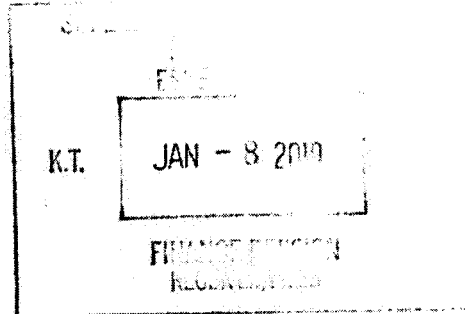


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Attorney for Third-Party Defendant Sequa Corporation



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,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**SEQUA CORPORATION'S ANSWER
TO THIRD-PARTY COMPLAINT "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 CORPRATION,
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.

**SEQUA CORPORATION CORPORATION'S
ANSWER TO THIRD-PARTY COMPLAINT "B"**

Third-Party Defendant Sequa Corporation ("Sequa"), 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. Sequa denies 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. Sequa responds 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. Sequa admits the allegations in Paragraph 171 of Third-Party Complaint B.
6. The allegations in Paragraph 210, state a legal conclusion as to which no response is required.

AS TO DEFINITIONS

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

AS TO FACTUAL ALLEGATIONS

(Paragraphs 237 through 3445)

8. The referenced pleadings speak for themselves. No response is required pursuant to CMO V, except to the extent noted below.

Sun Chemical Site

9. Sequa¹ admits that Sun Chemical Corporation is the current owner of property located at 185 Foundry Street. Sequa denies the remainder of the allegations contained in paragraph 2798 of Third-Party Complaint B.

¹ Sequa changed its name from Sun Chemical Company to Sequa on or about May 8, 1987, (hereinafter "Sequa").

10. Sequa admits that it leased buildings located at 185 Foundry Street from approximately 1967 until 1986. Sequa denies the remainder of the allegations contained in paragraph 2799 of Third-Party Complaint B.

11. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2800 of Third-Party Complaint B and accordingly, denies those allegations.

12. Sequa alleges that on or about December 30, 1986 it sold substantially all of the non-stock assets comprising Sequa's Graphic Arts Materials to DIC America, Inc. This sale is evidenced by an asset-purchase agreement, which speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations in paragraph 2801 of Third-Party Complaint B.

13. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2802 of Third-Party Complaint B and accordingly, denies those allegations.

14. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2803 of Third-Party Complaint B and accordingly, denies those allegations.

15. Sequa admits that it produced Quinacridone pigments at the Foundry Plant, located on Lot 22 at 185 Foundry Street in Newark. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2804 of Third-Party Complaint B and accordingly, denies those allegations. .

16. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2805 of Third-Party Complaint B and accordingly, denies those allegations.

17. Sequa denies the allegations contained in Paragraph 2806 of Third-Party Complaint B.

18. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2807 of Third-Party Complaint B and accordingly, denies those allegations.

19. Sequa admits that a Passaic Valley Sewerage Commissioners report dated March 31, 1970 exists. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations contained in paragraph 2808 of Third-Party Complaint B.

20. Sequa admits that a letter from PVSC dated October 23, 1978 addresses a complaint of red dye in the Passaic River at the Turnpike Bridge and Doremus Avenue. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations contained in paragraph 2809 of Third-Party Complaint B.

21. Sequa admits that PVSC prepared a letter dated October 14, 1982. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations in paragraph 2810 of Third-Party Complaint B.

22. Sequa is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 2811 of Third-Party Complaint B and accordingly, denies those allegations.

23. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2812 of Third-Party Complaint B and accordingly, denies those allegations.

24. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2813 of Third-Party Complaint B and accordingly, denies those allegations.

25. To the extent the allegations in paragraph 2814 relate to Sequa, Sequa denies these allegations. To the extent the allegations in paragraph 2814 of Third-Party Complaint B relate to Sun Chemical Corporation, Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations and accordingly, denies those allegations.

