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Attorneys for Third-Party Defendant
3M Company

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW
ENVIRONMENTAL PROTECTION and	:	JERSEY
THE ADMINISTRATOR OF THE NEW	:	LAW DIVISION: ESSEX
JERSEY SPILL COMPENSATION FUND,	:	COUNTY
	:	
Plaintiffs,	:	DOCKET NO. L-9868-05
v.	:	
	:	
OCCIDENTAL CHEMICAL	:	CIVIL ACTION
CORPORATION, TIERRA SOLUTIONS,	:	
INC., MAXUS ENERGY CORPORATION,	:	THIRD-PARTY DEFENDANT
REPSOL YPF, S.A., YPF, S.A., YPF	:	3M COMPANY'S INITIAL
HOLDINGS, INC. and CLH HOLDINGS,	:	DISCLOSURES
INC.,	:	
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and	:	
TIERRA SOLUTIONS,	:	
INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

Third-Party Defendant 3M Company ("3M") hereby provides the following Initial Disclosures in accordance with Case Management Order V.

Reservations

1. 3M reserves all objections to the production of any documents or other information on any ground, including relevance and undue burden, and all applicable privileges, including the attorney-client privilege, the work product doctrine, the common interest doctrine, and any other applicable privilege or protection. These disclosures are made without waiver or admission of any kind, including prejudice to or waiver of any privileges or objections 3M has or may have with respect to any requests for discovery.

2. 3M makes this disclosure of witnesses, documents and/or information in good faith and based upon the information now available to it. 3M reserves the right to supplement this response, if necessary, to the extent it becomes aware of additional relevant non-privileged information during the course of discovery and ongoing investigation. These responses should be deemed amended and supplemented to include all admissible non-privileged evidence in 3M's answers to written discovery as well as all admissible deposition testimony and documents produced hereafter by the parties and any non-party witnesses.

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint encompasses at least six decades. Accordingly, the scope of inquiry required by Plaintiffs and Third-Party Plaintiffs is overly broad and burdensome.

4. The geographic scope of the Second Amended Complaint is the 'Newark Bay Complex,' which spans the 'lower 17 miles of the Passaic River, Newark Bay, the lower reaches of the Hackensack River, the Arthur Kill, the Kill van Kull, and into adjacent waters and sediments.' Second Amended Complaint, ¶ 1. Accordingly, the scope of inquiry required by Plaintiffs and Third-Party Plaintiffs is overly broad and burdensome.

5. 3M objects to the form of Disclosures A, D and E to the extent the requests assume that there were Alleged Discharges into the Newark Bay Complex, as those terms are defined below, from the sites and/or properties with which 3M is alleged to be associated with in the Third-Party Complaint.

Initial Disclosures

a. The name, address and telephone number, as may be known of each individual likely to have discoverable information, along with the subjects of that information, that relates to any alleged discharge or release of pollutants, contaminants and/or hazardous substances (“Pollutants”) into the Newark Bay Complex (as these terms are defined in the Second Amended Complaint and the Third-Party Complaints) from the site(s) and/or properties with which the disclosing party is associated in the Third-Party Complaint (“Alleged Discharges”).

Response

Central Steel Drum Site

3M denies that there have been Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined above) from the Central Steel Drum Site and/or that it has any liability, responsibility and/or obligation with respect to any Alleged Discharge of Pollutants from the Central Steel Drum Site. However, without waiver and subject to the above reservations, 3M responds that the persons identified in its 104(e) Response, as set forth below, are likely to have discoverable information regarding the empty drums 3M sent to Central Steel Drum for reconditioning and the purchase of empty drums from Central Steel Drum.

Charles Kunes
Robert McKinnel
Art Lukenda
Tony Baltutis
Dwight Ilk
Ed Getz
Larry Hendrickson

The above individuals may only be contacted through Bressler, Amery & Ross, P.C., 3M’s counsel.

Bayonne Barrel & Drum Site

3M denies that there have been Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined above) from the Bayonne Barrel & Drum Site and/or that 3M has any liability, responsibility and/or obligation with respect to any Alleged Discharge of Pollutants from the Bayonne Barrel & Drum Site. However, without waiver and subject to the above reservations, 3M responds that the persons identified in its 104(e) Response, as set forth below, are likely to have discoverable information regarding the empty drums 3M sent to Bayonne Barrel & Drum for reconditioning and the purchase of empty drums from Bayonne Barrel & Drum.

