

**HOROWITZ RUBINO & PATTON**  
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**ATTORNEYS FOR THIRD-PARTY DEFENDANT**  
**HARTZ MOUNTAIN CORPORATION**

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 OF THIRD PARTY DEFENDANT HARTZ MOUNTAIN CORPORATION</b>
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

Third-Party Defendant The Hartz Mountain Corporation, improperly named as “Hartz Mountain Corporation” (hereinafter “Hartz”), for its Initial Disclosure in

accordance with Case Management Order V provides the following specific information:

**Reservations**

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

2. Hartz'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, Hartz reserves the right to amend these disclosures to the extent the claims brought by or alleged against Hartz 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. Hartz 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**

Name/Address/Phone	Subject
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1) William Perlberg  
127 Crescent Way  
Monroe Twp, NJ 08831  
(201) 891-9538  
or  
8449 Heather Place  
Boynton Beach, FLA, 33472  
(561) 742-5515

Mr. Perlberg was Senior Vice President of Research and Development of Hartz (retired), and had overall responsibility for laboratory operations at the Harrison facility at issue.

2) Dr. Richard Glass  
5100 Mar Street  
Coopersberg, PA 18036 (last known address)

Dr. Glass was Vice President of Research and Development (retired), reporting to Mr. Perlberg, and may have knowledge concerning laboratory operations at the Harrison facility at issue.

3) Kathy McKeown  
Mike Tyler  
Stavros Hatzikyriakou  
(all currently employed by Hartz)

These individuals all worked as chemists in the Harrison laboratory, reporting to Mr. Perlberg and Dr. Glass.

4) Dr. Efrem Zaret  
37 Falcon Way  
Washington, NJ 07882-4091  
908-531-8148

Dr. Zaret worked in the Harrison laboratory from 1972 until 1987, ultimately becoming Divisional Vice President, Food and Chemicals.

5) George Engel

Mr. Engel is currently Director of Engineering for Hartz, and has knowledge of the overall operations at the former Hartz Harrison plant.

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 to a. above.

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**

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Reuther Bros. Foundry and other industrial uses and residences	Harrison, NJ	Pre-1918
General Motors Corp. Hyatt Roller Bearings Divison	700 South Fourth Street Harrison, NJ	Owner/Operator 1918-1970
Sternco Dominion Real Estate Corp.	700 South Fourth Street (Frank E. Rodgers Blvd.) Harrison, NJ	Owner 1970-1999
The Hartz Mountain Corporation	Same	Operator 1970-1999
FER Boulevard Realty Corp.	215 Coles Street Jersey City, NJ 07310	Owner, 1999-present

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, provided that we have not yet been able to contact Dr. Glass.

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.

**Response**

Documents by Category	Location	Applicable Exception <sup>1</sup>
1) Environmental Investigation and Remediation Reports.	Currently in Possession Of Counsel	a. and b.

<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.

2) Discovery Information Exchanged  
in the case of The Hartz Mountain  
Corporation v. General Motors Corporation,  
Civil No. 94-4814 (WHW)

Currently in Possession  
of Counsel

3) Various boxes of documents  
related to research and development  
activities which may have been  
conducted at the subject Harrison,  
NJ plant, from 1987 to 1993

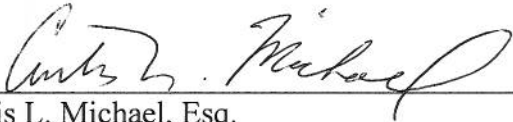
Company headquarters  
400 Plaza Drive  
Secaucus, NJ

Hartz'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,

HOROWITZ RUBINO & PATTON  
Attorney for Third-Party Defendant  
The Hartz Mountain Corporation

  
Curtis L. Michael, Esq.