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August 5, 2011

**VIA OVERNIGHT MAIL AND CT SUMMATION**

Blake T. Hannafan, Esq.  
Hannafan & Hannafan, Ltd.  
One East Wacker Dr., Suite 2800  
Chicago, IL 60601

**RE: NJDEP, et al. v. Occidental Chemical Corporation, et al.,  
Docket No: ESX-L-009868-05**

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Dear Mr. Hannafan:

This firm represents Third-Party Defendants, Sunoco, Inc. f/k/a Sun Oil Co., Sunoco, Inc. (R&M) f/k/a Sun Refining and Marketing Company (improperly identified in the Third Party Complaint as Sun Refining & Marketing Co.), and Sun Pipe Line Company (improperly identified in the Third Party Complaint as Sun Pipeline Co.) in the above-referenced litigation (hereinafter, the "Sunoco Parties").

Enclosed with this letter are two discs containing a supplemental document production by the Sunoco Parties (SUNOCO-0023874 - SUNOCO-0101289) pursuant to CMO XII as well as our formal disclosure responses and our Privilege Log. Please let me know if you have any questions.

Very truly yours,



Michael C. Falk

Enclosures

cc: Eric Rothenberg, Esq. (via regular mail, with enc., and CT Summation)  
Hon. Marina Corodemus (via CT Summation)  
Kevin Dunleavy, Esq. (via regular mail, with enc., and CT Summation)  
Lee Henig-Elona, Esq. (via regular mail, with enc., and CT Summation)  
John M. Scagnelli, Esq. (via regular mail, with enc., and CT Summation)  
Peter J. King, Esq. (via regular mail, with enc., and CT Summation)  
Michael Gordon, Esq. (via regular mail, with enc., and CT Summation)  
Robert T. Lehman, Esq. (via regular mail, with enc., and CT Summation)  
Gregg H. Hilzer, Esq. (via regular mail, with enc., and CT Summation)

Robert P. Frank  
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Sara K. Kornbluh

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Attorneys for Third-Party Defendants, Sunoco, Inc., Sunoco, Inc. (R&M) and Sun Pipe Line Company

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NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW
ENVIRONMENTAL PROTECTION and	:	JERSEY
THE ADMINISTRATOR OF THE NEW	:	LAW DIVISION: ESSEX
JERSEY SPILL COMPENSATION FUND,	:	COUNTY
	:	
Plaintiffs,	:	DOCKET NO. L-9868-05 (PASR)
v.	:	
	:	
OCCIDENTAL CHEMICAL	:	CIVIL ACTION
CORPORATION, TIERRA SOLUTIONS,	:	
INC., MAXUS ENERGY CORPORATION,	:	<b>CMO XII PARAGRAPH 21</b>
REPSOL YPF, S.A., YPF, S.A., YPF	:	<b>DISCLOSURE OF THIRD-</b>
HOLDINGS, INC. and CLH HOLDINGS,	:	<b>PARTY DEFENDANT SUNOCO,</b>
INC.,	:	<b>INC., SUNOCO, INC. (R&amp;M)</b>
Defendants.	:	<b>AND SUN PIPE LINE COMPANY</b>
	:	
MAXUS ENERGY CORPORATION and	:	
TIERRA SOLUTIONS,	:	
INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
	:	
Third-Party Defendants.	:	

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Third-Party Defendants, Sunoco, Inc. f/k/a Sun Oil Co., Sunoco, Inc. (R&M) f/k/a Sun Refining and Marketing Company (improperly identified in the Third Party

Complaint as Sun Refining & Marketing Co.), and Sun Pipe Line Company (improperly identified in the Third Party Complaint as Sun Pipeline Co.) (collectively “Respondents”) supplement their Initial Disclosure in accordance with Case Management Order (“CMO”) XII and responds as follows:

**General Statements and General Objections**

1. Respondents generally object to the production of documents or other information on the following grounds: (i) the documents are not relevant to the issues in this case and are not reasonably calculated to lead to the discovery of admissible evidence; (ii) production of the documents creates an undue burden on Respondents; (iii) Respondents are not in the possession of the documents and/or the documents are not reasonably accessible by Respondents; (iv) the documents are a matter of public record which are equally accessible to Third-Party Plaintiffs; (v) the documents are specifically exempted from production pursuant to CMO VIII Paragraphs 4(a), 4(b), 4(c), 4(d), 4(e), 4(f) and 4(g), or other applicable Order; (vi) the documents are subject to an applicable privilege, including the attorney-client privilege, the work product doctrine, and/or the common interest doctrine; (vii) the documents are protected from discovery/disclosure because of confidentiality, trade secret, State and Federal Homeland Security confidentiality and any other applicable protection.

