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

US EPA RECORDS CENTER REGION 5
480548

DEC 0 8 2010

REPLY TO THE ATTENTION OF:

SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Benjamin Moore & Co.
101 Paragon Drive
Montvale, New Jersey 07645

Benjamin Moore & Co.
Manufacturing Facility
400 Kimberly Drive
Carol Stream, Illinois 60188

Re: Request for Information Pursuant to Section 104(e) of CERCLA regarding the Gary Development Landfill Site located at 479 Cline Avenue, in the City of Gary, Lake County, Indiana
CERCLIS ID No: IND077005916

Dear Sir or Madam:

This letter seeks your cooperation in providing information and documents related to Benjamin Moore & Co. (Benjamin Moore) and the Gary Development Company and/or the Gary Development Landfill located at 479 Cline Avenue, in the City of Gary, Lake County, Indiana.

The Gary Development Landfill in Gary, Lake County, Indiana, has been listed on the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, as amended, (commonly referred to as CERCLA). This is because the Gary Development Landfill Site (the Site) is contaminated with hazardous substances that may present a threat to human health or the environment. Enclosure 1 to this letter provides more detail on the operational history and contamination at the Site. Enclosure 2 is a map of the Site.

The United States Environmental Protection Agency (EPA or the Agency) is investigating the release, or threat of release, of hazardous substances, pollutants or contaminants at the Site. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal of hazardous substances that have been, or threaten to be, released from the Site.

Currently EPA is identifying activities, materials, and parties that contributed to contamination at the Site. Ultimately, EPA or the responsible parties will study the effects of the contamination to the environment and public health and implement appropriate response actions. EPA believes that Benjamin Moore possesses information that may assist the Agency in its investigation of the Site. Enclosure 1 provides background and historical information concerning the Site.

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EPA is seeking to obtain information from you pursuant to its authority under Section 104(e) of CERCLA. This authority is further described in Enclosure 3. The Agency has begun to supplement the Indiana Department of Environmental Management's (IDEM's) investigation into the nature, extent and sources of contamination at the Gary Development Landfill.

The landfill accepted hazardous substances including volatile organic compounds, semi-volatile organic compounds, heavy metals, and pesticides. EPA understands that Benjamin Moore transported, disposed or arranged for the disposal of hazardous material at the Gary Development Landfill. Accordingly, EPA believes that Benjamin Moore may have information relevant to this investigation.

The instructions to responding to the Information Request are provided in Enclosure 4. The definitions for certain terms contained in the Information Request are provided in Enclosure 5. Enclosure 6 is the Information Request. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information as confidential, you must advise EPA of that fact by following the procedures outlined in Enclosure 7, including the requirement for supporting your claim for confidentiality.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501, *et seq.*

Compliance with an information request is required by law. Please mail your response within thirty (30) days of your receipt of this letter to:

Deena Sheppard, Enforcement Specialist
U.S. Environmental Protection Agency- Region 5
Superfund Division SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If you have questions about this information request, the history of the Site, the nature of the environmental conditions at the Site, or the status of cleanup activities, please contact Nicole Wood-Chi, Associate Regional Counsel, at (312) 886-0664. If you have technical questions about this Site, please call David Linnear, Remedial Project Manager, at (312) 886-1841. Address all other questions to Deena Sheppard, Enforcement Specialist, at (312) 886-7048.

We appreciate and look forward to your prompt response to this letter.

Sincerely,

for Sharon Jaffess, Chief
Enforcement & Compliance Assurance Branch

Enclosures

1. Site Background/History
2. Site Map
3. Legal Authority
4. Instructions
5. Definitions
6. Information Request
7. Confidential Business Information

Enclosure 1

SITE BACKGROUND

The Gary Development Landfill (GDL) is located at 479 N. Cline Avenue, Gary, Lake County, Indiana. The Gary Development Landfill can be found on the U.S.G.S. Highland, Indiana Quadrangle Topographic Map and in the southwest corner of section 35 in Township 37 North, Range 9 West. The Gary Development Landfill lies adjacent to the Grand Calumet River about 500 feet west of the Gary Airport south of Lake Michigan.

