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General Cable Industries, Inc. and Whittaker Corporation

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,

vs.

OCCIDENTAL CHEMICAL CORPORATION,  
TIERRA SOLUTIONS, INC., 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,

vs.

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

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**WHITTAKER CORPORATION'S  
INITIAL DISCLOSURE PURSUANT  
TO CASE MANAGEMENT ORDER V  
AND CASE MANAGEMENT ORDER  
VIII**

ALLIANCE CHEMICAL, INC.,  
ALUMAX MILL PRODUCTS, INC.,  
AMCOL REALTY CO.,  
AMERICAN INKS AND COATINGS CORPORATION,  
APEXICAL, INC.,  
APOLAN INTERNATIONAL, INC.,  
ARKEMA, INC.,  
ASHLAND INC.,  
ASHLAND INTERNATIONAL HOLDINGS, 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,  
CIBA 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,  
COVANTA ESSEX COMPANY,  
CRODA, INC.,  
CRUCIBLE MATERIALS CORPORATION,  
CURTISS-WRIGHT CORPORATION,  
CWC INDUSTRIES, INC.,

DARLING INTERNATIONAL, INC.,  
DAVANNE REALTY CO.,  
DELEET MERCHANDISING CORPORATION,  
DELVAL INK AND COLOR, INCORPORATED,  
DILORENZO PROPERTIES COMPANY, L.P.,  
E.I. 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,  
NORPAK 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-CONSOL 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.,  
TEVA PHARMACEUTICALS USA, INC.,  
TEVAL 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 VALSPAR CORPRATION,  
THIRTY-THREE QUEEN REALTY INC.,  
THREE COUNTY VOLKSWAGEN CORPORATION,  
TIDEWATER BALING CORP.,  
TIFFANY & CO.,  
TIMCO, 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.C.,  
VERTELLUS SPECIALTIES INC.,  
VITUSA CORP.,  
VULCAN MATERIALS COMPANY,  
W.A.S. TERMINALS CORPORATION,

W.A.S. TERMINALS, INC.,  
W.C. INDUSTRIES,  
WHITTAKER CORPORATION,  
WIGGINS PLASTICS, INC.,  
ZENECA INC.,

Third-Party Defendants.

**WHITTAKER CORPORATION'S INITIAL DISCLOSURE PURSUANT TO CASE  
MANAGEMENT ORDER V AND CASE MANAGEMENT ORDER VIII**

Comes now, Third-Party Defendant Whittaker Corporation ("Whittaker"), and for its Initial Disclosure in accordance with Case Management Order V and Case Management Order VIII, provides the following specific information:

**Reservations:**

1. Whittaker 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 Whittaker may have with respect to any outstanding or subsequent requests for discovery.
2. Whittaker's investigation in this matter is continuing. Accordingly, Whittaker reserves the right to supplement, clarify, and revise these disclosures to the extent additional information becomes available or is obtained through discovery. Further, Whittaker reserves the right to amend these disclosures to the extent the claims brought by or alleged against Whittaker 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 Defendants is accordingly quite broad and potentially burdensome. Whittaker 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 Complaint) from the site(s) and/or properties with which the disclosing party is associated in the Third-Party Complaint ("Alleged Discharges").

**Response:** Because Whittaker never owned or operated the Bayonne Barrel and Drum Site, and is not the successor of any party that owned or operated the Bayonne Barrel and Drum Site, it has no knowledge responsive to this disclosure category at this time. Subject to this clarification, Whittaker provided the names, addresses and telephone numbers of all individuals known at this time with potentially discoverable information regarding the transactions between the Bayonne Barrel and Drum Site and the facilities previously owned by Whittaker located at 40 Burnett Road, Chicopee, MA, and 1470 Jersey Avenue, North Brunswick, NJ, to the United States Environmental Protection Agency in response to a request for information pursuant to sections 104(e)(1) and 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601 et seq. Consequently, such information falls within category "b" of the "Excepted Information" defined in Case Management Order VIII. To the extent that additional information becomes available, Whittaker will supplement this response.

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:** The names, addresses and telephone numbers of all individuals known to Whittaker at this time have been provided to the United States Environmental Protection Agency in response to a request for information pursuant to sections 104(e)(1) and 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601 et seq. Consequently, such information falls within category “b” of the “Excepted Information” defined in Case Management Order VIII. To the extent that additional information becomes available, Whittaker will supplement this response.

**Response:**

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:** Because Whittaker never owned or operated the Bayonne Barrel and Drum Site, and is not the successor of any party that owned or operated the Bayonne Barrel and Drum Site, it has no knowledge responsive to this disclosure category at this time. To the extent that such information becomes available, Whittaker will supplement this response.

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:** Whittaker has no information responsive to this disclosure category.

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:**

<b>Documents by Category</b>	<b>Location</b>	<b>Applicable Exception<sup>1</sup></b>
Documents related to a file review at the United States Environmental Protection Agency and communication with United States Environmental Protection Agency sources	Whittaker Corporation 1955 N. Surveyor Avenue Simi Valley, CA 93063 and/or Blank Rome L.L.P. One Logan Square 130 North 18 <sup>th</sup> Street Philadelphia, PA 19103	Exception Codes b and g
Whittaker's responses to United States Environmental Protection Agency's information requests	Whittaker Corporation 1955 N. Surveyor Avenue Simi Valley, CA 93063 and/or Blank Rome L.L.P. One Logan Square 130 North 18 <sup>th</sup> Street Philadelphia, PA 19103	Exception Code b
Correspondence among Whittaker and its successor at facilities located at 40 Burnett Road, Chicopee,	Whittaker Corporation 1955 N. Surveyor Avenue Simi Valley, CA 93063 and/or	Exception Code g

<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;

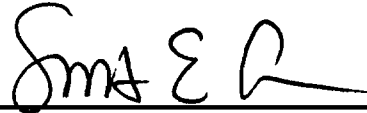
f. Information previously produced to Defendants; and

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

MA, and 1470 Jersey Avenue, North Brunswick, NJ	Blank Rome L.L.P. One Logan Square 130 North 18 <sup>th</sup> Street Philadelphia, PA 19103	
Correspondence and other documents exchanged among Bayonne Barrel and Drum Site PRP Group members and other entities, including but not limited to technical consultants, the United States Environmental Protection Agency, and the New Jersey Department of Environmental Protection	Whittaker Corporation 1955 N. Surveyor Avenue Simi Valley, CA 93063 and/or Blank Rome L.L.P. One Logan Square 130 North 18 <sup>th</sup> Street Philadelphia, PA 19103	Exception Codes b and g

Whittaker'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.

Respectfully submitted,




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Dated: January 7, 2010