

GREENPEACE

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VIA FAX

October 9, 2006

Mr. Stephen L. Johnson, Administrator U.S. EPA
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Mr. Johnson,

We assume the U.S. Environmental Protection Agency's Office of Solid Waste and Emergency Response is assisting the North Carolina Department of Environment and Natural Resources (NCDENR) and the U.S. Chemical Safety and Hazard Investigation Board in responding to and investigating the hazardous waste facility explosion and fire that began October 5, 2006 in Apex, North Carolina.

Fortunately there were no fatalities. We were also relieved to hear early reports from the NCDENR that air monitoring had not detected "anything alarming." However, we remember the unsubstantiated assurances issued by the U.S. EPA following the September 11th attacks on World Trade Center. These claims turned out to be tragically false for many first responders and others who became ill after exposure to the massive dust clouds and smoke released from the doomed towers.

In particular, we find it astounding that public officials could not tell the public what chemicals released into the environment caused the evacuation order of 17,000 residents and sent approximately 40 residents and first responders to area hospitals.

Early this year the NC Department of Environment and Natural Resources (DENR) fined EQ \$32,000 for failure to "maintain and operate the facility to minimize the possibility of a sudden or non-sudden release of hazardous waste."

According to EQ's hazardous waste permit (# NCD982170292-R1), they are required to keep comprehensive records of the wastes they store and receive. In fact they are required to test each shipment and maintain manifest records (chain of custody) of where those wastes came from.

EQ's hazardous waste permit also requires them to separate incompatible wastes and have a contingency plan for accidents. Mixtures of certain chemicals can result in spontaneous fires and explosions.

EQ's permit also requires them to notify the NCDENR of the "release or discharge of any hazardous waste, or of a fire or explosion from the facility, which could threaten the environment or human health outside the facility." This notice must include the "name and quantity of materials involved...an assessment of actual or potential hazard to the environment and human health...estimated quantity and disposition of recovered material that resulted from the incident."

The U.S. EPA has significant scientific resources at its facilities in nearby Research Triangle Park, N.C. We hope those and other emergency response capabilities will be fully available to prevent further contamination, determine the cause of this emergency and adopt policies to prevent additional incidents at this plant and thousands of similar facilities across the U.S.

We have a number of questions regarding the official response to this emergency and the operation and maintenance of the Apex, North Carolina hazardous waste facility owned by "EQ Holding Co." in Wayne, Michigan.

We are therefore submitting this letter as a formal request under the Freedom of Information Act Request (5 U.S.C. 552). We request copies of all records that document what the U.S. EPA is doing to ensure protection of public health and the environment in the Apex, North Carolina area. In particular we request:

*** Complete records of ambient air testing conducted to determine the nature of the fumes or gas that sent people to area hospitals taken during the fire (October 5-7) as well as air test results conducted after the fire was completely extinguished.

*** Complete test data of "swipe" and "grab" samples taken during and after the fire to evaluate surface fallout of toxic substances such as hazardous wastes or other by-products released and deposited in neighboring communities (interior and exterior of homes and buildings), streams and lakes (including sediment, fish and wildlife). For example the Illinois EPA found dioxin residue in the community following the April 2004 Formosa PVC fire in Illiopolis, IL and U.S. EPA found dioxin in soot following the July 2001 Baltimore train tunnel fire.

*** Complete records of the criteria used to determine whether it is safe for evacuated residents to return to their homes after the fire has been extinguished.

*** Complete records of the criteria used to instruct residents on what steps they should take to protect themselves, pets and children from any contamination that may have settled on their property.

*** Complete records of remedial actions to prevent the run-off of contaminated water and waste from the fire and explosion into all local streams, farms and the yards of residents.

*** Complete records of wastes that were on site at the time of the fire. The facility permit requires EQ to keep manifests of the origin of their wastes and to test each shipment that is received.

*** Complete records of the environmental, public health and economic impact of this disaster on the Apex area.

*** Complete records of measures taken to assess and restrict mixtures of chemicals that can produce unstable volatile reactions.

*** Complete records of monitoring and enforcement plans and actions that were taken in the last five years to ensure that the EQ facility operated safely and in full compliance with laws and regulations.

*** Complete records of any planned or initiated health studies or epidemiological studies to assess potential health impacts on the community (some homes are approximately 600 feet from the facility).

*** Complete records of why the EQ facility's permit was renewed for ten years on March 9, 2005 contrary to U.S. EPA guidance AGAINST siting hazardous waste facilities in sensitive locations such as near populated areas or where a release could threaten drinking water. In this case the heavy rains may have washed hazardous waste into nearby waterways such as, Middle Creek, which flows into Sunset Lake and Swift Creek.

We would appreciate a response to this request as soon as possible. We also request a waiver of any processing or duplicating costs you might incur in providing these records because the "disclosure of the information is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester" (5 U.S.C. 552 (a)(4)(A) (iii)).

If any or all of this request is denied, we would also appreciate a written explanation of the reasons for denial under the Freedom of Information Act. Greenpeace reserves the right to appeal any denial of this request.

Thank you again for your rapid response to this disaster and our request for the documents listed above.

Sincerely,

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