



# LINDABURY

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January 14, 2010

**VIA ELECTRONIC SERVICE & REGULAR MAIL**

All Counsel of Record Consenting to Electronic Service

All Counsel of Record via Regular Mail as per the Attached January 5, 2010 Service List

Re: New Jersey Department of Environmental Protection, et al. v. Occidental  
Chemical Corporation, et al. v. 3M Company et al.  
Docket No.: ESX-L-009868-05 (PASR)

Dear Counsel:

This firm represents Alliance Chemical, Inc. ("Alliance") in the above-referenced matter. Pursuant to Case Management Order VIII, dated August 11, 2009, enclosed please find Alliance's Initial Disclosure.

Very truly yours,

Lindabury, McCormick, Estabrook & Cooper, P.C.

Fredi L. Pearlmutter

FLP:jkz  
Enclosures



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 Attorneys for Third-Party Defendant Alliance Chemical, Inc.

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
	:	DOCKET NO. L-9868-05 (PASR)
Plaintiffs	:	
v.	:	CIVIL ACTION
	:	
OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS, INC., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLH HOLDINGS, INC.,	:	<b>INITIAL DISCLOSURE OF ALLIANCE CHEMICAL, INC. PURSUANT TO CMO VIII</b>
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
Third-Party Defendants.	:	

Alliance Chemical, Inc., (“Alliance”), by way of its Initial Disclosure in accordance with Case Management Order V and paragraph number 3 of Case Management Order VIII, provides the following specific information:

## Reservations

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

2. Alliance'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, Alliance reserves the right to amend these disclosures to the extent the claims brought by or alleged against Alliance 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." See Second Amended Complaint, ¶ 1. The scope of inquiry required by Plaintiffs and Third-Party Defendants is accordingly quite broad and potentially burdensome. Alliance 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:

Alliance 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 site with which Alliance or its alleged predecessors in interest are associated in Third-Party Complaint B. Alliance further objects to this request on the grounds that the term “associated” is vague and ambiguous and susceptible to numerous interpretations. Alliance further objects to this request on the grounds that it never owned or operated the Avenue P Landfill and/or the D& J Trucking Site (as the terms “Avenue P Landfill and D& J Trucking” are defined in Third-Party Complaint B) and therefore does not have any personal knowledge of the information sought in this request. Subject to and without waiving the foregoing objections and the Reservations stated above, the individuals listed below are likely to have discoverable information pertaining to the environmental condition; operational history; and remediation activities at the Alliance site. By disclosing these individuals, Alliance does not waive any applicable privileges for the work done by these individuals or the entities with which they are associated. Alliance also reserves the right to supplement or amend its response if any other relevant non-privileged information becomes available to Alliance during the litigation.

<b>Name/Address/Phone</b>	<b>Subject</b>
1. Richard Braun-Witness should be contacted through counsel.	Richard Braun was the VP of Operations of the Alliance Chemical, Inc. facility.
2. Steve Fulton, ARM Group, Inc.- Witness should be contacted through counsel.	Environmental Consultant

**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>
1. Richard Braun	Witness should be contacted through counsel.	Witness should be contacted through counsel.
2. Steve Fulton, ARM Group, Inc.	Witness should be contacted through counsel.	Witness should be contacted through counsel.

Alliance further states that its investigation is ongoing and reserves the right to identify expert witnesses at the appropriate time. Alliance also reserves the right to supplement or amend its response if any other relevant non-privileged information becomes available to Alliance during the litigation.

**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:**

Alliance objects to this request on the grounds that the term “associated” is vague and ambiguous and susceptible to numerous interpretations. Alliance further objects to this request on the grounds that it never owned or operated the Avenue P Landfill and/or the D& J Trucking Site (as the terms “Avenue P Landfill and D& J Trucking” are defined in Third-Party Complaint B) and therefore does not have any personal knowledge of the information sought in this request.

