

James Stewart, Esq.
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068
Tel: (973) 597-2522
Fax: (973) 597-2523
ATTORNEY FOR THIRD-PARTY DEFENDANTS
Nappwood Land Corporation and Purdue Pharma Technologies, Inc.

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

Plaintiffs,

vs.

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

Defendants,

MAXUS ENERGY CORPORATION and
TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

vs.

3M COMPANY,
A.C.C., INC.,
ACH FOOD COMPANIES, INC.,
ACTIVE OIL SERVICE,
ADCO CHEMICAL COMPANY,
AGC CHEMICALS AMERICAS, INC.,
ALDEN-LEEDS, INC.,
ALLIANCE CHEMICAL, INC.,
ALUMAX MILL PRODUCTS, INC.,
AMCOL REALTY CO.,
AMERICAN INKS AND COATINGS
CORPORATION,

Nappwood Land Corporation and Purdue Pharma
Technologies, Inc.'s Answer to Third-Party Complai
"B"

APEXICAL, INC.,
APOLAN INTERNATIONAL, INC.,
ARKEMA, INC.,
ASHLAND INC.,
ASHLAND INTERNATIONAL HOLDINGS, INC.,
ASSOCIATED AUTO BODY & TRUCKS, INC.,
ATLAS REFINERY, INC.,
AUTOMATIC ELECTRO-PLATING CORP.,
AKZO NOBEL COATINGS, INC.,
BASF CATALYSTS LLC,
BASF CONSTRUCTION CHEMICALS INC.,
BASF CORPORATION,
BAYER CORPORATION,
BEAZER EAST, INC.,
BELLEVILLE INDUSTRIAL CENTER,
BENJAMIN MOORE & COMPANY,
BEROL CORPORATION,
B-LINE TRUCKING, INC.,
BORDEN & REMINGTON CORP.,
C.S. OSBORNE & CO.,
CAMPBELL FOUNDRY COMPANY,
CASCHEM, INC.,
CBS CORPORATION,
CELANESE LTD.,
CHEMICAL COMPOUNDS INC.,
CHEMTURA CORPORATION,
CLEAN EARTH OF NORTH JERSEY, INC.,
COSMOPOLITAN GRAPHICS CORPORATION,
CIBA CORPORATION,
COLTEC INDUSTRIES INC.,
COLUMBIA TERMINALS, INC.,
COMO TEXTILE PRINTS, INC.,
CONAGRA PANAMA, INC.;
CONOPCO, INC.,
CONSOLIDATED RAIL CORPORATION,
COOK & DUNN PAINT CORPORATION,
COSAN CHEMICAL CORPORATION,
COVANTA ESSEX COMPANY,
CRODA, INC.,
CRUCIBLE MATERIALS CORPORATION,
CURTISS-WRIGHT CORPORATION,
CWC INDUSTRIES, INC.,
DARLING INTERNATIONAL, INC.,
DAVANNE REALTY CO.,

