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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,
THE COMMISSIONER OF THE 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, MAXUS INTERNATIONAL ENERGY COMPANY, REPSOL YPF, S.A., YPF, S.A., YPF HOLDINGS, INC., YPF INTERNATIONAL S.A. (f/k/a YPF INTERNATIONAL LTD.) and CLH HOLDINGS,

Defendants/Cross-Claimants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. L9868-05

Civil Action

CONSENT JUDGMENT

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This matter was opened to the Court by John J. Hoffman, Acting Attorney General of New Jersey, John F. Dickinson, Jr., Deputy Attorney General, and Special Counsel William J. Jackson and Michael Gordon appearing, attorneys for Plaintiffs, and this Consent Judgment is among the New Jersey Department of Environmental Protection (“DEP”), the Commissioner of the New Jersey Department of Environmental Protection (“Commissioner”), and the Administrator of the New Jersey Spill Compensation Fund (“Administrator”) (collectively, “Plaintiffs”), and Occidental Chemical Corporation (“OCC”). As defined in Paragraph 21.43, Plaintiffs and OCC are collectively the “Parties” to this Consent Judgment. The Parties have amicably resolved their dispute before trial and request approval of this Consent Judgment¹ as provided below:

I. BACKGROUND

1. Plaintiffs initiated the Passaic River Litigation by filing a complaint on or about December 13, 2005 against OCC, Tierra Solutions, Inc. (“Tierra”), Maxus Energy Corporation (“Maxus”), Repsol, S.A., YPF, S.A., YPF Holdings, Inc. and CLH Holdings, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 through 23.24 (the “Spill Act”), the Water Pollution Control Act, N.J.S.A. 58:10A-1 through 35 (“WPCA”), and New Jersey common law, which complaint has been subsequently amended on several occasions (collectively, the “Complaint”).

2. Plaintiffs, in their Complaint, seek, among other things, past and future costs and damages, together with penalties, associated with Discharges of 2,3,7,8 – TCDD (“dioxin”) and other Hazardous Substances at and from the Lister Property into the Newark Bay Complex as alleged in the Complaint. Plaintiffs allege, and OCC denies, that dioxin and other Hazardous

¹ Capitalized terms are defined in Paragraph 21 below.

Substances were Discharged from the Lister Property and have migrated throughout the Newark Bay Complex.

3. OCC subsequently filed responsive pleadings in which it denied liability.

4. On November 30, 2006, and on several occasions thereafter, Plaintiffs amended their Complaint, adding allegations against Maxus, Tierra, and the Repsol-YPF Defendants (as defined in Paragraph 21.49), alleging that the Repsol-YPF Defendants and Tierra are alter egos of Maxus and asserting claims for fraudulent transfers under the New Jersey Uniform Fraudulent Transfers Act (“UFTA”), N.J.S.A. 25:2-20 through 30, civil conspiracy and breach of fiduciary duty.

5. On July 20, 2007, OCC sought leave to file, and subsequently filed, cross-claims against Maxus, Tierra, and the Repsol-YPF Defendants (except YPFI), later adding claims against YPFI (collectively “Cross-Claims”). OCC’s Cross-Claims included claims for indemnification against Maxus, pursuant to the SPA (as defined in Paragraph 21.56), and against the remaining defendants as alter egos of Maxus. OCC’s Cross-Claims also included claims for, *inter alia*, fraudulent transfers under the UFTA, civil conspiracy, tortious interference with contract, unjust enrichment, contribution and breach of fiduciary duty. OCC filed its Third Amended Cross-Claims on July 31, 2014 adding additional factual allegations against Maxus, Tierra and the Repsol-YPF Defendants regarding the RYM Settlement Agreement, as defined below.

6. Defendants Maxus and Tierra (“Third-Party Plaintiffs”) filed Third-Party Complaints on February 4 and 5, 2009, alleging that Third-Party Defendants are liable for the costs and damages incurred and to be incurred in investigating and remediating contamination and for any judgment obtained by Plaintiffs related to Discharges of Hazardous Substances into the Newark Bay Complex under the Spill Act and other New Jersey statutes, including (without

limitation) the Joint Tortfeasor Contribution Act, N.J.S.A. 2A:53A-1 et seq., and/or N.J.S.A. 59:9-3. Maxus and Tierra asserted additional third-party claims against certain public Third-Party Defendants under the New Jersey Environmental Rights Act, N.J.S.A. 2A:35A-1 et seq., Passaic Valley Sewerage Commissioners Statutes, N.J.S.A. 58:14-7 and 58:14-8, and for nuisance and breach of the public trust.

7. By Orders dated December 15, 2010 and April 24, 2012 respectively, the Court permitted Plaintiffs to reserve (i) the claims Plaintiffs may have against then-current Third-Party Defendants and claims Plaintiffs may have against any future third-party or fourth-party defendants that could be brought during the pendency of, and after the conclusion of the Passaic River Litigation, and (ii) natural resource damages claims, other than to recover Natural Resource Damages Assessment Costs, that Plaintiffs may have against then-current Defendants that could be brought during the pendency of, and after the conclusion of, the Passaic River Litigation.

8. On August 24, 2011, the Court entered an Order Granting Defendant and Cross-Claimant Occidental Chemical Corporation's Motion for Partial Summary Judgment Against Defendant Maxus Energy Corporation (the "August 24, 2011 Order") requiring Maxus to indemnify OCC for any costs, losses and liabilities that may be incurred by OCC in the Passaic River Litigation as a result of OCC's acquisition of DSCC.

9. On December 12, 2013, the Repsol-YPF Defendants, Maxus and Tierra entered into the RYM Settlement Agreement, which resolved certain Claims as to OCC (the "OCC Resolved Claims" as defined in paragraph 28 of the RYM Settlement Agreement) and reserved certain other Claims against OCC pursuant to paragraph 29 of the RYM Settlement Agreement.

10. By entering into this Consent Judgment, OCC does not admit, and Plaintiffs acknowledge that OCC is not admitting, any fact, fault or liability, including (without limitation)

any liability arising from the Claims, transactions or occurrences Plaintiffs, or any other person or entity, have alleged or could have alleged in the Passaic River Litigation, including but not limited to Natural Resource Damages.

11. Plaintiffs allege, and OCC denies, that the State of New Jersey has incurred, and will continue to incur, costs and damages as a result of the Discharge of Hazardous Substances at and from the Lister Property and/or into the Newark Bay Complex.

12. Plaintiff Administrator alleges, and OCC denies, that he has certified or may certify for payment claims made against the Spill Compensation Fund (“Spill Fund”) concerning any Discharge of Hazardous Substances at or from the Lister Property and/or into the Newark Bay Complex and, further, has approved or may approve other appropriations for the Newark Bay Complex.

13. Plaintiffs allege, and OCC denies, that Plaintiffs have incurred, and will continue to incur, costs and damages, including (without limitation) Economic Damages, Natural Resource Damage Assessment Costs and Natural Resource Damages as a result of the Discharge of Hazardous Substances at and from the Lister Property and/or into the Newark Bay Complex.

14. Plaintiffs allege, and OCC denies, that certain costs and damages they have allegedly incurred, and will allegedly incur, for the Lister Property and Newark Bay Complex are Cleanup and Removal Costs pursuant to N.J.S.A. 58:10-23.11b.

15. Plaintiffs allege, and OCC denies, that certain costs and damages that Plaintiff DEP has allegedly incurred, and will allegedly incur, for Discharges at and from the Lister Property and into the Newark Bay Complex are also recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4) and the WPCA.

16. Unless expressly provided to the contrary herein, the Parties intend that this Consent Judgment and the motions filed in its support will result in the dismissal of all Claims

between Plaintiffs and OCC in the Passaic River Litigation. The Parties to this Consent Judgment agree and consent to the publishing of this Consent Judgment and the Dismissal Order, attached hereto as Exhibit A (“Dismissal Order”), for notice and public comment as provided herein and agree to support entry of the Dismissal Order and approval of this Consent Judgment.

17. The Parties represent and agree, and the Court so finds, that the Parties have negotiated this Consent Judgment at arm’s length and in good faith. The Parties further represent and agree, and the Court so finds, that the Parties are entering into this Consent Judgment voluntarily, with the consultation and advice of the counsel of their choice in the Passaic River Litigation and in the negotiation and execution of this Consent Judgment. OCC agrees that it will not argue that this Consent Judgment is invalid or voidable for reason of duress, coercion or undue influences. The Parties also agree that the implementation of this Consent Judgment will allow the Parties to avoid prolonged and complicated litigation; that the implementation of this Consent Judgment will save and preserve Plaintiffs’ limited resources by avoiding the expenditure of limited resources to allege and prosecute Claims against OCC; and that this Consent Judgment warrants approval consistent with the purposes of the Spill Act.

THEREFORE, with the consent of the Parties to this Consent Judgment, it is hereby ORDERED that this Consent Judgment is approved as follows:

II. JURISDICTION

18. This Court has subject matter jurisdiction over this action pursuant to the Spill Act, the WPCA, and the common law. This Court also has personal jurisdiction over the Parties to this Consent Judgment for the purposes of implementing this Consent Judgment and resolving the underlying Passaic River Litigation and any Claims related thereto.

19. For the sole purpose of entry and enforcement of this Consent Judgment and Dismissal Order, the Parties waive all objections and defenses they may have to jurisdiction of

this Court or to venue in this County. The Parties shall not challenge the Court's continuing jurisdiction to enforce this Consent Judgment or the Dismissal Order.

III. PARTIES BOUND

20. This Consent Judgment applies to, and is binding upon, Plaintiffs and OCC and, pursuant to Section XIV, applies to Maxus, Tierra, the Repsol-YPF Defendants, the Third-Party Defendants, and, to the extent provided by law and equity, any non-parties and non-settling parties.

IV. DEFINITIONS

21. Unless otherwise expressly provided herein, terms used in this Consent Judgment that are defined in the Spill Act, the WPCA, or in the regulations promulgated under these acts shall have their statutory or regulatory meaning. Whenever the terms listed below are used in this Consent Judgment, the following definitions shall apply, solely for the purpose of this Consent Judgment and the Dismissal Order and for no other purpose:

21.1. "Affiliate" shall mean: (a) a parent company or other legal entity that directly or indirectly owns OCC on the Effective Date; (b) a subsidiary company or other legal entity which is directly or indirectly owned by OCC on the Effective Date; (c) a company or other legal entity which is directly or indirectly owned by a company or other legal entity which directly or indirectly owns OCC on the Effective Date; and/or (d) a parent company, subsidiary company or other legal entity that owned or was owned by OCC to the extent that (i) such entity Discharged Hazardous Substances to the Newark Bay Complex while it owned or was owned by OCC; (ii) OCC agreed to retain liability, if any, for such entity's Discharges of Hazardous Substances to the Newark Bay Complex at the time majority ownership of such entity was sold by OCC or at the time such entity sold the majority interest in OCC; (iii) OCC retains liability, if any, for such entity's

Discharges of Hazardous Substances to the Newark Bay Complex on the Effective Date; and (iv) such entity was not a party to the Passaic River Litigation or was not identified in any submission to the Court or to the Special Master prior to the Effective Date, including in any Rule 4:5-1(b)(2) certification, as a potential third-party or fourth-party defendant to the Passaic River Litigation or an industrial user of a sewerage commission that was a Third-Party Defendant in the Passaic River Litigation; provided, however, that any such entity subject to this Paragraph 21.1(d) shall not be entitled to any protections provided to Affiliates in this Consent Judgment if such entity is an affiliate of Maxus or if such entity provided written notice to OCC of a Claim or potential Claim related to the Passaic River Litigation or Newark Bay Complex on or before the Effective Date. For purposes of this definition of Affiliate, “own” means the ownership directly or indirectly of more than fifty (50) percent of the voting rights in a company or other legal entity.

21.2. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §1906 et seq.

21.3. “Claim(s)” shall mean any claim (including directives) for damages, costs (including direct and indirect), injunctive, declaratory or other relief, whether known or unknown, contingent or accrued.

