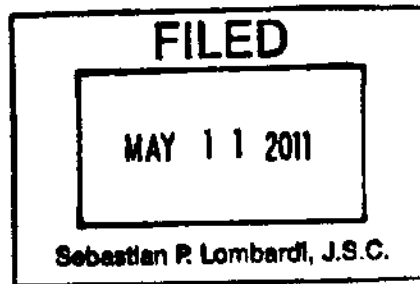


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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND, Plaintiffs,
 v.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION - ESSEX COUNTY
 DOCKET NO. ESX-L9868-05 (PASR)

Civil Action

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS' AND THE STATE OF NEW JERSEY'S MOTION TO DISMISS CERTAIN COUNTERCLAIMS AND ALL THIRD-PARTY CLAIMS

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

MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC., Third-Party Plaintiffs,
 v.
 3M COMPANY, et al., Third-Party Defendants.

This matter having come before the Court on the motion of Drinker, Biddle & Reath LLP, attorneys for Defendants Maxus Energy Corporation ("Maxus") and Tierra Solutions, Inc. ("Tierra"), to review and modify the Recommended Decision of the Special Master dated December 23, 2011, which granted in part and denied in part Plaintiff New Jersey Department of Environmental Protection's ("DEP") and Third-Party Defendant State of New Jersey's ("State") motion to dismiss certain counterclaims of Maxus and Tierra against DEP and all third-party claims of Maxus and Tierra against the State; and the Court, having reviewed the Recommended Decision, the papers submitted by Maxus, Tierra, DEP and the State, having heard oral argument thereon, and for other good cause shown,

IT IS on this 11th day of May, 2011,

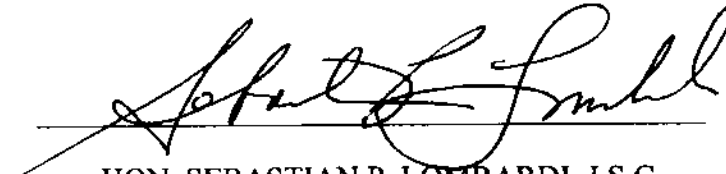
ORDERED that the Recommended Decision of the Special Master is adopted, but with modification ~~reflecting an additional basis for the ultimate ruling, namely the applicability of the Tort Claims Act to certain counterclaims and third-party claims asserted by Maxus and Tierra,~~ for the reasons set forth on the record at the March 8, 2011 hearing;

IT IS FURTHER ORDERED that,

1. DEP's motion to dismiss Count I and Count VIII of Maxus and Tierra's Counterclaim is GRANTED with regard to the allegations forming the basis of Count I and Count VIII, except those seeking contribution from DEP related to the Kearny South Treatment Plant. As to the allegations concerning the Kearny South Treatment Plant, DEP's motion to dismiss Count I and Count VIII of Maxus and Tierra's Counterclaim is DENIED WITHOUT PREJUDICE;
2. DEP's motion to dismiss Count III of the Counterclaim is GRANTED; and

3. The State's motion to dismiss all third party claims against it, specifically Counts I, II and V of Maxus and Tierra's Third-Party Complaint "A," is GRANTED, but only as to the State and not as to Third-Party Defendants the New Jersey Department of Agriculture or the New Jersey Department of Transportation.

IT IS FURTHER ORDERED that a copy of this Order shall be served by counsel for Plaintiffs on all other parties by posting on the CT Summation electronic platform.



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

*Opposed
and
Opposed as to form of order*