

SAUL EWING LLP

A Delaware LLP

750 College Road East

Princeton, NJ 08540

(609) 452-3100

Attorneys for Third Party Defendant

Kinder Morgan Energy Partners, L.P.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, THE
COMMISSIONER OF THE NEW JERSEY
ENVIRONMENTAL PROTECTION AGENCY,
and THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION FUND,

Plaintiffs,

vs.

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

Defendants,

MAXUS ENERGY CORPORATION and
TIERRA SOLUTIONS, INC.,

Third Party Plaintiffs,

vs.

AMERICAN CYANAMID,
BAYER CORPORATION,
BAYONNE INDUSTRIES, INC.,
BP MARINE AMERICAS, INC.,
CHEMICAL WASTE MANAGEMENT INC.,
DOW CHEMICAL COMPANY,
DURAPORT REALTY ONE LLC,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**KINDER MORGAN ENERGY
PARTNERS, L.P.'S ANSWER AND
AFFIRMATIVE DEFENSES TO
THIRD PARTY COMPLAINT D**

DURAPORT REALTY TWO LLC,
EPEC POLYMERS, INC.,
GAESS ENVIRONMENTAL SERVICES, INC.,
GATX TERMINALS CORPORATION,
GOODRICH CORPORATION,
HESS CORPORATION,
IMTT-BAYONNE,
KINDER MORGAN ENERGY PARTNERS, L.P.,
McKESSON CORPORATION,
McKESSON ENVIROSYSTEMS CO.,
SAFETY-KLEEN CORPORATION,
SHULTON INCORPORATED, USA,
SUN PIPELINE CO.,
SUN REFINING AND MARKETING CO.,
SUN OIL CO.,
SUPERIOR MPM LLC,
THOMAS & BETTS CORP.,
WASTE MANAGEMENT, INC.
WYETH,

Third Party Defendants.

**KINDER MORGAN ENERGY PARTNERS, L.P.'S ANSWER TO
THIRD PARTY COMPLAINT D**

Third Party Defendant Kinder Morgan Energy Partners, L.P. ("Kinder Morgan"), by and through its undersigned counsel, and in accordance with this Court's Case Management Order V, Section 9, entered April 16, 2009 ("CMO V"), hereby answers the Third Party Complaint D filed by Defendants/Third Party Plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc. ("Third Party Plaintiffs") as set forth below.

Kinder Morgan denies each and every allegation contained in Third Party Complaint D that is not otherwise specifically addressed herein, including but not limited to any allegations concerning the relief sought in the First Count and the Second Count and all headings and titles used in Third Party Complaint D.

AS TO PROCEDURAL BACKGROUND

(Paragraphs 1 through 7)

1-7. Kinder Morgan responds that the referenced pleadings and the other referenced documents speak for themselves. In addition, Kinder Morgan states that no response is required to the allegations contained in paragraphs 1 through 7 of Third Party Complaint D pursuant to CMO V, as those allegations are not specifically directed to Kinder Morgan.

AS TO FIRST COUNT

New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11.f.a.2(a)

8. Kinder Morgan incorporates by reference its responses to paragraphs 1 through 7 of the Third Party Complaint D as if fully set forth herein.

9. Kinder Morgan denies that it is a “discharger” or “a person in any way responsible” for the discharge of hazardous substances into the Newark Bay Complex and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 9 of Third Party Complaint D.

10. The terms of the New Jersey Spill Compensation and Control Act (“Spill Act”), including but not limited to N.J.S.A. 58:10-23.11f.a(2)(a), speak for themselves. No further response to the allegations contained in paragraph 10 of Third Party Complaint D is required.

11. Kinder Morgan denies that it is liable to Third Party Plaintiffs for contribution.

12. Kinder Morgan is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of Third Party Complaint D.

13. Kinder Morgan denies the allegations contained in Paragraph 13 of Third Party Complaint D that are directed to Kinder Morgan and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 13 of Third Party Complaint D.

