

**GIBBONS P.C.**

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Attorney for Third-Party Defendant  
National-Standard, LLC

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  
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**NATIONAL-STANDARD LLC'S CMO V  
THIRD-PARTY INITIAL DISCLOSURE**

Third-Party Defendant National-Standard, LLC, ("National Standard"), by and through its undersigned counsel, and in accordance with Case Management Order V, provides the following specific information for its Initial Disclosure:

## Reservations

1. National Standard 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 National Standard may have with respect to any outstanding or subsequent requests for discovery.

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

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint and Third-Party Plaintiff's Complaint "B" (collectively, "Complaints") is quite long and encompasses at least six decades. The geographic scope of the Complaints 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 Plaintiffs is accordingly quite broad and potentially burdensome. National Standard 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:**

National Standard objects to this request to the extent that it assumes or concludes that there was an “alleged discharge or release of pollutants, contaminants and/or hazardous substances” to the Newark Bay Complex from the National Standard property at 714-716 Clifton Avenue, Clifton, New Jersey (the “National Standard Property”). Furthermore, National Standard was purchased by its current owner in 2000 long after National Standard ceased operations on the National Standard Property in July 1987.

Subject to the foregoing objections and the Reservations stated above, National Standard states that Brian McGuire, Corporate Environmental Health and Safety Manager, Davis Wire Corporation, 5555 Irwindale Avenue, Irwindale, California, may have information regarding recent investigation and remediation activities undertaken on the National Standard Property. Mr. McGuire should only be contacted through National Standard’s counsel in this matter.

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:**

National Standard’s investigation concerning the identify of individuals with discoverable information that it may use in support of its claims and/or defenses is ongoing and, therefore, National Standard reserves the right to supplement this response as further information

becomes available. Subject to the foregoing objection and the Reservations stated above, National Standard states that it may use information in the possession of Brian McGuire, Corporate Environmental Health and Safety Manager, Davis Wire Corporation, 5555 Irwindale Avenue, Irwindale, California in support of its claims and/or defenses, and such other persons that may be identified through National Standard's investigation or discovery. Mr. McGuire should only be contacted through National Standard's counsel in this matter.

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 the foregoing Reservations stated above, National Standard states that it sold the National Standard Property to the City of Clifton in 1999. National Standard does not know who currently owns the National Standard Property. Furthermore, National Standard was purchased by its current owner in 2000 long after National Standard ceased operations on the National Standard Property in July 1987 and, therefore, National Standard does not know who may have owned the National Standard Property before it.

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.

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:**

National Standard objects to this request to the extent that it assumes or concludes that there were “alleged discharges” to the Newark Bay Complex from the National Standard Property. Subject to the foregoing objection and the Reservations stated above, National Standard states that it has two general categories of paper documents: (1) documents related to the investigation and remediation of the National Standard Property; and (2) environmental regulatory documents related to historic operations on the National Standard Property. These documents are located at National Standard’s facility at 1618 Terminal Road, Niles, Michigan and at McDermott, Will & Emery LLP, 227 West Monroe Street, Chicago, Illinois. The exception codes<sup>1</sup> applicable to these documents are b, c and g.

National Standard’s Initial Disclosures are made without prejudice to their right to

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<sup>1</sup> Applicable Exception Codes are as follows:

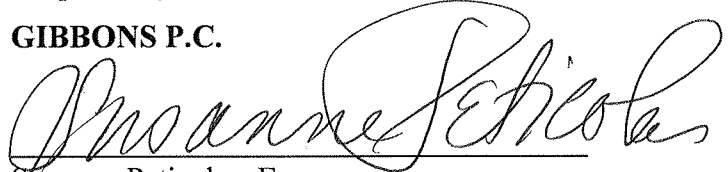
- a. Information, (“Information”), including, but not limited to, environmental, chemical and/or biological testing of groundwater, surface water, soil or sediment (hereinafter “Sampling Information”) contained in the nexus packages produced pursuant to paragraph 8 (e) of CMO V; and
- b. Information 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.

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 29, 2010

Respectfully submitted,

**GIBBONS P.C.**

A handwritten signature in cursive script, reading "Susanne Peticolas". The signature is written in black ink and is positioned above a horizontal line.

Susanne Peticolas, Esq.

One Gateway Center

Newark, New Jersey 07102-5310

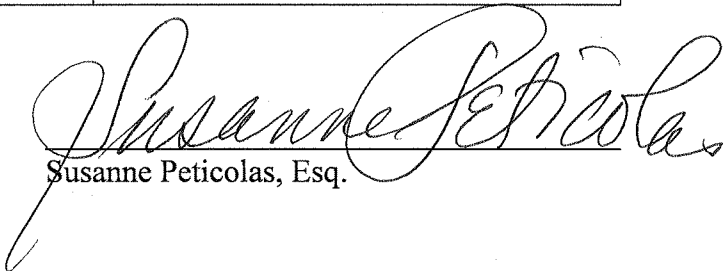
Attorney for Third-Party Defendant

National-Standard, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant National-Standard, LLC's CMO V Third-Party Initial Disclosure was served electronically on all parties which have consented to service by posting on [www.sfile.com/njdepvocc](http://www.sfile.com/njdepvocc) on March 29, 2010. The following counsel of record was served on March 29, 2010 via first class mail:

Richard J. Dewland, Esq. Coffey & Associates 465 South Street Morristown, NJ 07960	Borough of Hasbrouck Heights
John P. McGovern, Esq. City of Orange 29 North Day Street Orange, NJ 07050	City of Orange

  
Susanne Peticolas, Esq.

Dated: March 29, 2010