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Attorneys for the Third Party Defendant  
Town of Harrison

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

*Plaintiffs,*

v.

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

*Defendants.*

MAXUS ENERGY CORPORATION and  
TIERRA SOLUTIONS, INC.,

*Third-Party Plaintiffs,*

BAYONNE MUNICIPAL UTILITIES  
AUTHORITY, et al.,

*Third-Party Defendants*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - HUDSON COUNTY

DOCKET NO. ESX-L-9868-05 (PASR)

Civil Action

**TOWN OF HARRISON'S ANSWER TO  
THIRD-PARTY COMPLAINT "A"  
AFFIRMATIVE DEFENSES AND  
DEMAND FOR JURY TRIAL**

Third-Party Defendant, Town of Harrison, with its principal place of business at Town  
Hall, 318 Harrison Avenue, Harrison , New Jersey, by way of Answer to Third-Party Complaint

“A” brought by Defendants Maxus Energy Corporation and Tierra Solutions, Inc. (“Third-Party Plaintiffs), hereby says:

Other than to admit that the Town of Harrison is a public body and a municipality in the State of New Jersey, with its principal place of business at 318 Harrison Avenue, Harrison, New Jersey and is a customer of the Passaic Valley Sewage Commission, all other allegations against the Town of Harrison are denied. The Town of Harrison is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in the paragraphs of Third Party Complaint “A” and leaves Third Party Plaintiffs to their proofs at the time of trial.

WHEREFORE, the Town of Harrison demands judgment dismissing Third Party Complaint “A”, awarding attorney’s fees and costs of suit, and such other relief as the Court may deem just and equitable.

#### **AFFIRMATIVE DEFENSES**

The Town of Harrison sets forth the following Affirmative Defenses without waiving its right to put Third Party Plaintiffs to their proofs and without assuming any burden of proof not imposed by law.

1. Third Party Complaint “A” fails to state a claim and/or cause of action upon which relief may be granted.
2. Third Party Complaint “A” is barred by the statute of limitations.
3. Third Party Complaint “A” is barred by the doctrine of res judicata, collateral estoppel, waiver, laches and unclean hands.
4. Third Party Complaint “A” is barred as Third Party Plaintiffs lack standing to bring this action.

5. Third Party Complaint “A” is barred as Third Party Plaintiffs have failed to exhaust all administrative remedies.
6. Third Party Complaint “A” is barred as the Town of Harrison is not liable under the New Jersey Spill Act.
7. The Town of Harrison is not a “responsible party” under the New Jersey Spill Act.
8. Sewage and sewage sludge are not hazardous substances under the New Jersey Spill Act.
9. The activities alleged against the Town of Harrison do not amount to a discharge or hazardous substances under the New Jersey Spill Act. To the extent that it is proven that the Town of Harrison discharged any hazardous substances, the Town would not be liable because the discharges would have been pursuant to federal and or state permits.
10. Third Party Complaint “A” is barred as to the extent it alleges conduct occurring or damage incurred prior to the effective date of the New Jersey Spill Act.
11. Third Party Complaint “A” is barred, or in the alternative, the damages sought must be reduced under the doctrine of comparative negligence.
12. Third Party Complaint “A” is barred, or in the alternative, the damages sought are subject to contribution or any reduction or offset from other parties.
13. Third Party Complaint “A” allegations pursuant to the New Jersey Spill Act are not ripe for adjudication.
14. Third-Party Complaint “A” is barred as any injuries and or damages allegedly sustained were caused by negligence and or intentional acts of co-defendants or third parties over whom the Town of Harrison had not control.
15. Third-Party Complaint “A” is barred as the Town of Harrison is insulated from liability pursuant to the New Jersey Tort Claims Act.

16. The Town of Harrison adopts all Defenses asserted by other parties in this action to the extent the defenses are applicable.
17. The Town of Harrison reserves the right to amend this Answer to assert any additional defense discovered during the course of this action.

**JURY DEMAND**


The Town of Harrison hereby demands a trial by jury.

**DESIGNATION OF TRIAL COUNSEL**

In accordance with R. 4:25-4, Laura J. Wadleigh shall be designated trial counsel.

**CASTANO QUIGLEY LLC**

Dated: February 10, 2010

BY:   
Laura J. Wadleigh  
1120 Bloomfield Avenue  
West Caldwell, New Jersey 07006  
Attorneys for Third-Party Defendant  
Town of Harrison

**CERTIFICATION OF FILING AND SERVICE**

I hereby certify that an original and one (1) copy of the within pleading has been filed with the:

Clerk of the Civil Division  
Essex County Courthouse  
50 West Market Street  
Newark, New Jersey 07102

I further certify that one copy of the pleading has been sent via overnight mail to:

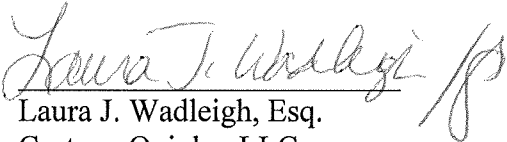
Hon. Sebastian P. Lombardi, J.S.C.  
Superior Court of New Jersey  
Essex County Historic Courthouse  
470 Martin Luther King, Jr. Boulevard  
Newark, New Jersey 07102

William L. Warren, Esq.  
Drinker Biddle & Reath, LLP  
105 College Road East, Suite 300  
Princeton, New Jersey 08542; and

Michelle Blythe, Esq.  
Andrews Kurth, LLP  
10001 Woodloch Forest Drive  
Suite 200  
The Woodlands, Texas 77380

I further certify that a copy of this pleading will be posted on the electronic platform upon receipt of posting privileges.

Dated: February 10, 2010

  
Laura J. Wadleigh, Esq.  
Castano Quigley LLC  
Attorneys for Third Party  
Defendant Town of Harrison