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March 18, 2011

**VIA FEDERAL EXPRESS & CT SUMMATION**

Charles M. Crout, Esq.  
Andrew Kurth LLP  
1350 I Street, NW  
Suite 1100  
Washington, D.C. 20005

**Re: New Jersey Department of Environmental Protection, et al. v.  
Occidental Chemical Corporation, et al. v. 3M Company, et al.  
Docket No. ESX-L-9868-05**

Dear Mr. Crout:

Enclosed please find the Supplemental Third-Party Disclosure on behalf of The Valspar Corporation in the above-referenced matter. This disclosure is made pursuant to Case Management Order XII and the Consent Order dated January 31, 2011.

Very truly yours,  
**LINDABURY, McCORMICK,  
ESTABROOK & COOPER, P.C.**



Fredi L. Pearlmutter

FLP:ag  
Enclosure

cc: William Warren, Esq. (via Fedex)  
Eric Rothenberg, Esq. (via Fedex)  
Lee Henig-Elona, Esq. (via Fedex)  
John M. Scagnelli, Esq. (via Fedex)  
Peter J. King, Esq. (via Fedex)  
Michael Gordon, Esq. (via Fedex)  
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 Attorneys for Third-Party Defendant The Valspar Corporation

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: ESSEX COUNTY
	:	
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.,	:	<b>SUPPLEMENTAL THIRD-PARTY DISCLOSURE</b>
Defendants.	:	
	:	
MAXUS ENERGY CORPORATION and TIERRA SOLUTIONS, INC.,	:	
Third-Party Plaintiffs,	:	
	:	
vs.	:	
	:	
3M COMPANY, <i>et al.</i> ,	:	
Third-Party Defendants.	:	

Third-Party Defendant The Valspar Corporation (“Respondent”) hereby provides its Supplement to Initial 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”) applicable to certain of those Third-Party Joint Defense Group (“JDG”) members who have received written confirmation that CMO XII paragraph 21(a)

production of site files is complete from Drinker Biddle & Reath LLP, Andrews Kurth LLP, and/or Hannafan & Hannafan, Ltd. firms (counsel for Third-Party Plaintiffs) together with any written agreement as to terms for timing, scope and manner of production reached under the Consent Order, collectively the “Amended 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 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, as amended by the Amended Production Requirements 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". The Amended Production Requirements are also answered with reference to the Alleged Discharges as defined in CMO VIII and include documents under the Excepted Information Categories except to the extent those documents are covered by logs attached hereto. To the extent requirements set forth in Amended Production Requirements 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 the Amended Production Requirements and CMO XII paragraph 21(c) unless otherwise noted. With respect to Amended Production Requirements as to CMO XII, paragraph 21(b), reference is made to information previously furnished by the JDG in connection with CMO V, paragraph 8.

8. If applicable, documents subject to claims of privilege, work product, confidentiality or trade secret will be detailed in a log to be furnished in accordance with the August 11, 2009

“Agreed Order Regarding Documents Withheld from Production” as appended to CMO VIII, as soon as practicable as provided under the Amended Production Requirements.

**Production as to Paragraph 21(b) Requests**

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 objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Respondent or its alleged predecessors in interest are associated in Third-Party Complaint B. Respondent further objects on the grounds that neither Respondent nor its alleged predecessors in interest owned or operated Central Steel**

**Drum or the Central Steel Drum Site. Subject to the objections and reservations noted above, documents responsive to this request, to the extent available, are subject to the exceptions provided under the Amended Production requirements and set forth in the document logs attached herein.**

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 objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Valspar or its alleged predecessors in interest are associated in Third-Party Complaint B. Respondent further objects on the grounds that neither Respondent nor its alleged predecessors in interest owned or operated Central Steel Drum or the Central Steel Drum Site. Respondent limits its response in accordance with the objections and reservations noted above and in accordance with the Amended Production requirements. Documents responsive to this request, to the extent available, are subject to the exceptions provided under the Amended Production requirements and set forth in the document logs attached herein.**

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

**Response - Respondent objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Valspar or its alleged predecessors in interest are associated in Third-Party Complaint B. Respondent further objects on the grounds that neither Respondent nor its alleged predecessors in interest owned or operated Central Steel Drum or the Central Steel Drum Site. Respondent limits its response to those documents as to the Alleged Discharges in accordance with the objections and reservations noted above. Documents responsive to this request, to the extent available, are subject to the exceptions provided under the Amended Production requirements and set forth in the document logs attached herein.**

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 objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Valspar or its alleged predecessors in interest are associated in Third-Party Complaint B. Respondent further objects on the grounds that neither Respondent nor its alleged predecessors in interest owned or operated Central Steel Drum or the Central Steel Drum Site. Subject to the objections and reservations noted above, Documents responsive to this request as to the Alleged Discharges, to the extent**

available, are produced pursuant to the requirements of CMO XII, Paragraph 21(c) and are subject to the exceptions provided under the Amended Production requirements and set forth in the document logs attached herein.

