



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

NOV 14 2011

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

Mr. Bernard E. Cox
Hazardous Materials Coordinator
Alabama Department of Transportation
Bureau of Materials and Tests
3700 Fairground Road
Montgomery, Alabama 36110

Re: Request to the **Alabama Department of Transportation** for Information Pursuant to Section 104 of CERCLA for the Capitol City Plume Superfund Site (Site) in Montgomery, Alabama.

Dear Mr. Cox:

The purpose of this letter is to request that the Alabama Department of Transportation (ALDOT) respond to the enclosed Information Request. The United States Environmental Protection Agency 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 Capitol 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. The EPA believes that ALDOT 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, ALDOT is hereby requested to respond to the Information Request set forth in Enclosure A hereto.

While the EPA seeks ALDOT's 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 the 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 the EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred dollars (\$37,500) for each day of



10841336

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information Request may subject ALDOT 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.

ALDOT's response to this Information Request should be mailed to:

Melissa Waters
SEIMB 11th 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 ALDOT's failure to respond properly, the EPA strongly encourages ALDOT 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 the 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", with a stylized flourish at the end.

Melissa Waters
Enforcement Project Manager

Enclosure

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

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information or documents not known or not available to ALDOT as of the date of submission of a response to this Information Request should later become known or available to ALDOT, ALDOT must supplement its response to the EPA. Moreover, should ALDOT find, at any time after the submission of its response, that any portion of the submitted information is false or misrepresents the truth, ALDOT must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. ALDOT may, if it desires, 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), 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), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in statutes and regulation set forth above. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to ALDOT. ALDOT should read the above cited regulations carefully before asserting a business confidentiality claim since certain categories of information are not properly the subject of such a claim.

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 Capitol 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 501 Washington Avenue, Montgomery, Alabama, 36104.
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 is 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

1. Identify the person(s) responding to these questions on behalf of the Respondent.
2. For every question contained herein, identify all persons consulted in the preparation of responses.
3. For every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the response that contain information responsive to the question, and provide true and accurate copies of all such documents.
4. Provide the dates of operation of ALDOT within the Site area, including but not limited to operations at 501 Washington Avenue. State the dates of ownership or lease and provide copies of all documents evidencing or relating to such ownership or lease, including but not limited to purchase and sale agreements, deeds, and/or lease agreements, etc.
5. Describe the nature of ALDOT's activities or business conducted within the Site area, including but not limited to operations at 501 Washington Avenue.
 - a. Provide a thorough explanation of ALDOT's business activities. This explanation should include but not be limited to a description of the chemicals used in the operation and a description of how the various chemicals are/were handled or disposed.
6. Identify any hazardous substances, including but not limited to those substances identified in Appendix A, ever used, purchased, generated, stored, treated, disposed, or otherwise handled by ALDOT while conducting any activities or business within the Site area, including but not limited to operations at 501 Washington Avenue? If the answer to the preceding question is anything but an unqualified "no," identify:
 - a. The chemical composition, characteristics, and physical state (e.g., solid, liquid) of each hazardous substance so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled;
 - b. The person(s) who supplied you with each such hazardous substance;
 - c. How each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you;
 - d. When each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you;
 - e. Where each such hazardous substance was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you; and
 - f. The quantity of each such hazardous substance used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you.

7. Identify all federal, state, and local authorities that regulate(d) ALDOT's operations dealing with health and safety and environmental concerns during operations conducted on any property located within the Site area, including but not limited to operations at 501 Washington Avenue.
8. Provide a list of all local, state, and federal environmental permits ever granted to ALDOT or obtained on behalf of ALDOT (e.g. RCRA permits, NPDES permits, etc.) on any property located within the Site area, including but not limited to operations at 501 Washington Avenue.
9. Identify all spills, leaks, discharges, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from ALDOT's facilities during the years ALDOT operated within the Site area, including but not limited to operations at 501 Washington Avenue. If the answer to the preceding question is anything but an unqualified "no," identify:
 - a. When such releases occurred;
 - b. How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated);
 - c. The amount of each hazardous substance, pollutant, or contaminant so released;
 - d. Where such releases occurred;
 - e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
 - f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release, including the results of any soil, water (ground and surface), or air testing undertaken; and
 - g. All persons with information relating to these releases.
10. Identify all spills, leaks, releases, or discharges of hazardous substances into any storm water or sanitary sewer system, subsurface disposal system, or drains inside, under, or adjacent to ALDOT's facilities during the years ALDOT operated within the Site area, including but not limited to operations at 501 Washington Avenue. If the answer to the preceding question is anything but an unqualified "no," identify:
 - a. Where the disposal system or drains were located;
 - b. When the disposal system or drains were installed;
 - c. Whether the disposal system or drains were connected to any pipes, storm water, or sanitary sewer systems;
 - d. Whether such pipes or sewer connections ever leaked or in any way released hazardous substances into the environment.

11. Describe ALDOT's waste handling and disposal history during the years it operated within the Site area, for all facilities and all operations, including but not limited to transportation, shipping and/or receiving, storage, manufacturing, research, quality control, waste containment, and waste disposal facilities. This description is to include the names, addresses, and activities of waste disposal contractors, and copies of all supporting documents (manifests, invoices, contracts, etc.).
12. Identify all spills, leaks, discharges, or releases of any hazardous substances, pollutants, or contaminants that have occurred at or from ALDOT's facilities outside of the Site area, including but not limited to operations at 1409 Coliseum Boulevard, Montgomery, Alabama, 36110, and the Coliseum Boulevard Plume. In addition, identify:
 - a. When such releases occurred;
 - b. How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated);
 - c. The amount of each hazardous substance, pollutant, or contaminant so released;
 - d. Where such releases occurred;
 - e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
 - f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release, including the results of any soil, water (ground and surface), or air testing undertaken; and
 - g. All persons with information relating to these releases.
13. 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 us with the following:
 - a. All past and present document retention policies;
 - 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 an/or still may have the originals or copies of these documents; and

e. The names and most current addresses of any person(s) who may possess documents relevant to this inquiry.

14. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents; identify such persons and the additional information or documents that they may have.

7009 1680 0002 0140 5007

U.S. Postal Service TM
CERTIFIED MAIL TM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **Bernard Cox**
 Street, Apt. No., or PO Box No. **3700 Fairground Rd**
 City, State, ZIP+4 **Montgomery AL 36110**

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Mr. Bernard E. Cox
Hazardous Material Coordinator
AL DOT
Bureau of Materials + Tests
3700 Fairground Rd
Montgomery, AL 36110

2. Article Number (Transfer from service label) **7009 1680 0002 0140 5007**

COMPLETE THIS SECTION ON DELIVERY

A. Signature **B. E. Heasley** Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes