

David P. Steinberger
MEMBER
ADMITTED IN NJ, CT, MD AND DC

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NEW YORK

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DELAWARE

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MARYLAND

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TEXAS

August 11, 2011

Via Federal Express

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

Re: **NJDEP, et al. v. Occidental Chemical Corp, et al.**
Docket No. L-9868-05 (PASR)

Dear Mr. Warren:

This firm represents Third-Party Defendant DiLorenzo Properties Company ("DiLorenzo") in the above-referenced action. Pursuant to Case Management Order XII and the January 31, 2011 Consent Order executed on behalf of DiLorenzo and other Third-Party Defendants, enclosed please find DiLorenzo's supplemental disclosure and a CD containing DiLorenzo's document production. The enclosed disc contains documents identified as DPC000001 through DPC010715.

Please contact me with any questions.

Very truly yours,



David P. Steinberger

Enclosure

cc: All counsel on the attached service list (w/enclosure via first class mail)
All counsel of record (w/o enclosure via CT Summation)
Michael P. Ertle, Drinker Biddle (w/o enclosure via e-mail)

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DiLorenzo Properties Company, L.P.

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, :

v. :

OCCIDENTAL CHEMICAL :
CORPORATION, TIERRA SOLUTIONS, :
INC., MAXUS ENERGY CORPORATION, :
REPSOL YPF, S.A., YPF, S.A., YPF :
HOLDINGS, INC. and CLH HOLDINGS, :

Defendants, :

v. :

MAXUS ENERGY CORPORATION and :
TIERRA SOLUTIONS, INC., :

Third-Party Plaintiffs, :

v. :

3M COMPANY, et als. :

Third-Party :
Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
DOCKET NO. L-009868-05

Civil Action

**SUPPLEMENTAL THIRD-PARTY
DISCLOSURE BY THIRD-PARTY
DEFENDANT, DILORENZO
PROPERTIES COMPANY, L.P.**

Third-Party Defendant DiLorenzo Properties Company, L.P. (“Respondent”) hereby provides its 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”).

I. **Reservations and Comments**

- A. Respondent 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 Respondent may have with respect to any outstanding or subsequent requests for discovery.
- B. Respondent’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, Respondent reserves the right to amend these disclosures to the extent the claims brought by or alleged against Respondent in this litigation are amended.
- C. Respondent reserves its right to rely on any facts, documents or other evidence that may develop or come to Respondent’s attention during the course of this matter. Respondent’s responses are set forth herein without prejudice to its right to assert additional objections or supplement its responses should Respondent discover additional grounds for doing so during the course of this matter.
- D. The term “Documents,” which excludes 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.
- E. “Alleged Discharges” shall have the meaning set forth in the Court’s CMO VIII.
- F. As used herein, “Sites” shall, per CMO VIII, be defined as the sit/property with which Respondent is associated in a Third-Party Complaint, namely, the American Modern Metals Site.
- G. Document Production requirements set forth in CMO XII, paragraph 21, as amended by the Consent Order (“Amended Production Requirements”) are read together 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, the “Excepted Information Categories.” The Amended Production Requirements are also answered with reference to the Alleged Discharges as defined in CMO VIII and included documents under the Excepted Information Categories except to the extent of 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 Respondent 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 Joint Defense Group of Third-Party Defendants in connection with CMO V, paragraph 8.

- H. 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, as soon as practicable as provided under the Amended Production Requirements.

II. Production Requirements under CMO XII

- A. Copies of all non-privileged Documents that relate to the alleged discharge of any hazardous wastes, hazardous substances, pollutants or contaminants (“Hazardous Materials”) to the Newark Bay Complex. [See CMO XII, ¶21.b(i)]
 - 1. **Response.** See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- B. Copies of all non-privileged Documents that relate to 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. [See CMO XII, ¶21.b(ii)]
 - 1. **Response -** See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.

- C. Copies of all non-privileged Documents that relate to other actions relating to properties or operations that may have adversely impacted the environmental condition of the Newark Bay Complex. [See CMO XII, ¶21.b(iii)]
1. **Response** - See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- D. Copies of all non-privileged Documents that relate to the costs and damages costs and damages sought in connection with any alleged discharge of Hazardous Materials. [See CMO XII, ¶21.b(iv)]
1. **Response** - See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc. Respondent 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 any other parties at this time.
- E. Copies of all Documents relating to the following information for the site(s), properties and/or operations with which Respondent is associated in the Third-Party Complaints: the release or discharge of Hazardous Materials from or at that Respondent's properties or operations. [See CMO XII, ¶21.c(1)(i)]
1. **Response** - See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- F. Copies of all Documents relating to the following information for the site(s), properties and/or operations with which Respondent is associated in the Third-Party Complaints: 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. [See CMO XII, ¶21.c(1)(ii)]
1. **Response** - See Paragraph I.7, above. Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site.

Documents responsive to this request, to the extent available, are on the enclosed disc.

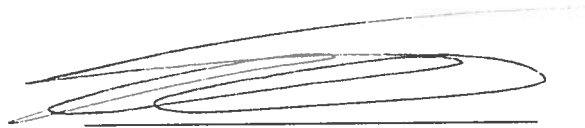
- G. Copies of all Documents relating to the following information for the site(s), properties and/or operations with which Respondent is associated in the Third-Party Complaints: sampling results from environmental, chemical, or biological testing conducted at that Third Party Defendant's properties. [See CMO XII, ¶21.c(1)(iii)]
1. **Response - See Paragraph I.7, above.** Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- H. Copies of all Documents relating to the following information for the site(s), properties and/or operations with which Respondent is associated in the Third-Party Complaints: 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. [See CMO XII, ¶21.c(1)(iv)]
1. **Response - See Paragraph I.7, above.** Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- I. 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. [See CMO XII, ¶21.c(2)]
1. **Response - See Paragraph I.7, above.** Respondent limits its response and its obligation to produce documents to documents in its possession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.
- J. 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. [See CMO XII, ¶21.c(3)]
1. **Response - See Paragraph I.7, above.** Respondent limits its response and its obligation to produce documents to documents in

its procession and control for the American Modern Metals Site. Documents responsive to this request, to the extent available, are on the enclosed disc.

Dated: August 11, 2011

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.

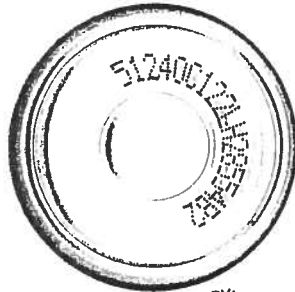
Counsel to DiLorenzo Properties
Company, L.P

A handwritten signature in black ink, consisting of several overlapping, fluid loops and strokes, positioned above a horizontal line.

By: David P. Steinberger, Esq.

DiLorenzo Properties Company
Production of Documents
DEP v. Tierra/Maxus v. 3M, et al.
Docket No. L-9868-05 (PASR)

48104-0002
8/9/2011



DPC000001 to
DPC010715

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