

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

January 29, 2015

THE HONORABLE GENE REYNOLDS
THE LOUISIANA HOUSE OF REPRESENTATIVES

RE: REQUEST FOR INFORMATION -
CAMP MINDEN M6 EMERGENCY REMOVAL ACTION

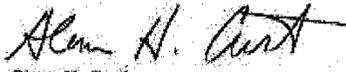
Dear Sir:

At the conclusion of the meeting you hosted at the Louisiana State University - Shreveport campus on January 13, 2015, you provided a list of questions to the United States Environmental Protection Agency (EPA), the Louisiana Department of Environmental Quality (LDEQ) and the Louisiana Military Department (LMD) for our Agencies to address. An attachment is enclosed to this correspondence providing a joint response by LDEQ and LMD to those questions. EPA provided response to your inquiry under separate correspondence dated January 16, 2015.

We want to assure you that our Agencies are committed to working with you and your constituents to make available all information related to the M6 emergency removal action and that the emergency removal action is performed in a manner that is protective of human health and the environment.

Sincerely,


Peggy M. Hatch
Secretary
LDEQ


Glenn H. Curtis
Major General, Louisiana National Guard
The Adjutant General, State of Louisiana

Attachment

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**LDEQ/LMD Question & Answer Response to January 13, 2015 Request for Information –
Camp Minden M6 Emergency Removal Action**

1. Question: An Agreement of Consent for an open burn of explosive materials (Page 10; 8-b) was developed, signed, and implemented without notification by State or EPA to any local government or official here in Webster Parish/District 10. It was signed by the Pentagon, EPA, La Military Department, and LDEQ. Why was no notification provided, given that Camp Minden houses a local prison, effects local communities, and is relied on for response by local hazmat, fire, emergency, law enforcement, and medical response agencies?

The M6 emergency removal action is being conducted in accordance to EPA's statutory authority under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). LDEQ and LMD defer this question to the EPA for response.

2. Question: Who drafted this Agreement of Consent that specifies the Statement of Work to utilize open burning for the M6 and CBIs? (Page 10; 8-b)

The Administrative Settlement Agreement and Order on Consent for Removal Action (AOC) was negotiated among the U.S. Army, EPA, LMD and LDEQ. The EPA was responsible for the portion of the AOC for the Scope of Work to utilize tray burning of the M6 and insisted on this method. EPA selected tray burning based upon its assessment of various potential remedial technologies and speed of removal necessary due to the unstable nature of the material.

3. Question: The Agreement of Consent mentions approximately 320,000 pounds of an additional material to be specifically open burned, Clean Burning Igniters (CBIs). (Page 9; 8-a.) Why has there been no mention of this additional product to be disposed of in any of the previous briefings with the EPA? What is the stabilizer component of this particular CBI?

LDEQ and LMD defer the first question to the EPA for response.

In response regarding the stabilizer component of the CBI, the U.S. Army drawing #9333954 for Chg Prop M155MM M119A2, which includes the M6 Propellant and CBI, this document indicates that CBI consists of the following components:

*NC (9004-70-0) – 98.2%
Diphenylamine (122-39-4) 1.5%
Graphite (7782-42-5) 0.2%
K Nitrate (7757-79-1) 0.1%*

The diphenylamine is the stabilizer component.

4. Question: Will the EPA be determining the methods used for the implementation of the disposal or has this responsibility been assigned to another agency?

The M6 emergency removal action, as specified in the AOC, is being conducted in accordance with EPA's statutory authority under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). Therefore, LDEQ and LMD do not have the authority to determine the methods used for the implementation of the disposal. The contractor selected will design the method of implementation that complies with EPA's Statement of Work. EPA, LDEQ, and LMD will be involved in overseeing the implementation.

5. Question: The test burn that I know of was conducted without notification of ANY local government, response agency, or officials. Why was that, when the EPA On Scene Coordinator and the Louisiana State Police both were managing the implementation of that test and were well aware of the parties who had requested notification?

The December 2014 bench scale test burn was scheduled and designed by EPA. LSP provided technical explosives support as the authorized explosive licensing agency for the State of Louisiana and LMD provided support by furnishing the M6 propellant, the burn site, and the fabricated burn pan. LDEQ and LMD defer this question to the EPA for response as to why local authorities were not notified.

6. Question: The test burn results presented at both the executive officials briefing and the public meeting in December are claimed to have used parameters for modeling based on the emissions of an incinerator or closed burn of M6. Is this true? If so, why was the data skewed for public presentation?

LDEQ and LMD defer this question to the EPA for response since EPA developed the air model data.

7. Question: The Agreement of Consent also makes mention in the Statement of Work that the disposal of numerous other hazardous materials will be encompassed in this project. Is this true? If so, please discuss now about those materials and the rough quantities that remain on the Site. Specifically, the explosives (Page 8; 4-d); but also please explain about the origin of the materials associated with the Super Critical Water Oxidation Unit. (Page 11; 8-p)

LMD Response: Regarding the rough quantities of other hazardous material that remain on site the following information is provided:

- *Black powder – 128 lbs destroyed by LSP in Jun 2014. Balance remaining is zero.*
- *Composition H6 – approximately 200lbs still on site. EPA has an agreement with General Dynamics for the removal of this material.*