26. Sequa admits that letter from Dennis Morrison of Sun Chemical to the EPA states that the Newark area in which this site is located has a history of periodic flooding. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2815 of Third-Party Complaint B and accordingly, denies those allegations.

27. To the extent the allegations in paragraph 2816 relate to Sequa, Sequa denies these allegations. To the extent the allegations in paragraph 2816 of Third-Party Complaint B relate to Sun Chemical Corporation, Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations and accordingly, denies those allegations.

28. Sequa is without information sufficient to form a belief as to the truth of the allegations in Paragraph 2817 of Third-Party Complaint B, and on that basis they are denied.

29. Sequa admits EPA prepared a letter dated June 12, 2006. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations in Paragraph 2818 of Third-Party Complaint B.

30. The allegations in Paragraph 2819 of Third-Party Complaint B are conclusions of law and, therefore, no response is required. To the extent the allegations in Paragraph 2819 are deemed to be factual allegations, they are denied.

The Avenue P Landfill Site and D&J Trucking Sites

31. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3033 of Third-Party Complaint B, and on that basis they are denied.

32. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3034 of Third-Party Complaint B, and on that basis they are denied.

33. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3035 of Third-Party Complaint B, and on that basis they are denied.

34. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3036 of Third-Party Complaint B, and on that basis they are denied.

35. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3037 of Third-Party Complaint B, and on that basis they are denied.

36. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3038 of Third-Party Complaint B, and on that basis they are denied.

37. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3039 of Third-Party Complaint B, and on that basis they are denied.

38. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3040 of Third-Party Complaint B, and on that basis they are denied.

39. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3041 of Third-Party Complaint B, and on that basis they are denied.

40. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3042 of Third-Party Complaint B, and on that basis they are denied.

41. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3043 of Third-Party Complaint B, and on that basis they are denied.

42. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3044 of Third-Party Complaint B, and on that basis they are denied.

43. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3045 of Third-Party Complaint B, and on that basis they are denied.

44. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3046 of Third-Party Complaint B, and on that basis they are denied.

45. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3047 of Third-Party Complaint B, and on that basis they are denied.

46. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3048 of Third-Party Complaint B, and on that basis they are denied.

47. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3049 of Third-Party Complaint B, and on that basis they are denied.

48. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3050 of Third-Party Complaint B, and on that basis they are denied.

49. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3051 of Third-Party Complaint B, and on that basis they are denied.

50. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3052 of Third-Party Complaint B, and on that basis they are denied.

51. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3053 of Third-Party Complaint B, and on that basis they are denied.

52. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3054 of Third-Party Complaint B, and on that basis they are denied.

The D&J Trucking Site

53. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3055 of Third-Party Complaint B, and on that basis they are denied.

54. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3056 of Third-Party Complaint B, and on that basis they are denied.

55. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3057 of Third-Party Complaint B, and on that basis they are denied.

56. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3058 of Third-Party Complaint B, and on that basis they are denied.

57. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3059 of Third-Party Complaint B, and on that basis they are denied.

58. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3060 of Third-Party Complaint B, and on that basis they are denied.

59. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3061 of Third-Party Complaint B, and on that basis they are denied.

60. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3062 of Third-Party Complaint B, and on that basis they are denied.

61. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3063 of Third-Party Complaint B, and on that basis they are denied.

62. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3064 of Third-Party Complaint B, and on that basis they are denied.

63. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3065 of Third-Party Complaint B, and on that basis they are denied.

64. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3066 of Third-Party Complaint B, and on that basis they are denied.

65. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3067 of Third-Party Complaint B, and on that basis they are denied.

66. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3068 of Third-Party Complaint B, and on that basis they are denied.

67. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3069 of Third-Party Complaint B, and on that basis they are denied.

68. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3070 of Third-Party Complaint B, and on that basis they are denied.

