

WEINER LESNIAK LLP
629 Parsippany Road
P. O. Box 438
Parsippany, NJ 07054-0438
(973) 403-1100 (973) 403-0010 (fax)
Attorneys for Third-Party Public Entity Defendant,
Linden Roselle Sewerage Authority
20195 Second Supp Disclosre Response 21.c 04-22-11 RLR.doc

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, et al.,

Plaintiffs,

vs.

OCCIDENTAL CHEMICAL
CORPORATION, et al.

Defendants,

vs.

MAXUS ENERGY CORPORATION, et al.

Third-Party Plaintiffs,

vs.

BAYONE MUNICIPAL UTILITIES
AUTHORITY, et al.,

Third-Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Docket No. ESX-L-9868-05 (PASR)

CIVIL ACTION

**SECOND SUPPLEMENTAL
DISCLOSURE RESPONSE OF
LINDEN ROSELLE SEWERAGE
AUTHORITY**

(CMO XII, Paragraph 21.c)

In accordance with the Case Management Order XII, Paragraph 21.c, the Linden Roselle Sewerage Authority (“LRSA”) 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 the Third-Party Defendant's properties or operations.

The allegations in this matter against the LRSA relate to the alleged discharge of sewerage waste which was treated and/or handled by the LRSA in accordance with the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq., and which is specifically exempted from the definition of "Hazardous Substances" under the New Jersey Spill Act, N.J.S.A. 58:10-23.11B. Thus, the LRSA has no responsive documents. Furthermore, the LRSA has no additional information beyond any "excepted material" identified by the Case Management Order XVIII, Paragraph 4. Notwithstanding this response, and without waiving this position, Third-Party Plaintiffs are referred to the Agreements between the LRSA and its member municipalities.

(ii) the operations, manufacturing and/or production process, 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;

The allegations in this matter against the LRSA relate to the alleged discharge of sewerage waste which was treated and/or handled by the LRSA. There are no operations, manufacturing or production processes, nor was Hazardous Material stored or utilized, nor was there any sampling that took place of the sewerage waste by the Authority other than what was referenced in the "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

The allegations in this matter against the LRSA relate to the alleged discharge of sewerage waste which was treated or handled by the LRSA as sewerage waste, which is specifically exempted by the definition of “Hazardous Substances” under the New Jersey Spill Act, N.J.S.A. 58:10-23.11b. The LRSA has no responsive documents other than that was referenced in the “excepted material,” identified by Case Management Order VIII, Paragraph 4.

(iv) any communications involving the 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.

Although this investigation is ongoing, the LRSA has no additional information beyond any “excepted material” identified by Case Management Order VIII, Paragraph 4. Any communications relating to this litigation are subject to attorney-client, work product, and deliberative process privileges.

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 a Third Party Defendant is associated in the Third Party Complaints.

With respect to wastewater, the LRSA maintains that any such discharges were permitted or otherwise in compliance with laws, regulations and permits; alternatively, the LRSA 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. To the extent that LRSA has documentation relating to this category, they would be considered “excepted material” pursuant to 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 LRSA is continuing to endeavor to locate and confirm insurance coverage. Copies of insurance policies which may be responsible will produce if and when they are ascertained. By way of interim response, please see "General Liability Insurance History" annexed hereto as **Exhibit A.**

WEINER LESNIAK LLP
Attorneys for Third-Party Defendant,
Linden Roselle Sewerage Authority

By: 

Richard L. Rudin
A Member of the Firm

Dated: April 25, 2011

20195 First Supp Disclosure Response 4-25-11 rlr

Exhibit A

LINDEN ROSELLE SEWERAGE AUTHORITY

GENERAL LIABILITY INSURANCE HISTORY				
#	YEAR	INSURANCE COMPANY	POLICY NUMBER	BROKER
01.	1975	No Luck	No Luck	No Luck
02.	1976	"	"	"
03.	1977	"	"	"
04.	1978	"	"	"
05.	1979	"	"	"
06.	1980	"	"	"
07.	1981	"	"	"
08.	1982	"	"	"
09.	1983	Hartford Insurance Company	016 CBP MDO260	Arthur J. Gallagher
10.	1984	"	"	"
11.	1985	"	"	"
12.	1986	"	"	"
13.	1987	"	"	"
14.	1988	"	"	"
15.	1989	Natl. Union Fire Ins. Co. Pittsburgh	540 51 77 RA	Alexander & Alexander
16.	1990	Zurich Financial Services	6482647 00	Willis
17.	1991	"	6482647 01	"
18.	1992	"	6482647 02	"
19.	1993	"	6482647 03	"
20.	1994	"	6482647 04	"
21.	1995	"	6482647 05	"