

METHFESSEL & WERBEL, ESQS.

3 Ethel Road, Suite 300

PO Box 3012

Edison, New Jersey 08818

(732) 248-4200

+1(732) 248-2355

mailbox@methwerb.com

Attorneys for Third Party Defendant Deleet Merchandising Corporation

Our File No. 71156 MDE

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,

V.

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

Defendants

AND

MAXUS ENERGY CORPORATION AND TIERRA SOLUTIONS, INC.

Third Party Plaintiffs

V.

3M COMPANY, AC.C., INC., ACH FOOD COMPANIES, INC., ACTIVE OIL SERVICE, ADCO CHEMICAL COMPANY, AGC CHEMICALS AMERICAS, INC., ALDEN-LEEDS, INC., ALLIANCE CHEMICAL, INC.,

SUPERIOR COURT OF NEW JERSEY LAW DIVISION: ESSEX COUNTY DOCKET NO.: ESX-L-9868-05 (PASR)

Civil Action

INITIAL DISCLOSURE STATEMENT

ALUMAX MILL PRODUCTS, INC.,
AMCOL REALTY CO.,
AMERICAN INKS AND COATINGS
CORPORATION,
APEXICAL, INC.,
APOLAN INTERNATIONAL, INC.,
ARKEMA, INC.,
ASHLAND INC., ASSOCIATED AUTO
BODY & TRUCKS, INC.,
ATLAS REFINERY, INC.,
AUTOMATIC ELECTRO-PLATING
CORP.,
AKZO NOBEL COATINGS, INC.,
BASF CATALYSTS LLC,
BASF CONSTRUCTION CHEMICALS
INC.,
BASF CORPORATION,
BAYER CORPORATION,
BEAZER EAST, INC.,
BELLEVILLE INDUSTRIAL CENTER,
BENJAMIN MOORE & COMPANY,
BEROL CORPORATION,
B-LINE TRUCKING, INC.,
BORDEN & REMINGTON CORP.,
C.S. OSBORNE & CO.,
CAMPBELL FOUNDRY COMPANY,
• CASCHEM, INC.,
CBS CORPORATION,
CELANESE LTD.,
CHEMICAL COMPOUNDS INC.,
CHEMTURA CORPORATION,
CLEAN EARTH OF NORTH JERSEY,
INC.,
COSMOPOLITAN GRAPHICS
CORPORATION,
CIDA CORPORATION,
COLTEC INDUSTRIES INC.,
COLUMBIA TERMINALS, INC.,
COMO TEXTILE PRINTS, INC.,
CONAGRA PANAMA, INC.;
CONOPCO, INC.,
CONSOLIDATED RAIL
CORPORATION,
COOK & DUNN PAINT CORPORATION,
COSAN CHEMICAL CORPORATION,
COY ANT A ESSEX COMPANY,
CRODA, INC.,
CRUCIDLE MATERIALS
CORPORATION,
CURTISS-WRIGHT CORPORATION,

CWC INDUSTRIES, INC.,
DARLING INTERNATIONAL, INC.,
DAV ANNE REALTY CO.,
DELEET MERCHANDISING
CORPORATION,
DELVAL INK AND COLOR,
INCORPORATED, DILORENZO
PROPERTIES COMPANY, L.P.,
E.!. DU PONT DE NEMOURS AND
COMPANY,
EASTMAN KODAK COMPANY,
EDEN WOOD CORPORATION,
ELAN CHEMICAL COMPANY, INC.,
EM SERGEANT PULP & CHEMICAL
CO.,
EMERALD HILTON DAVIS, LLC,
ESSEX CHEMICAL CORPORATION,
EXXON MOBIL
F.E.R. PLATING, INC.,
FINE ORGANICS CORPORATION,
FISKE BROTHERS REFINING
COMPANY,
FLEXON INDUSTRIES CORPORATION,
FLINT GROUP INCORPORATED,
FORT JAMES CORPORATION,
FOUNDRY STREET CORPORATION,
FRANKLIN-BURLINGTON PLASTICS,
INC.,
GARFIELD MOLDING COMPANY,
INC.,
GENERAL CABLE INDUSTRIES, INC.;
GENERAL DYNAMICS CORPORATION,
GENERAL ELECTRIC COMPANY,
GENTEK HOLDING LLC,
GIVAUDAN FRAGRANCES
CORPORATION,
G. J. CHEMICAL CO.,
GOODY PRODUCTS, INC.,
GORDON TERMINAL SERVICE CO.
OF N.J., INC.,
HARRISON SUPPLY COMPANY,
HARTZ MOUNTAIN CORPORATION,
HAVENICK ASSOCIATES L.P.,
HEXCEL CORPORATION,
HEXION SPECIALTY CHEMICALS,
INC.,
HOFFMANN-LA ROCHE INC.,
HONEYWELL INTERNATIONAL INC.,
HOUGHTON INTERNATIONAL INC.,
HUDSON TOOL & DIE COMPANY,

