's Order. It is estimated that the total cost of performing the RIFS will be \$5 million to \$8 million over the next three years. In spite of the many remedial, maintenance and monitoring activities performed, the former Painesville plant site has been proposed for listing on the National Priority List under CERCLA; however, the EPA has stated that the site will not be listed so long as it is satisfactorily addressed pursuant to the Director's Order and OEPA's programs. The Company has reserved for the amount of its estimated share of the cost to perform the RIFS. The scope and nature of any further investigation or remediation that may be required cannot be determined at this time; however, as the RIFS progresses, the Company will continuously assess the condition of the Painesville plant site and make any changes, including additions, to its reserve as may be required. The Company's obligations regarding the Chrome Plant described above have been assumed by CLM pursuant to the Assumption.

Other Former Plant Sites. Environmental remediation programs are in place at all other former plant sites where material remediation is required in the opinion of the Company. Former plant sites where remediation has been completed are being maintained and monitored to insure continued compliance with applicable laws and regulatory programs. The Company has reserved for its estimated costs related to these sites, none of which individually is material.

Third Party Sites. Chemicals has also been designated as a potentially responsible party ("PRP") by the EPA under CERCLA with respect to a number of third party sites, primarily off of Chemicals' properties, where hazardous substances from Chemicals' plant operations allegedly were disposed of or have come to be located. Numerous PRPs have been named at substantially all of these sites. At several of these, Chemicals has no known exposure. Although PRPs are almost always jointly and severally liable for the cost of investigations, cleanups and other response costs, each has the right of contribution from other PRPs and, as a practical matter, cost sharing by PRPs is usually effected by agreement among them. Accordingly, the ultimate cost of these sites and Chemicals' share of the costs thereof cannot be estimated at this time, but are not expected to be material except possibly as a result of the matters described below. The matters described below are among those for which CLM has assumed responsibility under the Assumption.

1. Fields Brook, Ashtabula, Ohio. At the time that Chemicals was sold to Occidental, Chemicals operated a chemical plant at Ashtabula, Ohio which is adjacent to Fields Brook. Occidental has continued to operate the Ashtabula plant. In 1986, Chemicals was formally notified by the EPA that it was a PRP for the Fields Brook site. The site is defined as Fields Brook, its tributaries and surrounding areas within the Fields Brook watershed. At least 15 other parties are presently considered to be financially responsible PRPs. In 1986, the EPA estimated the cost of sediment remediation at the site would be \$48 million. The PRPs, including Occidental, have developed an allocation agreement for sharing the costs of the work in Fields Brook ordered by the EPA. Under the allocation, the Occidental share for Chemicals' ownership of the Ashtabula plant would be about five percent of the total, assuming all viable PRPs were to participate.

In 1990, the OEPA, as state trustee for natural resources under CERCLA, advised previously identified FRPs, including Chemicals, that the OEPA intended to conduct a Natural Resources Damage Assessment of the Fields Brook site to calculate a monetary value for injury to surface water, groundwater, air, and biological and geological resources at the site. Also, although Fields Brook empties into the Ashtabula River which flows into Lake Erie, it is not known to what extent, if any, the EPA will propose remedial action beyond Fields Brook for which the Fields Brook FRPs might be asked to bear some share of the costs. Until all preliminary studies and necessary governmental actions have been completed and negotiated or judicial allocations have been made, it is not possible for the Company to estimate what the response costs, response activities or natural resource damages, if any, may be for Fields Brook or related areas, the parties responsible therefore or their respective shares.

It is the Company's position that costs attributable to the Ashtabula plant fall under the Company's above-described cost sharing arrangement with Occidental under which the Company bears one-half of certain costs up to an aggregate dollar cap. Occidental, however, has contended that it is entitled to full indemnification from the Company for such costs, and the outcome of this dispute cannot be predicted. The Company has reserved its estimate of its share of potential cleanup costs based on the assumption that this site falls under the Occidental cost sharing arrangement.

2. SCP/Carlstadt Site; Carlstadt, New Jersey. Chemicals' share of remediation costs at this CERCLA site would be approximately one percent, based on relative volume of waste shipped to the site. An interim remedy has now been implemented at the site by the FRPs but no estimate can be made at this time of ultimate costs of remediation which may extend to certain off-site locations.

3. Chemical Control Site; Elizabeth, New Jersey. The FRPs and the EPA have settled the federal claims for cost recovery and site remediation, and remediation is now complete. The DEP has demanded of FRPs (including Chemicals) reimbursement of the DEP's alleged \$34 million (including interest through December 31, 1995) in past costs for its partial cleanup of this site. Based on the previous allocation formula, it is expected that Chemicals' share of any money paid to the DEP for its claim would be approximately two percent. The Company has fully reserved its estimated liability for this site.

#### Employees

As of December 31, 1996, the Company had approximately 2,027 employees.

#### ITEM 3. LEGAL PROCEEDINGS.

In 1995, OxyChem filed suit in Texas state court seeking a declaration of certain of the parties' rights and obligations under the SAIS agreement pursuant to which the Company sold Chemicals to Occidental. Henkel joined in said lawsuit as a plaintiff in January 1996. Specifically, OxyChem and Henkel are seeking a declaration that the Company is required to indemnify them for 50% of certain environmental costs incurred on projects involving remedial activities relating to chemical plant sites or other property used in connection with the business of Chemicals on the Closing Date which relate to, result from or arise out of conditions, events or circumstances discovered by OxyChem or Henkel and as to which the Company is provided written notice by OxyChem or Henkel prior to the expiration of ten years following the Closing Date, irrespective of when OxyChem or Henkel incurs and gives notice of such costs, subject to an aggregate \$75 million cap. The court denied the Company's motion for summary judgment and granted OxyChem's and Henkel's joint motion for summary judgment, thereby granting OxyChem and Henkel the declaration they sought. The Company believes the court's orders are erroneous and has appealed.

The Company has established reserves based on its 50% share of remaining costs expected to be paid or incurred by OxyChem and Henkel prior to September 4, 1996, the tenth anniversary of the Closing Date. As of December 31, 1996, the Company and CLH on its behalf had paid OxyChem and Henkel a total of approximately \$42 million against the \$75 million cap and, based on OxyChem's and Henkel's historical annual expenditures.

the Company had approximately \$4 million reserved. The Company cannot predict with any certainty what portion of the approximately \$29 million unreserved portion of the \$33 million amount remaining at December 31, 1996, OxyChem and Henkel may incur; however, OxyChem and Henkel have asserted in court that the entire amount will be spent. In the event that the Company does not prevail in its appeal, it could be required to pay up to approximately \$29 million in additional costs which have not been reserved related to this indemnification. CLK has assumed, pursuant to the Assumption, responsibility for this litigation.

See also the heading "Health, Safety and Environmental Controls" under "Items 1 and 2. Business and Properties" of this report for a description of certain other legal proceedings, which description is incorporated herein by reference.

The Company is involved in various other legal proceedings incidental to its business, the outcome of any of which should not have a material adverse effect on its financial position.

ITEM 4. SUBMISSION OF MATTERS TO VOTE OF SECURITY HOLDERS.

Inapplicable.

PART III

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS.

There is no established public trading market for the Common Stock. At March 1, 1997, YPF was the sole holder of record of the Common Stock.

Midgard, a subsidiary of the Company, is party to a credit agreement which places certain restrictions on its ability to make or declare certain payments, advances and loans specified therein, including dividends to the Company. (For a further description of such credit agreement, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations--Significant Events 1995".) While these restrictions could impact the ability of the Company to pay dividends on its Common Stock, the Company has paid no such dividends since 1987, and cash flows are currently being dedicated to exploration and development projects rather than to such payment. The Company intends to continue paying regular quarterly dividends on its only other equity issue currently outstanding, the \$2.50 Preferred Stock.

and a \$250 million capital infusion from YPF to partially fund the Merger. In connection with the Merger, the Company also paid \$14 million to redeem rights attached to Shares, repaid the Purchaser Facility and, pursuant to the Merger, either assumed or paid \$746 million of purchase consideration for the Shares outstanding plus transaction costs.

During the third quarter of 1995, the Company recorded a \$2 million gain which represented the final settlement of the Company's sole interest rate swap agreement prior to its termination. This gain was recorded in other revenues, net. The Company also received a \$5 million termination payment, which was deferred.

During 1994, the Company was able to take advantage of lower interest rates and, at the same time, to extend the average debt maturities. Accordingly, the Company issued \$101 million of additional long-term debt. Debt issuances, along with a portion of the proceeds from asset sales, were used to repay approximately \$170 million of higher interest debt obligations due 1994 and beyond and to prepay \$63 million of \$9.75 Preferred Stock due in February 1995.

In February 1994, the Company redeemed 625,000 shares of \$9.75 Preferred Stock for \$63 million, using proceeds received in 1993 from the issuance of the \$2.50 Preferred Stock in 1993.

#### Environmental Matters

Federal, state and local laws and regulations relating to health and environmental quality in the United States, as well as environmental laws and regulations of other countries in which the Company operates, 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. In addition, especially stringent measures and special provisions may be appropriate or required in environmentally sensitive foreign areas of operation, such as those in Ecuador.

Many of the Company's United States operations are subject to requirements of the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act (as amended in 1990), the Occupational Safety and Health Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and other federal, as well as state, laws. Such laws address, among other things, limits on the discharge of wastes associated with oil and gas operations, investigation and clean-up of hazardous substances, and workplace safety and health. In addition, these laws typically require compliance with associated regulations and permits and provide for the imposition of penalties for noncompliance. The Clean Air Act Amendments of 1990 may benefit the Company's business by increasing the demand for natural gas as a clean fuel. CERCLA imposes retroactive liability upon certain parties for the response costs associated with cleaning up old hazardous substance sites. CERCLA liability to the Government is joint and several. CERCLA allows authorized trustees to seek recovery of natural resource damages from potentially responsible parties. CERCLA also grants the Government the authority to require potentially responsible parties to implement interim remedies to abate an imminent and substantial endangerment to the environment.

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, the Company has certain potential liabilities associated with former operations. 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 and in certain other respects. Such potential expenditures cannot be reasonably estimated.

In connection with the sale of the Company's former chemical subsidiary, Diamond Shamrock Chemicals Company ("Chemicals"), to Occidental Petroleum Corporation ("Occidental") in 1986, the Company 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, the Company agreed to indemnify Chemicals and Occidental for 50% of certain environmental costs incurred by Chemicals for which notice is given to the Company within 10 years after the Closing Date 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, with the Company's aggregate exposure for this cost sharing being limited to \$75 million. The total expended by the Company and CLH on the Company's behalf under this cost sharing arrangement was about \$42 million as of December 31, 1996. Occidental Chemical Corporation ("OxyChem"), a subsidiary of Occidental, and Henkel Corporation ("Henkel"), an assignee of certain of Occidental's rights and obligations, filed a declaratory judgment action in Texas state court with respect to the Company's agreement in this regard. The lower court found in favor of Occidental and Henkel and the Company has appealed the judgment (see "Legal Proceedings").

In connection with the spin-off of Diamond Shamrock R&M, Inc., now known as Ultramar Diamond Shamrock Corporation ("DSI"), in 1987, the Company and DSI agreed to share the costs of losses (other than product liability) relating to businesses disposed of prior to the spin-off, including Chemicals. Pursuant to this cost-sharing agreement, the Company bore the first \$75 million of such costs and DSI bore the next \$37.5 million. Thereafter, such ongoing costs were borne one-third by DSI and two-thirds by the Company until DSI had borne an additional \$47.5 million. As of December 31, 1996, DSI had fulfilled its remaining responsibility under the cost-sharing arrangement, and it has no further obligation thereunder.

During the twelve months ended December 31, 1996, the Company spent \$8 million in environmental related expenditures in its oil and gas operations. Expenditures for 1997 are expected to be approximately \$13 million.

For the seven months ended July 31, 1996, the Company's total expenditures for environmental compliance for disposed of businesses, including Chemicals, were approximately \$13 million, \$5 million of which was recovered from DSI under the above described cost-sharing arrangement.

At December 31, 1996, reserves for the environmental contingencies discussed herein totaled \$101.6 million. Management believes it has adequately reserved for all environmental contingencies which are probable and can be reasonably estimated; however, changes in circumstances could result in changes, including additions, to such reserves in the future.

The Company has transferred certain liabilities related to environmental matters to CLH (see "Significant Events 1996") effective as of August 1, 1996. In connection with this transfer, CLH assumed the liabilities so transferred and YPF committed to contribute capital to CLH up to an amount of \$106.9 million that will enable CLH to satisfy its obligations under the Assumption based on the Company's reserves established in respect of the assumed liabilities as of July 31, 1996 plus certain operating expenses budgeted by CLH from time to time. YPF will not be obligated to contribute capital to CLH beyond the amount of its initial undertaking. The Company will remain responsible for any obligations assumed by CLH in the event CLH does not perform or fulfill such obligations. The environmental contingencies discussed herein and the declaratory judgment action filed by OxyChem and Henkel are among the matters for which CLH has assumed responsibility, and the Company transferred to CLH its then remaining rights to recover costs under the arrangement with DSI. The contribution obligation of YPF related to the Assumption was reflected on the Company's financial statements as a long-term and short-term funding guarantee from parent totaling \$106.9 million, an increase to deferred income taxes of \$37.4 million and an increase to paid-in capital of \$69.5 million. At December 31, 1996, the outstanding funding guarantee totaled \$102.6 million. Insofar as CLH has assumed the Company's environmental liabilities and YPF has committed to pay for the liabilities, such liabilities are not expected to have an adverse impact on the financial reporting books of the Company.

The insurance companies that wrote Chemicals' and the Company's primary and excess insurance during the relevant periods have to date refused to provide coverage for most of Chemicals' or the Company's cost of the personal injury and property damage claims related to environmental claims, including remedial activities at chemical plant sites and disposal sites. In two actions filed in New Jersey state court, the Company has been conducting litigation against all of these insurers for declaratory judgments that it is entitled to coverage for certain of these claims. In 1989, the trial judge in one of the New Jersey actions ruled that there is no insurance coverage with respect to the claims related to the Newark plant (discussed below). The trial court's decision was upheld on appeal and that action is now ended. The other suit, which is pending, covers disputes with respect to insurance coverage related to certain other environmental matters. The Company has entered into settlement agreements with certain of the insurers in this second suit, the terms of which are required to be held confidential. The Company also is engaged in settlement discussions with other defendant insurers; however, there can be no assurance that such discussions will result in settlements with such other insurers.

Newark, New Jersey. A consent decree, previously agreed upon by the U.S. Environmental Protection Agency (the "EPA"), the New Jersey Department of Environmental Protection and Energy (the "DEP") and Occidental, as successor to Chemicals, was entered in 1990 by the United States District Court of New Jersey and requires implementation of a remedial action plan at Chemicals' former Newark, New Jersey agricultural chemicals plant. Engineering for such plan, which will include an engineering estimate of the cost of construction, is progressing. Construction is expected to begin in late 1997 or in 1998, cost approximately \$23 million and take three to four years to complete. The work is being supervised and paid for by CLM, on behalf of the Company pursuant to the Assumption and under the Company's above described indemnification obligation to Occidental. The Company has reserved the estimated costs of performing the remedial action plan and required ongoing maintenance costs.

Studies have indicated that sediments of the Newark Bay watershed, including the Passaic River adjacent to the plant, are contaminated with hazardous chemicals from many sources. These studies suggest that the older and more contaminated sediments located adjacent to the Newark plant generally are buried under more recent sediment deposits. The Company, on behalf of Occidental, negotiated an agreement with the EPA under which CLM, on the Company's behalf, is conducting further testing and studies to characterize contaminated sediment and biota in a six-mile portion of the Passaic River near the plant site. The stability of the sediments in the entire six-mile portion of the Passaic River study area is also being examined as a part of CLM's studies. The Company currently expects the testing and studies to be completed in 1999 and cost from \$4 million to \$6 million after December 31, 1996. The Company has reserved for the amount of its estimate of the remaining costs to be incurred in performing these studies. The Company and later CLM have been conducting similar studies under their own auspices for several years. Until these studies are completed and evaluated, the Company cannot reasonably forecast what regulatory program, if any, will be proposed for the Passaic River or the Newark Bay watershed and therefore cannot estimate what additional costs, if any, will be required to be incurred. However, it is possible that additional work, including interim remedial measures, may be ordered with respect to the Passaic River.

Hudson County, New Jersey. Until 1972, Chemicals operated a chromium ore processing plant at Kearny, New Jersey. According to the DEP, wastes from these ore processing operations were used as fill material at a number of sites in and near Hudson County.

As a result of negotiations between the Company (on behalf of Occidental) and the DEP, Occidental signed an administrative consent order with the DEP in 1990 for investigation and remediation work at certain chromite ore residue sites in Kearny and Secaucus, New Jersey. The work is presently being performed by CLM on behalf of the Company and Occidental, and CLM is funding Occidental's share of the cost of investigation and remediation of these sites. The Company is currently providing financial assurance for performance of the work in the form of a self-guarantee in the amount of \$20 million subject to the Company's continuing ability to satisfy certain financial tests specified by the State. This financial assurance may be reduced with the approval of the DEP following any annual cost review. While the Company and CLM have participated in the cost of studies

and CLH is implementing interim remedial actions and conducting remedial investigations and feasibility studies, the ultimate cost of remediation is uncertain. The Company anticipates CLH will submit its remedial investigation and feasibility study report to the DEP in 1997. The results of the DEP's review of this report could increase the cost of any further remediation that may be required. The Company has reserved its best estimate of the remaining cost to perform the investigations and remedial work as being approximately \$47 million. In addition, the DEP has indicated that it expects Occidental and the Company to participate with the other chromium manufacturers in the funding of certain remedial activities with respect to a number of so-called "orphan" chrome sites located in Hudson County, New Jersey. Occidental and the Company have declined participation as to those sites for which there is no evidence of the presence of residues generated by Chemicals. The Governor of New Jersey issued an Executive Order requiring state agencies to provide specific justification for any state requirements more stringent than federal requirements. The DEP has indicated that it may be revising its soil action level upwards towards the higher soil screening levels proposed by the EPA in 1984.

Painesville, Ohio. From about 1912 through 1976, Chemicals operated manufacturing facilities in Painesville, Ohio. The operations over the years involved several discrete but contiguous plant sites over an area of about 1,300 acres. The primary area of concern historically has been Chemicals' former chromite ore processing plant (the "Chrome Plant"). For many years, the site of the Chrome Plant has been under the administrative control of the EPA pursuant to an administrative consent order under which Chemicals is required to maintain a clay cap over the site and to conduct certain ground water and surface water monitoring. Many other sites have previously been clay-capped and one specific site, which was a waste disposal site from the mid-1960s until the 1970s, has been encapsulated and is being controlled and monitored. In 1995, the Ohio Environmental Protection Agency (the "OEPA") issued its Directors' Final Findings and Order (the "Director's Order") by consent ordering that a remedial investigation and feasibility study (the "RIFS") be conducted at the former Painesville plant area. The Company has agreed to participate in the RIFS as required by the Director's Order. It is estimated that the total cost of performing the RIFS will be \$5 million to \$8 million over the next three years. In spite of the many remedial, maintenance and monitoring activities performed, the former Painesville plant site has been proposed for listing on the National Priority List under CERCLA; however, the EPA has stated that the site will not be listed so long as it is satisfactorily addressed pursuant to the Director's Order and OEPA's programs. The Company has reserved for the amount of its estimate of its share of the cost to perform the RIFS. The scope and nature of any further investigation or remediation that may be required cannot be determined at this time; however, as the RIFS progresses, the Company will continuously assess the condition of the Painesville plant site and make any changes, including additions, to its reserve as may be required. The Company's obligations regarding the Chrome Plant described above have been assumed by CLH pursuant to the Assumption.

