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Hoffmann-La Roche Inc.

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,

v.

3M COMPANY, *et al.*,

Third-Party Defendants.

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY - LAW DIVISION

DOCKET NO.: ESX-L-9868-05

Civil Action

**CMO V THIRD-PARTY INITIAL
DISCLOSURE OF
HOFFMANN-LAROCHE INC.**

Third-Party Defendant Hoffmann-La Roche Inc., for its Initial Disclosure in accordance with Case Management Order V, provides the following specific information:

Reservations

1. Hoffmann-La Roche Inc., (“Roche”) 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 Roche may have with respect to any outstanding or subsequent requests for discovery.

2. Roche’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 Roche 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.

4. Roche has received nexus packages related to the Andrew Jergens Site (hereinafter referred to as “AJ Site”) and the Hoffmann-LaRoche Site (hereinafter referred to as the “Nutley

Site”). Roche has also received a received a nexus package related to the Bayonne Barrel and Drum Site as a PRP (hereinafter referred to as the “BBD Site”).

INITIAL DISCLOSURE REQUESTS

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”);

Roche responds as follows:

As to the AJ Site, Roche was identified in the Third-Party Complaint (“TP Complaint”) as having purchased property formerly owned by Andrew Jergens in Belleville, New Jersey. There are no allegations in the TP Complaint related to any discharges, releases, or otherwise related in any way to Roche’s activities on the AJ Site after the purchase. Therefore, Roche has no one with any knowledge as to any activities on the AJ Site prior to its purchase by Roche. These questions are more appropriately addressed to KAO Brands Company, successor to Andrew Jergens.

As to the Nutley Site, the individual having access and control to all documents related to the allegations of discharges to the Passaic River and defenses to those damages is Robert Baldisserotto, Director of Environmental Health and Safety at Hoffmann-LaRoche Inc., 340 Kingsland Street, Nutley, New Jersey 07110, telephone number 973-235-4294. Individuals also having knowledge of the foregoing are Peter Jeuck and Jack Kace at the same address.

As to the BBD Site, Roche searched its files in 2002 and found no documents related to the BBD Site. The individual having knowledge as to whether the BBD Site may have been used by Roche was Ben DeMarco (deceased). Roche duly responded to an allocation questionnaire which is privileged and submitted in confidence to the PRP Group as its allocation

response. Documents responsive to the questionnaire were also attached. All such documents are in the hands of the PRP Group and counsel for Roche in that matter, Mr. John Klock, Esq. of Gibbons P.C., One Gateway Center, Newark, New Jersey 07102, telephone 973-596-4757.

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);

Roche responds as follows:

As to the AJ Site, the same individuals identified above in (a) are individuals which may be used by Roche to support its defenses for the sites listed in (a). However, for documents older than thirty years Roche will rely on New Jersey R. 803(c)(16) as individuals involved are deceased. Other documents will be authenticated by the custodian of records.

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;

Roche responds as follows:

As to the AJ Site, Roche has owned the AJ Site since 1975 and the Nutley Site since 1928. Roche does not own the BBD Site.

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;

Roche responds as follows:

As to the AJ Site and the Nutley site, Roche knows of no one having knowledge of any discharge or release of a pollutant from either site it owns in to the Newark Bay.

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.¹

Roche responds as follows:

As to the above Sites, All documents to the extent they exist are maintained in hard copies as set forth in (a). None of these documents are stored electronically by Roche.

Respondent's Initial Disclosures are made without prejudice to its right to change or supplement their responses, its 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.

GIBBONS P.C.
Attorneys for Third-Party Defendant
Hoffmann-La Roche Inc.



John H. Klock

Dated: February 22, 2010

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.

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LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

CERTIFICATION OF SERVICE

I, ELLEN M. PIASCIK, hereby certify as follows:

On February 22, 2010, I filed CMO V Third-Party Initial Disclosure of Hoffmann-La Roche Inc. via the SFile website, which will be distributed to all counsel who have consented to such service.


On February 22, 2010, I also mailed a copy, via regular mail, to all parties on the attached service list.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 22, 2010

Respectfully submitted,

GIBBONS P.C.

A handwritten signature in cursive script that reads "Ellen M. Piascik". The signature is written in black ink and is positioned above a horizontal line.

Ellen M. Piascik
Paralegal

Service List - First Class Mail

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