21.4. “Cleanup and Removal Costs” shall have the meaning ascribed to it in the Spill Act, N.J.S.A. 58:10-23.11b, and, to the extent not within the meaning ascribed under the Spill Act, shall also include direct and indirect costs recoverable under the WPCA and all costs of “response” (also known herein as “Response Costs”) as defined under 42 U.S.C. § 9601(25). For purposes of this Consent Judgment only, Cleanup and Removal Costs include, without limitation, the costs of dredging and disposal of dredge material for purposes of remediation or cleanup and removal activities in or for the

Newark Bay Complex. By including such costs as “Cleanup and Removal Costs” OCC does not waive any defense or argument as to the recoverability of such costs or agree that such costs are recoverable under the Spill Act or CERCLA.

21.5. “CLHH” shall mean Defendant CLH Holdings, Inc.

21.6. “Complaint” shall mean the complaint dated November 22, 2005 and filed by Plaintiffs on or about December 13, 2005, as subsequently amended, against Defendants.

21.7. “Consent Judgment” shall mean this Consent Judgment, including all exhibits hereto.

21.8. “Covered Discharge(s)” means a Discharge of any Hazardous Substances into the Newark Bay Complex, or the supply, shipment, delivery, storage, production, manufacture, generation, treatment, or disposal that resulted in a Discharge of Hazardous Substances into the Newark Bay Complex, or that comes to be located in the Newark Bay Complex, by OCC or its Affiliates, predecessors or successors (provided that if Hazardous Substances that are contained in a Covered Discharge migrate out of the Newark Bay Complex, such Hazardous Substances or Cleanup and Removal Costs associated therewith are excluded from “Covered Discharge”).

21.9. “Cross-Claims” shall mean the cross-claims filed in the Passaic River Litigation by OCC against Maxus, Tierra and the Repsol-YPF Defendants.

21.10. “Defendants” shall mean OCC, Maxus, Tierra and the Repsol-YPF Defendants collectively.

21.11. “Diamond Alkali Superfund Process” shall mean all investigations and/or response actions pursuant to CERCLA (including, without limitation, removal actions and remedial actions) undertaken in respect to the Diamond Alkali Superfund Site (added

to the National Priorities List on September 21, 1984, reference number NJD980528996, and including all operable units thereof or added thereto), undertaken by Plaintiffs and/or by federal agencies, separately or in conjunction with each other, or undertaken by other entities (including Defendants or Third-Party Defendants) and overseen or directed by Plaintiffs and/or federal agencies pursuant to administrative orders, decrees, directives, statutory or regulatory obligations, or similar authority, that address or respond to any alleged Discharge of Hazardous Substances that are located or come to be located within the Diamond Alkali Superfund Site (regardless of the location of the source of such Discharge whether inside or outside the Newark Bay Complex), and all federal or CERCLA enforcement activities and litigation directly related thereto. For purposes of this definition, “remedial actions” include monitored natural attenuation and no further action when such actions (or no action) have been selected as part of any remedy in the Diamond Alkali Superfund Process. “Diamond Alkali Superfund Process” shall not include any Other Action or other CERCLA investigations and/or remedial actions at any Superfund site other than the Diamond Alkali Superfund Site.

21.12. “Diamond Alkali Superfund Site” shall mean the geographic area consisting of all operable units or areas identified for investigation and/or response actions, including (without limitation) removal and remedial actions by the United States Environmental Protection Agency (“U.S. EPA”) and any other federal agencies or departments with authority to implement CERCLA, the Plaintiffs, and/or any other agencies and departments of the State of New Jersey, separately or in conjunction with each other, or with other entities acting under the direction of any of the foregoing, pursuant to administrative orders, decrees, directives, statutory or regulatory obligations, or other similar authority, as part of the Diamond Alkali Superfund Process, and as those

areas may be expanded from time to time, including (without limitation) the Lower Passaic River Study Area, the Lister Avenue Removal Area (Phase I and II), the Newark Bay Study Area and the Lister Property.

21.13. “Discharge(s)” and “Discharged” shall have the meanings ascribed to “discharge” in N.J.S.A. 58:10-23.11b and 58:10A-3, except that, for purposes of this Consent Judgment, “Discharge(s)” and “Discharged” shall also include the emission of Hazardous Substances into the atmosphere to the extent such emission contributes to contamination of water, sediments or other media in the Newark Bay Complex. For avoidance of doubt, “Discharge(s)” and “Discharged” shall include such Discharge(s), whether known or unknown, direct or indirect, without limitation.

21.14. “DSC-1” or “DSCC” shall mean the corporation that was named Diamond Alkali Company (which is the stipulated successor to, and allegedly assumed the liabilities of, Diamond Alkali Organic Chemicals Division, Inc., Kolker Realty Company and Kolker Chemical Works, Inc.), was subsequently renamed Diamond Shamrock Corporation after a 1967 merger with Shamrock Oil & Gas Company, and was later renamed Diamond Chemicals Company and then Diamond Shamrock Chemicals Company prior to its acquisition by and merger into OCC.

21.15. “Economic Damages” shall mean any and all damages, loss of value of real or personal property, increased costs of public services and related expenditures (but excluding costs attributable to dredging or disposal of dredge material for purposes of navigation as used in Paragraph 21.32), lost income of any kind, and lost tax revenue, including (without limitation) loss of revenue associated with lost industrial, manufacturing, commercial, recreational residential or mixed use development, navigation and port facilities, delays or lack of dredging, increased costs of and

expenditures for health or medical treatment, education, and other expenditures, and damages for impacts to navigation, recreation and commerce in or related to the Newark Bay Complex, recoverable under the Spill Act, the WPCA, any other statute or regulations relating to the protection of human health, the environment or natural resources, and/or common law (including, without limitation, by assignment), with applicable interest. For avoidance of doubt, Economic Damages shall include (without limitation) any and all forms of damages or rights of compensation or restitution available at law or equity for compensatory relief but shall not include Cleanup and Removal Costs, Natural Resource Damages, Navigation Costs, disgorgement and punitive or exemplary damages.

21.16. “Escrow Agreement” shall have the meaning provided for the term in Paragraph 23.

21.17. “FFS Area” shall mean the geographic area subject to and/or addressed by the Focused Feasibility Study, including the Passaic River from river mile (“RM”) 0.0 to RM 8.3 and, to the extent it addresses the same general or approximate geographic areas (not to be unduly expanded thereby), any expansion or reduction thereof by any subsequent amendment, revision, modification or final version of the Focused Feasibility Study issued by U.S. EPA or, by mutual agreement of the Parties, which agreement shall not be unreasonably withheld, the functional equivalent issued by U.S. EPA.

21.18. “FFS Remedy” shall mean the response action or removal actions (or cleanup and removal activities) selected by U.S. EPA in a record of decision issued for the FFS Area as a result of the FFS and proposed plan issued therewith.

21.19. “Focused Feasibility Study” or “FFS” shall mean the *Focused Feasibility Study for the Lower Passaic River Restoration Project: Focused Feasibility Study Report*

issued in April 2014 by the Louis Berger Group, Inc. for U.S. EPA and U.S. Army Corps of Engineers and, to the extent it addresses the same general or approximate geographic areas (not to be unduly expanded thereby), any subsequent amendment, revision, modification or final version thereof or, by mutual agreement of the Parties, which agreement shall not be unreasonably withheld, the functional equivalent issued by U.S. EPA .

21.20. “FFS Share Cap” shall mean the Four Hundred Million Dollar (\$400,000,000) cap on the State’s FFS Share set forth and defined in Paragraph 39.

21.21. “Future Cleanup and Removal Costs” shall mean Cleanup and Removal Costs incurred on or after the Effective Date of the Consent Judgment.

21.22. “Hazardous Substances” shall have the meaning ascribed to them in N.J.S.A. 58:10-23.11b and shall also be deemed, for purposes of this Consent Judgment only and without prejudice to the interpretation of the meaning of Hazardous Substances under the Spill Act, to include “Pollutants,” as that term is defined in N.J.S.A. 58:10A-3, including Pollutants contained within (i) sewage, including sewer systems and those systems’ main outfalls and Combined Sewer Outfalls (“CSOs”) and (ii) stormwater.

21.23. “Investigation Costs” for the purposes of Paragraph 39 shall mean all costs under Category I Capped Claims, as that term is defined in the RYM Settlement Agreement, incurred in (i) the investigation of the environmental condition of the FFS Area or the selection of a remedy for the FFS Area (but not the implementation of a remedy or evaluating and/or developing navigation in the FFS Area), and (ii) a removal action for the FFS Area not taken or directed by U.S. EPA. For avoidance of doubt, Investigation Costs shall include the costs of site investigation and evaluation, sampling and analysis of environmental media, gathering of geological, hydrological and other

scientific data, risk assessment, remedial investigation, and feasibility studies.

21.24. “Lister Avenue Removal Area (Phase I and II)” shall mean that area selected for a non-time critical removal under the Administrative Settlement Agreement and Order on Consent for Removal Action, Docket No. 02-2008-2020, among U.S. EPA, OCC and Tierra.

21.25. “Lister Property” shall mean the former DSC-1 facility and site located at and including the real property of 80 Lister Avenue, together with the real property at 120 Lister Avenue (acquired by DSCC on or about April 19, 1984), Newark, Essex County, New Jersey, these properties being known and designated as Block 2438, Lot(s) 57, 58 and 59, on the Tax Map of the City of Newark. For the avoidance of doubt, the Lister Property is outside of the FFS Area, except that the portion of the bank below mean high tide of the Passaic River that runs along the Lister Property is not to be included in the definition of the Lister Property, but is considered part of the FFS Area.

21.26. “Lower Passaic River Study Area” shall mean the lower 17 miles of the Passaic River and its tributaries, from the confluence with Newark Bay to the Dundee Dam, as identified in the May 8, 2007 Administrative Order on Consent concerning the Lower Passaic River Study Area, and as may be expanded by U.S. EPA from time to time. For the avoidance of doubt, the Lower Passaic River Study Area includes the FFS Area.

21.27. “Matters Addressed” shall have the meaning provided for that term in Paragraph 65.

21.28. “Maxus” shall mean Defendant Maxus Energy Corporation. Maxus is not an Affiliate of OCC.

21.29. “MIEC” shall mean Defendant Maxus International Energy Company.

21.30. "Natural Resource Damages" (also known herein as loss of natural resources and/or natural resource services, or cost of restoration of natural resources and/or natural resource services), for purposes of this Consent Judgment only, shall mean all Claims arising from Discharges of Hazardous Substances at the Lister Property that occurred prior to the Effective Date of this Consent Judgment and/or Discharges of Hazardous Substances that occurred prior to the Effective Date of this Consent Judgment into, or that come to be located in, the Newark Bay Complex, known or unknown, and that are recoverable by any New Jersey state natural resource trustee as damages for injuries to, destruction of, lost value of (including hedonic and bequest values), loss of natural resources and/or natural resource services (whether human or ecological) under the Spill Act, the WPCA, the Oil Pollution Act (33 U.S.C.A. §§ 2701 through 2761), the Clean Water Act (33 U.S.C.A. §§ 1251 through 1387), CERCLA, or any other state or federal common law, statute, or regulation, for compensation for the restoration and/or replacement of, the lost value of (including hedonic and bequest values), injury to, loss of, and/or destruction of natural resources and natural resource services (whether human or ecological), including (but not limited to) Claims for penalties, attorneys' fees, consultants' fees or experts' fees incurred in connection therewith. For purposes of clarification, Natural Resource Damages includes dredging or placement of dredge material as part of natural resource restoration conducted or approved by, or under an agreement with, the natural resource trustee(s) in their capacity as trustee(s), provided that any approval by a federal natural resource trustee concerning dredging or placement of dredge material performed by Plaintiffs or the State of New Jersey shall not be determinative or create a presumption that such dredging or placement of dredge material is included in Natural Resource Damages. For the avoidance of doubt, the costs of

compliance with statutory or regulatory requirements concerning the on-going operations of active facilities are not considered to be Natural Resource Damages.

21.31. “Natural Resource Damages Assessment Costs” shall mean the costs of assessing injury to natural resources and natural resource services and the restoration thereof, including (without limitation) oversight costs, attorneys’ fees, consultants’ fees and experts’ fees incurred as part of such assessment.

21.32. “Navigation Costs” shall mean costs attributable to dredging and/or disposal of dredge material for purposes of navigation in the Newark Bay Complex. Navigation Costs do not include: (i) the costs of dredging and disposal of dredge material in the Newark Bay Complex incurred as part of the Diamond Alkali Superfund Process (defined as within “Cleanup and Removal Costs” under Paragraph 21.4); (ii) Economic Damages associated with navigation in the Newark Bay Complex and/or the lack or delay thereof; (iii) Economic Damages associated with dredging in the Newark Bay Complex and/or the lack or delay thereof; or (iv) the costs of dredging or placement of dredge material as part of a natural resource restoration project undertaken by or on behalf of the state or federal natural resource trustees.