14-41. Kinder Morgan is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 14-41 of Third Party Complaint D.

42. Kinder Morgan admits that the property located at 78 Lafayette Street, Carteret, New Jersey (the "Carteret site") is approximately 197 acres in size, that petroleum storage and distribution occurs at the site and that the property it is bordered in part by the Arthur Kill. Kinder Morgan denies the remaining allegations contained in paragraph 42 of Third Party Complaint D.

43. Kinder Morgan admits that in approximately 1925, GATX Terminals Corporation began operations at the Carteret site and that in 2001, Kinder Morgan acquired GATX Terminals Corporation, including the Carteret site. Kinder Morgan denies the remaining allegations contained in paragraph 43 of the Third Party Complaint D.

44. Kinder Morgan denies the allegations contained in paragraph 44 of Third Party Complaint D.

45-89. Kinder Morgan is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 45-89 of Third Party Complaint D and no response is required.

AS TO SECOND COUNT

Statutory Contribution

90. Kinder Morgan incorporates by reference its responses to paragraphs 1 through 89 of the Third Party Complaint D as if fully set forth herein.

91. Kinder Morgan denies the allegations contained in paragraph 91 of Third Party Complaint D.

WHEREFORE Third Party Defendant Kinder Morgan Energy Partners, L.P. demands judgment in its favor, dismissing all Counts of the Third Party Complaint D with prejudice, awarding costs and fees and such other relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Third Party Complaint is barred in whole or in part as it fails to state a cause of action against Kinder Morgan upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Kinder Morgan is not a discharger or a person in any way responsible for a discharge under the Spill Act, with respect to the Newark Bay Complex and Passaic River, or the discharges which are alleged against the Defendants by the Plaintiffs.

THIRD AFFIRMATIVE DEFENSE

The claims of Third Party Plaintiffs against Kinder Morgan are barred in whole or in part by the statutory defenses to liability provided by the Spill Act and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. (“WPCA”).

FOURTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs have no Spill Act claim against Kinder Morgan because they have not cleaned up and/or removed a discharge of hazardous substances within the meaning of the Spill Act for which Kinder Morgan may be held liable.

FIFTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs have no right of contribution against Kinder Morgan under the WPCA.

SIXTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred, in whole or in part, by the entire controversy doctrine.

SEVENTH AFFIRMATIVE DEFENSE

To the extent the Third Party Complaint purports to seek any relief under New Jersey's Environmental Rights Act, N.J.S.A. 2A:35A-1 *et seq.*, in whole or in part, the pleading is barred because Third Party Plaintiffs have failed to meet the procedural and/or substantive requirements entitling them to sue Kinder Morgan under that statute.

EIGHTH AFFIRMATIVE DEFENSE

Some or all of Third Party Plaintiffs do not have standing to sue.

NINTH AFFIRMATIVE DEFENSE

Upon information and belief, Third Party Plaintiffs are mere corporate shells who are periodically infused with cash or equivalent contributions by other corporate entities which money Third Party Plaintiffs purport to use to address the environmental contamination at issue in this litigation. Consequently, the claims by Third Party Plaintiffs are barred under the collateral source doctrine or its equitable equivalent.

TENTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs are not the real parties in interest for pursuit of the claims set forth in the Third Party Complaint, nor are Third Party Plaintiffs acting in the capacity of an executor, administrator, guardian of a person or property, trustee of an express trust, or a party with whom or in whose name a contract has been made for the benefit of another. Consequently, all claims are barred under R. 4:26-1 of the New Jersey Court Rules.

ELEVENTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs are mere volunteers for remediation of the environmental contamination for which they claim contribution and/or other relief from Kinder Morgan. Consequently, the claims in the Third Party Complaint are barred, in whole or in part.

TWELFTH AFFIRMATIVE DEFENSE

The claims brought by Third Party Plaintiffs reflect damages that are wholly speculative, conjectural, unreasonable, excessive and/or arbitrary and capricious.

