

Resolution of the City of Jersey City, N.J.

City Clerk File No. Res. 14.026

Agenda No. 10.V

Approved: JAN 15 2014



TITLE:

RESOLUTION AUTHORIZING PAYMENT OF SETTLEMENT OF THE SUIT ENTITLED THE NEW JERSEY DEPARTMENT OF ENVIORNMENTAL PROTECTION, ET AL. V. OCCIDENTAL CHEMICAL CORPORATION, ET AL., DOCKET NO.: ESX-L-9868-85

COUNCIL as a whole offered and moved adoption of the following resolution:

WHEREAS, the City of Jersey City is one of several Third-Party Defendants in litigation entitled The New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al., bearing Docket No.: ESX-L-9868-85 (the "Passaic River Litigation"); and

WHEREAS, the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Protection and the Administrator of the New Jersey Spill Compensation Fund (collectively "Plaintiffs") offered to settle directly with the Third-Party Defendants in this case; and

WHEREAS, negotiations with the Plaintiff and Third-Party Defendants, including the City of Jersey City, have resulted in preparation of a proposed Consent Judgment and related settlement documents; and

WHEREAS, the Municipal Council of the City of Jersey City, by Resolution 13-189, approved on March 13, 2013 authorized settlement of this litigation in accordance with the terms of the proposed Consent Judgment and related settlement documents reviewed by the Municipal Council in executive session at the meeting of March 11, 2013; and

WHEREAS, the Superior Court of New Jersey, Law Division, the Hon. Sebastian T. Lombardi, J.S.C., approved and entered the Consent Judgment on December 12, 2013; and

WHEREAS, on December 12, 2013 the Court also entered an Order for deposit of the Third-Party settlement funds into the Superior Court Trust Fund pending appeal of the Consent Judgment by the non-settling parties; and

WHEREAS, the Consent Judgment and the settling documents required a payment of the settlement in the amount of Ninety-Five Thousand (\$95,000.00) Dollars within sixty (60) days after the entry of the Consent Judgment.

NOW, THEREFORE BE IT RESOLVED, by the Municipal Council of the City of Jersey City that:

1. The Jersey City Insurance Fund Commission be and is hereby authorized to issue and deliver a check in the amount of Ninety-Five Thousand (\$95,000.00) Dollars payable to the Superior Court of New Jersey c/o John M. Scagnelli, Esq., liason counsel, located at Scarinci Hollenbeck, 1100 Valley Brook Valley Brook Avenue, Lyndhurst, N.J. 07071

I, Peter Soriero, hereby certify that the funds for this expenditure are available in the City of Jersey City's Insurance Fund Commission Account.

MD/cw
01/07/13

Peter Soriero, Risk Manager

APPROVED: _____

APPROVED AS TO LEGAL FORM

APPROVED: _____

Business Administrator

Corporation Counsel

Certification Required ☐

Not Required ☐

APPROVED 9-0

RECORD OF COUNCIL VOTE ON FINAL PASSAGE 1.15.14											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City N.J.

Rolando R. Lavarro, Jr., President of Council

Robert Byrne, City Clerk

024

RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

RESOLUTION AUTHORIZING PAYMENT OF SETTLEMENT OF THE SUIT ENTITLED THE NEW JERSEY DEPARTMENT OF ENVIORNMENTAL PROTECTION, ET AL. V. OCCIDENTAL CHEMICAL CORPORATION, ET AL., DOCKET NO.: ESX-L-9868-85

Initiator

Department/Division	Law	Law
Name/Title	Michael Dougherty	Assistant Corporation Counsel
Phone/email	(201) 547-4810	Mdougherty@icnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Resolution Purpose

The attached Resolution authorizes the appropriation of settlement funds in the amount of \$95,000.00 resolving claims arising from pollution of the Passaic River. A prior Resolution, # 13-189, approved on March 13, 2013, authorized settlement of the litigation in accordance with a proposed Consent Judgment and other settlement documents, pending judicial approval and entry of the Consent Judgment. The terms of a confidentiality Order precluded public disclosure of the amount at that time.. The members of the Council were advised of the amount and all the terms of the proposed settlement during Executive Session on March 11, 2013. On December 12, 2013, the Honorable Sebastian P. Lombardi, J.S.C., approved the settlement and entered the Consent Judgment. The Resolution authorizes the appropriation of \$95,000.00, payable to the Superior Court of New Jersey , for deposit into the Superior Court trust fund, until any appeals which may result from the entry of the Consent Judgment are resolved.