The facility is bounded to the north and east by E & J Railroad, to the south by the Grand Calumet River, and to the west by AMG (AKA Vulcan Materials). Wetland areas, which have been contaminated by the GDL operations, are present on the southeastern portion of the property. The Gary Development Landfill property consists of 62 total acres, of which approximately 55 acres were utilized for solid and hazardous waste disposal. The Gary Development Landfill is comprised of three (3) parcels.

The Gary Development Landfill Site consists of the landfill where hazardous substances had been deposited and a release of lead, chromium, zinc, acenaphthene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, dibenzofuran, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, phenanthrene, and pyrene were detected in the wetland.

In early 1973, the operator of the landfill began to explore developing a sanitary landfill in a mined-out, water-filled, sand pit. On May 15, 1973, the Indiana Stream Pollution Control Board (SPCB) approved the operator's proposal to dewater the sand pit. On June 19, 1973, SPCB granted the operator's construction permit SW133, allowing preparatory construction work for a sanitary landfill to begin. On August 29, 1974, the State conducted its final inspection of the Gary Development Landfill, which led to SPCB's granting final approval to the operator to commence sanitary landfill operation. The landfill began accepting solid waste for disposal in September, 1974. On February 20, 1975, SPCB sent the operator its operating permit.

In April, May, and August of 1976, the operator of the landfill was found to have discharged leachate into the Grand Calumet River without a National Pollution Discharge Elimination System (NPDES) permit. Lab analysis of leachate samples taken on August 27, 1976 indicated that significant amounts of heavy metals and oils were being pumped into the Grand Calumet River. In 1979 an Agreed Order was filed with the operator to address leachate concerns.

Inspections conducted by the Indiana State Board of Health found that areas around the working area did not have adequate cover and that fly ash was being used as cover. Other inspections conducted by the Indiana State Board of Health noted that leachate and contaminated water discharged into the Grand Calumet River without an NPDES permit and that fly ash was used as a cover for the landfill. As a result of the inspection findings, the operator was found not in compliance with its construction and operating permit. A Recommended Order regarding the findings was issued on February 16, 1983.

A review of Indiana Department of Environmental Management (IDEM) records showed that uncontrolled and untreated drainage was allowed to discharge (via pumping or by run-off) directly into the Calumet River when the landfill was active. The operator was instructed to maintain a pond to control drainage. Inspections conducted in 1984 and 1990 revealed that the operator installed a culvert/drainage pipe under the access road to discharge drainage from the facility. No NPDES permit was obtained for the discharge.

In 1985, the operator was notified to submit paperwork to operate a hazardous waste facility and submit proof of financial assurance. In 1986, EPA issued an administrative complaint and compliance order, which alleged that Gary Development Landfill accepted hazardous waste for disposal at their landfill which neither achieved interim status under RCRA, nor obtained a RCRA permit. Gary Development's appeal of this order was dismissed as untimely in August 1996. Landfill operations ceased in 1989.

An inspection of the Gary Development Landfill was conducted on February 18, 1992 and noted numerous violations of the Indiana Administrative Code and Federal Land Disposal Restrictions. On January 30, 1995, other violations were noted. An inspection conducted by EPA in 1996 also revealed that the landfill material had been pushed into the wooded wetland area adjacent to the Grand Calumet River.

In August 1996, after negotiations regarding the 1986 complaint and compliance order, a consent decree was issued requiring Gary Development to pay fines. The monies in the trust fund were used for the purpose of performing closure and post-closure care of the landfill, and conducting a ground water quality assessment program. In addition, the monies were to be used for remediation of contamination and/or prevention of releases of hazardous substances at the facility. Current cost estimates for assessments, cover and vegetation, erosion control measures, groundwater monitoring wells, gas system installation-flares, drain and fill ponds, capping, and other work exceed the amount in the trust fund. Due to a lack of monies to adequately address closure and post-closure activities at the facility, in 1997, EPA deferred the facility to CERCLA. In 2001, the landfill was given a Not-Under-Control status.

During a periodic inspection, IDEM staff identified several abandoned drums at the Gary Development Landfill on January 8, 2002. As a result, EPA conducted a Time-Critical Removal Action at the Gary Development Landfill. Numerous containers of various substances (oils, paint, insecticides, antifreeze, and electrical capacitors) were removed from the property.