THIRTEENTH AFFIRMATIVE DEFENSE

Kinder Morgan cannot be held liable for or be required to pay Third Party Plaintiffs' damages or other claims based on actions or inactions by Kinder Morgan that arise out of conduct lawfully undertaken in compliance with permits or other approvals issued by relevant government agencies, including the State of New Jersey and/or the United States and/or in compliance with applicable laws, regulations, rules, orders, ordinances, directives and common law, and other requirements of all foreign, federal, state and local government entities ("applicable Environmental Laws").

FOURTEENTH THIRD AFFIRMATIVE DEFENSE

At common law, Kinder Morgan held, and still holds, a usufructuary interest allowing it, along with all other citizens, the reasonable use of assets held for the benefit of the public by the State of New Jersey under the Public Trust Doctrine. Kinder Morgan has at all relevant times acted in accordance with its rights of reasonable use of publicly held assets. As a matter of law, Third Party Plaintiffs' claims are derivative of, and cannot be any greater than, the claims that the State of New Jersey has or would have against Kinder Morgan directly. As a result, the claims set forth in the Third Party Complaint are barred, in whole or in part.

FIFTEENTH AFFIRMATIVE DEFENSE

The State of New Jersey is legally barred from asserting direct claims against Kinder Morgan for the damages sought in its Amended Complaint. Consequently, all claims that are or may be derivative of the State of New Jersey's claims are barred as to the Kinder Morgan as well, including the claims set forth in the Third Party Complaint.

SIXTEENTH AFFIRMATIVE DEFENSE

The Third Party Complaint is barred and/or is constitutionally impermissible to the extent that it seeks to impose retroactive liability for acts that were previously authorized or condoned by law including applicable Environmental Laws.

SEVENTEENTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' Complaint is barred to the extent that it seeks relief for damages incurred prior to the effective date of the Spill Act.

EIGHTEENTH AFFIRMATIVE DEFENSE

At all relevant times, Kinder Morgan complied with all applicable Environmental Laws, regulations, industry standards and ordinances, and otherwise conducted itself reasonably, prudently, in good faith, and with due care for the rights, safety and property of others.

NINETEENTH AFFIRMATIVE DEFENSE

The claims asserted against Kinder Morgan in the Third Party Complaint are barred because at all relevant times Kinder Morgan exercised due care with respect to hazardous substances, if any, that may have been handled at the subject property, took precautions against foreseeable acts or omissions of others and the consequences that could reasonably result from such acts or omissions, and because any release or threat of release of any hazardous substances, if any, and any costs or damages resulting therefrom, were caused solely by the

negligence, acts or omissions of third parties over whom Kinder Morgan had no control, whether by, in whole or part, contract or otherwise, or any duty to control, including without limitation the State of New Jersey and its agencies and officials, and the United States and its agencies and officials.

TWENTIETH AFFIRMATIVE DEFENSE

The claims set forth in the Third Party Complaint are barred in whole or in part by the doctrine of preemption.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Third Party Plaintiffs suffered no losses or injuries that were proximately caused by Kinder Morgan.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims against Kinder Morgan are barred, in whole or in part, by the applicable Statute of Limitations, Statute of Repose, and/or the equitable doctrines of laches and estoppel.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred in whole or in part by the doctrines of accord and satisfaction, waiver, consent, estoppel, release and/or assumption of risk.

TWENTY-FOURTH THIRD AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred, in whole or in part, by the doctrine of "coming to the nuisance."

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred, in whole or in part, by the "unclean hands" doctrine.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

The claims for equitable contribution under the Spill Act in the Third Party Complaint are barred because: (1) equity will not compel action that is impossible of performance; (2) equity will not exceed the rights of parties existing at law; (3) equity will not consciously become an instrument of injustice; and/or (4) equity will not permit double satisfaction.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred, in whole or in part, by the doctrines of collateral estoppel, *res judicata*, and/or judicial estoppel including in connection with prior findings as to Third Party Plaintiffs' intentional misconduct.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred because the relief sought against Kinder Morgan, were it claimed directly by Plaintiffs, would amount to unlawful taxation.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims against Kinder Morgan are subject to setoff and recoupment and therefore must be reduced accordingly.

