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Attorney for Third-Party Defendant The Stanley Works

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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
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 CLH HOLDINGS, INC.,	:	CIVIL ACTION
Defendants.	:	<b>CMO V THIRD-PARTY INITIAL DISCLOSURE BY THE STANLEY WORKS</b>
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
Third-Party Plaintiffs,	:	
vs.	:	
3M COMPANY, <i>et al.</i> ,	:	
Third-Party Defendants.	:	

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Comes now Third-Party Defendant The Stanley Works, (“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 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.

### **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**

Respondent objects to this request to the extent that it concludes that there was any discharge or release of pollutants, contaminants and/or hazardous substances into the Newark Bay Complex from the former Stanley Tools Site at 140 Chapel Street, Newark, New Jersey ("former Stanley Tools Site"). Further, the mere fact that judicial or administrative proceedings have occurred to investigate and address potential environmental conditions at the former Stanley Tools Site does not lead to the conclusion that any potential on-site contaminants constitute Alleged Discharges. By disclosing the individuals below, Respondent does not waive any applicable privileges for work done by these individuals or the entities with which they are associated. Additionally, other individuals that are not identified below may have potentially relevant knowledge, but are currently unknown to Respondent, such as governmental officials and employees.

<b>Name/Address/Phone</b>	<b>Subject</b>
ERM Attn: Richard Konkowski <sup>1</sup> Princeton Crossroads 250 Phillips Boulevard, Suite 280 Ewing, NJ 08618 (604) 895-0050	Performed environmental consulting work at the former Stanley Tools Site from 1990 to approximately 2000.
ENVIRON Corporation Attn: William Stone and Scott MacDonald <sup>2</sup> 210 Carnegie Center, Suite 201 Princeton, NJ 08540 (609) 243-9816	Performed environmental consulting work at the former Stanley Tools Site from 1985 to early 1990s.

<sup>1</sup> The listed individual was a project manager for the ISRA cleanup at the former Stanley Tools Site. Mr. Konkowski was employed by ENSR Corp. (now AECOM) when he was the project manager at the former Stanley Tools Site. Other individuals employed by AECOM may have relevant information in connection with AECOM's work at the former Stanley Tools Site.

<sup>2</sup> The listed individuals were project managers for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by ENVIRON may have relevant information in connection with ENVIRON's work at the former Stanley Tools Site.

<b>Name/Address/Phone</b>	<b>Subject</b>
Arcadis G&M, Inc. Attn: Kurt Biel <sup>3</sup> 6 Terry Drive, Suite 3000 Newtown, PA 18940 (267) 685-1800	Performed environmental consulting work at the former Stanley Tools Site from approximately 2000 to 2003.
Trevor King formerly with Arcadis G&M, Inc. 6 Terry Drive, Suite 3000 Newtown, PA 18940 (267) 685-1800	Performed environmental consulting work at the former Stanley Tools Site from approximately 2000 to 2003.
Shaw Environmental & Infrastructure Attn: Matthew B. Noblet <sup>4</sup> Client Program Manager 200 Horizon Center Blvd., Trenton, NJ 08691 (609) 588-6491	Currently performs environmental consulting services at the former Stanley Tools Site.
Jacqueline Wetzsteon 21355 Horton Court West Linn, OR 97068 (503) 813-5036	Former remediation program manager for Respondent.
William Guerrero Current address unknown (518) 395-4908 (work) (203) 217 3903 (mobile)	Former environmental manager for Respondent.
Delia M. Christianson 275 Lower Lane Berlin, CT 06037 (860) 828-4280	Former Chief Chemist-Environmental Science for Respondent.
Debi Geyer Director, Environmental Health Safety and Security The Stanley Works Route 2 Briggs Drive East Greenwich, RI 02818 (401) 471-4336	Current remediation program manager for Respondent.
Gerald Ploehn 240 Diane Place Paramus, NJ 07652 Phone number unknown	Former Plant Engineering Manager at former Stanley Tools Site.

<sup>3</sup> The listed individual was a project manager for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by Arcadis G & M may have relevant information in connection with Arcadis G & M's work at the former Stanley Tools Site.

<sup>4</sup> The listed individual is the current project manager for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by Shaw Environmental may have relevant information in connection with Shaw's work at the former Stanley Tools Site.