21.33. “Newark Bay Complex” shall mean (i) the Lister Property, (ii) the lower 17 miles of the Passaic River (including but not limited to the FFS Area), (iii) Newark Bay, (iv) the Arthur Kill, (v) the Kill Van Kull, (vi) to the extent investigated by or at the direction of U.S. EPA or DEP for remediation as part of the Diamond Alkali Superfund Process, now or in the future, the lower reaches of the Hackensack River and as may be further extended by U.S. EPA or DEP in the Diamond Alkali Superfund Process, and (vii) to the extent investigated by or at the direction of U.S. EPA for remediation as part of the Diamond Alkali Superfund Process, now or in the future, any adjacent waters,

sediments and other media of (i) through (vi).

21.34. "Newark Bay Study Area" shall mean the Newark Bay and portions of the Hackensack River, the Arthur Kill, and the Kill Van Kull, as identified in the February 13, 2004 Administrative Order on Consent between U.S. EPA and OCC, and as may be expanded by U.S. EPA.

21.35. "NRD Credit" shall mean the credit for the NRD Payment of Natural Resource Damages for which the State of New Jersey has an interest as trustee under state or federal law, which NRD Credit will grow at a compounded rate of seven percent 7% per year pursuant to Paragraph 47(a).

21.36. "NRD Payment" shall mean the Fifty Million Dollars (\$50,000,000) of the Settlement Funds applied to Natural Resource Damages as set forth in Paragraph 25.

21.37. "OCC" shall mean Occidental Chemical Corporation and its predecessors (including (without limitation) DSC-1/DSCC). Solely for purposes of the covenant not to sue described in Paragraphs 27-28 and the contribution protection under Paragraph 65, "OCC" is intended, and shall be interpreted, to include (a) the respective past and present officers, directors and employees of OCC; (b) its Affiliates and their respective past and present officers, directors and employees; and (c) to the extent that the alleged liability of any of the following entities is based upon its status and in its capacity as an entity related to OCC or to the extent based on transactions with OCC, and not to the extent that the alleged or potential liability of such entity arises independently of its status and capacity as a related entity of OCC, each of OCC's past and present, direct and indirect, (i) parents (to the extent not covered as an Affiliate), (ii) subsidiaries (to the extent not covered as an Affiliate), (iii) members (in the case of a limited liability corporation), (iv) partners (in the case of partnerships), (v) joint venturers (in cases of joint ventures), (vi) agents acting

within the course and scope of their authorized agency for OCC, and/or (vi) successors.

21.38. "OCC/DSCC Deliberate Conduct" shall mean the conduct identified in paragraph 19.36 of the RYM Settlement Agreement.

21.39. "OCC Distinct Conduct" shall mean the conduct identified in paragraph 19.37 of the RYM Settlement Agreement. For purposes of clarification, OCC denies any liability associated with Chemicaland Corporation.

21.40. "OCC Resolved Claims" shall have the meaning given to that term in Paragraphs 27 and 28.

21.41. "Other Action" or "Other Actions" shall mean past, present or future judicial, civil and administrative Claims (including directives) relating to (i) the condition of any upland site itself (i.e. property above the mean high water mark of the Newark Bay Complex) other than the Lister Property, (ii) any geographic area (including surface waters and sediments) outside the Newark Bay Complex, and (iii) Navigation Costs.

21.42. "Paragraph" shall mean a portion of this Consent Judgment identified by an Arabic numeral.

21.43. "Party" or "Parties" shall mean Plaintiff DEP, Plaintiff Commissioner, Plaintiff Administrator, and OCC.

21.44. "Passaic River Litigation" shall mean the action, originally initiated by Plaintiffs through the Complaint, as later amended, and proceeding in the Superior Court of New Jersey, Law Division - Essex County, Docket No. ESX-L9868-05 (PASR), against Defendants pursuant to the Spill Act, the WPCA, and common law and otherwise, including all cross-claims and counter-claims related thereto, the Claims which the Third-Party Plaintiffs have asserted against the Third-Party Defendants in the Third-Party Complaints, and such State law claims as Third-Party Plaintiffs could have asserted

against all Third-Party Defendants (rather than only some) but for an existing agreement among Third-Party Plaintiffs and certain Third-Party Defendants referenced in paragraph 15 of Third-Party Complaint B, paragraph 14 of Third-Party Complaint C, and paragraph 7 of Third-Party Complaint D.

21.45. “Past Cleanup and Removal Costs” shall mean Cleanup and Removal Costs incurred before the Effective Date of the Consent Judgment.

21.46. “Plaintiff(s)” shall mean DEP, Commissioner, Administrator, and any predecessor or successor department, agency or official thereof acting on their own behalf and on behalf of the State of New Jersey, its departments and agencies.

21.47. “Presentment and Resolution Process” shall have the meaning given to the term in Paragraph 45.

21.48. “Repsol” shall mean Defendant Repsol, S.A. (formerly known as Repsol YPF, S.A.).

21.49. “Repsol-YPF Defendants” shall mean collectively MIEC, Repsol, YPF, YPFI, YPFH and CLHH.

21.50. “RYY Cap” shall mean the \$400 Million cap as defined in paragraph 19.2 of the RYM Settlement Agreement applicable to Repsol, YPF and YPFI.

21.51. “RYY Capped Claims” shall mean the Claims subject to the RYY Cap as defined in paragraph 19.3 of the RYM Settlement Agreement.

21.52. “RYM Settlement Agreement” shall mean the Court Approved Settlement Agreement entered in the Passaic River Litigation on December 12, 2013 between Plaintiffs and Maxus, Tierra and the Repsol-YPF Defendants.

21.53. “Section” shall mean a portion of this Consent Judgment identified by a Roman numeral.

21.54. "Settlement Funds" shall mean the total moneys paid or to be paid to Plaintiffs by OCC under Paragraph 23 of this Consent Judgment.

21.55. "Settled Third-Party Defendant" shall mean those entities that entered into and abide by the obligations under the final, approved, and entered Third-Party Consent Judgment.

21.56. "SPA" shall mean the Stock Purchase Agreement, dated September 4, 1986, by which Maxus sold the stock of its wholly-owned subsidiary, DSCC, to Oxy-Diamond Alkali Corporation.

21.57. "State's FFS Share" shall have the meaning given to that term in Paragraph 39.

21.58. "Tierra/Maxus Investigations" shall mean the investigation and feasibility work and activities performed by Maxus and/or Tierra, on behalf of OCC, related to the Diamond Alkali Superfund Site, including all data collection and analysis, scientific publications, feasibility studies and submittals to Plaintiffs and U.S. EPA related thereto.

21.59. "Third-Party Consent Judgment" shall mean the consent judgment entered in the Passaic River Litigation on December 12, 2013 among Plaintiffs and Settled Third-Party Defendants.

21.60. "Third-Party Defendants" shall mean those entities named as third-party defendants by Maxus and Tierra in the Third-Party Complaints filed in this action on February 4 and 5, 2009 and as may be later amended.

21.61. "Third-Party Sites" shall have the meaning given in paragraph 19.60 of the RYM Settlement Agreement.

21.62. "Tierra" shall mean Defendant Tierra Solutions, Inc.

21.63. "Upland Order" shall mean the judicial and administrative orders for

investigation and remediation of the Lister Property (i.e. the 1990 Consent Decree in the matter of the United States of America, the State of New Jersey v. Occidental Chemical Corporation and Chemical Land Holdings, Inc., Civil Action No. 89-5065, in the United States District Court for the District of New Jersey, the March 13, 1984 Administrative Consent Order among the New Jersey Department of Environmental Protection and Diamond Shamrock Chemicals Company and Marisol, Inc. (ACO I) and the December 21, 1984 Administrative Consent Order between the New Jersey Department of Environmental Protection and Diamond Shamrock Chemicals Company (ACO II)).

21.64. "YPF" shall mean Defendant YPF, S.A.

21.65. "YPFH" shall mean Defendant YPF Holdings, Inc.

21.66. "YPMI" shall mean Defendant YPF International S.A. (formerly known as and as successor, at law or in equity, to YPF International Ltd.).

V. PARTIES' OBJECTIVES

22. Given the uncertainties of litigation, the Parties' objectives in entering into this Consent Judgment and the Dismissal Order include, *inter alia*, (a) advancing the protection of public health and safety and the environment consistent with the purposes that the Spill Act is intended to serve; (b) resolving disputed liabilities as to Plaintiffs' alleged right to recover costs, penalties and damages caused by Covered Discharges; (c) resolving disputed liabilities as to Plaintiffs' alleged right to recover a portion of funds expended and secure additional funds for the investigation and remediation of Hazardous Substances or restoration of natural resources within the Newark Bay Complex; (d) avoiding the expenditure of an inordinate amount of resources that would be incurred in the prosecution and defense of the Claims in the Passaic River Litigation resolved hereby; (e) resolving the Claims of Plaintiffs in the Passaic River Litigation as to OCC consistent with the terms of the RYM Settlement Agreement; (f) securing

OCC's commitment to pay or reimburse Future Cleanup and Removal Costs of Plaintiffs and embodying the effect of the Court's July 19, 2011 order on OCC's liability; (g) providing a covenant not to sue and securing contribution protection as to Matters Addressed in this Consent Judgment; (h) dismissing all Claims between Plaintiffs and OCC pursuant to the terms of this Consent Judgment and the Dismissal Order; and (i) achieving resolution of Plaintiffs' remaining Claims brought in the Passaic River Litigation or related thereto, consistent with the Third-Party Consent Judgment and RYM Settlement Agreement.

VI. OCC'S COMMITMENTS

23. OCC shall pay, or cause to be paid, to Plaintiffs One Hundred and Ninety Million United States Dollars (\$190,000,000) (the "Settlement Funds"). The Settlement Funds shall be paid in installments as follows:

- a. Seventy Million Dollars (\$70,000,000) the later of fifty (50) days after the Effective Date of this Consent Judgment, or January 15, 2015;
- b. Sixty Million Dollars (\$60,000,000) the later of one hundred twenty (120) days after the Effective Date of this Consent Judgment, or March 15, 2015; and
- c. Sixty Million Dollars (\$60,000,000) on or before June 15, 2015.

Until this Consent Judgment and Dismissal Order become final and non-appealable, the Settlement Funds shall be paid into an escrow account for the benefit of Plaintiffs established under an escrow agreement to be mutually agreed by the Parties (the "Escrow Agreement"). After this Consent Judgment and Dismissal Order become final and non-appealable, payment shall be made direct to "Treasurer, State of New Jersey" by either check or wire transfer as directed by Plaintiffs. Except as provided below, after this Consent Judgment and Dismissal Order become final and non-appealable, the Parties shall cause the escrow agent to disburse any

Settlement Funds paid into the escrow account, plus interest and less any fees payable or chargeable under the Escrow Agreement, if any, as provided in the Escrow Agreement, to “Treasurer, State of New Jersey” as directed by Plaintiffs. Notice of payment or payments shall be mailed or otherwise delivered to Section Chief, Environmental Enforcement Section, Department of Law and Public Safety, Division of Law, Richard J. Hughes Justice Complex, 25 Market Street, P.O. Box 093, Trenton, New Jersey 08625-0093.

24. In the event this Consent Judgment and/or the Dismissal Order are not approved, or the approval thereof is overturned, remanded, vacated or modified on appeal such that the Consent Judgment is void and of no effect as provided by Paragraphs 71, 72 and 83-85, the Settlement Funds, if any, placed into the escrow account by OCC shall be returned immediately and in full to OCC, plus interest and less any fees payable or chargeable under the Escrow Agreement, if any, as provided by the Escrow Agreement.