Subject to and without waiving the foregoing objections and the Reservations stated above, Alliance has no knowledge regarding the past ownership, operation or lease history of the Avenue P landfill site or the D&J Trucking site. Alliance provides the following information regarding owners, lessees or operators of the Alliance site. The property known as the Alliance Site located at 309-327 Avenue P, Newark, New Jersey consisted of the following Tax and Lot Nos. Block No. 5020, Lot Nos.: 3, 6, 8, 12 and 136. Upon information and belief and to the best of our knowledge, for each of the parcels is as follows:

<b>Name/Address/Phone</b>	<b>Lot Number</b>	<b>Dates at Site: Ownership/Operator/Lease</b>
American Rendering Corporation: 16-21 Ellis Avenue, Fair Lawn, New Jersey	Lot No. 3	1968-1976 (Owner)
Newark Housing Authority	Lot No. 3	1976- 1976 (Owner through condemnation)
Pfister Chemical, Inc. Alliance Chemical, Inc. (Operator) P.O. Box 237 Ridgefield, NJ	Lot No. 3	1976-2006 (Owner/Operator- ceased operations in 2001)
Port Holdings, LLC 572 Market Street, Newark, NJ	Lot No. 3	2006-Unknown (Owner); Tenant on the property as of 2003
Sun Facile Corp.	Lot No. 6	1960-1963 (Owner)
Sun Chemical Corp. 750 Third Avenue New York, NY	Lot No. 6 (In 1964, Sun Chemical acquired Lots 9 & 10 which were merged into Lot 6)	1963-1974 (Owner)
D & J Trucking 387 Avenue P Newark, NJ	Lot No. 6	1974-1978 (Owner)
Newark Housing Authority	Lot No. 6	1978-1978 (Owner through condemnation)

<b>Name/Address/Phone</b>	<b>Lot Number</b>	<b>Dates at Site: Ownership/Operator/Lease</b>
Pfister Urban Renewal Corporation Alliance Chemical, Inc. (Operator) P.O. Box 237 Ridgefield, NJ	Lot No. 6	1978-2006 (Owner/ Operator- ceased operations in 2001)
Port Holdings, LLC 572 Market Street, Newark, NJ	Lot No. 6	2006-Unknown (Owner) Tenant on the property as of 2003.
Amalgamated Dyestuff & Chemical Works, Inc.	Lot No. 8 <sup>1</sup>	1916-1938 (Owner)
The Calco Chemical Company	Lot No. 8	1938-1939 (Owner)
American Cyanamid Co.	Lot No. 8	1939-1943 (Owner)
Martin Laboratories, Inc.	Lot No. 8	1943-1950 (Owner)
Tiffany Chemical Company	Lot No. 8	1946-Unknown (Lessee)
Security Paint and Varnish	Lot No. 8	1948-Unknown (Lessee)
Harry and Sophie Martin	Lot No. 8	1950s (Owner)
Plum Point Realty	Lot No. 8	Unknown-1958 (Owner)
Alliance Color & Chemical Company	Lot No. 8	1958-1965 (Owner/Operator)
Alliance Chemical, Inc. P.O. Box 237 Ridgefield, NJ	Lot No. 8	1965-2006 (Owner/Operator- ceased operations in 2001)
Port Holdings, LLC	Lot No. 8	2006-Unknown (Owner); Tenant on the property as of 2003
Plum Point Realty	Lot No. 12	Unknown-1957 (Owner)
Alliance Color & Chemical Company	Lot No. 12	1957-1965 (Owner/Operator)
Alliance Chemical, Inc. P.O. Box 237 Ridgefield, NJ	Lot No. 12	1965-2006 (Owner/Operator- ceased operations in 2001)
Port Holdings, LLC	Lot No. 12	2006-Unknown (Owner); Tenant on the property as of 2003
Newark Housing Authority	Lot No. 136	Unknown-1982

<sup>1</sup> It is upon information and belief, that the following companies owned portions of the property designated as Lot No. 8.

Name/Address/Phone	Lot Number	Dates at Site: Ownership/Operator/Lease
Pfister Urban Renewal Corporation P.O. Box 237 Ridgefield, NJ	Lot No. 136	1982-2006 (Owner)
Port Holdings, LLC	Lot No. 136	2006-Unknown (Owner); Tenant on the property as of 2003

Alliance also reserves the right to supplement or amend its response if any other relevant non-privileged information becomes available to Alliance during the 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 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:**

Alliance 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 Alliance is associated in Third-Party Complaint B. Subject to and without waiving this objection and the Reservations stated above, Alliance has no knowledge of any individual identified in paragraphs (a), (b) and (c) that have a known inability to testify due to age, infirmity or incompetence. Alliance also reserves the right to supplement or amend its response if any other relevant non-privileged information becomes available to Alliance during the 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:**

Alliance 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 site with which Alliance or its alleged predecessors in interest are associated in Third-Party Complaint B. Alliance further objects to this request on the grounds that it never owned or operated the Avenue P Landfill and/or the D& J Trucking Site (as the terms “Avenue P Landfill and D& J Trucking” are defined in Third-Party Complaint B) and therefore does not have any personal knowledge of the information sought in this request.

