

**ENVIRONMENTAL PROTECTION**

**SITE REMEDIATION PROGRAM**

**Notice to Receive Interested Party Comments on Proposed Consent Judgment in the Matter of NJDEP, et al. v. Occidental Chemical Corporation, et al., Docket No. ESX-L9868-05**

**(PASR)**

**TAKE NOTICE** that the New Jersey Department of Environmental Protection (Department) hereby gives notice of a proposed Consent Judgment concerning a settlement with certain third party defendants and affiliated entities (Settling Third-Party Defendants) in the matter of NJDEP et al. v. Occidental Chemical Corporation et al., Dkt. No. ESX-L9868-05 (PASR) (the Passaic River Litigation).

This lawsuit was instituted in December of 2005 against a limited number of direct Defendants associated with the former Occidental Chemicals Corporation site (formerly known as Diamond Alkali Company, Diamond Shamrock Corporation, Diamond Chemicals Company, and Diamond Shamrock Chemicals Company), an agricultural chemicals plant located at 80 Lister Avenue in Newark, New Jersey. It is alleged in the Complaint (and subsequent amended Complaints) that these parties discharged dioxin, DDT and other hazardous substances into the Passaic River, from which they spread throughout the Newark Bay Complex, which includes (i) the lower 17 miles of the Passaic River, (ii) Newark Bay, (iii) the Arthur Kill, (iv) the Kill Van Kull, (v) the lower reaches of the Hackensack River, and (vi) certain adjacent waters and sediments. Maxus Energy Corporation and Tierra Solutions, Inc. ("Third-Party Plaintiffs"), two of the direct Defendants, filed third party claims against numerous third parties. The Department, under the authority of the Spill Compensation and Control Act, N.J.S.A. 58:10-

23.11a et seq. (Spill Act), proposes to enter into this Consent Judgment with the following listed

Settling Third-Party Defendants and affiliated entities:

1. 3M Company
2. AGC Chemicals Americas, Inc.
3. Akzo Nobel Coatings Inc.
4. Alliance Chemicals, Inc.
5. Alumax Mill Products, Inc.
6. American Cyanamid Company (n/k/a Wyeth Holdings Corporation)
7. Arkema Inc. f/k/a Pennwalt Corporation, on behalf of itself and as successor by merger to Wallace & Tiernan, Inc.
8. Ashland Inc.
9. Ashland International Holdings, Inc.
10. Associated Auto Body & Trucks, Inc.
11. Atlantic Richfield Company
12. Atlas Refinery, Inc.
13. Automatic Electro-Plating Corp.
14. BASF Catalysts LLC
15. BASF Corporation, on its own behalf, and as successor to the former Ciba Corporation and the former BASF Construction Chemicals, LLC
16. Bayer Corporation
17. Bayonne Industries, Inc.
18. Beazer East, Inc. f/k/a Koppers Company, Inc.
19. Belleville Industrial Center, Inc.
20. Benjamin Moore & Co.
21. Berol Corporation
22. B-Line Trucking, Inc.
23. Borden & Remington Corp.
24. BP Products North America Inc. (improperly named in the Complaint as BP Marine Services, Inc.)
25. Bristol-Myers Squibb Company
26. Campbell Foundry Company
27. CasChem, Inc.
28. CBS Corporation
29. Celanese Ltd.
30. Chemical Compounds Inc.
31. Chevron U.S.A. Inc.
32. Coltec Industries Inc.
33. ConAgra Panama, Inc. n/k/a ConAgra Grocery Products Company, LLC
34. Conopco, Inc.

35. Consolidated Rail Corporation
36. Cosan Chemical Corporation
37. Covanta Essex Company
38. Croda, Inc.
39. Cytec Industries, Inc.
40. Darling International, Inc.
41. Davanne Realty Co.
42. Delect Merchandising Corporation
43. DiLorenzo Properties Company, L.P.
44. The Dundee Water Power and Land Company
45. Duraport Realty One LLC
46. Duraport Realty Two LLC
47. Dynasty Enterprise Group, LLC
48. E.I. du Pont de Nemours and Company
49. Elan Chemical Company, Inc.
50. Essex Chemical Corporation
51. Exelis Inc., successor in interest to ITT Corporation, Avionics Division
52. Exxon Mobil Corporation
53. Fine Organics Corporation
54. Fiske Brothers Refining Company
55. Flexon Industries Corporation
56. Flint Group Incorporated
57. Fort James Corporation
58. Foundry Street Corporation
59. Franklin-Burlington Plastics, Inc.
60. G.J. Chemical Co.
61. Garfield Molding Co Inc. (incorrectly named Garfield Molding Company, Inc.)
62. General Cable Industries, Inc.
63. General Dynamics Corporation
64. General Electric Company
65. GenTek Holding LLC n/k/a General Chemical Corporation
66. Getty Properties Corp.
67. Givaudan Fragrances Corporation
68. GK Technologies, Incorporated
69. Goldman/Goldman/DiLorenzo Properties Partnerships
70. Goodrich Corporation
71. Goody Products, Inc.
72. Gordon Terminal Service Co. of N.J., Inc.
73. Harrison Supply Company
74. Hess Corporation