25. The NRD Payment (Fifty Million Dollars (\$50,000,000) of the Settlement Funds) shall be applied to Plaintiffs’ (and the State of New Jersey’s) Claims for Natural Resource Damages owed or that may be owed in the future by OCC. Plaintiffs shall apply the NRD Payment to restoration projects primarily intended to address lost human use services (but such restoration activities may also tangentially compensate for ecological services) for natural resources jointly held in trust by state and federal natural resource trustees in the Newark Bay Complex. Plaintiffs shall seek to diligently plan, design, implement and complete such restoration projects. The remaining One Hundred Forty Million Dollars (\$140,000,000) in Settlement Funds shall first be applied to any of Plaintiffs’ Claims for Past Cleanup and Removal Costs remaining on the Effective Date and reserved against OCC under paragraph 29 of the RYM Settlement Agreement, to the extent recoverable under CERCLA, and then applied to Economic Damages reserved against OCC under paragraph 29 of the RYM Settlement

Agreement. Notwithstanding any allocation of the Settlement Funds set forth in this Consent Judgment, except for the application of the NRD Payment, this Paragraph does not control any internal allocation or use that Plaintiffs or the State of New Jersey may make with respect to the Settlement Funds received. Consistent with their obligation to promote the public interest, the Plaintiffs are accepting the Settlement Funds from OCC to achieve the objectives set forth in Paragraph 22 and to fully and finally resolve the Passaic River Litigation. Except as provided in this Paragraph 25, Plaintiffs are not dedicating or attributing the Settlement Funds to any particular Claims or damages.

26. OCC agrees to pay the Settlement Funds under Paragraph 23 and to pay or assure payments of Future Cleanup and Removal Costs under Paragraphs 39, 41 and 42 as costs, losses and liabilities incurred by OCC as a result of OCC's acquisition of DSCC, including, but not limited to, DSC-1/DSCC's Discharges of Hazardous Substances at or from the Lister Property. OCC does not agree to pay, allocate or attribute any portion of the Settlement Funds under this Consent Judgment to punitive damages, penalties, or "disgorgement damages". In connection with its negotiation and entry into this Consent Judgment, OCC intends to comply with its duties and obligations, if any, as indemnitee under the SPA or common law.

VII. PLAINTIFFS' COVENANT NOT TO SUE OCC AND RESERVATION OF RIGHTS

27. In exchange for the consideration provided by OCC, including (without limitation) the payments OCC is making pursuant to Paragraph 23 above, and except as otherwise provided in Paragraphs 28, 48 and 52 below, and in addition to and in supplement of the covenants not to sue provided in paragraphs 28-29 of the RYM Settlement Agreement, Plaintiffs, on their own behalf and on behalf of the State of New Jersey and its departments and agencies, covenant not to sue for, and not to assign, transfer, delegate, or take or procure judicial or administrative action (including, without limitation, the issuance of a directive) with respect

to, any and all of the OCC Resolved Claims listed below against OCC, including (without limitation) under New Jersey and federal statutory and common law. Subject to Paragraphs 28, 48 and 52, this covenant not to sue shall apply to any and all of the following Claims (hereinafter “OCC Resolved Claims”):

- a. All Claims of Plaintiffs against OCC associated with Covered Discharges or the past investigation thereof;
- b. All Claims brought or which could have been brought against OCC for Past Cleanup and Removal Costs paid or incurred by Plaintiffs (or assigned to Plaintiffs), Third-Party Defendants, or any other person or entity associated with Covered Discharges or the past investigation thereof;
- c. Subject to and contingent upon OCC’s obligation under Section IX, all Claims against OCC for Future Cleanup and Removal Costs, including the State’s FFS Share, paid or incurred by Plaintiffs, or assigned to Plaintiffs by other persons, now or in the future, in connection with response actions (including (without limitation) investigations and removal and remedial actions) or cleanup and removal actions associated with Covered Discharges;
- d. All Claims against OCC for Economic Damages (whether by Plaintiffs’ Claims or those assigned to Plaintiffs by other persons), suffered by Plaintiffs or the State of New Jersey (or by other persons assigning such claims to Plaintiffs), now or in the future associated with Covered Discharges or the past investigation thereof;
- e. All Claims against OCC for disgorgement damages (whether by Plaintiffs’

Claims or those assigned to Plaintiffs by other persons), now or in the future, associated with Covered Discharges or the past investigation thereof;

- f. All Claims against OCC for punitive or exemplary damages (whether by Plaintiffs' Claims or those assigned to Plaintiffs by other persons), now or in the future, associated with Covered Discharges or the past investigation thereof;
- g. All Claims against OCC for unjust enrichment, now or in the future, associated with Covered Discharges or the past investigation thereof;
- h. All Claims against OCC for Natural Resource Damages and Natural Resource Damage Assessment Costs, now or in the future, associated with Covered Discharges or the past investigation thereof;
- i. All Claims against OCC for attorneys' fees and litigation costs incurred by Plaintiffs, now or in the future, in the Passaic River Litigation;
- j. All Claims, now or in the future, against OCC for penalties pursuant to the Spill Act, WPCA, and/or any other statutory or common law associated with Covered Discharges or the past investigation thereof; and
- k. All Claims against OCC associated with Tierra/Maxus Investigations (provided that nothing herein shall preclude Plaintiffs or the State of New Jersey from challenging, contesting or otherwise disputing Tierra/Maxus Investigations).

28. Notwithstanding anything to the contrary herein, including Plaintiffs' covenant not to sue OCC in Paragraph 27, Plaintiffs reserve, and this Consent Judgment is without

prejudice to and shall have no effect and limitation on, all rights and Claims against OCC concerning the following:

- a. Failure of OCC to satisfy its obligation to pay the Settlement Funds under Paragraph 23 of this Consent Judgment;
- b. Failure of OCC to satisfy its obligation under Section IX of this Consent Judgment to pay, reimburse or otherwise undertake response or removal actions or cleanup and removal activities for Future Cleanup and Removal Costs, following the Presentment and Resolution Process (when applicable);
- c. Future Cleanup and Removal Costs (including recoverable attorneys' fees) paid or incurred by Plaintiffs or the State of New Jersey, including any of its departments and agencies, associated with a Covered Discharge not paid or reimbursed by OCC under Section IX, following the Presentment and Resolution Process (when applicable);
- d. Future Cleanup and Removal Costs (including recoverable attorneys' fees) paid or incurred by Plaintiffs or the State of New Jersey, including any of its departments and agencies, associated with the Lister Property not paid or reimbursed by OCC under Section IX, following the Presentment and Resolution Process (when applicable);
- e. Future Cleanup and Removal Costs associated with Discharges of Hazardous Substances at or from property other than the Lister Property;
- f. Cleanup and Removal Costs and other damages and/or losses associated with any geographic area outside the Newark Bay Complex;
- g. Other Actions;

- h. Liability for any Discharge of any Hazardous Substance (but not including the migration of any Hazardous Substance from a Discharge that occurred prior to approval of this Consent Judgment but enters the Newark Bay Complex thereafter) occurring after the Effective Date of this Consent Judgment;
- i. Liability for future air emissions;
- j. Criminal liability; and
- k. Liability or obligations, if any, to the extent not satisfied by OCC pursuant to this Consent Judgment, of OCC under current and valid administrative orders, consent decrees, or judgments (not rendered in the Passaic River Litigation) to which OCC is a party, including, but not limited to, the Upland Orders.

Notwithstanding any of the above reservations by Plaintiffs, OCC reserves all rights and defenses it may have to these Claims or actions.

29. The covenant not to sue for Natural Resource Damages under Paragraph 27(h) is not intended to limit or restrict the right or ability of any federal natural resource trustee to assess natural resource damages or to pursue Claims for natural resource damages in the Diamond Alkali Superfund Site. The Parties intend that the NRD Payment will be applied to reduce the overall alleged liability of OCC for Natural Resource Damages to natural resources held in trust by both the state and federal natural resource trustees and that there should be no double recovery of Natural Resource Damages from OCC. OCC recognizes and agrees that Plaintiffs' covenant not to sue under Paragraph 27(h) and the NRD Credit cannot bind the federal natural resource trustees on any matters in which the federal natural resource trustees have a shared trusteeship interest with the State of New Jersey, including a determination of the amount and

application of the NRD Credit, as described more fully in Paragraph 47. Furthermore, OCC recognizes and agrees not to contest that the federal natural resource trustees' interest in natural resource damage claims and service losses in the Diamond Alkali Superfund Site above the NRD Payment, if any, is shared and coextensive with the interest of the State of New Jersey as trustee, and the federal natural resource trustees are not restricted by this Consent Judgment from seeking such natural resource damages. OCC covenants not to assert in the future that this Consent Judgment limits or restricts any Claim for natural resource damages brought by the federal natural resource trustees beyond the NRD Payment. The foregoing notwithstanding, the State of New Jersey will not assign or cede to the federal natural resource trustees any Claim for injury and/or damages to natural resources in the Newark Bay Complex that are exclusively within the State's trusteeship.

VIII. PLAINTIFFS' ADDITIONAL COVENANTS AND RESERVATIONS

30. Subject to Plaintiffs' covenants in Sections VII and VIII, Plaintiffs retain all authority, and reserve all rights, to undertake any further remediation authorized by law concerning the Newark Bay Complex. The covenants contained in Sections VII and VIII do not pertain to any matters other than those expressly stated.

31. Plaintiffs acknowledge and agree that U.S. EPA is, and Plaintiffs will not seek to become, the designated lead agency with respect to all response actions selected, to be selected and/or conducted as part of the Diamond Alkali Superfund Process. Plaintiffs agree to defer to U.S. EPA's final decisions on the selection of a remedy or remedies within the Diamond Alkali Superfund Site as determined by the formal Diamond Alkali Superfund Process, and Plaintiffs shall not use State authorities to select or require separate and/or additional response action(s) for the Diamond Alkali Superfund Site from those selected by U.S. EPA in implementing the Diamond Alkali Superfund Process. Nothing in this Paragraph shall limit Plaintiffs' authority or

action related to response actions that do not address Hazardous Substances Discharged or released from the Lister Property or that address Hazardous Substances Discharged or released from a Third-Party Site other than the Lister Property. Furthermore, nothing in this Paragraph shall obligate Plaintiffs or the State of New Jersey to provide (or to not provide) or to agree (or not to agree) to permanent use of State of New Jersey lands or to take title to land (or not take title to land) for the implementation of any remedy or response action for the Diamond Alkali Superfund Site.

32. Plaintiffs agree not to oppose any application made by Maxus, Tierra or OCC to U.S. EPA for a waste classification determination that sediments in the FFS Area do not contain listed hazardous wastes and/or are not “Hazardous Wastes from Non-Specific Sources” pursuant to 40 C.F.R. § 261.3. To the extent reasonable and within ordinary agency discretion, Plaintiffs will use good faith efforts to resolve their differences and to coordinate with Maxus, Tierra and OCC on future regulatory issues associated with the Diamond Alkali Superfund Process.

33. Plaintiffs represent that they do not have current knowledge of a defect in the physical remedial or removal work (excluding any Tierra/Maxus Investigations) performed by Maxus and/or Tierra, on behalf of OCC, related to the Lister Property prior to the Effective Date pursuant to the Administrative Consent Judgment and Order on Consent for the Lister Avenue Removal Area (Phase I and II) and/or the Upland Orders.

34. Unless compelled by applicable law or court order, Plaintiffs shall not disclose to any person or entity any information developed by Plaintiffs and/or OCC regarding the legal analyses or factual bases for the Claims asserted by Plaintiffs and/or OCC against Maxus, Tierra or the Repsol-YPF Defendants under the Cross-Claims and/or for fraudulent transfers, civil conspiracy, breach of fiduciary duty, and aiding and abetting (Counts 6-8 of Plaintiffs’ Fourth Amended Complaint). The agreement not to disclose information under this Paragraph 34 does

not apply to information subject to Paragraph 79 or information that forms the bases of Plaintiffs' Claims against OCC in the Passaic River Litigation.

35. Plaintiffs covenant not to assist and/or support OCC, Maxus, Tierra or the Repsol-YPF Defendants in connection with the prosecution or defense of OCC's Cross-Claims, except as required by law or a Court of competent jurisdiction. Notwithstanding anything herein, Plaintiffs and the State of New Jersey reserve all of their rights and are entitled to take any actions necessary to defend against any allegation or assertion concerning the acts or omissions of Plaintiffs, the State of New Jersey, and their respective agents or any allegation or assertion that such acts or omissions caused or contributed to OCC's Cross-Claims or damages arising therefrom, provided that Plaintiffs may only void this Consent Judgment pursuant to the terms herein.

36. For any demand for performance under this Consent Judgment or the Upland Orders, Plaintiffs shall communicate with OCC and, unless otherwise directed in writing by OCC, OCC's indemnitor(s), Maxus and/or Tierra, in accordance with past practices of DEP.