Charles Dabrowski
Ron North

The above individuals may only be contacted through Bressler, Amery & Ross, P.C., 3M's counsel.

3M reserves the right to supplement or amend the above responses, if necessary, as it becomes aware of additional relevant non-privileged information subject to discovery.

b. The name, address and telephone number, as may be known, of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses (unless the use would be solely for impeachment).

Response

See 3M's response to Disclosure (a).

c. The name, address and telephone number, as may be known, of any and all past or present owners, lessees or operators at the site(s) and/or properties with which it is associated in the Third-Party Complaint and the dates of such ownership, lease or operation, as may be known.

Response

Central Steel Drum Site

3M responds that, upon information and belief and as set forth in 3M's 104(e) Response, the owners of Central Steel Drum Site may have included Al Greenberg, Jerry Fisher and David Baum. Upon information and belief, 3M further responds that Al Greenberg and Jerry Fischer are or were the owners or principals of Mid-Atlantic Recycling, Inc., also known as National Packaging, located at 65 Railroad Avenue, South Ridgefield, New Jersey. 3M has no other information or knowledge, including periods of ownership and/or the existence of other owners, lessees or operators, if any. Except as provided herein, 3M does not have any other information or knowledge responsive to this request.

Bayonne Barrel & Drum Site

Without waiver and subject to the above reservations, 3M has no information or knowledge regarding the owners, lessees or operators of the Bayonne Barrel & Drum Site except, upon information and belief, the City of Newark currently owns the Bayonne Barrel & Drum Site.

3M reserves the right to supplement or amend this response, if necessary, as it becomes aware of additional relevant non-privileged information subject to discovery.

d. With respect to any individual identified pursuant to paragraph (a), (b) or (c) above, (or any other individual known to have material knowledge of an alleged discharge or release of a Pollutant at or from a site and/or property, or into the

Newark Bay Complex), any known inability to testify due to age, infirmity, or incompetency within 12 months following the date of the Initial Disclosure.

Response

Central Steel Drum Site

Without waiver and subject to the above reservations, 3M responds that it does not have any information or knowledge regarding any “inability to testify, due to age, infirmity or incompetency within 12 months following the date of the Initial Disclosure” as to those individuals identified in its response to Disclosure (a).

Bayonne Barrel & Drum Site

Without waiver and subject to the above reservations, 3M responds that it does not have any information or knowledge regarding any “inability to testify, due to age, infirmity or incompetency within 12 months following the date of the Initial Disclosure” as to those individuals identified in its response to Disclosure (a).

3M reserves the right to supplement or amend this response, if necessary, as it becomes aware of additional relevant non-privileged information subject to discovery.

e. A description by category and location (or copy at the discretion of the Third-Party Defendant) of all documents or electronically stored information that the disclosing party has in its possession, custody, or control with respect to Alleged Discharges including disclosure of the extent to which such documents or electronically stored information may fall within the Excepted Information.

Response

Central Steel Drum Site

Without waiver and subject to the above reservations, 3M does not have documents or electronically stored information in its possession, custody or control with respect to Alleged Discharges, as those terms are defined above, from the Central Steel Drum Site.

Bayonne Barrel & Drum Site

Without waiver and subject to the above reservations, 3M does not have any documents or electronically stored information in its possession, custody or control with respect to the remediation and/or investigation of the Bayonne Barrel & Drum Site that are not subject to exception codes¹. Documents in 3M’s possession that are excepted from

¹ Applicable Exception Codes are as follows:

a. Information, (“Information”), including, but not limited to, environmental, chemical and/or biological testing of groundwater, surface water, soil or sediment (hereinafter “Sampling Information”) contained in the nexus packages produced pursuant to paragraph 8 (e) of CMO V;

e. Information produced by a third-party defendant to any third-party plaintiff pursuant to the New Jersey Open Public Records Act or other freedom of information law or regulation;

f. Information previously produced to Defendants; and

g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.