The Avenue P Landfill Site and D&J Trucking Site Third-Party Defendants: Sequa Corporation and Sun Chemical Corporation

69. Sequa admits that it leased buildings located at 185 Foundry Street from approximately 1967 until 1986 under the name Sun Chemical Company. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 3079 of Third-Party Complaint B and accordingly, denies those allegations.

70. Sequa denies the allegations contained in paragraph 3080 of Third-Party Complaint B.

71. To the extent the allegations in paragraph 3081 relate to Sequa, Sequa denies these allegations. To the extent the allegations in paragraph 3081 of Third-Party Complaint B relate to Sun Chemical Corporation, Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations and accordingly, denies those allegations.

72. The allegations in paragraph 3082 of Third-Party Complaint B are conclusions of law and, therefore, no response is required. To the extent the allegations in Paragraph 3082 are deemed to be factual allegations, they are denied.

The Bayonne Barrel and Drum Site

73. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3087 of Third-Party Complaint B and accordingly, denies those allegations.

74. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3088 of Third-Party Complaint B and accordingly, denies those allegations.

75. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3089 of Third-Party Complaint B, and on that basis they are denied.

76. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3089 of Third-Party Complaint B, and on that basis they are denied.

77. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3090 of Third-Party Complaint B, and on that basis they are denied.

78. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3091 of Third-Party Complaint B, and on that basis they are denied.

79. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3092 of Third-Party Complaint B, and on that basis they are denied.

80. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3093 of Third-Party Complaint B, and on that basis they are denied.

81. Sequa admits that a letter to the PVSC dated May 7, 1946 states that a lagoon was constructed by the Bayonne Barrel and Drum Company ("BBDC"). That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3094 of Third-Party Complaint B, and on that basis they are denied.

82. Sequa admits that a Stream Contamination Report, dated February 22, 1982 exists. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3095 of Third-Party Complaint B, and on that basis they are denied.

83. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3096 of Third-Party Complaint B, and on that basis they are denied.

84. Sequa admits that a Stream Contamination Reported dated May, 11, 1984 exists. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3097 of Third-Party Complaint B, and on that basis they are denied.

85. Sequa admits that on or about June 2, 1988, the EPA conducted a preliminary assessment of the Bayonne Barrel and Drum Site. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3098 of Third-Party Complaint B, and on that basis they are denied.

86. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3099 of Third-Party Complaint B, and on that basis they are denied.

87. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3100 of Third-Party Complaint B, and on that basis they are denied.

88. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3101 of Third-Party Complaint B, and on that basis they are denied.

89. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3102 of Third-Party Complaint B and accordingly, denies those allegations.

90. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3103 of Third-Party Complaint B, and on that basis they are denied.

91. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3104 of Third-Party Complaint B, and on that basis they are denied.

92. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3105 of Third-Party Complaint B, and on that basis they are denied.

93. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3106 of Third-Party Complaint B, and on that basis they are denied.

94. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3107 of Third-Party Complaint B, and on that basis they are denied.

95. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3108 of Third-Party Complaint B, and on that basis they are denied.

96. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3109 of Third-Party Complaint B, and on that basis they are denied.

97. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3110 of Third-Party Complaint B, and on that basis they are denied.

The Bayonne Barrel and Drum Site PRPs

98. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3111 of Third-Party Complaint B, and on that basis they are denied.

99. With respect to Paragraph 3112 of Third-Party Complaint B, Sequa admits that it entered into an Administrative Order on Consent for Removal Action with the EPA on or about September 26, 1996. That document speaks for itself and Sequa refers to it for its complete terms.

100. Sequa admits that the EPA prepared a letter dated January 30, 1998 to "Attached Addressees". That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations of Paragraph 3113 of Third-Party Complaint B.

101. Sequa admits that the EPA prepared a letter dated July 6, 2001 to 15 parties, including Sequa. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations of Paragraph 3114 of Third-Party Complaint B.