Other Former Plant Sites. Environmental remediation programs are in place at all other former plant sites where material remediation is required in the opinion of the Company. Former plant sites where remediation has been completed are being maintained and monitored to insure continued compliance with applicable laws and regulatory programs. The Company has reserved for its estimated costs related to these sites, none of which is individually material.

Third Party Sites. Chemicals has also been designated as a potentially responsible party ("PRP") by the EPA under CERCLA with respect to a number of third party sites, primarily off of Chemicals' properties, where hazardous substances from Chemicals' plant operations allegedly were disposed of or have come to be located. Numerous PRPs have been named at substantially all of these sites. At several of these, Chemicals has no known exposure. Although PRPs are almost always jointly and severally liable for the cost of investigations, cleanups and other response costs, each has the right of contribution from other PRPs and, as a practical matter, cost sharing by PRPs is usually effected by agreement among them. Accordingly, the ultimate cost of these sites and Chemicals' share of the costs thereof cannot be estimated at this time, but are not expected to be material except possibly as a result of the matters described below. The matters described below are among those for which CLH has assumed responsibility under the Assumption.

1. Fields Brook, Ashtabula, Ohio. At the time that Chemicals was sold to Occidental, Chemicals operated a chemical plant at Ashtabula, Ohio which is adjacent to Fields Brook. Occidental has continued to operate the Ashtabula plant. In 1986, Chemicals was formally notified by the EPA that it was a PRP for the Fields Brook site. The site is defined as Fields Brook, its tributaries and surrounding areas within the Fields Brook watershed. At least 15 other parties are presently considered to be financially responsible PRPs. In 1986, the EPA estimated the cost of sediment remediation at the site would be \$48 million. The PRPs, including Occidental, have developed an allocation agreement for sharing the costs of the work in Fields Brook ordered by the EPA. Under the allocation, the Occidental share for Chemicals' ownership of the Ashtabula plant would be about five percent of the total, assuming all viable PRPs were to participate.

In 1990, the OEPA, as state trustee for natural resources under CERCLA, advised previously identified PRPs, including Chemicals, that the OEPA intended to conduct a Natural Resource Damage Assessment of the Fields Brook site to calculate a monetary value for injury to surface water, groundwater, air, and biological and geological resources at the site. Also, although Fields Brook empties into the Ashtabula River which flows into Lake Erie, it is not known to what extent, if any, the EPA will propose remedial action beyond Fields Brook for which the Fields Brook PRPs might be asked to bear some share of the costs. Until all preliminary studies and necessary governmental actions have been completed and negotiated or judicial allocations have been made, it is not possible for the Company to estimate what the response costs, response activities or natural resource damages, if any, may be for Fields Brook or related areas, the parties responsible therefore or their respective shares.

It is the Company's position that costs attributable to the Ashtabula plant fall under the Company's above-described cost sharing arrangement with Occidental under which the Company bears one-half of certain costs up to an aggregate dollar cap. Occidental, however, has contended that it is entitled to full indemnification from the Company for such costs, and the outcome of this dispute cannot be predicted. The Company has reserved its estimate of its share of potential cleanup costs based on the assumption that this site falls under the Occidental cost sharing arrangement.

2. SCP/Carlstadt Site, Carlstadt, New Jersey. Chemicals' share of remediation costs at this CERCLA site would be approximately one percent, based on relative volume of waste shipped to the site. An interim remedy has now been implemented at the site by the PRPs but no estimate can be made at this time of ultimate costs of remediation which may extend to certain off-site locations.

3. Chemical Control Site, Elizabeth, New Jersey. The PRPs and the EPA have settled the federal claims for cost recovery and site remediation, and remediation is now complete. The DEP has demanded of PRPs (including Chemicals) reimbursement of the DEP's alleged \$34 million (including interest through December 31, 1995) in past costs for its partial cleanup of this site. Based on the previous allocation formula, it is expected that Chemicals' share of any money paid to the DEP for its claim would be approximately two percent. The Company has fully reserved its estimated liability for this site.

#### Legal Proceedings

In 1995, OxyChem filed suit in Texas state court seeking a declaration of certain of the parties' rights and obligations under the sales agreement pursuant to which the Company sold Chemicals to Occidental. Henkel joined in said lawsuit as a plaintiff in January 1996. Specifically, OxyChem and Henkel are seeking a declaration that the Company is required to indemnify them for 50% of certain environmental costs incurred on projects involving remedial activities relating to chemical plant sites or other property used in connection with the business of Chemicals on the Closing Date which relate to, result from or arise out of conditions, events or circumstances discovered by OxyChem or Henkel and as to which the Company is provided written notice by OxyChem or Henkel prior to the expiration of ten years following the Closing Date, irrespective of when OxyChem or Henkel incurs and gives notice of such costs, subject to an aggregate \$75 million cap. The court denied the Company's motion for summary judgment and granted OxyChem's and Henkel's joint motion for summary judgment, thereby granting OxyChem and Henkel the declaration they sought. The Company believes the court's orders are erroneous and has appealed.



The Company has established reserves based on its 50% share of remaining costs expected to be paid or incurred by OxyChem and Henkel prior to September 4, 1996, the tenth anniversary of the Closing Date. As of December 31, 1995, the Company and CLM on its behalf had paid OxyChem and Henkel a total of approximately \$42 million against the \$75 million cap and, based on OxyChem's and Henkel's historical annual expenditures, the Company had approximately \$4 million reserved. The Company cannot predict with any certainty what portion of the approximately \$29 million unreserved portion of the \$33 million amount remaining at December 31, 1995, OxyChem and Henkel may incur; however, OxyChem and Henkel have asserted in court that the entire amount will be spent. In the event that the Company does not prevail in its appeal, it could be required to pay up to approximately \$29 million in additional costs which have not been reserved related to this indemnification. CLM has assumed, pursuant to the Assumption, responsibility for this litigation.

The Company has established reserves for legal contingencies in situations where a loss is probable and can be reasonably estimated.

#### Future Outlook

Maxus currently projects total program spending (capital expenditures plus exploration expenses) for 1997 to be approximately \$221 million, compared to \$233 million in 1996. The planned allocation is Indonesia \$110 million, Midgard (U.S.) \$66 million, Ecuador \$26 million and domestic and overseas new ventures \$19 million. Funding for the 1997 spending program is expected to be provided by cash from operations and cash advances from YFF as necessary. In addition to the 1997 program, Maxus has financial and/or performance commitments for exploration and development activities in 1998 and beyond, none of which are material.

Midgard has signed a letter of intent with Amoco Production Company ("Amoco") concerning the establishment of a partnership with regard to Midgard's business and assets. It is anticipated that Midgard and Amoco will each contribute to the partnership oil and gas properties in the Texas Panhandle and western Oklahoma and that Amoco will contribute certain other assets. Midgard and Amoco have commenced negotiations of definitive agreements covering the partnership. However, no definitive agreements have been entered into, and consequently no assurances can be given that the attempts to establish the partnership will be successful. In addition to the general reorganization discussed in "Significant Events 1996" above, Maxus is continuing to consider a number of possible capital and business restructuring alternatives; however, no decisions have been made to take any additional specific action nor can there be any assurance that any specific action will be taken.

The Company's foreign petroleum exploration, development and production activities are subject to political and economic uncertainties, expropriation of property and cancellation or modification of contract rights, foreign exchange restrictions and other risks arising out of foreign governmental sovereignty over the areas in which the Company's operations are conducted, as well as risks of loss in some countries due to changes in governments, civil strife, guerrilla activities and insurrection. Areas in which the Company has significant operations include the United States, Indonesia and Ecuador.

On August 10, 1996, a new Government was inaugurated in Ecuador and on August 20, 1996, the new Energy Minister announced his intention to cancel the Company's risk service contract unless the Company and the other members of its consortium for the Block 16 project ("Block 16") agreed to convert such contract into a production sharing contract. Effective January 1, 1997, the Company and the Government entered into a new contract governing Block 16. The principal difference between the two contracts is the manner in which the consortium's costs in the Block are recovered. Under the former contract, the Company had the right to recover its investment before the Government began to share in significant proceeds from the sale of production; under the new contract, the Government receives a royalty, and the Company's recovery of its investment is out of the proceeds after deducting such royalty. Previous Governments had signaled their dissatisfaction with the former arrangement and in recent years a series of auditing, contract administration and certification of new field disputes had arisen that made it increasingly difficult to develop Block 16. Partly in response to these difficulties, the Company reduced its 1996 program spending on Block 16 to \$17 million from \$32 million in 1995.

# **EXHIBIT 45**

20-F 1 d20f.htm FORM 20-F

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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: 1-12102

**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  
C1035AAC Ciudad Autónoma de 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:

Title of Each Class	Name of Each Exchange on Which Registered
American Depositary Shares, each representing one Class D Share, par value 10 pesos per share	New York Stock Exchange
Class D Shares	New York Stock Exchange*
7 3/4% Notes due 2007	New York Stock Exchange

\* 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 outstanding shares of each class of stock of YPF Sociedad Anónima as of December 31, 2005 was:

Class A Shares	3,764
Class B Shares	7,624
Class C Shares	1,475,704
Class D Shares	391,825,701
	<u>393,312,793</u>

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

If this report is an annual or transition report, 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

Note—Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

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and oil spills in the gathering systems of fields. Expenditures will also be made to improve technical assistance and training and to establish environmental contamination remediation plans, air emissions monitoring plans and ground water investigation and monitoring programs.

YPF and several other industrial companies operating in the La Plata area have entered into a community emergency response agreement with three municipalities and local hospitals, firefighters and other health and safety service providers to implement an emergency response program. This program is intended to prevent damages and losses resulting from accidents and emergencies, including environmental emergencies. Similar projects and agreements were developed at other refineries as well.

In 1991, YPF entered into an agreement (*Convenio de Cooperación Interempresarial* or CCI) with certain other oil and gas companies for the implementation of a plan to reduce and assess environmental damage resulting from oil spills in Argentine waters to reduce the environmental impact of potential oil spills offshore. This agreement involves consulting on technological matters and mutual assistance in the event of any oil spills in rivers or at sea, due to accidents involving tankers or offshore exploration and production facilities.

Regarding climate change, YPF has been developing a strategy since 2002 to address the requirements of the Kyoto Protocol. The main elements of this plan are the following:

- Actively promote the identification and pursuit of opportunities to reduce emissions within YPF. For that, YPF takes into account the cost of carbon into its business decisions.
- Intensify the execution of internal projects for credit-generating by the Clean Development Mechanisms that help its parent company, Repsol YPF, to meet its obligations. YPF collaborates with competent authorities from the countries in which it operates, in particular the Argentina Clean Development Mechanism Office (OAMDL).

YPF's estimated capital expenditures and future investments are based on currently available information and on current laws, and future changes in laws or technology could cause a revision of such estimates. In addition, while YPF does not expect environmental expenditures to have a significant impact on YPF's future results of operations, changes in management's business plans or in Argentine laws and regulations may cause expenditures to become material to YPF's financial position, and may affect results of operations in any given year.

### *YPF Holdings Inc.—Operations in the United States of America*

Laws and regulations relating to health and environmental quality in the United States affect nearly all of the operations of YPF Holdings. 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.

YPF believes that YPF Holdings' 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 YPF Holdings and, as discussed below, Maxus and Tierra, controlled companies through YPF Holding Inc, have certain potential liabilities associated with operations of Maxus' former chemical subsidiary. YPF Holdings 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 YPF Holdings 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

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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.

As of December 31, 2005, reserves for the environmental contingencies totalled approximately US\$ 85.2 million. Management believes it has adequately reserved for all environmental contingencies that are probable and can be reasonably estimated. However, changes in circumstances could result in changes, including additions, to such reserves in the future.

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 for this cost sharing being limited to US\$ 75 million. The obligation under this cost sharing arrangement has been substantially satisfied in that as of December 31, 2005, YPF Holdings had expended a total of approximately US\$ 74.9 million thereunder. The remaining portion of this cost sharing arrangement (approximately US\$ 0.1 million as of December 31, 2005) has been reserved.

Tierra has agreed to assume essentially all of Maxus' aforesaid indemnity obligations to Occidental in respect of Chemicals.

In the following discussion concerning plant sites and third party sites, references to YPF Holdings include, as appropriate and solely for ease of reference, references to Maxus and Tierra. As indicated above, Tierra is also a subsidiary of YPF Holdings and has assumed certain of Maxus' obligations.

*Newark, New Jersey.* A consent decree, previously agreed upon by the U.S. Environmental Protection Agency (the "EPA"), the New Jersey Department of Environmental Protection and Energy (the "DEP") and Occidental, as successor to Chemicals, was entered in 1990 by the United States District Court of New Jersey and requires implementation of a remedial action plan at Chemicals' former Newark, New Jersey agricultural chemicals plant. The approved remedy has been completed and paid for by Tierra pursuant to the above described indemnification obligation to Occidental. This project has moved into the operation and maintenance phase; however, there will be periodic assessments to determine if additional work needs to be done. YPF Holdings has fully reserved the estimated costs required to conduct ongoing operation and maintenance of such remedy (at an average cost of approximately US\$ 1 million annually) for 9 years from and after January 1, 2006.

*Passaic River, Newark bay, New Jersey.* Studies have indicated that sediments of the Newark Bay watershed, including the Passaic River adjacent to the former Newark plant, are contaminated with hazardous chemicals from many sources. These studies suggest that the older and more contaminated sediments located adjacent to the former Newark plant generally are buried under more recent sediment deposits. Maxus, on behalf of Occidental, negotiated an agreement with the EPA under which Tierra has conducted further testing and studies to characterize contaminated sediment and biota in a six-mile portion of the Passaic River near the plant site. The stability of the sediments in the entire six-mile portion of the Passaic River study area was also examined as a part of Tierra's studies. While some work remains, these studies were substantially completed in 2005. In addition,

- Maxus and Tierra have been conducting similar studies under their own auspices for several years.

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- The EPA and other agencies are addressing the lower Passaic River in a joint federal, state, local and private sector cooperative effort designated as the Lower Passaic River Restoration Project (the "PRRP"). Tierra has agreed, along with approximately 30 other entities, to participate in a remedial investigation and feasibility study proposed in connection with the PRRP.
- In 2003, the DEP issued its Directive No. 1 for Natural Resource Injury Assessment and Interim Compensatory Restoration of Natural Resources for the Lower Passaic River ("Directive No. 1"). Directive No. 1 was served on approximately 66 entities, including Occidental and Maxus and certain of their respective related entities, and seeks to address natural resource damages allegedly resulting from almost 200 years of historic industrial and commercial development of the lower 17 miles of the Passaic River and a part of its watershed. Directive No. 1 asserts that the named entities are jointly and severally liable for the alleged natural resource damages without regard to fault. The DEP has asserted jurisdiction in this matter even though all or part of the lower Passaic River has been designated as a Superfund site and is a subject of the PRRP. Directive No. 1 calls for the following actions: interim compensatory restoration, injury identification, injury quantification and value determination. Maxus and Tierra responded to Directive No. 1 setting forth good faith defenses. Settlement discussions between the DEP and the named entities have been held; however, no agreement has been reached or is assured.
- In 2004, the EPA and Occidental entered into an administrative order on consent (the "AOC") pursuant to which Tierra (on behalf of Occidental) has agreed to conduct testing and studies to characterize contaminated sediment and biota in the Newark Bay. Tierra presented a proposed initial work plan, a study that includes sampling in Newark bay, which was approved by the EPA. Tierra began field work on this study in October 2005. After the data has been collected in the initial study, a determination will be made as to what additional work, if any, might be required.
- In December 2005, the DEP issued a directive to Tierra, Maxus and Occidental directing said parties to pay the State of New Jersey's costs of developing a Source Control Dredge Plan focused on alleged dioxin-contaminated sediment in the lower six-mile portion of the Passaic River. The development of this plan is estimated by the DEP to cost approximately US\$ 2.3 million. This directive was issued even though this portion of the lower Passaic River has been designated as a Superfund site and is a subject of the PRRP. Maxus and Tierra are studying this new directive. The DEP has advised the recipients that (a) it is engaged in discussions with the EPA regarding the subject matter of the directive, and (b) they are not required to respond to the directive until otherwise notified.
- Also in December 2005, the DEP sued YPF, YPF Holdings, Tierra, Maxus and several affiliated entities, in addition to Occidental, in connection with dioxin contamination allegedly emanating from Chemicals' former Newark plant and contaminating the lower 17-mile portion of the Passaic River, Newark Bay, other nearby waterways and surrounding areas. The DEP seeks unspecified damages for injuries to so-called "uplands resources" and for other matters. The DEP also seeks punitive damages. YPF, YPF Holdings and its subsidiary, CLH Holdings Inc., have filed pleadings seeking dismissal, and the remaining defendants who have been served are in the process of preparing appropriate responsive pleadings.

As of December 31, 2005, there is a total of approximately US\$ 9.0 million reserved in connection with the foregoing matters related to the Passaic River, Newark Bay and surrounding area. Studies are ongoing with respect to the Passaic River and Newark Bay watershed. Until these studies are completed and evaluated, YPF Holdings cannot estimate what additional costs, if any, will be required to be incurred. However, it is possible that additional work, including interim remedial measures, may be ordered with respect to the Passaic River and/or Newark Bay. In addition, as more is known about the aforesaid directives and litigation, additional costs may be required to be incurred or additional reserves may need to be established.

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*Hudson County, New Jersey.* Until 1972, Chemicals operated a chromite ore processing plant at Kearny, New Jersey ("Kearny Plant"). According to the DEP, wastes from these ore processing operations were used as fill material at a number of sites in and near Hudson County. The DEP and Occidental, as successor to Chemicals, signed an administrative consent order with the DEP in 1990 for investigation and remediation work at certain chromite ore residue sites in Kearny and Secaucus, New Jersey. Tierra, on behalf of Occidental, is presently performing the work, and Tierra is funding Occidental's share of the cost of investigation and remediation of these sites. Tierra, on behalf of Occidental, is providing financial assurance in the amount of US \$20 million for performance of the work. This financial assurance may be reduced with the approval of the DEP following any annual cost review. While Tierra has participated in the cost of studies and is implementing interim remedial actions and conducting remedial investigations, the ultimate cost of remediation is uncertain. Tierra submitted its remedial investigation reports to the DEP in late 2001, and the DEP continues to review these reports. In addition:

- In May 2005, the DEP took two actions in connection with the chrome sites in Hudson and Essex Counties. First, the DEP issued a directive to Maxus, Occidental and two other chromium manufacturers (the "Respondents") directing them to arrange for the cleanup of chromite ore residue at three sites in Jersey City and the conduct of a study by paying the DEP a total of US\$ 20 million. While YPF Holdings believes that Maxus is improperly named and there is little or no evidence that Chemicals' chromite ore residue was sent to any of these sites, the DEP claims the Respondents are jointly and severally liable without regard to fault. Second, the State of New Jersey filed a lawsuit against Occidental and two other entities in state court in Hudson County seeking, among other things, cleanup of various sites where chromite ore residue is allegedly located, recovery of past costs incurred by the State of New Jersey at such sites (including in excess of US\$ 2.3 million dollars allegedly spent for investigations and studies) and, with respect to certain costs at 18 sites, treble damages. The DEP claims that the defendants are jointly and severally liable, without regard to fault, for much of the damages alleged. The parties have engaged in preliminary discussion regarding possible settlement; however, there is no assurance that these discussions will be successful.
- In 2004, the DEP expressed a desire that a sediments testing program be conducted on a portion of the Hackensack River near the former Kearny Plant. Tierra, on behalf of Occidental, and other parties are engaged in discussions with the DEP regarding this issue.
- By letter dated November 10, 2005, several environmental groups sent a notice of intent to sue the owner of the property adjacent (the "Adjacent Property"), to the former Kearny Plant and five other parties, including Tierra, under the Resource Conservation and Recovery Act. The stated purpose of the lawsuit, if filed, would be to require the noticed parties to carry out measures to abate alleged endangerments to health and the environment emanating from the Adjacent Property. Tierra is studying this notice.