THIRTIETH AFFIRMATIVE DEFENSE

Kinder Morgan is not liable for the damages alleged in the Third Party Complaint D as it is not the owner or operator of the Carteret facility.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred, in whole or in part, by Third Party Plaintiffs' failure to comply with the prerequisites to liability under the Spill Act including, without limitation to, Third Party Plaintiffs' have not incurred costs authorized by the Spill Act and Third Party Plaintiffs' have failed to direct cleanup and removal activities in accordance with the National Contingency Plan to the greatest extent possible.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred because neither they nor Plaintiffs have incurred "costs of restoration and replacement ... of any natural resources damaged or destroyed by a discharge" under the Spill Act.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Third Party Plaintiffs have failed to join necessary and indispensable parties needed for a just adjudication of the claims asserted in this action, in whose absence complete relief can not be afforded the existing parties pursuant to R. 4:28-1 of the New Jersey Court Rules. These necessary and indispensable parties include, without limitation, State of New Jersey agencies and instrumentalities, including without limitation the State trustees for tidelands, certain United States agencies and instrumentalities with liability under the Spill Act, and certain state and local governmental agencies located outside the boundaries of New Jersey, including the State of New York and its agencies and instrumentalities, all of whom are or may be separately liable for contamination allegedly located in the "Newark Bay Complex," as defined in Plaintiffs' Second Amended Complaint.

THIRTY-FOURTH THIRD AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are not ripe for adjudication because Third Party Plaintiffs have a joint liability to the Plaintiffs and have not paid and will not pay more than their fair or equitable share of the liability.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

Kinder Morgan denies that Third Party Plaintiffs have suffered any harm whatsoever, but in the event that they did suffer any form of injury or damage cognizable under applicable law, such injury was caused by the intervening acts, omissions, or superseding acts of persons or entities over whom Kinder Morgan exercised no control and for whose conduct Kinder

Morgan was not responsible including, without limitation, unpermitted and storm event discharges from publically owned treatment works.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

If Third Party Plaintiffs sustained any injury or are entitled to any damages, such injury and damages were wholly, or in part, caused by Third Party Plaintiffs' own acts or omissions, negligence, lack of due care and fault and/or that of Third Party Plaintiffs' agents or employees. In the event that Third Party Plaintiffs are found to have sustained any injury and are entitled to damages, Third Party Plaintiffs' recovery against Kinder Morgan, if any, must be reduced by the proportionate damages caused by the acts and conduct of Third Party Plaintiffs and/or its agents or employees.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

Although Kinder Morgan denies that it is liable for the contamination described in Third Party Plaintiffs' Complaint, in the event it is found liable, Kinder Morgan is entitled to an offset against any such liability on its part for the equitable share of the liability of any person or entity not joined as a defendant in this action that would be liable to Third Party Plaintiffs.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

Under N.J.S.A. 2A:15-97, the amount of damages, if any, should be reduced by any amounts recovered from any other source.

THIRTY-NINTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred to the extent that the conduct of Kinder Morgan alleged to give rise to liability in the Third Party Complaint is the subject of a release, covenant not to sue, or has otherwise been excused by Plaintiffs, including, without limitation, through issuance of a no further action letter, consent order, settlement agreement or other

applicable document, with or without inclusion of contribution protection, or through the Plaintiffs' allowance of any applicable Statute of Limitations or Statute of Repose to lapse.

FORTIETH AFFIRMATIVE DEFENSE

The damages sought by Third-Party Plaintiff, if awarded, would result in an unjust enrichment to the Third Party Plaintiffs.

