

**Manko, Gold, Katcher & Fox, LLP**  
401 City Avenue, Suite 500  
Bala Cynwyd, PA 19004  
Attorneys for Third-Party Defendant,  
Chemical Waste Management, Inc.

---

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF
ENVIRONMENTAL PROTECTION, THE	:	NEW JERSEY
COMMISSIONER OF THE NEW JERSEY	:	LAW DIVISION
DEPARTMENT OF ENVIRONMENTAL	:	ESSEX COUNTY
PROTECTION and THE ADMINISTRATOR	:	DKT. NO. ESX-L-9868-05
OF THE NEW JERSEY SPILL	:	(PASR)
COMPENSATION FUND,	:	
	:	<u>CIVIL ACTION</u>
Plaintiffs,	:	
	:	
vs.	:	
	:	
OCCIDENTAL CHEMICAL CORPORATION,	:	
TIERRA SOLUTIONS, INC., MAXUS ENERGY	:	
CORPORATION, REPSOL YPF, S.A., YPF, S.A.,	:	
YPF HOLDINGS, INC., and CLH HOLDINGS,	:	
	:	
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA	:	
SOLUTIONS, INC.	:	
	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

---

**INITIAL DISCLOSURE OF CHEMICAL WASTE MANAGEMENT, INC.**

Third-Party Defendant Chemical Waste Management, Inc. (“CWM” or “Respondent”), by and through its undersigned counsel, and in accordance with Case Management Order V, provides the following specific information for its Initial Disclosure:

## Reservations

1. These disclosures are not intended to prejudice or waive any privileges or objections Respondent may have with respect to any outstanding or subsequent requests for discovery. Respondent 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 or protection, including the attorney-client privilege, the work product doctrine, and the common interest doctrine.

2. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint spans at least six decades. The geographic scope of the Second Amended Complaint is also overly 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 and Third-Party Plaintiffs is accordingly overly broad and unduly burdensome. In addition, Respondent reserves the right to supplement, clarify, and revise these disclosures to the extent additional information becomes available or is obtained through discovery. Further, Respondent reserves the right to amend these disclosures to the extent the claims brought by or alleged against Respondent in this litigation are amended.

**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:** The Third-Party Complaint alleges that CWM is responsible for discharges of hazardous substances from a property located at 253 River Road in Passaic, New Jersey (the “River Road Site”). CWM denies that it is liable for any discharges from the River Road Site. The only alleged nexus between CWM and the River Road Site in the Third-Party Complaint is the incorrect allegation that CWM is the successor to GAESS Environmental Services Corp. (“Gaess”), the purported former operator of the River Road Site. CWM is not a successor to Gaess. CWM has no discoverable information relating to Gaess’s operations at the River Road Site. The following individual has discoverable information relating to the corporate history of Gaess and CWM’s lack of successor liability for any activities by Gaess at the River Road Site:

Name/Address
Linda J. Smith, Corporate Secretary 1001 Fannin Street, Suite 4000 Houston, TX 77002 Note: CWM is represented by counsel. Ms. Smith should only be contacted in this matter through undersigned counsel.

*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 Response a. above.

*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:** A deed for the property dated December 20, 2007 establishes the owner of the River Road Site as DL Realty Co. LLC. The deed lists the address for DL Realty Co. as 1055 East Jericho Turnpike, Huntington, New York 11743. The deed further indicates that DL Realty Co. purchased the River Road Site from United Group, LLC, a New Jersey company with a listed address of 627 Shrewsbury Avenue, Shrewsbury, New Jersey 07702.

CWM has no additional information regarding the identity of, or contact information for any other past or present owners, lessees or operators of the River Road Site beyond the alleged operation of the site by Gaess contained in the Third-Party Complaint.

*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:** None known

*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:** As noted above, CWM has no discoverable documentation or electronically stored information relating to the alleged operation of the River Road Site by Gaess.

Documentation of the corporate history of Gaess establishing CWM's lack of successor

liability for any activities by Gaess at the River Road Site were provided to counsel for Third-Party Plaintiffs by letter dated November 25, 2009, and are also located in the offices of Manko, Gold, Katcher & Fox LLP, counsel for CWM, at 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004.

Respondent's Initial Disclosures are made without prejudice to their right to change or supplement their responses, their right to assert privileges or objections with respect to any subsequent requests for discovery, and their right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Dated: December 30, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. D. Fox". The signature is fluid and cursive, with the first name "R." and last name "Fox" clearly distinguishable.

---

Robert D. Fox (*Pro Hac Vice* Counsel)  
Christopher D. Ball  
Manko, Gold, Katcher & Fox, LLP  
401 City Avenue, Suite 500  
Bala Cynwyd, PA 19004  
(484) 430-2358  
[rfox@mgkflw.com](mailto:rfox@mgkflw.com) // [cball@mgkflw.com](mailto:cball@mgkflw.com)  
Attorneys for Third-Party Defendant,  
Chemical Waste Management, Inc.

**CERTIFICATION OF SERVICE**

I, Christopher D. Ball, an attorney-of-law of the State of New Jersey, do hereby state upon my oath that, I have served the Initial Disclosures of Chemical Waste Management, Inc. electronically via posting on Sfile upon all parties which have consented to service by posting, and upon the attached list of counsel of record by depositing the same with the United States Postal Service.

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 willingly false, I am subject to punishment.

A handwritten signature in black ink, appearing to read "C. D. Ball", written in a cursive style.

---

Christopher D. Ball  
Attorney for Third-Party Defendant,  
Chemical Waste Management, Inc.

Dated: January 4, 2010

**THIRD-PARTY DEFENDANTS SERVICE LIST**

Thomas M. Egan, Esquire  
Assistant Municipal Attorney  
City of Clifton Law Department  
900 Clifton Avenue  
Clifton, NJ 07013  
*Attorney for Third-Party Defendant  
City of Clifton*

Eric S. Aronson, Esquire  
Greenberg Traurig, LLP  
200 Park Avenue  
Florham Park, NJ 07932  
*Attorney for Third-Party Defendant  
Clean Earth of North Jersey, Inc.*

Michael v. Calabro  
Law Offices of Michael V. Calabro  
466 Bloomfield Avenue, Suite 200  
Newark, NJ 07107  
*Attorney for Third-Party Defendant  
Roman Asphalt Corporation*

Gustavo Garcia  
Municipal Attorney  
Township of Irvington  
Irvington Municipal Building  
Civic Square  
Irvington, NJ 07111  
*Attorney for Third-Party Defendant  
Township of Irvington*

John P. McGovern  
Assistant City Attorney  
City of Orange Township  
29 North Day Street  
Orange, NJ 07050  
*Attorney for Third-Party Defendant  
City of Orange*

John A. Daniels, Esquire  
Daniels & Daniels LLC  
6812 Park Avenue  
Guttenberg, NJ 07093  
*Attorney for Third-Party Defendant  
Passaic Pioneers Properties Company*

Carl R. Woodward, III, Esquire  
Brian H. Fenlon, Esquire  
Carella, Byrne, Bain, Gifillan, Cecchi,  
Stewart & Olstein  
5 Becker Farm Road  
Roseland, NJ 07068  
*Attorney for Third-Party Defendant  
Township of Cranford*