DELEET MERCHANDISING CORPORATION,
DELVAL INK AND COLOR,
INCORPORATED,DILORENZO PROPERTIES
COMPANY, L.P.,
E.I. DU PONT DE NEMOURS AND COMPANY,
EASTMAN KODAK COMPANY,
EDEN WOOD CORPORATION,
ELAN CHEMICAL COMPANY, INC.,
EM SERGEANT PULP & CHEMICAL CO.,
EMERALD HILTON DAVIS, LLC,
ESSEX CHEMICAL CORPORATION,
EXXON MOBIL
F.E.R. PLATING, INC.,
FINE ORGANICS CORPORATION,
FISKE BROTHERS REFINING COMPANY,
FLEXON INDUSTRIES CORPORATION,
FLINT GROUP INCORPORATED,
FORT JAMES CORPORATION,
FOUNDRY STREET CORPORATION,
FRANKLIN-BURLINGTON PLASTICS, INC.,
GARFIELD MOLDING COMPANY, INC.,
GENERAL CABLE INDUSTRIES, INC.;
GENERAL DYNAMICS CORPORATION,
GENERAL ELECTRIC COMPANY,
GENTEK HOLDING LLC,
GIVAUDAN FRAGRANCES CORPORATION,
G. J. CHEMICAL CO.,
GOODY PRODUCTS, INC.,
GORDON TERMINAL SERVICE CO. OF N.J., INC.,
HARRISON SUPPLY COMPANY,
HARTZ MOUNTAIN CORPORATION,
HAVENICK ASSOCIATES L.P.,
HEXCEL CORPORATION,
HEXION SPECIALTY CHEMICALS, INC.,
HOFFMANN-LA ROCHE INC.,
HONEYWELL INTERNATIONAL INC.,
HOUGHTON INTERNATIONAL INC.,
HUDSON TOOL & DIE COMPANY, INC,
HY-GRADE ELECTROPLATING CO.,
ICI AMERICAS INC.,
INNOSPEC ACTIVE CHEMICALS LLC,
INX INTERNATIONAL INK CO.,
ISP CHEMICALS INC.,
ITT CORPORATION,

KEARNY SMELTING & REFINING CORP.,
KAO BRANDS COMPANY,
KOEHLER-BRIGITT STAR, INC.,
LINDE, INC.,
LUCENT TECHNOLOGIES, INC.,
MACE ADHESIVES & COATINGS COMPANY,
INC.,
MALLINCKRODT INC.,
MERCK & CO., INC.,
METAL MANAGEMENT NORTHEAST, INC.,
MI HOLDINGS, INC.,
MILLER ENVIRONMENTAL GROUP, INC.,
MORTON INTERNATIONAL, INC.,
N L INDUSTRIES, INC.,
NAPPWOOD LAND CORPORATION,
NATIONAL FUEL OIL, INC.,
NATIONAL-STANDARD, LLC,
NELL-JOY INDUSTRIES, INC.,
NESTLE U.S.A., INC.,
NEW JERSEY TRANSIT CORPORATION,
NEWS AMERICA, INC.,
NEWS PUBLISHING AUSTRALIA LIMITED,
NORPAK CORPORATION,
NOVELIS CORPORATION,
ORANGE AND ROCKLAND UTILITIES, INC.,
OTIS ELEVATOR COMPANY,
PRC-DESOTO INTERNATIONAL, INC.,
PASSAIC PIONEERS PROPERTIES COMPANY,
PFIZER INC.,
PHARMACIA CORPORATION,
PHELPS DODGE INDUSTRIES, INC.,
PHILBRO, INC.,
PITT-CONSOL CHEMICAL COMPANY,
PIVOTAL UTILITY HOLDINGS, INC.,
PPG INDUSTRIES, INC.,
PRC-DESOTO INTERNATIONAL, INC.,
PRAXAIR, INC.,
PRECISION MANUFACTURING GROUP, LLC,
PRENTISS INCORPORATED,
PROCTER & GAMBLE MANUFACTURING
COMPANY,
PRYSMIAN COMMUNICATIONS CABLES AND
SYSTEMS USA LLC,
PSEG FOSSIL LLC,
PUBLIC SERVICE ELECTRIC AND GAS
COMPANY,
PURDUE PHARMA TECHNOLOGIES, INC.,

