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Wiggins Plastics, Inc.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, THE
COMMISSIONER OF THE NEW JERSEY
ENVIRONMENTAL PROTECTION
AGENCY, and THE ADMINISTRATOR OF
THE NEW JERSEY SPILL
COMPENSATION FUND,

Plaintiffs,

vs.

OCCIDENTAL CHEMICAL
CORPORATION, TIERRA SOLUTIONS,
INC., MAXUS ENERGY CORPORATION,
REPSOL YPF, S.A., YPF, S.A., YPF
HOLDINGS, INC. and CLH HOLDINGS,

Defendants,

vs.

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

Civil Action

Docket No.: ESX-L-9868-05

**INITIAL DISCLOSURES OF
THIRD PARTY DEFENDANT
WIGGINS PLASTICS, INC.**

**INITIAL DISCLOSURES OF THIRD PARTY
DEFENDANT WIGGINS PLASTICS, INC.**

Third-Party Defendant Wiggins Plastics, Inc. (“Wiggins”), by and through its undersigned counsel, and in accordance with this Court's Case Management Orders V and VIII, hereby serves its Initial Disclosures, as follows:

RESERVATIONS

1. Wiggins 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, or any other applicable privilege or protection. These disclosures are not intended to prejudice or waive any privileges or objections Wiggins may have with respect to any outstanding or subsequent requests.

2. Wiggins’ 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 it is obtained through discovery. Further, Wiggins reserves the right to amend these disclosures to the extent the claims brought by or alleged against Wiggins in this litigation are amended.

3. The time period covered by the allegations in the Plaintiffs’ Second Amended Complaint is protracted, encompassing at least six decades. The geographic scope of the Second Amended Complaint also is 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.” 2d Am. Compl. ¶ 1. The scope of inquiry required by Plaintiffs and Third Party Defendants is accordingly very broad

and potentially burdensome. Wiggins therefore is engaged in 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:

Wiggins objects to this request to the extent that it assumes or concludes that there was an “alleged discharge or release of pollutants, contaminants, and/or hazardous substances” into the Newark Bay Complex from the sites with which Wiggins or its alleged predecessors-in-interest are associated in Third-Party Complaint B. Wiggins further objects to this request on the grounds that the term “associated” is vague, ambiguous, and subject to many interpretations. Subject to and without waiving the foregoing objections and Reservations stated above, the individuals listed below are likely to have information in connection with the “Wiggins’ Site,” as defined in Third-Party Complaint B. Wiggins reserves the right to supplement or amend its response if any other relevant, non-privileged information becomes available to Wiggins during this litigation.

Isaac Weinberger, President
Wiggins Plastics, Inc.
Contact:
Russell S. Burnside, Esq.
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Tel: (973) 643-3700

Richard S. Polevoy
Wiggins Plastics, Inc.
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Anna T. Wiggins
114 So. Mountain Avenue
Montclair, NJ 07042
Former Shareholder in Wiggins Plastics, Inc.

Donald B. Dyson
45 Condit Court
Roseland, NJ 07068
Former Shareholder in Wiggins Plastics, Inc.

August Kroeschel
115 Hearthstone Avenue
Fords, NJ 08863
Former Shareholder in Wiggins Plastics, Inc.

Paul Moscoe
34 Hamilton Drive East
North Caldwell, NJ 07006
Former Shareholder in Wiggins Plastics, Inc.

b. The name, address and telephone, 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:

Wiggins objects to this request to the extent that it assumes or concludes that there was an “alleged discharge or release of pollutants, contaminants, and/or hazardous substances” to the Newark Bay Complex from the sites with which Wiggins or its alleged predecessors-in-interest are associated in Third-Party Complaint B. Subject to and without waiving the foregoing

objections and Reservations stated above, in addition to those individual included in Wiggins' Response to Initial Disclosure (a), Wiggins individual listed below may have other discoverable information upon which Wiggins may rely. Wiggins reserves the right to supplement or amend its response if any other relevant, non-privileged information becomes available to Wiggins during this litigation.

Albert H. Arnofsky
Pleasant Hill Consultants, Inc.
34 Pleasant Hill Road
Succasunna, NJ 07876

c. The name, address and telephone, as may be known, of any and all past or present owners, lessees of 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:

Wiggins Plastics, Inc.
180 Kingsland Road
Clifton, NJ 07014
Contact:
Russell S. Burnside, Esq.
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Wiggins reserves the right to supplement or amend its response if any other relevant, non-privileged information becomes available to Wiggins during this litigation.

d. With respect to any individual identified pursuant to paragraph (a), (b) or (c) above, (or any other individual known to have material knowledge or any 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:

Wiggins objects to this request to the extent that it assumes or concludes that there was any “Alleged Discharges” into the Newark Bay Complex from the sites with which Wiggins or its alleged predecessors-in-interest are associated in Third-Party Complaint B. Subject to and without waiving the foregoing objections and Reservations stated above, none known. Wiggins reserves the right to supplement or amend its response if any other relevant, non-privileged information becomes available to Wiggins during this litigation.

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:

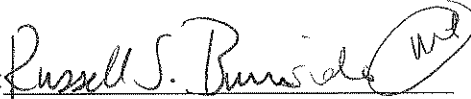
Wiggins objects to this request to the extent that it assumes or concludes that there was any “Alleged Discharges” in to the Newark Bay Complex from the sites with which Wiggins or its alleged predecessors-in-interest are associated in Third-Party Complaint B. Subject to and without waiving the foregoing objections and Reservations stated above, in addition to those documents provided by Third-Party Plaintiffs in the Nexus Package, Wiggins has certain documents produced to the United States Environmental Protection Agency in connection with an environmental study. Said documents are stored at the offices of Wiggins’ counsel, Greenberg Dauber Epstein & Tucker, P.C. Wiggins reserves the right to supplement or amend its response if any other relevant, non-privileged information becomes available to Wiggins during this litigation.

Wiggins 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: February 17, 2010

Respectfully Submitted,

By:  Russell S. Burnside

Russell S. Burnside, Esq.

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Attorneys for Third-Party Defendant

Wiggins Plastics, Inc.


CERTIFICATE OF SERVICE

1. I am an attorney-at-law in the State of New Jersey with the law firm of Greenberg Dauber Epstein & Tucker, A Professional Corporation, attorneys for Wiggins Plastics, Inc.

2. On the dated listed below, I caused a copy of Wiggins Plastics, Inc.'s Initial Disclosures to be served on counsel for all parties which have consented to electronic service by posting to <http://njdepvoce.sfile.com> and upon the attached list of counsel of record by first-class 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.

Dated: February 17, 2010

By: 
Megan Halverson Trexler, Esq.
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COUNSEL LIST TO BE SERVED BY REGULAR MAIL

New Jersey Dept. of Environmental Protection, et als. v. Occidental Chemical Corp., Maxus Energy Corp., et als. v. Wiggins Plastics, Inc., et als.
Docket No.: L-9868-05 (PASR)

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