



NJ DEPARTMENT OF LAW &
PUBLIC SAFETY

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NJ DEPARTMENT OF ENVIRONMENTAL
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Bob Martin,
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For Immediate Release:
June 11, 2013

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Attorney General's Office, DEP Announce \$130 Million Partial Settlement With Several Principal Defendants in Passaic River Litigation

State Will Pursue Remaining Claims Against Primary Defendant Occidental

TRENTON -- Acting Attorney General John Hoffman and Department of Environmental Protection (DEP) Commissioner Bob Martin announced today that several principal defendants in the Passaic River litigation have agreed to pay the State \$130 million to resolve a portion of the State's claims related to contamination of the Passaic River.

The settling defendants are Spain-based oil and gas conglomerate Repsol, S.A., Argentina-based energy conglomerate YPF, S.A., YPF Holdings, Inc. and YPF International, as well as CLH Holdings, Inc., Maxus Energy Corporation, Maxus International Energy Company and Tierra Solutions, Inc. The agreement follows a recently-announced \$35.4 million proposed settlement with 258 third-party defendants and, if approved by the court, will allow the State to immediately proceed with its claims against the principal defendant, Occidental Chemical Corporation (OCC), for the bulk of the State's damages and future costs.

The proposed settlement was presented on Friday to Superior Court Judge Sebastian P. Lombardi in Newark and Special Master Marina Corodemus. Since the State and the settling defendants technically remain in litigation, the State cannot comment on the terms of the proposed agreement.

Going forward, the State intends to pursue its liability claims against the one remaining non-settling principal defendant, Occidental Chemical Corporation, for all future clean-up and removal costs related to contamination of the Passaic River. It also will pursue OCC for damages resulting from the intentional discharge of Agent Orange, dioxins and other hazardous substances by the former Diamond Shamrock plant. These costs and damages are separate from, and in addition to, the \$130 Million received from the settling defendants.

Last summer Judge Lombardi entered a judgment against Occidental Chemical Corporation, holding it liable for all of the State's clean-up and removal costs because Occidental is the legal successor to Diamond Shamrock. In previous litigation, New Jersey's Appellate Division determined that Diamond Shamrock intentionally dumped hazardous pollutants into the Passaic River for decades.

Under terms of the agreement announced today, the settling defendants' total exposure to all claims for Passaic River cleanup and removal costs and damages could go as high as \$530 million, subject to certain conditions and exceptions.

The proposed settlement is scheduled to be published for public review and comment in the July 1 edition of the New Jersey Register. It is expected that, if the DEP approves the proposed settlement following the required administrative notice and public comment period, it will be presented to the Court for final judicial review and approval this fall.

The Passaic River Litigation was launched by the State more than seven years ago against Occidental Chemical Corporation and other companies associated with the former Diamond Shamrock Chemicals Company plant in Newark.

Diamond Shamrock manufactured pesticides and herbicides from the 1940s through the 1960s, including the infamous defoliating chemical Agent Orange during the Vietnam War. Over a period of many years, the Diamond Shamrock plant discharged the known carcinogen dioxin, as well as other hazardous substances, into the Passaic River.

In March of this year, the State reached a \$35.4 million proposed settlement with 258 third-party defendants in the Passaic River litigation. The State did not sue those settling third parties. They were brought into the case by two of the settling defendants - Maxus and Tierra - who argued that pollution of the Passaic River started more than two centuries ago, and that many public and private parties also contributed to its current condition, and should therefore be paying a share of the cleanup costs.

Notice of the State's proposed settlement with third-party defendants was published in the May 6, 2013 edition of the New Jersey Register, and the public comment period on that

proposed settlement closes July 5, 2013.

The EPA is currently finalizing a detailed plan for the cleanup of the lower eight miles of the Passaic River.

The State is represented in the Passaic River litigation by Acting Attorney General Hoffman, Deputy Attorney General John F. Dickinson of the Division of Law, Special Counsel Jackson, Gilmour and Dobbs of Houston, Texas, and Special Counsel Gordon and Gordon, of Springfield, New Jersey.

The DEP reminds residents that harvesting blue claw crabs from the waters of the lower river and Newark Bay is prohibited because of the contamination. The DEP continues to engage in coordinated multi-language education efforts reinforcing the ban with the help of community groups and municipalities in the lower Passaic River and Newark Bay region.

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