

GIBBONS P.C.

One Gateway Center

Newark, New Jersey 07102-5310

(973) 596-4500

Attorney for Third-Party Defendant MI Holdings, Inc.

NEW JERSEY 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,
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,

v.

3M COMPANY, *et al.*,

Third-Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO. L-9868-05 (PASR)

CIVIL ACTION

**THIRD-PARTY DEFENDANT
MI HOLDINGS, INC'S RESPONSE TO
INITIAL DISCLOSURE REQUESTS**

Comes now Third-Party Defendant MI Holdings, Inc., ("Respondent") and for its Initial Disclosure in accordance with Case Management Order V provides the following specific information:

Reservations

1. Respondent 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 Respondent may have with respect to any outstanding or subsequent requests for discovery.

2. Respondent'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, Respondent reserves the right to amend these disclosures to the extent the claims brought by or alleged against Respondent in this litigation are amended.

3. The time period covered by the allegations in the Plaintiff's Second Amended Complaint is quite long and encompasses at least six decades. The geographic scope of the Second Amended Complaint 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." Second Amended Complaint, ¶1. The scope of inquiry required by Plaintiffs and Third-Party Defendants is accordingly quite broad and potentially burdensome. Respondent is therefore engaged in a continuing investigation and reserves the right to supplement and modify these disclosures.

Initial Disclosures

a. The name, address and telephone number, as may be known 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:

MI Holdings Inc. responds that no discharges occurred during its ownership into the Newark Bay Complex. The following response relates to historical activity.

MI Holdings Co. had as its president, Fred Robinson. Mr. Robinson's whereabouts are unknown as of this writing. He was the person responsible for operation of the MI Holdings facility in Jersey City. He also was the corporate official in charge of the remediation performed on site. The site was completely remediated, except for a portion of the highway abutting Route 440 which was the responsibility of Allied Signal Corporation. The in-house attorney for MI Holdings was Peter Wang, Esq., deceased. The outside counsel for MI Holdings, Inc. was John H. Klock, Esq. of Gibbons P.C., Gateway One, Newark, NJ 07102, (973) 596-4757, who has the files related to the remediation of the Jersey City site and Belleville sites during the period of 1986 until Jersey City was sold to Jersey City University and until ISP undertook the remaining work of remediating the Belleville Site as the ordered party under ISRA. The person in charge of remediation for outside consultants was Bill Lyon, currently with Langan Engineering for Jersey City. For Belleville, the outside consultant was Princeton Aqua Science then IT Corporation. Neither exists any longer. However, the project manager was Dana Boyardin, now with the Shaw Group, 200 Horizon Center Boulevard, Trenton, NJ 08691-1904. There are individuals such as in-house attorneys at Mallinckrodt and its consultants. However, this information is best obtained from Mallinckrodt.

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:

Name	Address	Phone Number
Bill Lyon	% Langan at River Road Elmwood Park, NJ	
Dana Boyardin	See above	
W. Fred Robinson	Address unknown	
See above names in paragraph (a)		

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 such ownership, lease or operation, as may be known;

Response:

Name/Address/Phone	Site Address	Dates at Site: Ownership/Operator/Lease
Howard Isserman President, Van Dyk	Unknown	Unknown, but at site until 1986

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:

Mr. Isserman had cancer in the mid nineties. It is unknown as to whether he is alive or dead. He could best answer any discharges that may have occurred during ownership of Van Dyk.

Name/Address/Phone	Nature of Inability
See Answer to 3(a) above	

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.

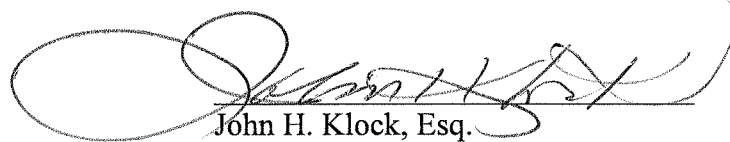
Response:

None of the documents related to the site are believed to be electronically stored. There were no discharges that occurred during MI Holdings, Inc.'s ownership excepted to the extent that historic discharges are recorded in the documentation of various consultants. All such documents that were filed with the NJDEP are public records. Other than documents that may be in the hands of consultants, the Gibbons firm retains records to the remediation of the above sites. To date, files of Mr. Robinson and Mr. Wang have not been located.

Documents by Category	Location	Applicable Exception ¹
Voluntary Remediation of Jersey City	NJDEP	b
ECRA/ISRA Remediation Site of Belleville Site	NJDEP	b
Files related to above in possession of Gibbons Firm	One Gateway Center Newark, New Jersey 07102	g

Respondent's Initial Disclosures are made without prejudice to their right to change or supplement their responses, their right to assert privileges or objections with respect to any subsequent requests for discovery, and their right to introduce at trial additional evidence and documents as warranted by the development of the facts underlying this litigation.

Respectfully submitted,
Gibbons P.C.



April 22, 2010

John H. Klock, Esq.
One Gateway Center
Newark, New Jersey 07102-5310
Attorney for Third-Party Defendant MI Holdings, Inc.

¹ Applicable Exception Codes are as follows:

- a. Information, ("Information"), including, but not limited to, environmental, chemical and/or biological testing of groundwater, surface water, soil or sediment (hereinafter "Sampling Information contained in the nexus packages produced pursuant to paragraph 8 (e) of CMO V; and
- b. Information previously produced to any branch, department, agency or instrumentality of the State of New Jersey including to the New Jersey Department of Environmental Protection ("NJDEP") or Information produced to any other governmental agency or entity whose responsibility it is to oversee environmental compliance in the Newark Bay Complex Area, including, but not limited to, the United States Environmental Protection Agency and the United States Army Corps of Engineers (hereinafter "Governmental Recipients");
- c. Information produced to any Licensed Site Remediation Professional (hereinafter "LSRP") who is duly licensed by the State of New Jersey at the time of receipt of such Information where such disclosure of Information is intended to be used in connection with any remedial investigation or remedial action having an assigned case number in the NJDEP's NJEMS data system;
- d. Sampling Information compiled with the expectation of being produced to a Governmental Recipient or an LSRP under Paragraphs 4(b) or 4(c) but which Sampling Information has not yet undergone quality assurance! quality control or similar analysis;
- e. Information produced by a third-party defendant to any third-party plaintiff pursuant to the New Jersey Open Public Records Act or other freedom of information law or regulation;
- f. Information previously produced to Defendants; and
- g. Information that falls within the attorney-client privilege and/or the attorney work product privilege.

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CERTIFICATION OF SERVICE

I, **JOHN H. KLOCK, ESQ.**, hereby certify as follows:

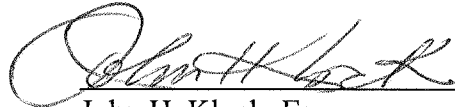
On April 22, 2010, I served Third-Party Defendant MI Holdings, Inc.'s Initial Disclosure and Response to the ESI Initial Questionnaire, and this Certification of Service upon all counsel of record either by electronic or regular mail.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: April 22, 2010

Respectfully submitted,

GIBBONS P.C.

A handwritten signature in cursive script, appearing to read "John H. Klock", is written over a solid horizontal line.

John H. Klock, Esq.
One Gateway Center
Newark, New Jersey 07102-5310
Attorney for Third-Party Defendant
MI Holdings, Inc.