



ARCHER & GREINER, P.C.
ATTORNEYS AT LAW

DAVID F. EDELSTEIN
Also Member of Pennsylvania Bar

ONE CENTENNIAL SQUARE
HADDONFIELD, NJ 08033-0968
856-795-2121
FAX 856-795-0574

Email Address:
dedelstein@archerlaw.com

Direct Dial:
(856) 354-3125

Direct Fax:
(856) 673-7125

www.archerlaw.com

August 5, 2011

Charles Crout, Esquire
Andrews Kurth, LLP
1350 I Street, NW
Washington, D.C. 20005

RE: NJDEP v. NL Industries, Inc., et al.
Docket No.: L-9868-05 (PASR)
Our File No.: NLI-001-896

Dear Mr. Crout:

Enclosed please find the Supplemental Third-Party Disclosure of NL Industries, Inc., along with a CD of documents being produced herewith.

Very truly yours,

ARCHER & GREINER
A Professional Corporation

By: 

David F. Edelstein

DFE/mlb
Enclosure

cc: Eric Rothenberg, Esquire (w/enclosure)

7002263v1

PRINCETON OFFICE
700 Alexander Park
Suite 102
Princeton, NJ 08540
P 609-580-3700
F 609-580-0051

FLEMINGTON OFFICE
Plaza One
1 State Route 12, Suite 201
Flemington, NJ 08822-1722
P 908-788-9700
F 908-788-7854

PHILADELPHIA OFFICE
One Liberty Place - 32nd Floor
1650 Market Street
Philadelphia, PA 19103-7393
P 215-963-3300
F 215-963-9999

WILMINGTON OFFICE
300 Delaware Avenue
Suite 1370
Wilmington, DE 19801
P 302-777-4350
F 302-777-4352

GEORGETOWN OFFICE
9 East Market Street
P.O. Box 977
Georgetown, DE 19947
P-302-858-5151
F-302-858-5161

NEW YORK OFFICE
2 Penn Plaza
Suite 1500
New York, NY 10121
P 212-292-4988
F 212-629-4568

HACKENSACK OFFICE
21 Main Street, Suite 353
Court Plaza South, West Wing
Hackensack, NJ 07601-7095
P 201-342-6000
F 201-342-6611

Christopher R. Gibson, Esq.
 David F. Edelstein, Esq.
ARCHER & GREINER, P.C.
 One Centennial Square
 Haddonfield, NJ 08033
 856 795-2121 (Telephone)
 856-795-0574 (fax)
 Attorney for Third-Party Defendant,
 NL INDUSTRIES, INC.

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
 :
 : **SUPPLEMENTAL THIRD-**
 : **PARTY DISCLOSURE OF NL**
 : **INDUSTRIES, INC.**

Third-Party Defendant NL Industries, Inc., (“NL” or “Respondent”) hereby supplements its Initial Disclosure pursuant to Case Management Order (“CMO”) XII and prior CMO’s incorporated therein by reference. NL’s supplemental disclosures are provided in accordance with the terms of the January 31, 2011 Consent Order (“Consent Order”).

Reservations and Objections

1. Each answer is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any document or statement herein if the document request were asked of, or if any documents or statements contained herein were made by, a witness present and testifying in Court, all of which objections and grounds are reserved and may be interposed at the time of trial.

2. Discovery is ongoing. NL has not completed its investigation of the facts relating to this case and has not completed its preparation for trial. The following responses are based upon information presently available to NL and are made without prejudice to NL’s right to supplement its responses and utilize subsequently discovered facts.

3. The fact that NL has answered any document request should not be taken as an admission that NL accepts or admits that such response constitutes admissible evidence. The fact that NL has answered part or all of any document request is not intended and shall not be construed to be a waiver by NL of all or any part of any objection to any document request made by NL.

4. The information supplied in these responses is not based solely upon the knowledge of NL but includes the knowledge of others, unless privileged. The word usage and sentence structure is that of the attorneys who in fact prepared these responses and does not purport to be the exact language of NL.

5. Responses provided herein have been prepared pursuant to a reasonable investigation under the circumstances with respect to the information requested. Accordingly, these responses reflect the information obtained before this date by NL pursuant to a reasonable investigation conducted prior to this response in the areas where the information is expected to be found.