37. Plaintiffs and OCC agree to join and support each other in defending this Consent Judgment and the Dismissal Order and any appeal thereof, and in seeking to dismiss any Claim that is barred or otherwise precluded by this Consent Judgment and the entry of the Dismissal Order.

IX. OCC'S OBLIGATIONS TO PAY CERTAIN FUTURE CLEANUP AND REMOVAL COSTS AND CREDITS

38. OCC's obligations for Future Cleanup and Removal Costs, if any, under this Section IX shall be limited (as applicable) to the State's FFS Share and Future Cleanup and Removal Costs incurred on or after the Effective Date of this Consent Judgment for Covered Discharges at or from the Lister Property, provided there shall never be a double payment to, or a double recovery by, any of the Plaintiffs or the State of New Jersey. Additionally, OCC's

obligations for Future Cleanup and Removal Costs, if any, under this Section IX shall be subject to the credits and offsets in Paragraph 46 and to all the benefits and protections to OCC under the RYM Settlement Agreement and the Third-Party Consent Judgment (except as specifically provided herein).

39. Consistent with Spill Act joint and several liability, if federal funds are used, in whole or in part, for U.S. EPA providing remedial action under 42 U.S.C. § 9604 for the FFS Remedy, OCC shall pay, or assure payment of, Plaintiffs' or the State of New Jersey's obligations, if any, for the FFS Remedy under 42 U.S.C. §§ 9604(c)(3)(A) (assurance of future maintenance) and 9604(c)(3)(C)(i) (10% of the costs of the U.S. EPA providing remedial action, including all future maintenance) (the "State's FFS Share"); provided however that nothing in this Consent Judgment, including OCC's agreement to pay, or assure payment of, the State's FFS Share, shall be deemed a waiver of OCC's right or ability to challenge the FFS, the FFS Remedy and/or any other remedy proposed by U.S. EPA for the Diamond Alkali Superfund Site. For avoidance of doubt, the State's FFS Share does not include Plaintiffs' or the State of New Jersey's obligations, if any, under 42 U.S.C. § 9604(c)(3)(C)(ii) (50% or greater of any sums expended in response to a release at a facility operated by the State). Further, OCC shall not contest in any venue or proceeding that the Newark Bay Complex is navigable waters and/or the beds underlying navigable waters as provided in 42 U.S.C. § 9604(c)(3)(C) or that 42 U.S.C. § 9604(c)(3)(C)(ii) is non-applicable to the Diamond Alkali Superfund Site. Plaintiffs acknowledge and agree that the State's FFS Share paid or reimbursed by OCC shall constitute CERCLA Response Costs. OCC's obligations to pay or assure payment of the State's FFS Share under this Paragraph 39 shall be capped at a total of Four Hundred Million Dollars (\$400,000,000) (except Investigation Costs, which shall be capped at Twenty Million Dollars (\$20,000,000)) ("FFS Share Cap"). With respect to the State's FFS Share, and except as

provided below, Plaintiffs agree to seek credits against the State's FFS Share to the fullest extent permissible under 42 U.S.C. § 9604(c)(5), with any such credit obtained by Plaintiffs accordingly reducing OCC's obligations for the State's FFS Share hereunder ("FFS Credit"). Nothing herein obligates Plaintiffs or the State of New Jersey to seek credits potentially available from sites pursuant to 42 U.S.C. § 9604(c)(5) other than the Diamond Alkali Superfund Site.

40. Some or all of OCC's obligations for the State's FFS Share under Paragraph 39 may be recoverable by OCC from Maxus, Tierra and/or the Repsol-YPF Defendants and may be subject to the RYY Cap pursuant to the RYM Settlement Agreement. The foregoing notwithstanding, as between OCC and Plaintiffs, OCC's obligations for the State's FFS Share under Paragraph 39 shall not be reduced or affected by the application of the RYY Cap. In the event the RYY Cap would limit or reduce Plaintiffs' ability to recover or retain all or part of the State's FFS Share from OCC under the RYM Settlement Agreement, OCC shall remain obligated to pay the State's FFS Share, subject only to the FFS Share Cap and OCC's reservations of rights under this Consent Judgment. OCC agrees not to seek reimbursement or recovery from Repsol, YPF and/or YPFI for the portion, if any, of the State's FFS Share above the RYY Cap. OCC will seek full recovery of the State's FFS Share from Maxus, Tierra, MIEC, YPFH and/or CLHH, and Plaintiffs agree to abide by the cap provisions pursuant to section X of the RYM Settlement Agreement, as applicable to these entities.

41. Consistent with Spill Act joint and several liability, OCC shall pay, or assure payment of, all Future Cleanup and Removal Costs paid or incurred by Plaintiffs or the State of New Jersey for or at Lister Property itself.

42. Consistent with Spill Act joint and several liability, OCC shall pay, or assure payment of, all Future Cleanup and Removal Costs paid or incurred by Plaintiffs or the State of New Jersey in connection with the Newark Bay Complex (whether inside or outside of the FFS

Area, but not the Lister Property itself), provided that Plaintiffs or the State of New Jersey are able to demonstrate, to the extent required by law, a causal nexus between the remediation and/or the Future Cleanup and Removal Cost sought hereunder and a Covered Discharge at or from the Lister Property prior to the Effective Date, subject to the conditions of Paragraph 50 (for areas outside the FFS Area). The requirement to demonstrate a causal nexus as described herein shall not apply to Future Cleanup and Removal Costs recoverable under Paragraphs 39 and/or 41. In addition to any other defenses available to OCC, OCC may demonstrate in defending against a Claim by Plaintiffs under this Paragraph 42, that, among other things, the Future Cleanup and Removal Costs or remediation lack the necessary causal nexus as set forth above or are arbitrary or capricious.

43. For Future Cleanup and Removal obligations in the Newark Bay Complex pursuant to Section IX, other than those subject to Paragraph 39 (State's FFS Share) and Paragraph 41 (Lister Property), if Plaintiffs determine that OCC's Future Cleanup and Removal obligation is triggered, Plaintiffs shall tender such obligation to OCC by providing written notice to OCC, as provided by Paragraphs 36 and 75, detailing the nature and extent of the environmental contamination requiring further investigation, remediation or cleanup and removal, and containing information establishing the causal nexus as required by Paragraph 42 that includes, as applicable (i) details of the nature and extent of the environmental contamination requiring further investigation, remediation or cleanup and removal, (ii) information establishing the causal nexus as required by Paragraph 42, (iii) invoices for any work performed, (iv) information on Plaintiffs' ability to meet the obligations under Paragraph 49(a), and (v) analytical data, if any, generated or relied upon in establishing the causal nexus. Plaintiffs' agreement to provide analytical data or information establishing the causal nexus (or Plaintiffs' failure to provide all such available analytical data or information) shall not limit the

data or information Plaintiffs may use to establish the causal nexus in any proceeding and shall not provide a defense to any Claim by Plaintiffs.

44. Upon receipt of such notice, OCC may (a) elect to conduct the required further investigation, remediation or cleanup and removal activities on its own (or by and through Maxus, Tierra or their affiliates), (b) request that Plaintiffs conduct the required additional investigation, remediation or cleanup and removal activities and reimburse (or assure reimbursement of) Plaintiffs for their costs incurred to conduct the investigation, remediation or cleanup and removal activities, or (c) reject the tender. Plaintiffs shall retain all authority provided to Plaintiffs under law for investigation and oversight in the Newark Bay Complex and in their support role with U.S. EPA under the Diamond Alkali Superfund Process (without tendering such activities to OCC) and shall have the right to intervene and take over OCC's investigation, remediation or cleanup and removal activities (subject to the Presentment and Resolution Process) if Plaintiffs reasonably believe that OCC's investigation, remediation or cleanup and removal activities (i) are not in compliance with applicable federal and state laws and/or regulations, including but not limited to, the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., the Administrative Requirements for Remediation of Contaminated Sites, N.J.A.C. 7:27C, the Technical Requirements for Remediation of Contaminated Sites, N.J.A.C. 7:26E, the National Contingency Plan and all other laws and regulations applicable to the investigation, remediation or cleanup and removal activities or (ii) are otherwise deficient in addressing the environmental contamination at the area at issue. If OCC rejects the tender from Plaintiffs under (c) of this Paragraph, or the State elects not to perform the work as requested by OCC under (a) of this Paragraph, following the Presentment and Resolution Process in Paragraph 45 (when applicable), Plaintiffs may assert all such Claims they may have against OCC

concerning the disputed Cleanup and Removal Cost under this Consent Judgment or otherwise as reserved herein.

45. If OCC rejects Plaintiffs' tender under Paragraph 44, or if there is another dispute between OCC and Plaintiffs regarding the contractual rights or obligations of the Parties under this Consent Judgment, the disputing Party shall provide written notice to the other Party identifying the issue(s) in dispute. The notice shall be directed as provided by Paragraphs 36 and 75. Thereafter, the Parties shall engage in negotiations (including in-person meetings) to resolve the dispute for a period of not less than sixty (60) days (the "Presentment and Resolution Process"), which may be extended by mutual agreement of the Parties. If after the Presentment and Resolution Process, a resolution of the dispute has not been reached, the Parties may seek enforcement of this Consent Judgment or take other judicial or administrative action as available. Plaintiffs agree not to commence administrative processes or litigation under the Spill Act or other authority for Future Cleanup and Removal Costs subject to this Consent Judgment during the Presentment and Resolution Process, unless Plaintiffs determine, in their sole and absolute discretion, that action is necessary to address an immediate environmental concern, imminent and substantial endangerment to the public health or welfare or the environment, or in the event of an emergency response. By participating in the Presentment and Resolution Process, neither Party shall be deemed to have waived any rights or defense and shall have available to it all defenses that are available under law, statute or contract.

46. To ensure the State of New Jersey does not receive a double recovery, OCC shall be entitled to the following credits or offsets to its obligations to pay Future Cleanup and Removal Costs or perform the remedial work under this Section IX, and Plaintiffs shall not seek to recover the following Future Cleanup and Removal Costs with respect to the Diamond Alkali Superfund Site:

- a. Future Cleanup and Removal Costs actually paid to any of Plaintiffs or the State of New Jersey by persons or entities other than OCC through settlement or otherwise to address Claims for future cleanup and removal activities or remediation (i.e. Cleanup and Removal Costs paid after the Effective Date) as part of the Diamond Alkali Superfund Site.
- i. For purposes of the credit provided by this Subparagraph 46(a) only, OCC shall only receive a credit or offset for the specific Cleanup and Removal Costs actually paid to Plaintiffs or the State of New Jersey.
- ii. Further for purposes of the credit provided by this Subparagraph 46(a) only, work (whether cleanup and removal activities or remedial or removal actions) not paid for by Plaintiffs or the State of New Jersey and conducted by another person or entity shall not constitute a Future Cleanup and Removal Cost incurred by Plaintiffs or the State of New Jersey for which OCC may be obligated to pay or reimburse under this Consent Judgment.
- b. The FFS Credit provided in Paragraph 39 of this Consent Judgment for the State's FFS Share; and
- c. In accordance with provisions of paragraph 29(c) of the RYM Settlement Agreement, a credit/waiver for Future Cleanup and Removal Costs actually paid or incurred by the State of New Jersey, including any of its departments and agencies, after the effective date of the RYM Settlement Agreement, in excess of \$35,400,000 and up to \$70,800,000 in connection with areas of the Newark Bay Complex outside the FFS Area (but not

including the Lister Property itself).

- i. For purposes of calculating when the \$35,400,000 or \$70,800,000 threshold is reached in this Subparagraph 46(c) only, Cleanup and Removal Costs actually paid or incurred by the State of New Jersey shall still be considered paid or incurred even if such costs are recovered from or reimbursed by any person other than OCC; provided, however, that there shall never be any double recovery by the State of New Jersey. For the avoidance of doubt, the State of New Jersey will not seek to collect from OCC Future Cleanup and Removal Costs associated with areas of the Newark Bay Complex outside the FFS Area (but not with regard to the Lister Property) between \$35,400,001 and \$70,799,999, but may seek to collect Future Cleanup and Removal Costs above or below such amounts, subject to all provisions of this Consent Judgment.
- ii. The monetary restrictions in this Subparagraph 46(c) shall also not apply to any Future Cleanup and Removal Costs for which OCC is not jointly liable with a Settled Third-Party Defendant for such Future Cleanup and Removal Costs.
- iii. Nothing herein requires Plaintiffs to pursue OCC and/or any person in separate suits or proceedings or to segregate their liability, but Plaintiffs agree to collect any such Future Cleanup and Removal Costs consistent with the terms of this Subparagraph 46(c).