FORTY-FIRST AFFIRMATIVE DEFENSE

Third Party Plaintiffs are not entitled to recover costs incurred for cleanup actions not undertaken in coordination or conjunction with federal or state agencies.

FORTY-SECOND AFFIRMATIVE DEFENSE

Third Party Plaintiffs' claims are barred due to its own conduct in unilaterally, and without notice to Kinder Morgan, implementing clean-up plan(s) or taking other actions that resulted in the commingling of formerly divisible areas of environmental harm.

FORTY-THIRD AFFIRMATIVE DEFENSE

Kinder Morgan's liability to Third Party Plaintiffs, if any, is limited to Spill Act and contribution claims and excludes any such claims which may properly be apportioned to parties pursuant to *Burlington Northern and Santa Fe Railway Co., et al. v. United States, et al.*, 129 S.Ct. 1870 (2009), and other comparable decisional law.

FORTY-FOURTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs cannot assert contribution claims against Kinder Morgan because the discharges for which the Plaintiffs are seeking relief are different from Kinder Morgan's alleged discharges.

FORTY-FIFTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs cannot seek contribution under the Joint Tortfeasors Contribution Law because Kinder Morgan is not liable for “the same injury” caused by Third Party Plaintiffs’ discharges and do not share a common liability to the State of New Jersey.

FORTY-SIXTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs’ claims are barred to the extent they seek to hold Kinder Morgan liable, in contribution, for any claims for which it would be a violation of public policy to hold Kinder Morgan liable, including but not limited to punitive damages and penalties.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs’ claims are barred, in whole or in part, because no actions or inactions by Kinder Morgan have resulted in any permanent impairment or damage to a natural resource.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs’ claims are barred because the relief sought against Kinder Morgan, were it claimed directly by Plaintiffs, would amount to a “taking” of Kinder Morgan’s property in violation of its constitutional rights to due process and/or in violation of its rights under the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq.

FORTY-NINTH AFFIRMATIVE DEFENSE

Third Party Plaintiffs’ claims are barred to the extent the relief sought by Third Party Plaintiffs in the Complaint is at odds with Kinder Morgan’s responsibilities to conduct ongoing environmental cleanups under oversight of the Plaintiffs at any site(s) alleged by Third Party Plaintiffs to be the subject of their contribution claims against Kinder Morgan, thereby exposing Kinder Morgan to inconsistent responsibilities, penalties and liabilities, and the possibility of paying twice for the same actions (*i.e.*, double recovery).

FIFTIETH AFFIRMATIVE DEFENSE

To the extent Kinder Morgan is acting or has acted to conduct environmental cleanup at any site alleged by Third Party Plaintiffs to be the subject of their contribution claims against Kinder Morgan, the claims for equitable contribution under the Spill Act in the Third Party Complaint are barred because equity will not compel action that is already being undertaken and/or is unnecessary.

FIFTY-FIRST AFFIRMATIVE DEFENSE

Without admitting liability, Kinder Morgan alleges that if it is found to have been engaged in any of the activities alleged in the Third Party Complaint, such activities were *de minimis* and not the cause of any damages or other claims by Third Party Plaintiffs.

FIFTY SECOND AFFIRMATIVE DEFENSE

Kinder Morgan incorporates by reference any affirmative defense asserted by other parties in this action to the extent such affirmation defenses are defenses to Third Party Plaintiffs' claims and do not impose liability on Kinder Morgan.

FIFTY THIRD AFFIRMATIVE DEFENSE

Third Party Plaintiffs have failed to mitigate their alleged damages.

* * * *

COUNTER-CLAIMS, CROSS CLAIMS AND THIRD/FOURTH PARTY CLAIMS

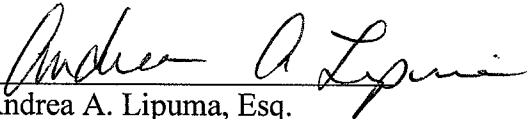
No such claims are required to be asserted at this time and are expressly reserved pursuant to CMO V.

