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March 1, 2011

VIA OVERNIGHT MAIL

Charles M. Crout, Esq.
Andrews Kurth LLP
1350 I Street, NW
Suite 1100
Washington, DC 20005

Re: NJDEP, et al. v. Occidental Chem. Corp., et al. v. 3M Co., et al.
Docket No. ESX-L-9868-05
CD File No. A0343-00003

Dear Mr. Crout:

We represent Third-Party Defendant Apexical, Inc. ("Apexical") in the above-referenced litigation. Enclosed herewith please find Apexical's Supplemental Disclosure responses, as well as a CD-ROM containing documents related thereto. Pursuant to the Consent Order dated January 31, 2011, we also enclose a list of documents in Apexical's possession which are publicly available documents responsive to the Supplemental Disclosure requests but which are not being produced. Apexical will forward a privilege log to you as soon as practicable.

Very truly yours,

COUGHLIN DUFFY LLP



Conor T. Mulcahy

Enclosures

cc: All Liaison Counsel (via regular mail) (w/CD-ROM)
All Other Counsel of Record (via CT Summation) (w/out CD-ROM)

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 Apexical, Inc.

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF
ENVIRONMENTAL PROTECTION and	:	NEW JERSEY
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION FUND,	:	LAW DIVISION: ESSEX
	:	COUNTY
Plaintiffs	:	
v.	:	DOCKET NO. L-9868-05 (PASR)
	:	
OCCIDENTAL CHEMICAL	:	
CORPORATION, TIERRA SOLUTIONS,	:	CIVIL ACTION
INC., MAXUS ENERGY CORPORATION,	:	
REPSOL YPF, S.A., YPF, S.A., YPF	:	THIRD-PARTY
HOLDINGS, INC. and CLH HOLDINGS,	:	SUPPLEMENTAL DISCLOSURE
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 Apexical, Inc., (“Apexical”) hereby provides its Supplement to Initial Disclosure pursuant to Case Management Order (“CMO”) XII, prior CMOs incorporated therein by reference, and in accordance with terms of the January 31, 2011 Consent Order (“Consent Order”) applicable to certain of those Third-

Party Joint Defense Group members who have received written confirmation that CMO XII paragraph 21(a) production of site files is complete from Drinker Biddle & Reath LLP, Andrews Kurth LLP, and/or Hannafan & Hannafan, Ltd. firms (counsel for Third-Party Plaintiffs) together with any written agreement as to terms for timing, scope and manner of production reached under the Consent Order (collectively the “Amended Production Requirements”).

Reservations and Comments

1. Apexical 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, confidentiality, trade secret, State and Federal Homeland Security confidentiality and any other applicable protection. These disclosures are not intended to prejudice or waive any privileges or objections Apexical may have with respect to any outstanding or subsequent requests for discovery.

2. Apexical’s investigation in this matter is continuing. Accordingly, it reserves the right to supplement, clarify, and revise these disclosures any time prior to trial to the extent additional information becomes available or is obtained through discovery. Further, Apexical reserves the right to amend these disclosures to the extent the claims brought by or alleged against Apexical in this litigation are amended.

3. Apexical reserves its right to rely on any facts, documents or other evidence that may develop or come to Apexical’s attention during the course of this matter. Apexical’s responses are set forth herein without prejudice to its right to assert additional

objections of supplement is responses should Apexical discover additional grounds for doing so during the course of this matter.

4. “Documents”, excluding electronic e-mail and Electronically Stored Information, shall have the meaning set forth in this Court’s August 11, 2009 Order for Preservation of Documents and Data.

5. “Alleged Discharges” shall have the meaning set forth in the Court’s CMO VIII.

6. “Sites”, per CMO VIII, shall be defined as those site(s) or properties with which a Third-Party Defendant is associated in a Third-Party Complaint.

7. Document Production requirements set forth in CMO XII, paragraph 21 (as amended by the Amended Production Requirements) are read in concert with CMO VIII, paragraph 3 and CMO V, paragraph 8 incorporated by reference in CMO XII, paragraph (1). The Amended Production Requirements are also answered with reference to the Alleged Discharges as defined in CMO VIII and include documents under the Excepted Information Categories except to the extent that those documents are covered by logs attached hereto. To the extent requirements set forth in Amended Production Requirements are repetitive, burdensome and/or unfairly place a duty of inquiry on Third-Party Defendants as to Newark Bay Complex locations other than the Sites, disclosures herein are provided with reference to the Amended Production Requirements and CMO XII paragraph 21(c) unless otherwise noted. With respect to Amended Production Requirements as to CMO XII, paragraph 21(b), reference is made to information previously furnished by the JDG in connection with CMO V, paragraph 8.

8. Documents subject to claims of privilege, work product, confidentiality or trade secret will be detailed in a log to be furnished in accordance with the August 11, 2009 “Agreed Order Regarding Documents Withheld from Production” as appended to CMO VIII, which will be produced as soon as practicable as provided under the Amended Production Requirements.

