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Attorneys for Third-Party Defendant Franklin-Burlington Plastics, Inc.

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW
ENVIRONMENTAL PROTECTION and	:	JERSEY
THE ADMINISTRATOR OF THE NEW	:	LAW DIVISION: ESSEX
JERSEY SPILL COMPENSATION FUND,	:	COUNTY

Plaintiffs

DOCKET NO. L-9868-05

v.

OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS, INC., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLM HOLDINGS, INC.,

CIVIL ACTION

**CMO V THIRD-PARTY INITIAL DISCLOSURE**

Defendants.

MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

vs.

3M COMPANY, *et al.*,

Third-Party Defendants.

Comes now Third-Party Defendant Franklin-Burlington Plastics, Inc., 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 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**

i. Persons who may have knowledge of facility operations that may have resulted in the discharge of materials to the Passaic River.

Name	Address	Phone Number
Luz Alcocer		(908) 355-2130
Antonio Aldano	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Mario Aldano	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002

Renato Alvero	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Juan Amparo	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Rodalino Avanzado	15 Dunlop Drive, Sewaren, NJ 07077	(732) 634-8788
Michael Babriecki		(732) 729-1141
Pamela Balzamo		
Francisco Bare	149 Prospect Ave., Apt. 4, Bayonne, NJ 07002	(201) 823-9155
Pedro Bare		
Jessie Beasley		
Peter Byra	297 Ferry Street, Newark, NJ 07105-3443	(973) 522-2800
Stephen Byron		
Kelli Candurro	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Rodney Casiere	5211 Edenhurst Road, Lyndhurst, OH 44124	(440) 646-1002
Arturo Castelo		(973) 482-3250
Arturo Castillo	111 Broadway St., Jersey City, NJ 07306	(973) 299-6637
Xavier Chavez	271 Montclair Avenue, Newark, NJ 07104	(973) 485-9245
Traian Ciuca		
Jermene Clark		(732) 846-6720
Juan Cora do	P.O. Box 9214, Newark, NJ 07104	(973) 481-1533
William Damon	533 Randolph Rd., Plainfield, NJ 07060	(908) 561-4162
Romulus Delran	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Enrique Scarce	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Adrian L. France	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Jeffrey Fisher	16562 Baxter First Ridge Drive Chesterfield, MO 63005	(636) 537-9711

Hendrix Garcia	1113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Juan Garcia	138 Wilson Ave., 3, Kearny, NJ 07032	(201) 955-1691
Luis Garcia	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
William Gardner		
Mark Garretson	PO Box 650, Kathleen, FL 33849	(201) 964-9551
Rogers Gomez	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Jaime Guadalupe		
Ricardo Guerra		(973) 667-9551
Beverly Hayes		
John Jarvis		(973) 923-6883
Patrick Johns		(770) 475-3661
Joseph Kelly		
Vijay Kodak		
Roberto Lemurs		
Norma J. Lewis	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
William Linda	172 W. 26th Street, Paterson, NJ 07514	(973) 523-9304
Holier Lorena	190 Farragut Ave., Romeoville, IL 60446	(973) 484-3701
Joaquin Lopez	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Mario M. Lopez	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Haskell Mack	704 E. 7th Street, Plainfield, NJ 07062	(908) 757-0486
Alfred Magana		
Olga Marot		
Walter Marx		(908) 665-0198

Randy Martin	120 South Central Avenue, Suite 1700, Clayton, Missouri 63105-1705	(314) 721-4242
Anton Mayer	25 Riverhills Road, Southbury, CT 06488	(203) 560-7080
David McKinney		
John Melasippo	297 Ferry Street, Newark, NJ 07105-3443	(973) 522-2800
Marie Milette		
James Miller		
Waclaw Misiuk	7 Kipling Ave., Springfield, NJ 07081	(908) 659-0081
Robert Moore		
Yelitza More		(201) 991-2756
Barbara Morrell		
John Morrell		
Lydia Moya		
Juan Munoz	438 Highland Ave., Kearny, NJ 07032	(973) 482-8798
Karl T. Niedt		
Charles Noble	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Hector Nunez	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Alan M. Osborne	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Eduardo Pena	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Ernest Phelps		
Francisco Pitre	P. O. Box 2118, Amboy, NJ 08862	(732) 324-2730
Aida Portella	151 Prospect Ave., N. Arlington, NJ 07031	(201) 997-8684
Enzo Ragucci	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Alan Raymond	4115 Spring Branch Drive, Wentzville, MO 63385	(636) 828-4321

James Redfern	113 Passaic Ave., Kearny, NJ 07032	(201) 998.8002
Emanuel Reyes	72 Boyd Ave., Jersey City, NJ 07304	
Suzanne Riney	1202 Presidents Way, Huntsville, AL 35803	(256) 541-6349
Nicholas Rizzo	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Jose Rodriguez		(973) 484-8709
Joseph Ronzo	53 Oakcrest Road, W. Orange, NJ 07052	
John Ruttler	287 Rosewood Ave., Port Reading, NJ 07064	
Sabir L. Salaam	13 Ferdinand Street, Newark, NJ 07103	(973) 372-4821
Philip Scantlebury	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Friedhelm Schwabe	128 Barkley Ave., Clifton, NJ 07011	(201) 772-5014
Leamon Scott, Jr.	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Raphael Shivprashad		(973) 497-0275
Nathan Sofer	38 Mountain Ave, West Orange, NJ 07052	(973) 325-5930
Kimberly S. Swayze		
George Thomas		(973) 675-0442
Terry Tisza	4312 East Trail, Port Clinton, OH 43452	
Ed Trimpert	297 Ferry Street, Newark, NJ 07105-3443	(973) 522-2800
Frank Udis	105 Brookwood Lane, Forked River, NJ 08731	
David Vasquez		(973) 402-0078
Noe Villatoro	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Natubhai Vyas	83 Victor Avenue, Elmhurst, NJ 11373	(718) 476-9873
Robert Walker	10 Lawton St., East Orange, NJ 07017	
John Walsh	200 Highland Ave., Glen Ridge, NJ	