As of December 31, 2005, there is a total of approximately US\$ 24.8 million reserved in connection with the foregoing chrome-related matters. Soil action levels for chromium in New Jersey have not been finalized, and the DEP is currently reviewing the proposed action levels. The cost of addressing these chrome-related matters could increase depending upon the final soil action levels, the DEP's response to Tierra's reports and other developments.

*Painesville, Ohio.* From about 1912 through 1976, Chemicals operated manufacturing facilities in Painesville, Ohio (the "Painesville Works"). The operations over the years involved several discrete but contiguous plant sites over an area of about 1,300 acres. The primary area of concern historically has been Chemicals' former chromite ore processing plant (the "Chrome Plant"). For many years, the site of the Chrome Plant has been under the administrative control of the EPA pursuant to an administrative consent order under which Chemicals is required to maintain a clay cap over the Chrome Plant site and to conduct certain ground water and surface water monitoring. Certain other areas have previously been clay-capped, and one specific site, which was a waste disposal site from the mid-1960s until the 1970s, has been encapsulated and is being controlled and monitored. In 1995, the Ohio Environmental Protection Agency (the "OEPA"), issued its Director's Final Findings and Order (the "Director's Order"), by consent ordering that a remedial investigation and feasibility study (the "RIFS"), be conducted at the

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former Painesville Works area. Tierra has agreed to participate in the RIFS as required by the Director's Order. Tierra submitted the remedial investigation report to the OEPA, which report was finalized in 2003. Tierra will submit required feasibility reports separately. In addition, the OEPA has approved certain work, including the remediation of the site of a former cement plant, remediation of a former aluminum smelting plant and work associated with the development plans discussed below (the "Remediation Work"), which has begun. As the OEPA approves additional projects for the site of the former Painesville Works, additional amounts may need to be reserved. Over ten years ago, the former Painesville Works site was proposed for listing on the National Priority List under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); however, the EPA has stated that the site will not be listed so long as it is satisfactorily addressed pursuant to the Director's Order and OEPA's programs. The site has not been listed. YPF Holdings has reserved a total of approximately US\$12.5 million as of December 31, 2005 for its estimated share of the cost to perform the RIFS, the Remediation Work and other operation and maintenance activities at this site. The scope and nature of any further investigation or remediation that may be required cannot be determined at this time; however, as the RIFS progresses, YPF Holdings will continuously assess the condition of the Painesville Works site and make any changes, including additions, to its reserve as may be required. Tierra has entered into an agreement with a developer for the possible development and use of all or portions of this site. While the developer is proceeding with its development plans, there can be no assurance that this site will be successfully developed or that any productive use can be made of all or a portion of this site.

*Third Party Sites.* Chemicals has also been designated as a potentially responsible party ("PRP") by the EPA under CERCLA with respect to a number of third party sites where hazardous substances from Chemicals' plant operations allegedly were disposed or have come to be located. Numerous PRPs have been named at substantially all of these sites. At several of these, Chemicals has no known exposure. Although PRPs are typically jointly and severally liable for the cost of investigations, cleanups and other response costs, each has the right of contribution from other PRPs and, as a practical matter, cost sharing by PRPs is usually effected by agreement among them. At a number of these sites, the ultimate response cost and Chemicals' share of such costs cannot be estimated at this time. At December 31, 2005, YPF Holdings has reserved approximately US\$3.1 million in connection with its estimated share of costs related to these sites while the cost of other sites can not be determined as of the date hereof.

The Port of Houston Authority ("the "Port"), sued a number of parties, including Occidental (as successor to Chemicals) and Maxus, alleging in excess of US\$ 25 million in damages to its property, plus the need for remediation at certain of its property, as a result of contamination allegedly emanating from a facility adjoining Greens Bayou formerly owned by Chemicals and at which DDT and certain other chemicals were manufactured. Tierra is handling this matter on behalf of Occidental. The Port's claims were settled for an initial payment of US\$ 30 million and certain other undertakings, including an agreement to remediate various properties in the vicinity of the Greens Bayou facility, an agreement by another defendant to purchase a tract of land for up to US\$ 5 million, and an agreement to indemnify the Port up to an aggregate of US\$ 20 million in respect of certain matters. The cost of such remediation is not expected to exceed a total of approximately US\$ 44 million. Pursuant to a cost sharing agreement among the defendants, Tierra (on behalf of Occidental) contributed US\$ 6.3 million toward the settlement, subject to the defendants' agreement to arbitrate their respective obligations in connection with the settlement. Following the arbitration and initiation of challenges to the award, the defendants agreed to settle their dispute pursuant to a confidential settlement agreement. At December 31, 2005, YPF Holdings has reserved approximately US\$ 26.3 million for its share of future remediation activities associated with the Greens Bayou facility.

YPF Holdings, including its subsidiaries, is a party to various other lawsuits, the outcomes of which are not expected to have a material adverse affect on YPF's financial condition. Reserves have been established for legal contingencies in situations where losses are probable and can be reasonably estimated.



# **EXHIBIT 46**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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.

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1 G. Leiva  
 2 of the restructuring and at the time of the purchase,  
 3 it showed that it was not going to have a profit. It  
 4 was not going to make money.  
 5 Q. It was paying huge taxes, that is what  
 6 made it unprofitable; isn't that true? In '94 and  
 7 '95 Maxus' taxes were larger than its income?  
 8 A. It was paying minimum taxes that even  
 9 though it was having a loss -- it says in the bullet  
 10 right here, even though there is a loss, Maxus has to  
 11 pay the minimum alternative tax at the two percent  
 12 rate on the results that it has abroad. Even though  
 13 if globally it was losing money, it still paid taxes,  
 14 and that became a tax loss that could be compensated  
 15 in the future.  
 16 Q. In 1993, '94 and '95, prior to paying  
 17 taxes, isn't it true that Maxus made a net profit,  
 18 but it was the taxes that caused it to lose money?  
 19 A. I didn't say that.  
 20 Q. I'm asking you that. I tell you what, I  
 21 will find the document that will show that issue. We  
 22 will come back to it.  
 23 For purposes of this discussion on page  
 24 217, the new structure that we're discussing is the  
 25 creation of what is to become YPF International; is

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1 G. Leiva  
 2 that correct?  
 3 A. That's correct.  
 4 Q. It is the transfer of the foreign  
 5 operations once held by Maxus to that company, YPF  
 6 International?  
 7 A. The transfer of Bolivia and Venezuela,  
 8 yes.  
 9 Q. What transfer is contemplated with  
 10 respect to the Indonesian assets?  
 11 A. The assets of Indonesia -- it was  
 12 considered that the Indonesian assets would be sold  
 13 from Maxus Indonesia Corporation -- no, Maxus Energy  
 14 Corporation to another affiliated company of YPF  
 15 International.  
 16 Q. And that holding company was a Dutch  
 17 subsidiary; is that correct?  
 18 A. YPF International subsidiary. YPF  
 19 International finally had a subsidiary in Holland.  
 20 Q. Yes.  
 21 A. And the Indonesia operation would be a  
 22 subsidiary of the Holland company.  
 23 Q. The Indonesian assets, Sumatra and Java,  
 24 as well as the former operations of Maxus Ecuador  
 25 were transferred to that company; is that correct?

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1 G. Leiva  
 2 A. That's correct.  
 3 Q. By moving the operations associated with  
 4 Bolivia, Venezuela, Java, Sumatra and Ecuador from  
 5 Maxus to an international subsidiary of YPF, YPF was  
 6 able to achieve increased earnings on those  
 7 operations?  
 8 A. By doing this transferring, the  
 9 operations would not have -- would not improve their  
 10 results.  
 11 Q. I don't want to argue with you, and I'm  
 12 not saying that it impacts the subsidiaries'  
 13 operations. I'm saying that it maximizes the tax  
 14 benefits and the dividends received by YPF; is that  
 15 true?  
 16 MS. BLANCO: Objection to the form. You  
 17 can answer.  
 18 A. It improved the dividends and the tax  
 19 benefits would not be for YPF, but for YPF  
 20 International.  
 21 Q. YPF International was a wholly owned  
 22 subsidiary of YPF?  
 23 A. That's not right. YPF International was  
 24 a 100 percent subsidiary of YPF.  
 25 Q. Correct. Did the movement of the

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1 G. Leiva  
 2 operations -- scratch that. Sorry.  
 3 Was it a goal of this corporate  
 4 reorganization to improve the operational results of  
 5 Maxus Energy?  
 6 A. I don't know if it was the goal, but it  
 7 happened -- but that's what happened in reality, in  
 8 practice.  
 9 Q. Maxus' foreign operations, its best  
 10 assets, were all moved to YPF International; is that  
 11 true?  
 12 A. No, the best asset that it had was  
 13 Midgard.  
 14 Q. That was sold in 1999, true?  
 15 A. That's correct.  
 16 Q. This restructuring from 1996 to 1998 all  
 17 of the foreign operations of Maxus were removed from  
 18 the company; is that true?  
 19 MS. BLANCO: Objection to form.  
 20 MR. CROUT: Objection to form.  
 21 A. We would have to define the term remove  
 22 because actually they were purchased and they were  
 23 purchased at a fair market value.  
 24 MR. JACKSON: Objection, non-responsive.  
 25 Q. All I'm asking is by this restructuring,

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1 G. Leiva  
 2 were the foreign operations of Maxus transferred to  
 3 other wholly owned subsidiaries of YPF?  
 4 MS. BLANCO: Objection, form. You can  
 5 answer it.  
 6 MR. CROUT: Same objection.  
 7 A. Yes, they were transferred at a fair  
 8 market value.  
 9 MR. JACKSON: Object to that portion  
 10 after "yes, they were transferred" as non-responsive.  
 11 Q. I'm not asking about value right now.  
 12 All I'm asking is whether or not they were  
 13 transferred.  
 14 MS. BLANCO: Objection to the form.  
 15 MR. CROUT: Same objection.  
 16 A. By transfer do you mean sale?  
 17 Q. No, I do not.  
 18 A. The operations were sold, not  
 19 transferred.  
 20 Q. We'll get into the details of those  
 21 transactions in a moment.  
 22 One of the benefits to the new structure  
 23 is elimination of tax withholding on earnings  
 24 generated by Bolivia and Venezuela; do you see that?  
 25 A. Yes, that's correct.

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1 G. Leiva  
 2 Q. Another benefit below that is the  
 3 elimination of the tax withholding on income obtained  
 4 from Ecuador and Indonesia; is that correct?  
 5 A. That's correct.  
 6 Q. If you look to the next bullet beneath  
 7 the one we've been discussing it states basically  
 8 that this restructuring divides the current Maxus  
 9 into four areas; is that correct?  
 10 A. Yes.  
 11 Q. Section C there states that Chemical  
 12 Land Holdings is one of those four areas which will  
 13 manage environmental problems and will eventually  
 14 carry out environmental cleanup services essentially;  
 15 is that correct? Is that what it states?  
 16 A. That's correct.  
 17 Q. Is that Tierra Solutions is all I was  
 18 going to ask you.  
 19 MS. BLANCO: Hold on. I want the  
 20 witness to complete his answer before the next  
 21 question.  
 22 A. I just wanted to say that Chemical Land  
 23 Holdings is the name of the company and interpreter  
 24 should not have to translate to that.  
 25 Q. Where it refers to Chemical Land

Page 219

1 G. Leiva  
 2 Holdings, that's the company that today is known as  
 3 Tierra Solutions; is that correct?  
 4 A. That's correct.  
 5 Q. Can you turn to page 218, please. What  
 6 is this slide entitled, this page?  
 7 A. Restructuring Process.  
 8 Q. And underneath that?  
 9 A. Steps to be done.  
 10 Q. What does the first bullet point say?  
 11 A. The board of YPF and Maxus board members  
 12 must approve the rescue of preferred shares with a  
 13 dividend of -- \$4 dividend, a restructuring plan for  
 14 Maxus division of the environmental company,  
 15 separation, split, restructuring of the debts.  
 16 Q. All of these things are part of the  
 17 larger plan for restructuring?  
 18 A. All these are part of the restructuring.  
 19 Q. What does the fourth bullet say?  
 20 A. To create a new holding company  
 21 offshore. To create a new offshore holding company,  
 22 and a new holding company for Maxus and CLH in the  
 23 U.S. or to use one that is already in existence.  
 24 Q. What does the seventh bullet point say?  
 25 A. To channel Indonesian operations through

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1 G. Leiva  
 2 Holland companies.  
 3 Q. These steps are all part of a larger  
 4 plan to restructure the international operations of  
 5 YPF; is that correct?  
 6 A. Repeat.  
 7 (The requested portion was read.)  
 8 A. This is the plan. There is not a larger  
 9 plan, any other larger plan.  
 10 Q. This is the plan?  
 11 A. This is the plan.  
 12 Q. This is, in fact, essentially what  
 13 transpired?  
 14 A. Yes. The only thing is that it was not  
 15 called YPF Maxus International, only YPF  
 16 International.  
 17 Q. Can you look at page 219 with me,  
 18 please. Does this indicate that the debt  
 19 restructuring was necessary to allow the movement of  
 20 Maxus' assets because its creditors could essentially  
 21 prevent the transaction?  
 22 A. The preferred asset had a clause in  
 23 which the sale of assets was conditioned --  
 24 MS. BLANCO: Objection to the  
 25 translation. "Preferred shareholders."

Page 245

1 G. Leiva  
 2 capital -- if the capital contribution would have  
 3 been directly from YPF to YPF Holdings, that would  
 4 have made YPF as a direct shareholder of YPF  
 5 Holdings. Do you understand that?  
 6 Q. No. If YPF wants to transfer the stock  
 7 of Maxus to YPF Holdings, on day one YPF holds the  
 8 stock of Maxus, on day two YPF Holdings holds the  
 9 stock of Maxus.  
 10 A. But YPF would have the stock of YPF  
 11 Holdings.  
 12 Q. Why wouldn't YPF International still  
 13 hold the stock of YPF Holdings?  
 14 A. We have shares right here. If the  
 15 contribution -- if YPF would have made the  
 16 contribution to YPF Holdings in this transaction,  
 17 then YPF would be holding shares from YPF Holdings.  
 18 Q. There's another side to the transaction.  
 19 In exchange for the contribution of the shares of  
 20 Maxus to YPF International, did YPF International  
 21 give shares in itself to YPF?  
 22 A. That's what a capital contribution is  
 23 about.  
 24 Q. So, the shares go back to YPF? I'm  
 25 sorry, the shares of YPF International.

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1 G. Leiva  
 2 A. In this case YPF International is the  
 3 issuer.  
 4 Q. I'm sorry. I understand now. So, as  
 5 reflected on Plaintiffs' Exhibit 67, the two steps of  
 6 the transaction were -- step one was that YPF made a  
 7 capital contribution of the shares of Maxus to YPF  
 8 International. By doing so it obtained 100 percent  
 9 of the ownership interest. It was the only capital  
 10 in YPF International.  
 11 A. It already had the 100 percent ownership  
 12 interest. The only thing that it makes is it  
 13 increases the assets of YPF International.  
 14 Q. Okay. I understand.  
 15 A. The operation could have been, now I  
 16 think, the contribution from YPF to YPF Holdings and  
 17 then the contribution from YPF to YPF International  
 18 of the YPF Holdings' shares would have been the same  
 19 thing.  
 20 Q. The point was to get the international  
 21 operations into YPF International?  
 22 A. All of them. That one was approved.  
 23 Q. The final entry then on this page,  
 24 August 14, 1996 there's a stock purchase and sale  
 25 agreement whereby Maxus Corporate Company sold the

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1 G. Leiva  
 2 stock of Chemical Land Holdings, Inc., which is  
 3 Tierra, to YPF Holdings?  
 4 A. Yes, in this case it's not a capital  
 5 contribution, but it's a sale because they were third  
 6 parties from Paris that could have been affected with  
 7 the disposition of any asset.  
 8 Q. How much did YPF Holdings pay for  
 9 Tierra?  
 10 A. I don't know, but I don't think it was  
 11 much because it only had liabilities.  
 12 Q. It had assets and real property?  
 13 A. Chemical Land Holdings? At that time I  
 14 didn't have knowledge.  
 15 Q. We're talking about Tierra Solutions,  
 16 correct?  
 17 A. Yes, we're talking about the  
 18 environmental company.  
 19 Q. Right. It owns 80 and 120 Lister Avenue  
 20 in New Jersey?  
 21 A. Okay. That's fine. I'm not an expert  
 22 on that. I'm not an expert in property business.  
 23 MS. BLANCO: No. Wait. Objection to  
 24 the translation.  
 25 A. I'm not an expert in the business of

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1 G. Leiva  
 2 earth -- of Tierra or Chemical.  
 3 VIDEOGRAPHER: Five minutes on the tape.  
 4 Q. I'm not asking you to testify as an  
 5 expert, just as the corporate representative on these  
 6 restructurings.  
 7 A. Okay.  
 8 Q. You testified earlier, at least with  
 9 respect to the assets sales, each and every one was  
 10 with a valuation and transferred at fair market  
 11 value?  
 12 A. Yes, that's correct. This is what is  
 13 going on in this transference.  
 14 Q. What was the value assigned to Tierra  
 15 Solutions?  
 16 A. I do not know.  
 17 Q. What did YPF Holdings pay for Tierra  
 18 Solutions?  
 19 A. I do not know. You can ask YPF  
 20 Holdings' representative.  
 21 Q. I'm here asking you as the corporate  
 22 representative of the ultimate parent, YPF.  
 23 A. I do not know.  
 24 Q. Would Carlos Olivieri have superior  
 25 knowledge on this topic?

# **EXHIBIT 47**

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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 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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.

