



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**INFORMATION REQUEST LETTER**  
**URGENT LEGAL MATTER - PROMPT REPLY REQUESTED**  
**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Elmer Harris  
President  
Alabama Power Company  
600 18<sup>th</sup> Street North  
Birmingham, Alabama 35203

MAR 24 2011

Re: Request for Information Concerning Property Located at 200 & 220 Dexter Avenue  
Pursuant to Section 104 of CERCLA for the Capital City Plume Superfund Site (Site)  
in Montgomery, Alabama.

Dear Mr. Harris:

The purpose of this letter is to request that you respond to the enclosed Information Request. The United States Environmental Protection Agency (EPA) is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the above referenced Site. This investigation requires inquiry into the identification, nature, and quantity of materials generated, treated, stored, or disposed of at, or transported to the Site, the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site, and information relating to the ability of a person to pay for or to perform a cleanup of the Site.

The Capital City Plume Superfund Site is located in downtown Montgomery, Montgomery County, Alabama and consists of groundwater plumes of tetrachloroethene (PCE), trichloroethene (TCE), benzene, toluene, ethylbenzene and xylene (collectively BTEX), metals and potentially other hazardous substances. The Site was proposed to the National Priorities List (NPL) on May 11, 2000. EPA believes that you may have information which may assist the Agency in its investigation of the Site.

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure A hereto.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Failure to respond fully and truthfully to the Information Request within **thirty (30) days** of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended.



This statute, as modified by the Debt Collection Improvement Act of 1996, 40 C.F.R. Part 19, permits EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred dollars (\$37,500) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject you to criminal penalties under 18 U.S.C. §1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501, et seq.

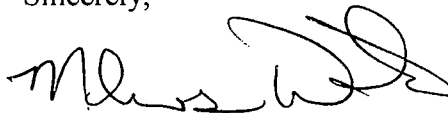
Your response to this Information Request should be mailed to:

Melissa Waters  
SEIMB 11<sup>th</sup> Floor  
U.S. Environmental Protection Agency  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter immediate attention and to respond to this Information Request within the time specified above. If you have any legal or technical questions relating to this Information Request, you may consult with EPA prior to the time specified above. Please direct legal questions to Stephen P. Smith, Assistant Regional Counsel, at (404) 562-9554. Technical questions should be directed to Melissa Waters at the above address, or at (404) 562-8873.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Waters", written in a cursive style.

Melissa Waters  
Enforcement Project Manager

Enclosure

Enclosure A  
Request for Information Pursuant to Section 104 of CERCLA  
Capital City Plume Superfund Site (Site)  
Downtown Montgomery, Alabama

**Instructions**

1. Answer Every Question Completely.

A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer.

Precede each answer with the corresponding number of the question and the subpart to which it corresponds.

3. Provide the Best Information Available.

Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to you will be considered non-compliance with this Information Request.

4. Identify the Sources of Each Answer.

For each and every question contained herein, identify (see Definitions) all persons consulted in the preparation of the answer. Also identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.

5. Abide By Your Continuing Obligation to Provide/Correct Information.

If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

6. Understand How to Request Confidential Treatment of Your Information.

The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- A. The portions of the information alleged to be entitled to confidential treatment;
- B. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. Measures taken by you to guard against the undesired disclosure of the information to others;
- D. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- E. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- F. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Be Aware of Potential Disclosure to EPA Contractors.

Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Mark Any Personal Privacy Information.

Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Answer Despite Objections to Questions.

If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

## Definitions

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term "you" shall mean the addressee of this request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
2. The term "person" shall include any individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms "Site" and "Facility" shall mean and include any and all property on or about an area consisting of approximately fifty (50) city blocks, located in and north of downtown Montgomery, Montgomery County, Alabama, and that is known as the Capital City Plume Superfund Site.
4. The term "Property" shall mean any of the parcels of real estate that make up the Site, including the parcels at 200 & 220 Dexter Avenue.
5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term "contamination" shall include, but not be limited to, hazardous substances, plus any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations; except that the term "pollutant or contaminant" shall not include petroleum.
7. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position or business.
8. The term "company" shall mean any business entity, however formally or informally organized, which has ever existed, regardless of its current status.
9. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.

10. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
11. The term "documents" includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies. These may include by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (1) every copy of each document which is not an exact duplicate of a document which it produces, (2) every copy which has any writing, figure or notation, annotation or the like on it, (3) drafts, (4) attachments to or enclosures with any document, and (5) every document referred to in any other document.
12. The term "release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.
13. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
14. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
15. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

## QUESTIONS

### Ownership of 200 & 220 Dexter Avenue

1. Are you or your company the owner of any interest in the Property located at 200 & 220 Dexter Avenue? If so, please describe the interest you or your company holds and provide a legible copy of the documents of acquisition, including any deed, tax certificate, receipt, mortgage, or financing statement relating to the acquisition of the Property.
2. If you previously held any interest in Property located at 200 & 220 Dexter Avenue but have transferred that interest to another person, please describe the interest you held and the interest you transferred. Provide a legible copy of the documents of transfer to the other person, including any deed, tax certificate, receipt, mortgage, or financing statement relating to your transfer of the Site Property.
3. Please identify every person to whom you or your company have transferred any interest in any parcel of the Property located at 200 & 220 Dexter Avenue.

### You and Your Company

4. Identify your company by:
  - A. Legal name, including any doing business as name;
  - B. Date and state of incorporation, if any;
  - C. Complete mailing and physical address of the central office; and
  - D. Name and mailing address of your registered agent.
5. Identify the person(s) authorized to discuss this Site with EPA by:
  - A. Full name and title;
  - B. Mailing address and physical address; and
  - C. Daytime telephone number.
6. Describe, in general, what sort of business your company conducts, including a list of products you manufacture or broker, services you provide or market, transactions you arrange, and anything you buy or sell.
7. Describe the business activities your company have conducted and/or currently conducts at the property located at 200 & 220 Dexter Avenue.
8. Identify any parent corporation and all subsidiaries of your company.



Relevant Affiliations

9. If you, your company, or any of your company's officers have conducted business with any of the following, please describe the nature of that business, the individuals or companies involved, and the time period during which the business was transacted:
- A. The Montgomery Advertiser;
  - B. Gannett Company, Inc.;
  - C. Alabama State Department of Education

Acquisition of 200 & 220 Dexter Avenue

10. Provide any agreements related to the purchase of the Property located at 200 & 220 Dexter Avenue.
11. Describe what you knew about the Property prior to your acquisition of the Property, and list your sources of information.
12. Describe, in detail, any and all investigations relating to the Site Property that you undertook prior to acquiring the Property, including investigations:
- A. About the previous owner(s) of the Property;
  - B. Into the historical uses of the Property;
  - C. By an environmental professional;
  - D. Into the potential for contamination at the Property;
  - E. Involving any review of state, federal, or local government records concerning contamination at the Property; or
  - F. Involving visual inspection of the Property.
13. Describe any limitations on your opportunity or ability to investigate conditions at the Property prior to and after your acquisition of an interest in the Property.
14. Do you or your company have any specialized knowledge or experience relating to evaluating or remediating environmental contamination on properties such as the Property? If so, please describe that knowledge or experience, in detail.
15. Please describe, in detail, any and all efforts you have made since you or your company acquired the Property to:
- A. Stop any continuing release of hazardous substances on, about, or beneath the Property;
  - B. Prevent any threatened future release of hazardous substances on or from the Property; and
  - C. Prevent or limit any human, environmental, or natural resource exposure to previously released hazardous substances on, about, or beneath the Property.

16. Describe any complaints related to air quality inside the building including odor, illness, etc.
17. Describe measures taken to address the complaints mentioned in Question 16, and provide copies of the documents associated with the complaints and measures to address such complaints.

Other Sources of Information

18. Are there any persons, other than those you have already identified, who are or were associated with your company, who may be better able to answer any of these questions? If so, please provide those persons' names, current mailing addresses, and current telephone numbers.
19. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide the following:
  - A. Your company's document retention policy;
  - B. A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;
  - C. A description of the type of information that would have been contained in the documents;
  - D. The name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of these documents; and
  - E. The names and most current address of any person(s) who may possess documents relevant to this inquiry.