Name/Address/Phone	Subject
Rick Wontka 29 Cedar Street East Greenwich, RI 02818 (401) 884-1638	Former Plant Manager at former Stanley Tools Site.
NJDEP representatives (current and former), including contractors that were involved in the investigation and/or remediation of the former Stanley Tools Site	

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

By disclosing the individuals below, Respondent does not waive any applicable privileges for work done by these individuals or the entities with which they are associated. Additionally, other individuals that are not identified below may have potentially relevant knowledge, but are currently unknown to Respondent, such as governmental officials and employees. Further responding, Respondent states that its investigation is ongoing. It reserves the right to retain and employ expert consultants and witnesses, and does not construe this Initial Disclosure as requiring experts to be identified at this time. Respondent's ongoing investigation and future discovery will include investigation of parties whose release of hazardous substances, unlike those from the former Stanley Tools Site, have materially or substantially contributed to the contamination in the river or its sediments, or to injuries to natural resources. Respondent reserves the right, but assumes no obligation other than as imposed by law, to later disclose the identity of individuals with responsive knowledge.

Name/Address/Phone	Subject
ERM Attn: Richard Konkowski <sup>5</sup> Princeton Crossroads 250 Phillips Boulevard, Suite 280 Ewing, NJ 08618 (604) 895-0050	Performed environmental consulting work at the former Stanley Tools Site from 1990 to approximately 2000.
ENVIRON Corporation Attn: William Stone and Scott MacDonald <sup>6</sup> 210 Carnegie Center, Suite 201 Princeton, NJ 08540 (609) 243-9816	Performed environmental consulting work at the former Stanley Tools Site from 1985 to early 1990s.

<sup>5</sup> The listed individual was a project manager for the ISRA cleanup at the former Stanley Tools Site. Mr. Konkowski was employed by ENSR Corp. (now AECOM) when he was the project manager at the former Stanley Tools Site. Other individuals employed by AECOM may have relevant information in connection with AECOM's work at the former Stanley Tools Site.

<b>Name/Address/Phone</b>	<b>Subject</b>
Arcadis G&M, Inc. Attn: Kurt Biel <sup>7</sup> 6 Terry Drive, Suite 3000 Newtown, PA 18940 (267) 685-1800	Performed environmental consulting work at the former Stanley Tools Site from approximately 2000 to 2003.
Trevor King formerly with Arcadis G&M, Inc. 6 Terry Drive, Suite 3000 Newtown, PA 18940 (267) 685-1800	Performed environmental consulting work at the former Stanley Tools Site from approximately 2000 to 2003.
Shaw Environmental & Infrastructure Attn: Matthew B. Noblet <sup>8</sup> Client Program Manager 200 Horizon Center Blvd., Trenton, NJ 08691 (609) 588-6491	Currently performs environmental consulting services at the former Stanley Tools Site.
Jacqueline Wetzsteon 21355 Horton Court West Linn, OR 97068 (503) 813-5036	Former remediation program manager for Respondent.
William Guerrero Current address unknown (518) 395-4908 (work) (203) 217 3903 (mobile)	Former environmental manager for Respondent.
Delia M. Christianson 275 Lower Lane Berlin, CT 06037 (860) 828-4280	Former Chief Chemist-Environmental Science for Respondent.
Debi Geyer Director, Environmental Health Safety and Security The Stanley Works Route 2 Briggs Drive East Greenwich, RI 02818 (401) 471-4336	Current remediation program manager for Respondent.

<sup>6</sup> The listed individuals were project managers for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by ENVIRON may have relevant information in connection with ENVIRON's work at the former Stanley Tools Site.

<sup>7</sup> The listed individual was a project manager for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by Arcadis G & M may have relevant information in connection with Arcadis G & M's work at the former Stanley Tools Site.

<sup>8</sup> The listed individual is the current project manager for the ISRA cleanup at the former Stanley Tools Site. Other individuals employed by Shaw Environmental may have relevant information in connection with Shaw's work at the former Stanley Tools Site.

