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Attorney for Third-Party Public Entity Defendant,
Borough of Carteret

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION 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, INC.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO.: ESX-L-9868-05 (PASR)

CIVIL ACTION

**FIRST SUPPLEMENTAL
DISCLOSURE RESPONSE OF
THIRD PARTY DEFENDANT
BOROUGH OF CARTERET**

In accordance with Case Management Order XII, Paragraph 21, the BOROUGH OF CARTERET hereby supplements its Disclosures.

21.c.(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,

The allegations in this matter against the answering municipality, the Borough of Carteret, relate to the alleged discharge of sewage waste and wastewater. As sewage waste is specifically exempted from the definition of "hazardous substance" under the New Jersey Spill Act, N.J.S.A.58:10-23.11b, the Borough of Carteret has no responsive documents. With respect to wastewater the Borough of Carteret maintains that any such discharges were permitted or otherwise in compliance with applicable laws and regulations; alternatively, the Borough of Carteret maintains that it is neither responsible, nor liable for any Hazardous Materials which may have been released or discharged, which allegation is also specifically denied. Furthermore the Borough of Carteret has no additional information beyond any "excepted material" identified by Case Management Order VIII, Paragraph 4.

- ii. the operations, manufacturing and/or production processes, and 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;

Although its investigation is ongoing, the Borough of Carteret has no additional information beyond any “excepted material” identified by Case Management Order VIII, Paragraph 4.

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

Although its investigation is ongoing, the Borough of Carteret has no additional information beyond any “excepted material” identified by Case Management Order VIII, Paragraph 4.

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

The allegations in this matter against the answering municipality, the Borough of Carteret, relate to the alleged discharge of sewage waste and wastewater. As sewage waste is specifically exempted from the definition of “hazardous substance” under the New Jersey Spill Act, N.J.S.A.58:10-23.11b, the Borough of Carteret has no responsive documents. With respect to wastewater the Borough of Carteret maintains that any such discharges were permitted or otherwise in compliance with applicable laws and regulations; alternatively, the Borough of Carteret maintains that it is neither responsible, nor liable for any Hazardous Materials which may have been released or discharged, which allegation is also specifically denied. Furthermore the Borough of Carteret has no additional information beyond any “excepted material” identified by Case Management Order VIII, Paragraph 4.


21.c.(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 the Third Party Defendant is associated in the Third Party Complaints.

Although its investigation is ongoing, the Borough of Carteret has no additional information beyond any “excepted material” identified by Case Management Order VIII, Paragraph 4.

21.c.(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.

The Borough of Carteret is continuing to endeavor to locate and confirm insurance coverage. Copies of any insurance policies which may be responsive will be produced once they are confirmed.

Date: March 25, 2011



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