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Attorneys for Third-Party Defendant
Miller Environmental Group, Inc.
Our File No.: 10906.00009

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, et al.,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: ESSEX COUNTY
Plaintiffs,	:	DOCKET NO.: ESX-L-9868-05 (PASR)
vs.	:	
OCCIDENTAL CHEMICAL CORPORATION, et als.,	:	Civil Action
Defendants,	:	INITIAL DISCLOSURE OF
MAXUS ENERGY CORPORATION et al.,	:	THIRD-PARTY DEFENDANT
Third-Party Plaintiffs,	:	MILLER ENVIRONMENTAL
vs.	:	GROUP, INC.
3M COMPANY, et als.	:	
Third-Party Defendants.	:	

Third-Party Defendant, Miller Environmental Group, Inc. ("Miller"), by and through its undersigned counsel, and in accordance with Case Management Order VIII dated August 11, 2009, hereby provides the following specific information for its Initial Disclosures:

Reservations

1. Miller reserves the right to object to the production of any documents or other information on any ground, including relevance and undue burden, and to assert any applicable

privilege, including the attorney-client privilege, the work product doctrine, the common interest doctrine and any other applicable privilege or protection. These disclosures are not intended to prejudice or waive any privileges or objections Miller may have with respect to any outstanding or subsequent requests for discovery.

2. Miller's investigation in this matter is continuing. Accordingly, it reserves the right to supplement, clarify and revise these disclosures to the extent additional information becomes available or is obtained through discovery. Further, Miller reserves the right to amend these disclosures to the extent the claims brought by or alleged against Miller in this litigation are amended.

3. The time period covered by the allegations in the Plaintiffs' Second Amended Complaint and Third-Party Plaintiffs' Complaint "B" is quite long and encompasses at least six decades. The geographic scope of the Second Amended Complaint and Third-Party Plaintiffs' Complaint "B" is also quite broad, covering the "Newark Bay Complex," which spans the 'lower 17 miles of the Passaic River, Newark Bay, the lower reaches of the Hackensack River, the Arthur Kill, the Kill van Kull and into adjacent waters and sediments." The scope of inquiry required by Plaintiffs and Third-Party Defendants is accordingly quite broad and potentially burdensome. Miller is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

4. Miller has received a nexus package related to the Borne Chemical Company Site.

INITIAL DISCLOSURE REQUESTS

a. The name, address and telephone number, as may be know of each individual likely to have discoverable information, along with the subjects of that information, that relates to any alleged discharge or release of pollutants, contaminants and/or hazardous substances ("Pollutants") into the Newark Bay Complex (as these terms are defined in the Second Amended Complaint and the Third-Party Complaints) from the site(s) and/or properties with which the disclosing party is associated in the Third-Party Complaint ("Alleged Discharges").

RESPONSE:

Miller objects to the form of this information request to the extent it assumes that Miller is responsible for any alleged "discharges" or "pollutants, contaminants and/or hazardous substances in the Newark Bay Complex" from the facility located at the Borne Chemical Company Site. Miller neither owned nor operated the Borne Chemical Company Site. In addition, Miller objects to the form of this information request because the term "associated" is vague, ambiguous and subject to varying interpretations. Subject to and without waiver of these objections and its Reservation of Rights, Miller responds as follows:

*Miller Environmental Group, Inc.
538 Edwards Avenue
Calverton, NY 11933
James H. Davey, Vice President
(631)369-4200 ext. 210*

b. The name, address and telephone number, as may be known, of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses (unless the use would be solely for impeachment).

RESPONSE:

*Miller Environmental Group, Inc.
538 Edwards Avenue
Calverton, NY 11933
James H. Davey, Vice President
(631)369-4200 ext. 210*

c. The name, address and telephone number, as may be known, of any and all past or present owners, lessees or operators at the site(s) and/or properties with which it is associated in the Third-Party Complaint and the dates of ownership, lease or operation, as may be known.

RESPONSE:

*Marine Pollution Control, Inc.
Incorporated in 1971 State of New York
Owner, James C. Miller*

In 1992, this company name was changed to "Miller Environmental Group, Inc.". In July 1999, James C. Miller sold 100% of Miller Environmental Group, Inc. to his son, Mark E. Miller, who is now President and Secretary.

d. With respect to any individual identified pursuant to paragraph (a), (b) or (c) above, (or any other individual known to have material knowledge of an alleged discharge or release of a Pollutant at or from a site and/or property, or into the Newark Bay Complex), any known inability to testify due to age, infirmity or incompetency within 12 months following the date of the Initial Disclosure.

RESPONSE:

Miller is not aware that any individual identified has any known inability to testify.

e. A description by category and location (or copy at the discretion of the Third-Party Defendant) of all documents or electronically stored information that the disclosing party has in its possession, custody or control with respect to Alleged Discharges including disclosure of the extent to which such documents or electronically stored information may fall within the Excepted Information.

RESPONSE:

All copies of documents associated with the Borne Chemical Company Site are filed with Miller's attorney on that case:

*James P. Rigano, Esq.
Certilman, Balin, Adler & Hymen
1393 Veterans Memorial Highway – Suite 301S
Hauppauge, NY 11788
(631)979-3000*

f. Third-Party Defendant will amend and/or supplement the Initial Disclosure as additional information is obtained through investigation and discovery.

Response:

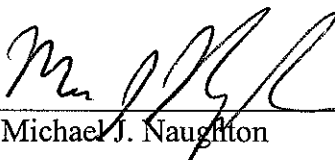
Third-Party Defendant Miller will amend and/or supplement its Initial Disclosure as additional information is obtained through investigation and discovery. Miller's Initial Disclosures are made without prejudice to its right to change and/or supplement its responses, its right to assert privileges or objections with respect to any subsequent requests for discovery

and its right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Dated: March 10, 2010

Respectfully submitted,

Wilson Elser Moskowitz Edelman & Dicker LLP
Attorneys for Third-Party Defendant
Miller Environmental Group, Inc.

By: 
Michael J. Naughton

CERTIFICATE OF SERVICE

I hereby certify that Miller Environmental Group Inc.'s Initial Disclosures have been served electronically on all parties who have consented to service by electronic posting on the website <http://njdepvocc.sfile.com> and upon the attached list of counsel by first class mail.

Dated: March 10, 2010



Michael J. Naughton

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Third-Party Defendants for Regular Service

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