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**Miller Environmental Group, Inc.**  
**Our File No.: 12202.00001**

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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,

Plaintiffs,

vs.

OCCIDENTAL CHEMICAL CORPORATION,  
TIERRA SOLUTIONS, INC., MAXUS ENERGY  
CORPORATION, REPSOL YPF, S.A., YPF, S.A.,  
YPF HOLDINGS, INC. and CLH HOLDINGS,  
INC.

Defendants.

MAXUS ENERGY CORPORATION and TIERRA  
SOLUTIONS, INC.

Third-Party Plaintiffs,

vs.

3M COMPANY, *et al.*

Third-Party Defendants.

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ESSEX COUNTY

DOCKET NO.: ESX-L-9868-05 (PASR)

Civil Action

**SECOND SUPPLEMENT TO  
INITIAL DISCLOSURE OF  
THIRD-PARTY  
DEFENDANT MILLER  
ENVIRONMENTAL GROUP, INC.**

Third-Party Defendant, Miller Environmental Group, Inc. (“Miller”), by and through its undersigned counsel, and in accordance with various Case Management Orders issued in this matter, as well as the requirements of the Fast Track Non-Binding Arbitration Application, and consistent with the requirements of Subsection f. of the Initial Disclosure Requests, hereby supplements its responses to its Initial Disclosure as follows:

**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.

### **Supplement to Initial Disclosures**

In its March 10, 2010 Initial Disclosure Response, Miller identified James H. Davey, Vice President, of the Miller Environmental Group, Inc. as a person at Miller having knowledge with regard to Disclosure Requests a. and b. Please note that during Miller’s continuing investigation in this matter we have learned that James H. Davey also worked for Long Island Lighting Company (“LILCO”) from 1976 through 1986 before being hired in 1986 by Marine Pollution Control, Inc. (now known as Miller Environmental Group, Inc.).

Mr. Davey was an environmental scientist for LILCO and was in charge of emergency spill response. LILCO owned the E.F. Barrett power station where a spill of over 500,000 gallons of fuel oil occurred in August 1976. Mr. Davey is knowledgeable about the emergency spill response by LILCO with regard to this 500,000 gallon spill. Mr. Davey’s current title and address is as listed in Miller’s Initial Disclosures.


Third-Party Defendant Miller will amend and/or supplement its Initial Disclosure as additional information is obtained through investigation and discovery. This Supplemental Disclosure and Amendment to the Initial Disclosure of Third-Party Defendant Miller is 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: October 5, 2011

Respectfully submitted,

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

By:   
Michael J. Naughton