

**DAY PITNEY LLP**

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(973) 966-6300

**ATTORNEYS FOR THIRD-PARTY DEFENDANT,**  
THE DIAL CORPORATION

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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.	:	

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**CMO VIII**  
**THIRD-PARTY INITIAL**  
**DISCLOSURE BY**  
**THE DIAL CORPORATION**

Third-Party Defendant The Dial Corporation ("Respondent" or "Dial") by and for its Initial Disclosures in accordance with Case Management Order VIII provides the following specific information:

**Reservations**

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

2. Respondent'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, Respondent 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 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. Respondent 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 the discharge and/or release of detergent at Dial's former manufacturing facility located at 179 Entin Road, Clifton, NJ (the "Dial facility") resulted in some amount of detergent being washed down the Entin Storm Sewer to the Passaic Valley Sewerage Commissioners ("PVSC"), which periodically discharged to the Passaic River. Dial denies that any detergent and/or Pollutants from the Dial facility migrated off-site and/or directly or indirectly impacted the Passaic River and/or Newark Bay Complex.

In connection with its due diligence obligations, Dial conducted an internal investigation to try to locate individuals

and/or documentation that may possess and/or contain potentially discoverable information responsive to these Initial Disclosures. Notwithstanding a diligent inquiry, Dial was unable to identify any individual likely to have discoverable information pertaining to "Alleged Discharges" as defined herein. Dial does not have first hand knowledge of any individual with discoverable information that relates to any Alleged Discharge or release of Pollutants into the Passaic River and/or Newark Bay Complex.

Dial is, however, in receipt of its alleged "nexus" documents from defendants/third-party plaintiffs that purport to contain evidence of a potential release(s) to the PVSC and/or the Passaic River. To the extent the four (4) pages of alleged "nexus" documents are viewed by defendants/third-party plaintiffs as potential evidence of a direct or indirect release from the Dial facility to the Passaic River, Dial submits that the individuals identified in the alleged "nexus" documents may have possessed information that could be responsive to this disclosure. As part of Dial's internal investigation, it tried to locate the former Dial employees identified and/or referenced in the alleged "nexus" documents. Based upon information received in connection with this investigation, Dial submits that upon information and belief the former Dial employees referenced/identified in the alleged "nexus" documents are deceased.

Dial 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
Jay Sampat	Mr. Sampat may be reached by contacting Dial's outside counsel at Day Pitney LLP.	

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

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Troast-Sletteland Enterprises	179 Entin Road Clifton, NJ	Unknown-1958 (owner)
Harry E. Katz and Fannie Katz	179 Entin Road Clifton, NJ	1958-1982 (owner)
Davanne Realty Co.	179 Entin Road Clifton, NJ	1982-present (owner)
Parsons Ammonia Company	179 Entin Road Clifton, NJ	1958-1962 (operator)
Armour-Dial, Inc. (by mesne assignment)	179 Entin Road Clifton, NJ	1962-1985 (operator/lessee)
The Dial Corporation (12/20/85 Armour-Dial, Inc. changed its name to The Dial Corporation)	179 Entin Road Clifton, NJ	1985-1988 (operator/lessee)
Gemini Industries, Inc.	179 Entin Road Clifton, NJ	1988-? (operator/lessee)

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**

Dial 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. Dial 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 Dial's position with respect to Alleged Discharges from the Dial facility. Dial 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 Dial's claims and/or defenses in this matter.

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

Documents by Category	Location	Applicable Exception <sup>1</sup>
<b>Technical/Environmental Documents</b>	<b>Henkel's Legal Department in Scottsdale, Arizona</b>	<b>See 1b &amp; g. below.</b>
<b>Real Estate Documents</b>		<b>See 1b &amp; g. below.</b>
<b>Engineering Documents</b>	<b>Some limited Technical/Environmental and Real Estate documents may also be found at Day Pitney LLP's office in Florham Park, NJ</b>	<b>See 1b &amp; g. below.</b>

<sup>1</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

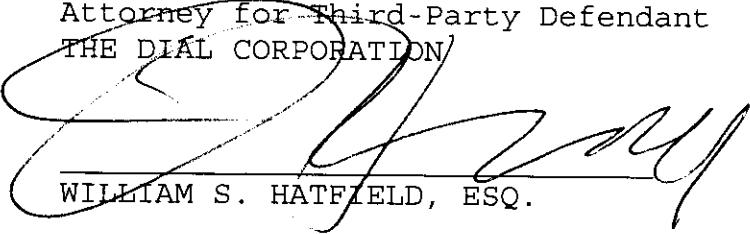
g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

Dial'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: APRIL 22, 2010

RESPECTFULLY SUBMITTED,

DAY PITNEY LLP  
Attorney for Third-Party Defendant  
THE DIAL CORPORATION



WILLIAM S. HATFIELD, ESQ.



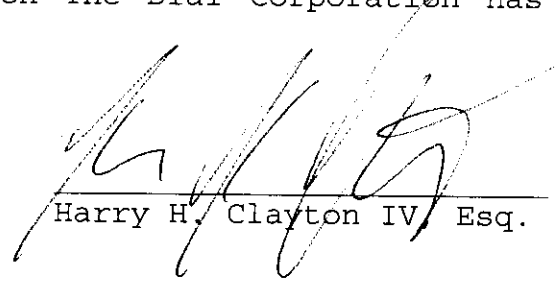
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant The Dial Corporation's Initial Disclosures was served electronically (by e-mail) on April 22, 2010, upon all parties that previously consented to service by posting on [www.sfile.com/njdepvocc](http://www.sfile.com/njdepvocc). The following counsel of record was served on April 22, 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
Passaic Pioneers Properties Company	John A. Daniels Daniels & Daniels LLC 6812 Park Ave. Guttenberg, NJ 07093
Township of Hillside	Christine M. Burgess Township Attorney Hillside Township Municipal Bldg. 1409 Liberty Ave. Hillside, NJ 07205
Township of Irvington	Gustavo Garcia Municipal Attorney Township of Irvington Irvington Municipal Building Civic Square Irvington, NJ 07111
Town of Union	FRANK P. ARLEO, ESQ. ARLEO, DONOHUE & BIANCAMANO, LLC 622 EAGLE ROCK AVENUE

	WEST ORANGE, NJ 07052 TEL: 973-736-8660 FAX: 973-736-1712
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As the sfile site is no longer in operation, The Dial Corporation is relying on the information set forth in the Contact Service List that O'Melveny & Myers, LLP circulated on April 21, 2010, the accuracy of which The Dial Corporation has not independently verified.



Harry H. Clayton IV, Esq.

DATED: APRIL 22, 2010