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Attorney for Third-Party Defendant
Troy Chemical Corporation, 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

: **CMO V THIRD-PARTY INITIAL
: DISCLOSURE**

Comes now Third-Party Defendant Troy Chemical Corporation (“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

Name/Address/Phone	Subject
Edward Capasso, Director, Environmental & Regulatory Affairs/ One Avenue L Newark, NJ 07105/ (973) 589-2500, Ext 3340	General environmental compliance and regulatory matters
Richard Peluso, formerly with Wehran Engineering, now with EMCON/ Mahwah, NJ/ (800) 753-6266	Environmental consultant who assisted with site in 1980s
Jeff Moore, Environmental Liability Management (ELM)/ 218 Wall Street, Research Park, Princeton, NJ 08540/ 215-794-6920, Ext 18	Current environmental consultant
Daryl Smith, CEO/ 8 Vreeland Road PO Box 955 Florham Park, NJ 07932-0955/ 973-443-4200, Ext 2253	Ownership history, Operations
William E. Rudlof/ Former Vice President-Operations/ 530 Lincoln Ave. Maywood, NJ 07607/ 201-845-8463	Operations
Scott Gonge / Former Officer/ 2 Post Office Road, Waccabuc, NY 10597/ 914-378-0471	Ownership history, Operations

Respondent further responds that many employees have worked at its Newark facility since 1980. Based on the breadth and ambiguity of Third-Party Plaintiffs’ claims, other individuals could have relevant knowledge of this matter. As such, Respondent may identify additional individuals in the course of discovery and as its investigation continues.

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

Name	Address	Phone Number
Daryl Smith	8 Vreeland Road PO Box 955 Florham Park, NJ 07932-0955	973-443-4200 Ext 2253
Edward Capasso	One Avenue L Newark, NJ 07105	(973) 589-2500 Ext 3340
Richard Peluso, Wehran Engineering/EMCON	Mahwah, New Jersey	(800) 753-6266
Jeff Moore, ELM	218 Wall Street, Research Park, Princeton, New Jersey 08540	(215)- 794-6920, Ext 18
William E. Rudlof Former Vice President Operations	530 Lincoln Ave. Maywood, NJ 07607	(201) 845-8463
Scott Gonge	12 Post Office Road, Waccabuc, NY 10597	(914) 378-0471

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
Former Troy Chemical Corp. [defunct]	Formerly located at One Avenue L Newark, NJ 07105	Circa 1960 to June 1980
Pulaski Skyway Realty Corp.	One Avenue L Newark, NJ 07105	Circa 1945 to 1960
American Cyanamid	Some or all of One Avenue L and/or 338 Wilson Avenue, Newark, NJ 07105	Circa 1940s
Calco	Some or all of One Avenue	Circa 1930 to 1945

	L and/or 338 Wilson Avenue, Newark, NJ 07105	
Monarch Distributing Co.	Some or all of One Avenue L and/or 338 Wilson Avenue, Newark, NJ 07105	Circa 1930s
Heller and Merz Company	Some or all of One Avenue L and/or 338 Wilson Avenue	Circa 1930 and earlier
Amalgamated Dyestuff and Chemical	Some or all of One Avenue L and/or 338 Wilson Avenue	Circa prior to 1938

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
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

Troy Chemical has no documents in its possession, custody, or control that relate to Alleged Discharges to the Newark Bay Complex. However, Troy Chemical does have documents related to environmental conditions at the Troy Chemical site.

Discovery is ongoing in this litigation, however, and Troy Chemical therefore reserves the right to supplement this response should additional responsive information become available. By disclosing the categories of documents identified below, Troy Chemical does not waive any applicable privileges attached to any individual document within those categories. Further, some or all of the documents identified within the categories that are labeled with an asterisk (*) may consist of information that falls within the category of Excepted Information.¹

¹ Applicable Exceptions are as follows:

Documents by Category	Location
Site surveys, waste manifests*, site maintenance records*, compliance records*, engineering reports*, invoices*, regulatory correspondence and orders*, sampling data*, NJDEP documents received in response to OPRA requests*, consultant reports*, permits*, and documents related to prior owner of site*.	One Avenue L Newark, NJ 07105 Or 8 Vreeland Road PO Box 955 Florham Park, NJ 07932-0955

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

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.

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 19, 2010

Respectfully submitted,

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