

**DAVID M. DECLEMENT, ESQ.**

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*Attorney for Defendant,, Kearny Smelting & Refining Corp.*

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, INCL., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLH HOLDINGS,

Defendants,

MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,

Third Party Plaintiffs,

v.

3 M COMPANY, A.C.C. INC., ACH FOOD COMPANIES, INC, ET AL

SUPERIOR COURT OF NEW JERSEY ESSEX COUNTY, LAW DIVISION

DOCKET NO.: L-009868-05

Civil Action

**THIRD PARTY INITIAL DISCLOSURE**

Answering Defendants, KEARNEY SMELTING and REFINING CORPORATION with its primary place of business located at 936 Harrison Avenue, Kearny, New Jersey 07032 by way of their attorney, David M. DeClement, Esquire, hereby submit its Initial Disclosure in accordance with Case Management VIII:

- 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	Subject
Ms. Francine Rothschild Kearny Smelting and Refining Corporation 936 Harrison Avenue Kearny, New Jersey 07032	Site Acquisition
Mr. Mike McGowan JMZ Geology 43 Emery Avenue Flemington, NJ 08822	Site Investigation, remediation, limited documents on site operations.

- 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
Ms. Francine Rothschild Kearny Smelting and Refining Corporation 936 Harrison Avenue Kearny, New Jersey 07032	(201) 991-7276
Mr. Mike McGowan JMZ Geology 43 Emery Avenue Flemington, NJ 08822	(908) 788-0388

- 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	Dates at Site: Ownership/Operator/Lease
Kearny Smelting and Refining Corporation 936 Harrison Avenue Kearny, New Jersey 07032	1946 to present. Family owned and operated.

- 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; and

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
All documents maintained by the company.	Kearny Smelting and Refining Corporation 936 Harrison Avenue Kearny, New Jersey 07032  JMZ Geology 43 Emery Avenue Flemington, NJ 08822
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, NY

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 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: April 21, 2010

  
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DAVID M. DeCLEMENT, ESQUIRE