Bernard D. Henely
General Counsel
Clark Equipment Company
250 East Beaton Drive
Fargo, ND 58078

Re: Request for Information Pursuant to Section 104(e) of CERCLA
U.S. Smelter and Lead Refinery, Inc. Superfund Site (053J)
East Chicago, Indiana

Dear Mr. Henely:

On June 13, 2017, EPA issued to you an information request pursuant to its authorities under CERCLA § 104(e). Upon further review, it was determined that Enclosures B and C of that information request were switched with another information request. Please disregard that information request. A correct version of the information request is included here. Thank you.

Best,

Leonardo Chingcuanco
Office of Regional Counsel
U.S. EPA Region 5 (C-14J)
77 West Jackson Blvd.
Chicago, IL 60604

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

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Bernard D. Henely
General Counsel
Clark Equipment Company
250 East Beaton Drive
Fargo, ND 58078

JUN 15 2011

Re: Request for Information Pursuant to Section 104(e) of CERCLA
U.S. Smelter and Lead Refinery, Inc. Superfund Site (053J)
East Chicago, Indiana

Dear Mr. Henely:

This letter seeks the cooperation of Clark Equipment Company ("Clark") in providing information and documents relating to the contamination of the U.S. Smelter and Lead Refinery Site ("USS Lead Site" or "Site"). The Site is located in East Chicago, Indiana and comprised of two Operable Units. Operable Unit 2 consists of the footprint of the former U.S. Smelter and Lead Refinery facility. Operable Unit 1 consists of a residential area to the north and east of Operable Unit 1. The U.S. Environmental Protection Agency (EPA) has divided Operable Unit 1 into three zones: Zone 1, Zone 2 and Zone 3. The contaminants of concern at the Site are lead and arsenic. The EPA has been and is currently responding to the release or threat of release of hazardous substances, pollutants or contaminants at the Site. More information about the Site is readily available on websites maintained by EPA and a map of the Site is enclosed. The EPA believes that you possess information that may assist the agency in its investigation and remediation of the Site because of your past connection with the Blaw-Knox Company (Blaw-Knox).

Between 1955 and 1970, Blaw-Knox owned portions of Operable Unit 1, Zone 1 ("the Blaw-Knox Property"). In 1970, Blaw-Knox conveyed the Blaw-Knox Property to the East Chicago Housing Authority (ECHA). In the early 1970's, ECHA built the West Calumet Housing Complex on the former Blaw-Knox property. Until this past year, the complex was home to over 1,000 residents. Over the past year, ECHA has relocated residents and moved forward with plans to demolish the complex. In 1968, while still the owner and operator of the Blaw-Knox Property, Blaw-Knox was acquired by White Consolidated Industries. In 1986, White Consolidated Industries was acquired by AB Electrolux. In 1994, AB Electrolux sold the Blaw-Knox Construction Equipment Company to the Clark Equipment Company. In 1995, Ingersoll-Rand acquired Clark Equipment Company.

The purpose of this information request is to obtain documents and information that will enable EPA to better understand the following: what assets and liabilities AB Electrolux or its subsidiaries sold in 1994 to Clark Equipment Company. This information may enable the EPA to determine whether Clark Equipment Company is a liable party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "Superfund"), as amended, 42 U.S.C. § 9604(e)(2).

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Recycled Paper (100% Post Consumer)

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and the enclosed questions (Enclosure C) within thirty (30) calendar days of your receipt of this letter.

Under Section 104(e)(2) of CERCLA, the EPA has broad information gathering authority which allows the 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) Information relating to the ability of a person to pay for or to perform a cleanup.

While the EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. In addition, providing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by the EPA in administrative, civil or criminal proceedings.

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

If you have information about other parties who may have information that may assist the agency in its investigation of the Site or may be responsible for the contamination at the Site, you should submit that information within the timeframe noted above.

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.