Production as to Paragraph 21(b) Requests

Copies of all non-privileged Documents other than electronic email discovery, that relate to

(i.) the alleged discharge of any hazardous wastes, hazardous substances, pollutants or contaminants (“Hazardous Materials”) to the Newark Bay Complex;

Response – See Response to Paragraph 21(c)(1)(i), below.

(ii.) the potential pathways and methods by which the Hazardous Materials have been released to the Newark Bay Complex, as well as the quantity, nature and toxicity of such Hazardous Materials;

Response – See Responses to Paragraphs 21(c)(1)(i) – (iv), below.

(iii.) other actions relating to properties or operations that may have adversely impacted the environmental condition of the Newark Bay Complex

Response - See Paragraph 7, above. Subject to and without waiver of the objections set forth in that Paragraph, Apexical has no such documents.

(iv.) the costs and damages sought in connection with any alleged discharge of Hazardous Materials.

Response - See Paragraph 7, above. Subject to and without waiver of the objections set forth in that Paragraph, Apexical has no such documents. Apexical further notes that all cross-claims and counterclaims and Fourth-Party claims are stayed in the present action and, as such, it has made no such claim against parties in this action at this time.

Production as to Paragraph 21(c) Requests

1. A copy of all Documents relating to the following information for the site(s), properties and/or operations with which the Third-Party Defendant is associated in the Third-Party Complaints:

i. the release or discharge of Hazardous Materials from or at that Third Party Defendant's properties or operations.

Response – Apexical denies that there has been a release or discharge of Hazardous Materials from its Site. Non-privileged documents responsive to this request, to the extent available, are being produced on the enclosed disc, subject to exceptions provided under the Amended Production Requirements.

ii. the operations, manufacturing and/or production processes, any Hazardous Materials stored or utilized on the property, and any sampling that took place on the property and any sampling or testing of the materials, by products or waste products used in connection therewith;

Response - Apexical limits its response in accordance with paragraph 7 above and in accordance with the Amended Production Requirements. Non-privileged documents responsive to this request, to the extent available, are being produced on the enclosed disc, subject to exceptions provided under the Amended Production Requirements.

iii. sampling results from environmental, chemical, or biological testing conducted at that Third Party Defendant's properties; and

Response - Non-privileged documents responsive to this request, to the extent available, are being produced on the enclosed disc, subject to exceptions provided under the Amended Production Requirements.

iv. any communications involving that Third-Party Defendant and any branch, department, agency or instrumentality of municipal, State or federal government relating to any discharges or releases of Hazardous Materials or this litigation.

Response - Non-privileged documents responsive to this request, to the extent available, are being produced on the enclosed disc, subject to exceptions provided under the Amended Production Requirements.

2. Any Documents relating to any industrial waste containing Hazardous Materials that was transported to, processed or treated at, or discharged from any of the sites and/or properties with which a Third Party Defendant is associated in the Third Party Complaints.

Response – Apexical denies that any industrial waste containing Hazardous Materials was discharged from its Site. Non-privileged documents responsive to this request, to the extent available, are being produced on the enclosed disc, subject to exceptions provided under the Amended Production Requirements.

3. Any insurance or indemnity agreement under which another person or entity may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy said judgment.

Response – Apexical has no such documents in its possession.

Dated: February 28, 2011

Respectfully submitted,

COUGHLIN DUFFY LLP
Attorney for Third-Party Defendant,
Apexical, Inc.



ROBERT W. MUILENBURG
CONOR T. MULCAHY

**NJDEP v. OCCIDENTAL CHEM. CORP., et al. v. 3M CO., et al.
DOCKET NO. ESX-L-9868-05
APEXICAL, INC.'S LOG OF PUBLICLY AVAILABLE DOCUMENTS NOT PRODUCED**

DATE	TITLE	LENGTH	SUBJECT	AUTHOR	SENDER	RECIPIENT
January 2009	Remedial Action Report	6 pages of text; 2 drawings; 3 tables; appendices A-G	Remedial action taken at the Apexical Site	Kenneth L. Nieuwenhuis of Peak Environmental, Inc.	Kenneth L. Nieuwenhuis of Peak Environmental, Inc.	Ann Wolf of NJDEP
December 2006	Remedial Investigation Report	11 pages of text; 3 drawings; 2 tables; appendices A-G	Report on offsite remediation investigation	Kenneth L. Nieuwenhuis of Peak Environmental, Inc.	Kenneth L. Nieuwenhuis of Peak Environmental, Inc.	Alphonse Inserra of NJDEP
May 21, 1999	Site Investigation Report, Volumes I and II	11 pages of text; 3 figures; 11 tables; appendices A-C	Initial investigation of the Site	A.T. Cameron, P.G.	A.T. Cameron, P.G.	Alphonse Inserra of NJDEP