The inclusion of these specific credits or offsets is not intended to waive other potential credits

legally available to OCC and not addressed herein. The settlement funds paid to Plaintiffs pursuant to the Third-Party Consent Judgment and the RYM Settlement Agreement do not serve as credits to OCC's obligations for Future Cleanup and Removal Costs hereunder.

47. The "NRD Credit" shall be applied as a credit to OCC against Plaintiffs' and the State of New Jersey's Claims against OCC for Natural Resource Damages liability as follows:

- a. Upon payment in full of the Settlement Funds, including the NRD Payment, the NRD Credit will grow at a compounded rate of seven percent (7%) per year;
- b. The NRD Credit will continue to grow until a federal natural resource damages assessment is completed for the Diamond Alkali Superfund Site and a final demand for restoration or natural resource damages for the Diamond Alkali Superfund Site by the federal natural resource trustees is issued to OCC under applicable federal law and/or regulations; and
- c. The NRD Credit shall be calculated as of the time such final demand for restoration or natural resource damages is asserted by a federal natural resource trustee against OCC for the Diamond Alkali Superfund Site.

The NRD Credit shall only apply to OCC's liability for the Diamond Alkali Superfund Site and may not be assigned or transferred to any other person or entity. The NRD Payment may form the basis of Claims in contribution by OCC against any other person or entity, but amounts in the compounded NRD Credit above the initial NRD Payment may not form the basis of Claims in contribution against any other person or entity. The NRD Credit provided in this Consent Judgment only applies to Plaintiffs' and/or the State of New Jersey's Natural Resource Damages Claims against OCC and do not bind the federal natural resource trustees. The NRD Credit multiplier under Subparagraph 47(a) may not be used as presumptive credit, unless the federal

natural resource trustees agree to same, or as a reduction in values as to the federal natural resource trustees, unless the federal natural resource trustees or a federal court determine otherwise. The value of any credit to OCC above the NRD Payment as to Claims by the federal natural resource trustees, if any, shall be determined under federal law, by the federal natural resource trustees or a federal court.

**X. PLAINTIFFS' ADDITIONAL COVENANTS AND RESERVATIONS OF RIGHTS
WITH RESPECT TO FUTURE CLEANUP AND REMOVAL COSTS**

48. Nothing in this Consent Judgment shall mitigate or limit (i) OCC's obligations to perform response actions under the Upland Orders, or (ii) Plaintiffs' or the State of New Jersey's right or ability, if any, to enforce the Upland Orders against OCC; provided, however, that OCC's obligations, if any, regarding the Lister Property or Upland Orders may be satisfied under the terms of this Consent Judgment.

49. In the event OCC pays, or assures payment of, Future Cleanup and Removal Costs under Paragraph 42 (and which are not recoverable under Paragraphs 39 and 41), Plaintiffs will issue a Spill Act directive to non-governmental entities (other than OCC) that Plaintiffs reasonably determine are responsible for known Discharge(s) that are substantial contributing factors to such Future Cleanup and Removal Costs, subject to Plaintiffs' discretion to enforce or pursue state or federal law, or policies, and subject to any covenant not to sue provided by Plaintiffs or U.S. EPA. Plaintiffs shall not be required to investigate or develop evidence of other dischargers or Discharges to the Newark Bay Complex; provided, however, that Plaintiffs will review any information provided by OCC regarding other dischargers and/or Discharges to the Newark Bay Complex as part of its consideration of whether such other dischargers and/or Discharges are substantial contributing factors to Future Cleanup and Removal Costs under Paragraph 42. Plaintiffs' agreement to issue a Spill Act directive under this Paragraph or

Plaintiffs' failure to issue a Spill Act directive shall not be a defense to any Claim asserted by Plaintiffs against OCC.

50. For any and all Claims reserved by Plaintiffs against OCC for Future Cleanup and Removal Costs at parts of the Diamond Alkali Superfund Site outside of the FFS Area, as reserved in Subparagraphs 28(b), (c) and (d) (but not at the Lister Property itself), Plaintiffs covenant that the following conditions must be met before or as part of asserting such Claims or taking administrative action against OCC:

- a. The response action or Cleanup and Removal Costs sought are undertaken or incurred, or are to be undertaken, as part of the Diamond Alkali Superfund Process;
- b. Plaintiffs are able to demonstrate, to the extent required by law, a causal nexus between Discharges of Hazardous Substances which occurred prior to the Effective Date at or from the Lister Property and the response action or Cleanup and Removal Costs incurred or required to be incurred by the Plaintiffs;
- c. In any action or proceeding other than the Passaic River Litigation, Plaintiffs will also reasonably pursue liability as to non-governmental entities (other than Maxus, Tierra, or the Repsol-YPF Defendants) that Plaintiffs reasonably determine are responsible for known Discharge(s) that are or may be substantial contributing factors to such Cleanup and Removal Costs, subject to Plaintiffs' reasonable and non-arbitrary discretion to enforce or pursue state or federal law, or policies, and any covenant not to sue provided by Plaintiffs.

Any Cleanup and Removal Costs paid to Plaintiffs through settlement or otherwise in an action

brought against a person or entity under this Paragraph shall be applied as a credit to OCC's liability (if any) for such Future Cleanup and Removal Costs as provided by Subparagraph 46(a).

51. The approval of this Consent Judgment shall have no effect and shall not disturb Plaintiffs' Claims reserved under the December 15, 2010 and April 24, 2012 orders reserving such Claims against persons other than OCC. With respect to Claims of Plaintiffs against OCC, this Consent Judgment shall supersede those orders. No other order of the Court against OCC, including the Court's Order of July 19, 2011, shall become final and non-appealable as a result of the entry of this Consent Judgment. But, as to Plaintiffs' only, the effect of the July 19, 2011 Order is intended to be embodied into this Consent Judgment.

52. The Parties agree that this Consent Judgment shall not release, nor be applied as a credit against, a defense to, contribution protection for, or a compromise of, any Claims or costs, damages or penalties sought thereunder that are the subject of an Other Action, nor does this Consent Judgment waive or diminish any right or defense of the Parties associated with an Other Action. Further, the Parties reserve, and this Consent Judgment is without prejudice to, the right, if any, to institute proceedings against any or all of the Parties in any Other Action.

XI. OCC'S ADDITIONAL COVENANTS

53. OCC covenants not to sue, or assert any Claim or cause of action in contribution and/or cost recovery (under state or federal law) against, Plaintiffs or the State of New Jersey, including any department, authority or agency thereof, for the Settlement Funds paid hereunder or Future Cleanup and Removal Costs incurred by OCC or on behalf of OCC as part of the Diamond Alkali Superfund Process within the FFS Area or the Lister Property; provided that, except as provided below, OCC reserves all rights, if any, against Plaintiffs and/or the State of New Jersey, including any department, authority or agency thereof, in contribution and/or cost

recovery (under state or federal law), for Future Cleanup and Removal Costs incurred by OCC or on behalf of OCC as part of the Diamond Alkali Superfund Process outside the FFS Area.

54. To the extent of the contribution protection provided by the Third-Party Consent Judgment, OCC covenants not to sue or assert any Claim or cause of action (under state or federal law) against the New Jersey Department of Agriculture, the New Jersey Department of Transportation and the New Jersey Transit Corporation for any Past Cleanup and Removal Costs incurred in the Newark Bay Complex or Future Cleanup and Removal Costs with respect to the Diamond Alkali Superfund Process, and OCC covenants not to challenge the application of such contribution protection under the Spill Act as to the New Jersey Department of Agriculture, the New Jersey Department of Transportation and the New Jersey Transit Corporation.

55. OCC covenants not to sue Plaintiffs and the State of New Jersey (including any department, authority or agency thereof) and their respective agents for any and all Claims or liabilities related to OCC's Cross-Claims and the facts alleged therein relating in any way to the prosecution or resolution of any or all of the Claims asserted in the Passaic River Litigation, specifically including the RYM Settlement Agreement and the Third-Party Consent Judgment.

56. Except in Other Actions, unless a Claim arises solely under a State law requiring a filing in state court or would otherwise be waived by operation of the entire controversy doctrine, OCC agrees to assert any Claims against the Settled Third-Party Defendants that arise in whole or in part as a result of Discharges of Hazardous Substances into the Newark Bay Complex in federal court; provided that, in the event any Settled Third-Party Defendant asserts any Claim against OCC that arises in whole or in part as a result of Discharges of Hazardous Substances into the Newark Bay Complex in state court, nothing herein is intended to preclude OCC from asserting any Claims it may have against such Third-Party Defendant. Notwithstanding any provision in this Paragraph and except as provided by Paragraphs 53, 54

and 55, if any Claims against a Settled Third-Party Defendant asserted in federal court are barred under the Eleventh Amendment of the United States Constitution, nothing herein shall preclude or prevent OCC from bringing such Claims under State statute or common law in state court, except as expressly provided in Paragraphs 53, 54 and 55. Notwithstanding the foregoing and the contribution protection afforded OCC from Spill Act and CERCLA claims asserted by any person pursuant to Paragraph 65, if OCC asserts a Claim against any person for Cleanup and Removal Costs related to the Diamond Alkali Superfund Site, nothing herein is intended to preclude such person from asserting a Claim, if any, against OCC for relief under the Spill Act or CERCLA in the nature of offset for such Cleanup and Removal Costs in an amount not to exceed the amount which OCC seeks to recover from such person under the Spill Act or CERCLA.

57. Nothing in this Consent Judgment shall be deemed to constitute preauthorization of a Claim against the Spill Fund within the meaning of N.J.S.A. 58:10-23.11k. or N.J.A.C. 7:1J.

XII. OCC'S RESERVATIONS

58. Except as specifically addressed herein, OCC reserves all rights, Claims and defenses against any person not a Party to this Consent Judgment, including, but not limited to, Claims for indemnity under the SPA, Claims against Maxus, Tierra, and/or the Repsol-YPF Defendants regarding the entry of the RYM Settlement Agreement, and Claims for contribution or cost recovery and/or other Claims by OCC against any entity, including the State of New Jersey, subject to Paragraphs 53, 54 and 55, and subject to the statutory and common law contribution protection provided in the Third-Party Consent Judgment and/or RYM Settlement Agreement, as applicable.

59. This Consent Judgment, and any Dismissal Order entered pursuant to this Consent Judgment, is not a judicially-approved settlement of liability, if any, as to any Claims in any Other Action, and the rights, Claims and defenses, including (without limitation) Claims for

contribution and other Claims of OCC and Plaintiffs in any Other Action are expressly reserved. This Consent Judgment, and any Dismissal Order entered pursuant to this Consent Judgment, shall not bar the assertion of any Claims for contribution and/or other Claims by OCC against any other person or entity in any Other Action.

60. Subject to Paragraphs 53, 54 and 55 (Covenants Not to Sue), the Parties intend and agree that this Consent Judgment, and the Dismissal Order entered pursuant to this Consent Judgment, will not bar the assertion of any Claim or cause of action under a federal statute or federal common law (“United States Claims”) for contribution or cost recovery and/or other United States Claims by OCC against any other person. OCC does not waive any Claims and rights under CERCLA or other federal law against Maxus, Tierra, the Repsol-YPF Defendants, any Settled Third-Party Defendant or against any other person or entity, and OCC explicitly reserves any and all such United States Claims, including but not limited to Claims for cost recovery and contribution for response costs that may also constitute Cleanup and Removal Costs under the Spill Act and Claims for Natural Resource Damages under CERCLA. Subject to Paragraphs 53, 54 and 55 (Covenants Not to Sue), OCC reserves all rights, Claims and defenses, including (without limitation) contribution, under any federal or New Jersey statute or common law it has or may have against any person or entity, including (without limitation) Maxus, Tierra, the Repsol-YPF Defendants or any Settled Third-Party Defendant, for: (i) Discharges of Hazardous Substances into the Newark Bay Complex, or that come to be located in the Newark Bay Complex; (ii) costs, damages or judgments for any Claims asserted by Plaintiffs pursuant to Section VII; and (iii) any costs or damages unrelated to the contamination at or from the Lister Property and into the Newark Bay Complex or that otherwise are not being sought in the Passaic River Litigation.