INC,
HY-GRADE ELECTROPLATING CO.,
ICI AMERICAS INC.,
INNOSPEC ACTIVE CHEMICALS LLC,
INX INTERNATIONAL INK CO.,
ISP CHEMICALS INC.,
ITT CORPORATION,
KEARNY SMELTING & REFINING
CORP.,
KAO BRANDS COMPANY,
KOEHLER-BRIGHT STAR, INC.,
LINDE, INC.,
LUCENT TECHNOLOGIES, INC.,
MACE ADHESIVES & COATINGS
COMPANY, INC.,
MALLINCKRODT INC.,
MERCK & CO., INC.,
METAL MANAGEMENT NORTHEAST,
INC.,
MI HOLDINGS, INC., MILLER
ENVIRONMENTAL GROUP, INC.,
MORTON INTERNATIONAL, INC.,
N L INDUSTRIES, INC.,
NAPPWOOD LAND CORPORATION,
NATIONAL FUEL OIL, INC.,
NATIONAL-STANDARD, LLC,
NELL-JOY INDUSTRIES, INC.,
NESTLE U.S.A., INC.,
NEW JERSEY TRANSIT
CORPORATION,
NEWS AMERICA, INC.,
NEWS PUBLISHING AUSTRALIA
LIMITED,
NORP AK CORPORATION,
NOVELIS CORPORATION,
ORANGE AND ROCKLAND UTILITIES,
INC.,
OTIS ELEVATOR COMPANY,
PRC-DESOTO INTERNATIONAL, INC.,
PASSAIC PIONEERS PROPERTIES
COMPANY,
PFIZER INC.,
PHARMACIA CORPORATION,
PHELPS DODGE INDUSTRIES, INC.,
PHILBRO, INC.,
PITT-CON SOL CHEMICAL COMPANY,
PIVOTAL UTILITY HOLDINGS, INC.,
PPG INDUSTRIES, INC.,
PRC-DESOTO INTERNATIONAL, INC.,
PRAXAIR, INC.,

PRECISION MANUFACTURING
GROUP, LLC,
PRENTISS INCORPORATED,
PROCTER & GAMBLE
MANUFACTURING COMPANY,
PRYSMIAN COMMUNICATIONS
CABLES AND
SYSTEMS USA LLC,
PSEG FOSSIL LLC,
PUBLIC SERVICE ELECTRIC AND
GAS COMPANY,
PURDUE PHARMA TECHNOLOGIES,
INC.,
QUALA SYSTEMS, INC.,
QUALITY CARRIERS, INC.,
RECKITT BENCKISER, INC.,
REICHHOLD, INC.,
REVERE SMELTING & REFINING
CORPORATION,
REXAM BEVERAGE CAN COMPANY,
ROMAN ASPHALT CORPORATION,
ROYCE ASSOCIATES, A LIMITED
PARTNERSHIP,
R.T. VANDERBILT COMPANY, INC.,
RUTHERFORD CHEMICALS LLC,
S&A REALTY ASSOCIATES, INC.,
SCHERING CORPORATION,
SEQUA CORPORATION,
SETON COMPANY,
SIEMENS WATER TECHNOLOGIES
CORP.
SINGER SEWING COMPANY
SPECTRASERV, INC., STWB, INC.,
SUN CHEMICAL CORPORATION,
SVP WORLDWIDE, LLC,
TATE & LYLE INGREDIENTS
AMERICAS, INC.,
TEV A PHARMACEUTICALS USA,
INC.,
TEV AL CORP.,
TEXTRON INC.,
THE DIAL CORPORATION,
THE DUNDEE WATER POWER AND
LAND COMPANY,
THE NEWARK GROUP, INC.,
THE OKONITE COMPANY, INC.,
THE SHERWIN-WILLIAMS COMPANY,
THE STANLEY WORKS,
THE VAL SPAR CORPRATION,
THIRTY -THREE QUEEN REALTY

