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March 30, 2011

VIA OVERNIGHT MAIL

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

**Re: *NJ DEP v. Occidental Chemical Corp., et als L-9868-05 (PASR)
Supplemental Third-Party Disclosure by Bayer Corporation pursuant
To Case Management Order XII and the Order on Consent dated
January 31, 2011***

Dear Mr. Crout:

Enclosed herewith is Third-Party Defendant Bayer Corporation's Supplemental Third-Party Disclosure in connection with the above referenced matter pursuant to Case Management Order XII and the Order on Consent dated January 31, 2011.

This Production consists of the following:

- A) Third-Party Defendant Bayer Corporation's Document Production and Supplemental Disclosure dated March 30, 2011
- B) A CD containing Bayer's document production bates stamped BAY00000001 – BAY000020184
- C) A CD containing the following documents:

COUGHLIN DUFFY LLP

Charles M. Crout, Esq.
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- i. Certification of Timothy I. Duffy, Esq.
 - ii. Bayer Products Produced at Bayonne I or Bayonne II (Bates Stamped CD000001-CD000033)
 - iii. Bayer Raw Materials Used or Present at Bayonne I or II (Bates Stamped CD000034-CD000039)
- D) Certification of Service

Thank you for your kind attention to this matter.

Very truly yours, ,

COUGHLIN DUFFY LLP

Timothy I. Duffy

TID/bmw
Enclosures

- cc: Honorable Marina Corodemus, Esq. (via posting on CT Summation, w/out CD)
Eric B. Rothenberg, Esq., (via overnight courier, w/CD)
Lee D. Henig-Elona, Esq. (via overnight courier, w/CD)
John M. Scagnelli, Esq. (via overnight courier, w/CD)
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William L. Warren, Esq. (via overnight courier, w/CD)
Domenick Carmagnola, Esq. (via overnight courier, w/CD)
James A. McGuinness, Esq. (via overnight courier, w/CD)
All Counsel of Record (via posting on CT Summation, w/out CD)

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Attorneys for Third-Party Defendant, Bayer Corporation

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

Third-Party Defendant BAYER CORPORATION (hereinafter "Bayer") hereby provides its Document Production and Supplement to Initial Disclosure pursuant to Case Management Order ("CMO") XII and prior CMO's incorporated therein by reference and

in accordance with terms of the January 31, 2011 Consent Order (“Consent Order”).

Reservations and Comments

1. Bayer 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 but not limited to 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 Bayer may have with respect to any outstanding or subsequent requests for discovery.

2. Bayer’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, Bayer reserves the right to amend these disclosures to the extent the claims brought by or alleged against Bayer in this litigation are amended or new claims are asserted.

3. Bayer reserves its right to rely on any facts, documents or other evidence that may develop or come to Bayer’s attention during the course of this matter. Bayer’s responses are set forth herein without prejudice to its right to assert additional objections or supplement its responses should Bayer 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 Consent Order (“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). CMO VIII, *inter alia*, called for a listing of those documents to be produced by Third-Party Defendants with certain excepted categories, referred to as the “Excepted Information Categories.” The Amended Production Requirements are also responded to with reference to the Alleged Discharges as defined in CMO VIII and include certain documents under the Excepted Information Categories except to the extent those documents are covered by logs to be furnished as soon as practicable in accordance with the Amended Production Requirements. 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 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. Bayer is producing documents relating only to the two Bayonne Plants identified

in the Third Party Complaint. 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 and/or work product will be detailed in a log which will be furnished, in accordance with the August 11, 2009 “Agreed Order Regarding Documents Withheld from Production” as appended to CMO VIII, as soon as practicable as provided under the Amended Production Requirements. Inadvertent production of any such documents shall constitute neither a waiver of any privilege or protection nor a waiver of any right Bayer may have to demand the return or destruction of such document and/or to object to the use of any such document or the information contained therein in this litigation or any subsequent litigation or proceeding.

9. Bayer’s Document Production enclosed herewith contains a number of large oversized maps. For purposes of this production, the “Legend” or “Key” to each map has been produced. Originals of any of these maps are available for review at the offices of Coughlin Duffy LLP at a mutually convenient date and time.

