

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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**COPY**

MAY 09 2011

**OPY**

*R5-11-000-5698C*

The Honorable Reid Ribble  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Ribble:

Thank you for your April 5, 2011 letter regarding the Administrative Order on Consent (AOC) that the U.S. Environmental Protection Agency and Ansul Incorporated (Ansul) signed in February 2009. The AOC calls for Ansul to remediate arsenic-contaminated sediments in the Menominee River.

EPA is reviewing the issues raised in your letter, as well as an alternative proposal submitted by Tyco International (Tyco), the parent company of Ansul. Since Tyco is our negotiating partner under the AOC, we plan to provide the company the results of our review before sharing them with others. We expect to finish our review by the end of May. At that time, we will provide you a copy of our response, as well as answers to your specific questions. In the meantime, I have enclosed an interim response and a summary of recent activities.

EPA has discussed Tyco's alternative proposal with various stakeholders including the Wisconsin Department of Natural Resources, U.S. Army Corps of Engineers and Marinette Marine. EPA also met with the Lower Menominee River Area of Concern Citizens Advisory Committee on April 27 in Marinette. EPA will continue to reach out to Tyco and other stakeholders and will send a fact sheet prior to the start of cleanup work.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Ronna Beckmann or Denise Gawlinski, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

Susan Hedman  
Regional Administrator

Enclosure

Enclosure  
Interim Response and Summary of Recent Activities  
Ansul Cleanup Project

From 1957 to 1977, Ansul manufactured an herbicide which contained two percent arsenic by weight. It stored approximately 95,000 tons of wastes containing arsenic in an uncovered pile near the shoreline of the Menominee River. Wind and rain caused arsenic-bearing waste to enter the river from the pile. In addition, arsenic entered the river through the direct discharge of contaminated liquids to the river, and from contaminated groundwater discharging to the river. The arsenic concentrations are up to 12,000 ppm in the groundwater and up to 11,000 ppm in the river sediments

Under a 1990 AOC, the company assessed the nature and extent of the contaminants released from its facility, and conducted a study of the various alternatives for taking corrective action. In 2007, EPA provided the public, local businesses, Tyco, and elected officials with an opportunity to comment on the proposed cleanup level, the various alternatives under consideration and EPA's proposed remedy by public noticing our *Statement of Basis* for the proposed remedy. (The EPA decision documents can be found at <http://www.epa.gov/reg5rcra/wptdiv/permits/actions.htm#2007>).

Evaluations conducted by EPA and WDNR indicate that the arsenic is adversely impacting the ecology. A long-term cleanup goal of arsenic 20 ppm of arsenic was proposed for this project, consistent with the Wisconsin Department of Natural Resources (WDNR) interim guidance document *Consensus Based Sediment Quality Guidelines, Recommendations for Use and Applications* Interim Final Guidance, dated December 2003. The proposed remedy employed monitored natural recovery (MNR) to address the arsenic-contaminated sediments where it can be effective within a reasonable time frame (20 to 50 ppm), and called for removal of sediments where the time frame for MNR would be unreasonable (over 50 ppm).

EPA explained that the various capping alternatives would present significant problems with monitoring and maintenance, and Tyco was not able to provide an example where a soluble salt has been successfully capped. Another issue is that the capping envisioned by Tyco would reduce the depth of the turning basin, part of a Federal navigation channel, and thus would forever restrict future commercial and recreational uses.

In May, 2008, EPA issued a *Final Decision and Response to Comments* selecting removal of contaminated sediments containing more than 50 ppm, and providing for monitored natural recovery to achieve the 20 ppm concentration. EPA explained that this option best balanced its mandates to protect human health and environment, achieve appropriate cleanup levels, be cost effective, and achieve a balance of short-term and long-term reliability and effectiveness. In EPA's opinion, this remedy would restore this valuable resource to its pre-contamination condition.

In February, 2009, EPA and Ansul entered into an *Administrative Order on Consent* (AOC) to implement EPA's selected remedy. In the *Final Decision* and the AOC,

Ansul was granted a great deal of flexibility to design the most cost-effective way to meet the cleanup goals. Ansul was required to propose further details in its *River Sediment Removal Work Plan* which was submitted to EPA in December 2010 for review and approval. One provision of the AOC allowed that under very narrow conditions, Ansul could propose an alternative to the agreed upon sediment removal activities. The implementation of the alternative had to be completed within the same time period – i.e., by November, 2013. The alternative had to be protective of human health and the environment; legal, and meet the cleanup goals. The parties agreed that this alternative could only be considered if Ansul demonstrated that the original alternative was technologically and economically impracticable.

On December 1, 2010, Tyco submitted an *Alternative Work Plan* seeking to change the agreed upon alternative. That work plan proposed removing only arsenic contaminated sediments at the surface, about one-third of the sediments containing more than 50 ppm. It proposed to place a sand cap over the remaining two-thirds of the highly contaminated sediments. EPA is currently reviewing the *River Sediment Removal Work Plan*, as well as the proposed *Alternative Work Plan* and expects to provide Tyco with its detailed response by the end of May.