



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

OCT 29 2014

REPLY TO THE ATTENTION OF:  
SE-5J

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Dan Lex, Chairman  
Town of Aniwa  
N10750 Sugarbush Road  
Birnamwood, Wisconsin 54414

Re: General Notice of Potential Liability and Request for Information  
Aniwa Arsenic Site; Marsh Street, Aniwa, Shawano County, Wisconsin, 50448  
Site Spill Identification Number: C53Z

Dear Mr. Lex:

The U.S. Environmental Protection Agency (EPA) has documented the release and/or threat of release of hazardous substances, pollutants and contaminants into the environment from the Town of Aniwa (Aniwa) property on Marsh Street, Aniwa, Wisconsin. This site is known as the Aniwa Arsenic Site (Site), and EPA is spending public funds to investigate and control these releases. This action is taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the site, including investigation, planning and enforcement costs. Responsible parties under CERCLA include the current and former owners and operators of the site and persons who generated the hazardous substances or were involved in the transport, treatment, or disposal of the hazardous substances at the site.

EPA is currently planning to conduct the following actions at the Aniwa Arsenic Site:

- a. Develop and implement a Site-specific Health and Safety Plan, an Air Monitoring Plan, an Emergency Contingency Plan, and a Site Security Plan;
- b. Conduct test trenching and field screening to identify the location and source of residual sodium arsenite pesticide remaining at the Site;
- c. Excavate and properly dispose of abandoned pesticide materials and associated containers buried at the Site as well as surface soils and subsurface soils that exceed the Arsenic Removal Management Level (RML) for residential soils (67 ppm);

- d. Collect and properly dispose of contaminated groundwater generated during excavation activities;
- e. Backfill excavated area with clean material;
- f. Restore excavation area with vegetative cover;
- g. Design and install a water treatment system (e.g., Reverse Osmosis Point of Entry system) for any residences that EPA finds have been affected by groundwater contamination from the site such that arsenic concentrations exceed or are reasonably expected to exceed the Arsenic Maximum Contaminant Level (MCL), 0.010 ppm, in the near future; and
- h. Perform any other actions to investigate and address contamination on the property that EPA may determine to be necessary.

#### Notice of Potential Liability

EPA has information that the town of Aniwa owns the Site property on Marsh Street. By this letter, EPA notifies the Town of Aniwa of Aniwa's potential liability with regard to this matter and encourages the Town of Aniwa, as a potentially responsible party, to agree to conduct the necessary actions to abate the risk and reimburse EPA for costs incurred to date. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which the Town of Aniwa would conduct the required work and reimburse EPA for its costs.

Because of the conditions at the Site, EPA believes that response activities need to be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA. As a potentially responsible party, the Town of Aniwa should notify EPA in writing within fourteen (14) calendar days of receipt of this letter of its willingness to conduct the required work, and reimburse EPA for its costs. If EPA does not receive a timely response, EPA will assume that it does not wish to negotiate a resolution of its potential responsibility in connection with the Site and that the Town of Aniwa has declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the Site, you should continue such activities as you see fit. This letter is not intended to advise the Town of Aniwa or direct it to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in the Town of Aniwa response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

## Request for Information

In addition, EPA is seeking to obtain certain other information from the Town of Aniwa pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing CERCLA and to assist in determining the need for additional response to the release of hazardous substance(s) under CERCLA. The Administrator of EPA has the authority to require any person or entity that has or may have information relevant to any of the following to furnish EPA with such information: (a) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (b) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (c) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, the Town of Aniwa is hereby requested to respond to the enclosed information request (Enclosure C). Instructions and definitions also have been enclosed to assist you in answering this request (Enclosures A & B).

The information sought herein must be sent to EPA within fourteen (14) calendar days of your receipt of this letter. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against the Town of Aniwa by EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by EPA. Information claimed as confidential will be handled in accordance with the provisions of Section 104(e) of CERCLA, Section 3007(b) of the Resource Conservation and Recovery Act or 40 C.F.R. Section 2.203(b).


