



August 25, 2011

**VIA FEDERAL EXPRESS**

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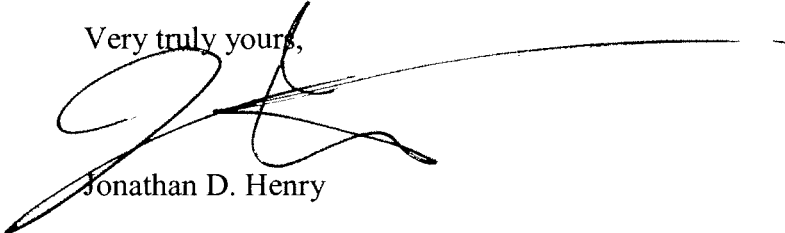
**Re: New Jersey Department of Environmental Protection, et al. v.  
Occidental Chemical Corporation, et al.  
Docket No.: ESX-L-9868-05 (PASR)**

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Dear Mr. Crout:

This Firm represents Third-Party Defendant PPG Industries, Inc. ("PPG") in the above-referenced matter. Enclosed you will find PPG's Supplemental Third-Party Disclosure as well as a CD containing responsive, non-privileged documents identified as PPGLP00001 through 03994.

Very truly yours,



Jonathan D. Henry

Encls.

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August 25, 2011

Page 2

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**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,

vs.

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

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

**THIRD-PARTY DEFENDANT PPG INDUSTRIES, INC.'S SUPPLEMENTAL THIRD-PARTY DISCLOSURE**

Third-Party Defendant PPG Industries, Inc. (“Respondent” or “PPG”), by and through its undersigned counsel, hereby provides its Supplement to Initial Disclosure pursuant to Case Management Order (“CMO”) XII and prior CMOs incorporated therein by reference.

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

4. "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.

5. "Alleged Discharges" shall have the meaning set forth in the Court's CMO VIII.

6. "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.

7. Document Production requirements set forth in CMO XII, paragraph 21 are read in concert 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.” To the extent requirements set forth in CMO XII, paragraph 21 are repetitive, burdensome and/or unfairly place a duty of inquiry on Third-Party Defendants as to the Newark Bay Complex locations other than the Sites, disclosures herein are provided with reference to CMO XII, paragraph 21(c) unless otherwise noted. With respect to CMO XII, paragraph 21(b), reference is made to information previously furnished by the JDG in connection with CMO V, paragraph 8.

8. Documents subject to claims of privilege, work product, confidentiality or trade secret will be detailed as soon as practicable in a log to be furnished in accordance with the August 11, 2009 “Agreed Order Regarding Documents Withheld from Production” and/or “Confidential Information Order” as appended to CMO VIII.

## II. 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. Respondent is only producing Documents responsive to this subparagraph to the extent they are responsive to Paragraph 21(c).

(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. Respondent is only producing Documents responsive to this subparagraph to the extent they are responsive to Paragraph 21(c).

(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. Respondent is only producing Documents responsive to this subparagraph to the extent they are responsive to Paragraph 21(c).

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

**RESPONSE:** See reservations noted above. Respondent is only producing Documents responsive to this subparagraph to the extent they are responsive to Paragraph 21(c). 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.

### III. 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:** In addition to the Reservations stated above, and expressly subject to them, Respondent states that it is unaware of any documents that would show the existence of any discharge or release of Hazardous Materials into the Newark Bay Complex from Respondent's properties or operations. The Third-Party Complaint alleges that PPG is responsible for discharges of hazardous substances from the Bayonne Barrel & Drum ("BBD") Site. PPG never owned or operated this site and has no personal knowledge of any discharge or release of Pollutants into the Newark Bay Complex from this site. The Third-Party Complaint also alleges that PPG is responsible for discharges of hazardous substances from the PPG Site. PPG denies the alleged release or discharge of Hazardous Materials from the PPG Site, and further states that it lacks personal knowledge of any activities or operations at the PPG Site after 1971, the year in which it transferred its ownership interest in the PPG Site to Riverside Avenue Properties, Inc. and New Hope Communications Corporation.

Subject to this clarification and the Reservations stated above, and in an attempt to be responsive, PPG provides on the enclosed CD non-privileged documents in its custody or control that relate to the BBD and PPG Sites. In addition, Respondent incorporates by reference responsive, non-privileged documents regarding the BBD Site in the possession of the BBD PRP Group, which were produced and/or made available for inspection and copying by K&L Gates LLP on March 28, 2011.

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:** In addition to the Reservations stated above, and expressly subject to them, Respondent states that it is unaware of any documents that would show the existence of any discharge or release of Hazardous Materials into the Newark Bay Complex from Respondent's properties or operations. The Third-Party Complaint alleges that PPG is responsible for discharges of hazardous substances from the BBD Site. PPG never owned or operated this site and has no personal knowledge of any discharge or release of Pollutants into the Newark Bay Complex from this site. The Third-Party Complaint also alleges that PPG is responsible for discharges of hazardous substances

from the PPG Site. PPG denies the alleged release or discharge of Hazardous Materials from the PPG Site, and further states that it lacks personal knowledge of any activities or operations at the PPG Site after 1971, the year in which it transferred its ownership interest in the PPG Site to Riverside Avenue Properties, Inc. and New Hope Communications Corporation.

Subject to this clarification and the Reservations stated above, and in an attempt to be responsive, PPG provides on the enclosed CD non-privileged documents in its custody or control that relate to the BBD and PPG Sites. In addition, Respondent incorporates by reference responsive, non-privileged documents regarding the BBD Site in the possession of the BBD PRP Group, which were produced and/or made available for inspection and copying by K&L Gates LLP on March 28, 2011.

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

**RESPONSE:** In addition to the Reservations stated above, and expressly subject to them, Respondent limits its response to those documents as to the Alleged Discharges in accordance with reservations noted above. The Third-Party Complaint alleges that PPG is responsible for discharges of hazardous substances from the BBD Site. PPG never owned or operated this site and has no personal knowledge of any discharge or release of Pollutants into the Newark Bay Complex from this site. Accordingly, Respondent further states that it is unaware of any relevant sampling results from environmental, chemical, or biological testing conducted at its property. The Third-Party Complaint also alleges that PPG is responsible for discharges of hazardous substances from the PPG Site. PPG denies the alleged release or discharge of Hazardous Materials from the PPG Site, and further states that it lacks personal knowledge of any activities or operations at the PPG Site after 1971, the year in which it transferred its ownership interest in the PPG Site to Riverside Avenue Properties, Inc. and New Hope Communications Corporation.

Subject to this clarification and the Reservations stated above, and in an attempt to be responsive, PPG provides on the enclosed CD non-privileged documents in its custody or control that relate to the BBD and PPG Sites. In addition, Respondent incorporates by reference responsive, non-privileged documents regarding the BBD Site in the possession of the BBD PRP Group, which were produced and/or made available for inspection and copying by K&L Gates LLP on March 28, 2011.

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:** In addition to the Reservations stated above, and expressly subject to them, Respondent states that it is unaware of any documents that would show the existence of any discharge or release of Hazardous Materials into the Newark Bay Complex from Respondent's properties or operations. In an attempt to be responsive, Respondent provides non-privileged documents in its custody or control that relate to the BBD and PPG Sites on the enclosed CD. In addition, Respondent incorporates by reference responsive, non-privileged documents regarding the BBD Site in the possession of the BBD PRP Group, which were produced and/or made available for inspection and copying by K&L Gates LLP on March 28, 2011.

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:** In addition to the Reservations stated above, and expressly subject to them, Respondent states that it is unaware of any documents that would show the existence of any discharge or release of Hazardous Materials into the Newark Bay Complex from Respondent's properties or operations. In an attempt to be responsive, Respondent provides non-privileged documents in its custody or control that relate to the BBD and PPG Sites on the enclosed CD. In addition, Respondent incorporates by reference responsive, non-privileged documents regarding the BBD Site in the possession of the BBD PRP Group, which were produced and/or made available for inspection and copying by K&L Gates LLP on March 28, 2011.

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:** PPG possesses no documents responsive to this request.

**LeClairRyan**

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JONATHAN D. HENRY

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PPG Industries, Inc.

Dated: August 25, 2011