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Industries Corp. and Thirty-Three Queen Realty, Inc.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, THE
COMMISSIONER OF THE NEW JERSEY
ENVIRONMENTAL PROTECTION AGENCY,
and THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION FUND,

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, *et al.*,

Third-Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**FLEXON INDUSTRIES CORP. AND
THIRTY-THREE QUEEN REALTY,
INC.'S CMO V THIRD-PARTY
INITIAL DISCLOSURE**

Comes now Third-Party Defendants Flexon Industries Corp. and Thirty-Three Queen Realty 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

Respondent objects to this request to the extent that it assumes, suggests, and/or concludes that there was a discharge or release of pollutants, contaminants and/or hazardous substances into the Newark Bay Complex from the Respondent’s site at 666 Washington Avenue, Belleville, New Jersey (the “Flexon Site”) as defined in the Second Amended Complaint and Third Party Complaint B. Subject to and without waiver of the foregoing specific objections, Respondent identifies the below listed individuals as persons that may have discoverable information responsive to the foregoing request. Respondent does not consent to or authorize direct communication with the below listed individuals, any of Respondent’s employees, former employees or individuals with privileged information and does not consent to or authorize any communication prohibited by the applicable rules of professional conduct. As such, any contact with the below listed individuals should be through Respondent’s counsel. Respondent responds that the following individuals as persons may have responsive, discoverable information:

Name/Address/Phone	Subject
Alex Folkman	Knowledge about operations and ownership of the Flexon Site
David Rauch	Knowledge about operations and ownership of the Flexon Site

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

Respondent’s identification of individuals who may have discoverable information is ongoing. Respondent reserves the right to supplement this response as appropriate. Respondent notes that this request does not seek the identification of experts or consultants. However, Respondent reserves the right to retain and employee experts and consultants to support its claims or defenses in this litigation. Respondent responds that

the following individuals may have responsive, discovery information that Respondent may use to support its claims or defenses:

Name	Address	Phone Number
Alex Folkman	One Flexon Plaza Newark, NJ 07114	(973) 824-5530
David Rauch	One Flexon Plaza Newark, NJ 07114	(973) 824-5527

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

Respondent responds as follows:

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
666 Washington Realty, Inc. One Flexon Plaza Newark, NJ 07114 (973) 824-5527	666 Washington Avenue, Belleville Township, New Jersey	Unknown – Present (under review)
33 Queen Realty, Inc. One Flexon Plaza Newark, NJ 07114 (973) 824-5527	“”	Unknown (under review)
Flexon Industries, Inc.	“”	1972 – 1984
Rosrob Building Corporation	“”	1968 – 1970
Liquid Carbonic Corporation	“”	1947 – 1968

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

Respondent has no knowledge regarding the inability of any of the identified individuals to testify due to age, infirmity, or incompetency.

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 objects to this request to the extent that it assumes, suggests, and/or concludes that there was an discharge or release of pollutants, contaminants and/or hazardous substances into the Newark Bay Complex from the Respondent’s site at 666 Washington Avenue, Belleville, New Jersey (the “Flexon Site”) as defined in the Second Amended Complaint and Third Party Complaint B. Subject to and without waiver of the foregoing specific objections, Respondent responds that all documents, to the extent they exist, are maintained in hard copies as provided below. Respondent does not store any of these documents electronically.

Documents by Category	Location	Applicable Exception¹
Environmental reports, sampling data, correspondence with governmental agencies	Porzio, Bromberg & Newman, P.C. 100 Southgate Parkway Morristown, NJ 07962	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).

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; 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.

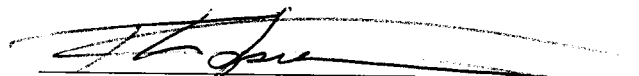
pertaining to the environmental condition at the Flexon Site		
Environmental reports, sampling data, operational documents pertaining to the environmental condition and operations at the Flexon Site	One Flexon Plaza Newark, NJ 07114	Some or all documents may consist of information that falls within Exception Codes (a), (b), and/or (g).

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: March 4, 2010

Respectfully submitted,

PORZIO BROMBERG & NEWMAN, P.C.
Attorney for Third-Party Defendants Flexon
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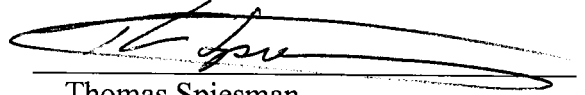
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CIVIL ACTION

**CERTIFICATE OF SERVICE OF
FLEXON INDUSTRIES CORP. AND
THIRTY-THREE QUEEN REALTY,
INC.'S CMO V THIRD-PARTY
INITIAL DISCLOSURE**

I, Thomas Spiesman, hereby certify that the CMO V THIRD-PARTY INITIAL DISCLOSURE was served electronically on all parties which have consented to service by posting on www.sfile.com/njdepvoc on March 4, 2010. The following counsel of record were served on March 4, 2010 via first class, regular mail:

Borough of Hasbrouck Heights – Richard J. Dewland, Esq.
City of Orange Township – John P. McGovern, Esq.
Passaic Pioneers Properties Company – John A. Daniels, Esq.
Township of Hillside – Christine M. Burgess, Esq.
Township of Irvington – Gustavo Garcia, Esq.



Thomas Spiesman

Date: March 4, 2010