QUALA SYSTEMS, INC.,
QUALITY CARRIERS, INC.,
RECKITT BENCKISER, INC.,
REICHHOLD, INC.,
REVERE SMELTING & REFINING CORPORATION,
REXAM BEVERAGE CAN COMPANY,
ROMAN ASPHALT CORPORATION,
ROYCE ASSOCIATES, A LIMITED PARTNERSHIP,
R.T. VANDERBILT COMPANY, INC.,
RUTHERFORD CHEMICALS LLC,
S&A REALTY ASSOCIATES, INC.,
SCHERING CORPORATION,
SEQUA CORPORATION,
SETON COMPANY,
SIEMENS WATER TECHNOLOGIES CORP.
SINGER SEWING COMPANY
SPECTRASERV, INC.,
STWB, INC.,
SUN CHEMICAL CORPORATION,
SVP WORLDWIDE, LLC,
TATE & LYLE INGREDIENTS AMERICAS, INC.,
TEVA PHARMACEUTICALS USA, INC.,
TEVAL CORP.,
TEXTRON INC.,
THE DIAL CORPORATION,
THE DUNDEE WATER POWER AND LAND
COMPANY,
THE NEWARK GROUP, INC.,
THE OKONITE COMPANY, INC.,
THE SHERWIN-WILLIAMS COMPANY,
THE STANLEY WORKS,
THE VALSPAR CORPORATION,
THIRTY-THREE QUEEN REALTY INC.,
THREE COUNTY VOLKSWAGEN CORPORATION,
TIDEWATER BALING CORP.,
TIFFANY & CO.,
TIMCO, INC.,
TRIMAX BUILDING PRODUCTS, INC.,
TROY CHEMICAL CORPORATION, INC.,
UNIVERSAL OIL PRODUCTS COMPANY,
V. OTTILIO & SONS, INC.,
VELSICOL CHEMICAL CORPORATION,
VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.,
VERTELLUS SPECIALTIES INC.,
VITUSA CORP.,

VULCAN MATERIALS COMPANY,
W.A.S. TERMINALS CORPORATION,
W.A.S. TERMINALS, INC.,
W.C. INDUSTRIES,
WHITTAKER CORPORATION,
WIGGINS PLASTICS, INC.,
ZENECA INC.,

Third-Party Defendants.

Nappwood Land Corporation and Purdue Pharma Technologies, Inc.'S

ANSWER TO THIRD-PARTY COMPLAINT "B"

Third-Party Defendants Nappwood Land Corporation and Purdue Pharma Technologies, Inc., 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 "B" by Defendants/Third-Party Plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc. ("Third-Party Plaintiffs"), as follows:

GENERALLY

1. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. deny each and every allegation contained in Third Party Complaint "B" that is not otherwise herein addressed, including, without limitation, any allegations concerning the relief sought in the First Count and the Second Count and all headings and titles used in Third-Party Complaint "B".

AS TO PROCEDURAL BACKGROUND

(Paragraphs 1 through 15)

2. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. respond that the referenced pleadings speak for themselves. No response is required pursuant to CMO V.

AS TO THE THIRD PARTY PLAINTIFFS

(Paragraphs 16 through 18)

3. No response is required pursuant to CMO V.

AS TO THE THIRD PARTY DEFENDANTS

(Paragraphs 19 through 209)

4. To the extent that the allegations in Paragraphs 19 through 209 relate to other parties, no response is required pursuant to CMO V.
5. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in Paragraph 131.
6. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in Paragraph 158.
7. The allegations in Paragraph 210, state a legal conclusion as to which no response is required.

AS TO DEFINITIONS

8. Paragraphs 211 through 236 contain definitions. No response is required pursuant to CMO V.

AS TO FACTUAL ALLEGATIONS

(Paragraphs 237 through 3445)

9. The referenced pleadings speak for themselves. No response is required pursuant to CMO V, except to the extent noted below.
10. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1946 of the Third-Party Complaint, except they state that the correct Lot is 81.01.
11. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. lack knowledge or information sufficient to form a belief as to the allegations in paragraph 1947 of the Third-Party Complaint,

12. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. deny the allegations in paragraph 1948 of the Third-Party Complaint, except they admit that Fine Products Corporation was incorporated in Delaware in 1970, that Fine Products Corporation changed its name to B.L. Lemke & Co., Inc., which merged in March, 1971 with Purdue Pharma Technologies, Inc. doing business as Lemke Chemicals, Inc., which changed its name in 1973 to Napp-Lodi , Inc., which was renamed Napp Chemicals, Inc. In 1993, Napp Chemicals, Inc. was renamed Napp Technologies, Inc.

13. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1949 of the Third-Party-Complaint.

14. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit that Lot 8 was acquired in 1970 and Lot 7 was acquired in 1973, as alleged in paragraph 1950 of the Third-Party-Complaint.

15. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1951 of the Third-Party-Complaint, except they state that Purdue Pharma began operating at the Purdue Pharma site in 1971.

16. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1952 of the Third-Party-Complaint, except they state that Purdue Pharma began its operations on the Site in 1971.

17. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1953 of the Third-Party-Complaint.

18. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit that there was an explosion and fire on April 21, 1995 as alleged in paragraph 1954 of the Third-

Party-Complaint, and respectfully refers the Court to the EPA inspection report for its findings and the sampling results for their findings.

19. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. do not answer the allegations in paragraph 1955 of the Third-Party Complaint, and respectfully refer the Court to soil sampling results for their findings .

20. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1956 of the Third-Party Complaint, except they admit that the Saddle River is subject to periodic flooding.

21. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1957 of the Third-Party Complaint.

22. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. do not answer the allegations of paragraph 1958 of the Third-Party Complaint, and respectfully refer the Court to ground water analytical results for their findings.

23. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1959 of the Third-Party-Complaint

24. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. do not answer the allegations in paragraph 1960 of the Third-Party Complaint, and respectfully refer the Court to the August 26, 2003 letter for its terms.

25. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. do not answer the allegations in paragraph 1961 of the Third-Party-Complaint, and respectfully refers the Court to the sampling results for their findings.

26. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. do not answer the allegations in paragraph 1962 of the Third-Party-Complaint, and respectfully refer the Court to Directive NO. 1 and the November 7, 2003 response for their terms.

27. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. admit the allegations in paragraph 1963 of the Third-Party Complaint.

28. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. deny the allegations in paragraph 1964 of the Third-Party Complaint.

29. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. deny the allegations in paragraph 1965 of the Third-Party Complaint.

AS TO FIRST COUNT

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

30. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. incorporate by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 28 herein.

31. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 3447 through 3448.

32. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. deny that they are liable to Third-Party Plaintiffs for contribution. NAPPWOOD LAND CORPORATION AND PURDUE PHARMA TECHNOLOGIES, INC. lack knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraphs 3449 through 3451.

AS TO SECOND COUNT

Statutory Contribution

33. NAPPWOOD LAND CORPORATION AND PURDUE PHARMA TECHNOLOGIES, INC. incorporate by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 31 herein.

34. NAPPWOOD LAND CORPORATION AND PURDUE PHARMA TECHNOLOGIES, INC. deny that they are liable to Third-Party Plaintiffs for contribution. NAPPWOOD LAND CORPORATION AND PURDUE PHARMA TECHNOLOGIES, INC. lack knowledge or information sufficient to form a belief as to the truth of the matters in Paragraphs 3452 through 3453.

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

36. Neither Nappwood Land Corporation and Purdue Pharma Technologies, Inc. is a discharger or a person in any way responsible for a discharge under N.J.S.A. 58:10-23 et seq. (“Spill Act”).

THIRD AFFIRMATIVE DEFENSE

37. The claims of Third-Party Plaintiffs are barred in whole or in part by the statutory defenses to liability provided by the Spill Act and the Water Pollution Control Act.

FOURTH AFFIRMATIVE DEFENSE

38. Third-Party Plaintiffs have no Spill Act claim against Third-Party Defendants because they have not cleaned up and/or removed a discharge of hazardous substances within the meaning of the Spill Act.

FIFTH AFFIRMATIVE DEFENSE

39. Third-Party Plaintiffs have no right of contribution against Third-Party Defendants under the Spill Act.

SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

42. Third-Party Defendants cannot be held liable for or be required to pay Third-Party Plaintiffs' damages or other claims based on actions or inactions by Third-Party Defendants 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").

NINTH AFFIRMATIVE DEFENSE

43. At all relevant times, Third-Party Defendants 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.

TENTH AFFIRMATIVE DEFENSE

44. The claims asserted against Third-Party Defendants in the Third-Party Complaint are barred because at all relevant times Third-Party Defendants exercised due care with respect to hazardous substances, if any, that may have been handled at the subject property or properties, 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 Third-Party Defendants 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.

