



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 1
 JOHN F. KENNEDY FEDERAL BUILDING
 BOSTON, MASSACHUSETTS 02203-0001

SUPERFUND RECORDS CTR
 Site: Eastern Surplus OUI
 Break: 11.9.3
 Other: 4617



SDMS DocID 4617

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

April 22, 1998

State of Maine
 Dept. of Inland Fisheries and Wildlife
 c/o Office of Attorney General
 Thomas Harnetts
 State House Station #6
 Augusta, ME 04333

Re: Request for Information Pursuant to Section 104 of CERCLA
for the Eastern Surplus Company Superfund Site

To whom it may concern:

This letter seeks your cooperation in providing information and documents relating to the environmental conditions at, and cleanup of, the Eastern Surplus Company Superfund Site in Meddybemps, Washington County, Maine (the "Site").

The United States Environmental Protection Agency ("EPA" or the "Agency") is investigating the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. This investigation includes an inquiry into the identification, nature, source, and quantity of materials transported to or generated, treated, stored, or disposed of at the Site. EPA is also seeking information concerning those persons responsible for the cleanup of the Site and their ability to undertake or finance that cleanup.

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

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State of Maine 104(e) Letter

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to this Information Request within fourteen (14) days of your receipt of this letter, or to adequately justify such failure to respond, may subject you to an enforcement action by EPA pursuant to Section 104(e) of CERCLA. This statute and EPA's Civil Monetary Penalty Inflation Adjustment Rule permits EPA to seek the imposition of penalties of up to twenty-seven thousand five hundred dollars (\$27,500) for each day of non-compliance.

Please note that responses which are incomplete, ambiguous, or evasive will be treated as complete non-compliance with this Information Request. Also, be further advised that provision of false, fictitious, or fraudulent statements or representations 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:

U.S. Environmental Protection Agency
Edward Hathaway, Remedial Project Manager
Office of Site Remediation & Restoration
J.F.K. Federal Building (Mail Code: HBT)
Boston, MA 02203

If you have general questions concerning the Site or this Information Request, please contact Edward Hathaway at (617) 573-5782. If you have any legal questions, or if your attorney wishes to communicate with EPA on your behalf, please contact Man Chak Ng, Enforcement Counsel, U.S. Environmental Protection Agency, Region I, Office of Environmental Stewardship, JFK Federal Building (SES), Boston, MA 02203, or at (617) 565-3288.

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 your immediate attention and to respond to this Information Request within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



Patricia L. Meaney, Director
Office of Site Remediation & Restoration

Enclosure

cc: Edward Hathaway, Remedial Project Manager, OSRR, EPA
Region I, Boston, MA
Man Chak Ng, Enforcement Counsel, Office of Environmental
Stewardship, EPA Region I, Boston, MA
Rebecca Hewett, Remedial Project Manager, Maine Department
of Environmental Protection, Augusta, ME
Dennis Harnish, Assistant Attorney General, Office of Maine
Attorney General, Augusta, ME
Kenneth Finkelstein, National Oceanic & Atmospheric
Administration, Boston, MA
Andrew Raddant, U.S. Department of Interior, Boston, MA
Harry J. Smith, Jr., Meddybemps, ME
Bruce Noble, Environmental Project Manager, Defense
Reutilization and Marketing Services, Battle Creek, MI
Judy Malmquist, Attorney, DRMS, Battle Creek, MI
Joshua E. Swift, Assistant Attorney General, Environmental
Defense Section, Department of Justice, Washington, DC

INFORMATION REQUEST FOR
EASTERN SURPLUS COMPANY SUPERFUND SITE

*
* Period Being Investigated: 1946 to the Present *
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This Information Request contains the Information Request Questions which follow this page. Among the Information Request Questions are questions which refer to the following enclosed copies of documents: Surveyor's Report dated May 5, 1997; Addendum to Surveyor's Report dated May 5, 1997, which is dated January 20, 1998; and Standard Boundary Survey plan, which is an enclosure of the Addendum to Surveyor's Report. These documents appear at the end of this package.

In addition to the Information Request Questions which follow, this Information Request enclosure includes a Declaration, detailed Instructions for responding to this request, and Definitions of words such as "Respondent," "identify," "waste," and "asset" used in the questions. These materials appear following the end of the questions; please refer to them in answering all questions. Of particular importance:

- Answer each question with respect to the period being investigated noted above unless the question indicates otherwise.
- Answer all questions completely in accordance with the definitions and instructions.
- Complete the enclosed declaration.
- For each question, identify all persons and documents relied upon in the preparation of the answer.
- All information provided for which you are making a claim of business confidentiality or which contains personal privacy information should be contained on separate sheets and clearly marked as confidential or private.
- This request imposes a continuing obligation upon you to submit responsive information discovered after your original response is submitted to EPA.

INFORMATION REQUEST QUESTIONS

1. General Information About Respondent

NOTE: All questions in this section refer to the present time unless otherwise indicated.

a. Provide the full legal names and mailing address(es) of the Respondent.

b. For each person answering these questions on behalf of Respondent, provide:

- i. full name;
- ii. title;
- iii. business address;
- iv. business telephone number and FAX machine number.

c. If Respondent wishes to designate an individual for all future correspondence concerning this Site, including any legal notices, please so indicate here by providing that individual's name, address, telephone number, and FAX number.