Responses to both the notice of potential liability and the information request should be sent to:

Mike R. Rafati, Enforcement Specialist  
U.S. Environmental Protection Agency, Region 5  
Superfund Division - Enforcement & Compliance Assurance Branch  
Enforcement Services Section 2, SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

If you need further information regarding this letter, you may contact Mike R. Rafati, Enforcement Specialist, at (312) 886-0390 – rafati.mike@epa.gov or Kathy Halbur, On-Scene Coordinator, at (920) 634-9072 – halbur.kathy@epa.gov. Direct any legal questions to Andre Daugavietis, Office of Regional Counsel, at (312) 886-6663 - daugavietis.andre@epa.gov.

Due to the nature of the problem at the Site and the attendant legal ramifications, EPA strongly encourages you on behalf of the Town of Aniwa to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely,

 for JEZ

Jason El-Zein, Chief  
Emergency Response Branch 1

Enclosures:

- A - Instructions
- B - Definitions
- C - Information Request

**ENCLOSURE A**  
Instructions  
Aniwa Arsenic Site

1. Answer Each Question Completely. You must provide a separate answer to each question. 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. Response Format and Copies. Provide the responses to this Information Request and copies of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive.
3. Number Each Answer. Number each answer with the number of the question to which it corresponds.
4. Provide the Best Information Available. You must 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 the Respondent will be considered noncompliance with this Information Request.
5. Identify Information Sources. For each question, identify all persons and documents you relied on for your answer.
6. Disclosure to EPA Contractor. Information that 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. EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request.
7. Objections. While you may object to certain questions in this Information Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to the penalties set out in the cover letter.
8. Privilege. If you claim that any document responsive to this Information Request is a communication for which you assert that a privilege exists for the entire document, identify (see Definitions) the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege, identify the portion of the document for which you are asserting the privilege, and provide the basis for such an assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document that are responsive to the Information Request must be disclosed in your response.

ENCLOSURE B  
Definitions  
Aniwa Arsenic Site

All terms not defined here shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, or Volume 40 of the Code of Federal Regulations, in which case such statutory or regulatory definitions shall apply.

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

1. The term "you" or "Respondent" means the Town of Aniwa, together with its officials, officers, agents, employees, and contractors.
2. The term "document" and "documents" means any method of recording, storing, or transmitting information. "Document" includes, but is not limited to:
  - (a) Writings of any kind, including, but not limited to, any of the following:
    1. Letters, memoranda, fax transmittals;
    2. Meeting minutes, telephone records, notebooks;
    3. Agreements and contracts;
    4. Reports to shareholders, management, or government agencies;
    5. Transportation manifests; and
    6. Copies of any document.
  - (b) Any film, photograph, or sound recording on any type of device;
  - (c) Any blueprints or drawings; and
  - (d) Attachments to, or enclosures with, any document.
4. 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, email addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position, or business.
5. The term "identify" means, with respect to a corporation, partnership, business trust, or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership, etc.); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.
6. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase

order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.

7. The term "material" or "materials" means any and all raw materials, used oil, commercial products, wastes, chemicals, substances, or matter of any kind.
8. The "period being investigated" and "the relevant time period" mean from the time Respondent first owned or operated the Site to the present.
9. The term "property" means any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental, and mineral rights.
10. The "Site" means any or all property or area described as: Arsenic Pesticide Storage Site, Marsh Road, Aniwa, WI, as well as any areas affected by releases from the Arsenic Pesticide Storage Site.
11. The term "waste" or "wastes" means and includes, but is not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge.
12. The term "business activities" means all actions, endeavors, ventures, or financing arrangements related in any manner whatsoever to the use and development of the Site, including surveying, sampling, grading, documentation, photography, demolition, construction, and waste disposal, and sales.

**ENCLOSURE C**  
Information Requests  
Aniwa Arsenic Site

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.
4. Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.