On April 20, 2005, staff from IDEM conducted a Reassessment at the Gary Development Landfill. Groundwater and wetland sediment samples were collected. Elevated levels of metals, semi-volatile organic compounds, and pesticides were detected in the wetland samples.

On May 5, 2009, IDEM conducted an Expanded Site Inspection at the Gary Development Landfill. Once again, elevated levels greater than three (3) times background of metals, semi-volatile organic compounds, and pesticides were detected in the adjacent wetland samples.

In May 2011, EPA proposed to add the Site to the National Priorities List (NPL). The Site was finalized on the NPL on September 16, 2011.

The industrial / sanitary landfill was operated from 1975 to 1989. The landfill accepted hazardous substances including volatile organic compounds, semi-volatile organic compounds, heavy metals, and pesticides. The landfill ceased accepting waste materials in 1989. Not all that was deposited into the landfill is known because the operator did not have a detailed waste analysis plan on file for waste it accepted.

The landfill was not properly lined and there is no maintained, engineered cover, and no functioning and maintained run-on control system or runoff management system. The absence of these systems allows hazardous substances to migrate from the landfill into the adjacent wetland located at the south east corner of the landfill. Contamination from the landfill could also be leaking into the wetland via ground water.

While the landfill was active, IDEM inspectors noted that landfill material had been pushed into the same wetland mentioned above. The operator did not have permission to perform this action which may have released contaminants into the wetland. The inspectors also noticed several point source discharges of storm water runoff, creating rills and gullies, leaving the property's southern boundary into the Grand Calumet River where the wetland is located. The runoff was visibly laden with sediment and caused a discoloration of the Grand Calumet River along the facility boundary.

Enclosure 2

SITE MAP

Site Location Map, Gary Development Landfill
Gary, Lake County, Indiana (U.S. EPA ID: IND077005916)

0 75 150 Meters

0 250 500 Feet

Approximate Center of Site

Approximate Site Boundary

Sources:

Non Orthophotography Data

- Obtained from the State of Indiana Geographic Information Office Library
- Approximate Site Boundary based on Lake County parcels.

Parcel ID: 45-03-35-301-003.000-004 15.777 acres
Parcel ID: 45-03-35-326-001.000-004 5.9 acres
Parcel ID: 45-03-35-326-002.000-004 40 acres

(Ref. 149, pp. 1-5)

Orthophotography - Obtained from IndianaMap Framework Data (www.indianamap.org)

Map Projection: UTM Zone 16 N **Map Datum:** NAD83

This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

Mapped By: Mike Hill, Office of Land Quality
Date: 2/18/2009

Site Vicinity

Lake County, IN

Enclosure 3

DESCRIPTION OF LEGAL AUTHORITY

The Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* (commonly referred to as CERCLA or Superfund) gives EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;

B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility; and

C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

Enclosure 4

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.

2. Precede each answer with the number of the question to which it corresponds.

3. In answering each question, identify all persons and contributing sources of information.

4. Although the EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.

5. You must supplement your response to EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA as soon as possible.

6. For any document submitted in response to a question, indicate the number of the question to which it responds.

7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.

8. Your response must be accompanied by the following statement, or one that is substantially equivalent:

> I certify under a penalty of law that this document and all Enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.
>
> Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

9. The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

10. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.

11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 7.

Enclosure 5

DEFINITIONS

As used in this letter, words in the singular also include the neutral, and words in the masculine gender also include the feminine, and vice versa. All terms not defined herein will 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 through 280, in which case, the statutory or regulatory definitions will apply.

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of this request any information which might otherwise be construed to be outside its scope.
2. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
3. 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.
4. 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.
5. 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.

   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.
6. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
7. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
8. The term "release" shall have the same definition as that contained in Section 101(22) of CERCLA, and includes 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.
9. The term "Site" shall mean the Gary Development Landfill Site located at 479 Cline Avenue, in the City of Gary, Lake County, Indiana.
10. The terms "you" or "your company" or "Your company" refer not only to the addressee of this letter as it is currently named and constituted, but also to all predecessors and successors in interest of the addressee, and all subsidiaries, divisions, affiliates, and branches of the addressee and its predecessors and successors.