75. Hexcel Corporation
76. Hilton Davis Chemical Co., incorrectly named as Emerald Hilton Davis LLC
77. Hoffmann-La Roche Inc.
78. Honeywell International Inc.
79. Honeywell Specialty Materials, LLC
80. Houghton International Inc.
81. Hudson Tool & Die Company, Inc.
82. ICI Americas Inc.
83. IMTT-Bayonne
84. Innospec Active Chemicals LLC
85. INX International Ink Co.
86. ISP Chemicals LLC (improperly named as ISP Chemicals Inc.)
87. Kalama Specialty Chemicals, Inc.
88. Kao USA Inc. f/k/a Kao Brands Company f/k/a The Andrew Jergens Company
89. Kewanee Industries, Inc.
90. Kinder Morgan Liquids Terminals LLC f/k/a GATX Terminals Corporation
91. Koehler-Bright Star LLC f/k/a Koehler-Bright Star, Inc.
92. Legacy Vulcan Corp. f/k/a Vulcan Materials Company
93. Linde, Inc. n/k/a Linde LLC
94. Lucent Technologies, Inc. (Alcatel-Lucent USA Inc.)
95. Mallinckrodt LLC, f/k/a Mallinckrodt Inc.
96. McKesson Corporation
97. Merck & Co.
98. Merck Sharp & Dohme Corp. f/k/a Merck & Co., Inc.
99. Metal Management Northeast, Inc.
100. MI Holdings, Inc.
101. Morton International, LLC f/k/a Morton International, Inc.
102. Nappwood Land Corporation
103. National Fuel Oil, Inc.
104. National-Standard, LLC
105. Nestlé USA, Inc.
106. News America, Inc.
107. News Publishing Australia Limited (successor to Chris-Craft Industries)
108. Norpak Corporation
109. Novelis Corporation f/k/a Alcan Aluminum Corporation
110. Otis Elevator Company
111. Passaic Pioneers Properties Company
112. Pfister Chemical, Inc.
113. Pfister Urban Renewal, Inc.
114. Pfizer Inc.

115. Pharmacia LLC, f/k/a Pharmacia Corporation
116. Phelps Dodge Industries, Inc.
117. PhilBro, Inc.
118. Pitt-Consol Chemical Company
119. Pivotal Utility Holdings, Inc.
120. Power Test Realty Company, L.P.
121. PPG Industries, Inc.
122. Praxair, Inc.
123. PRC-DeSoto International, Inc.
124. Precision Manufacturing Group, LLC
125. Prentiss LLC (f/k/a Prentiss Incorporated)
126. Prysmian Communications Cables and Systems USA, LLC
127. PSEG Fossil LLC
128. Public Service Electric and Gas Company
129. Purdue Pharma Technologies, Inc.
130. Quala Systems, Inc.
131. Quality Carriers, Inc.
132. Reckitt Benckiser LLC (formerly, Reckitt Benckiser Inc.)
133. Reichold, Inc.
134. Revere Smelting & Refining Corporation
135. Rexam Beverage Can Company
136. Royce Associates, A Limited Partnership
137. Rutherford Chemicals LLC
138. S&A Realty Associates, Inc.
139. Safety-Kleen Corp
140. Safety-Kleen Envirosystems Company successor to McKesson Envirosystems Co.
141. Schering Corporation n/k/a Merck Sharp &Dohme Corp.
142. Sequa Corporation
143. Seton Company
144. Shulton, Inc.
145. Siemens Industry, Inc. (successor by merger to Siemens Water Technologies Corp.)
146. Spectraserv, Inc.
147. Stanley Black & Decker, Inc. f/k/a The Stanley Works
148. STWB Inc.
149. Sun Chemical Corporation
150. Sun Pipe Line Company
151. Sunoco, Inc.
152. Sunoco, Inc. (R&M)

153. Tate & Lyle Ingredients Americas LLC, f/k/a Tate & Lyle Ingredients Americas, Inc. f/k/a A.E. Staley Manufacturing Company, including its former division Staley Chemical Company
154. Teva Pharmaceuticals USA, Inc. f/k/a Biocraft Laboratories, Inc.
155. Texaco Downstream Properties Inc.
156. Texaco Inc.
157. ~~Textron Inc.~~
158. ~~The Dial Corporation~~
159. ~~The Dow Chemical Company~~
160. The Hartz Mountain Corporation
161. The Newark Group, Inc.
162. The Okonite Company, Inc.
163. The Procter & Gamble Manufacturing Company
164. The Sherwin-Williams Company
165. The Valspar Corporation
166. Thirty-Three Queen Realty Inc.
167. Thomas & Betts Corp.
168. Three County Volkswagen Corporation
169. Tiffany and Company
170. TRMI-H LLC
171. Troy Chemical Corporation, Inc.
172. Universal Oil Products Company
173. Veolia ES Technical Solutions, LLC
174. Vertellus Specialties Inc. f/k/a Reilly Industries, Inc.
175. Vitusa Corp.
176. W.A.S. Terminals Corp., successor in interest to W.A.S. Terminals, Inc., and incorrectly sued as W.A.S. Terminals, Inc.
177. Whittaker Corporation
178. Wyeth n/k/a Wyeth LLC
179. Zeneca, Inc.
180. City of Bayonne
181. Bayonne Municipal Utilities Authority
182. Township of Belleville
183. Township of Berkeley Heights
184. Township of Bloomfield
185. Borough of Carteret
186. Township of Cedar Grove
187. Township of Clark
188. City of Clifton
189. Department of Agriculture