61. OCC reserves its rights to assert Claims for, and intends to seek to recover, the Settlement Funds, any and all Future Cleanup and Removal Costs (including the State's FFS Share), and all other costs and losses from Maxus under the indemnity provisions of the SPA, or otherwise, and from Maxus, Tierra and the Repsol-YPF Defendants (consistent with Paragraph 40) under OCC's Cross-Claims, or otherwise. Except as provided by Paragraph 40, and to the extent of the statutory and common law contribution protection provided by the RYM Settlement Agreement, OCC's contribution rights against Maxus, Tierra and the Repsol-YPF Defendants are not in any way restricted by this Consent Judgment. OCC's obligations under this Consent Judgment are not contingent upon the success of OCC's indemnity Claims, Cross-Claims or contribution Claims, or the allocation of any Settlement Funds within or among such Claims, against Maxus, Tierra and/or the Repsol-YPF Defendants. Nothing in this Consent Judgment shall require OCC to breach any obligation it may have to Maxus under the SPA.

62. OCC reserves its rights to assert Claims for, and intends to seek to recover, the Settlement Funds, any and all Future Cleanup and Removal Costs (including the State's FFS Share), and all other costs and losses from third parties under contribution rights, or otherwise. Except as provided by Paragraphs 53, 54 and 55, and to the extent of the statutory and common law contribution protection provided to the Settled Third-Parties in the Third-Party Consent Judgment, OCC's contribution rights against third parties are not in any way restricted by this Consent Judgment. OCC's obligations under this Consent Judgment are not contingent upon the success of OCC's indemnity Claims, Cross-Claims or contribution Claims, or the allocation of any Settlement Funds within or among such Claims, against any third parties.

XIII. FINDINGS & NON-ADMISSIONS OF LIABILITY

63. Nothing contained in this Consent Judgment shall be considered an admission of any issue of fact or law or jurisdiction by OCC as to any matter, or a finding by the Court or by

Plaintiffs of any wrongdoing or alleged liability on OCC's part for any matters, including matters Plaintiffs have alleged or could have alleged in the Passaic River Litigation and matters regarding Natural Resource Damages. Additionally, the Parties agree that no facts or potential liability have been established in the Passaic River Litigation regarding OCC's alleged liability for OCC Distinct Conduct.

XIV. EFFECT OF SETTLEMENT AND CONTRIBUTION PROTECTION

64. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Judgment. Further, nothing in this Consent Judgment, including (without limitation) Plaintiffs' covenant not to sue under federal law, waives or limits, and shall not be deemed to waive or limit, the Eleventh Amendment immunity under the United States Constitution, if any, of the State of New Jersey or Plaintiffs, or be construed as consent by Plaintiffs and/or the State of New Jersey (including any department, authority or agency thereof) as consent to jurisdiction in federal court.

65. Pursuant to paragraph 63 of the RYM Settlement Agreement, OCC was provided certain contribution protection for matters addressed in the RYM Settlement Agreement, which was approved by the Court and became final and non-appealable. The contribution protection provided by this Consent Judgment is in supplement to the contribution protection already provided to OCC by the RYM Settlement Agreement. Accordingly, upon approval by this Court, this Consent Judgment will constitute a judicially approved settlement of alleged liability to the State of New Jersey within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b), within the meaning of 42 U.S.C. § 9613(f)(2), and under common law for the Matters Addressed identified below, for the purpose of providing protection to OCC from contribution actions brought by any other person or entity:

- a. The Parties agree, and the Court by approving this Consent Judgment so

intends, that except as provided in Paragraph 52 (Other Actions) and Subparagraph (b) below, OCC is entitled, upon satisfying its payment obligations under Paragraph 23 of this Consent Judgment, to protection from any and all contribution Claims for all of the Matters Addressed listed below:

- i. Past Cleanup and Removal Costs of Plaintiffs, the State of New Jersey, its agencies and departments, and any other person sought under applicable State law associated with Discharges of Hazardous Substances (including Hazardous Substances contained in sewage and stormwater) to the Newark Bay Complex;
- ii. Future Cleanup and Removal Costs of Plaintiffs, the State of New Jersey, its agencies and departments, and any other person sought under applicable State law associated with Discharges of Hazardous Substances (including Hazardous Substances contained in sewage and stormwater) to the Newark Bay Complex;
- iii. Past Cleanup and Removal Costs of Plaintiffs (including those assigned to Plaintiffs by others), the State of New Jersey, its agencies and departments, under CERCLA or other federal law;
- iv. Future Cleanup and Removal Costs of Plaintiffs (including those assigned to Plaintiffs by others), the State of New Jersey, its agencies and departments, under CERCLA or other federal law to the extent paid by OCC pursuant to this Consent Judgment;
- v. Future Cleanup and Removal Costs of Plaintiffs (including those assigned to Plaintiffs by others) or the State of New Jersey, its

agencies and departments, within the amounts set forth in Paragraph 46(c);

- vi. Natural Resource Damages Assessment Costs associated with the Diamond Alkali Superfund Site under applicable state and federal law;
- vii. Natural Resource Damages associated with the Diamond Alkali Superfund Site under applicable state and federal law up to Fifty Million Dollars (\$50,000,000);
- viii. All Economic Damages incurred by Plaintiffs, the State of New Jersey, its agencies and departments, or assigned thereto, with respect to the Newark Bay Complex;
- ix. All disgorgement damages recovered by Plaintiffs, the State of New Jersey, its agencies and departments, or assigned thereto, with respect to the Newark Bay Complex; and
- x. All punitive or exemplary damages recovered by Plaintiffs, the State of New Jersey, its agencies and departments, or assigned thereto, with respect to the Newark Bay Complex.

b. The Parties agree, and the Court by approving this Consent Judgment so intends, that Matters Addressed shall not include and this Consent Judgment should not be construed to limit or provide protection from contribution for:

- i. Claims for Cleanup and Removal Costs or other damages or Claims for which Plaintiffs, or the State of New Jersey, have reserved their rights under Paragraphs 28, 45 and 52 of this

Consent Judgment, in the event that, and only to the extent that, Plaintiffs assert rights against OCC within the scope of those reservations;

- ii. Past Cleanup and Removal Costs incurred by Third-Party Defendants, Maxus, Tierra, the Repsol-YPF Defendants or any other person (excluding the State of New Jersey and any agencies and departments thereof) sought under CERCLA or other federal law;
- iii. Future Cleanup and Removal Costs incurred by Third-Party Defendants, Maxus, Tierra, the Repsol-YPF Defendants or any other person (excluding the State of New Jersey and any agencies and departments thereof) sought under CERCLA or other federal law;
- iv. Future Cleanup and Removal Costs incurred by Plaintiffs or the State of New Jersey and any agencies and departments thereof sought under CERCLA or other federal law below and above the amounts set forth in Paragraph 46(c) and not paid by OCC under this Consent Judgment;
- v. Future Cleanup and Removal Costs of Plaintiffs or any other person for future Discharges of Hazardous Substances after the Effective Date of this Consent Judgment under State or federal law;
- vi. Natural Resource Damages associated with the Diamond Alkali Superfund Site in excess of Fifty Million Dollars (\$50,000,000);

- vii. Relief sought in any Other Action;
 - viii. Claims reserved by OCC in Paragraphs 59 and 60;
 - ix. Any Claims by Maxus, Tierra and/or the Repsol-YPF Defendants for the settlement funds paid by Maxus and/or the Repsol-YPF Defendants' under the RYM Settlement Agreement; and
 - x. Any Claims by Maxus, Tierra and/or the Repsol-YPF Defendants for Past or Future Cleanup and Removal Costs paid by Maxus, Tierra or the Repsol-YPF Defendants under federal or state law (other than statutory contribution protection attendant to OCC's direct payment of Future Cleanup and Removal Costs).
- c. This Consent Judgment and the Dismissal Order shall not be a release of or a compromise of any Claims, costs, damages or penalties under CERCLA or other federal law by OCC, nor shall it be a release of or a compromise of any Claims, costs, damages or penalties under CERCLA or other federal law by any person or entity not a party to this Consent Judgment, including but not limited to claims by the federal natural resource damages trustees, nor of any Claims, costs, damages or penalties in any Other Action. OCC and any person or entity not a Party to this Consent Judgment (including Third-Party Defendants, Maxus, Tierra, and the Repsol-YPF Defendants) may assert Claims under CERCLA or other federal law against any person or entity, including OCC, and such Claims are not intended to be barred by CERCLA § 113(f)(2), except as specifically provided in Subparagraph (a) herein, or with respect to the State of New Jersey as provided in Paragraphs 53, 54 and 55.

- d. Nothing in this Consent Judgment shall be interpreted as a waiver by OCC of its right to pursue Claims for contribution and/or indemnity against Maxus, Tierra and/or the Repsol-YPF Defendants in the Passaic River Litigation or any subsequent litigation, except as specifically provided in Paragraph 40. Furthermore, nothing in this Consent Judgment shall be interpreted as a waiver or abrogation of Plaintiffs' obligation to protect the public health, safety and environment or fulfill its legal mandates.
- e. Plaintiffs agree to cooperate with OCC in establishing whether Future Cleanup and Removal Costs to be paid by OCC under this Consent Judgment are/were consistent and/or not consistent with the National Contingency Plan ("NCP"). OCC reserves its right to seek testimony and documents from Plaintiffs regarding the NCP consistency, and Plaintiffs agree to cooperate in responding to those requests to the extent reasonably possible, except as prohibited by law. Failure of OCC to obtain credit for purposes of contribution protection with respect to payment of Settlement Funds or Future Cleanup and Removal Costs shall not limit or otherwise affect any other provision of this Consent Judgment.

66. In order for OCC to obtain protection under N.J.S.A. 58:10-23.11f.a.(2)(b) from contribution Claims concerning the Matters Addressed in this Consent Judgment, Plaintiffs published notice of this Consent Judgment in the New Jersey Register and on Plaintiff DEP's website, in accordance with N.J.S.A. 58:10-23.11e.2. Such notice included the following information:

- a. the caption of this case;
- b. the name and location of the Newark Bay Complex;

- c. the names of OCC; and
- d. a summary of the terms of this Consent Judgment.

67. Plaintiffs, in accordance with N.J.S.A. 58:10-23.11e2, arranged for written notice of the Consent Judgment to all other potentially responsible parties of whom Plaintiffs had notice as of the date Plaintiffs published notice of the proposed settlement in this matter in the New Jersey Register in accordance with Paragraph 66.

68. The Parties acknowledge and agree that Plaintiffs are acting in their own interest and promoting the public interest in negotiating and entering into this Consent Judgment with OCC. Consistent with such obligations to promote the public interest, Plaintiffs will submit this Consent Judgment to the Court for approval unless, as a result of the notice of this Consent Judgment pursuant to Paragraphs 66 and 67, Plaintiffs receive new information that discloses facts or considerations that indicate to them, in their sole discretion, that the Consent Judgment is inappropriate, improper or inadequate.

69. Subject to the conditions in Section XXI , OCC agrees to support and covenants not to oppose entry of an agreed order approving this Consent Judgment (as published for notice in Paragraphs 66 and 67) by this Court, or to challenge any provision of this Consent Judgment (as published for notice in Paragraphs 66 and 67), unless Plaintiffs notify OCC, in writing, that they no longer support entry of this Consent Judgment (as published for notice in Paragraphs 66 and 67).

70. In any subsequent administrative or judicial proceeding for Claims reserved by Plaintiffs or OCC, no Party shall assert or maintain any contention against any other Party that the Claims reserved in this Consent Judgment were or should have been brought in this case, including under the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or the entire controversy doctrine.

71. All Sections, Paragraphs and provisions of this Consent Judgment (except headings and section titles) are integral to the Consent Judgment, and any Court Order that does not approve this Consent Judgment in its entirety or attempts to modify this Consent Judgment, except as to ministerial changes, shall cause this Consent Judgment to be void and of no effect, unless otherwise agreed in writing by the Parties.

72. This Consent Judgment shall be void and of no force or effect until the Court shall approve it by means of a Dismissal Order entered materially in the form attached to this Consent Judgment as Exhibit A, unless the Parties agree to all changes made.

73. Except as expressly set forth herein, nothing herein shall be interpreted to confer upon or give any rights or remedies to any person or entity, other than the Parties hereto.

