



State of New Jersey

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March 17, 2011

Vincent E. Gentile, Esq.
Drinker Biddle & Reath, LLP
105 College Road East
P.O. Box 627
Princeton, NJ 08542-0627


Re: NJDEP v. Occidental Chemical Corporation, et al./
Supplemental Third-Party Disclosure by New Jersey
Transit Corporation

Dear Mr. Gentile:

I am writing on behalf of public Third-Party Defendant New Jersey Transit Corporation in the Passaic River litigation. Enclosed please find NJ Transit Supplemental Third-Party Disclosure pursuant to paragraphs 21(b) and 21(c) of CMO XII. I am also enclosing two CDs containing NJ Transit's document production. The Bates stamp numbers are NJT000001 to NJT0046562. Thank you.

Sincerely yours,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: 
Kenneth M. Worton
Deputy Attorney General

KMW:vplw
Encls.

Cc: All Counsel of Record (via posting on CT Summation w/o
disks)
John M. Scagnelli, Esq. (w/CDs)



PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Third-Party Defendant New Jersey
Transit Corporation

By: Kenneth M. Worton
Deputy Attorney General
One Penn Plaza
Division of Law - 4th Flr.
Newark, New Jersey 07105
(973) 491-7034

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. L-9868-05 (PASR)

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION, et al.,	:	CIVIL ACTION
	:	
Plaintiffs,	:	SUPPLEMENTAL THIRD-PARTY
	:	DISCLOSURE OF NJ TRANSIT
v.	:	CORPORATION
	:	
OCCIDENTAL CHEMICAL CORPORATION,	:	
et al,	:	
	:	
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and	:	
TIERRA SOLUTIONS, INC.,	:	
	:	
Third-Party Plaintiffs,	:	
	:	
v.	:	
	:	
3M COMPANY, et al.,	:	
	:	
Third-Party Defendants.	:	

Third-Party Defendant New Jersey Transit Corporation
("Respondent") hereby provides its Supplement to Initial

Disclosure (the "Supplemental 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"), together with any written agreement as to terms for timing, scope and manner of production reached under the Consent Order. CMO XII and prior CMO's incorporated therein by reference and the Consent Order and any written agreements as to terms for timing, scope and manner of production are collectively referred to in this Supplemental Disclosure as the "Production Requirements."

Reservations and Comments

1. 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 joint defense privilege (or 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.

2. 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.

3. 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 to supplement its responses should Respondent discover additional grounds for doing so during the course of this matter.

4. "Documents", excluding ESI, 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 CMO VIII.

6. "Site" shall mean the site with which Respondent is associated in the Third-Party Complaint, in accordance with CMO VIII.

7. Document Production requirements include CMO VIII, paragraph 3 and CMO V, paragraph 8, incorporated by reference in CMO XII, paragraph (1). CMO VIII, inter alia, called for Third

Party Defendants to provide a list of Documents in their possession, custody or control and related to Alleged Discharges. It further provided a list of excepted document categories, the "Excepted Information Categories." This Supplemental Disclosure includes Documents from the Excepted Information Categories, except to the extent those Documents are covered by the log(s) to be furnished by Respondent.

8. Documents subject to claims of privilege, work product, confidentiality or trade secret will be detailed in a log or logs to be furnished in accordance with the Production Requirements, including the August 11, 2009 "Agreed Order Regarding Documents Withheld for Production," as appended by CMO VIII. Inadvertent production of any such Document shall constitute neither a waiver of any privilege or protection nor a waiver of any right Respondent may have to demand the return or destruction of such Document or any right to object to the use of any such Document or the information contained therein in this litigation or any subsequent litigation or proceeding.

9. Respondent has denied liability arising out of any "Alleged Discharges" in its Answer and Affirmative Defenses. Nothing in this Supplemental Disclosure is intended to, or does, alter Respondent's Answer and Affirmative Defenses.

10. These Reservations and Comments apply to and are incorporated in each of Respondent's responses as if

specifically set forth in each response below. The stating of a specific objection, reservation, comment, clarification or limitation, or the absence of any, shall not be construed as a waiver of any of these Reservations and Comments or of Respondent's right to supplement its production to state a further objection, reservation, comment, clarification or limitation.

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 noted above. See, Response to Paragraph 21(c)(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 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 noted above.

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

Response - See, reservations 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) 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: Respondent is producing responsive Documents, if any, concerning the Site on the enclosed disc in accordance with the

Production Requirements and subject to and without waiving its Reservations and Comments set forth 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: Respondent is producing responsive Documents, if any, concerning the Site on the enclosed disc in accordance with the Production Requirements and subject to and without waiving its Reservations and Comments set forth above.

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

Response: Respondent is producing responsive Documents, if any, concerning the Site on the enclosed disc in accordance with the Productive Requirements and subject to and without waiving its Reservations and Comments set forth 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: Respondent is producing responsive Documents, if any, concerning the Site on the enclosed disc in accordance with the Production Requirements and subject to and without waiving its Reservations and Comments set forth above.

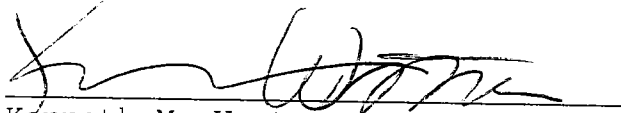
2. Any Documents relating to any industrial waste containing Hazardous Materials that was transported to, processed or treaded at, or discharged from any of the sites and/or properties with which a Third Party Defendant is associated in the Third Party Complaints.

Response: Respondent is producing responsive Documents, if any, concerning the Site on the enclosed disc in accordance with the Production Requirements and subject to and without waiving its Reservations and Comments set forth 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: There are no such insurance policies. The search for any indemnity agreements is on-going.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for New Jersey
Transit Corporation

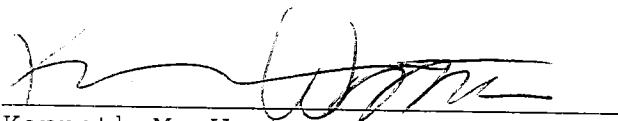
By: 
Kenneth M. Worton
Deputy Attorney General

Dated: March 17, 2011

CERTIFICATION OF SERVICE

I certify that the within Supplemental Third-Party Disclosure of New Jersey Transit Corporation has been served on all parties via Case Vantage on March 17, 2011.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for New Jersey
Transit Corporation

By: 
Kenneth M. Worton
Deputy Attorney General

Dated: March 17, 2011

DOCUMENT TECHNOLOGIES, INC.



60 Park Place
Lower Level
Newark, NJ, 07102
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973-622-6333

JOB:11824
03-16-2011

NEW JERSEY TRANSIT
NJT_001_PDF
NJT 000001 ~ NJT 042794
42,794 Images
3,891 Searchable PDF Files



DOCUMENT TECHNOLOGIES, INC.

60 Park Place
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Newark, NJ, 07102
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JOB:12264
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NEW JERSEY TRANSIT

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