

FILED

FEB 19 2013

HECTOR R. VELAZQUEZ, P.J. CH.

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

Plaintiffs,

v.

HONEYWELL INTERNATIONAL, INC.,
OCCIDENTAL CHEMICAL CORPORATION
AND PPG INDUSTRIES, INC.,

Defendants,

v.

CITY OF JERSEY CITY, JERSEY CITY
MUNICIPAL UTILITIES AUTHORITY,
JERSEY CITY INCINERATOR AUTHORITY,
and NEW JERSEY TURNPIKE AUTHORITY,

Third Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - HUDSON COUNTY

CIVIL ACTION NO.: HUD-C-77-05

**ORDER MODIFYING THE JUNE 26,
2009, PARTIAL CONSENT
JUDGMENT**

This matter was opened to the Court by Jeffrey S. Chiesa, Attorney General of New Jersey, Richard F. Engel, Deputy Attorney General appearing; attorney for Plaintiffs New Jersey Department of Environmental Protection and the Administrator of the New Jersey Spill Compensation Fund, by way of a Notice of Motion ("Motion") to Enforce Litigant's Rights to Seek Modification of the June 26, 2009 Partial Consent Judgment (the "JCO") in order to modify the judicially enforceable Master Schedule submitted by the Site Administrator to the Court in February 2010 (the "Master

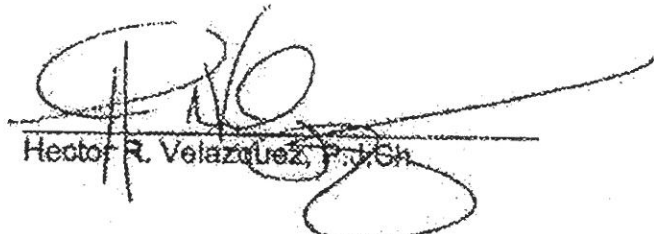
Schedule") with respect to the Garfield Avenue Group sites. Third Party Defendant City of Jersey City, through its attorney Corporation Counsel William C. Matsikoudis, Defendant PPG Industries, Inc., through its attorney Joseph F. Lagrotteria, Defendant Occidental Chemical Corporation, through its attorney William L. Warren, Defendant Honeywell International, Inc., through its attorney Michael D. Daneker, and the Site Administrator (collectively the "parties") appeared on the Motion.

Having considered the submissions of the parties, and oral argument, I find that there is good reason to modify the Partial Consent Judgment of June 26, 2009.

IT IS HEREBY ORDERED, ON THIS 19th DAY OF FEBRUARY, 2013, AS FOLLOWS:

1. The Master Schedule be and is hereby superceded by the schedules (the "Schedules") attached hereto and submitted as part of the Motion as Exhibits 1 and 2, and are incorporated into the JCO. Unless all parties, acting in good faith, agree to a modification of the Schedules, all work at the sites set out in the Schedules must conform to the Schedules. The good faith reasons for modification of the Schedules are not limited to those set forth in the force majeure provisions contained in Paragraph 63 of the JCO.
2. If any of the parties wish to change, modify or amend the Schedules and cannot secure the agreement of all of the parties, the party seeking the change, modification or amendment must make an application to the Court by way of a motion.

3. If any of the parties wish to enforce the Schedules, they must do so by way of a motion to the Court. Unless otherwise specifically modified in this Order, the provisions of the ACO and the JCO remain in full force and effect.
4. The JCO be and is amended to include a provision to mandate the submittal to the Court of a report every three months by the Site Administrator and status conference before the Court twice a year in which the parties will present their progress to date.
5. A copy of this Order shall be served on all parties by the plaintiffs' attorney within five (5) days of that attorney's receipt of this Order.


Hector R. Velazquez, P.J. Ch.

After reviewing the objections I have concluded that the proposed language for paragraph #4 above stated is the most appropriate. I agree with PPG's argument that there should not be any piecemeal references to language in the ACO or JCO.

PPG - New Jersey Chrome
 Garfield Avenue Group
 Construction Sequence
 January 22, 2013

Date	2012				2013				2014		
	2Q	3Q	4Q	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q
1/22/13 Cumulative Estimated Volume Goals at End of quarter (Tons)	100,000	140,000	165,000	201,000	332,000	413,000	520,000	573,000	678,000	794,000	824,000
12/12/2012 Forecast	100,000	140,000	155,000	245,000	345,000	430,000	520,000	610,000	705,000	820,000	850,000
10/1/2012 Forecast	100,000	140,000	200,000	280,000	385,000	455,000	550,000	635,000	740,000	825,000	850,000
1A											
1B											
1C											
2A											
2B											
3A											
3B											
3C											
Estimated Tons/Day by Quarter	975	600	400	1,150	1,450	1,150	1,800	800	1,600	1,750	1,000

- Obtain Site Access
- Occupant Relocation
- Site Preparation, Building Demo & Shoring Installation
- Excavation and Off-Site Disposal

EXHIBIT 1

Master Schedule for the Garfield Payment Group Slices - January 22, 2013

Order	Trade No. Interest	Property Name	Owner	Contractor Name	Access Method	Proposed Start of Incident	Proposed End of Incident	Production of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents	Discovery of Documents
1A			JDA														
1B			JDA														
1C			JDA														
1D			JDA														
1E			JDA														
1F			JDA														
1G			JDA														
1H			JDA														
1I			JDA														
1J			JDA														
1K			JDA														
1L			JDA														
1M			JDA														
1N			JDA														
1O			JDA														
1P			JDA														
1Q			JDA														
1R			JDA														
1S			JDA														
1T			JDA														
1U			JDA														
1V			JDA														
1W			JDA														
1X			JDA														
1Y			JDA														
1Z			JDA														

NOTE: Production privileges for this information may be subject to unrecorded changes for entry, such as incident number, labor codes, unexpected data conditions, compensation associated with other incidents (including amendments with CPD/CIA) and documents in other orders and volume of material is roughly as indicated.

Exhibit 2