

DAY PITNEY LLP

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**ATTORNEYS FOR THIRD-PARTY DEFENDANT,
MALLINCKRODT INC.**

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW
ENVIRONMENTAL PROTECTION AND	:	JERSEY
THE ADMINISTRATOR OF THE NEW	:	LAW DIVISION: ESSEX COUNTY
JERSEY SPILL COMPENSATION FUND,	:	
	:	DOCKET NO. L-9868-05
	:	
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.,	:	
	:	
DEFENDANTS.	:	
	:	
MAXUS ENERGY CORPORATION AND TIERRA	:	
SOLUTIONS,	:	
INC.,	:	
	:	
THIRD-PARTY PLAINTIFFS,	:	
	:	
VS.	:	
	:	
3M COMPANY, ET AL.,	:	
	:	
	:	
THIRD-PARTY DEFENDANTS.	:	
	:	

**CMO VIII
THIRD-PARTY
INITIAL DISCLOSURE BY
MALLINCKRODT INC.**

Third-Party Defendant Mallinckrodt Inc. ("Mallinckrodt")
by and for its Initial Disclosure in accordance with Case
Management Order VIII provides the following specific information:

Reservations

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

2. Mallinckrodt'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, Mallinckrodt reserves the right to amend these disclosures to the extent the claims brought by or alleged against Mallinckrodt 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 Plaintiffs is accordingly quite broad and potentially burdensome. Mallinckrodt 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:

Defendants/third-party plaintiffs allege that Hazardous Substances were discharged and/or transported from Mallinckrodt's former facility located on Main Street in Lodi, New Jersey (the "Lodi Site") to the Millbank Brook and/or Saddle River, and thence into the Passaic River. These allegations are unsupported assumptions made by defendants/third-party plaintiffs. Mallinckrodt does not have first-hand or personal knowledge of any Alleged Discharge as that term is defined by defendants/third-party plaintiffs. Moreover, Mallinckrodt has not located any documentation relating to or referencing the allegations of any Alleged Discharge into the Millbank Brook, Saddle River, Passaic River or Newark Bay Complex.

Mallinckrodt is, however, in receipt of its alleged "nexus" documents from defendants/third-party plaintiffs that purport to contain evidence of potential discharges to the Passaic River. To the extent the alleged "nexus" documents are viewed by defendants/third-party plaintiffs as potential evidence of any direct or indirect release from the Lodi Site to the Passaic River, Mallinckrodt submits that any individuals identified in the alleged "nexus" documents may possess information that could be responsive to this disclosure.

Mallinckrodt reserves its right to supplement and/or amend this disclosure should additional information become available.

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
Jerry Scaramuzzi	Mr. Scaramuzzi may be reached by contacting Mallinckrodt's outside counsel at Day Pitney LLP.	

Mallinckrodt is continuing its internal investigation to identify individuals responsive to this request. Mallinckrodt shall supplement its response if/when additional information becomes available throughout the course of its investigation.

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:

Mallinckrodt's Lodi Site facility was located at 165-167 Main Street, Lodi, New Jersey. Mallinckrodt does not currently own or operate at the Lodi Site. The Block / Lot designations for the Lodi Site have changed since Mallinckrodt owned and

operated at the Lodi Site, making it difficult to provide a complete and accurate history as to each particular Block and Lot.

Mallinckrodt's understanding of the ownership history for the Lodi Site is as follows:

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
United Piece Dye Works	165-167 Main St.	Pre 1939 (owner/operator)
Borough of Lodi	165-167 Main St.	1939-1941 (owner)
Paul Valentino Lodi Realty Corp.	165-167 Main St. 165-167 Main St.	1941-1948 (owner) 1948-1962 (owner)
Washine Chemical Corporation	165-167 Main St.	1962-1968 (owner/operator)
Mallinckrodt Inc.	165-167 Main St.	1968-1978 (owner/operator)
Robert Fortunato & Leo Lucchesi	165-167 Main St.	1978-? (owner)
Saddle River Tours	165-167 Main St.	1978-? (operator)
R & R Realty	165-167 Main St.	?-1986 (owner)
Robert Fortunato	165-167 Main St.	1986-2003 (owner)
Lodi Markets, L.L.C.	165-167 Main St.	2003-? (owner/operator)

Mallinckrodt is continuing its internal investigation to confirm ownership of specific Blocks / Lots at the Lodi Site. Mallinckrodt shall supplement its response if/when additional information becomes available throughout the course of its investigation.

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 incompetence within 12 months following the date of the Initial Disclosure;

Response:

Mallinckrodt is presently unaware of any individual identified in paragraphs (a), (b) or (c) above (or any other individual) who may have material information/knowledge responsive to this request that may be unable to testify due to age, infirmity, or incompetence. Mallinckrodt reserves its right to supplement and/or amend this disclosure should additional information become available.

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:

See response to (a) above, which sets forth Mallinckrodt's position with respect to Alleged Discharges from the Lodi Site. Mallinckrodt additionally provides the following list of categories of documents that may be relevant, may contain discoverable information and/or may be used in support of Mallinckrodt's claims and/or defenses in this matter.

Mallinckrodt reserves its right to supplement and/or amend this disclosure should additional information become available.

Documents by Category	Location	Applicable Exception ¹
Technical/Environmental Remediation Documents	Mallinckrodt Inc. 675 McDonnell Boulevard Hazelwood, MO 63042 Some limited documents from each category may also be found at Day Pitney LLP's NJ office	See 1b & g. below.
Real Estate Documents		See 1b & g. below.
Engineering Documents		See 1b & g. below.
Operational Documents		See 1b & g. below.

¹ 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

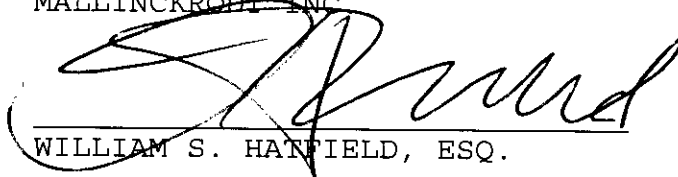
g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

Mallinckrodt's 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: MAY 3, 2010

RESPECTFULLY SUBMITTED,

DAY PITNEY LLP
Attorney for Third-Party Defendant
MALLINCKRODT INC



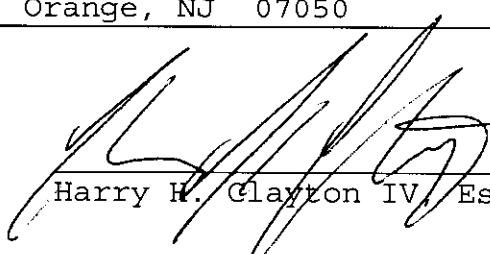
WILLIAM S. HATFIELD, ESQ.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant Mallinckrodt Inc.'s Initial Disclosures was served electronically on May 3, 2010, upon all parties that previously consented to service by posting on www.sfile.com/njdepvocc. The following counsel of record was served on May 3, 2010 via first class, regular mail:

Borough of Hasbrouck Heights	Richard J. Dewland Coffey & Associates 465 South Street Morristown, NJ 07960 973.539.4500 rjd@coffeylaw.com
City of Orange	John P. McGovern Assistant City Attorney City of Orange Township 29 North Day St. Orange, NJ 07050

DATED: MAY 3, 2010


Harry H. Clayton IV, Esq.