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The Sherwin-Williams Company

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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.

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

: DOCKET NO. L-9868-05

: CIVIL ACTION

: **CMO V THIRD-PARTY INITIAL**  
: **DISCLOSURE BY THE**  
: **SHERWIN-WILLIAMS**  
: **COMPANY**

Third-Party Defendant The Sherwin-Williams Company, ("Respondent") by 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**

<b>Name/Address/Phone</b>	<b>Subject</b>
Gordon Kuntz The Sherwin-Williams Company 101 Prospect Street, N.W. Cleveland, Ohio 44115-1075 216-566-2889	Site History, Site Operations and Site Investigation  Site Operations
Arthur Johnson 636 East 40th St Holland MI. 49423 619-392-7811	Site Operations and Personnel Information
Sarah Moss The Sherwin-Williams Company 2150 West Sandusky Orlando Florida 32809 407-859-4200	

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</b>	<b>Address</b>	<b>Phone Number</b>
Gordon Kuntz	The Sherwin-Williams Company 101 Prospect Street, N.W. Cleveland, Ohio 44115-1075	216-566-2889
Arthur Johnson	636 East 40th st Holland MI. 49423	619-392-7811
Sarah Moss	The Sherwin-Williams Company 2150 West Sandusky Orlando Florida 32809	407-859-4200

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/Opertor/Lease</b>
The Sherwin-Williams Company 101 Prospect Street, N.W. Cleveland, Ohio 44115-1075	60 Lister Avenue, Newark, New Jersey	1900-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**

Name/Address/Phone	Nature of Inability
Not applicable.	

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**

Documents by Category	Location	Applicable Exception <sup>1</sup>
All documents maintained by the company.	The Sherwin-Williams Company 101 Prospect Street, N.W. Cleveland, Ohio 44115-1075	1g

<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.

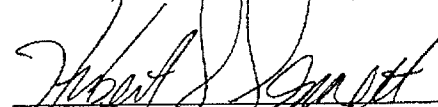
Documents maintained by government in the State of New Jersey	New Jersey Department of Environmental Protection 401 E. State Street Trenton, New Jersey 08625	
Documents maintained by the federal government	U.S. Environmental Protection Agency Region II 290 Broadway New York, New York	

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: January 8, 2010

Respectfully submitted,

Sokol, Behot & Fiorenzo  
Attorney for Third-Party Defendant  
The Sherwin-Williams Company

  
Herbert B. Bennett, Esq.