



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

October 26, 2011

**URGENT LEGAL MATTER**  
**PROMPT REPLY NECESSARY**  
**DELIVERED VIA EMAIL AND OVERNIGHT DELIVERY**

Louisville Industrial Park, LLC  
c/o Steve Brooks, Esq.  
105 S. Sherrin Ave.  
Louisville, KY 40207

Re: Supplemental Request for Information Pursuant to Section 104 of CERCLA and Section 3007 of RCRA for Black Leaf Chemical Superfund Site located at 1391 Dixie Highway, Louisville, Kentucky (Site)

Dear Mr. Brooks:

The U.S. Environmental Protection Agency has received and reviewed your October 5, 2011, response to its September 9, 2011, Request for Information, which was sent to your client in connection with the Site. The EPA found several answers deficient and devoid of the detail and information necessary to be responsive to the applicable questions. Additionally, the agency also has a few new questions regarding your clients' activities at the Site. As a result, please find enclosed a Supplemental Request for Information. Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, your client is hereby requested to respond to the Supplemental Request for Information set forth in Enclosure A on or before **November 7, 2011**. Instructions on how to respond to the questions are included in Enclosure A, as well as definitions that apply to the words appearing in the questions.

Compliance with the Information Request is mandatory. Failure to respond to this Information Request can result in enforcement action by the EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA. Each of these statutes permits the EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred (\$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 or Section 3008(d) of RCRA, 42 U.S.C. § 6928(d).

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

Your response should be mailed to:



10840687

Marianne O. Lodin  
U.S. Environmental Protection Agency  
Superfund Division  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

**Conclusion**

If you have any legal questions regarding this letter, please contact Marianne O. Lodin, Associate Regional Counsel, at 404-562-9547. If you have any general questions or specific questions related to the information requests, please contact Karen Coleman, Enforcement Project Manager at 404-562-8853. For technical questions, please contact Art Smith, On Scene Coordinator, at 502-905-7559.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marianne O. Lodin".

Marianne O. Lodin

Enclosure

## ENCLOSURE A

### Information Request Regarding Black Leaf Chemical Superfund Site

#### 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 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 Enclosure A:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, representatives, contractors, trustees, partners, successors, assigns and agents.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an 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 the "Site" or the "facility" shall mean the Black Leaf Chemical Superfund Site located at 1391 Dixie Highway, Louisville, KY 40210.
4. The term "Site Property" shall mean any of the parcels of real estate that make up the Site, including, but not limited to, the parcels located at 1391 Dixie Highway, Louisville, KY 40210.
5. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.
6. 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.
7. 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 shall not include petroleum.
8. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
9. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
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 terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including 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 (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

12. 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.

13. The term "arrangement" means every separate contract or other agreement between two or more persons.

14. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

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) answering these Questions on behalf of Respondent.
2. For each and every Question contained herein, 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. Similarly, identify any person consulted, examined or referred to in preparation of the answer or that may possess information related to the Question and provide contact information for such person.
3. Provide any documents regarding the presence of drums, ownership and contents identified by the Kentucky Department for Environmental Protection (KDEP) and removed in May and June of 2009.
4. Who owned the drums that were removed by KDEP in May and June of 2009?
5. Why did Louisville Industrial Park LLC fail to remove and/or dispose of those drums?
6. What efforts, if any, were made by Louisville Industrial Park LLC to remove and properly dispose of the drums?
7. Were the remedial actions requested by KDEP in a letter to Louisville Industrial Park LLC on August 17, 2010 performed? If not, please describe the reasons why?
8. Did Louisville Industrial Park LLC install a retaining wall or concrete curbing along the site perimeter during its ownership of the Site? If so, please provide locations and dates when the structures were installed.
9. Does Louisville Industrial Park LLC have knowledge of who may have installed the concrete curbing along the Site perimeter? If so, please provide those details.