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1 G. Leiva  
 2 MARGARITA FRIEDMAN, the interpreter  
 3 was duly sworn by a Notary Public of the State of New  
 4 York to faithfully and accurately translate the  
 5 questions propounded to the witness from English into  
 6 Spanish and the answers thereto from Spanish into  
 7 English;  
 8  
 9 GABRIEL LEIVA, having been first duly  
 10 sworn by a Notary Public of the State of New York,  
 11 was examined and testified through the interpreter as  
 12 follows:  
 13 EXAMINATION BY  
 14 MR. JACKSON:  
 15 (Whereupon, Agreement of Merger was  
 16 received and marked Plaintiffs' Exhibit 75, for  
 17 identification, as of this date.)  
 18 VIDEOGRAPHER: Good morning. My name is  
 19 Daniel McClutchy of Nationwide Video Productions  
 20 located in Roseland, New Jersey. The date today is  
 21 September 24, 2006. The time is approximately 9:13  
 22 a.m. This is day two of the videotaped deposition of  
 23 Gabriel Leiva. The appearances have previously been  
 24 made and the witness has previously been sworn.  
 25 Q. Good morning, Mr. Leiva, how are you

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1 G. Leiva  
 2 today?  
 3 A. Fine. Thank you very much.  
 4 Q. What I would like to do today is pick up  
 5 where we left off yesterday. I'm going to hand you  
 6 what we have marked as Plaintiffs' Exhibit 75. This  
 7 is the Agreement of Merger between YPF Acquisition  
 8 Corp. and Maxus Energy.  
 9 Yesterday at the end of the day we were  
 10 discussing the Keepwell Covenant. What I would like  
 11 to ask you to do is turn to page 54 of Exhibit P 75.  
 12 Could you, sir, please review Section 5.15.  
 13 A. Okay.  
 14 Q. Sir, have you seen this document before?  
 15 A. At the time of this transaction.  
 16 Q. We discussed yesterday that in  
 17 connection with your preparation of the company's  
 18 20-F's, you are generally able to read English?  
 19 MS. BLANCO: Objection to the  
 20 translation.  
 21 INTERPRETER: Could you repeat your  
 22 question?  
 23 MR. JACKSON: Yes.  
 24 (The requested portion was read.)  
 25 A. Yes.

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1 G. Leiva  
 2 Q. Are you able to read Section 5.15 of  
 3 this merger agreement?  
 4 A. Yes.  
 5 Q. Do you understand that Section 5.15 is  
 6 what is generally referred to by YPF as the Keepwell  
 7 Covenant?  
 8 A. Yes.  
 9 Q. The Keepwell Covenant obligates YPF to  
 10 capitalize Maxus in an amount necessary to permit  
 11 Maxus to meet such obligations as set forth in this  
 12 agreement up to a cap; is that correct?  
 13 A. That's correct.  
 14 Q. If you will turn to page 55, please,  
 15 there is a discussion of that cap. The cap speaks in  
 16 terms of the loan commitments. I'm not sure how this  
 17 is going to translate, but it talks in terms of three  
 18 tranches of loans, tranche one, two and three.  
 19 Are you familiar with those terms,  
 20 Mr. Leiva?  
 21 A. I'm not really sure what you mean by  
 22 tranche one, tranche two, and tranche three. I don't  
 23 know if it's stated in another section of the  
 24 covenant.  
 25 Q. Could you look at page 19, Section 3.7.

Page 172

1 G. Leiva  
 2 This section refers to the commitment as a defining  
 3 term referencing the commitment letter from Chase  
 4 Manhattan Bank that we discussed yesterday.  
 5 Do you recall that, sir?  
 6 A. Yes.  
 7 Q. Under the terms of the Chase commitment  
 8 that we discussed yesterday, the tranche one was the  
 9 loan to YPF Acquisition Corp.; do you recall that,  
 10 sir?  
 11 A. Yes.  
 12 Q. Tranches two and three were the loans for  
 13 250 million and 175 million to Midgard and for the  
 14 Indonesian assets; is that correct?  
 15 A. That's correct.  
 16 Q. Under the terms of the Keepwell  
 17 Covenant, the cap for the Keepwell in the merger  
 18 agreement was established at \$442 million under  
 19 tranche one, which was the amount of the loan to YPF  
 20 Acquisition Corp.?  
 21 MS. BLANCO: Objection, form. You can  
 22 answer.  
 23 A. Yes, I do understand as such.  
 24 Q. Actually, the provision goes on to say  
 25 "unless tranche one was replaced by tranches two and



# **EXHIBIT 48**

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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-

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YPF, S.A., YPF HOLDINGS, INC., and CLH HOLDINGS,

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-----X

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September 24, 2006  
9:10 a.m.

VOLUME II

CONTINUED 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.

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1 G. Leiva  
 2 the 1996 environmental reserves of Maxus?  
 3 A. I will tell you in a minute.  
 4 Q. Okay.  
 5 A. It sounds reasonable. To December 31 of  
 6 that year the reserve was 102 million.  
 7 Q. Wasn't that amount, sir, based on Maxus'  
 8 environmental reserves in 1996?  
 9 A. Are you talking about the 108 million  
 10 here or the 102 million that I talked about before?  
 11 Q. I'm talking about the amount in the  
 12 Contribution Agreement.  
 13 A. Okay. I assume yes.  
 14 Q. It states that the parent -- Plaintiffs'  
 15 Exhibit 32, Section II regarding the limited capital  
 16 contribution obligations for Tierra, that's the title  
 17 of the section that I'm trying to refer you to.  
 18 That section states that YPF and each of  
 19 the other parent companies "jointly and severally"  
 20 agree to make these or have made these capital  
 21 contributions to Tierra. Do you see that?  
 22 MR. CROUT: Objection to form.  
 23 MS. BLANCO: Same objection. You can  
 24 answer.  
 25 A. Here it doesn't say severally.

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1 G. Leiva  
 2 MR. JACKSON: I'm going to object to the  
 3 translation, I think, based on a hunch.  
 4 INTERPRETER: Independently that's what  
 5 it says?  
 6 MR. JACKSON: That's okay.  
 7 Q. Look with me, please, at the last  
 8 sentence of Section II, can you read that to  
 9 yourself.  
 10 (Witness complies.)  
 11 Q. This section calls for the cascading  
 12 funding that we have talked about before where it  
 13 goes from YPF to its subsidiary, YPF International,  
 14 followed by successive contributions down the chain;  
 15 is that correct?  
 16 A. That's correct.  
 17 Q. Did funding actually occur this way  
 18 under the Contribution Agreement?  
 19 A. Yes, that's the way that you do any type  
 20 of funding, capitalization.  
 21 Q. I just want to make sure it's clear. In  
 22 this instance that is how the funding occurred?  
 23 A. Yes.  
 24 Q. Is it your understanding that  
 25 contributions, that all contributions required under

Page 263

1 G. Leiva  
 2 the Contribution Agreement have been made at least  
 3 insofar as Section II is concerned?  
 4 A. As far as I know, all the contributions  
 5 that CLH needed to face its environmental liabilities  
 6 were done.  
 7 I also know that there are some formal  
 8 issues regarding that documentation. The  
 9 documentation that we have been talking about under  
 10 this Contribution Agreement and not under an  
 11 alternative funding.  
 12 Q. Is it your testimony that all the  
 13 contributions that Tierra needed to fund its  
 14 environmental liabilities were done?  
 15 A. Yes, to fund the payment requirements of  
 16 Tierra regarding environmental issues.  
 17 Q. Under the terms of the Contribution  
 18 Agreement?  
 19 A. Yes.  
 20 Q. Just so we're clear, and let me go ahead  
 21 and hand you what we marked as Plaintiffs'  
 22 Exhibit 70. I think this exhibit may impact the  
 23 amount of the obligation.  
 24 Can you tell me what Exhibit 70 is,  
 25 please, sir?

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1 G. Leiva  
 2 A. It changes the amount that has been  
 3 promised in Section II of Plaintiffs' Exhibit 32,  
 4 increasing from \$108,400,000 to \$11.5 million.  
 5 MS. BLANCO: Objection to the --  
 6 A. No, \$111,500,000.  
 7 Q. The first addendum to the Contribution  
 8 Agreement increases the Assumed Liability Accrued  
 9 Amount as defined in the agreement to \$111,500,000;  
 10 is that correct?  
 11 A. Do you mean the debt or the --  
 12 Q. Sir, if you will look at Plaintiffs'  
 13 Exhibit 70, the first addendum to the Contribution  
 14 Agreement it simply states that is increasing the  
 15 Assumed Liability Accrued Amount by \$3.1 million.  
 16 A. The assumed liabilities were the  
 17 reserves that CLH had in its balance.  
 18 Q. That Maxus had -- you mean it was Maxus'  
 19 environmental reserves, not Tierra's?  
 20 A. No, not to Tierra, CLH. Maxus assumed  
 21 originally and during the restructuring process they  
 22 were transferred to CLH.  
 23 Q. You're correct.  
 24 A. We saw it before.  
 25 Q. You're correct.

26 (Pages 261 to 264)

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<p>1 G. Leiva</p> <p>2 A. To this date the assumed liabilities</p> <p>3 were in CLH balance.</p> <p>4 Q. At December 31, 1996, you're correct.</p> <p>5 A. The liabilities were increased in CLH</p> <p>6 balance and, therefore, the commitment was increased</p> <p>7 in the Contribution Agreement.</p> <p>8 Q. So the record is clear, what we are</p> <p>9 saying is that the assumed liabilities under the</p> <p>10 Contribution Agreement and the first addendum to that</p> <p>11 agreement totaled \$111,500,000; is that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And that amount, \$111,500,000, was based</p> <p>14 on the environmental reserves of Tierra as of</p> <p>15 December 31, 1996; is that correct?</p> <p>16 A. It should, but it's been stated in 20-F</p> <p>17 that reserve was of 102 million. You can see it in</p> <p>18 this page. I don't know the corresponding page on</p> <p>19 this.</p> <p>20 Q. Are you looking at my version or your</p> <p>21 version of the 20-F?</p> <p>22 A. I'm looking at my version because I can</p> <p>23 handle it better.</p> <p>24 Q. It's on page 77 of your version.</p> <p>25 A. Thank you.</p>	<p>1 G. Leiva</p> <p>2 and 2000, the Contribution Agreement cap did not go</p> <p>3 up as well; is that correct?</p> <p>4 MR. CROUT: Objection to form.</p> <p>5 A. You say if they went up or if they would</p> <p>6 have gone up?</p> <p>7 Q. If Tierra increased its environmental</p> <p>8 reserves in later years, would that have any affect</p> <p>9 on the cap set in the Contribution Agreement?</p> <p>10 A. I assume yes, because in the amendment</p> <p>11 as it increases, the cap increases in relation to the</p> <p>12 increase of liabilities and then I don't know, but it</p> <p>13 will show that before another increase it would have</p> <p>14 done the same thing.</p> <p>15 What I want to say is that when it</p> <p>16 increased, when the liabilities or the reserve</p> <p>17 increased, also the cap was increased by the</p> <p>18 amendment. It increased by three million.</p> <p>19 Q. Are you aware of subsequent amendments</p> <p>20 to the Contribution Agreement?</p> <p>21 A. No.</p> <p>22 MR. JACKSON: We have to take a break to</p> <p>23 change the tape.</p> <p>24 VIDEOGRAPHER: Going off the record.</p> <p>25 The time is 3:49. This ends tape five.</p>
Page 266	Page 268
<p>1 G. Leiva</p> <p>2 Q. Second paragraph, last sentence, is that</p> <p>3 the \$102 million you're referring to?</p> <p>4 A. Yes.</p> <p>5 Q. That segment actually states that the</p> <p>6 outstanding funding guarantee of YPF totaled</p> <p>7 approximately 102 million; is that correct?</p> <p>8 A. Exactly, but that's in relation to what</p> <p>9 has been stated on F21.</p> <p>10 Q. If you look at page 77 of the 20-F, and</p> <p>11 I'm confused, but it says in the middle of that</p> <p>12 paragraph that it was based upon the reserves</p> <p>13 established -- Maxus' reserves established in respect</p> <p>14 to such environmental liabilities as of July 31,</p> <p>15 1996.</p> <p>16 A. But on that date, July 31st, '96 that</p> <p>17 restructuring had not taken place, the environmental</p> <p>18 liabilities belonged to Maxus and the split took</p> <p>19 place in August.</p> <p>20 Q. Agreed. Was the amount, the cap in the</p> <p>21 Contribution Agreement, fixed in time by the</p> <p>22 environmental liabilities as they had been reserved</p> <p>23 by Maxus in or as of July 31, 1996?</p> <p>24 A. Correct.</p> <p>25 Q. If the reserves went up in 1998 and 1999</p>	<p>1 G. Leiva</p> <p>2 (Whereupon, a recess was taken.)</p> <p>3 VIDEOGRAPHER: We're back on the record.</p> <p>4 The time is four o'clock. This is tape six.</p> <p>5 MS. BLANCO: The witness needs to</p> <p>6 clarify his testimony.</p> <p>7 MR. JACKSON: Okay.</p> <p>8 Q. Please do so, sir.</p> <p>9 A. I think at one point when we were</p> <p>10 talking about the Contribution Agreement it was asked</p> <p>11 if YPF had given contributions under the Contribution</p> <p>12 Agreement, and I said that YPF had made many</p> <p>13 contributions, but I wasn't sure if all of them had</p> <p>14 happened under this Contribution Agreement.</p> <p>15 Exactly to this date there is still a</p> <p>16 controversy going on between YPF Holdings and YPF</p> <p>17 S.A. regarding which was the contribution made under</p> <p>18 that Contribution Agreement.</p> <p>19 That is a job to be done that was being</p> <p>20 taken care of by the treasury department of YPF as</p> <p>21 those are the people that have the information of the</p> <p>22 transfers being done, and that has not been finished</p> <p>23 yet.</p> <p>24 Q. Okay. So as we sit here today, you are</p> <p>25 not able to say with certainty whether or not YPF has</p>

27 (Pages 265 to 268)

Page 269	Page 271
<p>1 G. Leiva</p> <p>2 completed all of its obligations under the terms of</p> <p>3 this Contribution Agreement?</p> <p>4 A. That's correct.</p> <p>5 Q. There's another area that I want to</p> <p>6 clear up with respect to the Contribution Agreement.</p> <p>7 If you look at the Contribution Agreement, page two,</p> <p>8 there are two sections, Section II and Section III.</p> <p>9 A. Correct.</p> <p>10 Q. Section II deals with the assumed</p> <p>11 environmental liabilities that Tierra assumed</p> <p>12 pursuant to the Assumption Agreement; is that</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. If you look at the terms of Section II</p> <p>16 it states that "YPF and the parent companies would</p> <p>17 make contributions to satisfy the assumed</p> <p>18 obligations," and then starting six lines down</p> <p>19 there's a provision that says "provided that there</p> <p>20 will be a maximum contribution with terms spelled out</p> <p>21 therein, but up to an amount in this document of</p> <p>22 \$108,400,000."</p> <p>23 MS. BLANCO: Objection, form. You can</p> <p>24 answer it.</p> <p>25 A. That's correct.</p>	<p>1 G. Leiva</p> <p>2 Q. Thank you. So, before the break when</p> <p>3 you testified that the amount of the cap might move</p> <p>4 if the amount of the reserves moved, that was</p> <p>5 incorrect?</p> <p>6 A. Yes, it was just a personal thought.</p> <p>7 Q. And not based in fact?</p> <p>8 A. Yes, that's right.</p> <p>9 Q. Let me show you, sir, what we've marked</p> <p>10 as Plaintiffs' Exhibit 69.</p> <p>11 Have you reviewed this document in</p> <p>12 preparation for your deposition here today?</p> <p>13 A. I don't remember having seen it before.</p> <p>14 Q. Do you know what this document is?</p> <p>15 A. I believe it's an estimation, a</p> <p>16 financial estimation of the expenses, the expenses</p> <p>17 that YPF and the companies, affiliated companies,</p> <p>18 should take care of under the Contribution Agreement.</p> <p>19 Q. Could you look back to Exhibit 32 with</p> <p>20 me, please, the Contribution Agreement. Section III</p> <p>21 deals with expenses.</p> <p>22 Do you believe that this Plaintiffs'</p> <p>23 Exhibit 69, this budgeted expenses, correlates to</p> <p>24 Section III of the Contribution Agreement?</p> <p>25 A. It could be.</p>
Page 270	Page 272
<p>1 G. Leiva</p> <p>2 Q. We know that this dollar amount was</p> <p>3 adjusted one time by addendum number one and</p> <p>4 increased by \$3,100,000; is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Have you seen anything else to indicate</p> <p>7 that this agreement has been amended to in any way</p> <p>8 alter the cap on the contributions by YPF?</p> <p>9 A. No.</p> <p>10 Q. YPF may make other loans to Maxus and</p> <p>11 Tierra via other credit facilities and the like, but</p> <p>12 with respect to the Contribution Agreement, you're</p> <p>13 unaware of any modification of these terms?</p> <p>14 MS. BLANCO: Objection, form. You can</p> <p>15 answer it.</p> <p>16 A. Did you say notification or</p> <p>17 modification?</p> <p>18 Q. Modification.</p> <p>19 A. No.</p> <p>20 Q. No, you're not aware of any modification</p> <p>21 of the terms?</p> <p>22 A. No.</p> <p>23 Q. I asked a bad question. Are you aware</p> <p>24 of any modifications of the terms?</p> <p>25 A. No.</p>	<p>1 G. Leiva</p> <p>2 Q. Could you look at the top of page three</p> <p>3 of the Contribution Agreement, please. There's a</p> <p>4 provision in the Contribution Agreement regarding</p> <p>5 budgeting for approved expenses; do you see that,</p> <p>6 sir?</p> <p>7 A. Yes.</p> <p>8 Q. Specifically it contemplates that Tierra</p> <p>9 would create a budget and provide it to YPF for its</p> <p>10 concurrence; do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Were such budgets ever provided to YPF?</p> <p>13 A. I do not have any information about</p> <p>14 that, or I do not know that happened. I do not have</p> <p>15 any information about that happening.</p> <p>16 Q. Why not?</p> <p>17 A. Is your question why I do not have</p> <p>18 information about it, or why it was not presented?</p> <p>19 Q. Why do you not have information about</p> <p>20 it.</p> <p>21 A. I told you before that I had spoken with</p> <p>22 one person regarding the Contribution Agreement and</p> <p>23 he didn't know about it.</p> <p>24 Q. Fernando Nardini?</p> <p>25 A. Yes.</p>

28 (Pages 269 to 272)

1 G. Leiva

2 completed all of its obligations under the terms of  
3 this Contribution Agreement?

4 A. That's correct.

5 Q. There's another area that I want to  
6 clear up with respect to the Contribution Agreement.  
7 If you look at the Contribution Agreement, page two,  
8 there are two sections, Section II and Section III.

9 A. Correct.

10 Q. Section II deals with the assumed  
11 environmental liabilities that Tierra assumed  
12 pursuant to the Assumption Agreement; is that  
13 correct?

14 A. That's correct.

15 Q. If you look at the terms of Section II  
16 it states that "YPF and the parent companies would  
17 make contributions to satisfy the assumed  
18 obligations," and then starting six lines down  
19 there's a provision that says "provided that there  
20 will be a maximum contribution with terms spelled out  
21 therein, but up to an amount in this document of  
22 \$108,400,000."

