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ATTORNEYS FOR THIRD-PARTY DEFENDANT PRAXAIR, INC.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: ESSEX COUNTY
	:	
	:	DOCKET NO. L-9868-05
	:	
Plaintiffs	:	
v.	:	CIVIL ACTION
	:	
OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS, INC., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLH HOLDINGS, INC.,	:	<b>CMO V THIRD-PARTY INITIAL DISCLOSURE</b>
	:	
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

Comes now Third-Party Defendant Praxair, 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 unduly broad as it purports to encompass at least six decades. The geographic scope of the Second Amended Complaint is unduly broad and impermissibly vague as it purports to cover 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 unduly broad, burdensome and oppressive. Respondent is engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

4. Respondent's disclosures are made subject to and will be limited in accordance with the foregoing Reservations. Failure to specifically mention each Reservation or limitation

in each individual disclosure below does not constitute a waiver of any Reservation, and all are considered incorporated in each disclosure.

**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 (“Alleged Discharges”):

**Response**

<b>Name/Address/Phone</b>	<b>Subject</b>
John Crane, former Praxair, Inc. employee; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000	Oversaw facility operations
W.A. Moran, based on information and belief, Mr. Moran is a former Union Carbide Corp. employee; no known address or telephone number; will supplement if possible	Responsible for managing solvents
Alan Duva, current Praxair, Inc. employee; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000	Responsible for cylinders
Ralph Day, former Union Carbide Corp. employee; no known address or telephone number; will supplement if possible	Responsible for managing solvents
Antonio Cruz; former Union Carbide Corp. employee; no known address or telephone number; will supplement if possible	Security Officer; responsible for managing waste
Nick A. DiFranco, former Praxair, Inc. employee; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000	Environmental Affairs
Ed Debor; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000	Facility Records
Joseph Goliszewski, NJDEP, Trenton, NJ	ECRA/ISRA Case Manager, BEECRA
Brian Sogorka, NJDEP, Trenton, NJ	NJDEP, Section Chief, BEERA/ERU
Joseph Telafici, NJDEP, Trenton, NJ	NJDEP Technical Coordinator, BEERA/ERU

Ralph A. Kocsis, I/k/a, IT Analytical Services, Inc. 165 Fieldcrest Ave., Edison, NJ 08837	ECRA R/I Project Manager
Paul Schatz, I/k/a, IT Analytical Services, Inc., 165 Fieldcrest Ave., Edison, NJ 08837	ECRA R/I Field Engr.
Pat Evangelista, U.S.E.P.A., Region II, NY, NY	U.E.P.A. Emergency & Remedial Response Division

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**

<b>Name, Address &amp; Phone Number</b>
John Crane, former Praxair, Inc. employee; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000
W.A. Moran, based on information and belief, Mr. Moran is a former Union Carbide Corp. employee; no known address/telephone number; will supplement if possible
Alan Duva, current Praxair, Inc. employee; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000
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Ed Debor; contact only through counsel, M. A. Gonzalez, Jr., Duane Morris, LLP, 744 Broad Street, Newark, N.J. 07102; 973-424-2000

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**

<b>Name/Address/Phone</b>	<b>Site Address</b>	<b>Dates at Site: Ownership/Operator/Lease</b>
Prest-O-Lite, and its	360 Avenue P, Newark, NJ	1919-approx. 1946

corporate predecessors		
Linde Air Products, and/or Prest-O-Lite or Union Carbide Corp.	360 Avenue P, Newark, NJ	Approx. 1946-1988
Linde Gases of the Mid-Atlantic	360 Avenue P, Newark, NJ	Approx. 1988-1994
Praxair, Inc.	360 Avenue P, Newark, NJ	1994-1995
Newark Recycling & Composting Co., Inc.	360 Avenue P, Newark, NJ	1995- unknown

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 is without knowledge sufficient to form a belief as to whether any of the individuals listed above has an inability to testify due to age, infirmity, or incompetency within 12 months following the date of this submission. Respondent reserves the right to supplement and/or amend this response as it continues its investigation of this matter.

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:<sup>1</sup>

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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;

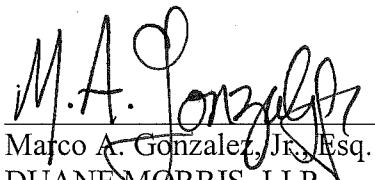
**Response**

<b>Documents by Category</b>	<b>Location</b>	<b>Applicable Exception</b>
Documents pertaining to the facility's ECRA/ISRA Case No. 90254	Praxair, Inc, Danbury, CT; Duane Morris, LLP, Newark, NJ	a, b, c and g
Documents pertaining to U.S.E.P.A.'s December 1996 104(e) request and response.	Praxair, Inc, Danbury, CT; Duane Morris, LLP, Newark, NJ	b and g

Respondent's Initial Disclosures are made without prejudice to its right to change or supplement its responses, its right to assert privileges or objections with respect to any subsequent requests for discovery, and its right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Dated: April 21, 2010

Respectfully submitted,



Marco A. Gonzalez, Jr., Esq.  
DUANE MORRIS, LLP  
Attorney for Third-Party Defendant,  
Praxair, Inc.

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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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ATTORNEYS FOR THIRD-PARTY DEFENDANT PRAXAIR, 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


: **CERTIFICATE OF SERVICE**

Marco A. Gonzalez, Jr., of full age, hereby certifies as follows:

1. On this date, pursuant to CMOs V and VIII, I caused one copy of PRAXAIR, INC.'s Third-Party Initial Disclosure and its Response to the ESI Initial Questionnaire in the

above-captioned matter by either email or regular mail for those party representatives who have not provided an email address.

Dated: April 21, 2010

  
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Marco A. Gonzalez Jr., Esq.  
DUANE MORRIS, LLP  
Attorney for Third-Party Defendant,  
Praxair, Inc.