* * * *

WHEREFORE, Third Party Defendant Kinder Morgan respectfully requests that the Court enter an Order dismissing the Third Party Complaint D with prejudice, and awarding costs, attorney fees and any other relief the Court deems just and proper.

Dated: November 11, 2009

SAUL EWING LLP
A Delaware LLP

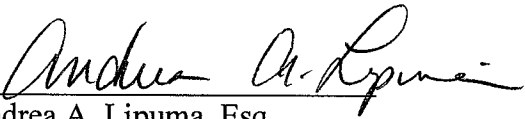
By: 
Andrea A. Lipuma, Esq.
Attorneys for Third Party Defendant
Kinder Morgan Energy Partners, L.P.

DESIGNATION OF TRIAL COUNSEL

In accordance with R. 4:25-4, Andrea A. Lipuma is hereby designated as trial counsel in this case.

Dated: November 11, 2009

SAUL EWING LLP
A Delaware LLP

By: 
Andrea A. Lipuma, Esq.
Attorneys for Third Party Defendant
Kinder Morgan Energy Partners, L.P.

CERTIFICATION PURSUANT TO R. 4:5-1(b) (2)

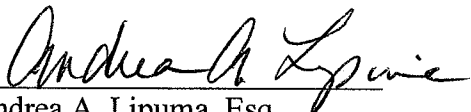
Pursuant to R. 4:5-1(b)(2), the undersigned hereby certifies that:

- (a) The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding and no action or arbitration proceeding is contemplated by the undersigned; and
- (b) Since it is the legal position of the undersigned that the potential liability, if any, of a third party defendant for the claims set forth in the Third Party Complaint is several only, there are no non-parties which should be joined in the action pursuant to R.4:28; but that
- (c) In the event the Court shall determine that the potential liability of a third party defendant, if any, for the claims set forth in the Third Party Complaint is in any respect joint and several (which is denied), then all or some of the non-parties listed on the October 7, 2009 posting by O'Melveny and Myers may constitute non-parties who should be joined in the action pursuant to R. 4:28; and
- (d) In either event, some or all of such non-parties are subject to joinder pursuant to R.4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

Dated: November 11, 2009

SAUL EWING LLP

A Delaware LLP

By: 
Andrea A. Lipuma, Esq.
Attorneys for Third Party Defendant
Kinder Morgan Energy Partners, L.P.

SAUL EWING LLP

A Delaware LLP

750 College Road East

Princeton, NJ 08540

(609) 452-3100

Attorneys for Third Party Defendant

Kinder Morgan Energy Partners, L.P.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, THE
COMMISSIONER OF THE NEW JERSEY
ENVIRONMENTAL PROTECTION AGENCY,
and THE ADMINISTRATOR OF THE NEW
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Plaintiffs,

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Defendants,

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BAYER CORPORATION,
BAYONNE INDUSTRIES, INC.,
BP MARINE AMERICAS, INC.,
CHEMICAL WASTE MANAGEMENT INC.,
DOW CHEMICAL COMPANY,
DURAPORT REALTY ONE LLC,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

CERTIFICATION OF SERVICE

DURAPORT REALTY TWO LLC,
EPEC POLYMERS, INC.,
GAESS ENVIRONMENTAL SERVICES, INC.,
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GOODRICH CORPORATION,
HESS CORPORATION,
IMTT-BAYONNE,
KINDER MORGAN ENERGY PARTNERS, L.P.,
McKESSON CORPORATION,
McKESSON ENVIROSYSTEMS CO.,
SAFETY-KLEEN CORPORATION,
SHULTON INCORPORATED, USA,
SUN PIPELINE CO.,
SUN REFINING AND MARKETING CO.,
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WYETH,

Third Party Defendants.