Subject to and without waiving the foregoing objections and the Reservations stated above, the documents identified below are likely to include discoverable information pertaining to the environmental condition; operational history; and remediation activities at the Alliance site. By disclosing this information, Alliance does not waive any applicable privileges which may apply to these documents. Alliance also reserves the right to supplement or amend its response if any other relevant non-privileged information becomes available to Alliance during the litigation.

<b>Documents by Category</b>	<b>Location</b>	<b>Applicable Exception<sup>2</sup></b>
Environmental Reports, monitoring reports, sampling data, 104(e) disclosure and related documents	Copy with counsel; Additional copies for certain items may be found with Richard Braun and environmental consultant.	b
Correspondence to and from governmental agencies	Copy with counsel; Additional copies for certain items may be found with Richard Braun.	b-as to correspondence to governmental agencies.
NOVs, Consent Orders, and similar documents	Copy with counsel; Additional copies for certain items may be found with Richard Braun	
Attorney Notes and Memos	Copy with counsel	g
Correspondence to and from third parties	Copy with counsel	
Nexus Documents	Copy with counsel; Additional copies for certain items may be found with Richard Braun	a

Alliance’s Initial Disclosures are made without prejudice to their 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.

<sup>2</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;

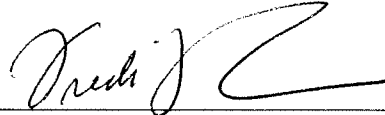
f. Information previously produced to Defendants; and

g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

Dated: January \_\_, 2010

Respectfully submitted,

Lindabury, McCormick Estabrook & Cooper, P.C.  
Attorneys for Third-Party Defendant Alliance Chemical,  
Inc.

A handwritten signature in cursive script, appearing to read "Fredi L. Pearlmutt", written in black ink.

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Fredi L. Pearlmutt, Esq.

**CERTIFICATION OF SERVICE**

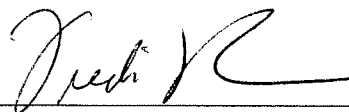
I, Fredi L. Pearlmutter, an Attorney at Law of the State of New Jersey, do hereby state upon my oath that the foregoing Initial Disclosure of Third-Party Defendant Alliance Chemical, Inc. electronically was served by posting on Sfile upon all parties which have consented to service by posting, and upon the attached list of counsel of record by depositing the same with the United States Postal Service.

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 willingly false, I am subject to punishment.

Dated: January \_\_, 2010

Respectfully submitted,

Lindabury, McCormick Estabrook & Cooper, P.C.  
Attorneys for Third-Party Defendant Alliance Chemical,  
Inc.



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Fredi L. Pearlmutter, Esq.

**Third-Party Defendants for Regular Service as of January 5, 2010**

NAMED THIRD-PARTY DEFENDANT	THIRD-PARTY COMPLAINT	NOTICE OF APPEARANCE: COUNSEL OF RECORD
City of Clifton	A	Thomas M. Egan, Esq. Assistant Municipal Attorney City of Clifton Law Department 900 Clifton Avenue Clifton, NJ 07013 973.470.5817 973.470.5254 - fax tegan@cliftonnj.org
City of Orange	A	John P. McGovern Assistant City Attorney City of Orange Township 29 North Day St. Orange, NJ 07050 973.266.4197 973.674.2021 - fax jmcgovern@ci.orange.nj.us
Clean Earth of North Jersey, Inc.	B	Eric S. Aronson Greenberg Traurig, LLP 200 Park Avenue Florham Park, NJ 07932 973.360.7900 973.301.8410 - fax aronsone@gtlaw.com
Passaic Pioneers Properties Company	B	John A. Daniels Daniels & Daniels LLC 6812 Park Ave. Guttenberg, NJ 07093 202.868.1868 201.868.2122 - fax jad1903@gmail.com
Roman Asphalt Corporation	B	Michael V. Calabro Law Offices of Michael V. Calabro 466 Bloomfield Ave., Suite 200 Newark, NJ 07107 973.482.1085 973.482.7930 - fax michaelvcalabro@verizon.net
Township of Irvington	A	Gustavo Garcia Municipal Attorney Township of Irvington Irvington Municipal Building Civic Square Irvington, NJ 07111 973.399.6637 973.399.6723 - fax