Ability to Pay Questions

1. Provide current information on Aniwa's Town budget, revenue, property tax, and population.

Insurance Questions

1. Provide copies of all casualty, liability and/or pollution insurance policies, and any other insurance contracts referencing the Site that the Town of Aniwa purchased. Include any and all policies providing the Town of Aniwa with liability insurance relating to the Site property.
2. To the extent not provided in Question 1 above, provide copies of all insurance policies that may potentially provide the Town of Aniwa with insurance for bodily injury, property damage and/or environmental contamination in connection with the Site and/or its business operations. Include, without limitation, all comprehensive general liability, primary, excess, and umbrella policies.
3. To the extent not identified in Questions 1 or 2 above, provide all other evidence of casualty, liability and/or pollution insurance issued to Town of Aniwa or the other Site owners for the period beginning July 19, 1939.
4. If there are any such policies from Questions 1, 2 or 3 above of which you are aware but neither possess copies, nor are able to obtain copies, identify each such policy to the best of your ability by identifying:
  - a. The name and address of each insurer and of the insured;
  - b. The type of policy and policy numbers;
  - c. The per occurrence policy limits of each policy; and
  - d. The effective dates for each policy.
5. Identify all insurance brokers or agents who placed insurance for Town of Aniwa or the other Site owners at any time, and identify the time period during which such broker or agent acted in this regard.



**SUPERFUND DIVISION**  
**GNL/INFORMATION REQUEST 104(e)**  
**ROUTING SLIP**  
(Revised 4/12/12 & Updated 07/08/13)

Site Name: Aniwa Arsenic Site  
Site I.D. Number: C53Z  
Site Status\*: Time Critical Removal Action

Check your name on this page and pass the document on to the next name.

	NAME	MAIL CODE	INITIALS/DATE
ENFORCEMENT SPECIALIST (the ES must also send an electronic copy to Section Chief)	Mike Rafati	SE-5J	<i>MR</i> 10-22-14
ON-SCENE COORDINATOR	Kathy Halber	SE-5J	Electronic Concurrence
ORC STAFF ATTORNEY	Andre Daugavietis	C-14J	Electronic Concurrence
ECAB SECRETARY	Jarrah Sanders	SC-5J	<i>JS</i> 10/28/14
ESS 2 SECTION CHIEF	Carolyn Boyle	SE-5J	<i>ALC</i> 10/28/14
ECAB BRANCH CHIEF	Jason El-Zein	SC-5J	<i>JEZ</i> 10/29/14

**Comments:**  
E-mail approval attached from ORC and OSC

DATE MAILED TO PRPs: \_\_\_\_\_

bcc: Andre Daugavietis, ORC (C-14J)  
Matt Mankowski, Chief, RS1 (SE-5J)  
Kathy Halbur, OSC (Wisconsin Office)  
Mike Rafati, ESS 2 (SE-5J)  
Records Center (SRC-7J)



United States  
 Environmental Protection  
 Agency  
 Region 5 *Rafate SE-51*  
 77 West Jackson Blvd.  
 Chicago, IL 60604

Official Business  
 Penalty For Private Use  
 \$300

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
 OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7001 0320 0006 1459 5694  
 7001 0320 0006 1459 5694

DAN LEX CHAIRMAN  
 TOWN OF ANIWA  
 N10750 SUGARBUSH RD  
 BIRNAMWOOD WI 54414

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
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*MR SESTAJA RAFALE*

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	<b>\$</b>	

**Send To**  
 DAN LEX CHAIRMAN  
 TOWN OF ANIWA  
 N10750 SUGARBUSH RD  
 BIRNAMWOOD WI 54414

**Send From**  
 EPA  
 77 West Jackson Blvd.  
 Chicago, IL 60604

**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:

DAN LEX CHAIRMAN  
TOWN OF ANIWA  
N10750 SUGARBUSH RD  
BIRNAMWOOD WI 54414

2. Article Number  
(Transfer from service label)

7001 0320 0006 1459 5694

PS Form 3811, February 2004

Domestic Return Receipt

MR SEST

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

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

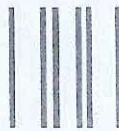
Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

UNITED STATES POSTAL SERVICE



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• Sender: Please print your name, address, and ZIP+4 in this box •

**USEPA  
MIKE RAFATI ENFC SPECIALIST  
REGION 5  
77 W JACKSON SE-5J  
CHICAGO IL 60604**

*Circle*