2. Respondents’ investigation in this matter is continuing. Accordingly, Respondents reserve the right to supplement, clarify, and revise these disclosures to the extent additional information becomes available or is obtained through discovery.

3. The time period covered by the allegations in the Plaintiffs' Third Amended Complaint is quite long and encompasses at least six decades. The geographic scope of the Third Amended Complaint is also quite broad, covering the "Newark Bay Complex," which spans the "lower 17 miles of the Passaic River, Newark Bay, the lower reaches of the Hackensack River, the Arthur Kill, the Kill van Kull, and into adjacent waters and sediments." Third Amended Complaint, ¶ 1. The scope of inquiry is accordingly quite broad and burdensome. Respondents are therefore engaged in a continuing investigation and reserve the right to supplement and modify these disclosures if additional Documents are uncovered.

4. "Documents," excluding electronic e-mail, 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 Paragraph 3(a), dated August 11, 2009, and as confirmed in an email from Eric B. Rothenberg, Esq. liaison counsel to the Non-Public Third-Party Defendant Joint Defense Group, dated January 21, 2011.

6. "Sites," per CMO VIII, are defined as those site(s) or properties with which a Third Party is associated in a Third-Party Complaint.

7. Respondents read the document production requirements set forth in CMO XII, paragraph 21 in concert with CMO VIII (incorporated by reference in CMO XII, paragraph 1). Respondents' responses relate to the "Sun Oil Site" as alleged in Third-Party Complaint "D" Paragraphs 31-33.



8. Respondents make these additional disclosures without waiver of, and with full reservation of rights with respect to, any arguments Respondents may have regarding the interpretation of CMO XII, and other applicable Orders, and, specifically, those arguments relating to the scope, nature, and timing of production under CMO XII, and other applicable Orders.

9. These disclosures are not intended to prejudice or waive any privileges or objections Respondents may have with respect to any outstanding or subsequent requests for discovery.

10. Respondents make these additional disclosures without waiver of, and with full reservation of rights with respect to, any arguments Respondents may have regarding the sufficiency of Third-Party Plaintiffs' production under CMO XII and other applicable Orders.

**Response 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** - Subject to and without waiving the General Statements and General Objections, Respondents refer to (a) the documents contained on the disc produced to Blake Hannafan, Esq., counsel for Third-Party Plaintiffs, enclosed with the letter dated February 8, 2011 from Lanny S. Kurzweil, Esq. (the "February 8, 2011 Production") and (b) the documents contained on the discs produced to Blake Hannafan, Esq., counsel for Third-Party Plaintiffs, enclosed with the letter dated August 5, 2011 from Michael C. Falk, Esq. (the "August 5, 2011 Production")

(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** - Subject to and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

(iii.) other actions relating to properties or operations that may have adversely impacted the environmental condition of the Newark Bay Complex;

**Response** - Subject to and without waiving the General Statements and General Objections: none.

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

**Response** - Subject to and without waiving the General Statements and General Objections: none. Respondents have made no such claim against the parties in this action at this time. Respondent reserves the right to amend if such documents are subsequently developed or otherwise become available.

**Response 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 and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

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 and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

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

**Response** - Subject to and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

iv. any communications involving 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 and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

(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 and without waiving the General Statements and General Objections, Respondents refer to the documents produced with the February 8, 2011 Production and the documents produced with the August 5, 2011 Production.

(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 and without waiving the General Statements and General Objections and the General Response, Respondents responds as follows:

Respondents are presently not aware of 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, however, Respondents reserve the right to amend and/or supplement this response should they become aware of said agreement in the future.

Respondents' investigation in this matter is continuing, and Respondents reserves the right to supplement and modify these disclosures.

**REED SMITH LLP**

Attorneys for Sunoco, Inc., Sunoco, Inc.  
(R&M), and Sun Pipe Line Company

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Dated: August 5, 2011