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

Instructions on how to respond to the questions in Enclosure C to this document are described in Enclosure A. You should mail your response to this Information Request to:

Steven Kaiser (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site, the status of cleanup activities, or this information request, please contact Steven Kaiser, Associate Regional Counsel at (312) 353-3804 or kaiser.steven@epa.gov.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

for Marcy Toney, Section Chief
Office of Regional Counsel

Enclosures (5)

A Instructions
B Definitions
C Requests
D Declaration
E Site Map

Enclosure A
Information Request
U.S. Smelter and Lead Refinery, Inc. Superfund Site

INSTRUCTIONS

1. Answer Each Question Completely. You must provide a separate answer to each question and subpart 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. 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.

Any documents you determine to be Confidential Business Information ("CBI"), you must segregate out and submit in a separate folder or on a separate compact disc ("CD"). These documents must be clearly marked as "Confidential Business Information".

If providing your response electronically, you must submit it on a CD in Portable Document Format ("PDF") and comply with the following requirements:

(a) CBI and personal privacy information ("PII") should be provided on separate media (e.g., a separate CD) and marked as such to ensure information is handled appropriately.

(b) All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.

(c) Electronic PDF files must be text-searchable.

(d) The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.

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. Confidential Information. You must provide the information requested 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 42 U.S.C. § 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret", "proprietary" or "company confidential". Your confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by the 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 received by the EPA, it may be made available to the public by the EPA without further notice to you.

You should also provide a redacted version of the same document that removes all CBI and PII from the document. This redacted version of the document should remove all information that you claim is CBI or PII. Since all the CBI and PII is removed, this redacted version is not subject to the procedures of 40 C.F.R. Part 2. The EPA may make this redacted version available to the public without further notice to you.

7. Disclosure to the EPA Contractor. Information that you submit in response to this Information Request may be disclosed by the 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. The 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. If you are submitting information that you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within twenty (20) business days of receiving this Information Request.

8. 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, the EPA may disclose this information to the general public without further notice to you.

9. 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.

10. 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.

11. Declaration. You must complete the enclosed declaration, in hard copy with an original signature, certifying the accuracy of all statements in your response.

Enclosure B
Information Request
U.S. Smelter and Lead Refinery, Inc. Superfund Site

DEFINITIONS

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

1. The term "agreement" means every separate contract, transaction, or invoice, whether written or oral.
2. 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.
3. The term "Blaw-Knox Foundry" shall mean the real property and buildings, structures and equipment located on that property commonly known as 4440 Railroad Avenue, East Chicago, Indiana.
4. The term "Blaw-Knox Property" shall mean the real property and buildings, structures and equipment located on that property describe as follows: bordered on the south by East 151st Place, on the west by the Indiana Harbor Canal, on the north by Magnolia Lane, and on the east by Gladiola Avenue and identified as Tax Parcel 24-30-0171-0001 and Tax Parcel 24-30-0009-0001.
5. The term "Blaw-Knox Company" shall mean the corporation that held title between 1955 and 1970 to, among other assets, the Blaw-Knox Property.
6. The term "Blaw-Knox Construction Equipment Company" shall mean the corporation (and its divisions) that was owned by AB Electrolux between 1986 and 1994 and acquired in 1994 by the Clark Equipment Company from AB Electrolux.
7. The term "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.
8. The term "disposal" shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any material and/or hazardous substance into or on any land or water so that such material and/or hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
9. The term "documents" includes any written, recorded, computer-generated, or visually or orally reproduced material of any kind in any medium in Respondent's possession, custody, or control, or known by Respondent to exist, including originals, all prior drafts, and all non-identical copies.
10. The term "environment" shall have the same definition as that contained in Section 101(8) of CERCLA, and includes (A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act, 16

U.S.C.A § 1801 *et seq.*, and (B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

11. The term "facility" shall have the same definition as that contained in Section 101(9) of CERCLA, and includes (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

12. 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.

13. The term "identify" means:

    a. With respect to a natural person, state: (a) the person's full name; (b) present or last known business and home addresses, telephone numbers, and email addresses; and (c) present or last known employer (include full name and address) with title, position or business.

    b. 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.

14. The term "material" or "materials" shall mean any and all spent lead acid batteries, lead dross, lead scrap, sump mud, in-plant junk batteries, or baghouse dust.

15. The term "person" shall have the same definition as that contained in Section 101(21) of CERCLA, and includes an individual, firm, corporation, association, partnership, consortium, joint venture, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.