ELEVENTH AFFIRMATIVE DEFENSE

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

TWELFTH AFFIRMATIVE DEFENSE

46. Third-Party Plaintiffs suffered no losses or injuries that were proximately caused by Third-Party Defendants.

THIRTEENTH AFFIRMATIVE DEFENSE

47. Third-Party Plaintiffs' claims against Third-Party Defendants 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.

FOURTEENTH AFFIRMATIVE DEFENSE

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

FIFTEENTH AFFIRMATIVE DEFENSE

49. 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.

SIXTEENTH AFFIRMATIVE DEFENSE

50. Third-Party Plaintiffs' claims against Third-Party Defendants are subject to setoff and recoupment and therefore must be reduced accordingly.

SEVENTEENTH AFFIRMATIVE DEFENSE

51. Third-Party Defendants did not own or operate a "Major Facility" as defined by the Spill Act.

EIGHTEENTH AFFIRMATIVE DEFENSE

52. 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.

NINETEENTH AFFIRMATIVE DEFENSE

53. Third-Party Defendants deny 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 Environmental Law, such injury was caused by the intervening acts, omissions, or superseding acts of persons or entities over whom Third-Party Defendants

exercised no control and for whose conduct Third-Party Defendants were not responsible including, without limitation, unpermitted and storm event discharges from publically owned treatment works.

TWENTYTH AFFIRMATIVE DEFENSE

54. 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 Third-Party Defendants, 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.

TWENTY-FIRST AFFIRMATIVE DEFENSE

55. Although Third-Party Defendants deny that they are liable for the contamination described in Third-Party Plaintiffs' Complaint, in the event they are found liable, Third-Party Defendants are 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.

TWENTY-SECOND AFFIRMATIVE DEFENSE

56. Third-Party Plaintiffs' claims are barred to the extent that the conduct of Third-Party Defendants 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.

TWENTY-THIRD AFFIRMATIVE DEFENSE

57. The damages or other relief that Third-Party Plaintiffs seek, if awarded, would result in unjust enrichment to the Third-Party Plaintiffs.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

58. Third-Party Plaintiffs' claims are barred due to their own conduct in implementing clean-up plan(s) or taking other actions that resulted in the commingling of formerly divisible areas of environmental harm.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

59. Third-Party Plaintiffs cannot assert contribution claims against Third-Party Defendants because the discharges for which the Plaintiffs are seeking relief are different from Third-Party Defendants' alleged discharges.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

60. Third-Party Plaintiffs cannot seek contribution under the Joint Tortfeasors Contribution Law because Third-Party Defendant(s) are 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.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

61. Third-Party Plaintiffs' claims are barred to the extent they seek to hold Third-Party Defendants liable, in contribution, for punitive damages and penalties.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

62. Third-Party Plaintiffs claims for contribution, whether under the Spill Act or the New Jersey statutory provisions for contribution, are derivative of, and are therefore no greater than, Plaintiffs' claims against Third-Party Plaintiffs. Consequently, Third-Party Plaintiffs' claims against Third-Party Defendant are barred to the extent of any legal extinguishments of

actual or potential claims by the Plaintiffs against Third-Party Defendant pertaining to the alleged environmental contamination (including natural resource damage) of any site(s) alleged by Third-Party Plaintiffs to be the subject of their contribution claims against Third-Party Defendant. Examples of legal extinguishments that are or may be applicable to Third-Party Defendant include, with respect to each such site:

1. Any release or covenant not to sue granted by Plaintiffs to Third-Party Defendant;
2. Any settlement or other compromise between Plaintiffs and Third-Party Defendant;
3. Any expiration of the statute of limitations or statute of repose governing Plaintiffs' right to maintain a claim against Third-Party Defendant;
4. Any failure to join a claim relating to the "Newark Bay Complex" (as defined in the Third-Party Complaint) in a prior litigation between Plaintiffs and Third-Party Defendant, which would result in relinquishment of such a claim by virtue of New Jersey's Entire Controversy Doctrine; and/or
5. Any issuance by Plaintiffs to Third-Party Defendant, directly or indirectly, of any "No Further Action" (a/k/a "NFA") determination, "Negative Declaration," or similar determination.

