

BRESSLER, AMERY & ROSS

A PROFESSIONAL CORPORATION

P.O. Box 1980 ▪ Morristown, NJ 07962

Hand Delivery:

325 Columbia Turnpike ▪ Suite 301 ▪ Florham Park, NJ 07932

973.514.1200 ▪ fax 973.514.1660

www.bressler.com

Keith P. McManus
Associate

direct: 973-245-0680
kmcmanus@bressler.com

June 29, 2011

Via Federal Express

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

**Re: NJDEP, *et al.* v. Occidental Chemical Corporation, *et al.*
Supplemental Disclosure of Third-Party Defendant BASF Catalysts, LLC**

Dear Mr. Crout:

We are counsel to BASF Catalysts, LLC (“BASF Catalysts”) with respect to the referenced matter. In accordance with Case Management Order XII and the January 31, 2011 Consent Order executed by Third-Party Plaintiffs and BASF Catalysts, enclosed is BASF Catalysts’ Supplemental Disclosure, including a disc containing responsive, non-privileged documents Bates stamped BASFCAT0000001 to BASFCAT0001836.

If you have any questions, please do not hesitate to contact me.

Very truly yours,
BRESSLER, AMERY & ROSS, P.C.


Keith P. McManus

Encl.

c: Eric B. Rothenberg, Esq. (w/ enclosure)
Lee D. Henig-Elona, Esq. (w/ enclosure)
John M. Scagnelli, Esq. (w/ enclosure)
Peter J. King, Esq. (w/ enclosure)
Michael Gordon, Esq. (w/ enclosure)
Robert T. Lehman, Esq. (w/ enclosure)
Gregg H. Hilzer, Esq. (w/ enclosure)

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William L. Warren, Esq. (w/ enclosure)
Domenick Carmagnola, Esq. (w/ enclosure)
All counsel of record (via electronic posting)

BRESSLER, AMERY & ROSS, P.C.
A Professional Corporation
325 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 514-1200
Attorneys for Third-Party Defendant,
BASF Catalysts, LLC

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY
	:	JERSEY
	:	LAW DIVISION: ESSEX COUNTY
	:	
Plaintiffs,	:	DOCKET NO. L-9868-05 (PASR)
v.	:	
	:	
OCCIDENTAL CHEMICAL CORPORATION, TIERRA SOLUTIONS, INC., MAXUS ENERGY CORPORATION, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC. and CLH HOLDINGS, INC.,	:	CIVIL ACTION
	:	
Defendants.	:	SUPPLEMENTAL DISCLOSURE OF THIRD-PARTY DEFENDANT BASF CATALYSTS, LLC
	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

Third-Party Defendant BASF Catalysts, LLC (“BASF Catalysts”) hereby provides its Supplemental Disclosure pursuant to Case Management Order (“CMO”) XII and prior CMOs incorporated therein by reference and in accordance with the terms of

the January 31, 2011 Consent Order (“Consent Order”) applicable to certain of those Third-Party Defendants who have received written confirmation that CMO XII paragraph 21(a) production of site files is complete from 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”).

Preliminary Statement

Third-Party Plaintiffs have alleged in Third-Party Complaint B that BASF Catalysts is liable, as successor to Engelhard Corporation (“Engelhard”), for alleged discharges of hazardous substances from a former Engelhard facility that was located at 429 Delancy Street, Newark, New Jersey (the “Delancy Street Site”). Upon information and belief, Engelhard ceased operations at the Delancy Street Site in 1985. Third-Party Plaintiffs have also alleged in Third-Party Complaint B that BASF Catalysts, as successor to Engelhard, is liable for alleged discharges from the Bayonne Barrel and Drum facility that was located at 150 Raymond Boulevard, Newark, New Jersey (the “Bayonne Barrel and Drum Site”), based on allegations that Engelhard’s Delancy Street and East Newark facilities conducted transactions with Bayonne Barrel and Drum. On May 7, 2010, BASF Catalysts filed its Initial Disclosure and now provides this Supplemental Disclosure.

BASF Catalysts has undertaken a diligent investigation to locate any documents in its possession that are responsive to the document production requirements of CMO XII, paragraph 21 (as limited by the Reservations and Comments section below), other than those documents provided to BASF Catalysts by Third-Party Plaintiffs and the documents provided to EPA in the form of PRP Data Extraction Forms for the Delancy

Street Site and the Bayonne Barrel and Drum Site. BASF Catalysts' investigation has revealed documents that are responsive to the categories of documents set forth in CMO XII, paragraph 21 for the Delancy Street Site, as well as documents regarding transactions between Engelhard Bayonne Barrel and Drum. Specifically, the documents reviewed by BASF Catalysts indicate that Engelhard's Delancy Street facility apparently sent empty steel drums to the Bayonne Barrel and Drum Site, and that its East Newark facility allegedly sent drums to the Bayonne Barrel and Drum Site.