16. The term "RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

17. 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 but not limited to the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

18. The term "Respondent" or "you" shall mean Clark Equipment Company and its subsidiaries and their predecessors in interest, together with their agents, employees, and contractors.

19. The term "USS Lead Site" shall mean the U.S. Smelter and Lead Refinery Superfund Site located in East Chicago, Indiana.

20. The terms "treatment" and "treat" shall mean any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any material and/or hazardous substance so as to neutralize such material and/or hazardous substance or so as to render such material and/or hazardous substance nonhazardous, safer for transport, amenable for recovery, amendable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of material and/or hazardous substance so as to render it nonhazardous.
21. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
22. The term "waste carriers" shall mean persons who picked up hazardous substances from Respondent or who otherwise transported hazardous substances away from Respondent's facility.

Enclosure C
Information Request
U.S. Smelter and Lead Refinery, Inc. Superfund Site

REQUESTS

1 Please identify all persons who assisted in responding to this Information Request.

2 Identify all assets and liabilities you acquired or assumed in 1994 from AB Electrolux or its subsidiaries. Provide a copy of the documents that comprised the agreement to transfer the Blaw-Knox Construction Equipment Company and any related assets or interests to Clark Equipment Company. State whether the Clark Equipment Company acquired the stock of the Blaw-Knox Construction Equipment Company or whether the transaction was an asset purchase. State whether the Clark Equipment Company or any of its subsidiary companies hold or held title to either the Blaw-Knox Foundry or Blaw-Knox Property.

3 Describe the corporate relationship that existed or currently exists between Clark Equipment Company and the Blaw-Knox Construction Equipment Company.

4 Identify the state in which Blaw-Knox Construction Equipment Company was incorporated and provide a copy of the Articles of Incorporation.

5 Identify any and all predecessors in interest to the Blaw-Knox Construction Equipment Company. State whether any predecessors in interest to the Blaw-Knox Construction Equipment Company owned or operated facilities at either the Blaw-Knox Foundry or Blaw-Knox Property.

6 Did the Blaw-Knox Construction Equipment Company operate at any time under another name? Did the Blaw-Knox Construction Equipment Company acquire its current name through a formal change of name procedure under the laws of the state in which it was incorporated?

7 If you determine that the Blaw-Knox Construction Equipment Company or its predecessor(s)-in-interest operated a facility within the boundaries of the Blaw-Knox Property, then describe the nature of the operations, the products made, the processes used to make the products, the type and volume on an annual basis of air emissions, the waste streams generated, and the practices at each facility for disposing of each stream of solid and/or hazardous waste.

8 Provide an index of any records in your possession that pertain to operations of the Blaw-Knox Construction Equipment Company or its predecessor(s)-in-interest at the Blaw-Knox Property. If you identify any such records, please:

   a. Identify the nature and duration of the operations; include a description of the products made, the processes used to make the products, the waste streams generated, the type and volume (on an annual basis) of air emissions generated by operations, and the practices for disposing of each stream of solid and/or hazardous waste.

b. Describe the manner in which the facility was decommissioned. Include in the description a summary of efforts, if any, to identify whether soils at the facility had become contaminated with lead, arsenic or any other hazardous substance and efforts, if any, to systematically cover in place or remove from the Blaw-Knox Property soils that contained lead, arsenic or any other hazardous substances.

9 Identify all assets and liabilities of the Blaw-Knox Construction Equipment Company that were separately transferred to Ingersoll-Rand outside of Ingersoll-Rand's 1995 acquisition of Clark Equipment Company. Provide a copy of the documents that comprised the agreement to transfer any Blaw-Knox Construction Equipment Company assets or liabilities to Ingersoll-Rand.

10 Identify any pollution control permits in your records issued to the Blaw-Knox Foundry or any related entity, under the Clean Air Act, Clean Water Act, Resource Conservation Act, their state law corollaries, and similar predecessor laws.

Enclosure D
Information Request
U.S. Smelter and Lead Refinery, Inc. Superfund Site

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of the Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 2017.

_____
Signature

_____
Type or Print Name

_____
Title