TWENTY-NINTH AFFIRMATIVE DEFENSE

63. Without admitting liability, Third-Party Defendants alleges that if they are 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.

THIRTIETH AFFIRMATIVE DEFENSE

64. Third-Party Defendants incorporate 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 Third-Party Defendant.

THIRTY-FIRST AFFIRMATIVE DEFENSE

65. Third-Party Defendants reserve the right to assert and hereby invoke each and every affirmative defense under Applicable Environmental Law that may be available during the course of this action.

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

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

DESIGNATION OF TRIAL COUNSEL

67. Nappwood Land Corporation and Purdue Pharma Technologies, Inc. designate James Stewart as trial counsel in this case.

WHEREFORE, Third-Party Defendant Nappwood Land Corporation and Purdue Pharma Technologies, Inc. respectfully request that the Court enter an Order dismissing the Third-Party Complaint "b" with prejudice, and awarding costs, attorney fees and any other relief the Court deems just and proper.

Dated: March 1, 2010

Respectfully submitted,
Lowenstein Sandler PC
Attorney for Third-Party Defendants Nappwood
Land Corporation and Purdue Pharma
Technologies, Inc.

By: 
James Stewart

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

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

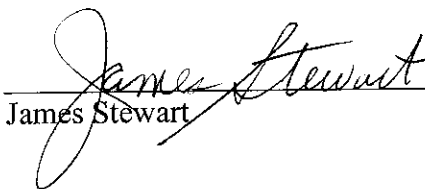
- (a) The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding and no action or arbitration proceeding is contemplated by the undersigned; and
- (b) Since it is the legal position of Nappwood Land Corporation and Purdue Pharma Technologies Inc. that their potential liability, if any, as 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.

Respectfully submitted,

Lowenstein Sandler PC

Attorney for Third-Party Defendant Nappwood
Land Corporation and Purdue Pharma
Technologies, Inc.

By: 
James Stewart

CERTIFICATION OF SERVICE

Annetta Benedict hereby certifies as follows:

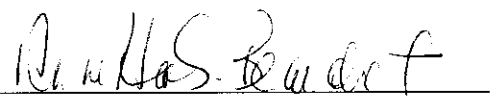
1. I am the legal secretary to James Stewart, Esq. of the law firm of Lowenstein Sandler, which law firm represents Third-Party Defendant Nappwood Land Corporation and Purdue Pharma Technologies, Inc. in this matter.

2. I hereby certify that Nappwood Land Corporation and Purdue Pharma Technologies, Inc.'s Answer to the Third Party Complaint "b" brought by Defendants/Third-Party Plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc., and separate defenses was served upon the Clerk of the Court, Superior Court of New Jersey, Essex County, 50 W. Market Street, Newark, New Jersey, 07102, by regular mail, postage pre-paid, on March 1, 2010.

3. I hereby certify that Nappwood Land Corporation and Purdue Pharma Technologies, Inc.'s Answer to the Third Party Complaint "B" brought by Defendants/Third-Party Plaintiffs Defendants, Maxus Energy Corporation and Tierra Solutions, Inc., and separate defenses was served electronically on all parties who have consented to service by electronic posting on the following website, <http://njdepvocc.sfile.com> on March 1, 2010.

4. I hereby certify that The Nappwood Land Corporation and Purdue Pharma Technologies, Inc.'s Answer to the Third Party Complaint "B" brought by Defendants/Third-Party Plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc., and separate defenses was served by regular mail, postage pre-paid, on counsel for all parties who have not consented to service by electronic posting.

Dated: March 1, 2010


Annetta Benedict