23 MS. BLANCO: Objection, form. You can  
24 answer it.

25 A. That's correct.

# **EXHIBIT 49**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	
FUND,	:	
Plaintiffs,	:	
V.	:	
	:	Civil Action No.
OCCIDENTAL CHEMICAL	:	2:06-CV-00401-JCL-PS
CORPORATION, TIERRA	:	
SOLUTIONS, INC., MAXUS ENERGY	:	
CORPORATION, REPSOL YPF,	:	
S.A., YPF, S.A., YPF	:	
HOLDINGS, INC., and CLH	:	
	:	
HOLDINGS,	:	
	:	
Defendants	:	

\*\*\*\*\*

VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

\*\*\*\*\*



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1 Q. Has YPF Holdings independently raised  
2 financing from external sources?  
3 A. No, it has not.  
4 Q. Has YPF Holdings ever been turned down for  
5 such financing?  
6 A. I don't believe so. I don't think YPF  
7 Holdings has ever attempted to raise financing from  
8 third-party sources.  
9 Q. Can you describe for me the process that  
10 YPF Holdings goes through to fund its operations,  
11 investments, and losses?  
12 MR. STARNES: Objection. Are you asking  
13 about -- what time period are you asking about, John?  
14 MR. GILMOUR: Today.  
15 A. Currently YPF Holdings and its subsidiaries  
16 fund their operating cash needs through loans from the  
17 immediate parent company, YPF, S.A.  
18 Q. (By Mr. Gilmour) Does YPF Holdings require  
19 the expenditures from its parent for any amounts?  
20 A. There are budgetary process that I'm aware of  
21 that occur whereby -- there's annual budget reviews  
22 and such as that where budgets are established and  
23 funding is -- or cash requirements are estimated and  
24 budgets are allocated.  
25 And I assume that that process, in a

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1 sense, forms the basis for the requests from  
2 YPF Holdings to its parent company, YPF, under the loan  
3 agreements.  
4 Q. And does YPF approve those budgets?  
5 MS. BLANCO: Objection, form.  
6 A. I don't really -- I'm not familiar with the  
7 budgetary process. I don't really participate in it at  
8 a high corporate level. I assume that there is  
9 parental review, at least, if not approval, at some  
10 level for the entire worldwide consolidated company.  
11 I think most companies look at budgets on  
12 a worldwide basis and see where they're going to put  
13 the money, especially for groups such as YPF Holdings  
14 and its subsidiaries that don't have independent means  
15 of funding themselves.  
16 So I would have to say that certainly  
17 the parent company has to look at that and make a  
18 decision to make the money available or not. I mean,  
19 it's a decision. When you don't have funds, you have  
20 to depend upon parent companies.  
21 Q. Given these matters and financial reality  
22 we've been discussing, has YPF Holdings ever considered  
23 filing bankruptcy for itself or any of its  
24 subsidiaries?  
25 MR. STARNES: Objection.

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1 MS. BLANCO: Objection, form.  
2 And again, I don't know, but I caution  
3 the witness not to answer any -- this question if it  
4 involves attorney-client privilege communication. If  
5 it does not involve any such communication, you may  
6 answer it.  
7 Q. (By Mr. Gilmour) To be clear, I'm asking  
8 solely about YPF Holdings considering filing bankruptcy  
9 for itself or any of its subsidiaries. I am not asking  
10 about any communications YPF Holdings may have had with  
11 its attorneys.  
12 A. I don't know the answer to that question.  
13 Q. Why don't you know the answer to that?  
14 MS. BLANCO: Objection to form.  
15 MR. STARNES: Objection to form.  
16 A. Because no one has asked my opinion on that  
17 topic. But -- and I don't know what discussions may  
18 have been held by management in that regard with  
19 others. But I don't want to say no because I don't  
20 have any basis for ruling out the possibility that it  
21 has been considered.  
22 Q. (By Mr. Gilmour) But as a corporate  
23 representative of YPF Holdings here today, you're not  
24 aware of it?  
25 A. I'm not -- I'm not aware of -- I will say

Page 225

1 that I'm not aware of any specific discussions or plans  
2 regarding bankruptcy filings for YPF Holdings.  
3 Q. To your knowledge, has YPF or Repsol  
4 considered putting YPF Holdings or any of its  
5 subsidiaries into bankruptcy?  
6 A. I am not aware of what plans YPF or Repsol  
7 YPF may have had in that respect or may have in that  
8 respect. I have not been consulted or asked to advise  
9 on that matter.  
10 Q. I'm handing to you what I have marked as  
11 Plaintiffs' Exhibit 51 and handing copies to opposing  
12 counsel.  
13 (Marked was Plaintiffs' Exhibit No. 51.)  
14 Q. (By Mr. Gilmour) Are you familiar with this  
15 document, sir?  
16 A. No, I'm not.  
17 Q. Have you ever seen this document before  
18 today?  
19 A. I don't recall. These pages all look alike  
20 to me.  
21 Q. Can you provide any testimony regarding this  
22 document?  
23 A. The only testimony I could give would be by  
24 reading headings and numbers.  
25 Q. I'm handing to you, sir, what I have just

# **EXHIBIT 50**

CREDIT CONTRACT \$35,000,000.00

YPF HOLDINGS, INC. (the "Borrower"), a corporation incorporated under the laws of Delaware and having offices at 1330 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380 U.S.A., and YPF S.A. (the "Lender"), a sociedad anonima organized under the laws of Argentina and having offices at Avenida Roque Sáenz Peña 777, Buenos Aires 1364, Argentina, agree to the following facility upon the terms and conditions set out below in this contract (this "Agreement"). The Borrower and Lender are sometimes referred to herein as the "parties."

WHEREAS, the Borrower desires to arrange for a line of credit that would enable it to borrow amounts as may be needed between the effective date hereof and January 1, 2006 in connection with its business; and

WHEREAS, the Lender has agreed to provide the Borrower such line of credit on the terms set forth herein:

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. THE FACILITY

The Lender will provide the Borrower a revolving credit facility to be made available in dollars in the lawful currency of the United States in an amount up to US\$35,000,000.00 (the "Maximum Loan Amount"), pursuant to which the Lender will make available to the Borrower from time to time from the period beginning on the effective date of this Agreement and continuing until the Revolving Commitment Termination Date (the "Availability Period") revolving loans (the "Revolving Loans") in an aggregate amount not to exceed the Maximum Loan Amount. During the Availability Period, the Borrower shall be entitled to borrow, prepay and reborrow Revolving Loans in accordance with the terms and conditions of this Agreement; provided, that the Borrower may not borrow or reborrow should there exist an Event of Default.

2. AVAILABILITY

This Agreement is effective as of August 1, 2005. The outstanding principal amount of all Revolving Loans shall be due and payable (together with accrued and unpaid interest thereon) on the earlier of (i) January 1, 2006 and (ii) the date on which all amounts outstanding under this Agreement have been declared or have automatically become due and payable (whether by acceleration or otherwise) ("Revolving Commitment Termination Date"). All Revolving Loans shall be repaid in US dollars and shall be evidenced by a promissory note (the "Note") substantially in the form of Exhibit A hereto.

YPFH 598

### 3. INTEREST PERIOD AND INTEREST RATE

The interest period applicable to any advance made under the above-mentioned facility shall be agreed between both parties. Each advance may not exceed a period of one year. The interest rate applicable for each interest period will be LIBOR + 0.40% per annum. In the absence of any other agreement, the repayment of each advance will be due on demand and interest shall accrue from day to day and shall be computed on the basis of a year of 360 days, and for the actual number of days elapsed. For the purposes of this Agreement, "LIBOR" means an interest rate per annum appearing on display page 3750 of the Telerate Service of Bridge Information Services ("Page 3750") (or any other page that may replace such page from time to time) at approximately 11:00 a.m., London time, on the day that is two Business Days prior to the commencement of such Interest Period for United States dollar deposits having a tenor equal to the duration of such Interest Period, provided, in the event such offered rate is not available from Page 3750, an interest rate per annum appearing on such other page or service that displays an average British Lenders Association Interest Settlement Rate at approximately 11:00 a.m., London time, on the day that is two Business Days prior to the commencement of such Interest Period for United States dollar deposits having a tenor equal to the duration of such Interest Period; provided, further, that if the offered rate is not available from Page 3750 or such other page as described above, the LIBOR Rate for such Interest Period shall be equal to the rate which is published by the Wall Street Journal from time to time as the "prime rate".

Interest on all outstanding Revolving Loans shall be payable on the last day of each Interest Period applicable thereto. For purposes of this Agreement, "Interest time Period" means with respect to any Revolving Loan a period of one month; provided, that (i) the initial Interest Period for each borrowing shall commence on the date of such borrowing, and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires; (ii) if ~~any Interest Period would otherwise end on a day other than a business day in Texas (a~~ "Business Day"), such Interest Period shall be extended to the next succeeding Business Day, unless such Business Day falls in another calendar month, in which case such Interest Period would end on the next preceding Business Day; (iii) any Interest Period which begins on the last Business Day of a calendar month or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall end on the last Business Day of such calendar month; and (iv) and no Interest Period may extend beyond the Revolving Commitment Termination Date. In case interest is not paid on the Revolving Commitment Termination Date, the outstanding principal amount of the Revolving Loans will be increased by such accrued interest, and the new figure will constitute the new principal amount of the Revolving Loans. In addition, such Revolving Loans will accrue interest at the Default Rate, as provided below.

### 4. DEFAULT INTEREST

Upon the occurrence of an Event of Default, the Borrower shall pay shall pay interest ("Default Interest") with respect to all Revolving Loans at the rate otherwise applicable for the then-current Interest Period *plus* an additional 2% per annum.

5. EVENTS OF DEFAULTS.

At the option of the Lender exercised by written notice to the Borrower all amounts due under or pursuant to this Agreement shall become immediately due and payable upon the occurrence at any time of the following events of defaults (each an "Event of Default"):

- A. Failure to pay when due any payment of principal or interest due hereunder, which non-payment continues for a period of five (5) days thereafter.
- B. Failure in the performance or observance of the provisions of this Agreement or any of the terms or conditions of any agreement securing, guaranteeing or otherwise pertaining to any loan under or pursuant to this Agreement, which failure, if capable of remedy, continues for a period of fifteen (15) days thereafter.
- C. The rendering of a final judgments for payment of money aggregating in excess of One Million United States Dollars (US\$1,000,000) against the Borrower, and the same is not discharged within a period of thirty (30) days unless, pending further proceeding, execution has not been commenced or if commenced has been effectively stayed.
- D. The admission by the Borrower of its inability to pay its debts as they mature or any assignment for the benefit of the creditors of the Borrower.
- E. Bankruptcy: The commencement of proceedings in bankruptcy or for the reorganization of the Borrower.
- F. Appointment of Receiver: The appointment of a receiver, trustee or custodian for any party liable hereon, for any substantial part of the assets of the Borrower, or the institution of proceedings for the dissolution or the full or partial liquidation of the Borrower, and such receiver or trustee shall not be discharged within thirty (30) days of his or its appointment, or such proceedings shall not be discharged within (30) days of their commencement, or the discontinuance of the business or the material change in the nature of the business of the Borrower.
- G. Dissolution: The liquidation, termination or dissolution of the Borrower.

6. NO USURIOUS INTEREST

Any provision in this Agreement to the contrary notwithstanding, if any interest provided for in or pursuant to this Agreement would violate any applicable usury or similar law, the interest rate chargeable in such situation shall be limited to the highest rate allowed by applicable law.

YPFH 600

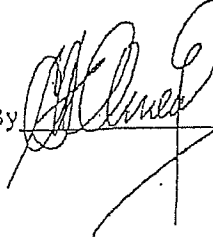
7. APPLICABLE LAW AND JURISDICTION

This contract shall be governed and construed by the laws of Texas, without regard to its conflicts of law principles.

Both parties hereby accept the terms and conditions contained herein, effective as of August 1, 2005.

YPF S.A.

YPF HOLDINGS, INC.

By  \_\_\_\_\_

By \_\_\_\_\_

YPFH 601

NOTE

August 1, 2005

FOR VALUE RECEIVED, the undersigned YPF HOLDINGS, INC. (the "Borrower"), a corporation incorporated under the laws of Delaware and having offices at 1330 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380 U.S.A., hereby promises to pay to the order of YPF S.A. (the "Lender"), a sociedad anonima organized under the laws of Argentina and having offices at Avenida Roque Sáenz Peña 777, Buenos Aires 1364, Argentina, the lesser of (i) the principal sum of THIRTY-FIVE MILLION AND NO/100 DOLLARS (\$35,000,000.00), and (ii) the aggregate outstanding principal amount of all Revolving Loans made by Lender to the Borrower in accordance with the terms of the Credit Contract dated as of August 1, 2005, (as the same may have been, or may hereafter be, amended, extended, modified or supplemented from time to time, the "Agreement"), by and between Borrower and Lender. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Agreement.

The Borrower promises to pay interest on the outstanding principal amount hereof, at such interest rates, payable at such times, and computed in such manner, as specified in the Agreement in strict accordance with the terms thereof. All principal and accrued but unpaid interest outstanding under this Note (this "Note") shall be due and payable in full on the Revolving Commitment Termination Date.

Lender shall record all Revolving Loans made by such Lender pursuant to the Revolving Credit Commitment and all payments of principal and interest of such Revolving Loans on its books and, prior to any transfer hereof, shall endorse such Revolving Loans and payments on the schedule annexed hereto and made a part hereof, or on any continuation thereof which shall be attached hereto and made a part hereof, which endorsement shall, absent manifest error, constitute prima facie evidence of the accuracy of the information so endorsed; provided, however, that delay or failure of Lender to make any such endorsement or recordation shall not affect the obligations of the Borrower hereunder or under the Agreement with respect to the Revolving Loans evidenced hereby.

Any principal or, to the extent not prohibited by applicable law, interest due under this Note that is not paid on the due date therefor, whether on the Revolving Commitment Termination Date, or resulting from the acceleration of maturity upon the occurrence of an Event of Default, shall bear interest from the date due to payment in full at the rate as provided in the Agreement.

All payments of principal and interest shall be made in lawful money of the United States of America in immediately available funds in the manner and at the location specified by the Lender.

This Note is issued pursuant to, and is the "Note" referred to in, the Agreement, and Lender is and shall be entitled to all benefits thereof. The Agreement, among other things,

YPFH 602

contains provisions for acceleration of the maturity hereof upon the happening of certain stated events and for mandatory prepayments upon the occurrence of certain events.

This Note may be prepaid in whole or in part, without premium or penalty but with accrued and unpaid interest on the principal amount prepaid to the date of prepayment, and otherwise in accordance with the terms and conditions of the Agreement.

In case an Event of Default shall occur and be continuing, the principal of and all accrued interest on this Note may automatically become, or be declared, due and payable in the manner as set forth in the Agreement, unless otherwise defined herein. The Borrower agrees to pay, and save Lender harmless against, any liability for the payment of, all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, arising in connection with the enforcement by Lender of any of its rights under this Note or the Agreement.

This Note has been executed and delivered in the State of Texas, and the rights and obligations of Lender and the Borrower hereunder shall be governed by and construed in accordance with the laws (without giving effect to the conflict of law principles thereof) of the State of Texas.

The Borrower expressly waives any presentment, demand, protest or notice in connection with this Note, now or hereafter required by applicable law. TIME IS OF THE ESSENCE OF THIS NOTE.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed and delivered by its duly authorized signatory as of the date first above written.

YPF HOLDINGS, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[CORPORATE SEAL]



Note (cont'd)

REVOLVING LOANS AND PAYMENTS OF PRINCIPAL

<u>Date</u>	<u>Amount of Loan</u>	<u>Interest Rate</u>	<u>Amount of Principal Prepaid</u>	<u>Last Day of Applicable Interest Period</u>	<u>Notation Made By</u>
-------------	-------------------------------	--------------------------	--	---	-----------------------------

YPFH 604

# **EXHIBIT 51**

FIRST AMENDMENT TO  
CREDIT CONTRACT \$35,000,000.00

This FIRST AMENDMENT to CREDIT CONTRACT \$35,000,000.00 is entered into by and between,

- (a) YPF HOLDINGS, INC. ("Borrower"), a Delaware corporation, having offices at 1330 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380 U.S.A., and
- (b) YPF S.A. ("Lender"), a sociedad anónima organized under the laws of Argentina, having offices at Avenida Roque Sáenz Peña 777, Buenos Aires 1364, Argentina.

The Borrower and Lender are sometimes referred to herein as the "parties".

WHEREAS, Borrower and Lender entered into that certain Credit Contract \$35,000,000.00 dated effective as of August 1, 2005, whereby Lender provided to Borrower a revolving credit facility in an amount up to US\$35,000,000.00 upon the terms and subject to the conditions therein provided (the "Credit Facility");

WHEREAS, Borrower and Lender wish to amend certain provisions of the Credit Facility;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows.

1. ~~The Credit Facility is hereby amended by:-~~

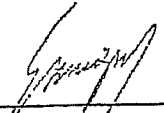
- (a) Deleting therefrom the figure \$35,000,000.00 where it appears throughout the Credit Facility, including exhibits and attachments thereto, and substituting therefor in each instance the figure \$60,000,000.00; and
  - (b) Deleting therefrom the date January 1, 2006 where it appears throughout the Credit Facility, including exhibits and attachments thereto, and substituting therefor in each instance the date March 31, 2006.
2. The parties agree to prepare, execute and deliver such other or further documents, if any, as may be necessary or appropriate in order to carry out and fully implement the amendments hereby made to the Credit Facility.
3. The parties hereby ratify, approve and confirm the Credit Facility as hereby amended.

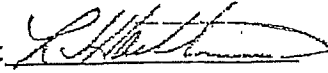
Executed effective this 25<sup>th</sup> day of November 2005.

YPFH 590

YPF S.A.  
(Lender)

YPF HOLDINGS, INC.  
(Borrower)

By: 

By: 

ENRIQUE F. WATERHOUSE SOBED  
APODERADO "B"

  
SANDRA E. RODRIGUEZ  
APODERADO "A"

YPFH 591

# **EXHIBIT 52**

**SECOND AMENDMENT TO  
CREDIT CONTRACT \$35,000,000.00**

This SECOND AMENDMENT to CREDIT CONTRACT \$35,000,000.00 is entered into by and between,

- (a) YPF HOLDINGS, INC. ("Borrower"), a Delaware corporation, having offices at 1330 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380 U.S.A., and
- (b) YPF S.A. ("Lender"), a sociedad anónima organized under the laws of Argentina, having offices at Avenida Roque Sáenz Peña 777, Buenos Aires 1364, Argentina.

The Borrower and Lender are sometimes referred to herein as the "parties".

WHEREAS, Borrower and Lender entered into that certain Credit Contract \$35,000,000.00 dated effective as of August 1, 2005, whereby Lender provided to Borrower a revolving credit facility in an amount up to US\$35,000,000.00 upon the terms and subject to the conditions therein provided (the "Credit Facility");

WHEREAS, Borrower and Lender amended the Credit Facility by entering into that certain First Amendment to Credit Contract \$35,000,000.00 dated effective November 25, 2005, (a) increasing the revolving credit facility up to US\$60,000,000.00 and (b) extending to March 31, 2006, the due date for payment of outstanding principal together with accrued and unpaid interest thereon;

WHEREAS, Borrower and Lender wish to amend further certain provisions of the Credit Facility;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows.

- 1. The Credit Facility, as heretofore amended, is hereby further amended in accordance with the following provision:

Wherever the figure \$35,000,000.00 (as amended to \$60,000,000.00) appears throughout the Credit Facility, including exhibits and attachments thereto, it shall be, and hereby is, changed to \$100,000,000.00.

- 2. The parties agree to prepare, execute and deliver such other or further documents, if any, as may be necessary or appropriate in order to carry

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YPFH 582

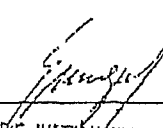
out and fully implement the amendment hereby made to the Credit Facility, as heretofore amended.

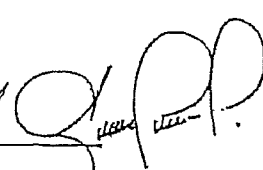
3. The parties hereby ratify, approve and confirm the Credit Facility, as heretofore and hereby amended.

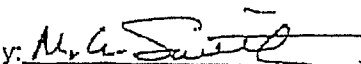
Executed effective this 24<sup>th</sup> day of February 2006.