6. NL objects to each document request to the extent that it calls for information and documents protected by any privilege, including but not limited to the attorney-client privilege, the attorney work product doctrine, any privilege relating to settlement negotiations, or any privacy rights, and NL and its counsel hereby assert such privileges. NL further objects to each document request to the extent it seeks information and documents containing proprietary or confidential business information or to the extent that disclosure of the information or documents sought would be an invasion of a third party's privacy rights. Any inadvertent disclosure or production of information protected by any of the privileges or doctrines listed in this paragraph shall not be deemed a waiver of the protections those privileges or doctrines afford. Documents subject to claims of privilege, work product, confidentiality or trade secret will be detailed in a log to be furnished to the extent required under the August 11, 2009 "Agreed Order Regarding Documents Withheld from Production" or the Consent Order.

7. NL objects to each document request to the extent that it calls for information and documents that have been produced to NL by others and NL is hereby not authenticating any such documents. NL will not be producing duplicates of these documents that are already in the possession of Plaintiffs or Third Party Plaintiffs.

8. NL objects to each document request to the extent it is unduly burdensome, vague, ambiguous, or not calculated to lead to the discovery of admissible evidence. NL's alleged nexus to this matter stems from two Sites: The Baker Castor Oil Site (a/k/a "CasChem Site" or "Baker"), which NL owned and operated during the mid-1970's until its' sale to CasChem, Inc. in 1981; and the Borne Chemical Site ("Borne Site"), an unaffiliated disposal site that NL allegedly entered into one transaction with in 1977. NL objects to each document request to the extent it seeks documents related to Sites with which NL has had no connection for roughly thirty years.

9. "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.

10. "Alleged Discharges" shall have the meaning set forth in CMO VIII.

11. "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.

Production as to Paragraph 21(b)

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 objections noted above. See, Response to Paragraph 21c 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 objections noted 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 objections noted above.

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

Response - See, reservations and objections noted above. Respondent 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)

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 - Subject to the foregoing reservations and objections which are incorporated herein, NL is not presently aware of any documents in its possession relating to the release or discharge of Hazardous Materials from the Sites.

Operations at the Baker facility involved the extraction of castor oil from the castor oil plant for various uses, including vegetable oil, additives in food, and other applications. Although a few minor spills of castor oil occurred as a result of NL's operations at the Baker facility, such spills did not contain Hazardous Materials or any contaminants of concern associated with the Third-Party Complaint. Nonetheless, all of the documents in NL's possession concerning such spills of non-Hazardous Materials at the Baker facility are submitted herewith.

NL is not aware of any documents that evidence a release or discharge of Hazardous Materials belonging to NL at the Borne Site or from the Borne Site into the Newark Bay Complex. All documents of which NL is aware that relate to discharges by any party at the Borne Site were produced on July 21, 2011, by Richard Ricci of Lowenstein Sandler on behalf of the Borne Site group members named in the Third Party Complaint.

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 - Subject to the foregoing reservations and objections which are incorporated herein, documents responsive to this request as it pertains to the CasChem Site, to the extent available, are enclosed herewith. All documents of which NL is aware that are responsive to this request as it pertains to the Borne Site were produced on July 21, 2011, by Richard Ricci of Lowenstein Sandler on behalf of the Borne Site group members named in the Third Party Complaint.

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

Response - Subject to the foregoing reservations and objections which are incorporated herein, documents responsive to this request as it pertains to the CasChem Site, to the extent available, are enclosed herewith. All documents of which NL is aware that are responsive to this request as it pertains to the Borne Site were produced on July 21, 2011, by Richard Ricci of Lowenstein Sandler on behalf of the Borne Site group members named in the Third Party Complaint.

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 - Subject to the foregoing reservations and objections which are incorporated herein, NL is not aware of any documents involving communications with any branch, department, agency or instrumentality of municipal, State or federal government relating to any discharges or releases of Hazardous Materials from the CasChem Site. All documents of which NL is aware that are responsive to this request as it pertains to the

Borne Site were produced on July 21, 2011, by Richard Ricci of Lowenstein Sandler on behalf of the Borne Site group members named in the Third Party Complaint.

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 - Subject to the foregoing reservations and objections which are incorporated herein, NL is not presently aware of any documents in its possession relating to any industrial waste containing Hazardous Materials that was transported to, processed or treated at, or discharged from any of the Sites.

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 - Subject to the foregoing reservations and objections which are incorporated herein, NL is not presently aware of any documents in its possession related to an insurance or indemnity agreement to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy said judgment.

Dated: August 5, 2011

Respectfully submitted,

ARCHER & GREINER, P.C.
Attorney for Third-Party Defendant,
NL INDUSTRIES, INC.



Christopher R. Gibson, Esq.
David F. Edelstein, Esq.