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 - Respondent objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Valspar or its alleged predecessors in interest are associated in Third-Party Complaint B. Respondent further objects on the grounds that neither Respondent nor its alleged predecessors in interest owned or operated Central Steel Drum or the Central Steel Drum Site. Subject to the objections and reservations noted above, Documents responsive to this request as to the Alleged Discharges, to the extent available, are subject to the exceptions provided under the Amended Production requirements and set forth in the document logs attached herein.**

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 – Respondent objects to this request to the extent that it assumes or concludes that there were any “discharges or releases of hazardous materials” to the Newark Bay Complex from the site with which Valspar or its alleged predecessors in interest are associated in Third-Party Complaint B. Subject to the objections and reservations noted above, Respondent has no documents responsive to this request.**

Dated: March 18, 2011

Respectfully submitted,

**Lindabury, McCormick, Estabrook &  
Cooper, P.C.**

Attorneys for The Valspar Corporation



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Fredi L. Pearlmutter, Esq.

**The Valspar Corporation's Log  
of Public Documents**

<b>Document Date</b>	<b>Bates Number</b>	<b>Authors</b>	<b>Recipient(s)</b>	<b>Title</b>	<b>General Subject Matter</b>
July 3, 1997	CSD FOIA 0001-CSD FOIA 0010	Gregory D. DeAngelis, USEPA	Jeanne M. Fox, USEPA	Removal Action Branch USEPA	Request to Conduct a CERCLA Removal Action
November 10, 1994	CSD FOIA 0011-CSD FOIA 0019	Greg Bakeman, NJDEP	Greg Bakeman, Jim DeNoble, Dave Paddock, NJDEP	Site Visit Report NJDEP	Initial Central Steel Drum ("CSD") Site inspection
November 10, 1994	CSD FOIA 0020-CSD FOIA 0023	Greg Bakeman	Gary Czock, NJDEP	Site Visit Report NJDEP	CSD Site inspection
November 10, 1994	CSD FOIA 0024-CSD FOIA 0030	Greg Bakeman	Gary Czock	Site Visit Report NJDEP	CSD Site inspection
October 26, 1993	CSD FOIA 0031-CSD FOIA 0331	Joseph M. Sorge, JM Sorge, Inc.	Joel Bernstein, NJDEP	CSD Remedial Investigation Workplan	Remedial Investigation Workplan
September 15, 1988	CSD FOIA 0332-CSD FOIA 0336	Edward Gaven, NJDEP	N/A	Responsible Party Investigation Summary	Investigation summary
N/A	CSD FOIA 0337-CSD FOIA 0338	CSD	N/A	Drum Acceptance Policy	CSD Drum Acceptance Policy
August 30, 1992	CSD FOIA 0339-CSD FOIA 0390	N/A	N/A	Deposition Transcript	Deposition of Alan Cohen and Alan Fischer in unidentified lawsuit (no caption)
N/A	CSD FOIA 0391-CSD FOIA 0510	N/A	N/A	Deposition Transcript	Deposition of John Hayward Gibson in unidentified lawsuit (no caption)
N/A	CSD FOIA 0511-CSD FOIA 0512	CSD	N/A	Drum Acceptance Policy	CSD Drum Acceptance Policy



<b>Document Date</b>	<b>Bates Number</b>	<b>Authors</b>	<b>Recipient(s)</b>	<b>Title</b>	<b>General Subject Matter</b>
March 7, 1984	CSD FOIA 0513-CSD FOIA 0514	Neil Fischer, CSD	N/A	N/A	Customer memo request for MSDS for products in drums
November 10, 1994	CSD FOIA 0515-CSD FOIA 0518	Greg Bakeman	Gary Czock	Site Visit Report NJDEP	CSD Site inspection
November 10, 1994	CSD FOIA 0519-CSD FOIA 0527	Greg Bakeman	Greg Bakeman, Jim DeNoble, Dave Paddock	Site Visit Report NJDEP	Initial Site inspection
November 10, 1994	CSD FOIA 0528-CSD FOIA 0534	Greg Bakeman	Gary Czock	Site Visit Report NJDEP	CSD Site inspection
July 11, 1996	CSD FOIA 0535-CSD FOIA 0542	Glenn Reynolds, NJ Attorney General's Office	George Smajda, NJ Attorney General's Office	CSD Investigative Summary	Investigation of PRPs for CSD Site
July 7, 1995	CSD FOIA 0543-CSD FOIA 00607	Stanley J. Kossup, Newark Fire Department	CSD	Hazardous Materials Inspection	NFD inspection of CSD Site
July 2, 1998	CSD FOIA 0608-CSD FOIA 0610	N/A	USEPA	N/A	Letter from "concerned citizen" re: CSD
June 25, 1997	CSD FOIA 0611-CSD FOIA 0622	Donna Murphy and Nuria Muniz, TRC Environmental	N/A	CSD Former Employee Interview Reports	CSD former employee interviews
June 1997	CSD FOIA 0623-CSD FOIA 0637	TRC Environmental Corp	USEPA	CSD Interview Summary Reports	CSD employee interview summaries
December 8, 1997	CSD FOIA 0638-CSD FOIA 0661	N/A	N/A	CSD Investigation Log	Notes regarding CSD investigation
December 2, 1997	CSD FOIA 0662 CSD FOIA 0679	N/A	N/A	CSD Investigation Log	Notes of CSD hotline calls
N/A	CSD FOIA 0680-CSD FOIA 0689	N/A	N/A	CSD 104(e) summaries	CSD 104(e) summaries
July 3, 1997	CSD FOIA 0690-CSD FOIA 0699	Gregory D. DeAngelis	Jeanne M. Fox	Removal Action Branch USEPA	Request to Conduct a CERCLA Removal Action