102. Sequa admits that Sequa and other private parties entered into a Confidential Site Participation and Settlement Agreement, effective July 1, 2003. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations of Paragraph 3115 of Third-Party Complaint B.

103. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3116 of Third-Party Complaint B, and on that basis they are denied.

104. Sequa admits that it and thirty-six additional parties, entered into an Agreement for Recovery of Past Response Costs with the EPA, on or about July 19, 2004. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3117 of Third-Party Complaint B, and on that basis they are denied.

105. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3118 of Third-Party Complaint B, and on that basis they are denied.

Bayonne Barrel and Drum Site PRP: Sequa Corporation

106. With respect to paragraph 3203 of Third-Party Complaint B, Sequa admits that it changed its name from Sun Chemical Company to Sequa Corporation on or about May 8, 1987.

107. Sequa admits that it sent a letter to the EPA dated November 15, 1995. That document speaks for itself and Sequa refers to it for its complete terms. Sequa denies the remaining allegations of Paragraph 3204 of Third-Party Complaint B.

108. With respect to Paragraph 3205 of Third-Party Complaint B, Sequa admits that it entered into an Administrative Order on Consent for Removal Action with the EPA on or about September 26, 1996. That document speaks for itself and Sequa refers to it for its complete terms.

109. Sequa admits the EPA prepared a letter to Sequa letter relating to the Bayonne Barrel and Drum Site in 2001. That document speaks for itself and Sequa refers to it for its complete terms. Sequa is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3206 of Third-Party Complaint B, and on that basis they are denied.

110. Sequa is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3207 of Third-Party Complaint B, and on that basis they are denied.

111. With respect to paragraph 3208 of Third-Party Complaint B, Sequa admits that it signed the 2004 Administrative Order on Consent for Removal Action with the EPA on or about July 19, 2004. That document speaks for itself and Sequa refers to it for its complete terms.

112. The allegations in paragraph 3209 of Third-Party Complaint B are conclusions of law and, therefore, no response is required. To the extent the allegations in Paragraph 3209 are deemed to be factual allegations, they are denied.

AS TO FIRST COUNT

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

113. Sequa incorporates by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 112 herein.

114. Sequa is without knowledge or information sufficient to form a belief as to the truth of the matters stated in Paragraphs 3447 through 3448, and therefore denies the same.

115. Sequa denies that it is liable to Third-Party Plaintiffs for contribution. Sequa is without knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraphs 3449 through 3451, and therefore denies the same.

AS TO SECOND COUNT

Statutory Contribution

116. Sequa incorporates by reference as if fully set forth herein its responses and denials as asserted in Paragraphs 1 through 112 herein.

117. Sequa denies that it is liable to Third-Party Plaintiffs for contribution. Sequa is without knowledge or information sufficient to form a belief as to the truth of the matters in Paragraphs 3452 through 3453, and therefore denies the same.

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

119. Sequa is not 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

120. 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, *N.J.S.A. 58:10A-1 et seq.* ("WPCA").

FOURTH AFFIRMATIVE DEFENSE

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

FIFTH AFFIRMATIVE DEFENSE

122. Third-Party Plaintiffs have no right of contribution against Sequa under the WPCA.

SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

124. The Third-Party Complaint is barred, in whole or in part, because Third-Party Plaintiffs have failed to meet the procedural and/or substantive requirements entitling them to sue Sequa under New Jersey's Environmental Rights Act, *N.J.S.A. 2A:35A-1 et seq.*

EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

126. 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

127. 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

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

TWELFTH AFFIRMATIVE DEFENSE

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

THIRTEENTH AFFIRMATIVE DEFENSE

130. Sequa cannot be held liable for or be required to pay Third-Party Plaintiffs' damages or other claims based on actions or inactions by Sequa 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

131. At common law, Sequa 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. Sequa 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 Sequa directly. As a result, the claims set forth in the Third-Party Complaint are barred, in whole or in part.