Enclosure 6

INFORMATION REQUEST

1. Provide copies of all documents, records, and correspondence in your possession relating to Gary Development Landfill.

2. Identify and describe, and provide all documents that refer or relate to:

   a. The precise location, address, and name of the facility where disposal, treatment, unloading, management, and handling of the hazardous substances occurred. Provide the official name of the facility and a description of the facility where each hazardous substance involved in such transactions was actually disposed or treated.

   b. If the location or facility of such disposal, treatment, unloading, management and handling is a different location or facility than what was originally intended, please provide all documents that relate and/or refer to why the substances came to be located at the different location or facility.

   c. All intermediate sites where the hazardous substances involved in each arrangement were transshipped, or where they were stored or held, any time prior to final treatment or disposal.

   d. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all hazardous substances involved in each arrangement.

   e. In general terms, the nature and quantity of the non-hazardous substances involved in each such arrangement.

   f. The condition of the transferred material containing hazardous substances when it was stored, disposed, treated or transported for disposal or treatment.

   g. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.

   h. All tests, analyses, analytical results and manifests concerning each hazardous substance involved in each transaction. Please include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.)

   i. The final disposition of each of the hazardous substances involved in each arrangement.

   j. All persons, including you, who may have entered into an agreement or contract for the disposal, treatment or transportation of a hazardous substance at or to the Site. Please provide the persons' titles and departments/offices.

i. The names, addresses, and telephone numbers of persons or entities who received the hazardous substances from the persons described in 2(j) above.

ii. Any person with whom the persons described in 2(j) made such arrangements.

iii. The dates when each person described in 2(j) made such arrangements and provide any documentation.

iv. The steps you or other persons, including persons identified in 2(j) above took to reduce the spillage or leakage. Please identify any operational manuals or policies (e.g. a facility's spill control policy) which address the management of spills and leaks and provide any documentation.

v. The amount paid by you, or other persons referred to in 2(j) above in connection with each transaction for such arrangement, the method of payment, and the identity of the persons involved. Please provide any contacts, written agreements, or documentation reflecting the terms of the agreements.

vi. The amount of money received by you or other persons referred to in 2(j) above for the sale, transfer, or delivery of any material containing hazardous substances and provide any documentation. If the material was repaired, refurbished, or reconditioned, how much money was paid for this service?

k. Who controlled and/or transported the hazardous substances prior to delivery to the Site? Provide agreements and/or documents showing the times when each party possessed the hazardous substances.

l. The owner(s) or possessor(s) (persons in possession) of the hazardous substances involved in each arrangement for disposal or treatment of the substances. If the ownership(s) changed, when did this change(s) occur? Please provide documents describing this transfer of ownership, including the date of transfer, persons involved in the transfer, reason for the transfer of ownership, and details of the arrangement(s) such as contracts, agreements, etc. If you did not own the hazardous substances when shipped, who did own it and how did you come to own the hazardous substances?

m. Who selected the location where the hazardous substances were to be disposed or treated?

n. How were the hazardous substances or materials containing hazardous substances planned to be used at the Site?

o. What was done to the hazardous substances once they were brought to the Site, including any service, repair, recycling, treatment, or disposal.

p. What activities were typically conducted at the Site or the specific facility where the hazardous substances were sent? What were the common business practices at the Site? How and when did you obtain this information?

q. How were the hazardous substances typically used, handled, or disposed of at the Site?

r. How long did you have a relationship with the owner(s) and/or operator(s) of the Site?

s. Did you have any influence over waste disposal activities at the Site? If so, how?

t. What percentage of your total hazardous substances went to the Site?

u. What steps did you take to dispose of or treat the hazardous substances? Please provide documents, agreements and/or contracts reflecting these steps.

v. What involvement (if any) did you have in selecting the particular means and method of disposal of the hazardous substances.

w. At the time you transferred the hazardous substances, what did you intend to happen to the hazardous substances? Please provide any contracts, written agreements, and/or other documentation reflecting the intention of the parties. If you do not have such documents and/or materials, please so state.

x. With respect to all transactions involving hazardous substances, at the time of the transaction, specify the measures you took to determine the actual means of treatment, disposal or other uses of hazardous substances. Provide information you had about the treatment and disposal practices at the Site. What assurances, if any, were you given by the owners/operators at the Site regarding the proper handling and ultimate disposition of the materials you sent there?

y. What efforts, if any, did you take to investigate the nature of the operations conducted at the Site and the environmental compliance of the Site prior to selling, transferring, delivering (e.g., for repair, consignment, or joint-venture), disposing of, or arranging for the treatment or disposal of any hazardous substances.

z. Was there a shrinkage/spillage provision or loss allowance in the contract, or an understanding outside of the contract? As a part of the transaction, was there any penalty for shrinkage, spillage, or loss? Did the arrangement acknowledge that spills would occur?