INC.,
THREE COUNTY VOLKSWAGEN
CORPORATION,
TIDEWATER BALING CORP.,
TIFFANY & CO.,
TIM CO, INC.,
TRIMAX BUILDING PRODUCTS, INC.,
TROY CHEMICAL CORPORATION,
INC.,
UNIVERSAL OIL PRODUCTS
COMPANY,
V. OTTILIO & SONS, INC.,
VELSICOL CHEMICAL
CORPORATION,
VEOLIA ES TECHNICAL SOLUTIONS,
L.L. VERTELLUS SPECIALTIES INC.,
VITUSA CORP.,
VULCAN MATERIALS COMPANY,
WAS. TERMINALS CORPORATION,
WAS. TERMINALS, INC.,
W.C. INDUSTRIES,
WHITTAKER CORPORATION,
WIGGINS PLASTICS, INC.,
ZENECA INC.,

Third Party Defendants

Plaintiff/Third Party
Defendant

INITIAL DISCLOSURE STATEMENT

The following is the Initial Disclosure Statement of the third-party defendant Deleet Merchandising Corporation. Deleet Merchandising Corporation is a third-party defendant whose property is located within the Ottilio Landfill.

Third-Party Defendant, Deleet Merchandising Corporation, by way of Initial Disclosures pursuant to Paragraph Number 3 of the Case Management Order VIII, states:

I. 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”):

1. Scott E. MacDonald and Joyce A. Rizzo of Environ Corporation/Lexicon Environmental
2. Edward Hinchey, P.G. of Environmental Resources Management
3. Frederick Bopp, III of Tetrahedron Consultants
4. Jimmy Dale Schroeder, Innovative Tank Solutions, LLC
5. Jairus D. Flora, Jr. PhD
6. John N. Sacco, Administrator Office of Natural Resource Restoration
7. Jim Rogers, Industrial Site Conversion, LLC
8. Individual from JMZ Geology
9. Harry Elias, Code Enviro-Sciences, LLP
10. NJDEP Experts: Barsky, Burlingame, Kaplan and Searfoss
11. K. Viswanathan, ICA
12. BEM Systems Inc. representative
13. James Robertson, Interisk, Inc.
14. Individuals from Horizon Environmental
15. Individual from SMC Martin, Inc.
16. Individual from Fred C. Hart Association, Inc.
17. Frank X. Cardiello, Esq., Attorney General’s office
18. Michael O. Adelman, Esq., Drinker Biddle & Reath LLP
19. Carlton T. Spiller, Esq., Greenbaum, Rowe, Smith & Davis, LLP
20. Bernard Wishnia, Esq.
21. Michael F. O’Neill, Esq. Purcell, Reiss, Shannon, Mulcahy & O’Neill
22. Stephen V. Gimigliano, Esq., Graham Curtin, & Sheridan, P.A.
23. Jeffrey Lipkin, Esq., Drinker Biddle & Reath LLP
24. Joseph J. Seebode, Assistant Commissioner Site Remediation and Waste Management, NJDEP
25. Leonard Romino, Administrator NJ Spill Compensation Fund, NJDEP
26. John S. Watson, Jr., Assistant Commissioner Nation and Historic Resources, NJDEP
27. Larry Gaddy, Public Service Mutual
28. Pat Connaughton, Travelers Casualty and Surety Company
29. Carlos Pavling, Wachovia Corporation
30. Victor Ottilio, V. Ottilio & Sons Demolition, Inc.

31. Michael Ottilio, V. Ottilio & Sons Demolition, Inc.
32. Rose Ottilio, V. Ottilio & Sons Demolition, Inc.
33. Catherine Ottilio, V. Ottilio & Sons Demolition, Inc.
34. Victor Ottilio, Victor Ottilio Enterprises, Inc.
35. Victor Ottilio, 705 Preakness Avenue Associates
36. Victor Ottilio, V. Ottilio & Sons, Inc.
37. Matthew J. Scott, Hartford Accident & Indemnity Company
38. Richard C. Bargon, RLI Insurance Company
39. Ellen Silver, Esq., Greenbaum, Rowe, Smith, & Davis.

II. 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):

1. Edward Hinchey, P.G. of Environmental Resources Management

III. 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:

1. Deleet Merchandising Corporation employees who may have knowledge, 26 Blanchard Street, Newark, NJ 07105.
2. Russ Mantione, of Deleet Merchandising at 26 Blanchard Street, Newark, NJ 07105.
3. Barry Kronman, of Deleet Merchandising at 26 Blanchard Street, Newark, NJ 07105.

IV. With respect to any individual identified pursuant to paragraph (a), (b) or (c) above, (or any other individual known to have material knowledge of any alleged discharge or release of a Pollutant at or from a site and/or property, or into Newark Bay Complex), any known inability to testify due to age, infirmity, or in competency within 12 months following the date of the Initial Disclosure:

1. No known inability to testify due to age, infirmity, or incompetence within the twelve months following this initial Disclosure with respect to individuals identified pursuant to paragraphs (a), (b) or (c). However, many parties who worked for Deleet Merchandising Corp. may no longer be living or able to testify due to infirmity or incompetence

and Deleet reserves the right to amend this disclosure statement as further information is uncovered.