I certify that all the facts presented herein are accurate.

Signature of Department Director

Date

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Richard J. Hughes Justice Complex
25 Market Street, PO Box 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiffs
By: John F. Dickinson, Jr.
Att. ID No. 001441982
Deputy Attorney General
(609) 984-4863

JACKSON GILMOUR & DOBBS, PC
3900 Essex Lane, Suite 700
Houston, Texas 77027
By: William J. Jackson, Special Counsel
(713) 355-5000

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
THE COMMISSIONER OF THE
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, MAXUS
INTERNATIONAL ENERGY
COMPANY, REPSOL YPF, S.A.,
YPF, S.A., YPF HOLDINGS, INC., YPF
INTERNATIONAL S.A. (f/k/a YPF
INTERNATIONAL LTD.) and
CLH HOLDINGS,

Defendants.

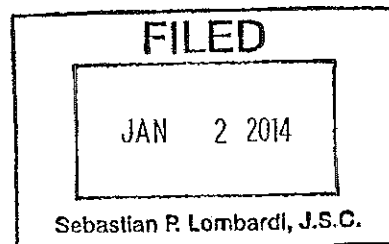
MAXUS ENERGY CORPORATION
AND TIERRA SOLUTIONS, INC.,

Third-Party Plaintiffs,

v.

3M COMPANY, et al.,

Third-Party Defendants.



GORDON & GORDON
505 Morris Avenue
Springfield, New Jersey 07081
By: Michael Gordon, Special Counsel
Atty. ID No. 010561980
(973) 467-2400

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. ESX-L9868-05 (PASR)

Civil Action

CONSENT ORDER
FOR DEPOSIT OF THIRD-PARTY
SETTLEMENT FUNDS INTO THE
SUPERIOR COURT TRUST FUND

THIS MATTER, having come before the Court at a hearing in connection with the motions filed pursuant to CMO XVIII in the above referenced matter on December 12, 2013;

WHEREAS ¶20 and Exhibit E of the Third-Party Consent Judgment submitted to the Court for approval on this date require that the Settlement Funds be held in escrow until the conditions for payment set forth in section (11) of Exhibit E have been satisfied;

WHEREAS the sole purpose of the escrow process is to ensure that Settlement Funds are set aside and kept available during the pendency of any appeal of the Consent Judgment;

WHEREAS in order to implement this escrow process, Plaintiffs and the Settling Third-Party Defendants have consented to the payment of these funds into Court;

WHEREAS, the Court having considered the matter, reviewed the submissions of the parties, having heard argument, and for good cause shown, the Court hereby enters the following Order;

IT IS on this 2nd day of January 2014 ~~December 2013~~,

ORDERED that pursuant to the terms of the Consent Judgment as set forth in the executed signature pages, each Settling Third-Party Defendant other than the municipalities who have elected to have their payments deducted from State aid, shall have its share of the Settlement Funds paid into court by issuing a check or checks, made payable to the Superior Court of New Jersey, and shall transmit said check or checks to its designated Liaison Counsel in sufficient time so as to ensure the deposit of said check or checks with the Superior Court of New Jersey Trust Fund (the "Fund") pursuant to R. 4:57-1 within the time frames set forth in ¶20 of the Consent Judgment; and it is further

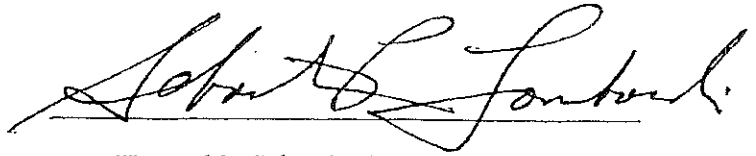
ORDERED that all payments of Settlement Funds deposited in the Fund shall not be considered an asset of Settling Third-Party Defendants and shall not be available to any creditor

of Settling Third-Party Defendants in the event of the bankruptcy, reorganization, insolvency or receivership, or for any other reason; and it is further

ORDERED, that upon the conditions for disbursement of funds as set forth in the Consent Judgment and section (11) of Exhibit E to the Consent Judgment having been satisfied, the withdrawal of the Settlement Funds or any portion thereof shall be by this Court's order, upon notice and motion by Plaintiffs in the event the Consent Judgment is upheld after final appeal, or by Liaison Counsel on behalf of Settling Third-Party Defendants in the event the Consent Judgment is not upheld after final appeal; notice shall be by posting to CT Summation (if CT Summation still serves as the case electronic bulletin board for service at the time of disbursement) and written notice to Liaison Counsel and counsel for all original parties; and it is further

ORDERED that this Consent Order may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Consent Order; and it is further

ORDERED that this Order shall be posted forthwith on CT Summation.