3. Provide names, addresses and telephone numbers of any individuals including former and current employees, who may be knowledgeable of Benjamin Moore's operations and hazardous substances handling, storage and disposal practices.

4. State the date(s) on which the drums and/or hazardous substances were sent, brought or moved to the Site and the names, addresses and telephone numbers of the person(s) making arrangements for the drums to be sent, brought or moved to the Site.

5. List all federal, state and local permits and/or registrations issued to Benjamin Moore for the transport and/or disposal of materials.

6. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

7. Were all hazardous substances transported by licensed carriers to hazardous waste TSDFs permitted by the U.S. EPA?

8. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

9. Does your company or business have a permit or permits issued under RCRA? Does it have, or has it ever had, a permit or permits under the hazardous substance laws of the State of Indiana? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

10. Identify whether a Notification of Hazardous Waste Activity was ever filed with the EPA or the corresponding agency or official of the State of Indiana, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the identification number assigned to such facility by EPA or the state agency or official.

11. Provide the correct name and addresses of your plants and other buildings or structures where Benjamin Moore carried out operations in Indiana and Illinois (excluding locations where ONLY clerical/office work was performed).

12. Provide a schematic diagram or flow chart that fully describes and/or illustrates your company's operations.

13. Provide a brief description of the nature of your company's operations at each location including: If the nature or size of your company's operations changed over time, describe those changes and the dates they occurred.

14. List the types of raw materials used in your company's operations, the products manufactured, recycled, recovered, treated, or otherwise processed in these operations.

15. Provide copies of Material Safety Data Sheets (MSDS) for materials used in your company's operations.

16. Provide any release reports that were taken pursuant to Section 103(a) of CERCLA and Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

17. Identify all federal offices to which Benjamin Moore has sent or filed hazardous substance or hazardous waste information.

18. State the years during which such information was sent/filed.

19. Identify (see Definitions) all Illinois and Indiana state offices to which Benjamin Moore has sent or filed hazardous substance or hazardous waste information.

20. State the years during which such information was sent/filed.

21. List all federal and state environmental laws and regulations under which Benjamin Moore has reported to federal or state governments, including but not limited to: Toxic Substances Control Act (TSCA), 15 U.S.C. Sections 2601 to 2692; Emergency Planning and Community Right-to-Know Act (EPCRA) , 42 U.S.C. Sections 11001 to 11050; and the Clean Water Act 33 U.S.C. Section 1251 to 1387.

22. Identify the federal and state offices to which such information was sent.

23. For each type of waste (including by-products) from Benjamin Moore's operations in Indiana and Illinois during the time period of 1975 through 1999, including but not limited to all liquids, sludges, and solids, provide the following information:

    a. its physical state;

    b. its nature and chemical composition;

    c. its color;

    d. its odor;

    e. the approximate monthly and annual volumes of each type of waste (using such measurements as gallons, cubic yards, pounds, etc.); and

    f. the dates (beginning & ending) during which each type of waste was produced by Your company's operations.

24. Provide a schematic diagram that indicates which part of Benjamin Moore's operations generated each type of waste, including but not limited to wastes generated by cleaning and maintenance of equipment and machinery and wastes resulting from spills of liquid materials.

25. Describe how each type of waste was collected and stored at Benjamin Moore's operation prior to disposal/recycling/ sale/transport, including:

    a. the type of container in which each type of waste was placed/stored; and

    b. where each type of waste was collected/stored.

26. Provide copies of all casualty, liability and/or pollution insurance policies, and any other insurance contracts related to the Gary Development Landfill (including, but not limited to, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies, Institutional Controls and Post Remediation Care Insurance) that provide Benjamin Moore with liability insurance for damage to third party property from 1975 through 1999.