As BASF Catalysts did not own or operate the Bayonne Barrel and Drum Site, it is not required to respond to CMO XII, Paragraph 21(c)(1)(ii). However, BASF Catalysts incorporates by reference into its document production a March 28, 2011 letter from William H. Hyatt, Jr., Esq. to Charles M. Crout, Esq., which provided a disc with responsive, non-privileged documents related to the Bayonne Barrel and Drum Site that were in the possession of common counsel for the Bayonne Barrel and Drum Site PRP Group, of which BASF Catalysts is a member, bearing Bates labels BBD00000001 to BBD00046379. In addition, common counsel provided with that letter an index of fifty-seven boxes of documents related to the Bayonne Barrel and Drum Site, which have been made available for inspection.

The documents enclosed herein are provided by BASF Catalysts with full reservation of rights, without any admission of liability, and subject to the objections and reservations set forth herein.

Reservations and Comments

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

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

3. BASF Catalysts reserves its right to rely on any facts, documents or other evidence that may develop or come to its attention during the course of this matter. BASF Catalysts' responses are set forth herein without prejudice to its right to assert additional objections or supplement its responses should BASF Catalysts 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 the Court's August 11, 2009 Order for Preservation of Documents and Data.

5. "Alleged Discharges" shall have the meaning set forth in 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, which are incorporated by reference into CMO XII. CMO VIII, *inter alia*, called for a listing of those documents to be produced by Third-Party Defendants with certain excepted categories, the "Excepted Information Categories." 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 those documents are covered by logs attached hereto. To the extent requirements set forth in the Amended Production Requirements are repetitive, burdensome and/or unfairly place a duty of inquiry on Third-Party Defendants as to the 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" and/or "Confidential Information Order" as appended to CMO VIII as soon as practicable as provided under the Amended Production Requirements.

Production as to Paragraph 21(b)

The Delancy Street Site

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 Reservations and Comments section above. 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 Reservations and Comments section above. See Response 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 Reservations and Comments section above.

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

Response - See Reservations and Comments section above. BASF Catalysts further notes that all cross-claims and counterclaims asserting statutory or common law contribution or indemnification 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.

The Bayonne Barrel and Drum Site

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 Reservations and Comments section above. 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 Reservations and Comments section above. See Response 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 Reservations and Comments section above.

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

Response - See Reservations and Comments section above. BASF Catalysts further notes that all cross-claims and counterclaims asserting statutory or common law contribution or indemnification 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)

The Delancy Street Site

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that a discharge of Hazardous Materials occurred from or at the Delancy Street Site, or related to any operations conducted thereon, for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to these objections, documents responsive to this request, to the extent available, are on the enclosed disc.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that any Hazardous Materials were stored or utilized at the Delancy Street Site for which BASF Catalysts has any liability, responsibility, and/or obligation. BASF Catalysts limits its response in accordance with the Reservations and Comments and Preliminary Statement sections above and in accordance with the Amended Production Requirements. Subject to these objections, documents responsive to this request, to the extent available, are on the enclosed disc.

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

Response – BASF Catalysts limits its response to those documents related to the Alleged Discharges in accordance with the Reservations and Comments section above. Documents responsive to this request, to the extent available, are on the enclosed disc.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that a discharge of Hazardous Materials occurred from or at the Delancy Street Site, or related to any operations conducted thereon, for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to these objections, documents responsive to this request, as they relate to communications involving Engelhard and to the extent available, are on the enclosed disc.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that any industrial waste containing Hazardous Materials was transported to, processed or treated at, or discharged from the Delancy Street Site for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to these objections, documents responsive to this request, to the extent available, are on the enclosed disc.

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 – Please see the index of Engelhard's insurance coverage during the relevant time period enclosed herewith as BASFCAT0001830 – BASFCAT0001836. All or some of these policies may respond to the alleged liability of BASF Catalysts with respect to the Delancy Street Site.

The Bayonne Barrel and Drum Site

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that a discharge of Hazardous Materials occurred from or at the Bayonne Barrel and Drum Site, or related to any operations conducted thereon, for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to these objections, documents responsive to this request, to the extent available, are on the disc provided to counsel for Third-Party Plaintiffs by common counsel for the Bayonne Barrel and Drum Site PRP Group on March 28, 2011. Additional documents responsive to this request may be included in the fifty-seven boxes of documents that have been made available for inspection by common counsel for the Bayonne Barrel and Drum Site PRP Group.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that any Hazardous Materials were stored or utilized at the Bayonne Barrel and Drum Site for which BASF Catalysts has any liability, responsibility, and/or obligation. BASF Catalysts limits its response in accordance with the Reservations and Comments and Preliminary Statement sections above and in accordance with the Amended Production Requirements. Subject to these objections and limitations, documents responsive to this request, to the extent available, are on the disc provided to counsel for Third-Party Plaintiffs by common counsel for the Bayonne Barrel and Drum Site PRP Group on March 28, 2011. Additional documents responsive to this request may be included in the fifty-seven boxes of documents that have been made available for inspection by common counsel for the Bayonne Barrel and Drum Site PRP Group.

