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Attorney for Third-Party Defendant,
NL Industries, 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,

vs.

3M COMPANY, *et al.*,

Third-Party Defendants.

: SUPERIOR COURT OF NEW
: JERSEY
: LAW DIVISION: ESSEX
: COUNTY

: DOCKET NO. L-9868-05

: CIVIL ACTION

: **NL INDUSTRIES, INC.’s**
: **INITIAL DISCLOSURE**

Comes now Third-Party Defendant NL Industries, Inc. (“NL”), (“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, business confidential, 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 as well as burdensome. Respondent is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

Moreover, Respondent’s alleged nexus to the subject properties relates to events that occurred decades ago. Respondent does not currently own or conduct any operations at any of the subject properties and, therefore, information that may be responsive to this request may be in the possession of other parties. Such information is equally ascertainable by all parties

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

Subject to and without waiving the foregoing reservations, Respondent has not identified any persons 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).

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.

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

Subject to and without waiving the foregoing reservations, upon Respondent's information and/or belief, the CasChem Site was owned and/or operated by Baker Castor Oil Company, Baker Company, and CasChem, Inc. Upon Respondent's information and/or belief, the Borne Chemical Site was owned and/or operated by Borne Chemical Company with a portion owned by Chessie System and the New Jersey Department of Transportation.

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 did not identify any individuals pursuant to paragraph (a), (b) or (c).

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

To Respondent's knowledge and/or belief, it does not have documents or electronically stored information in its possession, custody, or control with respect to Alleged Discharges. NL's knowledge is based on its review of the documents posted on the S-File site provided by Defendants, which are in Defendants' possession.

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: May 7, 2010

Respectfully submitted,

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Attorney for Third-Party Defendant,
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s/ David F. Edelstein

Attorney Name

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