10. Bayer’s Document Production enclosed herewith contains a number of photographs. Originals of any of these photographs are available for review at the offices of Coughlin Duffy LLP at a mutually convenient date and time.

11. While Bayer maintains that its manufacturing, operational and production materials which still exist are trade secret and proprietary information, in an effort to provide Third Party Plaintiffs with the relevant information requested, enclosed herewith and Bates Stamped separately are the following documents:

a. CD000001 – CD000033 A listing of products manufactured by Bayer or any of its predecessors at either of the two locations at issue to the extent same is disclosed in Bayer's documents.

b. CD000034-CD000039 A listing of raw materials used in the manufacturing of the products identified above used by Bayer or any of its predecessors at either of the two locations at issue to the extent same is disclosed in Bayer's documents.

12. These General Objections, Reservations, Comments and Limitations apply to and are incorporated in each of Bayer's responses as if specifically set forth in each response below. The stating of a specific response, objection, comment or limitation, or the absence of same, shall not constitute a waiver of any of these General Objections, Reservations, Comments or Limitations.

Production as to Paragraph 21(b) Requests.

Bayer hereby incorporates each of its Responses and Reservations set forth above and responds as follows:

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 Paragraph 7 above. See also Response to Paragraph 21 (c)(1)(i), below. Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

(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 Paragraph 7, above. See Response to Paragraphs 21(c) 1, i. - iv., below. Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

(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. Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

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

Response - See Paragraph 7, above. Third-Party Defendant 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. Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

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 - Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

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 - Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

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

Response - Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Amended Production Requirements and subject to and without waiving its Responses and Reservations above.

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 - Documents responsive to this request will be produced pursuant to the requirements of CMO XII, Paragraph 21(c) as to the Alleged Discharges. Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Production Requirements and subject to and without waiving its Responses and Reservations above and subject to the Excepted Information Categories contained in CMO VIII.

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.

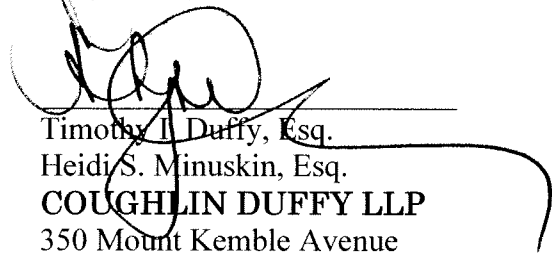
Response - Bayer is producing responsive documents, if any, on the enclosed disc in accordance with the Production Requirements and subject to and without waiving its Responses and Reservations above.

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 – Bayer is continuing its investigation into this request. Should any documents be discovered, it will supplement this response accordingly.

Dated: March 30, 2011

Respectfully submitted,



Timothy I. Duffy, Esq.

Heidi S. Minuskin, Esq.

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Attorneys for Third-Party Defendant, Bayer Corporation



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ATTORNEYS AT LAW

Bates Documents
CD000001-CD000039

Docket No.
L-9868-05

Third Party Defendant Bayer Corporation's
Supplemental Disclosures and Document Production
NJDEP, et al. v. Occidental Chemical Corp., et al.

SO 3211988
BM# 113577-001
03/29/11

Docket No.
L-9868-05
(PASR)

Coughlin Duffy LLP
Third Party Defendant Bayer Corporation's
Supplemental Disclosures and
Document Production
NJDEP, et al. v. Occidental
Chemical Corp., et al.
1 of 1

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Attorneys for Third-Party Defendant, Bayer Corporation

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION and
THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION FUND,

Plaintiffs,

v.

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.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**CERTIFICATION OF SERVICE OF
THIRD-PARTY DEFENDANT
BAYER CORPORATION'S
SUPPLEMENTAL THIRD PARTY
DISCLOSURE PURSUANT TO
CASE MANAGEMENT ORDER XII
AND THE ORDER ON CONSENT
DATED JANUARY 30, 2011**

I, Stephen V. Ciurczak, Esq., hereby certify that Third-Party Defendant Bayer Corporation's Supplemental Third-Party Disclosure pursuant to Case Management Order XII and the Order on Consent dated January 31, 2011, and all documents and discs enclosed therewith, was served on the following liaison counsel for the third-party defendants and counsel of record for the original parties, on March 30, 2011, via overnight courier:

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Date: March 30, 2011



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Bayer Corporation*