

Norman W. Spindel, Esq.
LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, NJ 07039
Tel: 973.597.2500
Fax: 973.597.2515

ATTORNEYS FOR THIRD PARTY DEFENDANT CONAGRA PANAMA, INC.

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

Comes now Third-Party Defendant ConAgra Panama, Inc., (“Respondent”) and for its Initial Disclosure in accordance with Case Management Order V provides the following specific information:

Reservations

1. 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, 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 Respondent may have with respect to any outstanding or subsequent requests for discovery.

2. Respondent'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, Respondent reserves the right to amend these disclosures to the extent the claims brought by or alleged against Respondent in this litigation are amended.

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint is quite long and encompasses at least six decades. The geographic scope of the Second Amended Complaint is also quite 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 Defendants is accordingly quite broad and potentially burdensome. Respondent 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:

The Third Party Complaint B alleges Respondent is responsible as the successor to Swift and Company (“Swift”), a company that allegedly discharged hazardous substances from the “Swift Site”, located at 1215 Harrison Avenue, Kearny, Hudson County, New Jersey. Swift ceased operations at and sold the Swift Site in 1977. Swift and Company merged into Respondent in 2003. As such, Respondent has no personal knowledge or information regarding the Swift Site after 1977. The parties disclosed below may have discoverable information regarding the allegations concerning the Swift Site in the Third Party Complaint B.

Name	Address/Phone Number	Subject
E.O. Lokensgard	unknown	Plant operations
D.G. Patterson	unknown	Plant operations
Frank W. Carroll	unknown	Plant operations
F.E. Doe	unknown	Chief Engineer

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 to Paragraph (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:

Name/Address/Phone	Site Address	Dates at Site: Ownership/Opertor/Lease
Swift and Company	1215 Harrison Avenue, Kearny, New Jersey	1920's – 1977
Theobald Industries	1215 Harrison Avenue; Kearny, New Jersey	1977 - ?

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 at this time.

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:

Respondent has no responsive documents other than those provided by Third Party Plaintiffs in the Respondent's Nexus Package

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: January 15, 2010

Respectfully submitted,

LOWENSTEIN SANDLER PC
Attorneys for Third-Party Defendant ConAgra
Panama, Inc.

65 Livingston Avenue
Roseland, NJ 07039
Tel: 973.597.2500
Fax: 973.597.2515

By: *N.W. Spidel*

And

John A. Andreasen
Kristopher J. Covi
**MCGRATH NORTH MULLIN & KRATZ,
PC LLO**
Attorneys for Third-Party Defendant ConAgra
Panama, Inc
First National Tower, Suite 3700
1601 Dodge Street
Omaha, NE 68102