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

Response – BASF Catalysts limits its response to those documents related to the Alleged Discharges in accordance with the Reservations and Comments section above. Subject to these objections and limitations, documents responsive to this request, to the extent available, are on the disc provided to counsel for Third-Party Plaintiffs by common counsel for the Bayonne Barrel and Drum Site PRP Group on March 28, 2011. Additional documents responsive to this request may be included in the fifty-seven boxes of documents that have been made available for inspection by common counsel for the Bayonne Barrel and Drum Site PRP Group.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that a discharge of Hazardous Materials occurred from or at the Bayonne

Barrel and Drum Site, or related to any operations conducted thereon, for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to these objections, documents responsive to this request, as they relate to communications involving Engelhard and to the extent available, are on the enclosed disc.

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 – BASF Catalysts objects to this request to the extent that it assumes or concludes that any industrial waste containing Hazardous Materials was transported to, processed or treated at, or discharged from the Bayonne Barrel and Drum Site for which BASF Catalysts has any liability, responsibility, and/or obligation. Subject to the Reservations and Comments and Preliminary Statement sections above, documents responsive to this request, to the extent available, are on the enclosed disc and on the disc provided to counsel for Third-Party Plaintiffs by common counsel for the Bayonne Barrel and Drum Site PRP Group on March 28, 2011. Additional documents responsive to this request may be included in the fifty-seven boxes of documents that have been made available for inspection by common counsel for the Bayonne Barrel and Drum Site PRP Group.

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 – Please see the index of Engelhard’s insurance coverage during the relevant time period enclosed herewith as BASFCAT0001830 – BASFCAT0001836. All or some of these policies may respond to the alleged liability of BASF Catalysts with respect to the Bayonne Barrel and Drum Site.

Dated: June 29, 2011

Respectfully submitted,

Bressler, Amery & Ross, P.C.
Attorneys for Third-Party Defendant,
BASF Catalysts, LLC



Keith P. McManus, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant BASF Catalysts, LLC's Supplemental Disclosure, along with a disc containing documents produced by BASF Catalysts, LLC pursuant to Case Management Order XII (Bates stamped BASFCAT0000001 to BASFCAT0001836), was served on counsel for Third-Party Plaintiffs Tierra Solutions, Inc. and Maxus Energy Corporation via Federal Express on June 29, 2011 at the following address:

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

The undersigned hereby certifies that a true and correct copy of the documents set forth above was served on the following counsel via regular mail on June 29, 2011 at the following addresses:

Eric B. Rothenberg, Esq.
O'Melveny & Myers, LLP
Times Square Tower
7 Times Square
New York, New York 10036

Lee D. Henig-Elona, Esq.
Wolff & Samson
One Boland Drive
West Orange, New Jersey 07052

John M. Scagnelli, Esq.
Scarinci & Hollenbeck
1100 Valley Brook Avenue
P.O. Box 790
Lyndhurst, New Jersey 07071-0790

Peter J. King, Esq.
King & Petracca
51 Gibraltar Drive, Suite 1D

Morris Plains, New Jersey 07950-1254

Michael Gordon, Esq.
Gordon & Gordon, P.C.
505 Morris Avenue
Springfield, New Jersey 07081


Robert T. Lehman, Esq.
Archer & Greiner
One Centennial Square
33 Euclid Avenue
Haddonfield, New Jersey 08033

Gregg H. Hilzer, Esq.
Greenbaum, Rowe, Smith & Davis
75 Livingston Avenue, Suite 301
Roseland, New Jersey 07068-3701

William L. Warren, Esq.
Drinker Biddle & Reath LLP
105 College Road East
P.O. Box 627
Princeton, New Jersey 08542-0627

Domenick Carmagnola, Esq.
Carmagnola & Ritardi, LLC
60 Washington Street
Morristown, New Jersey 07960

The undersigned hereby certifies that a true and correct copy of Third-Party Defendant BASF Catalysts, LLC's Supplemental Disclosure (without disc) was served on all other counsel of record on June 29, 2011 via electronic posting.



Keith P. McManus, Esq.

Dated: June 29, 2011

BRESSLER, AMERY & ROSS

A PROFESSIONAL CORPORATION

**NJDEP, et al. v. Occidental Chemical Corporation, et al.
Docket No. ESX-9868-05 (PASR)**

**Documents produced by BASF Catalysts, LLC
pursuant to CMO XII**

BASFCAT 0000001 to BASFCAT 0001836

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