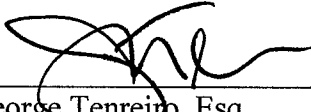
GEORGE TENREIRO, certifies that:

1. I am an attorney-at-law in the State of New Jersey.
2. On November 11, 2009, I forwarded an original and two (2) copies of Answer And Affirmative Defenses To Third Party Complaint D ("Answer") and Case Information Statement ("CIS") to be filed with the Clerk of the Superior Court, Essex County, via Federal Express.
3. On November 11, 2009, I also forwarded via e-mail a copy of the Answer and CIS to the Honorable Sebastian P. Lombardi, J.S.C.
4. On November 11, 2009, I also filed the Answer and CIS via the sfile website, which will be distributed to all counsel who have consented to such service.

5. On November 11, 2009, I also forwarded a copy of the Answer via first-class mail to all counsel who have not consented to service by electronic posting.

Dated: November 11, 2009

SAUL EWING LLP
A Delaware LLP

By: 
George Tenreiro, Esq.
Attorneys for Third Party Defendant
Kinder Morgan Energy Partners, L.P.

Third-Party Defendants for Regular Service as of October 13, 2009

NAMED THIRD-PARTY DEFENDANT	THIRD-PARTY COMPLAINT	NOTICE OF APPEARANCE - COUNSEL OF RECORD
3M Company	B	Donald J. Camerson, II Bressler, Amery & Ross, P.C. 325 Columbia Turnpike Florham Park, NJ 07932 973.660.4433 973.514.1660 - fax dcamerson@bressler.com
Alden-Leeds, Inc.	B	Joseph B. Fiorenzo Sokol, Behot & Fiorenzo 433 Hackensack, NJ 07601 201.488.1300 jbfioorenzo@sbflawfirm.com
Celanese Ltd.	B	Anthony J. Reitano Herold Law, PA 25 Independence Blvd. Warren, NJ 07059-6747 908.647.1022 908.647.7721 - fax areitano@heroldlaw.com
City of Clifton	A	Thomas M. Egan, Esq. Assistant Municipal Attorney City of Clifton Law Department 900 Clifton Avenue Clifton, NJ 07013 973.470.5817 973.470.5254 - fax tegan@cliftonnj.org
City of Orange	A	John P. McGovern Assistant City Attorney City of Orange Township 29 North Day St. Orange, NJ 07050 973.266.4197 973.674.2021 - fax jmcgovern@ci.orange.nj.us
Clean Earth of North Jersey, Inc.	B	Eric S. Aronson Greenberg Traurig, LLP 200 Park Avenue Florham Park, NJ 07932 973.360.7900 973.301.8410 - fax aronson@gtlaw.com

Third-Party Defendants for Regular Service as of October 13, 2009

DiLorenzo Properties Company, L.P.	B	Steven R. Gray Water, McPherson, McNeill, P.C. 300 Lighting Way P.O. Box 1560 Secaucus, NJ 07096 201.863.4400 201.863.2866 - fax sgray@lawwmm.com
Dow Chemical Co.	D	Kenneth H. Mack Fox Rothschild LLP 997 Lenox Drive, Building Three Lawrenceville, NJ 08648 609.895.6631 609.896.1469 - fax kmack@foxrothschild.com
Fine Organics Corporation	B	Joe R. Caldwell Baker Botts L.L.P. 1299 Pennsylvania Ave. N.W. Washington, D.C. 20004-2400 202.639.7788 202.585.1074 - fax joe.caldwell@bakerbotts.com
Flexon Industries Corporation	B	Thomas Spiesman Porzio Bromberg & Newman, P.C. 100 Southgate Parkway Morristown, NJ 07962 973.889.4208 973.538.5146 - fax tspiesman@pbnlaw.com
Flint Group Incorporated	B	Donald J. Camerson, II Bressler, Amery & Ross, P.C. 325 Columbia Turnpike Florham Park, NJ 07932 973.660.4433 973.514.1660 - fax dcamerson@bressler.com
Houghton International Inc.	B	Robert A. White Morgan, Lewis & Bockius LLP 502 Carnegie Center Princeton, NJ 08540-6241 609.919.6600
Hudson Tool & Die Company, Inc.	B	Keith E. Lynott McCarter & English, LLP 100 Mulberry Street 4 Gateway Center Newark, NJ 07102 973.622.4444 973.624.7070 - fax klynott@mccarter.com