<b>Name/Address/Phone</b>	<b>Subject</b>
Gerald Ploehn 240 Diane Place Paramus, NJ 07652 Phone number unknown	Former Plant Engineering Manager at former Stanley Tools Site.
Rick Wontka 29 Cedar Street East Greenwich, RI 02818 (401) 884-1638	Former Plant Manager at former Stanley Tools Site.
NJDEP representatives (current and former), including contractors that were involved in the investigation and/or remediation of the former Stanley Tools Site	

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>
Atha Tool Company	140 Chapel Street Newark, NJ 07105	Owned the former Stanley Tools Site from approximately 1875 to 1913.
Ramida Rest Brown, Inc. Stuart H. Brownstein 29 Lister Ave. Newark, NJ 07105 (973) 522-0600	140 Chapel Street Newark, NJ 07105	Owner of the former Stanley Tools Site since December 10, 1997.
Bank of China Mr. David Lee 410 Madison Avenue New York, NY 10017 (212) 935-3101, x225	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Brome LLC Rick Broschart 15 Linda Lane Ellenville, NY 12428 (973) 477-6223	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Carter Coach James Carter 50 Long Street East Orange, NJ 07017 (973) 698-9104	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Dakar USA Corp. David Passarini 19 Lister Avenue Newark, NJ 07105 (630) 643-2527	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Ditex & Diamantes Bedding Marco Aucay 21 Lister Avenue 2nd Floor Newark, NJ 07105 (973) 522-0422	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Direct Connection Transport 25 Lister Avenue Newark, NJ 07105 (908) 686-1177	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Eagle Cargo Services Aaron Rosenfeld 138 Chapel Street Newark, NJ 07105 (973) 817-9300	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
LIT/Sotby Transportation & LIT Transport Jurgis Plikaitis 5 Lister Avenue Newark, NJ 07105 (973) 931-3619	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Sotby Transportation & LIT Export 1630 Bath Avenue Brooklyn, NY 11214 (918) 837-1888	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Portugalia Sales Carlos Fonseca 1 Lister Avenue Newark, NJ 07105 (973) 223-0199	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Titan Team Steven Carr 17 Lister Avenue Newark, NJ 07105 (973) 450-0045	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.



Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Rolando Transportation Rolando Reyes 21 West Henry Street Linden, NJ 07036 (973) 220-0585	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Freddy's Restaurant Equipment Supply 110 Hawthorne Street Roselle, NJ 07203 Phone number unknown	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
A&D Custom Granite 19 Lister Avenue Newark, NJ 07105 (201) 927-9584 or (201) 679-1244	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
P&M Steel Erectors & Fabricators 15 Lister Avenue Newark, NJ 07105 (973) 332-7576	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
D&E Trucking Espifanio Tineo 39 Duncan Avenue Suite K4 Jersey City, NJ 07304 (201) 946-9631	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Leemark Electric 132 Chapel Street Newark, NJ 07105 (732) 603-9514 or (908) 810-0412	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Basilic-Gonzalez, Miguel A Miguel A. Basilic-Gonzalez 39 Duncal Avenue, Apt. 4K Jersey City, NJ 07302 (215) 200-6531	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Homoer Plummer 37 Zeliff Avenue Little Falls, NJ 07424 (973)-703-0273	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Alberto Landaverde 135 20th Street, Apt. 1 Union City, NJ 07087 (201) 926-9194	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Roydel & June Plummer 261 Sutton Avenue Hackensack, NJ 07601 (201) 488-8932	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Ponce Transport 1870 Turner Street Rahway, NJ 07065 (732) 382-6073	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Renaissance Transit LLC 87 Lyons Avenue Newark, NJ 07112-2240 Phone number unknown	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Sebastio Lima 1037 Jefferson Avenue 2nd Floor Elizabeth, NJ 07201 (908) 812-5327	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
SIJA Transport Corp. 1219 North Avenue 2nd Floor Plainfield, NJ 07062 Phone number unknown	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.
Wanted List/CBT Media PO Box 8469 Van Nuys, CA 91409 (818) 772-5551	140 Chapel Street Newark, NJ 07105	Tenant after December 10, 1997.

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 Excepted Information.