FIFTEENTH AFFIRMATIVE DEFENSE

132. The State of New Jersey is legally barred from asserting direct claims against Sequa 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 Sequa as well, including the claims set forth in the Third-Party Complaint.

SIXTEENTH AFFIRMATIVE DEFENSE

133. 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

134. 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

135. At all relevant times, Sequa 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

136. The claims asserted against Sequa in the Third-Party Complaint are barred because at all relevant times Sequa 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 Sequa 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

137. 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

138. Third-Party Plaintiffs suffered no losses or injuries that were proximately caused by Third-Party Defendant.

TWENTY-SECOND AFFIRMATIVE DEFENSE

139. Third-Party Plaintiffs' claims against Sequa 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

140. 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

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

TWENTY-FIFTH AFFIRMATIVE DEFENSE

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

TWENTY-SIXTH AFFIRMATIVE DEFENSE

143. 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

144. 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

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

TWENTY-NINTH AFFIRMATIVE DEFENSE

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

THIRTIETH AFFIRMATIVE DEFENSE

147. Sequa did not own or operate a "Major Facility" as defined by the Spill Act or the WPCA.

THIRTY-FIRST AFFIRMATIVE DEFENSE

148. 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

149. 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

150. 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

151. Third-Party Plaintiffs' claims are not ripe for adjudication, *inter alia*, 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

152. Sequa 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

Environmental Law, such injury was caused by the intervening acts, omissions, or superseding acts of persons or entities over whom Sequa exercised no control and for whose conduct Sequa was not responsible including, without limitation, unpermitted and storm event discharges from publically owned treatment works.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

153. 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 Defendant, 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

154. Although Sequa denies that it is liable for the contamination described in Third-Party Plaintiffs' Complaint, in the event it is found liable, Sequa 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

155. 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

156. 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.

FORTIETH AFFIRMATIVE DEFENSE

157. The disposal of waste, if any, which allegedly originated from Third-Party Defendant, was undertaken in accordance with the then state of the art, the then accepted industrial practice and technology, and the then prevailing legal requirements for which Sequa cannot be found retroactively liable.

FORTY-FIRST AFFIRMATIVE DEFENSE

158. Any discharge that allegedly originated from Third-Party Defendant, was investigated and remediated by a licensed professional and under the direct oversight of state and/or federal agencies with the then state of the art, the then accepted industrial practice and technology, and the then prevailing requirements for which Sequa cannot be found retroactively liable.

FORTY-SECOND AFFIRMATIVE DEFENSE

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

FORTY-THIRD AFFIRMATIVE DEFENSE

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

FORTY-FOURTH THIRD AFFIRMATIVE DEFENSE

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

FORTY-FIFTH AFFIRMATIVE DEFENSE

162. Third-Party Defendants' 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.*, 556 U.S. ____; 129 S.Ct. 1870 (2009), and other comparable decisional law.

FORTY-SIXTH AFFIRMATIVE DEFENSE

163. 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.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

164. 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.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

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

FORTY-NINTH AFFIRMATIVE DEFENSE

166. Third-Party Plaintiffs' claims are barred, in whole or in part, because no actions or inactions by Sequa have resulted in any permanent impairment or damage to a natural resource.

FIFTIETH AFFIRMATIVE DEFENSE

167. 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 Sequa are barred to the extent of any legal extinguishments of actual or potential claims by the Plaintiffs against Sequa 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 Sequa include, with respect to each such site:

- A. Any release or covenant not to sue granted by Plaintiffs to Third-Party Defendant;
- B. Any settlement or other compromise between Plaintiffs and Third-Party Defendant;
- C. Any expiration of the statute of limitations or statute of repose governing Plaintiffs' right to maintain a claim against Third-Party Defendant;
- D. 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
- E. 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.