2. Property Interest within Site:

NOTE: All questions in this section refer to the period being investigated unless otherwise indicated. Moreover, they refer to the following enclosed copies of documents, which appear at the end of this package (hereinafter collectively referred to as the "Enclosed Property Documents"): Surveyor's Report dated May 5, 1997; Addendum to Surveyor's Report dated May 5, 1997, which is dated January 20, 1998; and Standard Boundary Survey plan, which is an enclosure of the Addendum to Surveyor's Report.

a. Indicate any disagreement with, or any information modifying, the following conclusions drawn from the Enclosed Property Documents; provide documents supporting any discrepancies.

- i. The Enclosed Property Documents reveal that the Respondent acquired title to property (hereinafter,

"said property"), which includes the northeastern corner of the Site property, from Harry J. Smith on January 7, 1971 and/or November 30, 1971.

ii. The Respondent knew that there was a release or threat of release of hazardous substances at the said property within the Site at the time that the said property was acquired.

b. Indicate the purchase price the Respondent paid for the said property conveyed by the deeds dated January 7, 1971 and November 30, 1971.

d. Indicate the estimated value of the portion of the said property which is located within the Site.

e. Describe all inquiry undertaken by the Respondent at the time of acquisition of the said property regarding the previous ownership of the said property, previous uses of the said property, the existence of hazardous substances on the said property, and any actions taken by the previous owners with respect to the hazardous substances. Describe the results of this inquiry.

f. Describe all activities conducted by the Respondent after acquiring the said property with respect to the hazardous substances.

The following form of declaration must accompany all information submitted by Respondent in response to the Information Request:

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of the Respondent, State of Maine, and that the accompanying response to the Information Request is complete, true, and correct.

Executed on _____, 1998

Signature

Print or Type Name

Title [if any]

INFORMATION REQUEST INSTRUCTIONS

1. Answer Every Question Completely. You are required to provide a separate answer to each and every question and subpart of a question set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to the penalties set out in the cover letter.
2. Number Each Answer. Number each answer with the number of the question to which it corresponds.
3. Provide Information about the Period Being Investigated. You are required to answer each question with respect to the period being investigated. If the response fails to address the period being investigated, EPA will consider this a failure to comply with the request and may take action against you for this noncompliance.
4. Provide the Best Information Available. You must provide responses to the best of Respondent's 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 the Respondent will be considered non-compliance with this Information Request.
5. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
6. Submit Documents with Labels Keyed to Question. 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.
7. 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. Failure to supplement

your response within 30 days of discovering such responsive information may subject you to \$27,500 per day penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. If any part of the response to this Information Request is found to be false, the signatory to the response and the company may be subject to criminal prosecution.

8. Complete the Enclosed Declaration. You are required to complete the enclosed declaration which certifies that the information you are providing in response to this Information Request is true, accurate, and complete.

9. Confidential 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. §§ 9604(e)(7)(E) and (F). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret" or "proprietary" or "company confidential." Personal financial information, including individual tax returns, may also be claimed as confidential. In addition, please note that you bear the burden of substantiating your confidentiality claim. Your claim of confidentiality should be supported by the submission of information supporting such a claim; the type of information to be submitted is set out in 40 C.F.R. Part 2. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. **If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.** You 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.

10. 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." You should note however, that unless prohibited by law, EPA may disclose this information to the general public without further notice to you. (Please see Instruction 9 for information concerning treatment of individual tax returns.)

11. Objections to Questions. While the Respondent may indicate that it objects to certain questions in this Information Request, it must provide responsive information notwithstanding those objections. To object without providing responsive information may subject Respondent to the penalties set out in the cover letter.

INFORMATION REQUEST DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. Section 9601 et seq. or Volume 40 of the Code of Federal Regulations ("CFR"), in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents, and any predecessor or successor corporations, companies or agencies.
2. The terms "document" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include but not be limited to:
 - (a) 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 of the following:
 1. invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order;
 2. letter, correspondence, fax, telegram, telex;
 3. minutes, memorandum of meetings and telephone and other conversations, telephone messages;
 4. agreement, contract, and the like;
 5. log book, diary, calendar, desk pad, journal;
 6. bulletin, circular, form, pamphlet, statement;
 7. report, notice, analysis, notebook;
 8. graph or chart; or
 9. copy of any document.
 - (b) microfilm or other film record, photograph, or sound recording on any type of device;
 - (c) any tape, disc, or other type of memory generally associated with computers and data processing, together with:

1. the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory; and

2. printouts of such punch card, disc, or disc pack, tape or other type of memory; and

(d) attachments to or enclosures with any document as well as any document referred to in any other document.

3. The terms "the period being investigated" and "the relevant time period" shall mean the period being investigated as specified on the first page of the Information Request.

4. The terms "the Site" or "the facility" shall mean and include the property on or about the five (5) acres of land located on Cooper Road (Route 191) in Meddybemps, Washington County, Maine, currently identified by EPA as the Eastern Surplus Company Superfund Site, whose approximate borders are presently delineated by a chain link fence, the edge of Dennys River and the edge of Meddybemps Lake. The Site also extends across Route 191 where contaminated groundwater has come to be located.

5. The term "asset" shall mean and include but not be limited to the following: cash, commodities, personal property, collectibles, real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations, and unincorporated companies, whether foreign or domestic, securities, patents, stocks, bonds, and other tangible as well as intangible property.

END OF THE INFORMATION REQUEST

THANK YOU FOR YOUR ATTENTION TO THIS MATTER