YPF S.A.  
(Lender)

YPF HOLDINGS, INC.  
(Borrower)

By:   
ENRIQUE F. WATERHOUSE BONEO  
APODERADO "R"

  
GABRIEL F. LEIVA  
APODERADO "A"

By:   
M.G. Smith  
Vice President

# **EXHIBIT 53**



THIRD AMENDMENT TO  
CREDIT CONTRACT \$35,000,000.00

This THIRD AMENDMENT to CREDIT CONTRACT \$35,000,000.00 is entered into by and between,

- (a) YPF HOLDINGS, INC. ("Borrower"), a Delaware corporation, having offices at 1330 Lake Robbins Drive, Suite 400, The Woodlands, Texas 77380 U.S.A., and
- (b) YPF S.A. ("Lender"), a sociedad anónima organized under the laws of Argentina, having offices at Avenida Roque Sáenz Peña 777, Buenos Aires 1364, Argentina.

The Borrower and Lender are sometimes referred to herein as the "parties".

WHEREAS, Borrower and Lender entered into that certain Credit Contract \$35,000,000.00 dated effective as of August 1, 2005, whereby Lender provided to Borrower a revolving credit facility in an amount up to US\$35,000,000.00 upon the terms and subject to the conditions therein provided (the "Credit Facility");

WHEREAS, Borrower and Lender amended the Credit Facility by entering into that certain First Amendment to Credit Contract \$35,000,000.00 dated effective November 25, 2005, (a) increasing the revolving credit facility up to US\$60,000,000.00 and (b) extending to March 31, 2006, the due date for payment of outstanding principal together with accrued and unpaid interest thereon;

WHEREAS, Borrower and Lender further amended the Credit Facility by entering into that certain Second Amendment to Credit Contract \$35,000,000.00 dated effective February 24, 2006, increasing the revolving credit facility up to US\$100,000,000.00;

WHEREAS; Borrower and Lender wish to amend further certain provisions of the Credit Facility;

NOW THEREFORE, for good and valuable consideration, the parties agree as follows.

1. The Credit Facility, as heretofore amended, is hereby further amended in accordance with the following provision:
  - (a) Wherever the figure \$35,000,000.00 (as amended to \$60,000,000.00 and as further amended to \$100,000,000.00) appears throughout the Credit Facility, including exhibits and

YPF 1737

attachments thereto, it shall be, and hereby is, changed to \$190,000,000.00.

- (b) Wherever the date January 1, 2006 (as amended to March 31, 2006) appears throughout the Credit Facility, including exhibits and attachments thereto, it shall be, and hereby is, changed to January 1, 2007.
2. The parties agree to prepare, execute and deliver such other or further documents, if any, as may be necessary or appropriate in order to carry out and fully implement the amendment hereby made to the Credit Facility, as heretofore amended.
3. The parties hereby ratify, approve and confirm the Credit Facility, as heretofore and hereby amended.


Executed effective this 3rd day of May 2006.

YPF S.A.  
(Lender)

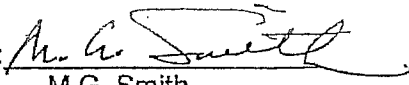
YPF HOLDINGS, INC.  
(Borrower)

By:

  
ENRIQUE F. WATERHOUSE BONED  
APODERADO "B"

  
FERNANDO NARDINI  
APODERADO "A"

By:

  
M.G. Smith  
Vice President

\\Legal\smith\doc\misc\credit-contract-3rd-amendment

# **EXHIBIT 54**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	
FUND,	:	
Plaintiffs,	:	
V.	:	
	:	Civil Action No.
OCCIDENTAL CHEMICAL	:	2:06-CV-00401-JCL-PS
CORPORATION, TIERRA	:	
SOLUTIONS, INC., MAXUS ENERGY	:	
CORPORATION, REPSOL YPF,	:	
S.A., YPF, S.A., YPF	:	
HOLDINGS, INC., and CLH	:	
	:	
HOLDINGS,	:	
Defendants	:	

\*\*\*\*\*

VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

\*\*\*\*\*

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1 amount from \$25,000 -- from 25 million to 60 million  
2 and authoring the president, vice president, secretary  
3 and any other appropriate officers of the company and  
4 Richard J. Hartline to authorize the document. I did  
5 not see Tamara Saront in there.  
6 Q. While you're looking at those exhibits, sir,  
7 I believe probably -- but I will tell you. Plaintiffs'  
8 38, 39 and 40, are these the only YPF Holdings' minutes  
9 of meetings of the board of directors that you are  
10 aware of?  
11 A. No. Subsequent to this there was another  
12 meeting in June, I believe, and a further meeting in  
13 August. So I believe there are two more meetings.  
14 Q. Were there any prior to the November 2005  
15 meetings that you're aware of?  
16 A. I think everything has been furnished through  
17 February 14th, 2006. You have all the minutes of  
18 meetings.  
19 Q. Yes, sir. My only question was the first one  
20 we have, Plaintiffs' Exhibit 38, is dated November 16,  
21 2005. Are you aware of any that are from prior to that  
22 time.  
23 A. Prior to that time there was only written  
24 consent actions.  
25 Q. I'm handing to you, sir, what I just marked

Page 211

1 as Plaintiffs' Exhibit 47.  
2 MR. GILMOUR: I'm handing copies to  
3 opposing counsel.  
4 (Marked was Plaintiffs' Exhibit No. 47.)  
5 A. (Reviewing.)  
6 Q. (By Mr. Gilmour) Are you familiar with this  
7 document, sir?  
8 A. Yes, I am.  
9 Q. What is it?  
10 A. It is the second amendment to credit  
11 contract.  
12 Q. If you would look under the paragraph  
13 entitled -- or labeled 1 on the first page, does this  
14 increase the amounts of the credit facility?  
15 A. Yes, it does.  
16 Q. And what does it -- what amount does it  
17 increase the credit facility to?  
18 A. It increases the credit facility to \$100  
19 million.  
20 Q. I'm handing to you, sir, what I have just  
21 marked as Plaintiffs' Exhibit 48.  
22 MR. GILMOUR: I'm handing copies to  
23 opposing counsel.  
24 (Marked was Plaintiffs' Exhibit No. 48.)  
25 Q. (By Mr. Gilmour) Are you familiar with this

Page 212

1 document, sir?  
2 A. (Reviewing.) It doesn't look as familiar as  
3 the previous ones. I don't know whether I've seen it  
4 before, but I see what it is.  
5 Q. What is it, sir?  
6 A. It is a letter dated May 3, 2006, from YPF to  
7 Deloitte & Touche, indicating that in connection with  
8 the annual audit of the financial records of YPF for  
9 the period ending December 31, 2005, YPF, S.A. confirms  
10 that it is willing to support YPF Holdings through  
11 potential transactions, including possible asset  
12 purchases, loan extension, loan forgiveness, et cetera,  
13 subject to certain following limitations.  
14 The main one of which is at the amount of  
15 the transactions affecting such support would not  
16 exceed U.S. \$190 million, net of loans previously  
17 funded and net of other commitments.  
18 Q. Just to clarify, sir, this letter was issued  
19 in connection with the audit of financial records for  
20 YPF Holdings. Is that correct, sir?  
21 A. That's correct.  
22 Q. Do you know why there was a perceived need to  
23 increase the line of credit from the initial amount of  
24 \$39 million up to 190 million in less than one year?  
25 A. I believe the amount was from 35 to 190

Page 213

1 million. The company and its subsidiaries, especially  
2 its oil and gas subsidiaries, during this period of  
3 time I believe were incurring some significant costs in  
4 drilling operations.  
5 And when I mentioned drilling  
6 approximately two wells per year on average earlier, I  
7 was referring to exploratory wells. But Maxus U.S.  
8 Exploration Company is also a party to a development  
9 project which once a property reaches that stage of  
10 development, it becomes necessary to drill wells more  
11 frequently. And I believe that this was at about the  
12 time additional wells may have been commenced.  
13 Q. Now, you stated you believe that about this  
14 time. Do you know that as fact, sir?  
15 A. I know that it was in this time frame, either  
16 May or June of 2006, that additional drilling was  
17 commenced, yes.  
18 Q. Is this letter signed by Mr. Olivieri in his  
19 capacity as CFO for YPF?  
20 A. Yes, it is.  
21 Q. At this time, May 3, 2006, was he also  
22 serving in capacity with YPF Holdings, approximately?  
23 A. I believe he was also at this time, yes,  
24 serving as director of YPF Holdings.  
25 Q. I'm handing to you, sir, a document that I

Page 214

1 just marked as Plaintiffs' Exhibit 49.  
2 (Marked was Plaintiffs' Exhibit No. 49.)  
3 Q. (By Mr. Gilmour) Have you seen this document  
4 before, sir?  
5 A. I believe I have seen this document.  
6 Q. What is it?  
7 A. Yes, this is a letter from YPF to Deloitte &  
8 Touche dated August 8, 2006, stating that YPF confirms  
9 its willingness to provide support to YPF Holdings  
10 through potential transactions subject to the amount of  
11 the transactions not exceeding \$190 million net of  
12 loans previously funded in net of other commitments.  
13 Q. Again, this document is signed by Mr. Carlos  
14 Olivieri, CFO for YPF?  
15 A. That's correct.  
16 Q. On this date, August 8, 2006, was he also  
17 serving in the capacity as YPF Holdings?  
18 A. I believe by this time Mr. Olivieri had  
19 resigned from the Board of Directors of YPF Holdings.  
20 Q. And do you know what date he resigned from  
21 YPF Holdings?  
22 A. I believe it was in June of 2006 that he  
23 resigned.  
24 Q. Do you know if this letter is binding on YPF?  
25 MS. BLANCO: Objection.

Page 215

1 A. I assume that the letter is valid and binding  
2 to the extent of the commitments made in the letter.  
3 Q. Sir, I'm handing you what I have just marked  
4 as Plaintiffs' Exhibit 50?  
5 MR. GILMOUR: And I'm handing copies to  
6 opposing counsel.  
7 (Marked was Plaintiffs' Exhibit No. 50.)  
8 A. (Reviewing.)  
9 Q. (By Mr. Gilmour) What is this document, sir?  
10 A. This document is the consolidated financial  
11 statements of YPF Holdings and subsidiaries as of  
12 March 31, 2006, and December 31, 2005.  
13 Q. Are you familiar with this document?  
14 A. Yes, I am.  
15 Q. Does the board of YPF Holdings approve these  
16 consolidated financial statements before giving them to  
17 YPF for public filing?  
18 A. The board has approved financial statements  
19 at times. I don't know that the board has a regular  
20 practice in that regard.  
21 Q. To your knowledge, is this the most recent  
22 published consolidated financial statements for  
23 YPF Holdings and its subsidiaries?  
24 A. I don't know whether -- I don't know whether  
25 a financial statement would have been published yet for

Page 216

1 the period ended June 30th of 2006 or not.  
2 Q. If you would turn with me, sir, to Page 2,  
3 which is YPFH 936 --  
4 A. Yes.  
5 Q. -- at the top it reflects it's the  
6 consolidated balance sheets as of March 31, 2006, and  
7 December 31, 2005, unaudited. What entities are  
8 included in this consolidated balance sheet?  
9 A. This would be YPF Holdings and its subsidiary  
10 companies.  
11 Q. If you would look under assets on that same  
12 page under Current Assets, Cash and Cash Equivalence,  
13 if you look at the first column for March 31, 2006, it  
14 reflects a figure of \$2,385,000. Is that correct?  
15 A. That's correct.  
16 Q. What does that mean to you?  
17 A. That means that the consolidated companies  
18 have available to it \$2,385,000, at least on the books  
19 of the company as of March 31, 2006.  
20 Q. If you would look below that under Total  
21 Current Assets --  
22 A. Yes.  
23 Q. -- what amount is reflected?  
24 A. That figure is \$26,915,000.  
25 Q. If you would turn the page with me, sir, to

Page 217

1 Page 3?  
2 A. Yes.  
3 Q. Under Current Liabilities --  
4 A. Yes.  
5 Q. -- Notes Payable, what amount is reflected in  
6 the column March 31, 2006?  
7 A. \$90,161,000.  
8 Q. What does that reflect?  
9 A. I would understand that to refer to  
10 promissory notes.  
11 Q. Would that be the consolidated obligations of  
12 YPF Holdings and its subsidiaries?  
13 A. I think it would be, yes.  
14 Q. And below that, under Environmental  
15 Liabilities, what amount is reflected under the column  
16 March 31, 2006?  
17 A. \$20,900,000.  
18 Q. Do you know to what environmental liabilities  
19 that refers?  
20 A. I don't know specifically, but I would assume  
21 it has to be the environmental liabilities of Maxus  
22 Energy Corporation and/or Tierra Solutions.  
23 Q. If you would look at the next section under  
24 Long-Term Liabilities --  
25 A. Yes.

55 (Pages 214 to 217)

# **EXHIBIT 55**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	
FUND,	:	
Plaintiffs,	:	
V.	:	
	:	Civil Action No.
	:	2:06-CV-00401-JCL-PS
OCCIDENTAL CHEMICAL	:	
CORPORATION, TIERRA	:	
SOLUTIONS, INC., MAXUS ENERGY	:	
CORPORATION, REPSOL YPF,	:	
S.A., YPF, S.A., YPF	:	
HOLDINGS, INC., and CLH	:	
	:	
HOLDINGS,	:	
	:	
Defendants	:	

\*\*\*\*\*

VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

\*\*\*\*\*



Page 210

1 amount from \$25,000 -- from 25 million to 60 million  
2 and authoring the president, vice president, secretary  
3 and any other appropriate officers of the company and  
4 Richard J. Hartline to authorize the document. I did  
5 not see Tamara Saront in there.  
6 Q. While you're looking at those exhibits, sir,  
7 I believe probably -- but I will tell you. Plaintiffs'  
8 38, 39 and 40, are these the only YPF Holdings' minutes  
9 of meetings of the board of directors that you are  
10 aware of?  
11 A. No. Subsequent to this there was another  
12 meeting in June, I believe, and a further meeting in  
13 August. So I believe there are two more meetings.  
14 Q. Were there any prior to the November 2005  
15 meetings that you're aware of?  
16 A. I think everything has been furnished through  
17 February 14th, 2006. You have all the minutes of  
18 meetings.  
19 Q. Yes, sir. My only question was the first one  
20 we have, Plaintiffs' Exhibit 38, is dated November 16,  
21 2005. Are you aware of any that are from prior to that  
22 time.  
23 A. Prior to that time there was only written  
24 consent actions.  
25 Q. I'm handing to you, sir, what I just marked

Page 211

1 as Plaintiffs' Exhibit 47.  
2 MR. GILMOUR: I'm handing copies to  
3 opposing counsel.  
4 (Marked was Plaintiffs' Exhibit No. 47.)  
5 A. (Reviewing.)  
6 Q. (By Mr. Gilmour) Are you familiar with this  
7 document, sir?  
8 A. Yes, I am.  
9 Q. What is it?  
10 A. It is the second amendment to credit  
11 contract.  
12 Q. If you would look under the paragraph  
13 entitled -- or labeled 1 on the first page, does this  
14 increase the amounts of the credit facility?  
15 A. Yes, it does.  
16 Q. And what does it -- what amount does it  
17 increase the credit facility to?  
18 A. It increases the credit facility to \$100  
19 million.  
20 Q. I'm handing to you, sir, what I have just  
21 marked as Plaintiffs' Exhibit 48.  
22 MR. GILMOUR: I'm handing copies to  
23 opposing counsel.  
24 (Marked was Plaintiffs' Exhibit No. 48.)  
25 Q. (By Mr. Gilmour) Are you familiar with this

Page 212

1 document, sir?  
2 A. (Reviewing.) It doesn't look as familiar as  
3 the previous ones. I don't know whether I've seen it  
4 before, but I see what it is.  
5 Q. What is it, sir?  
6 A. It is a letter dated May 3, 2006, from YPF to  
7 Deloitte & Touche, indicating that in connection with  
8 the annual audit of the financial records of YPF for  
9 the period ending December 31, 2005, YPF, S.A. confirms  
10 that it is willing to support YPF Holdings through  
11 potential transactions, including possible asset  
12 purchases, loan extension, loan forgiveness, et cetera,  
13 subject to certain following limitations.  
14 The main one of which is at the amount of  
15 the transactions affecting such support would not  
16 exceed U.S. \$190 million, net of loans previously  
17 funded and net of other commitments.  
18 Q. Just to clarify, sir, this letter was issued  
19 in connection with the audit of financial records for  
20 YPF Holdings. Is that correct, sir?  
21 A. That's correct.  
22 Q. Do you know why there was a perceived need to  
23 increase the line of credit from the initial amount of  
24 \$39 million up to 190 million in less than one year?  
25 A. I believe the amount was from 35 to 190

Page 213

1 million. The company and its subsidiaries, especially  
2 its oil and gas subsidiaries, during this period of  
3 time I believe were incurring some significant costs in  
4 drilling operations.  
5 And when I mentioned drilling  
6 approximately two wells per year on average earlier, I  
7 was referring to exploratory wells. But Maxus U.S.  
8 Exploration Company is also a party to a development  
9 project which once a property reaches that stage of  
10 development, it becomes necessary to drill wells more  
11 frequently. And I believe that this was at about the  
12 time additional wells may have been commenced.  
13 Q. Now, you stated you believe that about this  
14 time. Do you know that as fact, sir?  
15 A. I know that it was in this time frame, either  
16 May or June of 2006, that additional drilling was  
17 commenced, yes.  
18 Q. Is this letter signed by Mr. Olivieri in his  
19 capacity as CFO for YPF?  
20 A. Yes, it is.  
21 Q. At this time, May 3, 2006, was he also  
22 serving in capacity with YPF Holdings, approximately?  
23 A. I believe he was also at this time, yes,  
24 serving as director of YPF Holdings.  
25 Q. I'm handing to you, sir, a document that I

Page 214

1 just marked as Plaintiffs' Exhibit 49.  
2 (Marked was Plaintiffs' Exhibit No. 49.)  
3 Q. (By Mr. Gilmour) Have you seen this document  
4 before, sir?  
5 A. I believe I have seen this document.  
6 Q. What is it?  
7 A. Yes, this is a letter from YPF to Deloitte &  
8 Touche dated August 8, 2006, stating that YPF confirms  
9 its willingness to provide support to YPF Holdings  
10 through potential transactions subject to the amount of  
11 the transactions not exceeding \$190 million net of  
12 loans previously funded in net of other commitments.  
13 Q. Again, this document is signed by Mr. Carlos  
14 Olivieri, CFO for YPF?  
15 A. That's correct.  
16 Q. On this date, August 8, 2006, was he also  
17 serving in the capacity as YPF Holdings?  
18 A. I believe by this time Mr. Olivieri had  
19 resigned from the Board of Directors of YPF Holdings.  
20 Q. And do you know what date he resigned from  
21 YPF Holdings?  
22 A. I believe it was in June of 2006 that he  
23 resigned.  
24 Q. Do you know if this letter is binding on YPF?  
25 MS. BLANCO: Objection.