A handwritten signature in black ink, appearing to read 'Sebastian P. Lombardi', written over a horizontal line.

Honorable Sebastian P. Lombardi, J.S.C.

Resolution of the City of Jersey City, N.J.

City Clerk File No. Res. 13-189
Agenda No. 10.Z.12
Approved: MAR 13 2013
TITLE:



**RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION
ENTITLED THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION, ET AL. V. OCCIDENTAL CHEMICAL CORPORATION, ET
AL., DOCKET NO.: ESX-L-9868-05 (PASR) SUBSTANTIALLY IN
ACCORDANCE WITH THE TERMS OF A PROPOSED CONSENT
JUDGMENT AND RELATED DOCUMENTS**

COUNCIL
following Resolution:

offered and moved adoption of the

WHEREAS, the City of Jersey City is a Third-Party Defendant in litigation entitled the New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al., Docket No.: ESX-L-9868-05 (PASR) (the Passaic River Litigation); and

WHEREAS, the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection, and the Administrator of the New Jersey Spill Compensation Fund (collectively, "Plaintiffs"), have offered to settle directly with all Third-Party Defendants, including the City of Jersey City; and

WHEREAS, on behalf of the City of Jersey City, counsel executed a Confidentiality Agreement and Memorandum of understanding with Plaintiffs which, among other things, allowed for settlement negotiations between the City of Jersey City and Plaintiffs and for the development of settlement documentation, provided that the negotiations and the documents generated during the course of those negotiations were to remain strictly confidential; and

WHEREAS, negotiations between Plaintiffs and Third-Party Defendants, including the City of Jersey City, have resulted in the preparation of a proposed Consent Judgment and related settlement documentation; and

WHEREAS, the City of Jersey City has reviewed with counsel the proposed Consent Judgment and related settlement documentation which continue to remain strictly confidential in accordance with the Confidentiality Agreement and Memorandum of Understanding executed by counsel on behalf of the City of Jersey City until such time as they are published by Plaintiffs in accordance with the Consent Order on the Approval Process for the Proposed Consent Judgment entered by the Court on January 24, 2013 ("Consent Order"), a copy of which is annexed hereto as Exhibit "A"; and

WHEREAS, the proposed Consent Judgment and related settlement documentation may be subject to change depending on the outcome of the approval process outlined in the Consent Order; and

WHEREAS, the City of Jersey City desires to approve the proposed settlement as reflected in the proposed Consent Judgment and related settlement documentation and allow for the approval process to move forward in accordance with the Consent Order.

NOW, THEREFOR, BE IT RESOLVED by the Municipal Council of the City of Jersey City that:

1. All of the foregoing "Whereas" clauses are incorporated by reference as if set forth at length herein.
2. The City of Jersey City hereby authorizes the settlement of the Passaic River Litigation substantially in accordance with the terms set forth in the proposed Consent Judgment and related settlement documentation reviewed by the City of Jersey City in Executive Session at the meeting of March 11, 2013.

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City Clerk File No. Res. 13-189Agenda No. 10.Z.12

TITLE:

3. The City of Jersey City Corporation Counsel and all other appropriate City of Jersey City officials and personnel are authorized to prepare any and all related documents and perform all tasks, which will effectuate the purposes of this Resolution.
4. The appropriation of any and all settlement sums shall be the subject of a subsequent resolution to be adopted by the City of Jersey City after the finalization of the approval process set forth in the Consent Order and in accordance with the proposed Consent Judgment.
5. This Resolution shall take effect immediately and/or as required by law.

SDC/cw
03/04/13

APPROVED: _____

APPROVED AS TO LEGAL FORM

APPROVED: _____

Business Administrator

Corporation Counsel

Certification Required ☐Not Required ☐

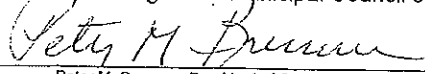

APPROVED 8-0

RECORD OF COUNCIL VOTE ON FINAL PASSAGE 3.13.13											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			LAVARRO	✓		
DONNELLY	ABSENT			FULOP	✓			RICHARDSON	✓		
LOPEZ	✓			COLEMAN	✓			BRENNAN, PRES	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City N.J.


Peter M. Brennan, President of Council
Robert Byrne, City Clerk