Document Date	Bates Number	Authors	Recipient(s)	Title	General Subject Matter
N/A	CSD FOIA 0700	Gerald Greenberg, CSD	Dr. Harold Fischer	N/A	Letter to local hospital regarding potential areas of injury concern
February 29, 1991	CSD FOIA 0701-CSD FOIA 0702	Dennis Hart, NJDEP	Frank Coolick, NJDEP	Memo	Request for regulatory evaluation of CSD drum reconditioning
July 16, 1990	CSD FOIA 0703-CSD FOIA 0706	Dennis Hart	Steven Madonna, NJ Attorney General's Office	Memo-CSD	CSD operations
August 1, 1991	CSD FOIA 0707-CSD FOIA 893	N/A	N/A	Deposition Transcript	Deposition of Gerald Greenburg in <u>State of New Jersey Department of Environmental Protection v. Central Steel Drum Company, et al</u> , Docket Number ESX-C-152-91
N/A	CSD FOIA 0894-CSD FOIA 0902	N/A	N/A	Deposition Transcript	Deposition of Joseph M. Sorge in <u>State of New Jersey Department of Environmental Protection v. Central Steel Drum Company, et al</u> , Docket Number ESX-C-152-91
December 12, 1998	CSD FOIA 00903-CSD FOIA 0952	N/A	N/A	CSD Log Book	Notes of CSD investigation
October 8, 1999	CSD FOIA 0953-CSD FOIA 1131	Louis DiGuardia, USEPA	USEPA	Final Draft, CSD Sampling Report	3/31/98 Drum/Waste Pile Sampling

<b>Document Date</b>	<b>Bates Number</b>	<b>Authors</b>	<b>Recipient(s)</b>	<b>Title</b>	<b>General Subject Matter</b>
December 9, 1981	CSD FOIA 1132-CSD FOIA 1135	Angela Morales, John Witkowski, Hank Wheat, Mike Shirka, USEPA	EPA	Draft Inspection Report	Joint inspection of CSD Site
N/A	CSD FOIA 1136-CSD FOIA 1143	Wilkie Sawyer	John Witkowski	Draft Complaint	Draft CSD Complaint, Compliance Order, and Notice of Opportunity Hearing.
March 19, 1982	CSD FOIA 1144-CSD FOIA 1152	USEPA	N/A	Complaint	Formal CSD Complaint, Compliance Order and Notice of Opportunity Hearing
February 25, 1982	CSD FOIA 1153	John Witkowski	Fred Rubel, Paul Elliot, USEPA	Routing and Transmittal Slip	CSD Site activities of A. Morales
February 25, 1982	CSD FOIA 1154-CSD FOIA 1155	John Witkowski	Fred Rubel	Site Inspection CSD Site	CSD Site inspection
February 25, 1982	CSD FOIA 1156-CSD FOIA 1170	John Witkowski	Fred Rubel	Site Inspection CSD Site	CSD Site inspection
December 14, 1981	CSD FOIA 1171-CSD FOIA 1172	Henry Wheat	Danny L Barney, USEPA	RCRA/CERCL Inspection of CSD	CSD site inspection
December 7, 1981	CSD FOIA 1173-CSD FOIA 1179	John Witkowski	N/A	Witkowski notes	Site inspection notes
December 8, 1981	CSD FOIA 1180-CSD FOIA 1183	Hank Wheat	N/A	Hank Wheat notes	Site inspection notes
December 14, 1981	CSD FOIA 1184-CSD FOIA 1185	Henry Wheat	Danny L Barney	RCRA/CERCL Inspection of CSD	CSD site inspection
November 23, 1981	CSD FOIA 1186-CSD FOIA 1187	John Witkowski	N/A	Witkowski notes	Site inspection notes
November 9, 1981	CSD FOIA 1188-CSD FOIA 1189	Fred Rubel	Julio Morales Sanchez, USEPA	Central Steel Drum Recyclers	CSD investigation
November 9, 1981	CSD FOIA 1190-CSD FOIA 1192	Fred Rubel	Julio Morales Sanchez	Central Steel Drum Recyclers	CSD investigation