Page 215

1 A. I assume that the letter is valid and binding  
2 to the extent of the commitments made in the letter.  
3 Q. Sir, I'm handing you what I have just marked  
4 as Plaintiffs' Exhibit 50?  
5 MR. GILMOUR: And I'm handing copies to  
6 opposing counsel.  
7 (Marked was Plaintiffs' Exhibit No. 50.)  
8 A. (Reviewing.)  
9 Q. (By Mr. Gilmour) What is this document, sir?  
10 A. This document is the consolidated financial  
11 statements of YPF Holdings and subsidiaries as of  
12 March 31, 2006, and December 31, 2005.  
13 Q. Are you familiar with this document?  
14 A. Yes, I am.  
15 Q. Does the board of YPF Holdings approve these  
16 consolidated financial statements before giving them to  
17 YPF for public filing?  
18 A. The board has approved financial statements  
19 at times. I don't know that the board has a regular  
20 practice in that regard.  
21 Q. To your knowledge, is this the most recent  
22 published consolidated financial statements for  
23 YPF Holdings and its subsidiaries?  
24 A. I don't know whether -- I don't know whether  
25 a financial statement would have been published yet for

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1 the period ended June 30th of 2006 or not.  
2 Q. If you would turn with me, sir, to Page 2,  
3 which is YPFH 936 --  
4 A. Yes.  
5 Q. -- at the top it reflects it's the  
6 consolidated balance sheets as of March 31, 2006, and  
7 December 31, 2005, unaudited. What entities are  
8 included in this consolidated balance sheet?  
9 A. This would be YPF Holdings and its subsidiary  
10 companies.  
11 Q. If you would look under assets on that same  
12 page under Current Assets, Cash and Cash Equivalence,  
13 if you look at the first column for March 31, 2006, it  
14 reflects a figure of \$2,385,000. Is that correct?  
15 A. That's correct.  
16 Q. What does that mean to you?  
17 A. That means that the consolidated companies  
18 have available to it \$2,385,000, at least on the books  
19 of the company as of March 31, 2006.  
20 Q. If you would look below that under Total  
21 Current Assets --  
22 A. Yes.  
23 Q. -- what amount is reflected?  
24 A. That figure is \$26,915,000.  
25 Q. If you would turn the page with me, sir, to

Page 217

1 Page 3?  
2 A. Yes.  
3 Q. Under Current Liabilities --  
4 A. Yes.  
5 Q. -- Notes Payable, what amount is reflected in  
6 the column March 31, 2006?  
7 A. \$90,161,000.  
8 Q. What does that reflect?  
9 A. I would understand that to refer to  
10 promissory notes.  
11 Q. Would that be the consolidated obligations of  
12 YPF Holdings and its subsidiaries?  
13 A. I think it would be, yes.  
14 Q. And below that, under Environmental  
15 Liabilities, what amount is reflected under the column  
16 March 31, 2006?  
17 A. \$20,900,000.  
18 Q. Do you know to what environmental liabilities  
19 that refers?  
20 A. I don't know specifically, but I would assume  
21 it has to be the environmental liabilities of Maxus  
22 Energy Corporation and/or Tierra Solutions.  
23 Q. If you would look at the next section under  
24 Long-Term Liabilities --  
25 A. Yes.

# **EXHIBIT 56**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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

Plaintiffs, :

V. :

Civil Action No.

2:06-CV-00401-JCL-PS

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

HOLDINGS, :

Defendants :

\*\*\*\*\*

VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

\*\*\*\*\*

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1 some appear to be debits?  
2 A. I don't know for sure, but I would suppose  
3 from the sequence that it may indicate money flowing in  
4 and flowing out.  
5 Q. Can you tell me from this document from where  
6 and to where that money you think is flowing in and out  
7 would be going to and from?  
8 A. I don't really know.  
9 MR. GILMOUR: Given the timing,  
10 Plaintiffs would adjourn the deposition and reserve  
11 the right to reopen pursuant to the Court's order  
12 yesterday and any other order that the Court may issue.  
13 EXAMINATION  
14 BY MS. BLANCO:  
15 Q. Okay. Very briefly, could you take a look at  
16 Plaintiffs' Exhibit No. 38, which are the minutes of  
17 the November 15, 2005, board of directors?  
18 MR. STARNES: Ileana, while he's pulling  
19 that out, can we take a 60-second break?  
20 MS. BLANCO: Sure.  
21 THE VIDEOGRAPHER: Off the record. 6:29  
22 p.m.  
23 (Recess taken at 6:29 p.m., resuming at  
24 6:31 p.m.)  
25 THE VIDEOGRAPHER: Back on the record.

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1 Maxus also making contributions to Tierra?  
2 A. Yes, it was.  
3 Q. After the 1998 period, did Maxus then  
4 continue making contributions to Tierra?  
5 A. Yes, Maxus continued.  
6 Q. Was the accounting scheme or treatment of the  
7 funds under the contribution ever changed during this  
8 time period, during any time period?  
9 A. To my knowledge, the accounting treatment  
10 before 1998 and after 1998 was the same.  
11 Q. And what's the source of that information?  
12 A. Well, I believe that Rick Hartline indicated  
13 that to me in terms of the contributions and  
14 distributions that we discussed earlier.  
15 Q. Now, have -- under the funds that have been  
16 advanced under the credit agreements that were entered  
17 into starting in 2005 between YPFH and YPF -- are you  
18 with me, sir?  
19 A. Yes.  
20 Q. -- under those credit agreements, have the  
21 extension of funds under those credit agreements and as  
22 they have been amended, injured Maxus in any way?  
23 A. No.  
24 Q. Has it benefited Maxus in any way?  
25 A. Certainly.

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1 6:31 p.m.  
2 Q. (By Ms. Blanco) Mr. Smith, you're looking at  
3 Plaintiffs' Exhibit 38?  
4 A. Yes.  
5 Q. And I want to turn your attention to the  
6 discussion about the Contribution Agreement. Do you  
7 see that, sir?  
8 A. Yes, I do.  
9 Q. Did you discuss the Contribution Agreement  
10 issues with Mr. Hartline?  
11 A. Yes, I did.  
12 Q. Specifically what did you and Mr. Hartline  
13 discuss about the Contribution Agreement?  
14 A. Well, we discussed the work that had been  
15 done to determine how much funding had been advanced by  
16 YPF under the Contribution Agreement.  
17 Q. Did you get an understanding as to round-park  
18 figure as to how much YPF had contributed according to  
19 Mr. Hartline under the Contribution Agreement?  
20 A. Yes, I did.  
21 Q. And how much was that?  
22 A. \$25.5 million.  
23 Q. During which period of time was that?  
24 A. That was for the period from 1996 to 1998.  
25 Q. During the 1996 through 1998 period, was

Page 233

1 Q. And how is that?  
2 A. Well, the funds allowed Maxus to continue its  
3 drilling operations and to enable Maxus to continue  
4 funding Tierra Resources' obligation.  
5 Q. So has the funding under the credit  
6 agreements that we've been discussing injured Tierra in  
7 any way?  
8 A. No.  
9 Q. And what impact, if any, has it had on  
10 Tierra?  
11 A. Well, they have been very helpful to Tierra  
12 because they served as a source of Tierra's funds so as  
13 to enable Tierra to conduct its operations.  
14 Q. Through Maxus?  
15 A. Through Maxus.  
16 Q. To your understanding, do the funds that  
17 Tierra receives come through Maxus?  
18 A. Yes. It is my understanding that Maxus acts  
19 kind of like a banker in distributing the funds.  
20 Q. Does YPFH assert any control over the  
21 operations of Maxus?  
22 A. YPFH exerts only the controls that a  
23 shareholder would exert in the sense that it wants to  
24 understand its investment and review matters, but  
25 otherwise it does not exert any kind of control beyond

Page 234

1 what a shareholder would do.  
 2 Q. Does it direct Maxus' marketing practices?  
 3 A. No, it does not.  
 4 Q. Does YPF direct Maxus' management?  
 5 A. No.  
 6 Q. Does it direct Maxus who to hire or fire as  
 7 employees?  
 8 A. No, it does not.  
 9 Q. Does it control Tierra's marketing practices?  
 10 A. No, it does not.  
 11 Q. Does it control Tierra management practices?  
 12 A. No.  
 13 Q. Does it direct Tierra who to fire or hire?  
 14 A. No.  
 15 Q. Does it direct Maxus' environmental policy,  
 16 if any?  
 17 A. No, it does not.  
 18 Q. Does YPFH exert any control over Tierra in  
 19 its handling of its environmental issues with the state  
 20 of New Jersey or with anybody?  
 21 A. It does not control or direct those functions  
 22 of Tierra.  
 23 Q. Does YPFH file tax returns in New Jersey?  
 24 A. YPFH does not file tax returns in New Jersey.  
 25 Q. Was Maxus incorporated to perpetrate any kind

Page 236

1 A. No, it has not.  
 2 Q. Has YPFH authorized Tierra to bind it in any  
 3 way?  
 4 A. No.  
 5 MS. BLANCO: That's all I have. Thank  
 6 you.  
 7 THE VIDEOGRAPHER: Going off the record.  
 8 6:37 p.m. This concludes this tape and today's  
 9 deposition.  
 (Proceedings concluded at 6:37 p.m.)  
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Page 235

1 of fraud or injustice on the state of New Jersey?  
 2 A. No, it's not.  
 3 Q. Is it operated for that purpose?  
 4 A. No, it's not.  
 5 Q. Is Tierra operated to perpetrate a fraud or  
 6 injustice on the state of New Jersey?  
 7 A. No.  
 8 Q. Is it operated to circumvent any laws?  
 9 A. No, it's not.  
 10 Q. Is Maxus operated to circumvent any laws?  
 11 A. No.  
 12 Q. Has YPFH authorized Maxus to act on its  
 13 behalf?  
 14 A. No, it has not.  
 15 Q. Has YPFH authorized Tierra to act on its  
 16 behalf?  
 17 A. No.  
 18 Q. Is Maxus authorized to sign contracts on  
 19 behalf of YPFH?  
 20 A. No, it's not.  
 21 Q. Is Tierra authorized to sign contracts on  
 22 behalf of YPFH?  
 23 A. No.  
 24 Q. Has YPFH authorized Maxus to bind it in any  
 25 way?

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1 New Jersey Department of  
 Environmental Protection v. Occidental, et al.  
 2  
 3 VIDEOTAPED / REAL-TIMED DEPOSITION OF  
 HARVEY R. SMITH  
 SEPTEMBER 14, 2006  
 4  
 5 CHANGES AND SIGNATURE  
 6  
 7 PAGE LINE CHANGE REASON  
 8 \_\_\_\_\_  
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# **EXHIBIT 57**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	
FUND,	:	
Plaintiffs,	:	
V.	:	
	:	Civil Action No.
	:	2:06-CV-00401-JCL-PS
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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VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

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1 funding. In fact, the study indicates YPF was not  
2 funding. Maxus was funding, through this dividend and  
3 contribution scheme.  
4 Q. A minute ago you were talking about looking  
5 at the accounting and how it worked. Are you aware of  
6 how the actual funding mechanism worked?  
7 A. As I mentioned, the actual dollars from an  
8 account from a financial account came from Maxus Energy  
9 Corporation. And I don't know the actual mechanism by  
10 which this occurred, but I do recall Mr. Hartline  
11 explaining that in many cases Tierra's invoices were  
12 forwarded to The Woodlands office of Maxus Energy  
13 Corporation and Maxus paid those invoices out of its  
14 funds, thereby, in effect, funding Tierra. And the  
15 accounting for that particular transaction would be  
16 through the dividend-up-and-contribution-down scheme  
17 that I described.  
18 MS. BLANCO: Are you finished?  
19 THE WITNESS: Yes.  
20 MS. BLANCO: Do you want some water?  
21 THE WITNESS: Yes. Good suggestion.  
22 Q. (By Mr. Gilmour) Sorry. I want to use your  
23 terminology, sir. You refer to it as the  
24 dividend-up-contribution-down scheme. Is that correct?  
25 A. Yes.

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1 Q. Do you know why that began?  
2 MR. STARNES: Objection.  
3 MS. BLANCO: Same objection.  
4 A. The accounting followed the transfer of cash  
5 from Maxus in favor of Tierra Solutions and it had to  
6 be accounted for in one of two ways, it seems. Either  
7 in the method that was described that involved  
8 dividends or distribution up and contributions down, or  
9 by the creation of an account payable between the two  
10 companies.  
11 However, the former method of the  
12 distributions up and contributions down is more  
13 consistent with the obligations of the parties under  
14 the Contribution Agreement.  
15 Q. (By Mr. Gilmour) Do you know why there was a  
16 change?  
17 MS. BLANCO: Objection.  
18 MR. STARNES: Objection.  
19 A. A change in which?  
20 Q. (By Mr. Gilmour) In the funding mechanism.  
21 MR. STARNES: Objection.  
22 MS. BLANCO: Objection.  
23 A. A change from which part to what part?  
24 Q. (By Mr. Gilmour) From 1996 to 1998 they  
25 funded -- "they" being signatories to the Contribution

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1 Agreement -- funded Tierra using one mechanism. And  
2 then in 1999 what you're telling me is they changed to  
3 the dividend-up-contribution-down scheme.  
4 MR. STARNES: Objection.  
5 MS. BLANCO: I don't think he's finished  
6 yet.  
7 Q. (By Mr. Gilmour) Why did that change take  
8 place?  
9 MS. BLANCO: Objection.  
10 MR. STARNES: Objection.  
11 A. I don't know the real history of why that  
12 changed. It may have been as simple as Maxus had funds  
13 available within the U.S. to fulfill this obligation  
14 that the other parties had.  
15 Q. (By Mr. Gilmour) In 1999 did Maxus receive  
16 funds from the sale of its assets?  
17 A. I believe in 1999, in late 1999, Maxus sold  
18 the project called Crescendo and the Texas Panhandle  
19 was dissolved. It was a limited partnership with Amoco  
20 and properties were distributed to the limited  
21 partners; and then in the case of the Maxus properties,  
22 those properties were sold at the end of 1999 to  
23 generate funds, yes.  
24 Q. Were those funds used in the  
25 dividend-up-contribution-down scheme?

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1 A. The dividend-up-contribution-down scheme is  
2 an accounting mechanism. The funds I believe would  
3 have been used and were used to pay the obligations of  
4 Tierra Solutions.  
5 Q. At some point did those funds -- or were  
6 those funds used up?  
7 A. I believe those funds were used up at some  
8 point perhaps in 2004, approximately.  
9 Q. Do you know why the board of YPF Holdings  
10 decided to take, as you said, a fresh look at these  
11 issues?  
12 A. Why they decided at this time?  
13 Q. Yes, sir.  
14 A. I think that probably it was the fact that  
15 they were newly elected; and as a newly elected board,  
16 they needed to look at the company and its businesses.  
17 Q. Does Mr. Sprouse hold a position at an  
18 affiliated company?  
19 A. No, he does not.  
20 Q. Does Mr. Notestine hold a position at an  
21 affiliated company?  
22 A. No.  
23 Q. Does Mr. Olivieri hold a position at an  
24 affiliated company?  
25 A. Yes, he does.

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1 Q. Which company?  
2 A. It's my understanding Mr. Olivieri is the  
3 chief financial officer of YPF.  
4 MS. BLANCO: John, if you're at a good  
5 breaking point, there is something I need to tend to.  
6 MR. GILMOUR: Sure.  
7 MR. STARNES: Appreciate it.  
8 THE VIDEOGRAPHER: Off the record. It's  
9 4:14 p.m., end of tape No. 4.  
10 (Recess taken 4:14 p.m., resuming at  
11 4:29 p.m.)  
12 THE VIDEOGRAPHER: Back on the record.  
13 4:29 p.m., beginning of tape No. 5.  
14 Q. (By Mr. Gilmour) Mr. Smith, we were looking  
15 at Plaintiffs' 38, Page 9, Bates YPFH 344. If you will  
16 look at the last paragraph on the page with me, it's  
17 discussing available options for dealing with the  
18 company's pension plans, the administration of its  
19 retiree medical plan and the possible purchase of  
20 environmental insurance.  
21 What options of the pension plan does  
22 this refer to?  
23 A. Well, I believe that additional funding was  
24 required for the pension plan and there needed to be a  
25 way to ensure proper funding currently and into the

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1 future.  
2 Q. Is the same true regarding the retiree  
3 medical plan that's referenced?  
4 A. The same would be regarding administration of  
5 the retiree medical plan. In that respect, I think  
6 there was consideration being given to a wide range of  
7 options, whether it be administered by Maxus, could it  
8 be outsourced, what would be the most cost-effective  
9 way to do that.  
10 Q. Yesterday we talked a bit about benefits and  
11 things, and forgive me if this is repetitive.  
12 Is the pension plans to which this -- or  
13 who manages the pension plan to which this refers?  
14 A. The pension plans are the pension plans of  
15 Maxus Energy Corporation.  
16 Q. Is article --  
17 MR. GILMOUR: Again, Ms. Blanco, please  
18 let me know if you have a concern regarding this  
19 question.  
20 Q. (By Mr. Gilmour) In discussions regarding  
21 the administration of benefits yesterday with regard to  
22 CLH Holdings being provided to officers of CLH Holdings  
23 by Maxus, does Maxus provide those same sort of benefit  
24 services to the officers of YPF Holdings?  
25 A. To the officers of YPF Holdings, yes, if they

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1 are employees of Maxus Energy Corporation. But if they  
2 are not employees of Maxus Energy Corporation, they do  
3 not receive the company benefits.  
4 Q. Are there current officers of YPF Holdings  
5 which are not employees of Maxus?  
6 A. Yes.  
7 Q. Which officers are those, sir?  
8 A. That would be Guzman Solana.  
9 Q. Where does Mr. Solana -- does Mr. Solana  
10 receive benefits?  
11 A. Mr. Solana does not receive typical corporate  
12 employee benefits from either YPF Holdings or Maxus  
13 Energy Corporation.  
14 Q. Does he receive benefits from any affiliated  
15 company?  
16 A. I don't know.  
17 Q. Is he compensated in any way for holding a  
18 position with YPF Holdings?  
19 A. There is an intention that he will be an  
20 employee of or otherwise compensated by, in some  
21 manner, Maxus Energy Corporation. To my knowledge, he  
22 has not yet been so compensated.  
23 Q. To your knowledge, has he been compensated in  
24 any way for his service as an officer of YPF Holdings  
25 to date?

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1 A. To my knowledge, he has not been compensated  
2 by YPF Holdings or Maxus Energy Corporation and I  
3 believe he has not been compensated at all.  
4 Q. Do you know why Mr. Solana would serve as an  
5 officer of YPF Holdings absent any compensation?  
6 MS. BLANCO: Objection.  
7 A. As I mentioned, it's the intention of  
8 YPF Holdings and Maxus Energy Corporation that  
9 Mr. Solana be properly compensated by Maxus as soon as  
10 Mr. Solana is able to secure the proper work visa to  
11 enable him to work in the United States.  
12 Q. (By Mr. Gilmour) From -- geographically from  
13 where did Mr. Solana come?  
14 A. I believe Mr. Solana is Spanish.  
15 Q. To your knowledge, did he come from Spain?  
16 A. I believe he came from Spain.  
17 Q. Is he currently in the United States?  
18 A. At the moment I believe he's not in the  
19 United States.  
20 Q. Is he -- does he office in the United States?  
21 A. Mr. Solana has an office in the  
22 United States, yes.  
23 Q. Where is that office?  
24 A. That's in The Woodlands.  
25 Q. Is that at the 1330 Lake Robbins Drive

45 (Pages 174 to 177)

# **EXHIBIT 58**

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	
FUND,	:	
Plaintiffs,	:	
V.	:	
	:	Civil Action No.
OCCIDENTAL CHEMICAL	:	2:06-CV-00401-JCL-PS
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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VIDEOTAPED / REAL-TIMED DEPOSITION OF

CORPORATE REPRESENTATIVE OF YPF HOLDINGS, INC.

