

BRESSLER, AMERY & ROSS
A Professional Corporation
325 Columbia Turnpike
Florham Park, New Jersey 07932
P.O. Box 1980
Morristown, New Jersey 07962
(973) 514-1200
Attorneys for Third Party Defendant
BASF Construction Chemicals, LLC

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,
INC.,

Defendants.

MAXUS ENERGY CORPORATION and
TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

v.

3M COMPANY, et al.,

Third-Party Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: ESSEX COUNTY

: DOCKET NO. L-9868-05 (PASR)

: CIVIL ACTION

: **INITIAL DISCLOSURE OF THIRD-**
: **PARTY DEFENDANT BASF**
: **CONSTRUCTION CHEMICALS,**
: **LLC**

Third-Party Defendant BASF Construction Chemicals, LLC¹ (“BASF Construction”) hereby provides the following Initial Disclosures in accordance with Case Management Order V.

Reservations

1. BASF Construction reserves the right to object to the production of any documents or other information on any ground, including relevance and undue burden, and to assert any applicable privilege, including the attorney-client privilege, the work product doctrine, the common interest doctrine, and any other applicable privilege or protection. These disclosures are not intended to prejudice or waive any privileges or objections BASF Construction may have with respect to any outstanding or subsequent requests for discovery.

2. BASF Construction’s investigation in this matter is continuing. Accordingly, it reserves the right to supplement, clarify, and revise these disclosures to the extent additional information becomes available or is obtained through discovery. Further, BASF Construction reserves the right to amend these disclosures to the extent the claims brought by or alleged against BASF Construction in this litigation are amended.

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 Defendants 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 Defendants is overly broad and burdensome.

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,

¹ Effective April 1, 2010, substantially all of the assets and liabilities of BASF Construction Chemicals, LLC were transferred to its parent company, BASF Corporation, including all liability, if any, relating to the claims asserted against BASF Construction Chemicals, LLC in the Third-Party Complaint “B”.

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

BASF Construction objects to this initial disclosure request to the extent it assumes or concludes that there have been Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined above) for which BASF Construction has any liability, responsibility, and/or obligation, including but not limited to any Alleged Discharges of Pollutants from the Sonneborn Site, as defined in Third-Party Complaint “B”.

Without waiver and subject to the above reservations, BASF Construction responds that it has not identified any individuals with discoverable information relating to any Alleged Discharges of Pollutants from the Sonneborn Site.

BASF Construction reserves the right to supplement, clarify, and revise these disclosures to the extent additional relevant non-privileged information subject to disclosure becomes available or is obtained through discovery or as part of its ongoing investigation in this matter.

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

BASF Construction objects to this initial disclosure request to the extent it assumes or concludes that there have been Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined above) for which BASF Construction has any liability, responsibility, and/or obligation, including but not limited to any Alleged Discharges of Pollutants from the Sonneborn Site, as defined in Third-Party Complaint “B”.

Without waiver and subject to the above reservations, BASF Construction responds that the following individuals may have discoverable information relating to BASF Construction’s defenses to the claims asserted against it in the Third-Party Complaint “B”:

1. Charles R. Roy – former Vice President, Rexnord, Inc., Rexnord Chemicals Products Division.

2. Richard Aschenbrener – former Controller, Rexnord, Inc.

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

Sonneborn Site

Upon information and belief, former owners and/or operators of the Sonneborn Site may have included, among others, L. Sonneborn Sons, Inc., Sonneborn Chemical and Refining Company and Witco Chemical Corporation, Crompton Corporation. Neither BASF Construction nor any predecessor of BASF Construction owned, leased or operated the Sonneborn Site.

BASF Construction reserves the right to supplement, clarify, and revise these disclosures to the extent additional relevant, non-privileged information subject to disclosure becomes available or is obtained through 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

BASF Construction has no information regarding any known inability to testify of any individual identified above, due to age, infirmity, or incompetency within 12 months following the date of this Initial Disclosure. BASF Construction reserves the right to supplement, clarify, and revise these disclosures to the extent additional relevant non-privileged information subject to disclosure becomes available or is obtained through 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

BASF Construction objects to this initial disclosure request to the extent it assumes or concludes that there have been Alleged Discharges of Pollutants into the Newark Bay Complex (as those terms are defined above) for which BASF Construction has any liability, responsibility, and/or obligation. Without waiver and subject to the above reservations, BASF Construction identifies the following categories of documents. One or more of the Exception Codes listed below may apply to some or all of the documents marked with an asterisk.

Documents by Category	Location	Excepted Information²
Documents supporting BASF Construction's defense that it has no liability for Alleged Discharges from the Sonnenborn Site.	Bressler, Amery & Ross, P.C. 325 Columbia Turnpike, Florham Park, New Jersey, 07932	

BASF Construction reserves the right to supplement, clarify, and revise these disclosures to the extent additional relevant, non-privileged information subject to disclosure becomes available or is obtained through discovery.

² 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; and
- b. Information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including to the New Jersey Department of Environmental Protection ("NJDEP") or Information produced to any other governmental agency or entity whose responsibility it is to oversee environmental compliance in the Newark Bay Complex Area, including, but not limited to, the United States Environmental Protection Agency and the United States Army Corps of Engineers (hereinafter "Governmental Recipients");
- c. Information produced to any Licensed Site Remediation Professional (hereinafter "LSRP") who is duly licensed by the State of New Jersey at the time of receipt of such Information where such disclosure of Information is intended to be used in connection with any remedial investigation or remedial action having an assigned case number in the NJDEP's NJEMS data system;
- d. Sampling Information compiled with the expectation of being produced to a Governmental Recipient or an LSRP under Paragraphs 4(b) or 4(c) but which Sampling Information has not yet undergone quality assurance/ quality control or similar analysis;
- 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.

BASF Construction is engaged in a continuing investigation and reserves the right to supplement and modify these disclosures. BASF Construction's Initial Disclosures are made without prejudice to its right to change or its responses, its right to assert privileges or objections with respect to any subsequent requests for discovery, and its right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Dated: June 8, 2010

Respectfully submitted,

Bressler, Amery & Ross, P.C.
Attorney for Third-Party Defendant
BASF Construction Chemicals, LLC
325 Columbia Turnpike
Florham Park, NJ 07932

A handwritten signature in cursive script, appearing to read "DPSchneider", written in black ink.

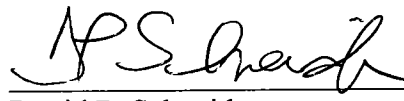
David P. Schneider, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant BASF Construction Chemicals LLC's Initial Disclosure was served electronically on all parties which have consented to service by posting on www.sfile.com/njdepvcc on June 8, 2010. The following counsel of record were served on June 8, 2010 via first class, regular mail:

Borough of Hasbrouck Heights	Richard J. Dewland, Esq. Coffey & Associates 465 South Street Morristown, NJ 07960
City of Orange	John P. McGovern, Esq. Assistant City Attorney City of Orange Township 29 North Day Street Orange, NJ 07050

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.


David P. Schneider

Dated: June 8, 2010