Maurice West	65 Warrington Place, E. Orange, NJ 07017	
Richard West	65 Warrington Place, E. Orange, NJ 07017	
Joseph Wiedemann		(201) 991-8572
Noble Williams	214 Bloomfield Ave., Bloomfield, NJ 07003	
Jimmie L. Wilson	113 Passaic Ave., Kearny, NJ 07032	(201) 998-8002
Paul Yogg	214 Laurel Street, Kearny, NJ 07032	
Roger Yogg	185 Beltmore Street, No. Arlington, NJ 07031	(215) 592-5147
Andrew York		
Mauro Zucchi		

ii. Persons that may have knowledge of the environmental condition of the facility located at 113 Passaic Avenue, Kearny, NJ and the facility's potential impact upon the Passaic River.

<b>Name</b>	<b>Address</b>	<b>Phone Number</b>
Craig Caldwell	30th and Market Streets Philadelphia, PA 19104	(215) 349-6968
Steven Caretsky	35 Columbia Road Branchburg, NJ 08876-3518	(908) 526-1000
Mark DeGregory	1031 US Highway 22 Bridgewater, NJ 08807	908 547 3833
Ray Forrester	605 North Boonville Avenue Springfield, Missouri 65806	(417) 836-3617
Miranda Henning	136 Commercial Street, Suite 402 Portland, ME 04101	(207) 347-4413
Scott MacDonald	214 Carnegie Center Princeton, NJ 08540-6284	(609) 243-9826
Anton Mayer	25 Riverhill Road, Southbury, CT 06488	(203) 560-7080
David A. Newman	119 Cherry Hill Rd. Suite 300 Parsippany, NJ 07054-1102	(973) 316-3538
Alan Raymond	4115 Spring Branch Drive Wentzville, MO 63385	(636) 828-4321
Suzanne Riney	1202 Presidents Way Huntsville, AL 35803	(256) 541-6349
Nate Sofer	38 Mountain Ave, West Orange, NJ 07052	(973) 325-5930

Mike Weaver	Atlantic Environmental Consulting Services 5 Mountain Boulevard, Warren, NJ 07059	(908) 755-2240
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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**

Name	Address	Phone Number
Steven Caretsky	35 Columbia Road Branchburg, NJ 08876-3518	(908) 526-1000
Jeffrey Fisher	16562 Baxter First Ridge Drive Chesterfield, MO 63005	(636) 537-9711
Ray Forrester	605 North Boonville Avenue Springfield, Missouri 65806	(417) 836-3617
Miranda Henning	136 Commercial Street, Suite 402 Portland, ME 04101	(207) 347-4413
Scott MacDonald	214 Carnegie Center Princeton, NJ 08540-6284	(609) 243-9826
Anton Mayer	25 Riverhill Road, Southbury, CT 06488	(203) 560-7080
Randy Martin	120 South Central Avenue, Suite 1700 Clayton, Missouri 63105-1705	(314) 721-4242
Charles Noble	113 Passaic Avenue, Kearny, NJ 07032	(201) 998-8002
Alan Raymond	4115 Spring Branch Drive Wentzville, MO 63385	(636) 828-4321
Suzanne Riney	1202 Presidents Way, Huntsville, AL 35803	(256) 541-6349
Nate Sofer	38 Mountain Ave, West Orange, NJ 07052	(973) 325-5930

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:** None known at this time.

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 Exempted Information.

**Response**

<b>Category</b>	<b>Location</b>	<b>Applicable Exception<sup>1</sup></b>
Blueprints/diagrams	113 Passaic Avenue Kearny, NJ 07032	
MSDS sheets and certificates of analysis	113 Passaic Avenue Kearny, NJ 07032	
Materials relating to NJDEP air, water, ISRA and waste regulatory programs and site's compliance therewith	113 Passaic Avenue Kearny, NJ 07032  Lowenstein Sandler 65 Livingston Avenue Roseland, NJ 07068  ARCADIS 35 Columbia Road Branchburg, NJ 08876-3518	See 1.b and 1.c, below
Correspondence with Norman W. Spindel, Esq.	113 Passaic Avenue Kearny, NJ 07032	See 1. g, below
Batch/Blending Reports	113 Passaic Avenue Kearny, NJ 07032	
Materials and product inventory lists	113 Passaic Avenue Kearny, NJ 07032	
Materials related to facility's potential impact upon Passaic River	ARCADIS 35 Columbia Road Branchburg, NJ 08876-3518  ENVIRON 214 Carnegie Center Princeton, NJ 08540-6284  Foth Infrastructure & Environment, L.L.C. 605 North Boonville Ave. Springfield, Missouri 65806  Lowenstein Sandler 65 Livingston Avenue Roseland, NJ 07068	See 1. g, below

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<sup>1</sup> 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

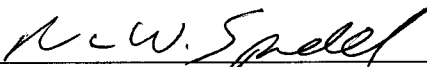
g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

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 2, 2009

Respectfully submitted,

LOWENSTEIN SANDLER PC  
Attorneys for Third-Party Defendant  
Franklin-Burlington Plastics, Inc.

  
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Norman W. Spindel, Esq.