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Attorney for Third-Party Defendant
National Fuel Oil 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
	:	
Plaintiffs	:	DOCKET NO. L-9868-05
	:	
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.,	:	INITIAL DISCLOSURE OF THIRD-PARTY DEFENDANT NATIONAL FUEL OIL INC.
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
Third-Party Defendants.	:	

Third-Party Defendant National Fuel Oil, Inc. (“National Fuel”) hereby provides the following specific information for its Initial Disclosures in accordance with Case Management Order VIII dated August 11, 2009.

RESERVATIONS

1. National Fuel reserves the right to object to the production of any documents or other information on any ground, including but not limited to 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 Respondent may have with respect to any outstanding or subsequent requests for discovery.

2. National Fuel'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, National Fuel reserves the right to amend these disclosures to the extent the claims brought by or alleged against Respondent in this litigation are amended.

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint and Third-Party Plaintiffs' Complaint "B" is quite long and encompasses at least six decades. The geographic scope of the Second Amended Complaint and Third-Party Plaintiffs' Complaint "B" 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 Plaintiffs is accordingly quite broad and potentially burdensome. National Fuel is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

4. Contact with any employees or former employees of National Fuel must be made through counsel for National Fuel.

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

National Fuel objects to the extent that the question assumes or implies that there was a “discharge or release of pollutants, contaminants and/or hazardous substances” to the Newark Bay Complex from the Site with which National Fuel was associated as referenced in Third Party Complaint “B.” Upon information and belief, National Fuel states that the following entities or individuals may have discoverable information related to the environmental conditions at the Site; however, any information or documentation that certain of the following persons possess may be protected by the attorney-client privilege, the work product doctrine, and/or other applicable privilege:

Name/Address/Phone	Subject
Robert Ayars, President National Fuel Oil Inc.	Knowledge regarding operations, environmental conditions at the Site.
William Tufiarelo, Former President National Fuel Oil, Inc.	Knowledge regarding operations, environmental conditions at the Site.
Representatives of Passaic Valley Sewerage Commission	May have knowledge regarding alleged discharges from Site.

National Fuel further responds that other employees worked at the Site during the course of National Fuel’s operations there. Based on the breadth and ambiguity of Third-Party Plaintiffs’ claims, other individuals could have relevant knowledge of this matter. National Fuel is unable to individually identify other persons with relevant knowledge of this matter without more specific information from Third-Party Plaintiffs on the nature and basis of their claims. As such, National Fuel may identify additional individuals in the course of discovery and as its investigation continues.

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

National Fuel has not identified the persons who are responsive to this question but may use some or all of the individuals listed in response to (a) above and/or such other persons as will be identified in the investigation and/or during discovery to support its claims or defenses.

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/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Philbro Inc. 800 Passaic Avenue Harrison, NJ	501 Passaic Avenue, East Newark, NJ	Owner (? to Present)
National Fuel Oil Inc. 175 Orange Avenue Newark, NJ	501 Passaic Avenue, East Newark, NJ	Lessee and Operator, July 1967 through July 1980
Harrison Supply Company 800 Passaic Avenue Harrison, NJ	501 Passaic Avenue, East Newark, NJ	Operator, 1980 - Present

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

National Fuel is currently unaware of any individuals identified in (a), (b) or (c) who have a known inability to testify due to age, infirmity, or incompetency within 12 months following the date of these Initial Disclosures. Subject to the foregoing, however, William Tufiarelo, former President of National Fuel, is currently 95 years old. National Fuel further responds that there are likely many employees, contractors and/or other persons who have worked at and/or visited the Site throughout the time period that the Site has operated, some or all of whom could have knowledge of the Site and/or environmental conditions.

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

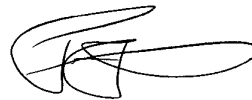
National Fuel objects to the extent that these Initial Disclosure categories conclude that there were any Alleged Discharges, as that term has been defined. Subject to and without waiving this objection, National Fuel responds that, upon information and belief, it has no documents within its possession, custody or control that relate to “Alleged Discharges” from the Site to the Newark Bay Complex, other than the documents produced by Third-Party Plaintiffs in its Nexus Package for National Fuel. National Fuel has within its possession, custody, or control the Lease and Lease Extensions between it and Philbro Inc. pursuant to which National Fuel leased the Site from 1967 until 1980. In addition, Third-Party Plaintiffs have produced

National Fuel’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: February 25, 2010

Respectfully submitted,

SILLS CUMMIS & GROSS P.C.
Attorney for Third-Party Defendant
National Fuel Oil, Inc.



By: _____
JASON L. JURKEVICH

CERTIFICATION OF SERVICE

JASON L. JURKEVICH hereby certifies as follows:

1. I am Of Counsel to the law firm of Sills Cummis & Gross P.C., attorneys for Third-Party Defendant National Fuel Oil, Inc. in this matter.
2. I hereby certify that National Fuel Oil, Inc.'s Initial Disclosures were served electronically on all parties who have consented to service by electronic posting on the following website, <http://njdepvocc.sfile.com> on February 25, 2010.
3. I hereby certify that I caused National Fuel Oil, Inc.'s Initial Disclosures to be served on February 25, 2010 by regular mail, postage pre-paid, on counsel for all parties who have not consented to service by electronic posting.

The foregoing is true and correct to the best of my knowledge. I am aware that if any of the foregoing is willfully false, I am subject to punishment.



JASON L. JURKEVICH

Dated: February 25, 2010