HARVEY R. SMITH

SEPTEMBER 15, 2006

\*\*\*\*\*

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1 to read the whole sentence or just in the middle of it  
2 where you picked up?  
3 MR. GILMOUR: I was just directing the  
4 witness to where I was talking about, but he can read  
5 the whole sentence if he would like.  
6 A. I will read the last sentence of that  
7 paragraph. "Following discussion upon motion duly made  
8 and seconded, the directors ratified and approved such  
9 expenditures and budgets if and to the extent required  
10 or appropriate as a matter of general oversight."  
11 Q. And were the expenditures and budgets to  
12 which that refers Tierra's 2005 expenditures  
13 year-to-date and the 2005 and 2006 budgets?  
14 A. Yes, I believe that's correct.  
15 Q. If you look at Page 4, please, sir, Bates  
16 YPFH 333, first sentence on that page discusses  
17 proposals from law firms regarding assisting the  
18 company in resolving certain issues arising from the  
19 Contribution Agreement with YPF.  
20 What certain issues does that refer to?  
21 A. Well, as mentioned earlier, there was a  
22 question in the board members' mind whether YPF had met  
23 all of its obligations under the Contribution  
24 Agreement. And the board anticipated the need for a  
25 negotiation to resolve any pending issues once it was

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1 determined what may be owed to date under the  
2 Contribution Agreement and then what had actually been  
3 paid to date under the Contribution Agreement.  
4 This goes back to the discussion we had  
5 before the break relating to the study that had been  
6 done to determine how much YPF had paid and the fact  
7 that Maxus Energy had been paying Tierra Solutions'  
8 expenses.  
9 And in that regard, I probably ought to  
10 clarify a matter or two about my earlier statements,  
11 that the study that was done that's reflected in  
12 document labeled as Plaintiffs' 28 covers the years  
13 1996 through 1998.  
14 And as I mentioned, after 1998, the  
15 conclusion was that YPF was not making capital  
16 contributions under the Contribution Agreement but that  
17 Maxus was paying the expenses of Tierra Solutions at  
18 that time going forward.  
19 But I don't want to leave the impression  
20 that Maxus started suddenly at that point. It's my  
21 understanding and belief, based upon the dollars  
22 involved and the costs, that Maxus had already been  
23 paying expenses prior to 1998 along with YPF.  
24 So I don't want to leave anyone with the  
25 impression that something stopped abruptly and then

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1 something else started abruptly. It was more or less  
2 continuous. The only thing that stopped was the YPF  
3 contributions. The Maxus contributions continued.  
4 Q. If you'll look with me on Page 5, YPFH 334?  
5 A. Yes.  
6 Q. The first full sentence -- sorry. The second  
7 full sentence, starting with "Commenting on."  
8 A. (Reviewing.)  
9 Q. It talks about \$5 million being reclassified  
10 from other income to environmental expense. Do you  
11 know what that is?  
12 A. No, I don't really know what the  
13 technicalities of the accounting change would be. It  
14 might be reflected in a note to the financial  
15 statements or it may not. I don't know why that  
16 reclassification would have been made.  
17 Q. Do you recall whether Mr. Hartline explained  
18 how \$5 million in income was being reclassified as  
19 \$5 million in expense?  
20 A. The minutes reflect the reclassification, but  
21 the minutes don't reflect the reason for the  
22 reclassification; and I don't recall as such whether he  
23 explained it or to what detail he may have explained  
24 it.  
25 Q. If you look at the next sentence with me,

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1 sir, it refers to a provision for bad debt. What bad  
2 debt is that?  
3 A. Again, I would -- to answer that, I would  
4 have to refer to the financial statements themselves  
5 and see if there were any explanatory notes. I don't  
6 recall what the bad debt related to.  
7 Q. The very next sentence after that reflects  
8 that Mr. Rabbe departed the meeting at that point. Do  
9 you recall if the bad debt that was discussed was  
10 regarding Tierra?  
11 A. I think it would not have been Tierra because  
12 bad debt on the books of YPF Holdings would indicate to  
13 me, at least, that YPF Holdings or one of its  
14 subsidiary companies was owed money by a third party  
15 who may not pay it. I don't think there were any such  
16 dealings between -- I don't believe there were any such  
17 dealings within the consolidated group that could have  
18 resulted in a bad debt entry.  
19 Q. For Tierra or for the entire group?  
20 A. For either.  
21 Q. Sorry. I'm not following you. Are you  
22 telling me that you don't think there are -- that any  
23 of the companies within YPF Holdings and its  
24 subsidiaries would have occasion for bad debt?  
25 A. Perhaps you were asking to which -- which

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1 some appear to be debits?  
2 A. I don't know for sure, but I would suppose  
3 from the sequence that it may indicate money flowing in  
4 and flowing out.  
5 Q. Can you tell me from this document from where  
6 and to where that money you think is flowing in and out  
7 would be going to and from?  
8 A. I don't really know.  
9 MR. GILMOUR: Given the timing,  
10 Plaintiffs would adjourn the deposition and reserve  
11 the right to reopen pursuant to the Court's order  
12 yesterday and any other order that the Court may issue.  
13 EXAMINATION  
14 BY MS. BLANCO:  
15 Q. Okay. Very briefly, could you take a look at  
16 Plaintiffs' Exhibit No. 38, which are the minutes of  
17 the November 15, 2005, board of directors?  
18 MR. STARNES: Ileana, while he's pulling  
19 that out, can we take a 60-second break?  
20 MS. BLANCO: Sure.  
21 THE VIDEOGRAPHER: Off the record. 6:29  
22 p.m.  
23 (Recess taken at 6:29 p.m., resuming at  
24 6:31 p.m.)  
25 THE VIDEOGRAPHER: Back on the record.

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1 Maxus also making contributions to Tierra?  
2 A. Yes, it was.  
3 Q. After the 1998 period, did Maxus then  
4 continue making contributions to Tierra?  
5 A. Yes, Maxus continued.  
6 Q. Was the accounting scheme or treatment of the  
7 funds under the contribution ever changed during this  
8 time period, during any time period?  
9 A. To my knowledge, the accounting treatment  
10 before 1998 and after 1998 was the same.  
11 Q. And what's the source of that information?  
12 A. Well, I believe that Rick Hartline indicated  
13 that to me in terms of the contributions and  
14 distributions that we discussed earlier.  
15 Q. Now, have -- under the funds that have been  
16 advanced under the credit agreements that were entered  
17 into starting in 2005 between YPFH and YPF -- are you  
18 with me, sir?  
19 A. Yes.  
20 Q. -- under those credit agreements, have the  
21 extension of funds under those credit agreements and as  
22 they have been amended, injured Maxus in any way?  
23 A. No.  
24 Q. Has it benefited Maxus in any way?  
25 A. Certainly.

Page 231

1 6:31 p.m.  
2 Q. (By Ms. Blanco) Mr. Smith, you're looking at  
3 Plaintiffs' Exhibit 38?  
4 A. Yes.  
5 Q. And I want to turn your attention to the  
6 discussion about the Contribution Agreement. Do you  
7 see that, sir?  
8 A. Yes, I do.  
9 Q. Did you discuss the Contribution Agreement  
10 issues with Mr. Hartline?  
11 A. Yes, I did.  
12 Q. Specifically what did you and Mr. Hartline  
13 discuss about the Contribution Agreement?  
14 A. Well, we discussed the work that had been  
15 done to determine how much funding had been advanced by  
16 YPF under the Contribution Agreement.  
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18 figure as to how much YPF had contributed according to  
19 Mr. Hartline under the Contribution Agreement?  
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22 A. \$25.5 million.  
23 Q. During which period of time was that?  
24 A. That was for the period from 1996 to 1998.  
25 Q. During the 1996 through 1998 period, was

Page 233

1 Q. And how is that?  
2 A. Well, the funds allowed Maxus to continue its  
3 drilling operations and to enable Maxus to continue  
4 funding Tierra Resources' obligation.  
5 Q. So has the funding under the credit  
6 agreements that we've been discussing injured Tierra in  
7 any way?  
8 A. No.  
9 Q. And what impact, if any, has it had on  
10 Tierra?  
11 A. Well, they have been very helpful to Tierra  
12 because they served as a source of Tierra's funds so as  
13 to enable Tierra to conduct its operations.  
14 Q. Through Maxus?  
15 A. Through Maxus.  
16 Q. To your understanding, do the funds that  
17 Tierra receives come through Maxus?  
18 A. Yes. It is my understanding that Maxus acts  
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20 Q. Does YPFH assert any control over the  
21 operations of Maxus?  
22 A. YPFH exerts only the controls that a  
23 shareholder would exert in the sense that it wants to  
24 understand its investment and review matters, but  
25 otherwise it does not exert any kind of control beyond

Page 234

1 what a shareholder would do.  
 2 Q. Does it direct Maxus' marketing practices?  
 3 A. No, it does not.  
 4 Q. Does YPF direct Maxus' management?  
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 15 Q. Does it direct Maxus' environmental policy,  
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 18 Q. Does YPFH exert any control over Tierra in  
 19 its handling of its environmental issues with the state  
 20 of New Jersey or with anybody?  
 21 A. It does not control or direct those functions  
 22 of Tierra.  
 23 Q. Does YPFH file tax returns in New Jersey?  
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 25 Q. Was Maxus incorporated to perpetrate any kind

Page 236

1 A. No, it has not.  
 2 Q. Has YPFH authorized Tierra to bind it in any  
 3 way?  
 4 A. No.  
 5 MS. BLANCO: That's all I have. Thank  
 6 you.  
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 8 6:37 p.m. This concludes this tape and today's  
 9 deposition.  
 (Proceedings concluded at 6:37 p.m.)  
 10 \* \* \*  
 11 \* \* \*  
 12 \* \* \*  
 13 \* \* \*  
 14 \* \* \*  
 15 \* \* \*  
 16 \* \* \*  
 17 \* \* \*  
 18 \* \* \*  
 19 \* \* \*  
 20 \* \* \*  
 21 \* \* \*  
 22 \* \* \*  
 23 \* \* \*  
 24 \* \* \*  
 25 \* \* \*

Page 235

1 of fraud or injustice on the state of New Jersey?  
 2 A. No, it's not.  
 3 Q. Is it operated for that purpose?  
 4 A. No, it's not.  
 5 Q. Is Tierra operated to perpetrate a fraud or  
 6 injustice on the state of New Jersey?  
 7 A. No.  
 8 Q. Is it operated to circumvent any laws?  
 9 A. No, it's not.  
 10 Q. Is Maxus operated to circumvent any laws?  
 11 A. No.  
 12 Q. Has YPFH authorized Maxus to act on its  
 13 behalf?  
 14 A. No, it has not.  
 15 Q. Has YPFH authorized Tierra to act on its  
 16 behalf?  
 17 A. No.  
 18 Q. Is Maxus authorized to sign contracts on  
 19 behalf of YPFH?  
 20 A. No, it's not.  
 21 Q. Is Tierra authorized to sign contracts on  
 22 behalf of YPFH?  
 23 A. No.  
 24 Q. Has YPFH authorized Maxus to bind it in any  
 25 way?

Page 237

1 New Jersey Department of  
 Environmental Protection v. Occidental, et al.  
 2  
 3 VIDEOTAPED / REAL-TIMED DEPOSITION OF  
 HARVEY R. SMITH  
 SEPTEMBER 14, 2006  
 4  
 5 CHANGES AND SIGNATURE  
 6  

PAGE	LINE	CHANGE	REASON
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# **EXHIBIT 59**





Buenos Aires, March 8, 2005

YPF Holdings Inc.  
717 Harwood Street  
Dallas, Texas, USA

We hereby confirm that YPF S.A. will provide necessary resources to fund all the obligations of YPF Holdings Inc. as all liabilities come due through January 1, 2006.

Kind regards.

A handwritten signature in black ink, appearing to read 'Carlos Olivieri', is written over a faint, circular stamp or watermark.

Carlos Olivieri  
Chief Financial Officer

*YPF, una empresa en acción*

YPF S.A. Avenida Roque Sáenz Peña 777. Buenos Aires CP C1035AAC. Argentina. Tel.: 4329-2000

YPF 517

# **EXHIBIT 60**

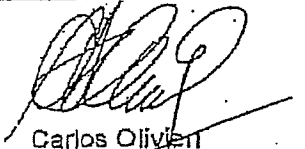


Buenos Aires, October 6, 2005

Messrs.  
YPF Holdings Inc.  
717 Harwood Street  
Dallas, Texas, USA

YPF understands that YPF Holdings Inc. is currently exploring various options regarding its operations and structure. YPF is willing support YPF Holdings Inc up to an amount not in excess of \$120 million. YPF shall be entitled to, and hereby reserves the right to, take credit for any amounts it may contribute to YPF Holdings pursuant to this letter and offset them against any other obligation (if any) YPF may have to contribute funds to YPF Holdings or any of its subsidiary companies. This undertaking shall expire December 31, 2006.

Kind regards,



Carlos Olivieri  
Chief Financial Officer

  
*YPF, una empresa en acción*

YPF S.A. Avenida Roque Sáenz Peña 777 Buenos Aires 1364 Argentina. Tel.: 4329-2000

10/06/05 THU 06:52 (TX/RX NO 7837)

YPF 518

# **EXHIBIT 61**



Buenos Aires, may 3, 2005

Messrs.  
Deloitte & Touche LLP  
Suite 2300 , 333 Clay Street  
Houston. TX. 77002  
USA

Gentlemen,

In connection with the annual audit of the financial records of YPF Holdings, Inc., a Delaware corporation ("YPF Holdings") for the period ending December 31, 2005, YPF S.A. ("YPF") hereby confirms that YPF is willing to support YPF Holdings through potential transactions, including potential asset purchases, loan extensions, loan forgiveness, loan fundings, contributions, or other transactions, if any, selected by YPF subject to the following: (1) the amount of the transactions effecting such support would not exceed U\$S 190 million, net of loans previously funded and net of other commitments, if any, made or to be made to YPF Holdings or its subsidiaries, and not in addition to any such loans or commitments. and (ii) this letter expires on May 1, 2007.


This letter has been prepared solely for the purpose of and to comply with audit standards including accounting ruling regarding ongoing concern and cannot be relied upon by any person or used for any purpose other than your use in connection with the application of such rule in connection with the above referenced annual audit.

YPF S.A.



Carlos Olivieri  
Chief Financial Officer

YPF 4237

  
*YPF, una empresa en acción*

YPF S.A. Avenida Roque Sáenz Peña 177. Buenos Aires 1304. Argentina. Tel.: 4329-2000

# **EXHIBIT 62**



Buenos Aires, August 8th, 2006

Messrs.  
Deloitte & Touche LLP  
Suite 2800 , 303 Plate Street  
Houston, Texas, USA


Gentlemen,

In connection with the review of the financial records of YPF Holdings, Inc., a Delaware corporation ("YPF Holdings") for the period ending March 31, 2006, YPF S.A. ("YPF") hereby confirms that YPF is willing to provide support to YPF Holdings through potential transactions, including potential asset purchases, loan extensions, loan forgiveness, loan fundings, contributions, or other transactions, if any, selected by YPF subject to the following: (1) the amount of the transactions effecting such financial support would not exceed US\$ 190 million, net of loans previously funded and net of other commitments, if any, made or to be made to YPF Holdings or its subsidiaries, and not in addition to any such loans or commitments, and (ii) this letter expires on August 30, 2007.


---

This letter has been prepared solely for the purpose of and to comply with standards including accounting ruling regarding ongoing concern and cannot be relied upon by any person or used for any purpose other than your use in connection with the application of such rule in connection with the above referenced review.

YPF S.A.

  
Carlos Olivieri  
Chief Financial Officer

YPF 4238

  
*YPF, una empresa en acción*

YPF S.A. Avenida Roque Sáenz Peña 777. Buenos Aires 1364. Argentina. Tels.: 4329-2000

# **EXHIBIT 63**



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.

Page 58

1 G. Leiva  
 2 YPF, and I think you said the credit facilities 2004,  
 3 and I think it was in 2005.  
 4 Q. I think you're right.  
 5 MR. JACKSON: Let's go off the record  
 6 for the tape to change.  
 7 VIDEOGRAPHER: Going off the record.  
 8 The time is 12:38. This ends tape three.  
 9 (Whereupon, a recess was taken.)  
 10 (Time noted: 12:40 p.m.)  
 11 \*\*\*\*\*  
 12 A F T E R N O O N S E S S I O N  
 13 \*\*\*\*\*  
 14 (Time noted: 1:37 p.m.)  
 15 (Whereupon, Form 10-K dated December 31,  
 16 2005 was received and marked Plaintiffs' Exhibit 55,  
 17 for identification, as of this date.)  
 18 (Whereupon, stock purchase offer for  
 19 Maxus Energy Corporation was received and marked  
 20 Plaintiffs' Exhibit 56, for identification, as of  
 21 this date.)  
 22 (Whereupon, Schedule 14D-9/A was  
 23 received and marked Plaintiffs' Exhibit 57, for  
 24 identification, as of this date.)  
 25 (Whereupon, a February 28, 1995 letter

Page 59

1 G. Leiva  
 2 to Maxus Energy Corporation from CS First Boston was  
 3 received and marked Plaintiffs' Exhibit 58, for  
 4 identification, as of this date.)  
 5 (Whereupon, an April 5, 1995 letter to  
 6 YPF Sociedad Anonima from Houlihan, Lokey, Howard &  
 7 Zukin was received and marked Plaintiffs' Exhibit 59,  
 8 for identification, as of this date.)  
 9 VIDEOGRAPHER: We are back on the  
 10 record. The time is 1:37. This is tape four.  
 11 CONTINUED EXAMINATION  
 12 BY MR. JACKSON:  
 13 MS. BLANCO: The witness has to clarify  
 14 an area of his previous testimony.  
 15 A. I wanted to clear up a couple of  
 16 subjects that we talked about that maybe I wasn't  
 17 clear enough or precise.  
 18 Q. Okay.  
 19 A. As to the YPF Holdings financial  
 20 statements, I said that I had in my offices in Buenos  
 21 Aires since the year 2005 --  
 22 MS. BLANCO: No.  
 23 Q. 1995.  
 24 A. 1995. From 1995 to 2002 what I have is  
 25 from YPF International, the subsidiary, direct

Page 60

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

Page 61

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?

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>

17 (Pages 62 to 65)

# **EXHIBIT 64**

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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.

<p style="text-align: right;">Page 62</p> <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 style="text-align: right;">Page 64</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>
<p style="text-align: right;">Page 63</p> <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 style="text-align: right;">Page 65</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>

17 (Pages 62 to 65)

MARC J. GROSS, ESQ.

**GREENBAUM, ROWE, SMITH & DAVIS LLP**

75 Livingston Ave

Roseland, New Jersey 07068

973/535-1600

Attorneys for Defendants: YPF Holdings, Inc.

CLH Holdings, YPF, S.A., and Repsol YPF, S.A.

And

**BRACEWELL & GIULIANI**

711 Louisiana Street

Suite 2300

Houston, Texas 77002

713/221-1584

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 defendants YPF, S.A., YPF Holdings, Inc. and CLH Holdings, Inc., 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. Defendants YPF, S.A.'s, YPF Holdings, Inc.'s and CLH Holdings Inc.'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 YPF, S.A., YPF Holdings, Inc. and CLH Holdings, Inc. 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.

---

HON. DONALD S. GOLDMAN, J.S.C.