<b>Document Date</b>	<b>Bates Number</b>	<b>Authors</b>	<b>Recipient(s)</b>	<b>Title</b>	<b>General Subject Matter</b>
March 12, 1981	CSD FOIA 1193-CSD FOIA 1196	Alan I. Fischer, CSD	Julio Morales Sanchez	N/A	Letter from CSD to EPA regarding waste disposal and no need for Part A permit
December 3, 1981	CSD FOIA 1197-CSD FOIA 1200	USEPA	N/A	Accident Response Plan USPEA	Initial assessment of CSD Accident Response Plan
December 9, 1981	CSD FOIA 1201-CSD FOIA 1202	John Witkowski	N/A	Notes	Witkowski Site notes and diagram
April 29, 1982	CSD FOIA 1203	Wilkie Sawyer	John Witkowski	Note	CSD response to RCRA Complaint
April 26, 1982	CSD FOIA 1204-CSD FOIA 1212	Vincent J. Ditoli, Esq.	N/A	Answer	CSD Answer to RCRA Complaint
December 31, 1981	CSD FOIA 1213	Ecology and Environmental Inc.	N/A	OHM Emergency Response and Spill Prevention	Spill Prevention Inspection at CSD facility
March 1998	CSD FOIA 1214-CSD FOIA 1532	Numerous	N/A	N/A	CSD Site sampling data
May 14, 1997	CSD FOIA 1533-CSD FOIA 1542	M. Chong, Roy F. Weston, Inc.	N/A	Health & Safety Site Inspection	CSD Site Inspection
N/A	CSD FOIA 1543-CSD FOIA 1549	N/A	N/A	N/A	CSD Facility Map
July 28, 1998	CSD FOIA 1550-CSD FOIA 1782	Yunru Yang, Roy F. Weston, Inc.	Louis DiGuardia	Central Steel Drum Data Validation Assessment	CSD Site sampling data
March 30, 1998	CSD FOIA 1783-CSD FOIA	Joseph M. Soroka, Roy F. Weston, inc.	Lou DiGuardia	Central Steel Drum Site XRF Report	CSD Site X-Ray Fluorescence Analysis
June 25, 1999	CSD FOIA 1792-CSD FOIA 1798	John F. Brennan, USEPA	Greg DeAngelis	Acknowledgment of Completion of Central Steel Drum	Close out of CSD Site TDDs
December 5, 2002	CSD FOIA 1799	Bill Nadolski, USEPA	N/A	Quality Control	Quality Assurance/ Quality Control Review Form

<b>Document Date</b>	<b>Bates Number</b>	<b>Authors</b>	<b>Recipient(s)</b>	<b>Title</b>	<b>General Subject Matter</b>
N/A	CSD FOIA 1800	OHM Remediation Services	N/A	N/A	Envelope for OHM remediation disc
February 9, 1998	CSD FOIA 1801-CSD FOIA 1835	Waste Disposal Vendors	EPA	N/A	Manifests for disposal of materials from CSD Site
July 28, 1998	CSD FOIA 1836-CSD FOIA 2068	Yunru Yang	Louis DiGuardia	Central Steel and Drum Data Validation Assessment	CSD Site sampling data
June 9, 1998	CSD FOIA 2069-CSD FOIA 2148	Diana Minisavage, Roy F. Weston, Inc.	Greg DeAngelis, Lou DiGuardia	Central Steel and Drum Data Validation Assessment	CSD Site sampling data
November 2, 1998	CSD FOIA 2149	Dore LaPosta, USEPA	William Lometti, USEPA	Transmittal of RCRA Sampling Inspection Report for Central Steel Drum	RCRA Sampling Inspection Report for CSD Site
May 1, 2001	CSD FOIA 2150	Gregory DeAngelis	USEPA	Procurement Request Order	CERCLA Removal
February 20, 1998	ValsparB0001-ValsparB0116	Christa Russell, Lilly Industries	Marissa Truono, USEPA	Removal Action Branch of USEPA	104(e) Request

**The Valspar Corporation's Log of Documents  
Previously Produced by Third-Party Plaintiffs**

<b>Bates Numbers</b>
TIERRA-B-002627- TIERRA-B-003579
TSI-AK-00020284 - TSI-AK-00023410