190. Department of Transportation
191. Borough of East Newark
192. City of East Orange
193. Borough of East Rutherford
194. City of Elizabeth
195. Borough of Elmwood Park
196. Borough of Fair Lawn
197. Borough of Fanwood
198. Borough of Franklin Lakes
199. City of Garfield
200. Borough of Garwood
201. Borough of Glen Ridge
202. Borough of Glen Rock
203. City of Hackensack
204. Borough of Haledon
205. Town of Harrison
206. Borough of Hasbrouck Heights
207. Borough of Hawthorne
208. Township of Hillside
209. Township of Irvington
210. City of Jersey City
211. Jersey City Municipal Utilities Authority
212. Joint Meeting of Essex and Union Counties
213. Town of Kearny
214. Borough of Kenilworth
215. City of Linden
216. Linden Roselle Sewerage Authority
217. Township of Little Falls
218. Borough of Lodi
219. Township of Lyndhurst
220. Township of Maplewood
221. Township of Millburn
222. Borough of Mountainside
223. New Jersey Transit Corporation
224. City of Newark
225. Housing Authority of the City of Newark
226. Borough of New Providence
227. Borough of North Arlington
228. Borough of North Caldwell
229. Borough of North Haledon

230. Town of Nutley
231. City of Orange Township
232. City of Paterson
233. Passaic Valley Sewerage Authority
234. City of Passaic
235. Port Authority of NY and NJ
236. Borough of Prospect Park
237. City of Rahway
238. Rahway Valley Sewerage Authority
239. Village of Ridgewood
240. Borough of Roselle
241. Borough of Roselle Park
242. Borough of Rutherford
243. Township of Saddle Brook
244. Township of Scotch Plains
245. Township of South Hackensack
246. Township of South Orange Village
247. Township of Springfield
248. City of Summit
249. Borough of Totowa
250. Township of Union
251. City of Union City
252. Borough of Wallington
253. Town of Westfield
254. Township of West Orange
255. Town of Woodbridge
256. Borough of Wood-Ridge
257. Borough of Woodland Park
258. Township of Wyckoff

Under the proposed Consent Judgment, the Settling Third-Party Defendants and affiliated entities have agreed to settle any alleged liability to the Department for past cleanup and removal costs, future cleanup and removal costs (subject to certain reopeners), the costs of a Natural Resource Damages Assessment, and economic and other damages, by payment of approximately \$35,300,000 to the Department, as set forth fully and completely in the proposed Consent Judgment.



It is the intent of the Department and the Settling Third-Party Defendants that this Consent Judgment constitutes a judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f(b) of the Spill Act and 42 U.S.C. § 9613(f)2 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1984, as amended (CERCLA), 42 U.S.C. § 9601 et seq., for the purpose of providing protection from contribution actions or claims for matters addressed in this Consent Judgment.

A copy of the proposed Consent Judgment is available for inspection at the Department's main office at 401 East State Street, in Trenton, New Jersey, and via the internet at [www.nj.gov/dep/srp/legal](http://www.nj.gov/dep/srp/legal).

Pursuant to the Order of the Hon. Sebastian F. Lombardi, Jr., Judge of the Superior Court of New Jersey, Essex County, dated January 24, 2013, the Department is making the administrative record available to the public via the internet at [www.nj.gov/dep/srp/legal](http://www.nj.gov/dep/srp/legal). For members of the public who do not have access to the internet, a dedicated computer will be available for public use at the Department's main office at 401 East State Street, in Trenton, New Jersey, or can be accessed at a publicly available computer at most public libraries. Requests to inspect a paper copy of the proposed Consent Judgment, to review the administrative record in Trenton or any questions regarding internet access should be directed to the Office of Record Access, NJDEP, P.O. Box 420, Mail Code 401-06Q, Trenton, NJ 08625-0420 or via email at [records.custodian@dep.state.nj.us](mailto:records.custodian@dep.state.nj.us).

Written comments may be submitted electronically by July 5, 2013 to [Passaic3PStlmt@dep.state.nj.us](mailto:Passaic3PStlmt@dep.state.nj.us); or in hard copy to:

Office of Record Access  
NJDEP  
Attn: Passaic 3<sup>rd</sup> Party Settlement Comments

P.O. Box 420, Mail Code 401-06Q  
Trenton, NJ 08625-0420

The Department will consider all comments received and may decide to withdraw or withhold consent to the entry of the Consent Judgment if comments received disclose facts or considerations which show that the Consent Judgment is inappropriate, improper or inadequate.

4/12/13  
Date

Catherine A. Torrey  
Catherine A. Torrey  
Deputy Advisor to the Commissioner