- **Ammonium Perchlorate-**
 - *Four 55 gallon drums (approximately 105 gal) of a 10% solution. This is SCWO related material and has been removed from the site.*
 - *Two 35 gallon drums (approximately 35 gal) of a 10% solution. This is SCWO related material and has been removed from the site.*
- **Explosive D (ammonium picrate) – 150 lbs destroyed IAW LMD Purchase Order in Aug 2014. Balance remaining is zero.**
- **M30 Propellant – 109,000 lbs have been removed. Balance remaining zero.**
- **Nitrocellulose – 846,322 lbs have been removed. Balance remaining zero.**
- **Tritonal mixed with wax/tar – 134,000 lbs have been removed. Balance remaining zero.**
- **Tritonal (aluminum extract) - not listed on Page 6;4-d, however we currently have approximately 2M lbs on hand that is currently being removed under an agreement between EPA and General Dynamics.**

LMD Response: *Regarding the origin of the Super Critical Water Oxidation Unit (SCWO), General Atomics (GA) received funding through the Air Force Research Lab (AFRL) to perform demilitarization demonstration tests with an industrial SCWO system. To perform these tests GA contracted with EXPLO to provide a facility, utilities, explosive handling support, waste management and disposal services, and explosive material for testing. It is important to note that General Atomics has removed all of this effluent and this issue no longer exists.*

8. Question: The Agreement of Consent discusses the requirement of "periodic assessment" of the explosive storage magazines and materials for the prioritization of removal. Does this mean that stability testing will now be implemented as a part of this project?

LMD Response: *No, chemical stability testing of the propellant was not required by the AOC. This paragraph refers only to the physical stability of the propellant as it currently exists in the storage magazines.*

9. I see on page 1 of the Agreement of Consent that the State has signed away its rights to contest anything in the Agreement. Is this true?

LMD response: *The pertinent language is contained in Paragraph Four (4) of the AOC, which states:*

"EPA, the Settling Respondent, and Settling Federal Agency recognize that this Settlement Agreement has been negotiated in good faith and that the payment made and actions undertaken by Settling Respondent, and the payment made by the Settling Federal Agency in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Respondent and Settling Federal Agency do not admit, and retain the right to controvert in any subsequent proceedings other than

proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV (Findings of Fact) and V (Conclusions of Law and Determinations) of this Settlement Agreement. Settling Respondent and Settling Federal Agency agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms."

The Louisiana Military Department is the Settling Respondent and the U.S. Department of the Army is the Settling Federal Agency. In Paragraph Four (4), those specific entities agree to be bound by the settlement and agree not to contest the basis or validity of the Settlement Agreement.

LDEQ Response: Yes. The settlement of a CERCLA Enforcement Order that grants liability protection requires a waiver of rights.

10. A Governor's State of Emergency Declaration was filed in September of 2013 and kept in affect to date without notification to the Webster Parish OHSEP Director, Webster Parish Police Jury or Webster Parish Sheriff. Can anyone here tell me why they were not notified?

LMD response: The Emergency Declaration was issued on September 6, 2013. It has been renewed continuously every month since its original publication. It was published on the Governor's website, reported upon, and discussed in public meetings.

11. We have received overwhelming amounts of hard data to support the claim that open burning of these products in these quantities is entirely unsafe; yet we have been presented no data by LDEQ or EPA to support their claim that it is perfectly safe for the public and the environment. Why is that? Do you have this data to show us today?

LDEQ was not involved in data collection for the selection of the remedy. That collection was the responsibility of the EPA. LDEQ has no hard data showing the selected remedy to be unsafe.

12. The EPA released a statement last Friday indicating that additional test burns would be conducted. It is our feeling that if the EPA had sufficient proof that open burning is safe, additional test burns would not be needed. And if additional testing is needed to prove safety, our area should not be your guinea pigs.

- Does the EPA need to conduct these test open burns to determine the safety of open burning of these products?
- Will these open burns be conducted on site at Camp Minden?
- Is there a laboratory setting to allow for safer testing?

- Will the EPA consider testing and documenting comparative results using incinerators or closed containment/detonation chambers?

LDEQ and LMD defer these questions to the EPA for response.

13. The EPA's statement has indicated that their choice to use open burning was made based on guidance from United States Department of Defense's Explosive Safety Board. It is my understanding that USDOD Explosive Safety Board lists open burning of propellants as safe for small projects; and lists other disposal methods for use for larger projects. This is admittedly not at all a small project. Why were cleaner, safer and equally expedient methods listed in this guidance not even considered?

LDEQ and LMD defer this question to the EPA for response.

14. It is my understanding the DOD owns at least two large incinerator/closed burning chambers that are readied for 48-hour deployment with response teams for use in emergency disposal situations. If this is truly an emergency situation, then why hasn't the Army, deemed the Responsible Party, executed deployment of those assets onsite to Camp Minden?

LDEQ and LMD defer this question to the EPA for response.

15. Experts in the field have stated their concern that this Agreement of Consent unusually specifying the disposal method in the Statement of Work, was not executed in accordance with the laws provided in CERCLA, NCP, and SARA Title III which provide for local and public input prior to determining the removal technologies chosen unless the requirements for Time Sensitive Removal Action are met. Further, it is their advisement that the time frame of two years since the identification of the problem has not constituted Time Sensitive Removal Action; and therefore an Agreement of Consent signed prior to local jurisdictional involvement for selection of disposal methods would be unlawful. Do you have any comment to make towards this argument?

LDEQ and LMD defer this question to the EPA for response.