## Response

Respondent objects to this request to the extent that it concludes that there was any discharge or release of pollutants, contaminants and/or hazardous substances into the Newark Bay Complex from the former Stanley Tools Site. Further, the mere fact that judicial or administrative proceedings have occurred to investigate and address potential environmental conditions at the former Stanley Tools Site does not lead to the conclusion that any potential on-site contaminants constitute Alleged Discharges. By identifying the categories of documents listed below, Respondent does not waive any applicable privileges that apply to such documents. Additionally, other documents that are not identified below may be potentially relevant, but are currently unknown to Respondent, such as documents maintained by governmental officials and employees. Moreover, some or all of the documents with the categories that are noted with an "\*" may consist of information that falls within the category of Excepted Information.<sup>9</sup>

Documents by Category	Location
Documents pertaining to operations at the former Stanley Tools Site*	To the extent available, copies maintained by: Debi Geyer

<sup>9</sup> "Excepted Information" is defined in CMO VIII as including "the following documents or electronically stored information:

- 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;
- 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."

	<p>Director, Environmental Health Safety and Security The Stanley Works Route 2 Briggs Drive East Greenwich, RI 02818</p> <p>Andrew Kolesar, Esq. Thompson Hine LLP 312 Walnut Street 14th Fl Cincinnati, Ohio 45202-4089</p>
<p>Documents pertaining to the environmental investigation and remediation at the former Stanley Tools Site*</p>	<p>To the extent available, copies maintained by:</p> <p>Debi Geyer Director, Environmental Health Safety and Security The Stanley Works Route 2 Briggs Drive East Greenwich, RI 02818</p> <p>Andrew Kolesar, Esq. Thompson Hine LLP 312 Walnut Street 14th Fl Cincinnati, Ohio 45202-4089</p> <p>Documents may also be found at the offices of Respondent's various environmental consultants and contractors.</p> <p>Documents may also be found at off-site archives.</p>
<p>Documents pertaining to the sale of the former Stanley Tools Site*</p>	<p>To the extent available, copies maintained by:</p> <p>Greg Smulski Director of Real Estate The Stanley Works 1000 Stanley Drive New Britain, CT 06053</p> <p>Andrew Kolesar, Esq. Thompson Hine LLP 312 Walnut Street 14th Fl Cincinnati, Ohio 45202-4089</p>

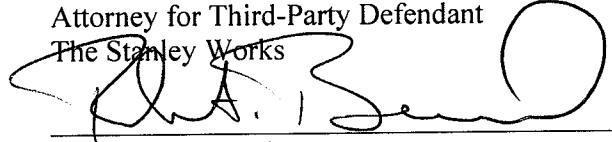
Respondent's Initial Disclosures are made without prejudice to their right to change or supplement their responses, their right to assert privileges or objections with

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: January 25, 2010

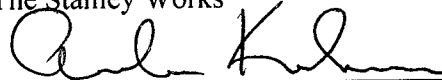
Respectfully submitted,

THOMPSON HINE LLP  
Attorney for Third-Party Defendant  
The Stanley Works

A handwritten signature in black ink, appearing to read "R. T. Barnard", written over a horizontal line.

Robert T. Barnard, Esq.

THOMPSON HINE  
Attorney for Third-Party Defendant  
The Stanley Works

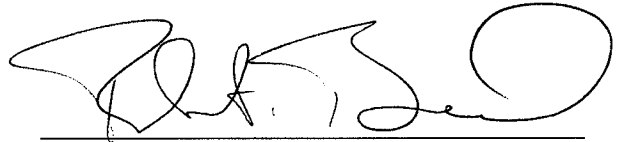
A handwritten signature in black ink, appearing to read "Andrew L. Kolesar", written over a horizontal line.

Andrew L. Kolesar, Esq. (*Pro Hac Counsel*)

**CERTIFICATE OF SERVICE**

I hereby certify that Third-Party Defendant The Stanley Works' CMO V Third-Party Initial Disclosure was filed with the Clerk of Court, Superior Court of New Jersey, Essex County, by First Class Mail and was served upon all parties which have consented to electronic service by posting to <http://njdepvocc.sfile.com> on this 25th day of January, 2010. All other Counsel of Record were served via first class, regular mail.

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

A handwritten signature in black ink, appearing to read 'Robert T. Barnard', written over a horizontal line.

ROBERT T. BARNARD, ESQ.