XV. OTHER PROVISIONS

74. The Parties intend and agree that:

- a. Nothing in this Consent Judgment shall be interpreted to be determinative of or binding on the rights, obligations and/or defenses of the parties to the SPA under the SPA;
- b. Nothing in this Consent Judgment shall be interpreted to alter or modify the rights and obligations of the parties to the SPA under the SPA;
- c. Nothing in this Consent Judgment determines the amount of any indemnity obligation of Maxus to OCC, including, but not limited to, under the August 24, 2011 Order;
- d. OCC's claim that Maxus must indemnify OCC for obligations arising under this Consent Judgment should not be decided in connection with the entry of the Consent Judgment and will be decided at a later date and in a

separate hearing or track in the Passaic River Litigation between OCC and Maxus or otherwise;

- e. Nothing in this Consent Judgment shall give rise to any new or additional direct liability to Plaintiffs by Maxus or Tierra;
- f. OCC's obligations to pay the Settlement Funds (or undertake any future obligations agreed to in this Consent Judgment) are independent of, and not contingent upon, the resolution of any dispute between or among OCC, Maxus, Tierra, or the Repsol-YPF Defendants concerning the indemnity obligations between or among OCC, on the one hand, and Maxus, Tierra, and/or the Repsol-YPF Defendants, on the other hand;
- g. The Settlement Funds paid under this Consent Judgment resolve Plaintiffs' RYY Capped Claims within the applicable RYY Cap, irrespective of OCC's obligation to pay the portion of the State's FFS Share under Section IX that may exceed the RYY Cap, pursuant to the terms in Paragraph 40;
- h. This Consent Judgment should be read together with the RYM Settlement Agreement and the Third-Party Consent Judgment and the Parties intend that the provisions of this Consent Judgment do not breach the terms of the RYM Settlement Agreement or Third-Party Consent Judgment and should be interpreted as consistent therewith;
- i. Nothing in this Consent Judgment limits OCC's Claims or defenses against Maxus, Tierra or the Repsol-YPF Defendants (except Paragraphs 40 as to Repsol, YPF and YPFI), or any other entity (except Paragraphs

53, 54 and 55 as to the entities referenced therein) related to the Newark Bay Complex or Diamond Alkali Superfund Process;

- j. This Consent Judgment does not provide any entity with contribution protection against any Claims by OCC to recover the Settlement Funds or Future Cleanup and Removal Costs paid or to be paid hereunder;
- k. Nothing in this Consent Judgment limits Maxus's, Tierra's, or the Repsol-YPF Defendants' Claims against OCC related to the Newark Bay Complex/Diamond Alkali Superfund Process (other than statutory contribution protection as provided in Paragraph 65 above) or Maxus's, Tierra's and the Repsol-YPF Defendants' defenses to OCC's Claims related to the Newark Bay Complex/Diamond Alkali Superfund Process against them; and
- l. This Consent Judgment does not provide OCC with contribution protection against Claims brought by Maxus, Tierra and the Repsol-YPF Defendants to recover amounts they paid or caused to be paid to Plaintiffs under the RYM Settlement Agreement or for Future Cleanup and Removal Costs paid by Maxus, Tierra or the Repsol-YPF Defendants (other than statutory contribution protection attendant to OCC's direct payment of future remedial costs).

XVI. NOTICES

75. Except as otherwise provided in this Consent Judgment, whenever written notice or other documents are required to be submitted by one Party to another, they shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to Plaintiffs DEP, Commissioner & Administrator:

Section Chief
Environmental Enforcement Section
Department of Law & Public Safety
Division of Law
Richard J. Hughes Justice Complex
P.O. Box 093
Trenton, New Jersey 08625-0093
(609) 633-8713

As to OCC:

Vice President and General Counsel
Occidental Chemical Corporation
5005 LBJ Freeway - Suite 2200
Dallas, Texas 75244
(972) 404-3840

With copies to Maxus and Tierra at the contact listed on their signature pages on the RYM Settlement Agreement.

XVII. EFFECTIVE DATE

76. The “Effective Date” of this Consent Judgment shall be the date upon which this Consent Judgment has been approved by order of the Court and the conditions set forth in Section XXI have been met.

XVIII. RETENTION OF JURISDICTION

77. This Court retains jurisdiction over both the subject matter of this Consent Judgment and the Parties for the duration of the performance of the terms and provisions of this Consent Judgment for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification, pursuant to Paragraph 80, of this Consent Judgment, or to effectuate or enforce compliance with its terms, or to resolve disputes, including, without limitation, any appeal from an administrative determination of a dispute between the Parties.

XIX. RETENTION AND HANDLING OF RECORDS

78. Until completion of the Diamond Alkali Superfund Process, each Plaintiff and OCC shall preserve and retain all records, reports, or information (hereinafter referred to as “records”) now in its possession or control, or which come into its possession or control, that relate in any manner to cleanup and removal or response actions taken at the Diamond Alkali Superfund Site or to the alleged liability of OCC or Maxus or Tierra for Cleanup or Removal Costs, Natural Resource Damages, response actions or response costs at or in connection with the Diamond Alkali Superfund Site, regardless of any retention policy to the contrary. In no event shall this Section XIX require preservation of records beyond ten (10) years from the Effective Date of the Consent Judgment unless Plaintiffs provide written notice to OCC (or vice versa) upon good cause requiring preservation of records for an additional fixed term not to exceed five (5) years, or as further extended upon good cause and in writing for additional five (5) year periods. To the extent OCC is a party to a current or future Administrative Order on Consent (“AOC”), Consent Decree, or Court Order which requires such party to maintain documents and information beyond the requirements of this Consent Judgment, such AOC, Consent Decree or Court Order shall control.

79. Plaintiffs will use reasonable efforts to protect from inadvertent or involuntary disclosure work-product and attorney-client privileged information related to damages, causation, and/or costs developed regarding Claims against OCC in the Passaic River Litigation. Upon OCC’s request, and at no expense to Plaintiffs, Plaintiffs shall provide to OCC (and if requested by OCC, to Maxus and Tierra) non-privileged, non-protected data and a summary of information related to work by Plaintiffs’ experts regarding Plaintiffs’ Claims for Past Cleanup and Removal Costs, Natural Resource Damages, Natural Resource Damages Assessment Costs, Economic Damages, disgorgement damages, punitive or exemplary damages, unjust enrichment

and penalties. Nothing in this Section requires Plaintiffs to breach any non-cooperation clauses in the RYM Settlement Agreement or Third-Party Consent Judgment or cooperation and/or confidentiality agreements with U.S. EPA or the federal natural resource trustees.

XX. MODIFICATION

80. This Consent Judgment and any notices or other documents specified in this Consent Judgment may be modified only by agreement of the Parties. All such modifications shall be made in writing and shall not require Court approval. Nothing in this Consent Judgment shall be deemed to alter the Court's power to enforce, supervise or approve modifications made pursuant to this Paragraph.

XXI. APPROVAL OF THIS CONSENT JUDGMENT AND FURTHER ASSURANCES

81. Upon conclusion of the public comment process, Plaintiffs shall promptly submit to the Court this Consent Judgment seeking approval and entry of the Consent Judgment and the Dismissal Order.

82. After notice, comment, and upon consideration of all objections and concerns regarding this Consent Judgment brought before the Court, the Parties shall jointly request that the Court find that this Consent Judgment is fair and reasonable as to all terms.

83. This Consent Judgment is void if OCC fails to pay the Settlement Funds in accordance with Paragraph 23.

84. The Parties agree that this Consent Judgment shall be void and of no effect if the Court fails to (i) dismiss all of Plaintiffs' Claims against OCC consistent with this Consent Judgment, (ii) approve and enter the Dismissal Order in the form attached as Exhibit A or in materially the same form as attached, and (iii) approve and enter as a Court Order all terms of this Consent Judgment.

85. This Consent Judgment shall be void and of no effect if any appellate court reverses, remands, vacates or modifies the Consent Judgment or the Dismissal Order so that (i) all Claims brought by Plaintiffs against OCC are not dismissed, or (ii) the terms of the Consent Judgment are materially changed. In such event, the terms of this Consent Judgment may not be used as evidence in any litigation, administrative proceeding or other proceeding.

86. Each of the Parties to this Consent Judgment shall use its best efforts to fulfill and cause to be fulfilled the terms and conditions of this Consent Judgment and to effectuate the dismissal of all Claims by Plaintiffs against OCC as set forth herein.

XXII. SIGNATORIES

87. Each undersigned representative of a Party to this Consent Judgment certifies that he or she is authorized to enter into the terms and conditions of this Consent Judgment and to execute and legally bind such Party to this Consent Judgment.

88. This Consent Judgment may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Consent Judgment.

89. OCC shall identify on the attached signature pages the name, address and telephone number of an agent in the United States who is counsel of record with respect to all matters arising under or relating to this Consent Judgment.

SO APPROVED this ___ day of _____, 2014.

, J.S.C.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW
JERSEY
Attorney for the Plaintiffs

By: _____
John F. Dickinson, Jr.
Deputy Attorney General

Dated: _____, 2014

Subject to DEP and Court Approval

OCCIDENTAL CHEMICAL
CORPORATION

COUNSEL FOR OCCIDENTAL CHEMICAL
CORPORATION

By: *[Signature]*
Title: President

Name: _____
Address: _____

Date: August 20, 2014

Phone: _____

Subject to DEP and Court Approval

OCCIDENTAL CHEMICAL
CORPORATION

COUNSEL FOR OCCIDENTAL CHEMICAL
CORPORATION

By: _____
Title: _____
Date: _____

Name: William Stack, Esq.
Address: One Centennial Square,
Haddonfield, New Jersey 08033
Phone: (856) 795-2121

Subject to DEP and Court Approval

**Exhibit A to
Consent Judgment**

Subject to DEP and Court Approval

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Attorney for Plaintiffs

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By: Michael Gordon, Special Counsel
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(973) 467-2400

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
THE COMMISSIONER OF THE
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, MAXUS
INTERNATIONAL ENERGY
COMPANY, REPSOL YPF, S.A.,
YPF, S.A., YPF HOLDINGS, INC., YPF
INTERNATIONAL S.A. (f/k/a YPF
INTERNATIONAL LTD.) and
CLH HOLDINGS,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. ESX-L9868-05 (PASR)

Civil Action

**ORDER ON THE ENTRY AND APPROVAL
OF THE CONSENT JUDGMENT
BETWEEN PLAINTIFFS AND
DEFENDANT OCCIDENTAL CHEMICAL
CORPORATION AND DISMISSAL OF
PLAINTIFFS' CLAIMS AND
CERTIFICATION AS FINAL JUDGMENT
PURSUANT TO R. 4:42-2**

THIS MATTER, having come before the Court on application of counsel for the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection and the Administrator of the New Jersey Spill

Compensation Fund (collectively, "Plaintiffs") and Defendant Occidental Chemical Corporation ("OCC"), after public notice and opportunity for comment by all parties and known non-parties with an interest in this matter, and having considered the respective moving and opposition papers filed with respect thereto, and having heard the oral argument of counsel and interested parties and non-parties in a hearing conducted on December 16, 2014, and having considered all objections and concerns regarding the Consent Judgment between Plaintiffs and OCC ("Consent Judgment") brought before the Court, and for good cause shown, the Court hereby finds that the Consent Judgment is fair and reasonable as to all terms; and

IT IS on this _____ day of _____, 2014,

ORDERED that that the motion of the Plaintiffs to approve the settlement embodied in the Consent Judgment is hereby granted in all respects; and it is further

ORDERED that all claims in Plaintiffs' Fourth Amended Complaint against OCC are hereby dismissed with prejudice and without costs, except that those claims which Plaintiffs have reserved against OCC pursuant to Paragraphs 28 and 52 of the Consent Judgment are dismissed without prejudice; and it is further

ORDERED that since this Order completely resolves all of the claims between the Plaintiffs and OCC, and because there is no just reason for delay, the Court hereby certifies this Order and the Consent Judgment as a final order and judgment disposing of all of Plaintiffs' claims against OCC, pursuant to Rule 4:42-2.; and it is further

ORDERED that this Order shall be served electronically upon all parties and Liaison Counsel for former Third-Party Defendants, and posted forthwith on CT Summation.

Honorable Sebastian P. Lombardi, J.S.C.

Subject to DEP and Court Approval