FIFTY FIRST AFFIRMATIVE DEFENSE

168. 51. Third-Party Plaintiffs' claims are barred because the relief sought against Third-Party Defendant, were it claimed directly by Plaintiffs, would amount to a "taking" of Third-Party Defendant'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.*

FIFTY SECOND AFFIRMATIVE DEFENSE

169. Third-Party Plaintiffs' claims are barred to the extent the relief sought by Third-Party Plaintiffs in the Complaint is at odds with Third-Party Defendant'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 Third-Party Defendant, thereby exposing Sequa to inconsistent responsibilities, penalties and liabilities, and the possibility of paying twice for the same actions (*i.e.*, double recovery).

FIFTY THIRD AFFIRMATIVE DEFENSE

170. To the extent Sequa is acting or has acted to conduct environmental cleanup at any site(s) alleged by Third-Party Plaintiffs to be the subject of their contribution claims against Third-Party Defendant, 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 FOURTH AFFIRMATIVE DEFENSE

171. Without admitting liability, Sequa 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 FIFTH AFFIRMATIVE DEFENSE

172. Sequa 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 Third-Party Defendant.

FIFTY SIXTH AFFIRMATIVE DEFENSE

173. Sequa reserves the right to assert and hereby invoke each and every Environmental Law defenses that may be available during the course of this action.

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

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

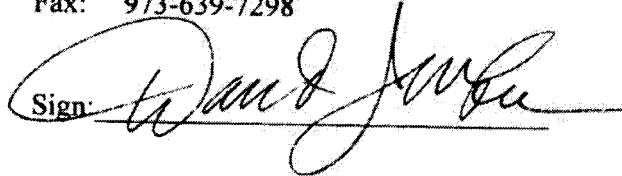
DESIGNATION OF TRIAL COUNSEL

175. In accordance with Rule 4:25-4 you are hereby notified that David McLean is assigned to try this case.

WHEREFORE, Sequa Corporation respectfully requests 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: January 8, 2010

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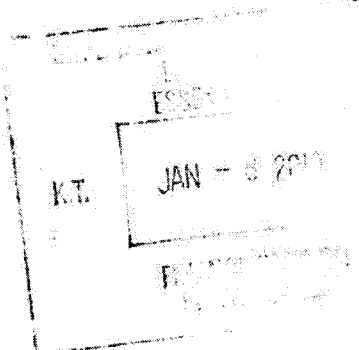
Sign: 

CERTIFICATE OF SERVICE

I, Rebecca K. Brown, hereby certify under penalty of perjury that:

1. I am an attorney-at-law in the State of New Jersey and am associated with the law firm of Latham & Watkins LLP, attorneys for Defendant Sequa Corporation.
2. I am a member in good standing of the bar of this Court.
3. On this date, an original and two correct copies of the Answer to Third-Party Complaint "B" of Maxus Energy Corporation and Tierra Solutions, Inc. and Case Information Statement were hand delivered by messenger for filing with the Clerk of Superior Court of New Jersey, 50 West Market Street, Newark, New Jersey 07102
4. On this date, a courtesy copy of the Answer to Third-Party Complaint "B" of Maxus Energy Corporation and Tierra Solutions, Inc. and Case Information Statement were hand delivered by messenger to the Honorable Sebastian P. Lombardi, J.S.C., 470 Dr. Martin Luther King, Jr. Boulevard, Newark, New Jersey 07102.
5. On this date, a copy of the Answer to Third-Party Complaint "B" of Maxus Energy Corporation and Tierra Solutions, Inc. and Case Information Statement were served electronically on all parties who have consented to service by electronic posting on the following website, <http://njdepvocc.sfile.com>
6. On this date, a copy of the Answer to Third-Party Complaint "B" of Maxus Energy Corporation and Tierra Solutions, Inc. and Case Information Statement were served by regular mail, on counsel for all parties who have not consented to service by electronic posting.

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By 
Rebecca K. Brown

Dated: January 8, 2010