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Belleville Industrial Center

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,

vs.

3M COMPANY, *et al.*,

Third-Party Defendants.

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

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

: CIVIL ACTION

: **BELLEVILLE INDUSTRIAL
: CENTER'S
: INITIAL DISCLOSURE
: PURSUANT TO CMO V**

Third-Party Defendant Belleville Industrial Center ("BIC") provides the following specific information for its Initial Disclosures pursuant to Case Management Order V in the above captioned litigation:

Reservations

1. BIC reserves the right to object to the production of any documents or other information on any grounds, 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 BIC may have with respect to any outstanding or subsequent requests for discovery.

2. BIC's investigation in this matter is continuing. Accordingly, BIC reserves the right to supplement, clarify, and revise these Initial Disclosures to the extent additional information becomes available or is obtained through discovery. Further, BIC reserves the right to amend these Initial Disclosures to the extent that the claims brought by or alleged against BIC in this litigation are amended.

3. The allegations in the Plaintiffs' Second Amended Complaint and Third Party Plaintiffs' Third-Party Complaint "B" (collectively "Complaints") cover a broad time period, encompassing at least six decades. The geographic scope of the Complaints are also broad, covering 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. The scope of inquiry required by Plaintiffs, Third Party Plaintiffs and Third-Party Defendants is accordingly broad and potentially burdensome. BIC is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

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:

BIC objects to the form of the question to the extent that it assumes or concludes there was an “alleged discharge or release of pollutants, contaminants and/or hazardous substances” to the Newark Bay Complex from the site with which BIC is associated in Third Party Complaint “B.” Subject to this objection and the Reservations stated above, the individual listed below is likely to have discoverable information pertaining to environmental conditions and operational history at the BIC facility in Newark:

1. Carol Shapiro, President
Belleville Industrial Center
681 Main Street
Belleville, New Jersey
2. David B. Farer, Esq.
Farer Fersko
600 South Avenue
Westfield, New Jersey 07091
(908) 789-8550
3. Robert Denehy, Former President
Helion Industries, Inc.
Last known address:
241 Clarence Lane
Escondido, California 92029

4. Charles Beiber, Former Vice-President
Helion Industries, Inc.
Last known address:
128 Joanna Court
Toms River, New Jersey 08753

BIC further responds that many employees and tenants have worked at the BIC facility over the decades. Based on the breadth and ambiguity of Third-Party Plaintiffs' claims, other individuals could have relevant knowledge of this matter. BIC is unable to individually identify other persons with relevant knowledge of this matter without more specific information from Third-Party Plaintiffs on the nature and basis of their claims. As such, BIC may identify additional individuals in the course of discovery and as its investigation continues.

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:

1. Carol Shapiro, President
Belleville Industrial Center
681 Main Street
Belleville, New Jersey
2. David B. Farer, Esq.
Farer Fersko
600 South Avenue
Westfield, New Jersey 07091
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BIC further responds that many employees and tenants have worked at the BIC facility over the decades. Based on the breadth and ambiguity of Third-Party Plaintiffs' claims, other individuals could have relevant knowledge of this matter. BIC is unable to individually identify other persons with relevant knowledge of this matter without more specific information from Third-Party Plaintiffs on the nature and basis of their claims. As such, BIC may identify additional individuals in the course of discovery and as its investigation continues.

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:

BIC has operated a multi-tenanted facility from 1970 to the present, and has had numerous tenants. The only one of those tenants with which BIC is associated in the Third-Party Complaint is Helion Industries, Inc. below. The following identifies BIC, Helion and known prior owners of the site:

<u>Name</u>	<u>Operator/ Owner</u>	<u>From</u>	<u>To</u>
Federal Leather	Owner/Operator	Early 1900s	1970
Cumberland Chemical Corp.	Owner/Operator	Unknown	December 30, 1966
Air Reduction Company Last known address: 150 East 42 nd Street Manhattan, NY 10017	Owner/Operator	December 30, 1996	July 1, 1968
Belleville Industrial Center 681 Main Street Belleville, NJ 07109	Owner	1970	Present
Helion Industries, Inc. (a.k.a. Contrar Corp. from 1975 to the mid-1980s)	Operator	1975	2001

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:

BIC responds that it is unaware of any individual identified in paragraphs (a), (b) and (c) that have a known inability to testify due to age, infirmity, or incompetence.

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:

BIC objects to the form of the question to the extent that it assumes or concludes there were "Alleged Discharges" to the Newark Bay Complex from the site with which BMC is associated in Third Party Complaint "B." Subject to this objection and the Reservations stated above, BIC responds as follows:

BIC has possession, custody and control of documents relating to operational history and environmental conditions at the BIC facility in Belleville, N.J., which documents are currently located at:

Belleville Industrial Center
681 Main Street
Belleville, NJ 07109

Farer Fersko, a Professional Association
600 South Avenue
Westfield, NJ 07091

Certain of the documents fall within the Excepted Information because such documents constitute: (a) information contained in the nexus packages produced pursuant to paragraph 8(e) of CMO V; (b) information previously produced to Governmental Recipients; (c) information produced to an LSRP; (d) sampling information that has not yet undergone quality assurance/quality control or similar analysis; (e) information produced by a third-party defendant to a 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; or (g) information that falls within the attorney-client privilege and/or other attorney work product privilege.

Categories of documentation include but are not limited to:

- Documentation concerning NJDEP preliminary assessment.
- Documentation from Passaic Valley Sewerage Commission and governmental authorities.

BIC's Initial Disclosures are made without prejudice to its right to change or supplement 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: January 28, 2010

Respectfully submitted,

Farer Fersko, a Professional Association
Attorneys for Third-Party Defendant
Belleville Industrial Center



David B. Farer, Esq.

Group Send Report

Time : Jan-28-2010 04:36pm
Tel line : 9087898660
Name : FABER FERSKO

Job number : 348
Date : Jan-28 04:30pm
Document pages : 011
Start time : Jan-28 04:30pm
End time : Jan-28 04:36pm

Successful

Fax number

☎919733018410
☎919734827930

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Fax number

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Pages sent

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F A R E R F E R S K O
A PROFESSIONAL ASSOCIATION ATTORNEYS AT LAW

FACSIMILE TRANSMISSION COVER MEMO

DATE: January 28, 2010
TO: All Counsel on Attached Service List
COMPANY:
FAX NO:
FROM: David B. Farer
OUR FILE: 060205
NO. OF PAGES: 11
(INCLUDING THIS PAGE)
MESSAGE:

Please see attached letter and enclosure.

Initials _____
If you have received this communication in error, please call us immediately. This transmission may be privileged and confidential and is intended only for the party to whom it is directed.

It has been: () Transmission Complete Initials: _____
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