Third-Party Defendants for Regular Service as of October 13, 2009

Kochler-Bright Star, Inc.	B	Norman W. Spindel Lowenstein Sandler PC 65 Livingston Avenue Roseland, NJ 07068 973.597.2500 973.597.2515 - fax nspindel@lowenstein.com
Legacy Vulcan Corp.	C	Corinne A. Goldstein, Esq. Covington & Burling, LLP 1201 Pennsylvania Avenue, NW Washington, DC 20004 cgoldstein@cov.com 202.662.5534 202.778.5534 - fax cgoldstein@cov.com
Metal Management Northeast, Inc.	B	Norman W. Spindel Lowenstein Sandler PC 65 Livingston Avenue Roseland, NJ 07068 973.597.2500 973.597.2515 - fax nspindel@lowenstein.com
New Jersey Transit Corporation	B	Kenneth M. Worton Deputy Attorney General State of New Jersey One Penn Plaza East Newark, NJ 07105-2246 973.491.7034 973.491.7044 - fax kworton@njtransit.com
Novelis Corporation	B	Paul Casteleiro, Esq. 200 Washington St., 5th Floor Hoboken, NJ 07030 201.656.1696 201.656.4688 - fax paul@casteleirolaw.com
Passaic Pioneers Properties Company	B	John A. Daniels Daniels & Daniels LLC 6812 Park Ave. Guttenberg, NJ 07093 202.868.1868 201.868.2122 - fax jad1903@gmail.com
Precision Manufacturing Group, LLC	B	Bradley L. Mitchell Stevens & Lee 600 College Road East Suite 4400 Princeton, NJ 08540 609.987.6680 610.371.7928 - fax blm@stevenslee.com

Third-Party Defendants for Regular Service as of October 13, 2009

R.T. Vanderbilt Company, Inc.	B	Howard A. Neuman Satterlee Stephens Burke & Burke LLP 33 Wood Avenue South Iselin, NJ 08830 732.603.4966 hneuman@ssbb.com
Revere Smelting & Refining Corporation [Has provided consent; however, counsel of record needs to register at website for service of notifications]	B	Nicholaus M. Kouletis, Esq. Pepper Hamilton, LLP Suite 400 301 Carnegie Center Princeton, NJ 08543-5276 609.452.0808 609.452.1147 - fax kouletsisn@pepperlaw.com
The Stanley Works [Has provided consent; however, counsel of record needs to register at website for service of notifications]	B	Robert T. Barnard Thompson Hine LLP 335 Madison Ave., 12th Floor New York, NY 10017 212.344.5680 212.344.6101 - fax Robert.Barnard@ThompsonHine.com
Thirty-Three Queen Realty Inc.	B	Thomas Spiesman Porzio Bromberg & Newman, P.C. 100 Southgate Parkway Morristown, NJ 07962 973.889.4208 973.538.5146 -- fax tspiesman@pbnlaw.com
Township of Cranford	A	Carl R. Woodward, III, Esq. cwoodward@carellabyrne.com Brian H. Fenlon, Esq. bfenlon@carellabyrne.com Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein 5 Becker Farm Road Roseland, NJ 07068 973.994.1700
Vitusa Corp.	B	Gerald Poss Gerald Poss, P.A. & Associates 58 Vose Avenue South Orange, NJ 07079-2026 973.762.6400 gpossinc@aol.com
Wiggins Plastics, Inc.	B	Russell S. Burnside Greenberg Dauber Epstein & Tucker, P.C. One Gateway Center, Suite 600 Newark, NJ 07201 973.643.3700 973.643.1218 - fax rburnside@greenbergdauber.com