27. To the extent not provided in Question 26 above, provide copies of all insurance policies that may potentially provide Benjamin Moore with insurance for bodily injury, property damage and/or environmental contamination in connection with the Site and/or Benjamin Moore's

business operations. Include, without limitation, all comprehensive general liability, primary, excess, and umbrella policies.

28. To the extent not identified in Questions 26 or 27 above, provide all other evidence of casualty, liability and/or pollution insurance issued to your company for the period being investigated as identified in Question 26.

29. If there are any such policies from Questions 26, 27, or 28 above of which you are aware but neither posses 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.

30. Identify all insurance brokers or agents who placed insurance for the Benjamin Moore at any time during the period being investigated as identified in Question 26, and identify the time period during which such broker or agent acted in this regard. Identify by name and title, if known, individuals at the agency or brokerage most familiar with Benjamin Moore's pollution and/or liability insurance program and the current whereabouts of each individual.

31. Identify all previous settlements by your company (or your company's predecessors) with any insurer which relates in any way to environmental liabilities and/or to the policies referenced in Questions 26-29 above, including:

    a. The date of the settlement;

    b. The scope of release provided under such settlement;

    c. The amount of money paid by the insurer pursuant to such settlement.

    d. Provide copies of all such settlement agreements.

32. Identify all communications and provide all documents that evidence, refer, or relate to claims made by or on behalf of the Benjamin Moore under any insurance policy referenced in Questions 26-29 above. Include any responses from the insurer with respect to any claims.

33. Identify any and all insurance, accounts paid or accounting files that identify Benjamin Moore's insurance policies.

34. List all named insureds on property, pollution and/or casualty liability insurance providing coverage to Benjamin Moore during the period being investigated as identified in Question 26, and the date such named insureds appeared on the policies.

35. Identify any person or organization requiring evidence of Benjamin Moore's casualty, liability and/or pollution insurance during the period being investigated as identified in

Question 26, including the nature of the insurance requirement and the years when the evidence was required.

36. Identify your company's policy with respect to document retention.

Enclosure 7

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The regulations at 40 C.F.R. Part 2, Section 200, *et seq.*, require that EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 *Federal Register* 36902, *et seq.* (September 1, 1976); 43 *Federal Register* 4000, *et seq.* (December 18, 1985).) If no such claim accompanies the information when EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCA), because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish EPA to treat the information or record as "confidential", you must advise EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential" and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency considers the information confidential, e.g., until a specific date or until the occurrence of a specific event;

2. The measures that you have taken to guard against disclosure of the information to others;

3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether EPA or other federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of EPA to obtain similar information in the future; and

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential" your comments will be available to the public without further notice to you.

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:

Benjamin Moore & Co.
Manufacturing Facility
400 Kimberly Drive
Carol Stream, IL 60188

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

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

RECEIVED DEC 28 2011

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

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
(Transfer from service label) 7001 0320 0006 1459 3485

PS Form 3811, March 2001 DS Domestic Return Receipt SE5J 102595-01-M-1424

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

DS SE5J Hdqy Wed, IL 60188

7001 0320 0006 1459 3485

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

Postmark Here

60604-9998

Benjamin Moore & Co.
Manufacturing Facility
400 Kimberly Drive
Carol Stream, IL 60186

PS Form 3800, January 2001 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:

Benjamin Moore & Co.
101 Paragon Dr.
Montvale, NJ 07645

RECEIVED JAN 04 2012

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Brad Kurt
B. Date of Delivery

C. Signature
X [redacted]
☐ Agent
☑ Addressee

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

DEC 28 2011

[redacted]

USPS - 07645

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

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7001 0320 0006 1459 3478

PS Form 3811, March 2001 Domestic Return Receipt 102595-01-M-1424

DS SE5T

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

DS SE5T Tony DeWiogue

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

Postmark Here
STATION 646.04 99.08

Sent To: Benjamin Moore & Co.
Street or P.O. Box: 101 Paragon Dr.
City, State: Montvale, NJ 07645

PS Form 3800, January 2001 See Reverse for Instructions

7001 0320 0006 1459 3478