V. 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 of which such documents or electronically stored information may fall within the Excepted Information:

1. Documents related to prior litigation: DEP v. Ottilio (1974) document numbers 000400-000468), DEP v. Deleet (1987) (Chancery Division) document numbers 000469-000656, Deleet v. DEP (1987) (Federal Action) document numbers (000663-001433) [We believe NJDEP has copies of these documents]
2. Documents and Reports from the NJDEP and to the NJDEP. Bid documents and reports, press releases, Design reports, Field Sampling tests correspondence. These documents would be considered Excepted Information as defined by section 4(b) of the Case Management Order VII, “information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including the New Jersey Department of Environmental Protection...” [we believe NJDEP has copies of these documents]
3. Documents from Defendant Tankology { unknown location]
4. Documents from Enviro-Sciences and Rogers Environmental Management
 - a. including Remedial Action work plans # 002248-002601
 - b. Memo from July 31, 1986 regarding Deleet Manufacturing co., with attachments including investigations performed by other contractors. (#8588-8692)[We believe NJDEP has copies of these documents]
5. Deposition Transcripts, Exhibits (unknown location and parties)
6. Deleet Merchandising Documents including (#3395-4573)

- a. 1997 contract with Horizon Environmental for excavation and removal of UST's
 - b. Listing of underground storage tanks and products contained in tanks (circa early 1980's)
 - c. Letter from Buffalo Tank regarding specification of underground tank storage
 - d. Deleet Hazardous Waste Manifests 1977-1999
 - e. Horizon Excavating documents relating to 1997 tank removal
 - f. NJDEP Annual Certification- Underground Storage Tank Registration Questionnaire, for years 1989-1992 and 1994 these documents would be considered Excepted Information as defined by section 4(b) of the Case Management Order VII, "information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including the New Jersey Department of Environmental Protection..."
 - g. Two lists of underground storage tanks and contents
 - h. 1993-1996 Tank Reading and Inventory Documents
 - i. Enviro-Sciences documents from 1980's (#6589-6605)
 - j. Report to NJDEP regarding Tanks - These documents would be considered Excepted Information as defined by section 4(b) of the Case Management Order VII, "information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including the New Jersey Department of Environmental Protection..."
 - k. Documents related to Remedial Action Work plans, Newark information, Yard, David Linkwork, Tank Management, DICAR, Environmental Data Resources (#015718-017846)
[We believe the NJDEP has copies of these documents]
7. Miscellaneous Documents
- a. Ottilio Landfill Summary, prepared by Louis Berger & Associates, Inc., (#6870-7151)
 - b. Plaintiff's Order To show Cause for Temporary Restraints including memo of law and Appendix (#7306-7308)
[We believe NJDEP has copies of these documents]
8. Documents from Port Authority: Essex County Resource Recovery Project Environmental Impact Statement, Volumes I, II, III and V and Hart Report (#7309-7940 and 7942-8481) [We believe that NJDEP and Port Authority have copies of these documents]

9. Report of SMC Martin, Inc.,
 - a. August 5, 1987 Ottilio Landfill site specific field sampling plan (FSP) (#8490-8587)
 - b. SMC Martin, Inc.'s Ottilio site specific health and safety plan (#8693-8763)
 - c. SMC Martin, Inc.'s Ottilio Landfill Site Specific Quality Assurance Project Management Plan (QAPMP) (#9382-9565)[We believe NJDEP has copies of these documents]
10. Fred C. Hart Associates, Inc.'s Final Report on Environmental Contamination at the Ottilio Site, February 26, 1982 (#9566-9646) [We believe NJDEP has copies of these documents]
11. Enviro-Science Documents and Reports (#011245-011307) [See no. 4 *supra*]
12. Material Safety Data Sheets and Hazardous Waste Files and manifests (#012383-015664) [We believe NJDEP has these documents]
13. Settlement Agreement and RELEASE between the parties in Deleet Merchandising Corporation vs. Aetna Life & Casualty et al. Superior Court of New Jersey, Chancery Division Docket No C-79-98. [in possession of Methfessel & Werbel]

VI. Third-Party Defendant Deleet Merchandising Corporation will amend and/or supplement the Initial Disclosure as additional information is obtained through investigation and discovery.

METHFESSEL & WERBEL, ESQS.
Attorneys for Third Party Defendant
Deleet Merchandising Corporation

By: _____
Marc Dembling

DATED: January 29, 2009